Form 1100-001
(R 12/09)

NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3.B.4

SUBJECT: Request authorization for public hearing on Order IS-07-10 relating to invasive species housekeeping rule revisions

FOR: JANUARY, 2010 **BOARD MEETING**

TO BE PRESENTED BY: Pete Flaherty

SUMMARY:

Proposed Order IS-07-10 makes housekeeping revisions to ch. NR 40, "Invasive Species Identification, Classification and Control", which took effect September 1, 2009 following adoption by the Board in April, 2009.

After the enactment of 2009 Wisconsin Act 55 (effective November 12, 2009), a review of ch. NR 40 was conducted to identify how ch. NR 40 should be revised to conform to the Act. Portions of ch. NR 40 (relating to overland transport and the launching in navigable water of a vehicle, boat, trailer or equipment with aquatic plants or animals attached) became unnecessary in light of new statutory language created by Act 55, and should now be removed from the rule.

In addition, department staff and members of the public identified various drafting errors and other potential problems in ch. NR 40 as adopted. Chapter NR 40 has some incomplete or incorrectly described species classification boundary descriptions, some incorrect species scientific names, some definitions and informational Notes that need editing or clarification, and some other drafting style and format corrections and "housekeeping" changes that should be made in order to better communicate the department's intent and purpose in adopting ch. NR 40.

RECOMMENDATION: Authorize a public hearing on proposed NRB Order IS-07-10

LIST OF ATTACHED MATERIALS:

No	☐	Fiscal Estimate Required	Yes	☑	Attached
No	☑	Environmental Assessment or Impact Statement Required	Yes	☐	Attached
No	☐	Background Memo	Yes	☑	Attached

APPROVED:

Bureau Director, Date

Administrator, Laurie Osterndorf Date 1/8/10

Secretary, Matt Frank Date 1/13/10

cc: Laurie J. Ross - AD/8
Laurie Osterndorf - AD/8
Todd Ambs - AD/8
Paul Delong - AD/8
Dave Siebert - AD/8
Kelly Kearns - ER/6
Tom Boos - FR/4
Bill Horns - FH/4
Martye Griffin - WT/4
Jane Cummings Carlson - SCR
Jen Hauxwell - SS/RC
Tom Van Haren - LE/8
Jeff Bode - WT/4
Bob Wakeman - SER
Pete Flaherty - LS/8

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: January 7, 2010 FILE REF: 8300

TO: Natural Resources Board

FROM: Matt Frank

SUBJECT: Request for authorization of public hearing on IS-07-10, invasive species identification, classification and control revisions

1. Why is rule being proposed?

Chapter NR 40, Invasive Species Identification, Classification and Control, took effect September 1, 2009 following adoption by the Board in April, 2009. With the recent enactment of 2009 Wisconsin Act 55, effective Nov. 12, 2009, portions of two provisions of ch. NR 40 (relating to overland transport and launching of a vehicle, boat, trailer or equipment with aquatic plants or animals attached) became unnecessary and duplicative of statutory language, and must be removed from the rule. In addition, ch. NR 40 has some species classification boundary descriptions that are incomplete or incorrectly described, some species scientific names that are incorrect, some definitions and informational Notes that need editing or clarification, and some other style and format corrections and "housekeeping" changes that should be made in order to better communicate the department's intent and purpose in adopting the chapter.

2. Summary of the rule.

The proposed rule makes several "housekeeping" changes to ch. NR 40 relating to the identification, classification and control of invasive species.

SECTION 1. of the proposed Order creates a definition for the term "aquatic invasive species." The definition is needed for clarification of an existing rule that authorizes the department to remove detrimental fish and other aquatic invasive species from waters of the state.

SECTION 2. revises the current definitions of "established " and "propagules," to clarify that they apply to organisms other than plants, such as disease causing microorganisms. It also modifies the definition of "wild animal" to clarify that crayfish as well as fish are excluded from that term, consistent with the regulatory approach taken in the rest of ch. NR 40 regarding invasive fish and crayfish species.

SECTIONS 3. and 8. of this proposed Order revise the descriptions of the boundary lines for 6 split-listed invasive plant species (i.e., plants that are listed both as "prohibited" in one part of the state and as "restricted" in another part of the state). In order to be consistent with other split-listed invasive plant species described in ch. NR 40, the prohibited and restricted area descriptions for these 6 plants are changed from areas marked by boundary lines consisting of highways to areas that are defined by named counties. SECTIONS 3. and 8. also revise the "prohibited" and "restricted" invasive plant species listings for *Conium maculatum* (Poison hemlock). The plant currently is listed as "prohibited" in all counties except Iowa and Grant counties, where it is listed as "restricted." The plant's status in Crawford, Dane, Green, Lafayette, Rock, Richland and Sauk counties is changed from "prohibited" to the reduced regulatory status of "restricted" due to its recently discovered relative abundance in those counties. The

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revisions also correct the order of the county names to be alphabetical.

SECTION 4. corrects the scientific name of snakehead fish, corrects inconsistencies in the use of Italic font for species scientific names, corrects the revised list of prohibited fish species to be in alphabetical order, specifically lists or names the snakehead fish species that are considered viable in Wisconsin waters, and adds an informational Note that identifies nonnative fish species that the department has determined are not viable.

SECTIONS 5., 6., 7., 9., 10., 11., 12., 13. and 15. create or amend informational Notes to various provisions of ch. NR 40. The Notes are created or revised to reflect changes made by 2009 Wisconsin Act 55 or changes made elsewhere in this proposed rule, or to correct staff position titles, email addresses or Internet links or other similar information.

