

## CR 13-010

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

The statement of scope for this rule, ER-27-11, was approved by the Governor on November 14, 2011, published in Register No. 671 on November 30, 2011, and approved by the Natural Resources Board on March 28, 2012. This permanent rule was approved by the Governor on July 3, 2013.

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 27.03 (2) (b) 3m., 27.03 (2) (b) 10., 27.03 (2) (b) 11., 27.03 (2) (i) 14., 27.03 (3) (c) 2., 27.03 (3) (c) 3., 27.03 (3) (e) 7., 27.03 (3) (f) 2t., 27.03 (3) (i) 3., 27.03 (3) (i) 4g., 27.03 (3) (i) 20., 27.03 (3) (i) 31., 27.03 (3) (i) 43., 27.03 (3) (i) 45., and 27.03 (3) (i) 51w.; to **re number and amend** NR 27.03 (2) (e) 7., 27.03 (2) (i) 25d., 27.03 (3) (f) 1., 27.03 (3) (i) 8., 27.03 (3) (i) 32m., 27.03 (3) (i) 51p., and 27.03 (3) (i) 51t.; to **amend** NR 27.03 (2) (b) 5., 27.03 (2) (d) 1m., 27.03 (2) (i) 2., 27.03 (2) (i) 5m., 27.03 (2) (i) 16., 27.03 (2) (i) 17., 27.03 (2) (i) 40d., 27.03 (3) (e) 5t., 27.03 (3) (i) 28m., 27.03 (3) (i) 50p., 27.03 (3) (i) 51., 27.03 (3) (i) 51m., and 27.03 (3) (i) 53.; and to **create** NR 27.03 (2) (b) 2., 27.03 (2) (b) 3L., 27.03 (2) (f) 2g, 27.03 (2) (f) 2r, 27.03 (2) (f) 2w, 27.03 (3) (b) 1g., 27.03 (3) (f) 1m., and 27.03 (3) (g) 7m., relating to revising Wisconsin's endangered and threatened species list.

ER-27-11

#### Analysis Prepared by Department of Natural Resources

**1. Statutes Interpreted:** In promulgating this rule, s. 227.11(2)(a), Wis. Stats., has been interpreted as allowing the department the authority to create and amend rules. Section 29.604 (3)(b), Wis. Stats., has been interpreted as allowing the department the authority to create and amend the list of Wisconsin's endangered and threatened species, NR 27.03, Wis. Admin. Code.

**2. Statutory Authority:** The state statutes that authorize the promulgation of this rule are ss. 29.604 (3) (b) and 227.11 (2) (a), Wis. Stats.

**3. Explanation of Agency Authority:** Sections 29.604 (3) (b) and 227.11 (2) (a), Stats., grant rule-making authority for the establishment of an endangered and threatened species list to the department.

**4. Related Statutes or Rules:** Section 29.604 (3), Wis. Stats., requires the Department to establish an endangered and threatened species list. Chapter NR 27, Wis. Admin. Code, provides the list of endangered and threatened species.

**5. Plain Language Analysis:** The department's Bureau of Endangered Resources initiated and completed a review of Wisconsin's rare species, resulting in changes to Ch. NR 27, Wis. Admin. Code, which adds 8 species and removes 15 species in Wisconsin to the Wisconsin endangered and threatened species list, and updates 20 scientific names.

The 8 species being added to the endangered and threatened list are:

Upland Sandpiper (*Bartramia longicauda*), a bird, is found primarily in the southwest, northwest sands, and northeastern part of the state. Other secondary areas are in the central, southeast, and western parts of the state. This species prefers large, open landscapes with

short to mid-height grassy vegetation, including remnant prairie, lightly grazed pastures, barrens, old fields, and other idle grasslands, and hay fields. This species is in decline in Wisconsin, with some of the largest declines in its range. It was once reported at 55 sites. It may disappear from Wisconsin without large blocks of idle and/or grazed grasslands. Add to threatened list [NR27.03(3)].

