

Workshop to Discuss Draft Regulations on Importation, Possession, and Sale of Freshwater Invasive Aquatic Plants

Rhode Island Department of Environmental Management

Online Zoom Meeting

March 15, 2021 10:00 a.m.



Zoom Workshop Guidelines

- Mute yourself when not speaking to avoid background noise and reduce audio problems due to computer echo or lag
- This workshop is being RECORDED and will be posted to the DEM website for viewing at a later time.
- Sign-in with your full name, affiliation and email in the chat box
(if you prefer not to provide your info to all attendees, please send email to Christine.Dudley@dem.ri.gov with the above information)
- Use the chat box function to type in questions/comments as they come up during the presentation (and we will address them after the presentation is complete) or type in the chat box during the discussion session, or use the “raise hand” icon and wait to be called upon to unmute yourself and ask your question/voice comments directly using your audio connection



Zoom Workshop Agenda

- 10:00 Participants join Zoom and type name/affiliation/ email in chat box
- 10:05 RIDEM explains regulatory process and timeline
- 10:10 RIDEM outlines Draft Regulations
- 10:25 Participants welcome to ask questions or comment on proposed draft regulations during discussion

DEM will continue to accept questions or comments emailed by participants or interested stakeholders until COB on March 25, 2021



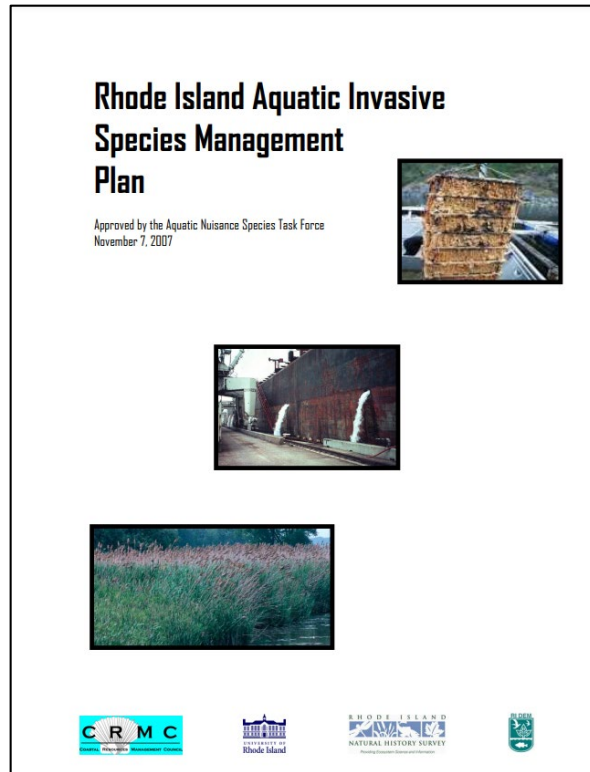
RIDEM Regulatory Process

- ✓ Proposed Regulations Drafted Under Fish & Wildlife Chapter 60
- ✓ Stakeholder Zoom workshop with question/comment period (until 3/25/2021)
 - If necessary, proposed regulations revised after consideration of stakeholder feedback
 - Guidance document with FAQ drafted
 - Regulations Published by Secretary of State
 - Hearing with Official Comment Period
 - Regulations Promulgated or Amended as Necessary
 - Rules and Regulations effective 120 calendar days from promulgation



Regulations: Background and Purpose

- 2005 Federal Aquatic Nuisance Species (ANS) Task Force issued Guidance for State Plans
- *2007 Rhode Island Aquatic Invasive Species (AIS) Management Plan* approved by the Federal ANS Task Force



Plan #1 Goal: Prevent introduction and establishment of AIS in RI

Recommends the following AIS management implementation actions:

Task 6F: prevent/minimize the risk of AIS introductions by the aquarium/pet trade, nursery/water garden trade and other wetland vegetation growers

Task 6G: prevent/minimize the risk of AIS introductions by universities, public aquaria, and other research facilities

Task 7B: Identify statutory and regulatory gaps in the Rhode Island legal framework to prevent, control and minimize AIS impacts



Link to AIS Plan <http://www.dem.ri.gov/programs/benviron/water/quality/pdf/aisplan.pdf>

Regulations: Background and Purpose

2008 R.I. Gen Laws § 20-1-26 (Link to Statute at bottom of slide)

Freshwater invasive aquatic plants – Prohibition on importation and possession

SECTION 20-1-26

§ 20-1-26. Freshwater invasive aquatic plants – Prohibition on importation and possession.