SECTION 14. revises the current bans in ch. NR 40 on the highway transport or launching of any vehicle, boat, boat trailer or other equipment that has an aquatic plant or aquatic animal attached. The revisions remove code language made largely redundant by the adoption of s. 30.07, Stats., as created by 2009 Wisconsin Act 55, effective November 12, 2009. Section 30.07, Stats., includes a ban on the placement or operation in navigable waters of any vehicle, watercraft or equipment with aquatic plants or aquatic animals attached to the exterior. As a compleiment to s. 30.07, Stats., the proposed rule retains and revises language in ch. NR 40 banning the placement or operation in wetlands or non-navigable waters of any vehicle, watercraft or equipment with aquatic plants or aquatic animals attached to the exterior. The proposed rule exempts native duckweed and wild rice like s. 30.07, Stats., but unlike the statute, the proposed rule retains an exemption for vehicles, watercraft and equipment engaged in fire suppression.

SECTION 16. of the proposed rule removes an unnecessary regulatory permit requirement that duplicated an existing statutory requirement relating to the introduction of nonnative aquatic plants. References to nonnative aquatic plants are removed from s. NR 40.07 (7) and the remaining rule is revised, for consistency, to require a ch. NR 40 permit instead of a "written exemption" to introduce nonnative algae and cyanobacteria to waters of the state. A Note is added referring to the existing statutory permit requirement under s. 23.24, Stats., for introduction of nonnative aquatic plants.

3. How does this proposal affect existing policy?

The proposed rule is consistent with existing policy regarding invasive species and is intended to improve implementation of that policy. Section 23.22 (2) (a) and (b) 6., Stats., requires the department to establish a statewide program to control invasive species in this state, and as part of that program, to promulgate rules to identify, classify, and control invasive species for purposes of the program.

4. Has Board dealt with these issues before?

Yes. The proposed rule involves "housekeeping" revisions to ch. NR 40, Invasive Species Identification, Classification and Control. Chapter NR 40 was created when the Board adopted Order No. IS-34-06 on April 22, 2009 following informal public input sessions, public hearings, and the endorsement by the Wisconsin Invasive Species Council.

5. Who will be impacted by the proposed rule? How?

The proposed rules will have minimal impact, if any, on the public. Interested parties may include the plant nursery industry, seed and agriculture industries, fish farmers, bait dealers, aquarium and

ornamental fish dealers, land owners and managers, commercial fishers, anglers, gardeners, county and municipal governments, lake districts, government agencies, environmental and conservation organizations, and the Wisconsin Invasive Species Council.

The proposed revisions should improve the public's ability to understand and comply with ch. NR 40.

6. Information on environmental analysis, if needed.

This is a Type III action under ch. NR 150, Wis. Adm. Code, therefore no Environmental Assessment is required.

7. Small business analysis.

The proposed rule is not expected to have a significant adverse effect on a substantial number of small businesses and may have favorable effects on a number of businesses by correcting and clarifying existing rules and by adding informational Notes to ch. NR 40.

A. 1. Describe the compliance and/or reporting requirements imposed on small business. No new compliance or reporting requirements are imposed hy the proposed rule.

2. Can these compliance and/or reporting requirements be made less stringent for small business? Not applicable.

B. 1. Describe the schedules or deadlines for compliance or reporting imposed on small business. Not applicable.

2. Can these schedules or deadlines be made less stringent for small business? Not applicable.

C. Can the compliance or reporting requirements for small business be consolidated or simplified? Not applicable.

D. Can performance standards be established for small businesses in lieu of design or operational standards? Not applicable.

E. Can small business be exempted from any or all requirements of the rule? Not applicable.

F. Initial Regulatory Flexibility Analysis:

1. Describe the type of small business that will be affected by the rule. Small businesses that may be affected by the proposed rule include the plant nursery industry, seed and agriculture industries, fish farmers, bait dealers, aquarium and ornamental fish dealers, businesses that own or manage land, and commercial fishers.

2. Briefly explain the reporting, bookkeeping and other procedures required for compliance with the rule. No new reporting, bookkeeping or other procedures are created by the proposed rule.

3. Describe the type of professional skills necessary for compliance with the rule. No new professional skills are needed to comply with the proposed rule.

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2048 (R10/2000)

Fiscal Estimate — 2009 Session

☒ Original ☐ Updated		LRB Number	Amendment Number if Applicable
☐ Corrected ☐ Supplemental		Bill Number	Administrative Rule Number IS-07-10

Subject

Housekeeping revisions to ch. NR 40, Invasive Species Identification, Classification and Control

Fiscal Effect

State: ☒ No State Fiscal Effect
☐ Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs — May be possible to absorb within agency's budget. ☐ Yes ☐ No
☐ Decrease Costs

