Template 3/4/26

DRAFT March 31, 2026

The statement of scope for this rule, insert SS 042-25, was approved by the Governor on July 10, 2025, published in Register No. 835A2 on July 14,2025, and approved by the Natural Resources Board on December 10, 2025. This rule was approved by the Governor on [insert date].

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 40.02 (9m), (25), (26), (28), (32), (39), (43), (45), 40.03 (1) (note), 40.04 (2) (a) 1g., (b) 4n., 13e., 13m., 14., 22., 24., 29h., 34y., 38., (d) 1., 2., 4., 8r., 9., (e) 1., 4., 5e., 5m., 6., 7., 8. and (note), (f) 1., (3) (b), (g) (notes 2 and 3), (h) 1., (3m), 40.05 (2) (b) 6m., and (note), 21., 27e., 33. (note), 34. (note), 34m., 37m., 38. (note), 40g., (e) 1m., 3. And (notes), (3) (b) and (note), (o) 1., (4), 40.06 (1) (a) (notes 1 and 2), 40.07 (6), (8) (b), (c) 4. and 5., and (f); to **renumber** NR 40.05 (2) (d) 1.; to **renumber and amend** NR 40.04 (2) (a) 1r., 4., 6., (b) 4w., 10r., 12r., 40.05 (2) (b) 10., 14m., and 17.; to **amend** NR 40.02 (15), (17), (19), (24), (27), (29), (30), (31), (44), (46m), 40.03 (2) (intro.) and (b) to (d), 40.04 (2) (b) 1m., 2., 9., 12., 13., 16., 20., 21., 22r., 27., 28e., 28m., 30., 32., 33g., 33r., 34s., 36., 39, (c) 1., (d) 6., 7., (3) (a), (f), (g) and (note), (h)2., (4) (b), (f) (note 2), 40.05 (2) (b) 1e., 3., 3r., 20., 23g., 25., 27., 28., 28m., 29., 32., 32g., 35m., 40., 43., 46., (3) (a) and (c), (f) (L), (m), (o) 2., 40.06 (2) (b), 40.07 (1) (note), (2) (a) 2., (4) (a), (b), (8) (title), (c) 1., 2., 3., and (8) (e); to **repeal and recreate** NR 40.02 (10); 40.04 (2) (b) 34p., (g), 40.05 (2) (b) 3g., and 41m., 40.06 (1) (a), and 40.07 (8) (a); and to **create** NR 40.02 (14m), (44) (note), 40.03 (3), 40.04 (2) (b) 2c., 2v., 4L., 5m., 6., 8m., 13b., 13d., 13w., 18v., 18y., 19m., 23e., 23m., 23s., 28b., 28w., 29r., 34m., 34u., 34x., 36m., 37d., and 37t., (c) 7m., (d) 8d., 8t., 8w., 8y., 10., 11., 12., and 13., (e) 1m., 4m., (f) 1e., 1s., (3) (c) (note), (j), 40.05 (2) (b) 1k., 21r., 23d., 23m., 24p., 24t., 27g., 27t., 28d., 28g., 32d., 32e., 33a., 33b., 33c., 35t., 38g., 38r., 39m., 41s., and 42m., (d) 1c., 1g., 1t., 2g., 2r., (e) 2g., 2r., (f), (g), (3) (c) (note), (q) and (note), 40.06 (1) (a) (note), 40.07 (9), relating to invasive species management and affecting small business.

NH-08-25

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted and explanation of agency authority:

The principal authority for these 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 for invasive species research or education.

Section 23.09 (2), Stats., gives the department the authority to create rules as it deems

necessary for the protection, development, and use of natural resources in the state, including through the establishment of long-range plans, projects and priorities for conservation. Identifying, classifying and controlling invasive species under ch. NR 40 is designed to help achieve priority goals for conservation.

2. Statutory Authority:

Statutes that authorize the promulgation of this rule include ss. 23.09 and 23.22, Stats.

3. Related Statutes or Rules:

There are no related active rules.

4. Plain Language Analysis:

The main goals of this revision are to update the lists of regulated species to continue to protect Wisconsin. Revisions to these lists are needed in order to reflect the latest science and any taxonomic changes, changes in species distributions, and to prevent the introduction of new species. This includes adding new species, changing some species from prohibited to restricted, or removing some species from regulation under the rule. Additionally, this rule revision is meant to clarify and reorganize key portions to promote compliance. This includes rephrasing, updating or removing old information, or adding new information.

SECTIONS 1 AND 4 repeal the definition of “crayfish” since “crayfish” is being incorporated into the definition of “invasive species.”

SECTION 2 repeals the definition of “cultivate” and replaces it with the definition of “cultivar” since the term “cultivate” is not used in the chapter of code while the term “cultivar” is used and the department regulates at the cultivar level.

SECTION 3 creates a definition for the term “duckweed.”

SECTIONS 4 AND 12 amend various definitions and move the definition of “recombinant nucleic acid techniques” into the definition of “genetically modified.”

SECTION 5 repeals the definitions of “management action” and “native duckweed.”

SECTION 6 removes a reference to published literature when determining if a fish is considered a “native species” to Wisconsin.

SECTION 7 repeals the definition of “natural areas.” This term is not used in this chapter of administrative code.

SECTION 8 amends various definitions, including using the current scientific name of koi carp. This section also adds kokanee salmon to the list of “nonnative fish species in the aquaculture industry” which would make it a restricted species.

SECTION 9 repeals the various definitions that are not used in this chapter of administrative code.

SECTIONS 10 AND 11 amend the definition of “reasonable precautions.” The changes include moving a reference to a department program when determining what is considered a “reasonable precaution” to a note, and removing requirements related to the transfer of aquatic plants and animals as these requirements are clearly defined in s. NR 40.07, Wis. Adm. Code.

SECTION 13 amends the definition of “rock shelter.”

SECTION 14 repeals a note that contains outdated information. This note references lists of “caution” and “non-restricted” invasive species, both of which have become unavailable since the last revision of this rule.

SECTION 15 clarifies how criteria for regulating a species may be used to reassess species that are already regulated under the rule and how the criteria must be used to assess adding new species.

SECTION 16 clarifies that any changes in scientific names do not change regulatory status.

SECTION 17 removes Killer algae from the prohibited plants category since it is a nonviable species to Wisconsin.

SECTIONS 18-20 update the current scientific names of species of prohibited algae and cyanobacteria (Cylindro, Eagle-killer neurotoxin aetokthonotoxin, and Species of the Ulva genus).

SECTIONS 21 AND 81 eliminate the use of multiple common species names and update the counties in which Wild chervil is regulated, with Burnett, Eau Claire, Pierce, Rusk, Saint Croix, and Washburn becoming restricted.

SECTION 22 adds three new species to the prohibited plants category (Small carpetgrass, Slender false brome, and Pendulous sedge). These species all have potential to become established and cause harm.

SECTION 23 removes Asian loeseneri bittersweet from the prohibited plants category due to a lack of information that it currently poses a threat to Wisconsin.

SECTION 24 updates the current scientific name of Russian knapweed.

SECTION 25 adds three new species to the prohibited plants category (Squarrose knapweed, Rush skeletonweed, and Incised fumewort). These species all have potential to become established and cause harm.

SECTION 26 eliminates the use of multiple common species names for Australian swamp crop.

SECTION 27 updates the current scientific name of Chinese yam.

SECTION 28 eliminates the use of multiple common species names for Brazilian waterweed.

SECTION 29 updates the current scientific name of Floating water hyacinth.

SECTIONS 30 AND 88 update the counties in which Hairy willow herb is regulated, with Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha becoming restricted.

SECTION 31 adds two new species to the prohibited plants category (Small-flower hairy willowherb and Sickleweed). These species all have the potential to become established and cause harm.

SECTIONS 32, 90, AND 92 remove Bohemian knotweed and Giant knotweed from the prohibited plants category and place them in the restricted category, as new information suggests these two species are now widespread in the state.

SECTION 33 adds Waxy mannagrass to the prohibited plants category. This species has the potential to become established and cause harm.

SECTIONS 34 AND 93 remove Reed mannagrass from the prohibited plants category and place it solely in the restricted plants category, as it has become widespread in the state. These changes also eliminate the use of multiple common names.

SECTIONS 35 AND 93 update the counties in which Japanese hops is regulated, with Adams, Eau Claire, Jefferson, and Juneau counties becoming restricted.

SECTION 36 adds three new species to the prohibited plants category (Tansy ragwort, Castor aralia, and Hoary cress). These species all have potential to become established and cause harm.

SECTION 37 eliminates the use of multiple common species names for Perennial pepperweed and Sericea lespedeza.

SECTIONS 38 AND 96 remove Lyme grass from the prohibited category and place it in the restricted category, as new information suggests this species is now widespread in the state.

SECTIONS 39 AND 98 update the counties in which Dalmatian toadflax is regulated, with Ashland and Monroe becoming restricted.

SECTION 40 adds three new species to the prohibited plants category (Large-flower primrose-willow, Floating primrose-willow, and Bigleaf lupine). These species all have potential to become established and cause harm.

SECTIONS 41 AND 98 remove Amur honeysuckle from the prohibited plants category and place it in the restricted category, as new information suggests this species is now widespread in the state.

SECTION 42 eliminates the use of multiple common species names for Brittle naiad.

SECTION 43 adds Fineleaf waterdropwort to the prohibited plants category. This species has the potential to become established and cause harm.

SECTION 44 eliminates the use of multiple common species names for Java waterdropwort, and updates the current scientific name of Wavyleaf basketgrass.

SECTION 45 adds Butterweed to the prohibited plants category. This species has the potential to become established and cause harm.

SECTIONS 46 AND 105 remove Amur cork tree from the prohibited plants category and place it in the restricted category, as new information suggests this species is now widespread in the state. These changes also remove existing cultivar exemptions for this species.

SECTION 47 adds Indian pokeweed to the prohibited plants category. This species has the potential to become established and cause harm.

SECTION 48 eliminates the use of multiple scientific species names for Mile-a-minute vine and Kudzu. It also updates the counties in which Lesser celandine is regulated. In addition, these changes update the current scientific name of Himalayan blackberry.

SECTION 49 adds Bog bulrush to the prohibited plants category. This species has the potential to become established and cause harm.

SECTION 50 removes Seaside goldenrod from the prohibited plants category due to a lack of evidence this species is escaping into natural areas and causing harm. It also adds Columbus grass, which is the hybrid offspring of a currently regulated prohibited species (*Sorghum halepense*) and has the potential to cause harm.

SECTIONS 51 AND 111 update the regulatory status for Johnsongrass so that it is prohibited in all counties except for Dane, where it is restricted.

SECTION 52 adds Exotic bur-reed to the prohibited plants category. This species has the potential to become established and cause harm.

