

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 20.20(55)(e)3., 26.08(13)(a); to amend NR 20.20(3)(e)1., (11)(b), (12)(b)2., (13)(b), (17)(f), (22)(b)1., (25)(b)1., (27)(g)2., 3., (33)(am)1., (g)2., (42)(e), (53)(b)1., (56)(b), (61)(d)1., (62)(c)2., (64)(g)2., 4., (65)(a)1., (67)(ag)1., (as)1., (73)(a)4.a., 23.05(5)(intro.) and (e); to repeal and recreate 20.20(36); and to create NR 20.20(1)(cm), (18)(dm), (29)(cm), (50)(cm), (72)(cm), 26.08(35), 26.24(13), 26.33 relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

FH-03-04

Analysis Prepared by the Department of Natural Resources

Statutory Authority: Statutes that authorize the promulgation of this rule order include ss. 23.09(2)(c), 29.014(1), 29.041, and 227.11(2), Stats. These sections grant rule making authority to the department to establish fish refuges, establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping; that the department may regulate hunting and fishing on and in all interstate boundary waters, and outlying waters; and that all rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted: In promulgating this rule, ss. 29.014(1) and 29.041, Stats., have been interpreted as giving the department the authority to make non-controversial housekeeping changes to fishing regulations to inland and boundary waters of Wisconsin.

Plain Language Rule Analysis: Section by section details of this rule order are outlined as follows:

Sections 1, 11, 16, and 27 increase the minimum length limit for muskellunge on the Wisconsin river from the Castle Rock dam (Adams/Juneau county) upstream through Wood county to the Dubay dam (Portage county) from 34-in to 45-in.

Sections 2 and 6 standardize trout regulations on Connors creek, Little Vance creek, South Fork Hay river, Upper Pine creek downstream from the Dallas flowage. The regulations currently change because they cross the Barron/Dunn county line and the county base regulations are different. Vance creek is currently category 2 in both counties, but its tributaries that come together in the same area are category 4 and should be changed for consistency. The bag limit for trout will be reduced from 5 in total to 3 in total and the minimum length limit will be increased from 7-in for all trout to 8-in for brook trout and 12-in for brown and rainbow trout on Connors creek, Little Vance creek, South Fork Hay river, Upper Pine creek downstream from the Dallas flowage, and Vance creek in Barron County.

Sections 3, 4, 5, 8, 9, 17, and 19 reduce the daily bag limit from 25 in total to 10 in total for catfish on the Lower Wisconsin river from the Wisconsin Dells dam in Columbia and Sauk counties downstream through Dane, Iowa, Richland, Grant and Crawford counties.

Section 6 removes the size restrictions for trout on Knapp pond in Dunn county.

Section 7 reduces the daily bag limit for panfish from 25 in total to 10 in total on Lake Altoona, Eau Claire County.

Section 10 standardizes trout regulations that currently change only because they cross the Trempealeau/Jackson county line. The bag limit for trout will be reduced from 5 in total to 3 in total and the minimum length limit will be increased from 7-in to 9-in on Big Slough creek and Schermerhorn creek, Jackson County. The bag limit for trout will be reduced from 5 in total to 3 in total and the minimum

length limit will be increased from 7-in for all trout to 8-in for brook trout and 12-in for brown and rainbow trout on Washington Coulee creek, Jackson County.

Section 12 increases the harvest slot limit for catfish on Yellowstone lake in Lafayette County from a minimum of 12-in and maximum of 15-in to a minimum of 15-in and a maximum of 18-in.

Section 13 increases the harvest slot limit for walleye, sauger and hybrids on Yellowstone lake in Lafayette County from a minimum of 12-in and maximum of 15-in to a minimum of 15-in and a maximum of 18-in.