Local: ☒ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected: ☐ Towns ☐ Villages ☐ Cities ☐ Counties ☐ Others ☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Rule Summary: The proposed rule makes several "housekeeping" changes to ch. NR 40. It defines "aquatic invasive species" for clarification of an existing rule that authorizes the department to remove detrimental fish and other aquatic invasive species from waters of the state; it revises definitions of "established " and "propagules" to clarify that they apply to organisms other than plants, such as disease causing microorganisms; it modifies the definition of "wild animal" to clarify that crayfish as well as fish are excluded from that term; and it revises the descriptions of the boundary lines for 6 split-listed invasive plant species (i.e., plants that are listed both as "prohibited" in one part of the state and as "restricted" in another part of the state), changing them from highways to counties. The rule also revises the "prohibited" and "restricted" invasive plant species listings for Poison hemlock to change its status in Crawford, Dane, Green, Lafayette, Rock, Richland and Sauk counties from "prohibited" to the reduced regulatory status of "restricted" due to its relative abundance in those counties; it corrects the scientific name of snakehead fish; lists the snakehead fish species that are considered viable in Wisconsin waters; and adds a Note that identifies nonnative fish species that are not viable. It also creates or amends Notes to reflect changes made by 2009 Wisconsin Act 55 and changes made in the rule, and to correct staff position titles, email addresses or Internet links or other similar information. It revises the current bans in ch. NR 40 on the highway transport or launching of any vehicle, boat, boat trailer or other equipment with an aquatic plant or aquatic animal attached, removing code language made largely redundant by new statutory language created by Act 55. The rule retains and revises language banning the placement or operation in wetlands or non-navigable waters of any vehicle, watercraft or equipment with aquatic plants (except native duckweed or wild rice) or aquatic animals attached to the exterior and retains an exemption for fire suppression. Finally, it removes a permit requirement that duplicates a statutory requirement relating to introduction of nonnative aquatic plants, but retains a permit requirement to introduce nonnative algae and cyanobacteria to waters of the state. The proposed rule creates no new requirements.

None of the proposed changes have a fiscal impact.

Long-Range Fiscal Implications

None anticipated.

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	01/07/2010

Fiscal Estimate — 2009 Session

Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number IS-07-10

Assumptions Used in Arriving at Fiscal Estimate – Continued

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2047 (R10/2000)

Fiscal Estimate Worksheet — 2009 Session

Detailed Estimate of Annual Fiscal Effect

		LRB Number	Amendment Number if Applicable
☒ Original	☐ Updated		
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number IS-07-10

Subject

Housekeeping revisions to ch. NR 40, Invasive Species Identification, Classification and Control

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations — Salaries and Fringes	$	$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
Total State Costs by Category	$	$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	$	$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues — Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes	$	$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	$	$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	$	$
Net Change in Revenues	$	$

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	01/07/2010

ORDER OF
THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING, REPEALING AND RECREATING, AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 40.02 (16), (42) and (53), 40.04 (2) (b) 6., 7., 8., 14., 24., 36. and 38. and (3) (g) Notes, 40.05 (2) (b) 11., 13., 14., 25., 29., 43. and 46. and (3) (g) Notes, 40.06 (1) (a) Note, and 40.07 (1) Note, (4) and (7); repeal and recreate NR 40.04 (2) (c); and create NR 40.02 (3m), 40.04 (3) (d), 40.045 Note, 40.05 (3) (d), and 40.07 (2) (a) 1. Note and (3) (a) 1. Note, relating to the identification, classification and control of invasive species and affecting small business

IS-07-10

Analysis Prepared by Department of Natural Resources

1. Statutes interpreted.

Section 23.22 (2) (a), Stats.

2. Statutory authority.

Sections 23.09 (2) (intro), 23.091, 23.11 (1), 23.22 (2) (a) and (b) 6., 23.28 (3), 27.01 (2) (j), 29.014 (1), 29.039 (1) 29.041, and 227.11 (2) (a), Stats.

3. Explanation of agency authority to promulgate the proposed rules under the statutory authority.

The principal authority for the department's invasive species rules is s. 23.22 (2) (a) and (b) 6., Stats., which requires the department to establish a statewide program to control invasive species in this state and directs the department to promulgate rules to identify, classify and control invasive species for purposes of the program, which may include procedures and requirements for issuing permits to control invasive species. In order to fulfill this broad duty, the department adopted ch. NR 40 to provide it with all of the tools that are required to control invasive species, wherever found in the state, including regulation of the possession, transportation, transfer and introduction of specific invasive species, general preventive measures designed to restrict pathways by which humans commonly spread or introduce invasive species, authority to enter property in order to inspect, survey and control invasive species, and authority to recover the state's costs when it must carry out necessary control measures because responsible parties do not comply with department orders to control invasives themselves.

Section 23.11 (1), Stats., delegates to the department such further powers as may be necessary or convenient to enable it to exercise the functions and perform the duties required of it by ch. 23, Stats., and by other provisions of law.

Invasive species have caused environmental and economic damage and threaten human health, and will continue doing so unless adequate control measures are adopted and implemented. The general legislative delegation to the department of all necessary or convenient powers set out in s. 23.11 (1), Stats., combined with the broad directive in s. 23.22 (2) (a) and (b) 6., Stats., to control invasive species in this state give the department sufficient power to adopt and revise as needed rules for the protection of public health, safety, welfare and the environment, but particularly for the promotion of public welfare, convenience and general

prosperity. The department's exercise of legislatively delegated police powers, as embodied in its invasive species rules, has its basis in the inherent power and duty of government to protect and promote the life, comfort, safety and welfare of society.

Section 23.09 (2) (intro), Stats., grants the department general authority to adopt rules for the protection, development and use of forests, fish and game, lakes, streams, plant life, flowers and other outdoor resources in this state. Section 23.091, Stats., authorizes the department to acquire, develop, operate and maintain state recreation areas, to establish use zones within state recreation areas providing for the full range of recreational uses, including hunting and fishing, and to promulgate rules to control uses within zones and limit the number of persons using any zone. Section 23.11 (1), Stats., gives the department the authority to have and take the general care, protection and supervision of all state parks, of all state fish hatcheries and lands used therewith, of all state forests, and of all lands owned by the state or in which it has any interests.

Section 23.28 (3), Stats., prohibits the department from allowing any use of a designated state natural area which is inconsistent with or injurious to its natural values, and authorizes the department to establish use zones, control uses within a zone and limit the number of persons using zones in designated state natural areas. Section 27.01 (2) (j), Stats., grants the department authority to promulgate rules necessary to govern the conduct of state park visitors, and for the protection of state park property, or the use of facilities, including the use of boats and other watercraft on lakes or rivers within the limits of a state park, and the use of roads, trails or bridle paths.