SECTIONS 52 AND 111 add Red hailstone to the prohibited and restricted plants categories, with Grant, Crawford, and Richland counties becoming restricted. This species has the potential to become established and cause harm.

SECTION 53 removes Medusahead from the prohibited plants category, as there is a lack of evidence of its presence in the Midwest or the eastern United States.

SECTIONS 54 AND 112 update the counties in which Japanese hedgeparsley is regulated, with Wood becoming restricted.

SECTION 55 adds three new species to the prohibited plants category (Two horn water chestnut, Puncture vine, Dwarf cattail). These species all have potential to become established and cause harm.

SECTIONS 56 AND 112 remove Black swallow-wort from the prohibited plants category and place it in the restricted category, as new information suggests this species is now widespread in the state.

SECTION 57 eliminates the use of multiple scientific and common species names for Pale swallow-wort and clarifies that all species in the family Channidae are prohibited, rather than the several species that are currently listed which only serve as examples of such species in the family.

SECTION 58 adds species of the Monopterus genus to the prohibited fish and crayfish category. Species of this genus have the potential to become established and cause harm.

SECTIONS 59 AND 114 remove three species (Faucet snail, Spiny water flea, and Freshwater golden clam) from the prohibited aquatic invertebrates category and place them in the restricted category, as new information suggests these species are now widespread in the state.

SECTION 60 updates the current scientific name of Quagga mussel and corrects the spelling of the scientific name for Chinese mitten crabs.

SECTION 61 adds Gravel snail to the prohibited aquatic invertebrates category. This species has the potential to become established and cause harm.

SECTIONS 62 AND 114 remove Malaysian trumpet snail from the prohibited aquatic invertebrates category and place it in the restricted category, as new information suggests this species is now widespread in the state.

SECTION 63 adds three new species to the prohibited aquatic invertebrates category (Dark falsemussel, Channeled applesnail, and Giant applesnail). These species all have potential to become established and cause harm.

SECTION 64 AND 114 remove New Zealand mud snail from the prohibited aquatic invertebrates category and place it in the restricted category, as new information suggests this species is now widespread in the state.

SECTION 65 adds four new species to the prohibited aquatic invertebrates category (Gill lice, Asian tapeworm, Chinese pond mussel, Quilted melania snail). These species all have potential to become established and cause harm.

SECTION 66 removes seven species from the prohibited terrestrial invertebrates and plant disease-causing organisms category. Five of these are regulated by the Department of Agriculture, Trade, and Consumer Protection under ch. ATCP 21, Wis. Adm. Code. The other two were regulated under quarantines but these regulations were rescinded.

SECTION 67 adds two new species to the prohibited terrestrial invertebrates and plant disease-causing organisms category (Giant African snail and Beech leaf disease nematode) and adds one new species to the prohibited terrestrial vertebrates category (European goldfinch). These species have the potential to become established and cause harm.

SECTION 68 removes Monk parrot from the prohibited terrestrial vertebrates category due to lack of evidence for potential to cause harm.

SECTION 69 adds Great tit to the prohibited terrestrial vertebrates category. This species has the

potential to become established and cause harm.

SECTION 70 recreates the prohibited “fungi” category as the “animal disease-causing organisms” category and adds five species [Ambystoma tigrinum virus (ATV, a ranavirus), *Batrachochytrium salamandrivorans* (Bsal or salamander chytrid fungus), Bohle iridovirus (BIV, a ranavirus), *Myxobolus cerebralis* (Parasite that causes whirling disease), and *Raillietiella orientalis* (Invasive snake lungworm). These species have the potential to become established and cause harm.

SECTION 71 AND 119 remove references to exemptions under ss. NR 40.04 (3) (b) and 40.05 (3) (b), which are proposed to be removed from the rule.

SECTION 72 AND 120 remove exemptions under ss. NR 40.04 (3) (b) and 40.05 (3) (b) related to unknowing or incidental transportation, transfer, possession, or introduction of invasive species. The application of these exemptions was unclear according to law enforcement and varied based on the situation.

SECTION 73 adds a note that provides information on how to apply for a permit.

SECTION 74 provides clarity on when prohibited invasive species may be moved or kept without a permit and corrects a citation. It also provides updated information on how to report invasive species.

SECTION 75 removes two notes that contained outdated reporting information. It also removes an exemption to ensure proper reviews of projects utilizing invasive species.

SECTION 76 AND 125 amend exemptions under ss. NR 40.04 (3) (h) 2. and 40.05 (3) (o) 2. to clarify how to dispose of invasive fish when inadvertently caught.

SECTION 77 adds a conditional exemption for the import of Water spinach.

SECTION 78 removes s. NR 40.04 (3m), as Early Detection Monitoring is no longer needed for White-nose syndrome.

SECTION 79 amends s. NR 40.04 (4) (b) to clarify the department can designate people to control prohibited species. It also adds instructions on how to report invasive species in (f) note, and updates the current scientific name for Amur maple.

SECTION 80 adds Norway maple to the restricted plants category. This species has the potential to become established and cause harm.

SECTION 82 removes Wormwood from the restricted plants category due to a lack of evidence of harm and adds Mugwort to this category, as it has the potential to become established and cause harm.

SECTION 83 amends the regulation of cultivars of Japanese barberry based on new science.

SECTION 84 removes Siberian peashrub from the restricted plants category and the associated

note. There is little evidence of this species causing harm in Wisconsin.

SECTION 85 updates the current scientific name of Spotted knapweed.

SECTION 86 updates the current scientific name of Crown vetch.

SECTION 87 eliminates the use of multiple scientific names for Common teasel.

SECTION 89 removes Helleborine orchid from the restricted plants category due to a lack of evidence this species is causing harm in Wisconsin.

SECTION 90 adds Spindle tree to the restricted plants category. This species has the potential to become established and cause harm.

SECTION 91 eliminates the use of multiple scientific names for Japanese knotweed.

SECTION 92 adds Yellow bedstraw and Baby's breath to the restricted plants category. These species have the potential to become established and cause harm.

SECTION 94 removes Balfour's touch-me-not from the restricted plants category. There is limited evidence this species is escaping into natural areas in Wisconsin or causing harm.

SECTION 95 adds Elecampane and Yellow archangel to the restricted plants category. These species have the potential to become established and cause harm.

SECTION 97 adds Border privet and European privet to the restricted plants category. These species have the potential to become established and cause harm.

SECTION 98 eliminates the use of multiple common names for Bell's honeysuckle.

SECTION 99 adds Dwarf honeysuckle and Bigleaf lupine to the restricted plants category. These species have the potential to become established and cause harm.

SECTION 100 amends the regulation of cultivars of Moneywort.

SECTION 101 removes s. NR 40.05 (2) (b) 33. (note) regarding ch. NR 109.

SECTION 102 adds Silver banner grass, Chinese silver grass, and Purple moor grass to the restricted plants category. These species have the potential to become established and cause harm.

SECTION 103 removes s. NR 40.05 (2) (b) 34. (note) regarding ch. NR 109 and removes Spiny naiad from restricted plants category due to uncertainty about invasive status in Wisconsin.

SECTION 104 eliminates the use of multiple common names for Ribbon grass.

SECTION 106 removes White poplar from the restricted plants category due to lack of evidence of harm. Section NR 40.05 (2) (b) 38. (note) regarding ch. NR 109 is also removed.

SECTION 107 adds Callery pear and Dahurian buckthorn to the restricted plants category. These species have the potential to become established and cause harm. It also updates the counties in which Lesser celandine is regulated.

SECTION 108 eliminates the use of multiple scientific names for Glossy buckthorn. It also amends the regulation of cultivars for this species based on new science.

SECTION 109 removes Rose acacia from the restricted plants category due to lack of evidence of harm.

SECTION 110 removes Seaside goldenrod from the restricted plants category and adds False spiraea to this category.

SECTION 113 renumbers Chinese mystery snail.

SECTION 115 removes Emerald ash borer from the restricted terrestrial invertebrates and plant disease-causing organisms category, based on the removal of state and federal quarantines and recognizing this species has escaped containment.

SECTION 116 adds Grove snail and Escargot snail to the restricted terrestrial invertebrates and plant disease-causing organisms category. These species have the potential to become established and cause harm.

SECTION 117 removes Spongy moth and its associated notes from the restricted terrestrial invertebrates and plant disease-causing organisms category. This species is regulated by the Department of Agriculture, Trade, and Consumer Protection under ch. ATCP 21, Wis. Adm. Code.

SECTION 118 creates a section where "Terrestrial and aquatic vertebrates except fish" will be listed. It also adds a section where "Animal disease-causing organisms" will be listed and the following four species: Bd or amphibian chytrid fungus, Ranavirus – FV3, the Fungus that causes Snake Fungal Disease, and the Fungal pathogen that causes white-nose syndrome.

SECTION 121 clarifies that possession is not regulated for restricted species.

SECTION 122 adds a note providing information on how to apply for a permit under this chapter.

SECTION 123 provides clarity on when restricted invasive species may be moved or kept without a permit and corrects a citation.

SECTION 124 removes an exemption to ensure proper reviews of projects utilizing invasive species.

SECTION 126 adds an exemption and a note related to biocontrol for Purple loosestrife.

SECTION 127 removes s. NR 40.05 (4) related to control requirements. This change would no longer require nurseries to destroy restricted plants upon closure of the nursery.

SECTION 128 updates the requirements for permit applications.

SECTION 129 removes notes which contained outdated information on where to send invasive species permit applications.

SECTION 130 adds a note providing information on how to apply for a permit under this chapter.

SECTION 131 amends several paragraphs to improve clarity and remove outdated information. It also clarifies requirements related to the movement of water and draining watercraft.

SECTION 132 removes s. NR 40.07 (6) related to the use of prohibited fish or crayfish as bait.

SECTION 133 amends s. NR 40.07 (8) (intro) to reflect the shift from white-nose syndrome prevention to management.

SECTION 134 adds two definitions.

SECTION 135 removes s. NR 40.07 (8) (b), as White-nose syndrome has become widespread in the state and is proposed to become restricted statewide.

SECTION 136 amends three paragraphs to remove references to s. NR 40.07 (8) (c) 5.

SECTION 137 removes s. NR 40.07 (8) (c) 4. and 5., as White-nose syndrome has become widespread in the state and is proposed to become restricted statewide.

SECTION 138 amends s. NR 40.07 (8) (e) to update the current scientific name of White-nose syndrome and remove reference to s. NR 40.07 (8) (b).

SECTION 139 removes s. NR 40.07 (8) (f) related to site-specific prevention plans, as White-nose syndrome has become widespread in the state and is proposed to become restricted statewide.

SECTION 140 adds s. NR 40.07 (9) related to required preventative measures for newly regulated reptile and amphibian diseases.

5. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

Existing federal laws and regulations address a narrow subset of noxious weeds under the Federal Noxious Weed Act (7 U.S.C. 2801 et seq;) and animals under the Lacey Act (18 U.S.C. 42, 16 U.S.C. 3371-3378). These acts and the federal regulations implementing them are primarily focused on the movement of species in interstate commerce. There is limited overlap with existing and proposed ch. NR 40 regarding the prohibited importation of species into Wisconsin.

6. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

The department held a preliminary public hearing on the statement of scope on Thursday October 9th at 2 p.m. virtually through Teams. Six members of the public attended the hearing. None of the attendees made an oral statement at the hearing.

The department received one written comment during the open public comment period from the owner of Specialty Serpents. This comment asked whether NR 40 was the appropriate place to regulate fish and wildlife disease and parasites as "invasive species." They also asked for the department to create a mechanism for safely capturing and utilizing nonnative fish species found in Wisconsin waters.

7. Comparison with Similar Rules in Adjacent States:

Illinois

Illinois utilizes multiple statutes and administrative rules to regulate invasive species. The three most notable are the Exotic Weed Act (525 ILCS 10/), Noxious Weed Law (505 ILCS 100/), and the Injurious Species Rule (17 Ill. Adm. Code Part 805). These various regulations work in concert to achieve many of the same goals as Wisconsin's ch. NR 40, which uses a more centralized approach to prevent the introduction and spread of invasive species. The definition of "invasive species" as used in ch. NR 40 seems to incorporate the varying definitions used by the Illinois regulations.

Illinois' Exotic Weed Act is administered by the Illinois Department of Natural Resources and focuses on plants primarily impacting native ecosystems. It does not require control measures but prohibits buying, selling, distributing, or planting listed invasive plants (or their seeds/parts) without a permit. The restricted category of ch. NR 40 functions in a similar way by regulating the transport, transfer, and introduction, but not requiring control.

The Noxious Weed Law is administered by the Illinois Department of Agriculture. This law focuses on plants that are injurious to public health, livestock, land, or other property. Control is required for these species. This is similar to the function of the prohibited category in ch. NR 40, where control is required.

The Injurious Species Rule focuses more on animals that harm native ecosystems, although some plants are included too. These species are not allowed to be possessed, propagated, bought, sold, or bartered unless a permit is obtained from the Illinois Department of Natural Resources. Wisconsin's ch. NR 40 is similar in that it includes many different taxa groups, including plants and animals, and regulates the transport, transfer, and introduction for all. For NR 40 prohibited species, possession is also regulated, and management is required.

Additionally, the Illinois Boat Registration and Safety Act (625 ILCS 45/5-23) implements preventative measures for aquatic invasive species similar to those found in ch. NR 40.

Iowa

Iowa's invasive species regulations are broken into multiple statutes and administrative rules. Most notably, the Noxious Weeds Law (Chapter 317, Iowa Code and Admin. Code Chapter 58), Crop Pests and Horticultural Diseases Law (Chapter 177A, Iowa Code and Admin. Code Chapter 46), and aquatic invasive species provisions (Iowa Code §456A.37 and Admin. Code Chapter 90).

The Noxious Weeds Law (Chapter 317, Iowa Code and Admin. Code Chapter 58) is administered by the Iowa Department of Agriculture and Land Stewardship and focuses on terrestrial plants that threaten agriculture or land. This regulation delegates authority to each

county to order the destruction of weeds classified as noxious by the state. This is somewhat similar to Wisconsin's Noxious Weeds Law (State Statute ch. 66.0407), where local municipalities may declare particular species as "noxious" and require management within the municipal boundary. In Iowa, there are Class A and Class B noxious weeds. These categories dictate the extent to which management is required. Class A noxious weeds are eradication candidates, while Class B noxious weeds require control measures that prevent blooming or maturity. In addition to the noxious weed, there is an additional classification of Prohibited Plants. It is illegal to import, sell, or distribute any part of these plants in Iowa. Some species are listed both as a noxious and prohibited plant. These types of species are incorporated into Wisconsin's ch. NR 40 and include similar regulations and requirements for management.

The Crop Pests and Horticultural Diseases Law (Chapter 177A, Iowa Code and Admin. Code Chapter 46) is also administered by the Iowa Department of Agriculture and Land Stewardship, but focuses on harmful plant pests and diseases. This regulation authorizes the State Entomologist to establish quarantines to regulate movement of these species within the state. In Wisconsin, the Department of Agriculture, Trade, and Consumer Protection plays a similar role by establishing quarantines under ch. ATCP 21. Ch. NR 40 occasionally intersects with quarantined species under ATCP 21. Originally, this overlap was intended to prevent further introduction and spread via additional regulations on importation into the state.

Iowa has separate provisions for aquatic invasive species under Iowa Code §456A.37 and Admin. Code Chapter 90. §456A.37 establishes preventative measures to minimize spread of aquatic invasive species between bodies of water. Similar provisions are included in ch. NR 40.07. Iowa's ch. 90 regulates the possession, introduction, import, purchase, selling, bartering, propagation, or transport of aquatic invasive species, and serves a similar role as ch. NR 40 by addressing pathways of introduction.

Michigan

Michigan's Natural Resources and Environmental Protection Act (Part 413 of Act 451) establishes a list of prohibited and restricted species. The names of these categories are the same as in ch. NR 40 (prohibited and restricted), but in Michigan the terms have slightly different meanings. In Michigan, it is unlawful to possess, introduce, import, sell or offer a regulated invasive species for sale as a live organism (with few exceptions).

The regulation of "possession" in Michigan is distinct from regulation of "possession" in Wisconsin. "Possession" in Michigan does not include the following instances: (a) the organism is present on land or in waters owned by a person unless the person has knowingly introduced that live organism on that land or in those waters, (b) the organism was obtained from the environment and the person only possesses the organism at the specific location at which it was obtained from the environment, and (c) if the possession is for the purpose of promptly destroying the organism. In Wisconsin, there are some exemptions for possession of prohibited species, but this does not include exemption (a) above.

Prohibited species in Michigan are those that are not yet widely distributed in the state, and for which management techniques are likely not available. Under ch. NR 40, the Wisconsin Department of Natural resources may require management action on prohibited species, and the availability of control measures is a key consideration when assessing species for regulation. Restricted species in Michigan refer to species that are already established in the

state, and for which management techniques are available. The difference between prohibited and restricted in Michigan versus Wisconsin is that Michigan's regulatory categories are more closely tied with the availability or nonavailability of control measures, along with distribution in the state.

Similar to ch. NR 40, Michigan's Natural Resources and Environmental Protection Act (Part 413 of Act 451) also establishes preventatives measures, such as regulations on requirements for preventing the spread of aquatic invasive species.

Separate laws cover harvesting, possessing, or selling regulated or unregulated species. Michigan's laws on foraging are cited as having authority over some invasives that are edible. Additionally, Section 41329 of Act 451, P.A. 1994, requires anyone selling live, nonnative aquatic organisms to register with the Michigan Department of Natural Resources. No similar requirement for registration is included in ch. NR 40.

Minnesota

Minnesota's invasive species laws are also divided between multiple laws and agencies. The Minnesota Department of Natural Resources has regulatory authority over aquatic plants and animals, and terrestrial vertebrates through Minnesota Statute ch. 84D and Administrative Rule ch. 6216. The Minnesota Department of Agriculture has regulatory authority over terrestrial plants (noxious weeds) and plant pests through Minnesota Statutes, sections 18.75 to 18.91.

These laws in Minnesota are similar to ch. NR 40 in that they categorize invasive species into different categories with varying levels of regulation. There are also preventative measures to prevent the movement of aquatic invasive species, similar to ch. NR 40. The delegation of regulation of plant pests and diseases to the Minnesota Department of Agriculture is also similar to the approach in Wisconsin, where the Department of Agriculture, Trade, and Consumer Protection establishes quarantines to manage intrastate movement of these same types of species via ATCP 21. Ch. NR 40 also regulates plant pests and diseases, and in some instances there is overlap between ATCP 21 and ch. NR 40.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

Methods:

Proposed changes to this rule can be roughly divided into two categories:

1. Changes to species regulated under the rule (adding/removing/reclassifying), and
2. Rephrasing, editing, and clarifying for consistency, enforceability, and ease of compliance.

For changes to species regulated under the rule, a robust process is in place that ensures stakeholder participation from the very beginning. The process of evaluating species for ch. NR 40 begins with the Wisconsin Invasive Species Council (the council). As established by the Wisconsin State Legislature (s. 23.22, Stats.), the council works to make recommendations to the department on classifying invasive species. The council convenes Species Assessment Groups (SAGs) to assist with this process.

Each SAG is focused on a particular set of taxa (e.g. aquatic plants, fish and crayfish, woody

plants) and is comprised of experts on that taxa group. These volunteer SAG members include industry representatives, researchers, land managers, and members from additional stakeholder groups. The SAGs determine which species should be assessed and conduct reviews of scientific literature, contact additional experts, and talk with other states to gather information on each species to be assessed. Once the information is compiled, the SAG members meet, discuss, and vote to make recommendations on how each species should be regulated under the rule based on the criteria given in s. NR 40.03 (2). These recommendations from the SAGs are then presented to the council.

The council votes on whether to adopt or amend recommendations from the SAGs. Once this is complete for each SAG, the council holds public information sessions aimed at maintaining awareness and transparency with the public, and gathering feedback from the public. This feedback informs edits the council may make to species recommendations prior to formally advising the department.

Once the department receives the council's final recommendations, work begins on determining the scope of a possible rule revision and further evaluation of the species recommendations. It is during this step that ideas are gathered from department regulatory staff on where the rule needs clarification or edits beyond the species lists. From here, the rulemaking process begins by publishing a scope statement.

<u>Overview of proposed revisions to each section:</u>

NR 40.02 Definitions

The goals for this section were to remove any terms that are not used in the rule, add new terms as needed, and revise terms for clarity. A total of two terms are proposed to be added, nine removed, and 11 to receive edits.

NR 40.03 Classifications and Criteria

The goals for this section were to revise as needed for clarity. An additional subsection, (3) Applicability, is proposed to be added to clarify that any and all taxonomic synonyms of a regulated species are also regulated under the rule. Changes to the criteria under (2) are to clarify how and what should be considered when reassessing currently regulated species and assessing potential new species for addition to the rule.

NR 40.04 Prohibited Category

A total of 42 species are proposed to be added to the prohibited category. These are new species that are early detection candidates and for which the department is seeking to prevent establishment in the state.

12 species are proposed to be removed from the prohibited category, and from the rule entirely. Reasoning for removing a species varies. In seven of these instances, it is due to additional regulations under other state laws, and for compliance purposes it is most practical not to regulate these species under multiple state regulations. In other cases, it may be that additional information has come out suggesting the species will not survive in Wisconsin.