Section 14 increases the minimum length limit from 14-in to 18-in and reduces the daily bag limit from 5 in total to 1 in total for bass; reduces the daily bag limit from 25 in total to 10 in total for panfish; and increases the minimum length limit from 15-in to 18-in and reduces the daily bag limit from 5 in total to 3 in total for walleye on Silver lake, Manitowoc County.

Section 15 standardizes trout regulations that currently change only because they cross the Monroe/Jackson county line. The bag limit for trout will be reduced from 5 in total to 3 in total and the minimum length limit will be increased from 7-in to 9-in on Clear creek and Ranch creek, Monroe County.

Section 18 reduces the minimum length limit from 18-in to 15-in and increases the daily bag limit from 3 in total to 5 in total for walleye, sauger and hybrids (reverts back to statewide regulations) in Sand lake, Rusk County.

Section 20 eliminates the no minimum length limit with a 14-in to 18-in protected slot for walleye, sauger and hybrids and reverts back to the statewide 15-in minimum length limit on Rib lake, Taylor County.

Section 21 standardizes trout regulations that currently change only because they cross the Buffalo/Trempealeau county line. The bag limit for trout will be reduced from 5 in total to 3 in total and the minimum length limit will be increased from 7-in to 9-in on Kilness creek and Sport Valley creek in Trempealeau County. This section also standardizes trout regulations that currently change only because they cross the Eau Claire/Trempealeau county line. The bag limit for trout will be reduced from 5 in total to 3 in total and the minimum length limit will be increased from 7-in to 9-in on Lindsay creek, Big creek, and Pine creek, Trempealeau County.

Sections 22 and 23 increase the minimum length limit from 26-in to 30-in for lake trout on Black Oak lake, Vilas County.

Section 24 allows motor trolling county-wide in Walworth County.

Sections 25 and 26 increase the minimum length limit from 14-in to 18-in and decrease the daily bag limit from 5 in total to 1 in total for bass and reduce the daily bag limit from 25 in total to 10 in total for panfish on Erlen lake, Washington County.

Section 28 eliminates motor trolling on the Wolf river from its mouth at Lake Poygan upstream to the dam in the city of Shawano, and all its tributaries upstream to the first dam, including Cincoe and Partridge lakes in Winnebago, Waupaca, Outagamie and Shawano counties.

Section 29 increases the minimum length limit for muskellunge from 40-in to 50-in on the Menominee river (Wisconsin/Michigan boundary waters) from the Hattie Street dam downstream to eastern end of the breakwalls in Green Bay.

Sections 30 and 33 extend the duration of the Wingra creek refuge that currently ends on the first Friday in May so as to be open for the general fishing season opener to May 15 to ensure muskellunge are no longer concentrated below the spillway.

Section 31 establishes new fish refuges from March 1 to the opening day of the general gamefish season on the Little Somo river and the Tomahawk river in Lincoln County.

Section 33 establishes three new fish refuges from April 1 through April 15 on the Little Wolf river in Waupaca county.

Federal Regulatory Analysis: Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of fishing for native species has been delegated to state fish and wildlife agencies. No federal regulations regarding seasons, bag limits and size limits have been drafted or implemented. Additionally, none of the proposed rules exceed the authorities granted the states in 50 CFR 10.

State Regulatory Analysis: Fisheries management is generally quite similar in the states surrounding Wisconsin. All the bordering states regulate fishing by the use of seasons, bag limits and size limits. Specific seasons, bag and size limits may differ for species across the surrounding states; however, the general principles are similar. Michigan, Minnesota, Iowa and Illinois all have statewide seasons, bag and size limits for fish species, along with special or experimental regulations on individual waters.

