

Clearinghouse Rule 23-058

The statement of scope for this rule, SS 015-23 was approved by the Governor on February 2, 2023, published in Register No. 806A1 on February 6, 2023, and approved by the Natural Resources Board on April 12, 2023. This rule was approved by the Governor on insert date.

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

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 20.38 (1) (g), (h), (j), and (L), (3) (b), and (5); to **amend** NR 20.03 (15) and (21), 20.10 (7), 20.19 (1) (table), 20.20 (4) (h) 1r., (38) (d) 4., (44) (c) 2., (d) 2., and (g) 1., and (64) (d) 2., (f) 2., (g) 2., and (73) (f) 4., 20.38 (1) (a), (d) and (e), 20.40 (10) (c) 1., 20.60 (1) (b), and 26.01 (15) (d) and (55) (b); and to **create** NR 20.10 (7) (note), 20.20 (25) (b) 2., (50) (f) 4m., and NR 26.01 (68) (am) relating to minor changes to fishing regulations on inland, outlying and boundary waters (the 2023 Fisheries Management housekeeping rule)

FH-14-22

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Sections 23.09 (2) (c), 29.014, 29.041, 29.053 (2), and 29.424, Stats., have been interpreted as authorizing the department to conserve and regulate the fish supply on waters of the state while continuing to provide opportunities for good fishing.

2. Statutory Authority: Sections 23.09 (2) (c), 29.014, 29.041, 29.053 (2), and 29.424, Stats., authorize this rule.

3. Explanation of Agency Authority: Section 23.09 (2) (c), Stats., provides that the department may designate fish refuges to secure the perpetuation and adequate supply of any species of fish and provide safe retreats in which fish may breed and replenish adjacent fishing waters.

Section 29.014, Stats., “rule-making for this chapter,” grants the department the authority to establish and maintain open and closed seasons, bag limits, size limits and other conditions that will conserve fish populations and provide good fishing opportunities for the citizens of the state.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies. It also allows the department to establish a fishing season on specified bodies of water in certain urban areas to allow fishing only by persons who are under 16 years old or who are disabled, as specified in

s. 29.193 (3) (a), (b), or (c), Stats.

Section 29.424, Stats., authorizes the department to designate species of fish as detrimental in waters of the state where it is found to be detrimental, and may remove these fish or cause them to be removed.

4. Related Statutes or Rules: No related statutes or rules apply.

5. Plain Language Analysis: This rule is minor in nature and mainly clarifies regulations, codifies existing department policies to ensure consistency in implementation, corrects outdated language and drafting errors, removes obsolete provisions, updates cross-references and points of reference, and addresses inconsistencies in administrative code language. Some of these changes also make administrative code consistent with regulation changes that were implemented using the process outlined in s. NR 20.35, Wis. Admin. Code, which allows the department to remove a special regulation or implement a predefined alternate regulation through a public notice period and public meeting, if requested. Specifically, these rules will amend recreational fishing regulations found in chs. NR 20 and 26, Wis. Admin. Code.

SECTION 1 specifies a geographical point of reference for the mouth of the Fox River. It is not currently clear to the public where the boundary is between the river and Green Bay in terms of which fishing regulations apply.

SECTION 2 adds geographical coordinates for the Duck Creek Green Bay tributary boundary.

SECTION 3 refines the description of a sturgeon spear's spearhead width to clarify that the legal width is measured between the outside edges of the outermost tines, excluding barbs. The current description is ambiguous and has been interpreted differently than originally intended, since barbs on the ends of tines can often extend past the legal spearhead width between the tines.

SECTION 4 creates a note explaining that sturgeon spearhead barbs are considered separate from the tine and may extend past the legal spearhead width, which is based on the measurement between the main tines of the spear head.

SECTION 5 rewords the possession limit for rock bass, white bass, yellow bass, white perch, bullheads, and rough fish species to be clearer that there is no possession limit for these species rather than potentially reading as no fish of those species may be taken into possession. This section also corrects an error in the trout and salmon possession limit. The possession limit for lake trout is twice the total daily bag limit of 2, and the possession limits for trout and salmon taken from the inland waters is separate from the possession limit taken from the outlying waters.

SECTION 6 corrects a mistake in the trout and salmon daily bag limit for the Bark River and its tributaries in Bayfield County, which erroneously reads 55 in total but should only be 5 in total.