22 species are proposed to have their regulatory status changed. These changes in regulatory status may mean one of two things: 1) the species has become widespread and is proposed to become restricted statewide, or 2) the species has become slightly more widespread and so

specific counties are being changed from prohibited to restricted. In any instance where a species is becoming restricted in additional counties or statewide, this means control requirements are no longer required by ch. NR 40 in those areas.

One new exemption is proposed to be added in the prohibited species section. The newly proposed exemption would conditionally allow water spinach (Ipomoea aquatica) to be imported into Wisconsin.

Two exemptions are proposed to be removed, along with two notes. The goals of these proposed changes are to increase clarity, provide direction, and ensure proper reviews are in place for projects utilizing regulated invasive species. One exemption related to unknowing or incidental transportation, transfer, possession, or introduction of invasive species is proposed to be removed. The application of these exemptions was unclear according to law enforcement and varied based on the situation.

Four exemptions are proposed to be amended. Overall, the goals of these proposed changes are to increase clarity and promote compliance.

Section NR 40.04 (3m) is proposed to be removed from the rule, as the fungal pathogen that causes white-nose syndrome (*Pseudogymnoascus destructans*) with which this paragraph is concerned, is proposed to change from prohibited to restricted under the rule.

Two amendments are proposed for s. NR 40.04 (4). One is to enable the department to designate agents to inquire about or control prohibited species. The other is to amend a note, clarifying where to find information on how to report invasive species.

NR 40.05 Restricted Category
A total of 23 species are proposed to be added to the restricted category. These are species which the department has recognized have escaped containment in the state, but preventing further introduction and spread is still a priority.

An additional 16 species are being moved fully or in part from the prohibited category to the restricted category. These changes are to reflect new information on species distributions within the state. Areas where containment and the requirement of control measures is no longer feasible are expected to become restricted.

10 species are proposed to be removed from the restricted category, and from the rule entirely. Reasoning for removing a species varies. In two of these instances, it is due to additional regulations under other state laws, and for compliance purposes it is most practical not to regulate species under multiple state regulations. In other cases, it may be that over time these species have shown little evidence of causing harm.

Eight species are proposed to have their regulatory status changed. These are species where there may be changes in which counties are prohibited or restricted, or for which there are changes in exemptions (e.g. cultivars allowed for sale).

A total of two notes and one new exemption are proposed to be added in the restricted species section. The newly proposed exemption would allow the transport, transfer, and possession of

Purple loosestrife (*Lythrum salicaria*), without a permit, for the purposes of biocontrol efforts. One of the proposed notes indicates where more information can be found on the Purple loosestrife biocontrol program in Wisconsin. The other proposed note conveys where to find more information on how to apply for a permit under this chapter.

Two exemptions are proposed to be removed. The goals of these proposed changes are to increase clarity and ensure proper reviews are in place for projects utilizing regulated invasive species. One exemption related to unknowing or incidental transportation, transfer, possession, or introduction of invasive species is proposed to be removed. The application of these exemptions was unclear according to law enforcement and varied based on the situation.

Six exemptions are proposed to be amended. Overall, the goals of these proposed changes are to increase clarity and promote compliance.

The department is proposing to remove s. NR 40.05 (4), as 1) it is unlawful to intentionally grow restricted species, and 2) the rule does not require control measures for restricted species.

NR 40.06 Permitting
Changes to this section were focused on the required elements in a permit application. The goal was to make applications more complete and consistent. Current applications for permits vary widely in detail and often require follow-up from department staff to acquire all the necessary details to make an informed decision.

NR 40.07 Preventative Measures
Most edits to this section were made to add preventative measures for newly regulated animal disease-causing organisms. Other edits included revising the preventative measures for the fungus that causes white-nose syndrome, as it is proposed to change from prohibited to restricted. Another addition was focused on providing specific requirements for draining of watercrafts or equipment prior to movement over land.

9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

The department used a modular spreadsheet architecture paired with Monte Carlo simulation to estimate costs due to several factors of uncertainty (e.g. number of prohibited species requiring control in a given year, size of populations, cost of effective control measures, costs of species in trade). The framework distinguishes between two primary cost domains:

1. “Cost of Compliance” (CoC) associated with detection and required management of prohibited species.
2. Organisms-In-Trade (OIT) economic impacts, including costs associated with removal of species from commerce due to being classified as prohibited or restricted; or opportunities created by deregulation.

Species are classified by regulatory change type. For example, unregulated species changing to prohibited, prohibited species changing to restricted, or no change between revisions. Only species whose regulatory status changes to prohibited or species that remain prohibited carry control obligations and are included in quantitative CoC modeling. The structure of the analysis allows policy makers to compare CoC between how species are classified in the current

effective version of NR 40 (Round 2) versus how species may be classified in the proposed revision of NR40 (Round 3).

Species that remain classified as restricted or unregulated are excluded from the CoC analysis. The current and proposed structure of NR 40 does not require landowners to control species when they have these classifications. The CoC does not impose additional obligations beyond transport, transfer, or introduction limitations placed on regulated species. The CoC analysis does not estimate or compare degrees of ecological risk, degree of invasiveness, or management priority among the species proposed for regulation.

The OIT calculations are only conducted on species that are proposed to be newly classified as prohibited, restricted, or deregulated. Species that are already classified as prohibited or restricted, but do not become deregulated, have already incurred economic losses due to removal from trade during the previous revision of NR 40 (Round 2), which became effective in 2015. Economic losses are likely to occur for new species to become regulated under NR 40 Round 3, while economic opportunities are likely to occur for species that become deregulated. If the NR 40 Round 3 classification does not change, then economic losses or gains have already occurred for the affected economies.

See the Economic Impact Analysis document for more information about the effect on small businesses.

The department will conduct an economic impact analysis comment period to gather comments from any individuals, businesses, local governments, or other entities expect to be affected economically by the rule change.

The department used Artificial Intelligence (AI) tools to help gather data and refine and test complex statistical modeling tools. Further detail on the data, methodology, and AI use and best practices is included in the Rule Revision Guide (RRG) in Section 4 of the Economic Impact Analysis Chapter and in Appendix I.

10. Effect on Small Business (initial regulatory flexibility analysis):

In s. 227.114, Stats., small business “means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than $5,000,000”. Based on this definition (number of employees) and using data from US Census Bureau (2022), 14.6% (27,552) of businesses are estimated to be small businesses (Table A, below).

Assuming 14.6% of the total economic impact due to regulation of Organisms-in-Trade is borne collectively by small businesses, this would equal a gain of approximately $33,920 in Year 4 and a loss of $28,655 in Year 6. The department was not able to collect the data on acreage or percent of landownership held by small businesses.

Table A: Number of small businesses estimated to be affected by NR40 rule revision based on number of employees

Firm Type	**Number of Firms with Fewer than 25 Employees**

Agriculture, Forestry, Fishing and Hunting	980
Utilities	55
Wholesale trade	7,116
Retail trade	19,401
TOTAL	**27,552**
Percent of Total Firms (N=188,177)	**14.6%**

Data Source: United States Census Bureau (2022). *2022 SUSB Annual Data Tables by Establishment Industry*

The specific number of pet trade firms, plant nursery firms, landscaping firms, other businesses that would be more directly impacted by the rule were not available. The total number of small businesses affected by rule can be different if based on the gross annual sales threshold (less than $5,000,000). Further detail on these data is provided in Appendix D of the RRG.

11. Agency Contact Person:

Mackenzie Manicki, mackenzie.manicki@wisconsin.gov, 608-206-4561

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

Written comments may be submitted at the public hearings, by regular mail, or email to:

Mackenzie Manicki

Department of Natural Resources, NHC/6

PO Box 7921

101 S Webster Street

Madison, WI 53707-7921

mackenzie.manicki@wisconsin.gov, 608-206-4561

Comments may be submitted to the department contact person listed above or to DNRAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's Hearings and Meetings Calendar.

Access the Wisconsin Administrative Register (https://docs.legis.wisconsin.gov/code/register).

Access the department's Hearings and Meetings Calendar (https://dnr.wisconsin.gov/calendar).

Submit comments through the Wisconsin Administrative Rules Website (https://docs.legis.wisconsin.gov/code/emergency_rules/active).

RULE TEXT

SECTION 1. NR 40.02 (9m) repealed.

SECTION 2. NR 40.02 (10) is repealed and recreated to read:

NR 40.02 (10) "Cultivar" means a plant that has been modified from its parent species through breeding, propagation, cultivation, or other methods. Cultivars have traits that distinguish them from other cultivated or wild forms of the same species. For the purposes of this chapter, the terms "cultivar" and "variety" have the same meaning and may be used interchangeably.

SECTION 3. NR 40.02 (14m) is created to read:

NR 40.02 (14m) "Duckweed" means any species of the following genera: *Lemna, Spirodela,* and *Wolffia.*

SECTION 4. NR 40.02 (15), (17), (19), and (24) are amended to read:

NR 40.02 (15) "Eradicate" means to remove an entire population of an invasive species and all its propagules from an area ~~of infestation~~.

(17) "Established nonnative fish species and established nonnative crayfish species" means alewife (*Alosa pseudoharengus*), common carp (*Cyprinus carpio*), eastern mosquitofish (*Gambusia holbrooki*), rainbow smelt (*Osmerus mordax*), round goby (*Neogobius melanostomus*), ruffe (*Gymnocephalus cernuus*), sea lamprey (*Petromyzon marinus*), three-spine stickleback (*Gasterosteus aculeatus*), tubenose goby (*Proterorhinus marmoratus*), white

perch (*Morone americana*), ~~and~~ rusty crayfish (*Orconectes rusticus*), and western mosquitofish (*Gambusia affinis*).

(19) “Genetically modified" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, and includes the progeny of any genetically modified organism. For the purposes of this chapter, “recombinant nucleic acid techniques” means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism, resulting in a transgenic organism.

(24) “Invasive species" has the meaning given it in s. 23.22 (1) (c), Stats. In addition, “invasive species" means nonnative species including hybrids, cultivars, subspecific taxa, and genetically modified variants whose introduction causes or is likely to cause economic or environmental harm or harm to human health, and includes individual specimens, eggs, larvae, seeds, propagules, and any other viable life-stages of such species. For fish and crayfish, “invasive species" includes all nonnative species.

SECTION 5. NR 40.02 (25) and (26) are repealed.

SECTION 6. NR 40.02 (27) is amended to read:

NR 40.02 (27) “Native species" means a species indigenous to Wisconsin~~, and includes an individual specimen. For fish, “native species" means those fish species identified as native fish species in *Wisconsin Fishes 2000: Status and Distribution,* by Lyons, J., P. A. Cochran, and D. Fago, published by University of Wisconsin Sea Grant Institute, and includes an individual specimen, regardless of the specimen's origin~~.