Section 29.014 (1), Stats., directs the department to establish and maintain any bag limits and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing. Section 29.039 (1), Stats., authorizes the department to develop conservation programs to ensure the perpetuation of nongame species, require harvest information and establish limitations relating to taking, possession, transportation, processing and sale or offer for sale, of nongame species. "Nongame species" is defined as any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion that is living in the wild and that is not classified as a game fish, game animal, game bird or furbearing animal. Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters, and outlying waters.

Finally, s. 227.11 (2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute. The department considers the rules created by this Order to be necessary to effectuate the purposes of s. 23.22, Stats.

4. Related statute or rule.

Related statutes or rules include but are not limited to the following provisions which, to varying degrees, may apply to the identification, classification, control or other regulation of species that are invasive, or to conduct that may result in the introduction or spread of invasive species:

Statutory section	Title [or subject]
15.347 (18)	Invasive species council.
23.093	Carp control research.

23.235 Nuisance weeds.
23.24 Aquatic plants.
26.20 (4) [Railroad right-of-way annual weed removal]
26.30 Forest insects and diseases; department jurisdiction; procedure.
27.019 (7) (c) [County rural planning – highways - only native plantings allowed]
27.05 (5) and (7) [County authority to manage plants and control weeds in county waters, parks and county lands]
29.011 Title to wild animals.
29.047 Interstate transportation of game.
29.053 Specific open and closed seasons.
29.055 Wild animals; possession in closed season or in excess of bag limit.
29.057 Wild animals; possession in open season.
29.089 Hunting on land in state parks and state fish hatcheries.
29.091 Hunting or trapping in wildlife refuge.
29.192 Regulation of takings of certain wild animals.
29.301 General restrictions on hunting.
29.307 Hunting with aid of aircraft prohibited.
29.314 Shining animals.
29.327 Regulation of waterfowl blinds.
29.331 Trapping regulation.
29.334 Hunting and trapping; treatment of wild animals.
29.335 Feeding wild animals for nonhunting purposes.
29.337 Hunting and trapping by landowners and occupants.
29.354 Possession of game birds and animals.
29.407 Transportation of fish.
29.414 Erection of barriers to exclude rough fish.
29.417 Permit to take rough fish.
29.421 Removal of rough fish.
29.424 Control of detrimental fish.
29.509 Bait dealer license.
29.516 Fishing with nets and setlines.
29.601 Noxious substances.
29.604 Endangered and threatened species protected.
29.614 Scientific collector permit.
29.627 Domestic fur–bearing animal farms.
29.701 Propagation of fish; protected wild animals.
29.705 Propagation of fish; removal of fish.
29.733 Natural waters used in fish farms.
29.734 Barriers required for fish farms.
29.735 Importation of fish.
29.736 Stocking of fish.
29.737 Permit for private management.
29.738 Private fishing preserves.
29.741 Food in the wild for game birds.
29.875 Disposal of escaped deer or elk.
29.885 Removal of wild animals.
29.887 Wildlife control in urban communities.

29.924 Investigations; Searches.
29.927 Public nuisances.
29.931 Seizures.
29.934 Sale of confiscated game and objects.
30.07 Transportation of aquatic plants and animals; placement of objects in navigable waters.
30.1255 Report on control of aquatic nuisance species.
59.70 (17) and (18) [County funds, equipment, fees for pest and weed control, plant or animal diseases.]
66.0407 Noxious weeds. [local governments]
66.0517 Weed commissioner. [local governments]
66.0627 Special charges for current services. [charges for weed elimination]
84.07 (3) [DOT highway patrol officers to destroy noxious weeds on highways]
93.07 Department duties. [Dept. of Agriculture, Trade and Consumer Protection - pests]
94.01 Plant inspection and pest control authority.
94.02 Abatement of pests.
94.03 Shipment of pests and biological control agents; permits.
94.10 Nursery stock; inspection and licensing.
94.38 Agricultural and vegetable seeds; definitions.
94.41 Prohibitions. [Sale or distribution of noxious weed seed]
94.45 Powers and authority of the department.
94.46 Stop sale; penalties; enforcement.
94.69 Pesticides; rules.
94.76 Honeybee disease and pest control.
146.60 Notice of release of genetically engineered organisms into the environment.
169.04 Possession of live wild animals.
169.06 Introduction, stocking, and release of wild animals.
169.07 Exhibition of live wild animals.
169.08 Propagation of wild animals.
169.10 Sale and purchase of live wild animals.
169.11 Harmful wild animals.
169.36 Record–keeping and reporting requirements.
182.017 Transmission lines; privileges; damages. [utility weed control along transmission lines]
281.17 (2) [DNR to supervise chemical treatment of waters for the suppression of nuisance–producing organisms that are not regulated by the program established under s. 23.24 (2).]
237.10 Rapide Croche lock [Fox river lamprey barrier]

5. Plain language analysis of the proposed rules.

The proposed rule makes several "housekeeping" changes to ch. NR 40 relating to the identification, classification and control of invasive species.

SECTION 1. of the proposed Order creates a definition for the term "aquatic invasive species." The definition is needed for clarification of an existing rule that authorizes the department to remove detrimental fish and other aquatic invasive species from waters of the state.

SECTION 2. revises the current definitions of "established " and "propagules," to clarify that they apply to organisms other than plants, such as disease-causing microorganisms. It also modifies the definition of

"wild animal" to clarify that crayfish as well as fish are excluded from that term, consistent with the regulatory approach taken in the rest of ch. NR 40 regarding invasive fish and crayfish species.

