

Chapter NR 1

NATURAL RESOURCES BOARD POLICIES

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NR 1.01 Management of fisheries and aquatic resources. (1) To meet its responsibilities established by statute, department programs shall be based on scientific management principles which emphasize the protection, perpetuation, development, and use of all desirable aquatic species.

(2) The goal of fish management is to provide opportunities for the optimum use and enjoyment of Wisconsin's aquatic resources, both sport and commercial. A healthy and diverse environment is essential to meet this goal and shall be promoted through management programs.

(3) Aquatic resources include both nongame and game species of fish, other aquatic animals and their habitats. Endangered and threatened species form a special group that will be managed according to ch. NR 27 and s. 29.415, Stats.

(4) To assure its effectiveness, the management program shall be based upon a close working relationship among all functions of the department, other governmental agencies, federally recognized Indian tribes, and the public. The department will keep interested parties informed of policies, plans and management. To anticipate change and meet future demand, the department shall engage in long-range planning of management programs.

(5) Financing the department's fish and aquatic resource management program through, in large part, user fees, particularly license fees and excise taxes on selected equipment purchased by sport and commercial fishers, is an established principle. Although user fees collected for a specific purpose are targeted at that purpose, they provide significant indirect benefits for a wide range of wildlife and users. When beneficiaries are a broader or different segment of the public, other funding sources will be sought.

(6) Wisconsin law enunciates a trust doctrine which secures the right of all Wisconsin citizens to quality, non-polluted waters and holds that waters are the common property of all citizens. Fish management programs will vigorously uphold the doctrine that citizens have a right to use in common the waters of the state and these waters shall be maintained free of pollution.

(7) With access to Wisconsin's lakes and streams a prerequisite for their use by the public, the acquisition and development

of public access to waters should be accelerated, particularly in the more populous areas of the state.

(8) Wild and wilderness lakes and streams are a special and limited resource providing unique settings for enjoyment of fishing and other outdoor activities. Additional efforts are required to designate lakes and streams for this status. Special management methods that increase fishing quality shall be encouraged on these waters. Such methods may include trophy fishing, regulated harvest, special seasons, and controlled entry.

(9) Sport fishing shall be managed in such a way that all have an equal opportunity to safely enjoy the aquatic resources, regulated to the extent that:

(a) Fish and other aquatic resources are protected and enhanced;

(b) Fishing effort does not exceed the capabilities of the resource to sustain desirable, quality fish populations;

(c) The social, biological and economic values associated with all recreational fishing, competitive and non-competitive, are recognized;

(d) A sense of responsibility for the resource is inherent in all who participate and enjoy fishing;

(e) User conflicts are minimized; and

(f) Aesthetic and cultural values associated with fishing are held in trust for future generations.

History: Cr. Register, March, 1976, No. 243, eff. 4-1-76; r. and recr. Register, February, 1980, No. 290, eff. 3-1-80; r. and recr. (9), Register, March, 1994, No. 459, eff. 4-1-94.

NR 1.015 Management of wildlife, preamble. (1) The conservation act (s. 23.09 (1), Stats.) requires the department of natural resources to provide an adequate and flexible system for the protection, development and use of forests, fish and game, lakes, streams, plant life, flowers and other outdoor resources in this state. Specific authorities and missions of the department for wildlife protection and use besides the general authority are:

(a) Protect and manage nongame species, particularly endangered, threatened and uncommon species;

(b) Acquire and lease lands;

- (c) Conduct research and surveys;
- (d) Establish long-range resource management plans and priorities;
- (e) Manage wildlife habitat on public land;
- (f) Provide regulations to govern the harvest of game species and furbearing mammals;
- (g) Establish resource management information and education programs; and
- (h) Propagate wildlife.

(2) The primary goal of wildlife management is to provide healthy life systems necessary to sustain Wisconsin's wildlife populations for their biological, recreational, cultural and economic values. Wildlife management is the application of knowledge in the protection, enhancement and regulation of wildlife resources for their contribution toward maintaining the integrity of the environment and for the human benefits they provide.