Black Tern (*Chlidonias niger*), a bird, is found in found in northern, eastern, and central Wisconsin in marshes, river sloughs, rivers, lakeshores, impoundments, and wet meadows, typically in sites with mixture of emergent vegetation and open water. The species is in decline in Wisconsin. Surveys indicate declines as much as 36% in recent years and a 78% decline over 30 years. This species was once reported at 79 sites, and was found only at 7 breeding colonies in 2010. Add to endangered list [NR27.03(2)].

Kirtland's Warbler (*Dendroica (=Setophaga) kirtlandii*), a bird, is found in Adams and Marinette counties in areas at least 30 hectares in size, where scrubby jack pine (2 to 6 meters high) is interspersed with many small openings and minimal ground cover. This species is considered to be “critically imperiled” globally and is currently on the Federal list of endangered species. This species has nested in Wisconsin consistently since 2007 with 12 known populations. There are historic records of individuals in the state. Add to endangered list [NR27.03(2)].

Beach-dune Tiger Beetle (*Cicindela hirticollis rhodensis*), a beetle also known as the “hairy-necked tiger beetle”, is found on beaches of Lakes Superior and Michigan. This species is rare and declining in Wisconsin (30%). It was once reported from 9-10 sites statewide, and now only one known viable population remains. Add to endangered list [NR27.03(2)].

Fawnsfoot (*Truncilla donaciformis*), a freshwater mussel, is only known from the Mississippi River and portions of its major tributaries in Wisconsin (St. Croix and Wisconsin River). This species is in decline in Wisconsin. Populations are disappearing range wide. It was once widespread and abundant, and is rarely found in recent years. Numbers have greatly declined in Wisconsin’s remaining viable populations (St. Croix and Lower Wisconsin Rivers). Add to threatened list [NR27.03(3)].

Ottoe Skipper (*Hesperia ottoe*), a butterfly, is found in nine counties in the southwestern corner of the state on dry to dry-mesic hill prairies, sand prairies, and sand barrens. This species is very rare and in decline in Wisconsin. It was once known to 16 sites, and as of 2011 only 4 are extant, a 75% decline since the mid-1990s.. Many populations are gone range wide. Very few sites have the size, quality, structure, or connectivity to sustain this species. Add to endangered list [NR27.03(2)].

A Leafhopper (*Attenuipyga vanduzeei*), a small terrestrial insect also known as “a prairie leafhopper” or “shovel-headed leafhopper”, is found in the highest quality prairie remnants near the Mississippi and Lower Wisconsin Rivers. This species is very rare in Wisconsin. Only 4 extant populations are known. This species has poor dispersal ability and is sensitive to management and woody encroachment. Add to endangered list [NR27.03(2)].

An Issid Planthopper (*Fitchiella robertsoni*), a small terrestrial insect also known as “Fitch's Elephanthopper” or “Robertson's Flightless Planthopper” or “Fitch’s Planthopper”, is found in high quality remnant dry to dry-mesic grasslands in the bluffs along the Mississippi River and in the sand country of northwest Wisconsin. This species is very rare in Wisconsin. Only 4 extant populations are known. Add to threatened list [NR27.03(3)].

The 15 species being removed from the endangered and threatened list are:

Barn Owl (*Tyto alba*), an owl, has a scattered and irregular distribution in the state, mostly in

the southern half. The species has always been on the edge of its range in Wisconsin and is not considered a regular breeder. In their range, they are found in rural lands or grasslands with some combination of wet meadows, wetland edges, pastures, old-fields, grain crops, hayfields, hedges, and fencerows. And are usually within 1-2km of permanent water and adjacent to woodlot edge. Nest sites include concrete-domed silos, barns, tree cavities, abandoned farm buildings, church steeples, bank or cliff cavities, and barn owl nest boxes. Remove from the endangered list [NR27.03(2)].

Bewick's Wren (*Thryomanes bewickii*), a small migratory bird, has not been observed breeding in Wisconsin or neighboring states for over 40 years. It is considered extirpated in Wisconsin. Remove from the endangered list [NR27.03(2)].

Snowy Egret (*Egretta thula*), a waterbird, utilizes a wide variety of wetland habitats in their range, but does not breed in Wisconsin. The species has always been on the edge of its range in Wisconsin and is not considered a regular breeder in the state. Remove from the endangered list [NR27.03(2)].