SECTION 7 codifies an alternate size limit (no minimum length limit) for bass on two Iowa County lakes, which was implemented in 2009 and 2013 in accordance with the procedures in s. NR 20.35 (2) and (3) (a).

SECTION 8 clarifies that the recent regulation change for trout in the South Branch Pike River applies up to the Brock Pond dam and does not include the pond itself.

SECTION 9 updates the name of a lake occurring in Oneida and Vilas County, which was renamed as part of an effort by the Wisconsin Geographic Names Council to remove derogatory geographic names.

SECTION 10 establishes that Springville Pond, an impoundment of the Little Plover River, is a lake for the purpose of trout fishing open season rather than a trout stream or spring pond (despite the name, this water is not a spring pond). This 14-acre lake has historically been open to game fish fishing until the first Sunday in March, consistent with the standard trout season structure for lakes, but this status as a lake is not currently clear in administrative code.

SECTION 11 updates the name of a lake occurring in Oneida and Vilas County, which was renamed as part of an effort by the Wisconsin Geographic Names Council to remove derogatory geographic names, and applies the same muskellunge and panfish regulations to the lake in Vilas County as apply in Oneida County since this lake straddles the border between the two counties. This section also restores missing text indicating that Sherman Lake lies on the Oneida/Vilas County border.

SECTION 12 restores the standard southern bass zone season structure for bass in Green Bay tributary streams (first Saturday in May to the first Sunday in March for harvest of largemouth and smallmouth bass), which was inadvertently removed through omission from administrative code around 1999. This change would match the tributary stream bass regulations with the Green Bay bass regulations, which has been the understanding of both department staff and anglers. This code change would place Green Bay tributary streams into the “all other waters” standard regulation category in s. NR 20.20 (73) (f) 5., which is consistent with longstanding interpretation of the regulation for these waters.

SECTION 13 removes bullheads as detrimental in Langlade and Lincoln counties, since bullheads are a native species and their status as detrimental is no longer needed in these counties. This section also adds several lakes in Florence and Forest Counties to the list of waters where bullheads are considered detrimental. This designation of bullheads as detrimental in these waters of Florence and Forest counties will allow the department to partner with local organizations to remove bullheads as part of management efforts for other species, notably walleyes, in a more efficient manner.

SECTION 14 removes bullheads, catfish and white bass from the detrimental species list for Green Bay and Lake Michigan. The detrimental designation for these native species is no longer needed in these waters.

SECTION 15 revises the provision relating to opening weekend fishing tournaments. Since the definition

of opening weekend was revised in a previous rule to encompass the first weekend in May, the language relating to fishing seasons for a particular species no longer applies.

SECTION 16 removes the requirement for charter captains to report the number of lines fished during chartered fishing trips. This information is not needed for department management of the Great Lakes fisheries.

SECTION 17 corrects part of the legal descriptions for the Sturgeon Bay ship canal fish refuge and the Thornapple River fish refuge.

SECTION 18 restores a longstanding fish refuge on the Bark River in Waukesha County to administrative code that was inadvertently omitted from administrative code during a rewrite of ch. NR 26.

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

No federal regulations apply. States possess inherent authority to manage the fishery and wildlife resources within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register.

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

The department was not directed to hold a preliminary public hearing on this rule.

8. Comparison with Similar Rules in Adjacent States:

Fisheries management rules are generally similar in the states surrounding Wisconsin. Each bordering state regulates fishing by the use of seasons, bag limits and size limits. Specific seasons and bag and size limits may differ for species among the surrounding states, but the general principles are the same. Michigan, Minnesota, Iowa, and Illinois all have statewide seasons and bag and size limits for fish species, along with special or experimental regulations on individual waters.

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

Fishing regulations, such as length and bag limits or season dates, are used as a tool to ensure that good fishing exists into the future. The department has used different types of fishing regulations in order to: control angler impacts on fish populations; maintain numbers and sizes of fish in a lake or stream; provide different types of fishing experiences, such as fishing for dinner or for a trophy fish; and make access to fishing as fair as possible.

This rule includes minor changes to administrative code that support existing policies and fisheries

management goals. The items in this rule have been compiled by fisheries staff across the state as well as department law enforcement professionals.