(a) No person shall import, transport, disperse, distribute, introduce, sell, purchase, or possess in the state any species of non-native (exotic) freshwater invasive aquatic plants, as defined by the director. The director shall promulgate rules and regulations governing the prohibition and its applicability. The prohibition and its enforcement shall not become effective until the rules and regulations governing the prohibition and its applicability take effect.

(b) Violations of this section shall be punishable by a fine of not more than five hundred dollars (\$500).

History of Section.

(P.L. 2008, ch. 74, § 1; P.L. 2008, ch. 344, § 1; P.L. 2012, ch. 188, § 1; P.L. 2012, ch. 194, § 1.)

<http://webserver.rilin.state.ri.us/Statutes/TITLE20/20-1/20-1-26.HTM>



Draft Regulation Overview

250-RICR-60-00-11

TITLE 250 – Department of Environmental Management

CHAPTER 60 – FISH & WILDLIFE

SUBCHAPTER 00 - N/A

PART 11 – Regulation of Invasive Plants

11.1 Purpose

The purpose of these rules is to implement the following statutory provision of the Rhode Island General Laws:

20-1-26 Freshwater invasive aquatic plants – Prohibition on importation and possession. – (a) No person shall import, transport, disperse, distribute, introduce, sell, purchase, or possess in the state any species of non-native (exotic) freshwater invasive aquatic plants, as defined by the director. The director shall promulgate rules and regulations governing the prohibition and its applicability. The prohibition and its enforcement shall not become effective until the rules and regulations governing the prohibition and its applicability take effect.

11.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws §§ 42-17.1-1 et seq., 20-1-4, and 20-1-26; and in accordance with R.I. Gen. Laws § 42-35-1 et seq.

11.3 Application

These Regulations shall apply to people and/or businesses that import, transport, disperse, distribute, introduce, offer for sale, purchase or otherwise distribute invasive aquatic plants.

11.4 Definitions

For the purposes of these Regulations, the following terms shall have the following meanings:

A. "Business" means a commercial establishment that maintains stocks of aquatic plants for sale or their distribution, including but not limited to pet stores and nurseries.

B. "Department" or "DEM" means the Department of Environmental Management of the State of Rhode Island.

means the Director of the Rhode Island Department of Environmental Management or his/her designee.

means to make a material available for a consumer or business user through channels or intermediaries for the purposes of establishing a new market for said materials for commercial gain or not.

"plant" means, for the purposes of these regulations, a plant that is not non-indigenous to the region in which it is now found

means collections of dried, pressed plants for the purposes of botanical and scientific study.

"plant" means a nonindigenous or cryptogenic species of vascular plant, including eggs, spores, larvae, or other biological product, that may reduce the diversity or abundance of native species or the ecological stability of infested waters.

"plant" means a plant introduced into a new place or habitat where it was not previously found

means an individual, corporation, partnership or other legal entity.

means to exercise dominion or control over plant materials, and to cultivate through planting, pruning, fertilization, or propagation with the intent to offer for sale to other persons. This does not include incidental or occasional occurrences of a plant on managed lands or waters.

"plant" means to promote the growth or spread of a plant or plant part.

Prohibited Plants

Freshwater Invasive Aquatic Plants

Plants identified herein shall be prohibited from activities listed under §11.6(A) of this Part pursuant to R.I. Gen. Laws § 20-1-26.

The department shall list an aquatic plant species as prohibited if it meets any of the following criteria:

- a. The species does not naturally occur in Rhode Island and will cause or is likely to cause economic or environmental losses or jeopardize human health or safety if introduced to the area, because it grows or is likely to grow more rapidly than native plants so as to impair an ecosystem's ability to