Greater Redhorse (*Moxostoma valenciennesi*), a large fish, is found in widely scattered locations in the Lake Michigan and Mississippi River basins. The species appears stable in Wisconsin and is found consistently in multiple watersheds. Remove from the threatened list [NR27.03(3)].

Blanding's Turtle (*Emydoidea blandingii*), a turtle, is often found in slow moving rivers, streams, ponds, lakes, marshes, swamps, sloughs, and backwater areas, as well as adjacent terrestrial habitats found in the majority of Wisconsin's counties, except for the north-central tier. This species is still slightly declining in Wisconsin, however it is not in jeopardy due to the large population numbers and wide distribution. This species is not imperiled in the state. Remove from the threatened list [NR27.03(3)].

Butler's Gartersnake (*Thamnophis butleri*), a snake, is found in open to semi-open canopy wetland and upland habitat, including prairies, sedge meadows, shrub carr, wet meadows, marshes, grasslands, savannas, old fields, pastures, grassy roadsides, and vacant lots in Dodge, Fond du Lac, Milwaukee, Ozaukee, Sheboygan, Washington, and Waukesha counties. This species appears stable in Wisconsin. New information on abundance, range, and hybridization support delisting. Remove from the threatened list [NR27.03(3)].

Pygmy Snaketail (*Ophiogomphus howei*), a small dragonfly, is found in clean, fast flowing, medium to large streams with abundant gravel or sand substrates in northern Wisconsin. These streams are also in largely forested watersheds. New populations found using modeling of habitat and targeted surveys. This species appears stable in the state. Remove from the threatened list [NR27.03(3)].

American Fever-few (*Parthenium integrifolium*), a composite plant also known as Wild Quinine, is found in dry-mesic to mesic (sometimes wet-mesic) prairie and savanna in mostly loamy to moderately sandy soils in the southwest and southeast corners of the state. It is reproducing well on managed and restored sites, and on newly planted sites. The population in Wisconsin appears stable. Remove from the threatened list [NR27.03(3)].

Bog Bluegrass (*Poa paludigena*), a grass, is found most often growing on banks and atop hummocks, tussocks, and moss-covered logs along small creeks, rivulets, and pools in black ash/yellow birch, black ash/red maple, and black ash/elm swamps throughout the state. It is perhaps most common in west-central and northwestern Wisconsin in areas bordering the driftless region. New records have resulted from inventories. The population in Wisconsin appears stable. Remove from the threatened list [NR27.03(3)].

Canada Horse-balm (*Collinsonia canadensis*), is a plant in the mint family is also known as Stoneroot, and is considered extirpated in Wisconsin. Elsewhere in its range it has been

found in rich beech-maple deciduous forests, as well as occasionally in swampy deciduous forests or oak-hickory and sassafras forests. It has been documented at only 2 locations in Wisconsin; one is presumed extirpated and the other has not been observed for 150 years. This species is conspicuous and easy to identify. Remove from the endangered list [NR27.03(2)].

Drooping Sedge (*Carex prasina*), a plant in the sedge family, is found in good-quality, mesic hardwood forests encompassing seepages, spring heads, and streamlets and has been found in 11 counties mostly representing widely scattered populations. It has a narrow habitat preference, however it has a fairly wide distribution and is found regularly in suitable habitat. The population in Wisconsin is stable. Remove from the threatened list [NR27.03(3)].

Prairie Indian-Plantain (*Arnoglossum plantagineum* = *Cacalia tuberosa*), a plant in the aster family, is found in open, deep-soiled wet to wet-mesic to dry prairies that are usually calcareous. It has been reported from the southern two tiers of counties in Wisconsin, including Grant, Crawford, Lafayette, Iowa, Green, Dane, Rock, Jefferson, Walworth, Waukesha, Kenosha, and Racine counties. It inhabits moist prairies on lakeplains, outwash plains and low moraines in southeastern Wisconsin as well as dry oak openings and bluff prairies in central and southwestern Wisconsin. The population in Wisconsin is stable to increasing. It has responded well to prairie management. Remove from the threatened list [NR27.03(3)].