SECTION 7. NR 40.02 (28) is repealed.

SECTION 8. NR 40.02 (29), (30), and (31) are amended to read:

NR 40.02 (29) "Nonnative" or "nonnative species" means a species not indigenous to Wisconsin~~, and includes an individual specimen~~.

(30) "Nonnative fish species in the aquaculture industry" means arctic char (*Salvelinus alpinus*), Atlantic salmon (*Salmo salar*), brown trout (*Salmo trutta*), chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), kokanee salmon (*Oncorhynchus nerka),* rainbow trout (*Oncorhynchus mykiss*), pink salmon (*Oncorhynchus gorbuscha*), redear sunfish (*Lepomis microlophus*), tiger trout (a hybrid of *Salvelinus fontinalis* and *Salmo trutta*) and tilapia (*Tilapia* spp).

(31) "Nonnative viable fish species in the aquarium trade" means goldfish (*Carassius auratus*), koi carp (*Cyprinus carpio and Cyprinus rubrofuscus*), sterlet (*Acipenser ruthenus*), Chinese hi-fin banded shark (*Myxocyprinus asiaticus*), bitterling (*Rhodeus* spp.), ide (*Leuciscus idus*) and weather loach (*Misgurnus anguillicaudatus*).

SECTION 9. NR 40.02 (32), (39), and (43) are repealed.

SECTION 10. NR 40.02 (44) is amended to read:

NR 40.02 (44) "Reasonable precautions" means intentional actions that prevent or minimize the transport, introduction, possession or transfer of invasive species. ~~Reasonable precautions include but are not limited to best management practices (BMPs) for invasive species approved by the department, practices recommended by the "Wisconsin Clean Boats, Clean Waters" program and "Stop Aquatic Hitchhikers" campaign, and compliance~~ Compliance with DATCP quarantine regulations imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declared under 7 USC section 7714 or 7715 qualify as reasonable precautions for the purposes of this

chapter. ~~For the transfer of aquatic plants, reasonable precautions include verifying that the species transferred is identified correctly and is not listed in s. NR 40.04 or 40.05 as prohibited or restricted, and that there are no other listed invasive species comingled with the species being transferred.~~

SECTION 11. NR 40.02 (44) (note) is created to read:

NR 40.02 (44) Note: Reasonable precautions may include best management practices for invasive species approved by the department (https://dnr.wisconsin.gov/topic/Invasives/bmp), practices recommended by the "Wisconsin Clean Boats, Clean Waters" program and "Stop Aquatic Hitchhikers" campaign.

SECTION 12. NR 40.02 (45) is repealed.

SECTION 13. NR 40.02 (46m) is amended to read:

NR 40.02 (46m) "Rock shelter" means an overhang or ~~cave-like~~ shallow opening in a bluff, cliff or ledge that ~~is shallow and~~ does not provide an area of substantial daytime darkness and is wider than it is deep.

SECTION 14. NR 40.03 (1) (note) is repealed.

SECTION 15. NR 40.03 (2) (intro.) and (b) to (d) are amended to read:

NR 40.03 (2) CRITERIA. The department shall, when classifying a nonnative species not already regulated under this chapter as an invasive, or may, when reclassifying a nonnative species that is already regulated under this chapter, consider the following criteria ~~in classifying a nonnative species as an invasive species for the purpose of this chapter~~:

(b) The extent and magnitude to which the species is already present in the state, or in portions of the state~~, including whether there are isolated pioneer stands~~.

(c) The likelihood that the species~~, upon introduction, will~~ may arrive or become established ~~and spread~~ within the state.

(d) The potential for eradicating the species or controlling the species' spread within the state, including the technological~~, and~~ logistical, environmental, or economic feasibility of eradication or control.

SECTION 16. NR 40.03 (3) is created to read:

NR 40.03 (3) APPLICABILITY. For the purposes of this chapter, all taxonomic synonyms of regulated species are also regulated.

SECTION 17. NR 40.04 (2) (a) 1g. is repealed.

SECTION 18. NR 40.04 (2) (a) 1r. is renumbered. and amended to read:

NR 40.04 (2) (a) 6m. ~~*Cylindrospermopsis raciborskii*~~ *Raphidiopsis raciborskii,* previously known as *Cylindrospermopsis raciborskii* (Cylindro)

SECTION 19. NR 40.04 (2) (a) 4. is renumbered 1m. and amended to read:

NR 40.04 (2) (a) 1m. ~~Novel cyanobacterial epiphyte of the order Stigonematales linked with avian vacuolar myelinopathy~~ *Aetokthonos hydrillicola* (Eagle-killer neurotoxin aetokthonotoxin)

SECTION 20. NR 40.04 (2) (a) 6. is renumbered 7. and amended to read:

NR 40.04 (2) (a) 7. ~~*Ulva* species,~~ Species of the *Ulva* genus, including species previously known as *Enteromorpha* species

SECTION 21. NR 40.04 (2) (b) 1m., and 2. are amended to read:

NR 40.04 (2) (b) 1m. *Akebia quinata* (~~Fiveleaf akebia or~~ ~~chocolate~~ Chocolate vine)

2. *Anthriscus sylvestris* (Wild chervil) except in Adams, Barron, Burnett, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Pierce, Polk, Racine, Richland, Rock, Rusk, Saint Croix, Sauk, Sheboygan, Taylor,

Vernon, Walworth, ~~Waukesha, and Washington~~ Washburn, Washington, and Waukesha counties.

SECTION 22. NR 40.04 (2) (b) 2c., 2v., and 4L. are created to read:

NR 40.04 (2) (b) 2c. *Arthraxon hispidus* (Small carpetgrass)

2v. *Brachypodium sylvaticum* (Slender false brome)

4L. *Carex pendula* (Pendulous sedge)

SECTION 23. NR 40.04 (2) (b) 4n. is repealed.

SECTION 24. NR 40.04 (2) (b) 4w. is renumbered 33m. and amended to read:

NR 40.04 (2) (b) 33m. ~~*Centaurea repens*~~ *Rhaponticum repens*, previously known as *Centuarea repens* (Russian knapweed)

SECTION 25. NR 40.04 (2) (b) 5m., 6., and 8m. are created to read:

NR 40.04 (2) (b) 5m. *Centaurea virgata* (Squarrose knapweed)

6. *Chondrilla juncea* (Rush skeletonweed)

8m. *Corydalis incisa* (Incised fumewort)

SECTION 26. NR 40.04 (2) (b) 9. is amended to read:

NR 40.04 (2) (b) 9. *Crassula helmsii* (Australian swamp crop ~~or New Zealand pygmyweed~~)

SECTION 27. NR 40.04 (2) (b) 10r. is renumbered 11m. and amended to read:

NR 40.04 (2) (b) 11m. ~~*Dioscorea batatas* or~~ *Dioscorea* ~~*polystacha*~~ *polystachya* (Chinese yam)

SECTION 28. NR 40.04 (2) (b) 12. is amended to read:

NR 40.04 (2) (b) 12. *Egeria densa* (Brazilian waterweed ~~or wide-leaf anacharis~~)

SECTION 29. NR 40.04 (2) (b) 12r. is renumbered 30m. and amended to read:

NR 40.04 (2) (b) 30m. ~~*Eichhornia crassipes*~~ *Pontederia crassipes,* previously known as *Eichhornia crassipes* (Water hyacinth, floating)

SECTION 30. NR 40.04 (2) (b) 13. is amended to read:

NR 40.04 (2) (b) 13. *Epilobium hirsutum* (Hairy willow herb) except in Brown, Calumet, Door, Kenosha, Kewaunee, ~~and~~ Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha counties.

SECTION 31. NR 40.04 (2) (b) 13b. and 13d. are created to read:

NR 40.04 (2) (b) 13b. *Epilobium parviflorum* (Small-flower hairy willowherb)

13d. *Falcaria vulgaris* (Sickleweed)

SECTION 32. NR 40.04 (2) (b) 13e. and 13m. are repealed.

SECTION 33. NR 40.04 (2) (b) 13w. is created to read:

NR 40.04 (2) (b) 13w. *Glyceria declinata* (Waxy mannagrass)

SECTION 34. NR 40.04 (2) (b) 14. is repealed.

SECTION 35. NR 40.04 (2) (b) 16. is amended to read:

NR 40.04 (2) (b) 16. *Humulus japonicus* (Japanese hops) except in Adams, Buffalo, Crawford, Dane, Eau Claire, Grant, Green, Iowa, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, and Vernon counties.

SECTION 36. NR 40.04 (2) (b) 18v., 18y., and 19m. are created to read:

NR 40.04 (2) (b) 18v. *Jacobaea vulgaris (Tansy ragwort)*

18y. *Kalopanax septemlobus* (Castor aralia)

19m. *Lepidium draba* (Hoary cress)

SECTION 37. NR 40.04 (2) (b) 20. and 21. are amended to read:

NR 40.04 (2) (b) 20. *Lepidium latifolium* (Perennial ~~or broadleaved~~ pepperweed)

21. *Lespedeza cuneata* ~~or *Lespedeza sericea*~~ (Sericea ~~or Chinese~~ lespedeza)

SECTION 38. NR 40.04 (2) (b) 22. is repealed.

SECTION 39. NR 40.04 (2) (b) 22r. is amended to read:

NR 40.04 (2) (b) 22r. *Linaria dalmatica* (Dalmatian toadflax) except in ~~Juneau and Bayfield~~ Ashland, Bayfield, Juneau, and Monroe counties

SECTION 40. NR 40.04 (2) (b) 23e., 23m., and 23s. are created to read:

NR 40.04 (2) (b) 23e. *Ludwigia grandiflora* (Large-flower primrose-willow)

23m. *Ludwigia peploides* (Floating primrose-willow)

23s. *Lupinus polyphyllus* (Bigleaf lupine) except in Ashland, Bayfield, Brown, Buffalo, Calumet, Crawford, Dane, Dodge, Door, Douglas, Florence, Fon du Lac, Forest, Grant, Green, Iowa, Iron, Jefferson, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Milwaukee, Oneida, Outagamie, Ozaukee, Pepin, Pierce, Price, Racine, Richland, Rock, Rusk, Saint Croix, Sauk, Sawyer, Sheboygan, Taylor, Trempealeau, Vernon, Vilas, Walworth, Washington, and Waukesha counties

SECTION 41. NR 40.04 (2) (b) 24. is repealed.