(a) The department's wildlife program ranges from endangered and threatened species management to the production of huntable game. At its best, wildlife management is a process that requires a considerable degree of harmony between people and land to provide the quality landscapes and diverse habitats necessary to produce and support all types of wildlife.

(b) Public concern for the welfare of wildlife resources can help to instill a land ethic in what has become a predominantly urban population. Public support for the maintenance of native or near-natural plant communities, as necessary wildlife habitat, indirectly assures continued opportunities for a whole range of human interactions with nature that goes well beyond hunting or wildlife-oriented recreation.

(c) The department's wildlife management program is financed in large part by user contributions, particularly license fees and excise taxes on selected equipment purchased by hunters; however, management programs directed at hunted game species provide very significant indirect benefits for a wide range of other wildlife. New sources of funds are needed to supplement the existing financial base and provide more adequate programs for non-game fish and wildlife, especially threatened and endangered species.

(d) Larger quantities of wildlife habitat are required to meet management objectives for hunting and trapping than for most other uses. The future of hunting, however, depends upon more than wildlife habitat. It depends upon the quality, the behavior and sense of responsibility of today's hunter, the willingness of private landowners to provide access, and the tacit approval of people who don't hunt. Since many hunters do not own the land on which they hunt and because wildlife belongs to all citizens, mutually acceptable relationships between hunters, landowners and the non-hunting public are required for hunting to continue as a socially acceptable form of outdoor recreation.

(3) The natural resources board directs the department to implement its statutory wildlife responsibilities through the execution of the state wildlife policy as set forth herein. For the purposes of this policy, wildlife means all varieties of birds, mammals and terrestrial vertebrates other than man and domestic animals.

History: Cr. Register, July, 1977, No. 259, eff. 8-1-77.

NR 1.02 Inland fisheries management. The following actions are essential to carry out an effective fish management program.

(1) **LAND ACQUISITION AND DEVELOPMENT.** The department shall provide for the protection of habitat essential to the maintenance of fish populations and for providing quality fishing opportunities through the acquisition of lands by gift or purchase. These lands shall be developed to provide access or be maintained as wilderness areas according to their potential.

(2) **HABITAT PROTECTION AND IMPROVEMENT.** The department shall actively protect and maintain habitat capable of supporting aquatic species. Management efforts include deterring point and

nonpoint pollution, vegetation control, rough fish control, water level manipulation and limiting shoreline development. Habitat shall be improved where fish populations can be increased and such improvements are economically and ecologically feasible. Improvements include in-stream devices, wing deflectors, bank riprap, stream bank fencing, fish shelters, dredging and stream-side brushing. The application of these techniques shall be consistent with the wild and wilderness policies of the board.

(3) **SURVEYS AND RESEARCH.** Programs shall be based on sound surveys and research. The department shall survey lakes and streams to obtain information needed to develop and implement management programs. Research shall be conducted to evaluate and resolve problems that have been defined.

(4) **PROPAGATION, REARING AND DISTRIBUTION.** The department shall rear fish for stocking in waters lacking adequate natural reproduction and where reasonable returns are demonstrated by surveys. Stocking priorities will be based on use opportunities, hatchery production capabilities, cost and habitat potential. Stocking of exotic species shall be thoroughly evaluated.

(5) **POPULATION MANIPULATION.** The department may, where feasible, control fish populations that are stunted or harmful to more desirable fish species. Control measures include mechanical removal, predator stocking, commercial harvest and chemical treatment.

(6) **RULES.** The department shall regulate the sport and commercial harvest of aquatic resources to achieve optimum sustained yields. Pollution and habitat destruction shall be stringently opposed through the strict enforcement of all laws and administrative rules. Special regulations shall be used to provide diverse angling opportunities and to distribute use in heavily fished areas.