Snowy Campion (*Silene nivea*), a plant in the pink family, is found in rich woods and alluvial, disturbed floodplains and streambanks, old grasslands, sand prairie, and roadsides. Primarily known from the driftless area in south-central, southwestern, and western portion of the state. It is able to persist with reed canary grass and in degraded streamside habitats and roadside, railroad and utility rights-of-way. The population in Wisconsin appears stable and the species is no longer considered imperiled. Remove from the threatened list [NR27.03(3)].

Yellow Gentian (*Gentiana alba*), a plant in the gentian family is also known as Yellowish Gentian, is found in dry to moist prairies, savannas and open woods in a wide variety of soil types. In Wisconsin it has been found in 32 counties, mostly in the south-central portion of the state. The population in Wisconsin is increasing. Most of the population expansion and increases have occurred in old fields. Remove from the threatened list [NR27.03(3)].

Yellow Giant Hyssop (*Agastache nepetoides*), a plant in the mint family, is found in areas with partial sun within dry and dry mesic forests, oak woodlands, oak openings, alluvial forests, as well as the edges of meadows, fencerows, and thickets. It has been primarily found in southern Wisconsin in Crawford, Grant, Lafayette, Green, Rock, Walworth, Racine, Jefferson, Dane, and Columbia counties. It has responded well to savanna management and restoration. The population in Wisconsin is stable to increasing. Remove from the threatened list [NR27.03(3)].

The 20 species receiving a scientific name change are listed below. These changes reflect current understanding of the scientific community and include mostly placement of species into a different Genus or taxonomic group. Several discrepancies in spelling are also corrected. All of these taxa are still regarded as valid species:

- Northern Cricket Frog also known as Blanchard's Cricket Frog (*Acris blanchardii* change to *Acris crepitans*), endangered
- Worm-eating Warbler (*Helmitheros vermivorus* change to *Helmitheros vermivorum*), endangered

- Pallid Shiner (*Notropis annis* change to *Hybopsis annis*), endangered
- Shoal Chub also known as Speckled Chub (*Macrhybopsis aestivalis* change to *Macrhybopsis hyostoma*), threatened
- Spatterdock Darner Dragonfly (*Aeshna mutata* change to *Rhionaeschna mutata*), threatened
- Obovate Beak Grass (*Diarrhena americana* change to *Diarrhena obovata*), endangered
- Canada Gooseberry also known as Hawthorn-leaved Gooseberry (*Ribes oxycanthoides* change to *Ribes oxycanthoides* ssp. *oxycanthoides*), threatened
- Cliff Cudweed (*Gnaphalium saxicola* change to *Pseudognaphalium saxicola*), threatened
- Early Anemone (*Anemone multifida* change to *Anemone multifida* var. *multifida*), endangered
- Forked Aster (*Aster furcatus* change to *Eurybia furcata*), threatened
- Green Spleenwort (*Asplenun trichomanes-namosum* change to *Asplenium trichomanes-ramosum*), endangered
- Hall's Bulrush (*Scirpus hallii* change to *Schoenoplectus hallii*), endangered
- Hoary Whitlow-cress (*Draba lanceolata* change to *Draba cana*), endangered
- Large-leaved Sandwort (*Moehringia macrophylla* change to *Arenaria macrophylla*), endangered
- Long-beaked Baldrush also known as Bald Rush (*Rhynchosjsora scirysoides* change to *Rhynchospora scirpoides*), threatened
- Plains Ragwort (*Senecio indecorus* change to *Packera indecora*), threatened
- Sticky False-asphodel also known as False Asphodel (*Tofieldia glutinosa* change to *Triantha glutinosa*), threatened
- Tea-leaved Willow also known as Flat-leaved Willow (*Salix planifolia* change to *Salix planifolia* ssp. *planifolia*), threatened
- Thickspike also known as Thickspike Wheatgrass (*Elymus lonceolatus* ssp. change to *Elytrigia dasystachya* ssp. *psammophilus*), threatened
- Tufted Bulrush also known as Tussock Bulrush (*Scirpus cespitosus* change to *Trichophorum cespitosum*), threatened

**6. Summary of, and Comparison with, Existing or Proposed Federal Regulations:** The United States Fish and Wildlife Service maintains the list of Federal endangered and threatened species. The Kirtland's Warbler (*Dendroica kirtlandii* = *Setophaga kirtlandii*) is the only Federally Listed species under this rule change.