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

The proposed rule will have minimal impact on sport anglers and is not expected to have an economic impact. As with any change in regulations, there will be a requirement for anglers to learn the new rules. However, a majority of this rule change clarifies code to reflect existing policies for which anglers must already comply. The department works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

The department will conduct an economic impact analysis and comment period to determine if any individuals, businesses, local governments, or other entities will be affected economically.

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

The department expects no economic impact directly related to these rule changes. The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule.

12. Agency Contact Person: Meredith Penthorn, 608-316-0080, Meredith.Penthorn@wisconsin.gov

13. 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:

Meredith Penthorn

Department of Natural Resources, FH/4

P.O. Box 7921

Madison, WI 53707

608-316-0080; Meredith.Penthorn@wisconsin.gov

Comments may be submitted to the department contact person listed above or to DNRAAdministrativeRulesComments@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 website, at <https://dnr.wi.gov/calendar/hearings/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

RULE TEXT

SECTION 1. NR 20.03 (15) is amended to read:

NR 20.03 (15) “Green Bay” means those waters of Lake Michigan located to the west of the Green Bay–Lake Michigan line. For the purposes of s. NR 20.20, Green Bay shall mean Green Bay, Sturgeon Bay, Sawyer’s Harbor, the Sturgeon Bay ship canal from Sturgeon Bay to a line located in the NE¼ of the NW¼, section 22, T27N, R26E, Door county, commencing at a point on the southwest shore of the Sturgeon Bay ship canal directly beneath the center of the Wisconsin public service company power line and extending in a northeasterly direction beneath and parallel to the center of the power line to a point on the northeast shore of the ship canal and the Fox river from its mouth at the east shore of the Fox river where the metal walkway extends out from shore at 44° 32' 18.5274"N, 88° 0' 11.628"W and the west shore of the Fox river at 44°32.363'N, 88°00.395'W, up to the dam at DePere. For purposes of this chapter, “Green Bay” does not include that portion of Green Bay bounded by the mouth of the Menominee river on the west, the “government pier” or breakwall on the south, the “lighthouse pier” or breakwall on the north, and a line connecting the eastern–most points of those breakwalls on the east.

SECTION 2. NR 20.03 (21) is amended to read:

NR 20.03 (21) “Major Green Bay tributaries” means Duck creek upstream to the first dam above the Pamperin park foot bridge in the village of Howard, located at coordinates 44° 32' 27.8514"N, 88° 6' 39.1674"W on the Oneida Golf and Riding Club property, city of Green Bay, excluding its tributaries, Suamico river upstream to CTH HS, East river upstream to Hoffman road (CTH XX) excluding its tributaries, Brown county; Peshtigo river upstream to the Peshtigo dam, Little river upstream to Radar road, Marinette county; Little Suamico river upstream to CTH J excluding tributaries, Pensaukee river upstream to CTH J excluding

tributaries, Oconto river upstream to Stiles dam excluding tributaries except Little river, Little river upstream to state highway 141 excluding tributaries, Oconto county.

SECTION 3. NR 20.10 (7) is amended to read:

NR 20.10 (7) Fish for lake sturgeon with a spear having a spearhead width greater than 18 inches as measured between the outside edges of the tines from the outside edge of one outermost tine to the outside edge of the other outermost tine, excluding barbs, or with tines arranged in any formation other than a single straight line, or both, or possess such a spear during the open season for lake sturgeon.

SECTION 4. NR 20.10 (7) (note) is created to read:

NR 20.10 (7) Note: Barbs are not considered to be part of the tine and can extend beyond 18 inches.

SECTION 5. NR 20.19 (1) (table) is amended to read:

NR 20.19 (1)

Species	Possession Limit
Catfish	50 in total
Cisco (lake herring), whitefish, and their hybrids	20 in total
Lake sturgeon	2 in total
Largemouth and smallmouth bass	10 in total
Minnows	As specified in s. NR 20.14
Muskellunge	2 in total
Northern pike	10 in total
Panfish	50 in total
Rock bass, white bass, yellow bass, white perch, bullheads, and rough fish	None <u>No limit</u>

Ruffe and gobies	1 of each which has been killed and possessed only for immediate delivery to a department service center or regional office
Shovelnose sturgeon	6 in total
Trout and salmon	10 in total from inland waters except that only 4 may be lake trout, and 10 in total from outlying waters except that only 4 may be lake trout
Walleye, sauger, and their hybrids	10 in total