Common Name	Scientific Name
Eurasian Watermilfoil	Myriophyllum spicatum
Brittle or Spine Naiad	Najas minor
One-way Yellowcress	Nasturtium microphyllum
Watercress	Nasturtium officinale
American Water Lotus	Nelumbo lutea
Sacred Water Lotus	Nelumbo nucifera
Yellow Floating Heart	Nymphoides peltata
Duck Lettuce	Ottelia alismoides
Reed Canary Grass	Phalaris arundinacea
Common Reed	Phragmites australis
Water Lettuce	Pistia stratiotes
Curly-Leaved Pondweed	Potamogeton crispus
Great Yellowcress	Rorippa amphibia
Hawaiian Arrowhead	Sagittaria sagittifolia
Giant Salvinia/Eared Watermoss	Salvinia auriculata
Giant Salvinia	Salvinia biloba
Water Fern/Water Spangles	Salvinia minima
Giant Salvinia/African Payal/Water Fern	Salvinia molesta
Exotic Bur-Reed/Branching Bur-Reed	Sparganium erectum

invasive aquatic plants in the form of herbaria or other preserved specimens;

invasive aquatic plants being used in a controlled environment, such as in a laboratory for research or for educational display; and

invasive aquatic plants that are subjected to experimental processes or equipment in the field for the purpose of finding control mechanisms for such invasive species.

shall be destroyed as specified in §11.8 of this Part when they are for purposes listed under §11.9.2 (A) and (B) of this Part.

subjected to experimental processes or equipment in the field, they shall apply only if such experimental processes or equipment are necessary to prevent the spread of such plants.

any person other than an employee of the department acting in his or her official capacity who participates in any of the activities exempted pursuant to §11.9.2 of this Part shall notify the department prior to or within 24 hours after performing

such activities shall not be required for disposal after removal from boats, vessels, campers, campervans, vehicles, trailers, fishing supplies, or any other equipment required in 250-RICR-60-00-10.6.1(A)(18).

persons

any person or business and/or person subject to these regulations may submit a request to the Director for a variance from some or all provisions of these regulations. Such request for a variance must, at the minimum, include the following:

1. The name and address of the business and/or person requesting the variance;

2. Identification of the specific rule or rules from which a variance is requested;

3. A statement of the reasons for which the business and/or person seeks a variance. This statement shall specify the reasons that the business and/or person is unable to comply with this Part, why a variance is necessary, and the reasons why hardship is alleged. The person seeking the variance should separately and by number

Ten pages

Link to draft: <http://www.dem.ri.gov/programs/benviron/water/pn/pn-draft-rulemaking-invasive-plants-250-RICR-60-00-11.pdf>



Regulations: Part 11.4 - Definition of Invasive Plant:

- Vascular plant or plant part*
 - A nonindigenous or cryptogenic species (of unknown origin)
 - May threaten the diversity or abundance of native species
- OR
- the ecological stability and/or uses of infested waters

*including eggs, spores, larvae, or other biological product (seed)



Regulations: Who does it apply to?

People or Businesses who _____ invasive aquatic plants:

Import

Transport

Disperse

Distribute (make material available for a consumer or business)

Introduce

Offer for Sale

Purchase

Possess (manage, cultivate or propagate plants with intent to sell)



See Section 11.3 & 11.4

Which plants are proposed to be prohibited?

1. Draft list includes 48 species, official ITIS.gov names & synonyms

Scientific names as give by Integrated Taxonomic Information System

2. Proactively includes both--species currently here and those not yet in RI, preventing new invasions

List of Selected Plants Currently in RI: <http://www.dem.ri.gov/programs/benviron/water/quality/surfwq/pdfs/aisridist.pdf>



C. Caroliniana

Stump Pond, Smithfield



N. Peltata

Dexter Pond, Scituate



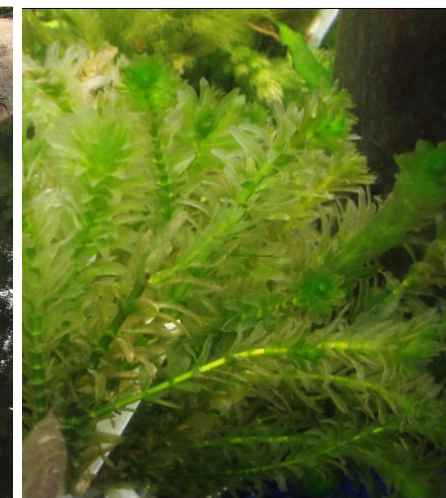
M. Aquaticum

Pocasset Pond, Johnston



E. Crassipes

Pawcatuck River, Westerly



E. Densa

100-acre Pond, SK



Which plants are proposed to be prohibited?