**7. Comparison with Rules in Adjacent States:** Minnesota, Illinois, Iowa, and Michigan all have an endangered species law and maintain a state list of endangered and threatened plants and animals. Below are links to their laws and lists, as well as species under this rule change that are currently listed as endangered or threatened in those states.

- Illinois (1972 law, list last revised in 2009/2010):  
<http://www.dnr.illinois.gov/ESPB/Pages/default.aspx>.
- Iowa (1975 law, list last amended in 2009):  
<http://www.iowadnr.gov/environment/threatenedendangered.aspx>.

- Michigan (1974/1994 law, list last revised in 2009): [http://www.michigan.gov/documents/dnr/2007-007\\_NR\\_Threatened\\_Endangered\\_Species\\_nonstrike\\_9-12\\_274586\\_7.pdf](http://www.michigan.gov/documents/dnr/2007-007_NR_Threatened_Endangered_Species_nonstrike_9-12_274586_7.pdf).
- Minnesota (1972 law, list last revised in 1996): <http://www.dnr.state.mn.us/rsg/laws.html>. Minnesota is currently undergoing a formal rule revision process to update the list; Over 270 changes have been proposed: <http://files.dnr.state.mn.us/input/rules/ets/all.pdf>.

Species currently on Wisconsin's adjacent states' endangered and threatened lists in this rule change:

Species	WI Proposed Rule Change	Adjacent States' status [IA, IL, MI, & MN]
Upland Sandpiper ( <i>Bartramia longicauda</i> )	List	▪ IL endangered
Black Tern ( <i>Chlidonias niger</i> )	List	▪ IL endangered
Kirtland's Warbler ( <i>Dendroica kirtlandii</i> )	List	▪ MI endangered
Snowy Egret ( <i>Egretta thula</i> )	Delist	▪ IL endangered
Bewick's Wren ( <i>Thryomanes bewickii</i> )	Delist	▪ IL endangered
Barn Owl ( <i>Tyto alba</i> )	Delist	▪ IA endangered ▪ IL endangered ▪ MI endangered
Greater Redhorse ( <i>Moxostoma valenciennesi</i> )	Delist	▪ IL endangered
Blanding's Turtle ( <i>Emydoidea blandingii</i> )	Delist	▪ IA threatened ▪ IL endangered ▪ MN threatened
Fawnsfoot ( <i>Truncilla donaciformis</i> )	List	▪ MI threatened ▪ MN special concern; proposed threatened
Ottoe Skipper ( <i>Hesperia ottoe</i> )	List	▪ IL endangered ▪ MI threatened ▪ MN threatened list; proposed endangered
Pygmy Snaketail ( <i>Ophiogomphus howei</i> )	Delist	▪ MI threatened
Beach-dune Tiger Beetle ( <i>Cicindela hirticollis rhodensis</i> )	List	▪ MN special concern; proposed endangered
Bog Bluegrass ( <i>Poa paludigena</i> )	Delist	▪ MI threatened ▪ MN threatened
Drooping Sedge ( <i>Carex prasina</i> )	Delist	▪ IL threatened
Hemlock Parsley ( <i>Conioselinum chinense</i> )	Delist	▪ IL endangered
Snowy Campion ( <i>Silene nivea</i> )	Delist	▪ MI threatened ▪ MN threatened

### 8. Summary of Factual Data and Analytical Methodologies:

The department's Bureau of Endangered Resources (ER) initiated and completed a review of Wisconsin's endangered and threatened species list, culminating in a list of recommended revisions.

Guiding the list review was the Endangered and Threatened List Revision Process document which was developed and approved in 2006 by the ER Policy Team. This guidance document recommends conducting a list-wide review at least every 5 years and earlier as needed, based on changes in species population condition. "As needed" triggers include significant change in the

state or global conservation rank, taxonomic change, recovery goals met, immediate need for protection, or significant new data on a single species or group of species.