SECTION 6. NR 20.20 (4) (h) 1r. is amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(4) BAYFIELD (for species or waters not listed, including Lake Superior, see sub. (73))					
(h) Trout and salmon	1r. Bark river and all its tributaries, Whittlesey creek and all its tributaries downstream from Town Hall road	a. Hook and line	First Saturday in May at 5:00 a.m. to November 15	55 5 in total but only 2 may be brown trout longer than 15 and only 1 may be a rainbow trout, all brook trout caught shall be immediately released	Brown trout 10, salmon 12, rainbow trout 26

SECTION 7. NR 20.20 (25) (b) 2. is created to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(25) IOWA (for species or waters not listed, see sub. (73))					
(b) Largemouth and smallmouth bass	2. Blackhawk lake, Cox Hollow lake	a. Hook and line	First Saturday in May to the first Sunday in March	5	None
			Monday following the first Sunday in March to the Friday preceding the first Saturday in May	0	None

SECTION 8. NR 20.20 (38) (d) 4. is amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(38) MARINETTE (for species or waters not listed, see sub. (73))					
(d) Trout and salmon	4. North branch Pemebonwon river, Wausaukee	a. Hook and line	First Saturday in May at 5:00 a.m. to October 15	5 in total	None

	river from the dam in Wausaukee downstream to the confluence with the Menominee river, south branch Pike river from <u>the Brock pond dam</u> downstream to the confluence with the north branch Pike river				
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SECTION 9. NR 20.20 (44) (c) 2., (d) 2., and (g) 1. are amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(44) ONEIDA (for species or waters not listed, see sub. (73))					
(c) Muskellunge	2. Bearskin lake, Booth lake, Julia lake (T38N R11E S1), Squaw Amber lake (on Vilas county border)	a. Hook and line	Saturday nearest Memorial day to December 31 on open water	1	28

(d) Panfish	2. Indian lake, Oneida lake, Squaw Amber lake (on Vilas county border)	a. Hook and line	Continuous	15 in total but no more than 5 of a single species until March 1, 2026 when it becomes 25 in total	None
(g) Walleye	1. Bearskin lake, Crescent lake (near Rhinelander), Diamond lake, Hasbrook lake, Julia lake (on Forest county border), Mercer lake, Oneida lake, Squaw Amber lake (on Vilas county border), Squirrel lake, Three lakes chain (includes Big, Big Fork, Big Stone, Deer, Dog, Fourmile, Island, Laurel, Little Fork, Long, Medicine, Moccasin, Mud, Planting	a. Hook and line	First Saturday in May to the first Sunday in March	3 in total	None, but only 1 may be longer than 14

	Ground, Rangeline, Round, Spirit, Townline, Virgin, and Whitefish lakes and all connecting waters and Eagle river downstream to the Long Lake (Burnt Rollways) dam combined)				
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SECTION 10. NR 20.20 (50) (f) 4m. is created to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(50) PORTAGE (for species or waters not listed, see sub. (73))					
(f) Trout and salmon	4m. Springville pond	a. Hook and line	First Saturday in May at 5:00 a.m. to the first Sunday in March	3 in total	8

SECTION 11. NR 20.20 (64) (d) 2., (f) 2., and (g) 2. are amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(64) VILAS (for species or waters not listed, see sub. (73))					
(d) Muskellunge	2. <u>Amber lake (on Oneida county border)</u> , Upper Gresham lake	a. Hook and line	Saturday nearest Memorial day to December 31 on open water	1	28
(f) Panfish	2. <u>Amber lake (on Oneida county border)</u> , Fishtrap lake, High lake, Rush lake	a. Hook and line	Continuous	15 in total but no more than 5 of a single species until March 1, 2026 when it becomes 25 in total	None
(g) Walleye	2. Big lake (T42N R6E S4), Big Arbor Vitae lake, Big Muskellunge lake, Birch lake, Boulder lake, Crab lake, Harris lake, Ike Walton lake, Island lake,	a. Hook and line	First Saturday in May to the first Sunday in March	3 in total	None, but only 1 may be longer than 14