SECTIONS 3. and 8. of this proposed Order revise the descriptions of the boundary lines for 6 split-listed invasive plant species (i.e., plants that are listed both as "prohibited" in one part of the state and as "restricted" in another part of the state). In order to be consistent with other split-listed invasive plant species described in ch. NR 40, the prohibited and restricted area descriptions for these 6 plants are changed from areas marked by boundary lines consisting of highways to areas that are defined by named counties. SECTIONS 3. and 8. also revise the "prohibited" and "restricted" invasive plant species listings for *Conium maculatum* (Poison hemlock). The plant currently is listed as "prohibited" in all counties except Iowa and Grant counties, where it is listed as "restricted." The plant's status in Crawford, Dane, Green, Lafayette, Rock, Richland and Sauk counties is changed from "prohibited" to the reduced regulatory status of "restricted" due to its recently discovered relative abundance in those counties. The revisions also correct the order of the county names to be alphabetical.

SECTION 4. corrects the scientific name of snakehead fish, corrects inconsistencies in the use of Italic font for species scientific names, corrects the revised list of prohibited fish species to be in alphabetical order, specifically lists or names the snakehead fish species that are considered viable in Wisconsin waters, and adds an informational Note that identifies nonnative fish species that the department has determined are not viable.

SECTIONS 5., 6., 7., 9., 10., 11., 12., 13. and 15. create or amend informational Notes to various provisions of ch. NR 40. The Notes are created or revised to reflect changes made by 2009 Wisconsin Act 55 or changes made elsewhere in this proposed rule, or to correct staff position titles, email addresses or Internet links or other similar information.

SECTION 14. revises the current bans in ch. NR 40 on the highway transport or launching of any vehicle, boat, boat trailer or other equipment that has an aquatic plant or aquatic animal attached. The revisions remove code language made largely redundant by the adoption of s. 30.07, Stats., as created by 2009 Wisconsin Act 55, effective November 12, 2009. Section 30.07, Stats., includes a ban on the placement or operation in navigable waters of any vehicle, watercraft or equipment with aquatic plants or aquatic animals attached to the exterior. As a compliment to s. 30.07, Stats., the proposed rule retains and revises language in ch. NR 40 banning the placement or operation in wetlands or non-navigable waters of any vehicle, watercraft or equipment with aquatic plants or aquatic animals attached to the exterior. The proposed rule exempts native duckweed and wild rice like s. 30.07, Stats., but unlike the statute, the proposed rule retains an exemption for vehicles, watercraft and equipment engaged in fire suppression.

SECTION 16. of the proposed rule removes an unnecessary regulatory permit requirement that duplicated an existing statutory requirement relating to the introduction of nonnative aquatic plants. References to nonnative aquatic plants are removed from s. NR 40.07 (7) and the remaining rule is revised, for consistency, to require a ch. NR 40 permit instead of a "written exemption" to introduce nonnative algae and cyanobacteria to waters of the state. A Note is added referring to the existing statutory permit requirement under s. 23.24, Stats., for introduction of nonnative aquatic plants.

6. Summary of and preliminary comparison with existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rules.

There are no directly comparable federal regulations.

7. Comparison with similar rules in adjacent states (Minnesota, Iowa, Illinois, and Michigan).

Because the proposed rule consists only of unique "housekeeping" revisions to existing administrative rules, no comparison is possible.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rules and how any related findings support the regulatory approach chosen for the proposed rules.

Department staff and members of the public identified drafting errors and potential problems in ch. NR 40 after it was adopted effective September 1, 2009. In addition, a review of ch. NR 40 was conducted after the enactment of 2009 Wisconsin Act 55 (effective November 12, 2009) to identify how ch. NR 40 should be revised to conform to the Act.

9. Analysis and supporting documentation that the agency used in support of the agency's determination of the rules' effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report.

The proposed rule is intended to correct drafting errors, clarify existing code language, harmonize the existing code with new statutory provisions by eliminating redundancies, and accomplish other, similar "housekeeping" changes. It does not establish any new requirements.

10. Effects on small business, including how the rules will be enforced.

The proposed rule is not expected to have a significant adverse effect on a substantial number of small businesses and may have favorable effects on a number of businesses by correcting and clarifying existing rules and by adding informational Notes to ch. NR 40.

Interested parties may include the plant nursery industry, seed and agriculture industries, fish farmers, bait dealers, aquarium and ornamental fish dealers, land owners and managers, commercial fishers, anglers, gardeners, county and municipal governments, lake districts, government agencies, environmental and conservation organizations, and the Wisconsin Invasive Species Council.

Enforcement of ch. NR 40 will not change as a result of the proposed rule. Enforcement will vary depending on the species being regulated and the applicability of other rules and statutes. For forest or plant pests and aquaculture, the department and DATCP share regulatory responsibility. The department has (or will develop) memoranda of agreement with DATCP to clarify what aspects of ch. NR 40 and related rules will be enforced by each agency.

The department will normally follow an informal, stepped enforcement process in order to obtain compliance with the revised invasive species rules. This involves informal discussions between department staff and the landowner or company, notifying the person of potential violations and providing guidance on how to comply with the rules. Notices of non-compliance may follow if necessary. If formal enforcement is necessary, these revised rules and permits issued under the revised rules will be enforced by department conservation wardens, county district attorneys, and circuit courts through the use of citations

and civil or criminal complaints. Civil and criminal enforcement may also be carried out by department referral of violations to the Wisconsin Attorney General, with prosecution and abatement actions in the circuit courts. Criminal enforcement will be limited to intentional violations. Finally, violations of the permits issued under revised ch. NR 40 also may be enforced by administrative permit revocation proceedings.