Per the revision process document, the international Natural Heritage Inventory (NHI) system of global and state conservation ranks is the primary trigger for initiating a comprehensive assessment of a species. NHI Programs and NatureServe, the NHI umbrella organization, use a suite of factors to assess the extinction or extirpation risk of plants, animals, and ecosystems, and to assign conservation ranks at global, national, and state levels. In 2009, NatureServe developed a rank calculator tool to support the process of assigning conservation status ranks. NatureServe's Element Rank Calculator Tool was used to update state conservation ranks and is used by NatureServe to update Global and National Conservation Ranks. The category of factors used to assess conservation status are rarity, trends, and threats.

Because state conservation ranks are dynamic and can reflect changes in population condition and new information quickly, they have proven useful in directing action toward species most in need of conservation. Updates to conservation ranks for Wisconsin's endangered, threatened, and special concern species are published almost annually in the NHI Working List. The most recent version of the NHI Working List was last published on 6/1/2011 and incorporates many of the results of the review process.

Biologists from a variety of state and national agencies, organizations, and universities, as well as naturalists throughout the state with taxonomic expertise provided new or updated information on the population condition and distribution of rare species in the state. Department biologists focused attention and resources on species that are most at risk of extirpation in the state and where application of Wisconsin's Endangered Species Law would be effective in their protection.

Status assessments were conducted and resulted in proposed list changes. A database was created to capture information received and decisions made to promote consistency and transparency in the process. Details on the process and the results, including species distribution maps and status reviews can be found on the department's website (keywords "ET List").

These rule changes were developed with the assistance of the Bureaus of Endangered Resources, Science Services, Wildlife Management, and Legal Services.

#### **9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

Pursuant to s. 227.137, Wis. Stats., the department is required to solicit comments on the economic impact of proposed rule. Small businesses, as defined in s. 227.114(1), Wis. Stats., are asked to identify themselves as a small business in their comments. Comments were collected between 9/24/2012 and 10/24/2012. A total of 18 comments were received. Eight of the comments included economic impacts and were incorporated into an Economic Impact Analysis (EIA). No small businesses submitted comments and no local governments submitted comments or requested we coordinate with them in the preparation of the EIA. A summary of the EIA comments and a detailed EIA report are included with the Fiscal Estimate and Economic Impact Analysis form (DOA-2049).

The Environmental Assessment and EIA reports on the impacts of these rule changes are of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. Therefore an Environmental Impact Statement is not required.

**10. Effect on small business:** Affected constituencies include agricultural and forestry industries, commercial and development businesses, natural resources consultants, utilities, road builders and wildlife rehabilitators.

Most often the public and small businesses become aware of the endangered species law through one of DNR's permitting processes. Wisconsin's endangered species law is implemented by the department in that any activity that the department conducts, funds or approves must consider impacts to listed species (s.29.604 Wis. Stats.). Both endangered and threatened species have the same level of legal protection. Under Wisconsin's law listed animals are protected on all public and private land. Plants are only protected on public land and agricultural, forestry, and utility activities are exempt from this protection (s. 29.604 Wis. Stats.)

In most instances, a permit applicant provides a description of the proposed project. Department staff perform an endangered resources review utilizing the Natural Heritage Inventory database to determine if 1) there is a listed species that may be present, and if 2) the project area has suitable habitat for that species. If either of these criteria are not present the applicant is informed that there is no potential impact and the project proceeds. Over 2/3 of projects fall into this category. If both the species is known to be in the area and there is suitable habitat on the project site, the department works with the applicant to see if impacts to a listed species may be avoided through seasonal adjustments, temporary removals or barriers. If it can, the project proceeds. If impacts can't be avoided, an incidental take permit is issued to the applicant that allows take of the species. State law requires that all projects under an incidental take permit must minimize and mitigate these impacts. (s.29.604 Wis. Stats.). When the minimization and mitigation measures are in place, the permit is publicly noticed the project may proceed. Very few projects require an incidental take permit, typically fewer than 20 a year are issued.