	<p>Little Arbor Vitae lake, North Crab lake, North Turtle lake, Oxbow lake, Presque Isle chain (Averill lake, Presque Isle lake, and Van Vliet lake combined), Rock lake, South Turtle lake, Squaw Amber lake (on Oneida county border), Star lake, Sherman lake (<u>on Oneida county border</u>), Squirrel lake, Three lakes chain (includes Big, Big Fork, Big Stone, Deer, Dog, Fourmile, Island, Laurel, Little Fork, Long, Medicine, Moccasin, Mud, Planting Ground,</p>				
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	Rangeline, Round, Spirit, Townline, Virgin, and Whitefish lakes and all connecting waters and Eagle river downstream to the Long Lake (Burnt Rollways) dam combined)				
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SECTION 12. NR 20.20 (73) (f) 4. is amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)					
(f) Largemouth and smallmouth bass	4. All waters not listed in subs. (1) to (72) or this paragraph north of a line following state highway 77 from its bridge over the St.	a. Hook and line	First Saturday in May to Friday preceding the third Saturday in June	0 for smallmouth bass, 5 for largemouth bass	14

	<p>Croix river east to state highway 27, south on state highway 27 to state highway 64, east on state highway 64 to its terminus in the city of Marinette and continuing due east to the shore of Green Bay and all waters, <u>excluding tributaries to Green Bay,</u> north of state highway 29 from its bridge over the Fox river east to its terminus in the city of Kewaunee and continuing due east to the shore of Lake Michigan.</p>				
			<p>Third Saturday in June to the first Sunday in March</p>	<p>5 in total</p>	<p>14</p>

			Monday following the first Sunday in March to Friday preceding the first Saturday in May	0	None
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SECTION 13. NR 20.38 (1) (a), (d) and (e) are amended to read:

NR 20.38 (1) (a) All waters in Barron, Burnett, Chippewa, ~~Langlade, Lincoln,~~ Marathon, Oneida, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Vilas, and Washburn counties.

(d) Florence county. Bass, Fay, Frog, Halsey, Long (Forest county), Patten, Scout and West Bass lakes; Line and Pine river flowages.

(e) Forest county. Arbutus lake, Crane lake, Jungle lake, Lake Metonga, Lily lake, Little Rice lake, Pickerel lake, and Roberts lake.

SECTION 14. NR 20.38 (1) (g), (h), (j) and (L), (3) (b), and (5) are repealed.

SECTION 15. NR 20.40 (10) (c) 1. is amended to read:

NR 20.40 (10) (c) 1. Opening weekend of athe fishing season ~~of a particular species if the fishing tournament targets that species,~~ except that a person may conduct a fishing tournament that is not a traditional fishing tournament on opening weekend on waters with a continuous open harvest season for that species.

SECTION 16. NR 20.60 (1) (b) is amended to read:

NR 20.60 (1) (b) For each fishing trip, the licensee shall accurately record the licensee’s name, license number, date, documented boat name or 8–digit state registration number, locations fished, number of anglers, ~~number of lines fished~~, hours fished, the total number of fish harvested, and other information required by the department on the report form in the electronic reporting system in the English language within 1/2 hour after completing each trip’s fishing activities after returning to the dock or shore. The number of fish of each species harvested and fin clip information, if required by the department, may be recorded in the electronic reporting system after returning to the dock or shore but shall be recorded in the electronic reporting system by 11:59 p.m. the day of the fishing trip. The electronic report form shall be immediately exhibited to a department representative upon request.

SECTION 17. NR 26.01 (15) (d) and (55) (b) are amended to read:

COUNTY	WATERS	REFUGE BOUNDARIES	START DATE	END DATE
(15) Door	(d) Sturgeon Bay ship canal	Canal area within 500 feet of Strawberry creek in the SE ¼ of the SE ¼, section 16, T22N <u>T27N</u> , R26E	September 1	December 31
(55) Rusk	(b) Thornapple river	Confluence with Chippewa river in section 4, T34N, R7W upstream to the Thornapple road crossing in	April 25	May 14

		section 33, T35N, <u>R1WR7W</u>		
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SECTION 18. NR 26.01 (68) (am) is created to read:

COUNTY	WATERS	REFUGE BOUNDARIES	START DATE	END DATE
(68) Waukesha	(am) Bark river	Highway 83 bridge to the inlet to Lake Nagawicka at NE ¼, section 9, T7N, R18E to NE ¼, section 8, T7N, R18E	March 1	Friday preceding the first Saturday in May

SECTION 19. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 20. 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 _____

For Adam N. Payne, Secretary