11. Agency contact person (including e-mail and telephone number).

Kelly Kearns
Bureau of Endangered Resources
Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921
Telephone: (608) 267-5066
Email: kelly.kearns@wisconsin.gov

12. Place where comments are to be submitted and deadline for submission.

To be determined.

SECTION 1. NR 40.02 (3m) is created to read:

NR 40.02 (3m) "Aquatic invasive species" means any invasive species that dwells in water or wetlands.

SECTION 2. NR 40.02 (16), (42) and (53) are amended to read:

NR 40.02 (16) "Established" means, for algae and cyanobacteria, plants, ~~and~~ terrestrial invertebrates and plant disease-causing ~~organisms~~ microorganisms, aquatic invertebrates except crayfish, and terrestrial and aquatic vertebrates except fish, present in an area as a self-sustaining population that is dispersed to the extent that eradication is either infeasible or will take a significant effort over a period of several years.

(42) "Propagules" means specimens or parts of a ~~plant~~ species that are capable of producing additional ~~plants~~ specimens through either sexual or asexual reproduction, including but not limited to seeds, roots, stems, rhizomes, tubers and spores.

(53) "Wild animal" means any mammal, bird, or other creature of a wild nature endowed with sensation and the power of voluntary motion, except fish and crayfish.

SECTION 3. NR 40.04 (2) (b) 6., 7., 8., 14., 24., 36. and 38. are amended to read:

NR 40.04 (2) (b) 6. *Chelidonium majus* (Celandine) ~~north of state highway 64~~ in Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Florence, Forest, Iron, Langlade, Lincoln, Marinette, Oeonto, Oneida, Polk, Price, Rusk, St. Croix, Sawyer, Taylor, Vilas and Washburn counties

7. *Cirsium palustre* (European marsh thistle) ~~west of state highway 13 and south of state highway 29, excluding Door county~~ except in Ashland, Bayfield, Chippewa, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties

8. *Conium maculatum* (Poison hemlock) except ~~Iowa and Grant~~ in Crawford, Dane, Grant, Green, Iowa, Lafayette, Richland, Rock, and Sauk counties

14. *Glyceria maxima* (Tall or reed mannagrass) ~~west of a line formed by state highway 22 from Oconto to Arlington, then state highway 51 from Arlington to the Illinois state line.~~ except in Brown, Calumet, Dodge, Door, Fond du lae, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, Waukesha and Winnebago counties

24. *Lonicera maackii* (Amur honeysuckle) ~~north of state highway 21 from La Crosse to Wautoma and state highway 22 from Wautoma to Oconto~~ except in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Fond du lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara and Winnebago counties

36. *Torilis japonica* (Japanese hedgeparsley or erect hedgeparsley) ~~north of the line formed by state highway 21 from La Crosse to Coloma, north on state highway 51 to Heafford Junction, east on state highway 8 to the Michigan state line~~ in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Jackson, Lincoln, Oneida, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Trempeleau, Taylor, Washburn, Vilas and Wood counties

38. *Vincetoxicum nigrum* or *Cynanchum louiseae* (Black or Louise's swallow-wort) ~~north and east of a line formed by interstate highways 90 from La Crosse to Madison and 94 from Madison to Milwaukee~~ except in Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Racine, Richland, Rock, Sauk, Vernon, Walworth and Waukesha counties

SECTION 4. NR 40.04 (2) (c) is repealed and recreated to read:

NR 40.04 (2) (c) Fish and crayfish. The following fish invasive species and crayfish invasive species are prohibited:

1. *Channidae* (snakehead), including *Channa argus* (Northern snakehead), *Channa bleheri* (Rainbow snakehead), *Channa gachua* (Dwarf snakehead), *Channa maculata* (Blotched snakehead), *Channa marulius* (Bullseye snakehead), *Channa punctata* (Spotted snakehead), and *Channa striata* (Chevron snakehead)

2. *Ctenopharyngodon idella* (Grass carp)

3. *Cyprinella lutrensis* (Red shiner)

4. *Gambusia affinis* (Western mosquitofish)

5. *Gambusia holbrooki* (Eastern mosquitofish)

6. *Hypophthalmichthys molitrix* (Silver carp)

7. *Hypophthalmichthys nobilis* (Bighead carp)

8. *Mylopharyngodon piceus* (Black carp)

9. *Sander lucioperca* (Zander)

10. *Scardinius erythrophthalmus* (Rudd)

11. *Tinca tinca* (Tench)

12. All other nonnative fish and nonnative crayfish except:

a. Established nonnative fish species and established nonnative crayfish species

b. Nonnative viable fish species in the aquarium trade

c. Nonnative fish species in the aquaculture industry

d. Fish species that the department has determined are nonviable fish species

Note: As of Jan. 1, 2010, the department determined that the following Snakehead fish species are nonviable fish species: *Channa amphibeus* (Chel snakehead), *Channa asiatica* (Chinese snakehead), *Channa aurantimaculata* (Orangespotted snakehead), *Channa bankanensis* (Bangka snakehead), *Channa baramensis* (Baram snakehead), *Channa barca* (Barca snakehead), *Channa burmanica* (Burmese snakehead), *Channa cyanospilos* (Bluespotted snakehead), *Channa harcourtbutleri* (Inle snakehead), *Channa lucius* (Splendid snakehead), *Channa maruliodes* (Emperor snakehead), *Channa melnopterus* (Blackfinned snakehead), *Channa melasoma* (Black snakehead), *Channa micropeltes* (Giant snakehead), *Channa nox* (Night snakehead), *Channa orientalis* (Ceylon snakehead), *Channa panaw* (Panaw snakehead), *Channa pleurophthalma* (Ocellated snakehead), *Channa stewartii* (Golden snakehead),

Parachanna Africana (Niger snakehead), *Parachanna insignis* (Congo snakehead), and *Parachanna Obscura* (African snakehead). For the latest list of nonviable fish species, contact the department at:

Attn: FH/4
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

SECTION 5. NR 40.04 (3) (d) Note is created to read:

NR 40.04 (3) (d) Note: "Wild animal" is defined in s. NR 40.02 (53) to mean any mammal, bird, or other creature of a wild nature endowed with sensation and the power of voluntary motion, except fish and crayfish.