The economic cost of listing and delisting a species is highly dependant on its range and distribution, seasonal occurrence, habitat requirements, management needs, sensitivity to disturbance, etc. Effects of listing/delisting will be highly variable among different types of businesses and their locations and hard to predict, however the overall economic impact of the proposed revisions will be reduced because of the location and number of NHI records. The 15 species being proposed for removal from the endangered and threatened species list have a total of 1049 records in the NHI database which is used for conducting an endangered resources review. There are a total of 217 records in the NHI database for the eight species being proposed for addition. As such, the promulgation of these rule changes should not have an impact on small businesses.

**11. A copy of any comments and opinion prepared by the Board of Veterans Affairs under s. 45.03 (2m), Stats., for rules proposed by the Department of Veterans Affairs:**  
Not applicable.

**12. Agency Contact Person:**

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SECTION 1. NR 27.03 (2) (b) 2. and 3L. are created to read:  
NR 27.03 (2) (b) 2. Black Tern — *Chlidonias niger*.  
3L. Kirtland's Warbler — *Dendroica kirtlandii*.

SECTION 2. NR 27.03 (2) (b) 3m. is repealed.

SECTION 3. NR 27.03 (2) (b) 5. is amended to read:

NR 27.03 (2) (b) 5. ~~Worm-Eating Warbler~~ — ~~*Helmitheros vermivorus*~~ Worm-Eating Warbler  
— *Helmitheros vermivorum*.

SECTION 4. NR 27.03 (2) (b) 10. and 11. are repealed.

SECTION 5. NR 27.03 (2) (d) 1m. is amended to read:

NR 27.03 (2) (d) 1m. ~~Blanchard's Cricket Frog~~ — ~~*Acris blanchardii*~~ Northern Cricket Frog  
— *Acris crepitans*.

SECTION 6. NR 27.03 (2) (e) 7. is renumbered NR 27.03 (2) (e) 5m. and amended to read:

NR 27.03 (2) (e) 7. ~~5m.~~ Pallid Shiner — ~~*Notropis annis*~~ *Hybopsis annis*.

SECTION 7. NR 27.03 (2) (f) 2g., 2r. and 2w. are created to read:

NR 27.03 (2) (f) 2g. A Leafhopper — *Attenuipyga vanduzeei*.  
2r. Beach-dune Tiger Beetle — *Cicindela hirticollis rhodensis*.  
2w. Ottoo Skipper — *Hesperia ottoo*.

SECTION 8. NR 27.03 (2) (i) 2. and 5m. are amended to read:

NR 27.03 (2) (i) 2. ~~*Anemone multifida*~~ — ~~no common name~~ *Anemone multifida* var. *multifida*  
— Early Anemone (Ranunculaceae: Crowfoot family).

5m. ~~*Asplenun trichomanes ramosum*~~ *Asplenium trichomanes - ramosum* — Green  
Spleenwort (Polypodiaceae: Fern Family).

SECTION 9. NR 27.03 (2) (i) 14. is repealed.

SECTION 10. NR 27.03 (2) (i) 16. and 17. are amended to read:

NR 27.03 (2) (i) 16. ~~*Diarrhena americana*~~ — ~~Beak Grass~~ *Diarrhena obovata* — Obovate  
Beak Grass (Poaceae: Grass Family).

17. ~~*Draba lanceolata*~~ — ~~no common name~~ *Draba cana* — Hoary Whitlow-cress  
(Brassicaceae: Mustard Family).

SECTION 11. NR 27.03 (2) (i) 25d. is renumbered NR 27.03 (2) (i) 3. and amended to read:

NR 27.03 (2) (i) ~~25d.~~ 3. ~~*Moerhingia macrophylla*~~ — ~~no common name~~ *Arenaria macrophylla*  
— Large-leaved Sandwort (Caryophyllaceae: Pink Family).

SECTION 12. NR 27.03 (2) (i) 40d. is amended to read:

NR 27.03 (2) (i) 40d. ~~*Scirpus hallii*~~ *Schoenoplectus hallii* — Hall's bulrush (Cyperaceae:  
Sedge Family).

SECTION 13. NR 27.03 (3) (b) 1g. is created to read:

NR 27.03 (3) (b) 1g. Upland Sandpiper — *Bartramia longicauda*.

SECTION 14. NR 27.03 (3) (c) 2. and 3. are repealed.