SECTION 42. NR 40.04 (2) (b) 27. is amended to read:

NR 40.04 (2) (b) 27. *Najas minor* (Brittle naiad~~, or lesser, bushy, slender, spiny or minor naiad or waternymph~~)

SECTION 43. NR 40.04 (2) (b) 28b. is created to read:

NR 40.04 (2) (b) 28b. *Oenanthe aquatica* (Fineleaf waterdropwort)

SECTION 44. NR 40.04 (2) (b) 28e. and 28m. are amended to read:

NR 40.04 (2) (b) 28e. *Oenanthe javanica* (Java waterdropwort ~~or Vietnamese parsley~~)

28m. *Oplismenus undulatifolius,* previously known as *Oplismenus hirtellus* ssp. *undulatifolius* (Wavyleaf basketgrass)

SECTION 45. NR 40.04 (2) (b) 28w. is created to read:

NR 40.04 (2) (b) 28w. *Packera glabella* (Butterweed)

SECTION 46. NR 40.04 (2) (b) 29h. is repealed.

SECTION 47. NR 40.04 (2) (b) 29r. is created to read:

NR 40.04 (2) (b) 29r. *Phytolacca acinosa* (Indian pokeweed)

SECTION 48. NR 40.04 (2) (b) 30., 32., 33g., and 33r. are amended to read:

NR 40.04 (2) (b) 30. ~~*Polygonum perfoliatum* or~~ *Persicaria perfoliata* (Mile-a-minute vine)

32. *Pueraria montana* ~~or *P. lobata*~~ (Kudzu)

33g. *Ranunculus ficaria* (Lesser celandine) except in Dane, Jefferson, Kenosha, Milwaukee, Racine, Rock, Walworth, and Waukesha counties

33r. *Rubus bifrons,* previously known as *Rubus armeniacus* (Himalayan blackberry)

SECTION 49. NR 40.04 (2) (b) 34m. is created to read:

NR 40.04 (2) (b) 34m. *Schoenoplectiella mucronata* (Bog bulrush)

SECTION 50. NR 40.04 (2) (b) 34p. is repealed and recreated to read:

NR 40.04 (2) (b) 34p. *Sorghum x almum* (Columbus grass)

SECTION 51. NR 40.04 (2) (b) 34s. is amended to read:

NR 40.04 (2) (b) 34s. *Sorghum halepense* (Johnsongrass) except in Dane County

SECTION 52. NR 40.04 (2) (b) 34u. and 34x. are created to read:

NR 40.04 (2) (b) 34u. *Sparganium erectum* (Exotic bur-reed)

34x. *Thladiantha dubia* (Red hailstone) except in Grant, Crawford, and Richland counties

SECTION 53. NR 40.04 (2) (b) 34y. is repealed.

SECTION 54. NR 40.04 (2) (b) 36. is amended to read:

NR 40.04 (2) (b) 36. *Torilis japonica* (Japanese hedgeparsley or erect hedgeparsley) except in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, ~~and~~ Winnebago, and Wood counties

SECTION 55. NR 40.04 (2) (b) 36m., 37d., and 37t. are created to read:

NR 40.04 (2) (b) 36m. *Trapa bispinosa* (Two horn water chestnut)

37d. *Tribulus terrestris* (Puncture vine)

37t. *Typha minima* (Dwarf cattail)

SECTION 56. NR 40.04 (2) (b) 38. is repealed.

SECTION 57. NR 40.04 (2) (b) 39. and (c) 1. are amended to read:

NR 40.04 (2) (b) 39. *Vincetoxicum rossicum* ~~or *Cynanchum rossicum*~~ (Pale ~~or European~~ swallow-wort)

(c) 1. Species of the family *Channidae* (~~snakehead~~ 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)~~

SECTION 58. NR 40.04 (2) (c) 7m. is created to read:

NR 40.04 (2) (c) 7m. Species of the genus *Monopterus* (Asian swamp eel)

SECTION 59. NR 40.04 (2) (d) 1., 2., and 4. are repealed.

SECTION 60. NR 40.04 (2) (d) 6. and 7. are amended to read:

NR 40.04 (2) (d) 6. *Dreissena ~~rostriformis~~ bugensis* (Quagga mussel), previously known as *Dreissena rostriformis*

7. *Eriocheir ~~sinensi~~ sinensis* (Chinese mitten crabs)

SECTION 61. NR 40.04 (2) (d) 8d. is created to read:

NR 40.04 (2) (d) 8d. *Lithoglyphus naticoides* (Gravel snail)

SECTION 62. NR 40.04 (2) (d) 8r. is repealed.

SECTION 63. NR 40.04 (2) (d) 8t., 8w., and 8y are created to read:

NR 40.04 (2) (d) 8t. *Mytilopsis leucophaeata* (Dark falsemussel)

8w. *Pomacea canaliculata* (Channeled applesnail)

8y. *Pomacea maculata* (Giant applesnail)

SECTION 64. NR 40.04 (2) (d) 9. is repealed.

SECTION 65. NR 40.04 (2) (d) 10., 11., 12., and 13. are created to read:

NR 40.04 (2) (d) 10. *Salmincola californiensis* (Gill lice)

11. *Schyzocotyle acheilognathi* (Asian tapeworm)

12. *Sinanodonta woodiana* (Chinese pond mussel)

13. *Tarebia granifera* (Quilted melania snail)

SECTION 66. NR 40.04 (2) (e) 1., 4., 5e., 5m., 6., 7., 8., and (notes 1. and 2.) are repealed.

SECTION 67. NR 40.04 (2) (e) 1m. and 4m., and (f) 1e. are created to read:

NR 40.04 (2) (e) 1m. *Achatina fulica* (Giant African snail)

4m. *Litylenchus crenatae n. sp. maccannii* (Beech leaf disease nematode)

(f) 1e. *Carduelis carduelis* (European goldfinch)

SECTION 68. NR 40.04 (2) (f) 1. is repealed.

SECTION 69. NR 40.04 (2) (f) 1s. is created to read:

NR 40.04 (2) (f) 1s. *Parus major* (Great tit)

SECTION 70. NR 40.04 (2) (g) is repealed and recreated to read:

NR 40.04 (2) (g) *Animal disease-causing organisms.* The following animal disease-causing organism invasive species are prohibited:

1. Ambystoma tigrinum virus (ATV, a ranavirus)

2. *Batrachochytrium salamandrivorans* (Bsal or salamander chytrid fungus)

3. Bohle iridovirus (BIV, a ranavirus)

4. *Myxobolus cerebralis* (Parasite that causes whirling disease)

5. *Raillietiella orientalis* (Invasive snake lungworm)

SECTION 71. NR 40.04 (3) (a) is amended to read:

NR 40.04 (3) (a) Except as otherwise provided in pars. ~~(b)~~ (c) to (i), no person may transport, possess, transfer, or introduce a prohibited invasive species identified or listed under sub. (2).

SECTION 72. NR 40.04 (3) (b) is repealed.

SECTION 73. NR 40.04 (3) (c) (note) is created to read:

NR 40.04 (3) (c) Note: Instructions for how to apply for a permit can be found on the department's website.

SECTION 74. NR 40.04 (3) (f), (g), and (note) are amended to read:

NR 40.04 (3) (f) Paragraph (a) does not apply to a person who has a permit issued by DATCP under s. ATCP 21.04 for importation, movement, distribution or release of a pest or biological control agent that is a prohibited invasive species identified or listed under sub. (2) (e).

(g) A person may personally collect, temporarily possess, and transport ~~possess or give away~~ a prohibited invasive species for the purpose of ~~identification or~~ immediate disposal under s. NR 40.02 (14) without a permit issued by the department under this chapter, ~~if the person reports the location of origin of the prohibited invasive species to the department and no individual specimens or propagules are allowed to escape or be introduced. Reports shall be submitted within 30 days of the person taking possession and shall include contact and property owner information, type and detailed location of the species, the purpose for transporting, possessing or giving away the invasive species, and the final disposition of the invasive species.~~ if no individual specimens or propagules are allowed to escape or be introduced. This paragraph does not apply to terrestrial and aquatic vertebrates or fish species.

Note: Paragraph (g) does not apply to transport of identified carriers of invasive species as described in s. NR 40.07 (5) (a). Instructions for reporting invasive species can be found on the department's website.

SECTION 75. NR 40.04 (3) (g) (notes 2 and 3) and (h) 1. are repealed.

SECTION 76. NR 40.04 (3) (h) 2. is amended to read:

NR 40.04 (3) (h) 2. A person who, while lawfully fishing, inadvertently catches a fish invasive species and either immediately releases that fish back into the same water where it was caught, or dispatches the fish by evisceration, removal of all gills, or decapitation.

SECTION 77. NR 40.04 (3) (j) is created to read:

NR 40.04 (3) (j) Paragraph (a) does not apply to non-viable plant parts of *Ipomoea aquatica* (Water spinach) provided the importation into the state is for the purposes of

consumption and the interstate movement has been authorized by the U.S. department of agriculture.

SECTION 78. NR 40.04 (3m) is repealed.

SECTION 79. NR 40.04 (4) (b), (f) (note 2), and 40.05 (2) (b) 1e. are amended to read:

NR 40.04 (4) (b) The department or its designee may ask any person who owns, controls or manages property where a prohibited species is present to control the prohibited species in accordance with a plan approved by the department. ~~The department will seek funds to assist in the control of prohibited species.~~ However, a person who owns, controls or manages property where a prohibited species is present is responsible for controlling the prohibited species that exists on the property.

(f) Note: Persons finding any prohibited species are encouraged to report the species and its location to the department. Instructions for reporting can be found on the department's website.

NR 40.05 (2) (b) 1e. *Acer ~~tataricum~~* ~~subsp.~~ *ginnala* (Amur maple) except all cultivars

SECTION 80. NR 40.05 (2) (b) 1k. is created to read:

NR 40.05 (2) (b) 1k. *Acer platanoides* (Norway maple)

SECTION 81. NR 40.05 (2) (b) 3. is amended to read:

NR 40.05 (2) (b) 3. *Anthriscus sylvestris* (Wild chervil) in Adams, Barron, Burnett, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Pierce, Polk, Racine, Richland, Rock, Rusk, Saint Croix, Sauk, Sheboygan, Taylor, Vernon, Walworth, ~~Waukesha, and Washington~~ Washburn, Washington, and Waukesha counties

SECTION 82. NR 40.05 (2) (b) 3g. is repealed and recreated to read:

NR 40.05 (2) (b) 3g. *Artemisia vulgaris* (Mugwort)

SECTION 83. NR 40.05 (2) (b) 3r. is amended to read:

NR 40.05 (2) (b) 3r. *Berberis thunbergii* (Japanese barberry). ~~This restriction only applies to the parent type, the variety *atropurpurea*, the hybrid of *B. thunbergii* x *B. koreana*, and the following cultivars. *Berberis thunbergii* cultivars: Sparkle, 'Anderson' Lustre Green™, Erecta, 'Bailgreen' Jade Carousel®, Angel Wings, Painter's Palette, Inermis ('Thornless'), Pow Wow, Golden Ring, Kelleriis, Kobold, 'JN Variegated' Stardust™ and Antares. Variety *atropurpurea* cultivars: Marshall Upright ('Erecta'), Crimson Velvet, 'Bailtwo' Burgundy Carousel®, Red Rocket, 'Monomb' Cherry Bomb™, 'Bailone' Ruby Carousel®, JN Redleaf, Rose Glow and Silver Mile. Hybrid of *B. thunbergii* x *B. koreana* cultivars: Tara and 'Bailsel' Golden Carousel®~~ except the cultivars 'Aurea,' 'UCONNBTCP4N' Crimson Cutie, 'UCONNBTB113' Lemon Cutie, 'UCONNBTB048' Lemon Glow, and 'UCONNBTB039' Mr. Green Genes.