(7) **TROUT STREAM CLASSIFICATION.** The department shall identify and classify trout streams as follows to ensure adequate protection and proper management of this unique resource.

(a) For the purpose of this subsection, the following terms are defined as:

1. "Classification survey" means a fishery survey employing techniques generally accepted by fisheries biologists that:

- a. Investigates the variety of habitat types present in the water being surveyed;
- b. Provides a representative sample of the fish species present, and their relative abundance;
- c. Provides the length distribution and the age structure of the trout population.

2. "Trout spawning habitat" means areas of gravel, small rubble or coarse sand which are infiltrated by groundwater or stream flow of sufficient quantity and quality to allow successful hatching of trout eggs and emergence of fry.

3. "Trout habitat" means those areas having sufficient quantity and quality of water, cover and food to allow trout to complete one or more life history stages.

(b) Classification of trout streams, as determined by classification surveys, shall be based on the following criteria:

1. 'Class I'. A class I trout stream is a stream or portion thereof with a self-sustaining population of trout.

a. Such a stream contains trout spawning habitat and naturally produced fry, fingerling, and yearling in sufficient numbers to utilize the trout habitat, or

b. Contains trout with 2 or more age groups, above the age of one year, and natural reproduction and survival of wild fish in sufficient numbers to utilize the available trout habitat and to sustain the fishery without stocking.

2. 'Class II'. A class II trout stream is a stream or portion thereof that:

a. Contains a population of trout made up of one or more age groups, above the age one year, in sufficient numbers to indicate substantial survival from one year to the next, and

needed to prevent or reduce environmental pollution as that term is defined in s. 144.01 (3), Stats.

(2) **INFORMATION SUBMITTED TO BOARD.** Whenever the department seeks to adopt a rule, the department shall provide the board with information regarding the following: the authority for the rule; the conformity of the rule with the requirements of federal or state statutes or controlling judicial decisions; and the need for the rule.

(3) **ADOPTION OF ENVIRONMENTAL QUALITY STANDARD MORE RESTRICTIVE THAN CORRESPONDING FEDERAL LAW OR REGULATIONS.** For environmental programs subject to a delegation of authority by the U.S. environmental protection agency, whenever the department seeks to adopt an environmental quality standard more restrictive than a standard provided under corresponding federal law or regulations, the department shall advise the board why the more restrictive standard is needed in Wisconsin to protect public health, safety or the environment. For the purposes of this subsection, any environmental quality standard is not considered more restrictive than a standard provided under corresponding federal law or regulations if the federal government has not enacted a law or regulation establishing a corresponding standard. This subsection is prospective in application; no environmental quality standards adopted prior to August 1, 1996, are affected except under the circumstances described in sub. (4).

(4) **FEDERAL STANDARD RELAXED.** If the department has adopted an environmental quality standard which has a corresponding standard adopted under federal law or regulations, and after August 1, 1996, that corresponding federal standard is relaxed by promulgation of a more lenient standard in federal law or regulations, the department shall within 120 days of the federal action notify the board and propose a schedule for the department to advise the board whether the current state standard is needed in Wisconsin to protect public health, safety or the environment.

History: Cr., Register, July, 1996, No. 487, eff. 8-1-96.

NR 1.60 Master planning for department land. (1) **MASTER PLAN DEVELOPMENT.** In addition to the requirements of ss. 23.091 and 28.04, Stats., the natural resources board shall determine whether a master plan will be developed for any department managed property or group of properties. If developed, the plan shall establish management, development and public use.

(2) **LOCAL AND REGIONAL PERSPECTIVES.** Management decisions shall be based on local and regional perspectives.

(3) **PROPERTY DESIGNATION.** Management of a department property and the master plan applicable to it shall be consistent with and further the purposes and benefits of the property's designation by statute, rule or the natural resources board.

Note: For example, state forests shall be managed in accordance with s. 28.04, Stats., state recreation areas in accordance with s. 23.091, Stats., and state parks in accordance with s. 27.01, Stats.