SECTION 15. NR 27.03 (3) (e) 5t. is amended to read:

NR 27.03 (3) (e) 5t. ~~Speckled Chub~~ — ~~*Macrhybopsis aestivalis*~~ Shoal Chub — *Macrhybopsis*  
*hyostoma*.

SECTION 16. NR 27.03 (3) (e) 7. is repealed.

SECTION 17. NR 27.03 (3) (f) 1. is renumbered NR 27.03 (3) (f) 3. and amended to read:

NR 27.03 (3) (f) ~~4.~~ 3. Spatterdock darner dragonfly — ~~*Aeshna mutata*~~ *Rhionaeschna mutata*.

SECTION 18. NR 27.03 (3) (f) 1m. is created to read:

NR 27.03 (3) (f) 1m. An Issid Planthopper — *Fitchiella robertsoni*.

SECTION 19. NR 27.03 (3) (f) 2t. is repealed.

SECTION 20. NR 27.03 (3) (g) 7m. is created to read:

NR 27.03 (3) (g) 7m. Fawnsfoot — *Truncilla donaciformis*.

SECTION 21. NR 27.03 (3) (i) subdivisions 3. and 4g. are repealed.

SECTION 22. NR 27.03 (3) (i) 8. is renumbered NR 27.03 (3) (i) 28t. and amended to read:

NR 27.03 (3) (i) ~~8.~~ 28t. ~~*Aster fureatus*~~ *Eurybia furcata* — Forked Aster (Asteraceae: Aster Family).

SECTION 23. NR 27.03 (3) (i) 20. is repealed.

SECTION 24. NR 27.03 (3) (i) 28m. is amended to read:

NR 27.03 (3) (i) 28m. ~~*Elymus lonceolatus* ssp.~~ *Elytrigia dasystachya* ssp. *psammophila* — Thickspike Wheatgrass (Poaceae: Grass Family).

SECTION 25. NR 27.03 (3) (i) 31. is repealed.

SECTION 26. NR 27.03 (3) (i) 32m. is renumbered NR 27.03 (3) (i) 49m. and amended to read:

NR 27.03 (3) (i) ~~32m.~~ 49m. ~~*Gnaphalium saxicola*~~ *Pseudognaphalium saxicola* — Cliff Cudweed (Asteraceae: Aster Family).

SECTION 27. NR 27.03 (3) (i) 43. and 45. are repealed.

SECTION 28. NR 27.03 (3) (i) 50p., 51., and 51m. are amended to read:

NR 27.03 (3) (i) 50p. ~~*Rhynchospora scirysoides*~~ — ~~Bald Rush~~ *Rhynchospora scirpoides* — Long-beaked Bulrush (Cyperaceae: Sedge Family).

51. ~~*Ribes oxycanthoides*~~ — ~~Hawthorn-leaved Gooseberry~~ *Ribes oxycanthoides* ssp. *oxycanthoides* — Canada Gooseberry (Saxifragaceae: Saxifrage Family).

51m. ~~*Salix planifolia*~~ — ~~Flat-leaved willow~~ *Salix planifolia* ssp. *planifolia* — Tea-leaved willow (Salicaceae: Willow Family).

SECTION 29. NR 27.03 (3) (i) 51p. and 51t. are correspondingly renumbered NR 27.03 (3) (i) 53m. and 41m. and amended to read:

NR 27.03 (3) (i) ~~51p.~~ 53m. ~~*Scirpus cespitosus*~~ *Trichophorum cespitosum* — Tussock Bulrush (Cyperaceae: Sedge Family).

~~51t.~~ 41m. ~~*Senecio indecorus*~~ *Packera indecora* — Plains Ragwort (Asteraceae: Aster Family).

SECTION 30. NR 27.03 (3) (i) 51w. is repealed.

SECTION 31. NR 27.03 (3) (i) 53. is amended to read:

NR 27.03 (3) (i) 53. ~~*Tofieldia glutinosa*~~ *Triantha glutinosa* — False Asphodel (Liliaceae: Lily Family).

**SECTION 32. EFFECTIVE DATE.** The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2), Stats.

**SECTION 33. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on May 22, 2013.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Cathy Stepp, Secretary

(SEAL)