SECTION 84. NR 40.05 (2) (b) 6m. and (note) are repealed.

SECTION 85. NR 40.05 (2) (b) 10. is renumbered 10u. and amended to read:

NR 40.05 (2) (b) 10u. ~~*Centaurea biebersteinii*, *Centaurea maculosa* or *Centaurea stoebe*~~ *Centaurea stoebe* ssp*. Micranthos*, previously known as *Centaurea biebersteinii* (Spotted knapweed)

SECTION 86. NR 40.05 (2) (b) 14m. is renumbered 41e. and amended to read:

NR 40.05 (2) (b) 41e. *Securigera varia,* previously known as *Coronilla varia* (Crown vetch)

SECTION 87. NR 40.05 (2) (b) 17. is renumbered 15m. and amended to read:

NR 40.05 (2) (b) 15m. ~~*Dipsacus sylvestris* or~~ *Dipsacus fullonum* (Common teasel)

SECTION 88. NR 40.05 (2) (b) 20. is amended to read:

NR 40.05 (2) (b) 20. *Epilobium hirsutum* (Hairy willow herb) in Brown, Calumet, Door, Kenosha, Kewaunee, ~~and~~ Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha counties

SECTION 89. NR 40.05 (2) (b) 21. is repealed.

SECTION 90. NR 40.05 (2) (b) 21r. and 23d. are created to read:

NR 40.05 (2) (b) 21r. *Euonymus europaeus* (Spindle tree)

23d. *Fallopia x bohemica* (Bohemian knotweed)

SECTION 91. NR 40.05 (2) (b) 23g. is amended to read:

NR 40.05 (2) (b) 23g. *Fallopia japonica* ~~or *Polygonum cuspidatum* ~~(Japanese knotweed)

SECTION 92. NR 40.05 (2) (b) 23m., 24p., and 24t. are created to read:

NR 40.05 (2) (b) 23m. *Fallopia sachalinensis* (Giant knotweed)

24p. *Galium verum* (Yellow bedstraw)

24t. *Gypsophila paniculata* (Baby's breath)

SECTION 93. NR 40.05 (2) (b) 25. and 27. are amended to read:

NR 40.05 (2) (b) 25. *Glyceria maxima* (~~Tall or reed~~Reed mannagrass)~~ in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago counties~~

27. *Humulus japonicus* (Japanese hops) in Adams, Buffalo, Crawford, Dane, Eau Claire, Grant, Green, Iowa, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, and Vernon counties

SECTION 94. NR 40.05 (2) (b) 27e. is repealed.

SECTION 95. NR 40.05 (2) (b) 27g. and 27t. are created to read:

NR 40.05 (2) (b) 27g. *Inula helenium* (Elecampane)

27t. *Lamium galeobdolon* (Yellow archangel) except the cultivar 'Herman's Pride'

SECTION 96. NR 40.05 (2) (b) 28. is amended to read:

NR 40.05 (2) (b) 28. *Leymus arenarius* (Lyme grass or sand ryegrass) ~~in Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, and Sheboygan counties~~

SECTION 97. NR 40.05 (2) (b) 28d. and 28g. are created to read:

NR 40.05 (2) (b) 28d. *Ligustrum obtusifolium* (Border privet)

28g. *Ligustrum vulgare* (European privet)

SECTION 98. NR 40.05 (2) (b) 28m., 29., and 32. are amended to read:

NR 40.05 (2) (b) 28m. *Linaria dalmatica* (Dalmation toadflax) in ~~Juneau and Bayfield~~ Ashland, Bayfield, Juneau, and Monroe counties

29. *Lonicera maackii* (Amur honeysuckle) ~~in Adams, Brown, Buffalo, 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~~

32. *Lonicera x bella* (Bell's ~~or showy bush~~ honeysuckle)

SECTION 99. NR 40.05 (2) (b) 32d. and 32e. are created to read:

NR 40.05 (2) (b) 32d. *Lonicera xylosteum* (Dwarf honeysuckle)

32e. *Lupinus polyphyllus* (Bigleaf lupine) in Ashland, Bayfield, Brown, Buffalo, Calumet, Crawford, Dane, Dodge, Door, Douglas, Florence, Fon du Lac, Forest, Grant, Green, Iowa, Iron, Jefferson, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Milwaukee, Oneida, Outagamie, Ozaukee, Pepin, Pierce, Price, Racine, Richland, Rock, Rusk, Saint Croix, Sauk, Sawyer, Sheboygan, Taylor, Trempealeau, Vernon, Vilas, Walworth, Washington, and Waukesha counties

SECTION 100. NR 40.05 (2) (b) 32g. is amended to read:

NR 40.05 (2) (b) 32g. *Lysimachia nummularia* (Moneywort) except the cultivar Aurea ~~and yellow and gold leaf forms~~

SECTION 101. NR 40.05 (2) (b) 33. (note) is repealed.

SECTION 102. NR 40.05 (2) (b) 33a., 33b., and 33c. are created to read:

NR 40.05 (2) (b) 33a. *Miscanthus sacchariflorus* (Silver banner grass)

33b. *Miscanthus sinensis* (Chinese silver grass) except the cultivar 'NCMS1' My Fair Maiden

33c. *Molinia caerulea ssp. arundinacea* (Purple moor grass)

SECTION 103. NR 40.05 (2) (b) 34. (note) and 34m. are repealed.

SECTION 104. NR 40.05 (2) (b) 35m. is amended to read:

NR 40.05 (2) (b) 35m. *Phalaris arundinacea* var. *picta* (Ribbon grass ~~or gardener's garters~~) and other ornamental variegated varieties and cultivars. This restriction does not include the parent type-reed canary grass.

SECTION 105. NR 40.05 (2) (b) 35t. is created to read:

NR 40.05 (2) (b) 35t*. Phellodendron amurense* (Amur cork tree)

SECTION 106. NR 40.05 (2) (b) 37m. and 38. (note) are repealed.

SECTION 107. NR 40.05 (2) (b) 38g., 38r., and 39m. are created to read:

NR 40.05 (2) (b) 38g. *Pyrus calleryana* (Callery pear)

38r. *Ranunculus ficaria* (Lesser celandine) in Dane, Jefferson, Kenosha, Milwaukee, Racine, Rock, Walworth, and Waukesha counties

39m. *Rhamnus davurica* (Dahurian buckthorn)

SECTION 108. NR 40.05 (2) (b) 40. is amended to read:

NR 40.05 (2) (b) 40. *Rhamnus frangula* ~~or *Frangula alnus* (Glossy buckthorn) including the Columnaris (tall hedge) cultivar but excluding the cultivars Asplenifolia and~~ except the cultivar Fineline (Ron Williams)

SECTION 109. NR 40.05 (2) (b) 40g. is repealed.

SECTION 110. NR 40.05 (2) (b) 41m. is repealed and recreated to read:

NR 40.05 (2) (b) 41m. *Sorbaria sorbifolia* (False spiraea)

SECTION 111. NR 40.05 (2) (b) 41s. and 42m. are created to read:

NR 40.05 (2) (b) 41s. *Sorghum halepense* (Johnsongrass) in Dane County

42m. *Thladiantha dubia* (Red hailstone) in Crawford, Grant, and Richland counties.

SECTION 112. NR 40.05 (2) (b) 43. and 46. are amended to read:

NR 40.05 (2) (b) 43. *Torilis japonica* (Japanese hedgeparsley ~~or erect hedgeparsley~~) in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, ~~and~~ Winnebago, and Wood counties

46. *Vincetoxicum nigrum* ~~or *Cynanchum louiseae*~~ (Black ~~or Louise's~~ swallow-wort)

SECTION 113. NR 40.05 (2) (d) 1. is renumbered 1L.

SECTION 114. NR 40.05 (2) (d) 1c., 1g., 1t., 2g., and 2r. are created to read:

NR 40.05 (2) (d) 1c. *Bithynia tentaculata* (Faucet snail)

1g. *Bythotrephes longimanus*, previously known as *Bythotrephes cederstroemi* (Spiny water flea)

1t. *Corbicula fluminea* (Freshwater golden clam)

2g. *Melanoides tuberculata* (Malaysian trumpet snail)

2r. *Potamopyrgus antipodarum* (New Zealand mud snail)

SECTION 115. NR 40.05 (2) (e) 1m. is repealed.

SECTION 116. NR 40.05 (2) (e) 2g. and 2r. are created to read:

NR 40.05 (2) (e) 2g. *Cepaea nemoralis* (Grovesnail)

2r. *Helix pomatia* (Escargot snail)

SECTION 117. NR 40.05 (2) (e) 3. and Notes 1. to 3. are repealed.

SECTION 118. NR 40.05 (2) (f) and (g) are created to read:

NR 40.05 (2) (f) *Terrestrial and aquatic vertebrates except fish.* Except for fish, no terrestrial or aquatic vertebrate invasive species are restricted.

(g) *Animal disease-causing organisms.* The following animal disease-causing organism invasive species are restricted:

1. *Batrachochytrium dendrobatidis* (Bd or amphibian chytrid fungus)
2. Frog Virus 3 (FV3, a ranavirus)
3. *Ophidiomyces ophidiicola* (Fungus that causes Snake Fungal Disease [SFD])
4. *Pseudogymnoascus destructans* (Fungal pathogen that causes white-nose syndrome)

SECTION 119. NR 40.05 (3) (a) is amended to read:

NR 40.05 (3) (a) Except as otherwise provided in pars. ~~(b)~~ (c) to (o), no person may do any of the following:

SECTION 120. NR 40.05 (3) (b) and Note are repealed.

SECTION 121. NR 40.05 (3) (c) is amended to read:

NR 40.05 (3) (c) If authorized by a permit issued by the department under this chapter, a person may transport, ~~possess,~~ transfer, or introduce a restricted invasive species for research, public display, or for other purposes specified by the department in the permit.