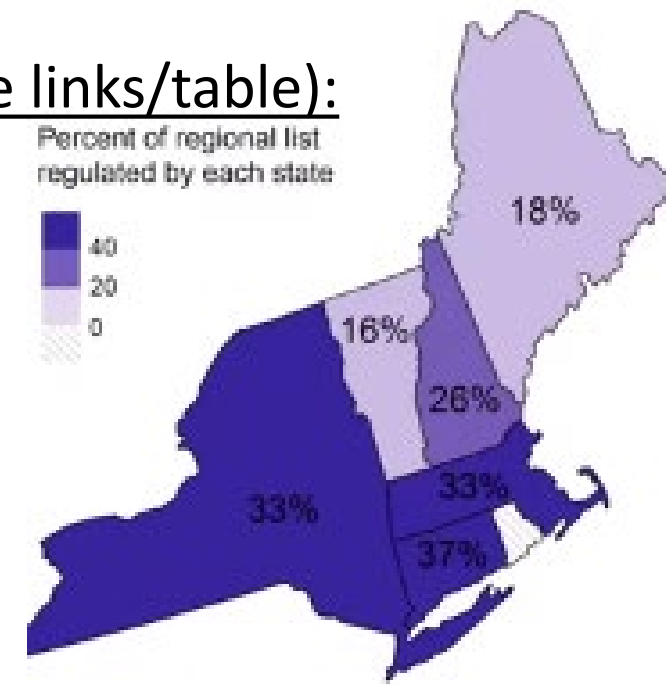
1. Draft list includes 48 species, official ITIS.gov names & synonyms

Scientific names as give by Integrated Taxonomic Information System

2. Proactively includes species that are not yet in RI, preventing species that could be invasive

3. Promotes more consistent regulations in the region by including (see links/table):

- Plants listed on the Federal Noxious Weed List
- Plants prohibited by other states in the region
- Plants nominated by the Rhode Island Invasive Species Council
- Plants listed in the RI AIS Management Plan



Which plants are proposed to be prohibited?

Links to federal/regional or state lists used to compile the draft Rhode Island list

USDA NRCS Federal Noxious Weeds List <http://plants.usda.gov/java/noxious>

USGS Nonindigenous Aquatic Plants list <https://nas.er.usgs.gov/queries/SpeciesList.aspx?Group=Plants>

Connecticut Invasive Plant Working Group List https://cipwg.uconn.edu/invasive_plant_list/

CT Prohibited Invasive Plants List https://www.cga.ct.gov/current/pub/chap_446i.htm#sec_22a-381d

MA Prohibited Plant List https://www.mass.gov/files/documents/2017/11/15/prohibited_plant_list_sciname_0.pdf

Maine Invasive Aquatic Plant List <http://legislature.maine.gov/statutes/38/title38sec410-N.html>

New Hampshire Prohibited Plant List <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/bb-40.pdf>

New York Prohibited List http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf

Vermont Prohibited https://agriculture.vermont.gov/sites/agriculture/files/documents/PHARM/Plant_Pest/NoxiousWeedsQuarantine1.pdf

Which plants are proposed to be prohibited?