SECTION 6. NR 40.04 (3) (g) Notes are amended to read:

NR 40.04 (3) (g) Note: Paragraph (g) does not apply to transport of identified carriers of invasive species as described in s. NR 40.07 (5) (a).

Note: Reports for fish ~~and aquatic invertebrates~~ may be sent to:

Attn: FH/4
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707–7921

Note: Reports for other vertebrates may be sent to:

Attn: Wildlife Regulation Policy Specialist, WM/6
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707–7921

Note: Reports for terrestrial plants may be sent to:

Attn: Forestry Invasive Species Coordinator — FR/4
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707–7921

Note: Reports for aquatic ~~plants~~ species except fish may be sent to:

Attn: Aquatic Invasive ~~Plant~~ Species Coordinator ~~—WT/3~~

Wisconsin Department of Natural Resources

~~PO Box 7921~~ 141 NW Barstow St., Room 180

~~Madison, WI 53707–7921~~ Waukesha, WI 53188

Note: Reports for terrestrial invertebrates and plant disease-causing microorganisms may be sent to:

Forest Health Protection Program Coordinator

Wisconsin Department of Natural Resources

3911 Fish Hatchery Rd.

Fitchburg, WI 53711

Note: Reports may also be sent by email to ~~Bureau.EndangeredResources@wisconsin.gov~~ invasive.species@wisconsin.gov

SECTION 7. NR 40.045 Note is created to read:

Note: Under s.23.22 (2t) (a), Stats., the department may promulgate an emergency rule to identify, classify, or control an invasive species and is not required to provide evidence that such a rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency for such a rule. An emergency rule promulgated under s.23.22 (2t) (a), Stats., remains in effect for 24 months or until the repeal of the emergency rule, or until the effective date of the permanent rule identifying, classifying, or controlling the invasive species, whichever occurs first.

SECTION 8. NR 40.05 (2) (b) 11., 13., 14., 25., 29., 43. and 46. are amended to read:

NR 40.05 (2) (b) 11. *Chelidonium majus* (Celandine) ~~south of state highway 64~~ except in Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Florence, Forest, Iron, Langlade, Lincoln, Marinette, Oconto, Oneida, Polk, Price, Rusk, St. Croix, Sawyer, Taylor, Vilas and Washburn counties

13. *Cirsium palustre* (European marsh thistle) ~~east of state highway 13 and north of state highway 29, including Door county~~ in Ashland, Bayfield, Chippewa, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties

14. *Conium maculatum* (Poison hemlock) in ~~Iowa and Grant~~ Crawford, Dane, Grant, Green, Iowa, Lafayette, Richland, Rock, and Sauk counties

25. *Glyceria maxima* (Tall or reed mannagrass) ~~east of a line formed by state highway 22 from Oconto to Arlington, then state highway 51 from Arlington to the Illinois state line.~~ in Brown, Calumet, Dodge, Door, Fond du lac, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, Waukesha and Winnebago counties

29. *Lonicera maackii* (Amur honeysuckle) ~~south of state highway 21 from La Crosse to Wautoma and state highway 22 from Wautoma to Oconto~~ in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Fond du lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara and Winnebago counties

43. *Torilis japonica* (Japanese hedge parsley or erect hedgeparsley) ~~south of the line formed by state highway 21 from La Crosse to Coloma, north on state highway 51 to Heafford Junction, east on state highway 8 to the Michigan state line~~ except in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Jackson, Lincoln, Oneida, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Trempeleau, Taylor, Washburn, Vilas and Wood counties

46. *Vincetoxicum nigrum* or *Cynanchum louiseae* (Black or Louise's swallow-wort) ~~south and west of a line formed by interstate highways 90 from La Crosse to Madison and 94 from Madison to Milwaukee~~ in Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Racine, Richland, Rock, Sauk, Vernon, Walworth and Waukesha counties

SECTION 9. NR 40.05 (3) (d) Note is created to read:

NR 40.05 (3) (d) Note: "Wild animal" is defined in s. NR 40.02 (53) to mean any mammal, bird, or other creature of a wild nature endowed with sensation and the power of voluntary motion, except fish and crayfish.

SECTION 10. NR 40.05 (3) (g) Notes are amended to read:

NR 40.05 (3) (g) Note: Reports required by par. ~~(e)~~ (g) shall be sent to:

Attn: Aquatic Invasive ~~Plant~~ Species Coordinator ~~—WT/3~~

Wisconsin Department of Natural Resources

~~PO Box 7921~~ 141 NW Barstow St., Room 180

~~Madison, WI 53707–7921~~ Waukesha, WI 53188

Note: New populations of restricted aquatic plant species may be reported to the appropriate department regional ~~lake~~ aquatic invasive species coordinator. For a list of known waterbodies with restricted aquatic plant, algae and cyanobacteria species, see http://dnr.wi.gov/invasives/aquatic. To contact the appropriate ~~lake~~ aquatic invasive species coordinator see ~~http://dnr.wi.gov/org/water/fhp/lakes/aquaplan.htm~~ http://dnr.wi.gov/invasives/aquatic/contacts/.