SECTION 1. NR 20.20(1)(cm) is created to read:

(1) ADAMS (for species or waters not listed, see sub. (73))

(cm) muskellunge	1. Wisconsin river including sloughs, bayous and flowages upstream from the Castle Rock dam	a. Hook and line.	First Saturday in May to November 30	1	45
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SECTION 2. NR 20.20(3)(e)1. is amended to read:

(3) BARRON (for species or waters not listed, see sub. (73))

(e) Trout and salmon	1. Brill river, <u>Conners creek, Little Vance creek, South Fork Hay river, Upper Pine creek downstream from the Dallas flowage dam, Vance creek</u>	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	3 in total	Brown trout 12, rainbow trout 12, brook trout 8
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SECTION 3. NR 20.20(11)(b) is amended to read:

(11) COLUMBIA (for species and waters not listed, see sub. (73))

(b) Catfish	1. Lower Wisconsin river from the dam at Wisconsin Dells to the Prairie du Sac dam	a. Hook and line	Continuous	25 in total	None
	2. Lower Wisconsin river from the Prairie du Sac dam to the railroad bridge at Sauk City	a. Hook and line	First Saturday in May to November 30	25 <u>10</u> in total	None

SECTION 4. NR 20.20(12)(b)2. is amended to read:

(12) CRAWFORD (for species and waters not listed, see sub. (73))

(b) Catfish	2. Lower Wisconsin river	a. Hook and line, set or bank pole, setline.	Continuous	25 <u>10</u> in total	None
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SECTION 5. NR 20.20(13)(b) is amended to read:

(13) DANE (for species and waters not listed, see sub. (73))

(b) Catfish	1. Lower Wisconsin river from the Prairie du Sac dam downstream to the railroad bridge at Sauk City	a. Hook and line	First Saturday in May to November 30	25 <u>10</u> in total	None
	2. Lower Wisconsin river downstream from the railroad bridge in <u>at</u> Sauk City	a. Hook and line, set or bank pole, setline.	Continuous	25 <u>10</u> in total	None

SECTION 6. NR 20.20(17)(f) is amended to read:

(17) DUNN (for species and waters not listed, see sub. (73))

(f) Trout and salmon	1. Big Elk creek and Creek 17-11	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	3 in total	8
	2. Vance creek , Lower Pine creek and Lower South Fork of Lower Pine creek	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	5 in total	7
	3. Elk creek	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	3 in total	3 trout under 10, or 2 trout under 10 and 1 over 14
	4. <u>Knapp pond</u>	<u>a. Hook and line</u>	<u>First Saturday in May at 5:00 a.m. to September 30</u>	<u>3 in total</u>	<u>None</u>
	4 <u>5</u> . All waters not listed	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	3 in total	Brown and rainbow trout 12, brook trout 8

SECTION 7. NR 20.20(18)(dm) is created to read:

(18) EAU CLAIRE (for species or waters not listed, see sub. (73))

(dm) Panfish	1. Altoona lake	a. Hook and line	Continuous	10 in total	None
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SECTION 8. NR 20.20(22)(b)1. is amended to read:

(22) GRANT (for species and waters not listed, see sub. (73))

(b) Catfish	1. Lower Wisconsin river	a. Hook and line, set or bank pole, setline.	Continuous	25 <u>10</u> in total	None
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SECTION 9. NR 20.20(25)(b)1. is amended to read:

(25) IOWA (for species and waters not listed, see sub. (73))

(b) Catfish	1. Lower Wisconsin river	a. Hook and line, set or bank pole, setline.	Continuous	25 10 in total	None
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SECTION 10. NR 20.20(27)(g)2. and 3. are amended to read:

(27) JACKSON (for species and waters not listed, see sub. (73))