With Corrections/Updates 3/12/21

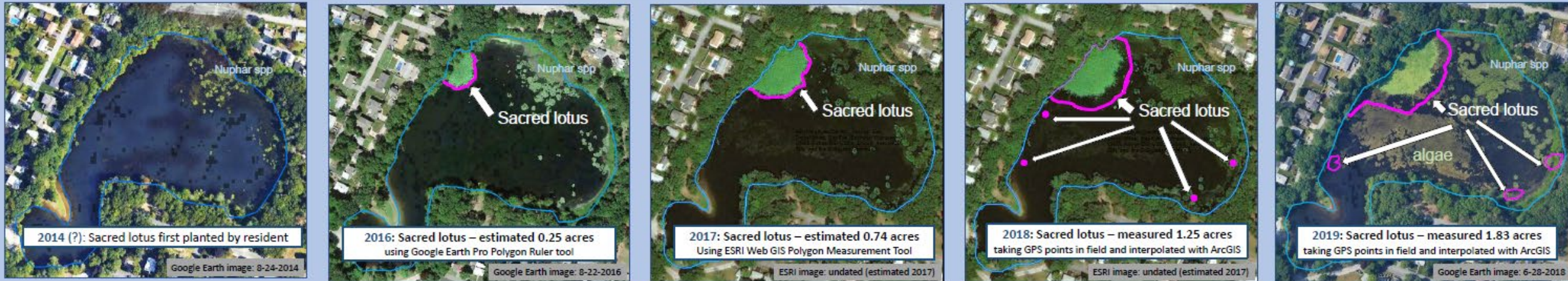
DRAFT List of freshwater aquatic invasive plants proposed to be prohibited in Rhode Island along with other state or federal agencies who also prohibit the species as invasive, exotic or noxious -- March 5, 2021													
	Common name	Scientific name ¹	Federal List	CT List	MA List	ME List	NH List	NY List	VT List	USGS Species Origin (USDA native status)	RI AIS Plan	Currently in RI	Wetland Indicator Status
1	Water wheel	<i>Aldrovanda vesiculosa</i>						X		Exotic (Introduced)			OBL
2	Flowering Rush	<i>Butomus umbellatus</i>		X	X		X		X	Exotic	X	Established CT, MA	OBL
3	Fanwort	<i>Cabomba caroliniana</i>		X	X	X	X	X	X	Native Transplant	X*	Established	OBL
4	Pond Water-Starwort	<i>Callitriche stagnalis</i>		X						Exotic	X	Established CT, MA	OBL
5	Brazilian Elodea (Anacharis)	<i>Egeria densa</i>		X	X	X	X	X	X	Exotic	X*	Established	OBL
6	Anchored Water Hyacinth	<i>Eichhornia azurea</i>	X		X					Exotic (Introduced)			OBL
7	Common Water Hyacinth	<i>Eichhornia crassipes</i>								Exotic	X	Seasonally	OBL
8	Mudmat	<i>Glossostigma cleistanthum</i>								Exotic (Introduced)	X	Established	OBL
9	Tall Mannagrass	<i>Glyceria maxima</i>		X	X		X	X		Exotic	X	Established MA	OBL
10	Hydrilla	<i>Hydrilla verticillata</i>	X	X	X	X	X	X	X	Exotic (Introduced)	X*	Established CT, MA	OBL
11	Common Frogbit	<i>Hydrocharis morsus-ranae</i>				X	X	X	X	Exotic	X	retailed	OBL
12	Indian Waterstar/Indian	<i>Hydrophila polysperma</i>	X		X		X		X	Exotic	X		OBL



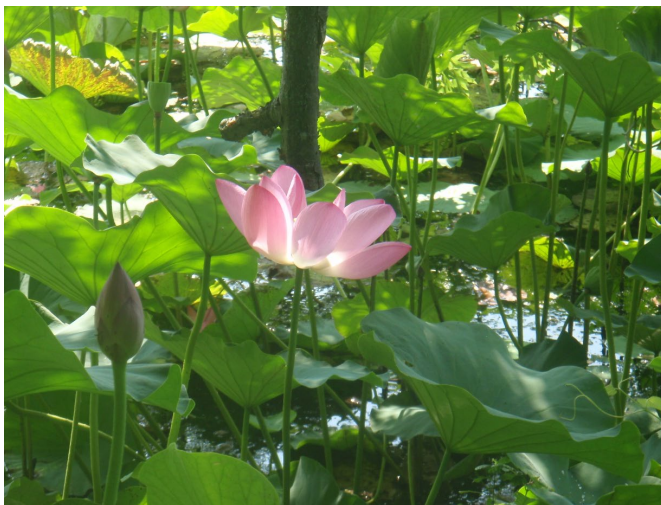
Exception: 1 plant not listed in other states' regulation or plan

#32 Sacred lotus, *Nelumbo nucifera*, sold locally and planted in Meshanticut Pond, Cranston

Meshanticut Pond (12 acres) aerial photos over time show the sacred lotus population planted in ~ 2014 has grown to 1.83 acres in 2019



RIDEM has documented evidence that it is invasive in Rhode Island

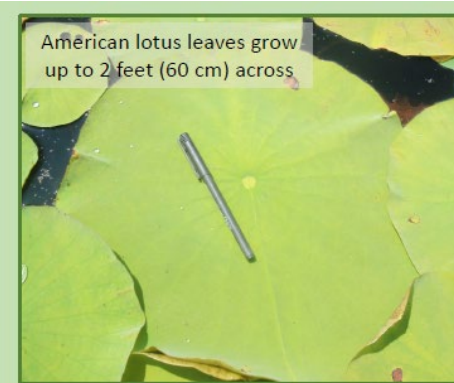


Exception: 1 plant not listed in other states' regulation or plan

Sacred lotus is similar to American lotus, but is slightly larger in size.