SECTION 122. NR 40.05 (3) (c) (note) is created to read:

NR 40.05 (3) (c) Note: Instructions for how to apply for a permit can be found on the department's website.

SECTION 123. NR 40.05 (3) (f), (L), and (m) are amended to read:

NR 40.05 (3) (f) A person that has collected a restricted invasive species from within the state may personally transport ~~or give away~~ a restricted invasive species for the purpose of

identification, education, control, or disposal under s. NR 40.02 (14) without a permit issued by the department under this chapter, if no viable individual specimens or propagules are allowed to escape or be introduced. This paragraph does not apply to terrestrial and aquatic vertebrates or fish species.

(L) ~~Nonnative~~ If held in a safe facility or registered fish farm, nonnative fish species in the aquaculture industry may be transported, ~~possessed in a safe facility,~~ possessed ~~in a registered fish farm~~, or transferred without a permit issued by the department under this chapter.

(m) Paragraph (a) does not apply to a person who has a permit issued by DATCP under s. ATCP 21.04 for importation, movement, distribution or release of a pest or biological control agent that is a restricted invasive species identified or listed under sub. (2) (e).

SECTION 124. NR 40.05 (3) (o) 1. is repealed.

SECTION 125. NR 40.05 (3) (o) 2. is amended to read:

NR 40.05 (3) (o) 2. A person who, while lawfully fishing, inadvertently catches a fish invasive species and either immediately releases that fish back into the same water where it was caught, or dispatches the fish by evisceration, removal of all gills, or decapitation. Rainbow smelt, common carp, and white perch are exempt from the dispatch requirement.

SECTION 126. NR 40.05 (3) (q) and (note) are created to read:

NR 40.05 (3) (q) A person, while participating in the Wisconsin Purple Loosestrife Biocontrol Program, may transport, possess, or transfer purple loosestrife plants for the purposes of biocontrol rearing and release projects.

Note: Information on the Wisconsin Purple Loosestrife Biocontrol Program, including program instructions, can be found on the department's website.

SECTION 127. NR 40.05 (4) is repealed.

SECTION 128. NR 40.06 (1) (a) is repealed and recreated to read:

(a) Applications for permits under this chapter shall be submitted in writing to the department on forms available from the department. The application shall include all of the following information:

1. Identifying information about the applicant, including all of the following:

a. Applicant’s full name.

b. Contact information.

c. Date of birth.

2. Information about the species of interest, including all of the following:

a. Species name.

b. Quantity.

c. Source location.

d. Containment location.

3. Information regarding the applicant’s intentions, including all of the following:

a. Whether the permit is sought for the transportation, possession, transfer, or introduction of the invasive species specimens for which a permit is sought.

b. The applicant's purpose for seeking a permit.

c. A risk prevention and control plan for each stage of the proposed activity.

d. The method and details of the site or facility for containment, and actions taken to prevent introduction during containment, transfer, or transport.

e. A description of other relevant permits, approvals, or licenses of the applicant.

f. A description of how the invasive species will be destroyed upon completion of the permitted project.

SECTION 129. NR 40.06 (1) (a) (notes 1 and 2) are repealed.

SECTION 130. NR 40.06 (1) (a) (note) is created to read:

NR 40.06 (1) (a) Note: Instructions for how to apply for a permit can be found on the department's website.

SECTION 131. NR 40.06 (2) (b), 40.07 (1) (note), (2) (a) 2., and (4) (a) and (b) are amended to read:

NR 40.06 (2) (b) The applicant has an adequate methodology and site or facility for containment of the invasive species.

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 DNRFishHabitatProtection@wisconsin.gov.

(2) (a) 2. ~~Any~~ A person who removes a vehicle, ~~or~~ equipment ~~other than boating or fishing equipment~~, or gear of any type from any inland or outlying water or from its bank or shore shall drain all water from the vehicle, equipment, or gear, including water in any motor, tank, or other container, immediately after removing the vehicle, equipment, or gear from the water, bank, or shore and before leaving any boat launch area or associated parking area. A person shall remove all drain plugs and open all bailers, valves, or other devices used to control the drainage of water from a watercraft or associated equipment prior to transporting the watercraft or equipment over land.

(4) (a) Except as provided in par. (b), no person may place or operate a vehicle, watercraft or other object of any kind in any wetland or non-navigable water of the state if the vehicle, watercraft or other object has an aquatic plant or aquatic animal attached to the exterior prior to entry into the water.

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

SECTION 132. NR 40.07 (6) is repealed.

SECTION 133. NR 40.07 (8) (title) is amended to read:

NR 40. 07 (8) WHITE-NOSE SYNDROME ~~PREVENTION~~ PATHOGEN MANAGEMENT.

SECTION 134. NR 40.07 (8) (a) is repealed and recreated to read:

NR 40.07 (8) (a) *Definitions.* In this subsection:

1. "Near a cave or mine" means within 100 feet of a cave or mine.

2. "Pathogen" means the restricted invasive fungus species, *Pseudogymnoascus destructans*, that causes white-nose syndrome.

SECTION 135. NR 40.07 (8) (b) is repealed.

SECTION 136. NR 40.07 (8) (c) 1., 2., and 3. are amended to read:

NR 40.07 (8) (c) 1. Except as provided in ~~subd. 5. and~~ par. (e), no person may bring or place any equipment, gear, clothing or other object of any kind in or near a cave or mine if the equipment, gear, clothing or other object has been in or near ~~a~~another cave or mine ~~located in this state~~ unless the equipment, gear, clothing or other object has first been cleaned in accordance with par. (d).

2. Except as provided in ~~subd. 5. and~~ par. (e), any person removing any equipment, gear, clothing, or other object of any kind from any cave or mine or from within 100 feet of any cave or mine or exiting any cave or mine or the area within 100 feet of any cave or mine with any equipment, gear, clothing, or other object of any kind shall clean the equipment, gear, clothing, and other objects in accordance with par. (d).

3. Except as provided in ~~subd. 5. and~~ par. (e), any person who caused or will cause contact to occur in a cave or mine between a bat and an individual or object of any kind, including but not limited to a net, trap, weighting tube, bat bag, wing punch, ruler, clothing, glove, electronic equipment, or exclusion material shall, prior to and immediately following the contact, clean the individual or object in accordance with par. (d).

SECTION 137. NR 40.07 (8) (c) 4. and 5. are repealed.

SECTION 138. NR 40.07 (8) (e) is amended to read:

NR 40.07 (8) (e) *Written exemption.* The department may exempt any person in writing from par. ~~(b) or~~ (c) if it determines that the exemption will not significantly increase the risk

that ~~*Geomyces destructans* (white-nose syndrome fungal pathogen)~~ *Pseudogymnoascus destructans* would be ~~introduced or~~ transported to other locations. The department may set conditions in any written exemption granted under this paragraph. Any person who receives a conditional exemption from the department under this paragraph shall comply with the conditions of the exemption.

SECTION 139. NR 40.07 (8) (f) is repealed.

SECTION 140. NR 40.07 (9) is created to read:

(9) AMPHIBIAN AND REPTILE PATHOGEN PREVENTATIVE MEASURES.

(a) *Applicability.* This subsection is intended to prevent introduction and spread of the following regulated animal disease-causing organisms:

1. 'Prohibited species.' The following species are prohibited:

a. *Batrachochytrium salamandrivorans* (Bsal or salamander chytrid fungus)

b. *Raillietiella orientalis* (Invasive snake lungworm)

c. Ambystoma tigrinum virus (ATV, a ranavirus)

d. Bohle iridovirus (BIV, a ranavirus)

2. 'Restricted species.' The following species are restricted:

a. *Batrachochytrium dendrobatidis* (Bd or amphibian chytrid fungus)

b. *Ophidiomyces ophidiicola* (Fungus that causes snake fungal disease [SFD])

c. Frog virus 3 (FV3, a ranavirus)

(b) *Definitions.* In this subsection:

1. “Site” means an area of contiguous habitat that wildlife can move within. For example, a lake, a river system, or a portion of a forest with multiple vernal pools.

(c) *Requirements.* Before an individual visits a site at which the individual will locate, handle, or otherwise directly interact with reptiles and amphibians, and before visiting another site for the same purpose, all participating individuals shall disinfect the following items in accordance with pars. (d) – (e):

1. Snake hooks.

2. Snake tongs.

3. Bags, plastic containers, or other devices for weighing animals.

4. Tape measures, rulers, calipers or other devices used to measure animals.

5. Items used to sample animal tissue or mark animals for future identification.

(d) *Decontamination protocols upon site arrival.* At all sites, at the beginning of each site visit, the individual shall use one of the following protocols, if measuring, weighing, sampling, or marking reptiles or amphibians:

1. A minimum 70 percent ethanol hand sanitizer to sanitize hands. Hand sanitizer shall be allowed to fully air dry before the next animal is handled.

2. A new set of latex or nitrile gloves at each site.

(e) *Bag decontamination protocols.* Upon completion of visiting a site, the individual shall use the following decontamination measures for bags:

1. Each item may only come in contact with one animal.

2. For fabric bags, following use, wash in hot water with bleach. Then dry on high heat.

(f) D*econtamination protocols upon site visit completion.* Except as provided in par. (e), upon completion of visiting a site, the individual shall use one of the following disinfection measures for equipment:

1. Wipe equipment with minimum 70 percent ethanol wipes that contain no additional chemicals or fragrances. Alternatively, spray items with a minimum 70 percent ethanol solution until thoroughly covered. Equipment shall then be allowed to air dry before the next use.

2. Soak equipment in a minimum 10 percent bleach solution for 10 minutes. Following soaking, equipment shall be rinsed at least three full rinses to remove all residual bleach, which is toxic to most aquatic organisms. Following rinsing, the equipment shall be allowed to fully dry, ideally outside in direct sunlight.

3. Use a potassium peroxymonosulfate disinfectant according to label instructions.

Note: Powder form of potassium peroxymonosulfate may be toxic to humans and aquatic organisms.

Note: An example of a product containing potassium peroxymonosulfate as the active ingredient is VirkonTM.

(g) *Written exemption.* The department may exempt any person in writing from the requirements under par. (c) if it determines that the exemption will not significantly increase the risk that these animal disease-causing organisms would be transported to other locations. The department may set conditions in any written exemption granted under this paragraph. Any person who receives a conditional exemption from the department under this paragraph shall comply with the conditions of the exemption.

(h) *Release of nonnative amphibians and reptiles.* The release of nonnative amphibians and reptiles is prohibited.

SECTION 141. EFFECTIVE DATE. This rule takes effect on the first day of the year following publication in the Wisconsin Administrative Register.

SECTION 142. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____

State of Wisconsin

Department of Natural Resources

BY _____

Steven Little, Deputy Secretary

For Karen Hyun, Ph.D., Secretary