(g) Trout and salmon	2. <u>Big Slough creek</u> , Clear creek (south branch Robinson), Curran Coulee creek, Pigeon creek (Millston), Pigeon creek (Northfield), Robinson creek (upstream from STH 27), <u>Schermerhorn creek</u> , Shamrock creek, Squaw creek, Stony creek,	a. Hook and line.	First Saturday in May at 5:00 a.m. to September 30	3	9
	3. Allen creek, Beaver creek (north fork), Buffalo river (north fork), Buffalo river (south fork), Douglas creek (Shake Hollow creek (upstream from Douglas pond)), Halls creek (south fork), Halls creek (Stockwell creek (upstream from GB&W railroad crossing (S22, T23N, R4W))), Halls creek (west fork), Levis creek (downstream from the west line of S14, T21N, R3), Shake Hollow (N. branch (Cr. 30-15)), Tank creek, Trempealeau river (Trempealeau co. line upstream to confluence of west, north and south branches), Trempealeau river (N. branch (upstream from Cain road)), Trempealeau river (S. Branch), and <u>Vosse Coulee creek and Washington Coulee creek</u>	a. Hook and line.	First Saturday in May at 5:00 a.m. to September 30	3	Brown and rainbow trout 12, brook trout 8

SECTION 11. NR 20.20(29)(cm) is created to read:

(29) JUNEAU (for species and waters not listed, see sub. (73))

(cm) Muskellunge	1. Wisconsin river including sloughs, bayous and flowages upstream from the Castle Rock dam	a. Hook and line.	First Saturday in May to November 30	1	45
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SECTION 12. NR 20.20(33)(am)1. is amended to read:

(33) LAFAYETTE (for species or waters not listed, see sub. (73))

(am) Catfish	1. Yellowstone lake	a. Hook and line.	First Saturday in May to the first Sunday in March	2 in total with largemouth bass, smallmouth bass, walleye, sauger and hybrids	Minimum length limit 42 <u>15</u> " ; maximum length limit 45 <u>18</u> "
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SECTION 13. NR 20.20(33)(g)2. is amended to read:

(33) LAFAYETTE (for species or waters not listed, see sub. (73))

(g) Walleye, sauger and hybrids	2. Yellowstone lake	a. Hook and line.	First Saturday in May to the first Sunday in March	2 in total with catfish, largemouth bass and smallmouth bass	Minimum length limit <u>42 15"</u> ; maximum length limit <u>45 18"</u>
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SECTION 14. NR 20.20(36) is repealed and recreated to read:

(36) MANITOWOC (for species or waters not listed, including Lake Michigan and its tributaries, see sub. (73))

(a) Largemouth and smallmouth bass	1. Silver lake	a. Hook and line	First Saturday in May to the first Sunday in March	1 in total	18
(b) Panfish	1. Silver lake	a. Hook and line	Continuous	10 in total	None
(c) Rough fish	1. Trout streams	a. Hook and line	During the open season for trout	None	None
		b. By hand	Continuous	None	None
	2. All other waters except Lake Michigan and its tributaries	a. Hook and line, by hand, dip netting.	Continuous	None	None
(d) Trout and salmon	1. Horseshoe lake	a. Hook and line	First Saturday in May at 5:00 a.m. to the first Sunday in March	5 in total	7
		a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	5 in total	7
	2. All other waters except Lake Michigan and its tributaries	b. Spearing.	April 21 to the first Sunday in March	None	None
(e) Walleye, sauger and hybrids	1. Silver lake	a. Hook and line	First Saturday in May to the first Sunday in March	3 in total	18

SECTION 15. NR 20.20(42)(e) is amended to read:

(42) MONROE (for species and waters not listed, see sub. (73))

(e) Trout and salmon	1. Rullands Coulee creek, Bohemian Valley creek	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	5 in total but none may be longer than 12"	Maximum length limit 12"
	<u>2. Clear creek, Ranch creek</u>	<u>a. Hook and line</u>	<u>First Saturday in May at 5:00 a.m. to September 30</u>	<u>3</u>	<u>9</u>

23. All waters not listed	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30	5	7
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SECTION 16. NR 20.20(50)(cm) is created to read:

(50) PORTAGE (for species and waters not listed, see sub. (73))

(cm) muskellunge	1. Wisconsin river including sloughs, bayous and flowages north of U.S. hwy. 10.	a. Hook and line	Saturday nearest Memorial day to November 30	1	45
	2. Wisconsin river including sloughs, bayous and flowages south of U.S. hwy. 10.	a. Hook and line	First Saturday in May to November 30	1	45

SECTION 17. NR 20.20(53)(b)1. is amended to read:

(53) RICHLAND (for species and waters not listed, see sub. (73))

(b) Catfish	1. Lower Wisconsin river	a. Hook and line, set or bank pole, setline.	Continuous	25 <u>10</u> in total	None
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SECTION 18. NR 20.20(55)(e)3. is repealed.