SECTION 11. NR 40.06 (1) (a) Note is amended to read:

NR 40.06 (1) (a) Note: Applications for permits for aquatic plants may be sent to:

Attn: Aquatic Invasive ~~Plant~~ Species Coordinator ~~—WT/3~~

Wisconsin Department of Natural Resources

~~PO Box 7921~~ 141 NW Barstow St., Room 180

~~Madison, WI 53707–7921~~ Waukesha, WI 53188

SECTION 12. NR 40.07 (2) (a) 1. Note is created to read:

NR 40.07 (2) (a) 1. Note: Section 30.07 (2) (a) and (b), Stats., prohibit any person from placing or operating a vehicle, seaplane, watercraft, or other object of any kind in a navigable water if it has any aquatic plants or aquatic animals attached to the exterior and from taking off with a seaplane, or transporting or operating a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached to the exterior.

SECTION 13. NR 40.07 (3) (a) 1. Note is created to read:

NR 40.07 (3) (a) 1. Note: Section 30.07 (2) (a) and (b), Stats., prohibit any person from placing or operating a vehicle, seaplane, watercraft, or other object of any kind in a navigable water if it has any aquatic plants or aquatic animals attached to the exterior and from taking off with a seaplane, or transporting or operating a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached to the exterior.

SECTION 14. NR 40.07 (4) is amended to read:

NR 40.07 (4) (a) Except as provided in par. (b) ~~to (d)~~, no person may ~~launch or~~ place or operate a vehicle, ~~boat, boat trailer, equipment or gear of any type or land a sea plane~~ watercraft or other object of any kind in any wetland or non-navigable water of the state~~, or take off a seaplane or transport on a public~~

~~highway a vehicle, boat, boat trailer, equipment or gear of any type~~ if the ~~seaplane,~~ vehicle, ~~boat, boat trailer, equipment or gear~~ watercraft or other object has an aquatic plant or aquatic animal attached to the exterior.

(b) ~~Paragraph (a) does not apply to the placement or use of a boat or boating equipment or the placement of a boat trailer in a navigable water with an aquatic plant attached or in the St. Croix river with a zebra mussel attached.~~

~~Note: Placement and use of boats, boat trailers and boating equipment exempted under paragraph (b) is prohibited by s. 30.715, Stats.~~

~~(c) A person may transport a vehicle, boat, boat trailer, equipment or gear with aquatic plants or aquatic animals attached on a public highway if any of the following apply:~~

~~1. If authorized by a written exemption or permit issued by the department under this chapter.~~

~~2. For disposal, as part of a harvest or control activity conducted under an aquatic plant management permit issued under ch. NR 109.~~

~~3. When transporting commercial or municipal aquatic plant harvesting equipment to a suitable location, away from any water body, for purposes of cleaning the equipment of any remaining aquatic plants or aquatic animals.~~

~~4. In a covered truck bed, covered trailer or covered container, for personal or commercial use as compost or mulch.~~

~~5. For purposes of constructing or transporting a shooting or observation blind, if the aquatic plants are emergent, cut above the waterline, and contain no propagules such as seed heads, roots or rhizomes and no aquatic invasive species.~~

~~6. If the aquatic plant is native duckweed or wild rice.~~

~~7. If possession of the aquatic animal is authorized by department rule.~~

~~Note: Section NR 109.08 (4) prohibits any person from placing equipment used in aquatic plant management in a navigable water if the person has reason to believe that the equipment has any aquatic plants or zebra mussels attached, except equipment used in aquatic plant management when re-launched on the same body of water without having visited different waters, provided the re-launching will not introduce or encourage the spread of existing aquatic species within that body of water.~~

~~(d)~~ Paragraph (a) does not apply if the aquatic plant is native duckweed or wild rice.

(c) Paragraph (a) does not apply to ~~aircraft,~~ vehicles, ~~equipment, or gear~~ watercraft or other objects while engaged in fire suppression.

SECTION 15. NR 40.07 (1) Note is amended to read:

NR 40.07 (1) Note: The notice shall be mailed to the Director, Bureau of Fisheries Management, Wisconsin Department of Natural Resources, PO Box 7921, Madison, Wisconsin 53707-7921 and e-mailed to ~~NRFishHabitatProtection@wisconsin.gov~~ DNRFishHabitatProtection@wisconsin.gov.

SECTION 16. NR 40.07 (7) is amended to read:

NR 40.07 (7) Unless authorized by a ~~written exemption~~ permit issued by the department under this chapter, no person may introduce a nonnative ~~aquatic plant,~~ algae or cyanobacteria species in any water of the state~~, except waters of the state that are artificial, entirely confined and retained upon the property of a person, do not drain to other waters of the state, are not subject to intermittent or periodic flooding, and are not connected to any other water of the state~~. This subsection does not apply to the incidental introduction of a nonnative ~~aquatic plant,~~ algae or cyanobacteria species by a person operating an aircraft, vehicle, equipment or gear while engaged in fire suppression.

Note: Section 23.24 (3) (a) 1., Stats., prohibits any person from introducing nonnative aquatic plants into waters of this state unless the person has a valid aquatic plant management permit issued by the department.

SECTION 17. EFFECTIVE DATE. The rules contained herein shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

SECTION 18. BOARD ADOPTION. The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____

(SEAL) Mathew J. Frank, Secretary