Both are documented to be invasive in Rhode Island

Chapman Pond (185 acres) aerial photos show the American lotus population, currently at 17.5 acres, has grown to become larger than the water chestnut population



[Alternative native plant recommendations – a list of resources:](#)

Rhode Island Native Plant Guide <https://web.uri.edu/rinativeplants/>

Native Plant Trust Garden Plant Finder <https://plantfinder.nativeplanttrust.org/Plant-Search>

New England Wild Flower Society Brochure: http://www.nativeplanttrust.org/documents/319/Invasive_Brochure_Reduced_File_Size.pdf

Alternatives for Invasive Ornamental Plant Species (CT Ag Exp Station) https://portal.ct.gov/-/media/CAES/DOCUMENTS/Special_Features/NativeAlternativespdf.pdf

Native Aquatic Plants of Vermont <https://www.vtinvasives.org/sites/default/files/documents/aquatics/Native%20Aquatic%20Plants%20Hi%20Res.pdf>

Alternatives to Invasive Landscape Plants (UNH) https://extension.unh.edu/resources/files/resource001358_rep1815.pdf

Cornell's Alternatives to Ornamental Invasive Plants: A Sustainable Solution for NY State

<https://nysipm.cornell.edu/agriculture/ornamental-crops/greenhouse-resources/alternatives-ornamental-invasive-plants-sustainable-solution-new-york-state/>

Guide to Water Gardening in NY State https://www.dec.ny.gov/docs/lands_forests_pdf/waterguide.pdf

Native Alternatives to Invasive Plants (Book from Brooklyn Botanic Garden)

<https://www.amazon.com/gp/product/1889538744?ie=UTF8&tag=flopturnriver-20&linkCode=as2&camp=1789&creative=390957&creativeASIN=1889538744>

Take Aim (Aquatic Invaders in the Marketplace) Choose Non-Invaders <http://takeaim.org/alternatives/northeast/>

Carolina Biological Supply Company – Alternatives to Egeria densa

<https://www.carolina.com/teacher-resources/Interactive/using-aquatic-plants-to-demonstrate-photosynthesis/tr28607.tr>

Mid-Atlantic Pocket Guide to Water Garden Species <https://extension.psu.edu/mid-atlantic-pocket-guide-to-water-garden-species>

Chicago Botanic Garden List of Invasive Species Alternatives https://www.chicagobotanic.org/research/identifying_threats/invasive_species

Midwest Invasive Plant Network <https://www.mipn.org/prevention/preventing-invasive-plants-in-gardens-and-landscapes/>

Aquatic Gardens, Not Aquatic Pests: How to Practice Responsible Water Gardening <https://anrcatalog.ucanr.edu/pdf/8369.pdf>



Will regulations be enforced via business inspections?

YES

- Inspector will inform the on-site manager of the prohibitions
- A sample of the questionable aquatic plant material of sufficient size to allow identification of the plant material may be requested by inspector.
- Any business found to be in possession of prohibited invasive plants will be allowed thirty (30) days to dispose of the stock and may be required to provide proof of disposal



How should plants be disposed of?

Away from water or moist areas where it might survive.

Acceptable means of disposal:

- Burning or incinerating
- Land filling
- Disposing in a trash container whose contents are destined for incineration or land filling;
- Desiccating
- Composting, if applied away from surface water
- Any other method as approved or prescribed by the Director



What activities are exempt from these regulations?

TRANSPORTATION

- For the purpose of disposal as part of a harvest control activity previously approved by the Department
- The transportation is for the purpose of identifying a species or reporting the presence of a species, and the plant material is in a sealed container.

RESEARCH OR EDUCATION, AND FIELD EXPERIMENTATIONS

- Herbaria or other preserved specimens
- Controlled environment use, such as in a laboratory for research or for educational display; and
- Field experiments for the purpose of finding control mechanisms for such invasive species:

Exemption only applies if experimental processes are conducted in a way that prevents the spread.

All specimens shall be destroyed when they are no longer used for above exempt activities



Can my business request a variance?

YES

Written request to DEM is required and must prove no adverse effect on public health or environment

DEM director will consider variance request, and may open to public comment

Variance decision will be provided in writing, and appeals may be filed within 10 days of receipt of decision.



What is the penalty for violations?

Not more than \$500 per violation



Draft Regulations on Importation, Possession, and Sale of Freshwater Invasive Aquatic Plants

Comments, questions and discussion welcome

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Written questions and comments should be emailed to:

Christine.Dudley@dem.ri.gov