SECTION 19. NR 20.20(56)(b) is amended to read:

(56) SAUK (for species or waters not listed, see sub. (73))

(b) Catfish	1. Lower Wisconsin river from the dam at Wisconsin Dells downstream to the Prairie du Sac dam	a. Hook and line.	Continuous	25 <u>10</u> in total	None
	2 1. Lower Wisconsin river from the Prairie du Sac dam downstream to the railroad bridge at Sauk City	a. Hook and line.	First Saturday in May to November 30	25 <u>10</u> in total	None
	3 2. Lower Wisconsin river downstream from railroad bridge at Sauk City	a. Hook and line, set or bank pole, setline.	Continuous	25 <u>10</u> in total	None

SECTION 20. NR 20.20(61)(d)1. is amended to read:

(61) TAYLOR (for species or waters not listed, see sub. (73))

(d) Walleye, sauger and hybrids	1. Diamond lake, North Harper lake, Rib lake, Sackett lake, South Harper lake, Jump river and	a. Hook and line.	First Saturday in May to <u>the first Sunday in</u> March 4	5 in total but only 1 may be longer than 18"	None but the possession of fish from 14 to 18 inches is prohibited
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tributaries upstream to the first dam or lake

SECTION 21. NR 20.20(62)(c)2. is amended to read:

(62) TREMPEALEAU (for species and waters not listed, see sub. (73))

(c) Trout and salmon	2. Adams creek, Beaver creek (south fork), <u>Big creek</u> , Big Slough creek, Borst Valley creek, Bruce Valley creek, Chimney Rock creek, Dutch creek, Elk creek, Elk creek (north branch), Elk creek (Bennet), Fly creek, French creek, Hardies creek, Holcomb Coulee creek, Johnson Valley creek, <u>Kilness creek</u> , King creek, Lakes Coulee creek, <u>Lindsay creek</u> , Meyer Valley creek, Pigeon creek (upstream from Pigeon Falls pond), <u>Pine creek</u> , Rossman creek, Salzwedel Coulee creek, Schermerhorn creek, <u>Sport Valley creek</u> , Tamarack creek, Trout creek, Trout Run creek,	a. Hook and line.	First Saturday in May at 5:00 a.m. to September 30	3	9
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SECTION 22. NR 20.20(64)(g)2. is amended to read:

(64) VILAS (for species or waters not listed, see sub. (73))

(g) Trout and salmon	2. <u>Black Oak lake</u> , Trout lake	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30.	1 in total	30
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SECTION 23. NR 20.20(64)(g)4. is amended to read:

(64) VILAS (for species or waters not listed, see sub. (73))

(g) Trout and salmon	4. Black Oak lake , Crystal (T41N, R7E, S27) and Little Trout lakes	a. Hook and line	First Saturday in May at 5:00 a.m. to September 30.	1 in total	26
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SECTION 24. NR 20.20(65)(a)1. is amended to read:

(65) WALWORTH (for species or waters not listed, see sub. (73))

(a) All species	1. Boulah lake, Como lake, Delavan lake, Geneva lake, Whitewater lake <u>All waters</u>	a. Motor trolling is permitted.	As specified in this subsection or sub. (73)	As specified in this subsection or sub. (73)	As specified in this subsection or sub. (73)
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SECTION 25. NR 20.20(67)(ag)1. is amended to read:

(67) WASHINGTON (for species or waters not listed, see sub. (73))

(ag) Largemouth and smallmouth bass	1. Lake Twelve, <u>Erler lake</u>	a. Hook and line.	First Saturday in May to the first Sunday in March	1 in total	18
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SECTION 26. NR 20.20(67)(as)1. is amended to read:

(67) WASHINGTON (for species or waters not listed, see sub. (73))

(as) Panfish	1. Lake Twelve, <u>Erler lake</u>	a. Hook and line.	Continuous	10 in total	None
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SECTION 27. NR 20.20(72)(cm) is created to read:

(72) WOOD (for species and waters not listed, see sub. (73))

(cm) Muskellunge	1. Wisconsin river including sloughs, bayous and flowages	a. Hook and line.	First Saturday in May to November 30	1	45
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SECTION 28. NR 20.20(73)(a)4.a. is amended to read:

(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)

(a) All species	4. Lake Winnebago system waters	a. Motor trolling is permitted <u>except on the Wolf river from its mouth at Lake Poygan upstream to the dam in the city of Shawano, and all its tributaries upstream to the first dam, including Cincoe and Partridge lakes in Winnebago, Waupaca, Outagamie and Shawano counties.</u>	As specified in this subsection	As specified in this subsection	As specified in this subsection
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SECTION 29. NR 23.05(5)(intro.) and (e) are amended to read:

NR 23.05(5) The seasons, size limits and bag and possession limits for hook and line fishing in the Wisconsin-Michigan boundary waters for the species listed in this subsection, except as provided in s. NR 23.06, are as follows: :

(e) Muskellunge

1.	<u>Menominee river from the Hattie Street dam in the city of Marinette downstream to the eastern end of the breakwalls in Green Bay</u>	<u>May 15 to November 30</u>	<u>1</u>	<u>50</u>
2.	<u>All other boundary waters</u>	May 15 to November 30	1	40

SECTION 30. NR 26.08(13)(a) is repealed.

SECTION 31. NR 26.08(35) is created to read:

NR 26.08(35) LINCOLN COUNTY. (a) *Little Somo river*. That part of the Little Somo river from the dam in section 27, T35N, R5E, extending downstream 900 feet.

(b) *Tomahawk river*. That part of the Tomahawk river from the Jersey dam in section 28, T35N, R6E, extending downstream to the railroad trestle.

SECTION 32. NR 26.24(13) is created to read:

NR 26.24(13) DANE COUNTY. (a) *Wingra creek*. That portion of Wingra creek, including the entire spillway of Wingra lake, extending downstream for a distance of 50 feet from the spillway.

SECTION 33. NR 26.33 is created to read:

NR 26.33 **Fish refuges**. The following described areas are hereby created and established as fish refuges, and no person may take, catch, disturb, capture, kill, or fish for fish in any manner from April 1 of each year to April 15, both dates inclusive, in, on or along the following described water areas.

(69) WAUPACA COUNTY. (a) *Little Wolf river*. 1. That part of the Little Wolf river 300 extending feet upstream of the STH 54 bridge and extending 300 feet downstream of STH 54 bridge located in the NE ¼ of section 1, T22N, R13E.

2. That part of the Little Wolf river extending 900 feet upstream of the Ostrander road bridge and extending 1300 feet downstream of the Ostrander road bridge located in the SW ¼ of section 8, T22N, R14E.

3. That part of the Little Wolf river extending 1350 feet upstream of CTH X and extending 150 feet downstream of the CTH X bridge located in the SE ¼ of section 8, T22N, R14E.

SECTION 34. EFFECTIVE DATE. This rule shall take effect on April 1, 2005, except sections 2, 6, 10, 15, 21, 22, and 23, which shall take effect on March 1, 2005, as provided in s. 227.22(2)(intro.), Stats.

SECTION 35. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on May 26, 2004.

Dated at Madison, Wisconsin, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)