(4) **COMPATIBLE ACTIVITIES.** (a) Management activities shall be compatible with the land's ability to support and sustain the intended management, development or recreational use.

(b) In planning efforts, the effects of management activities on adjacent management areas are to be considered and, where adverse, are to be avoided whenever practicable.

(5) **TRIBAL TREATY RIGHTS.** Management of a department property within the ceded territory as defined in s. NR 13.02 (1), and the master plan applicable to it, shall recognize the opportunity for tribes with off-reservation hunting, fishing and gathering rights to continue to exercise those rights.

History: Cr. Register, August, 1996, No. 488, eff. 9-1-96.

NR 1.61 Public use of department land. Except as prohibited or regulated by rule or statute, all department land shall be open for:

(1) Traditional outdoor recreational uses, including hunting, fishing, trapping, walking, nature study and berry picking; and

(2) Other types of recreational uses, including camping, bicycling, equestrian uses, field trials, and snowmobiling or other motorized activities, as authorized on a property by the property master plan.

History: Cr. Register, August, 1996, No. 488, eff. 9-1-96.

NR 1.70 Policy on education. (1) Wisconsin has a unique abundance of varied and high quality natural resources. The successful stewardship of those resources is largely dependent upon enlightened and responsible decision-making by Wisconsin citizens, government and private interests. The department recognizes the need to develop a coordinated environmental education program. Education is the foundation of effective resource management and environmental protection activities. Natural resources protection and management goals can be more readily achieved and sustained by incorporating education elements in department functions and philosophies. An active educational program is necessary to encourage incorporation of education into department programs, to inform citizens on natural resources issues and to develop alternative solutions to natural resources problems.

(2) Effective environmental education will result in better understanding of the operations and programs of the department and will help meet management goals. The goal of the department's environmental education program is to assist in developing a citizenry that:

(a) Is aware of Wisconsin's natural resources;

(b) Understands resource use issues, limits, capabilities and problems;

(c) Analyzes and evaluates personal and public values that affect resource management; and

(d) Acquires the individual and collective skills and purpose to act responsibly in using natural resources in work and leisure.

(3) The department shall assist Wisconsin educational institutions at all grade and age levels by:

(a) Making available supplemental services, education materials, expertise of department employees and volunteers, and facilities and properties;

(b) Cooperating and coordinating with the department of public instruction, university of Wisconsin-system, Wisconsin board of vocational, technical and adult education in assisting teachers, administrators and others interested in education in understanding the importance of their role in environmental education and in obtaining knowledge, skills and materials in this instructional area.

(4) Department education programs shall follow agency policies, management directives and guidelines. Educational programs should be a means of achieving management goals and objectives; should complement and be consistent with agency priorities; and should focus on the areas of natural resource management and environmental protection. To implement its educational policy, the department shall:

(a) Designate the bureau of information and education as agencywide coordinator of environmental education activities.

(b) Create a department education committee, appointed by the secretary, to advise the secretary on environmental education matters.

(c) Actively cooperate with private, state and federal agencies and organizations with existing or potential interest in environmental and conservation education.

(d) Consider and incorporate education elements into annual and long-range program plans and budgets.

(e) Consider environmental education skills and interest in the recruitment, training, promotion and assignment of department employees.

(f) Delineate environmental education responsibilities in position descriptions.

(g) Incorporate additional and broadened environmental education elements in department subprograms.

(h) Incorporate environmental education elements in property and facility acquisition, development and programming.

(i) Utilize the MacKenzie environmental education center and youth camps and facilities for environmental education programming.

(j) Identify teachers and selected adult groups as primary audiences to maximize program impact.

(k) Encourage involvement with volunteer, school, youth, special interest and adult groups.

(l) Develop written and audio-visual materials, supplies and aids necessary to accomplish program goals.

History: Cr. Register, October, 1983, No. 334, eff. 11-1-83.

NR 1.71 Policy on friends groups. (1) PURPOSE. The purpose of this section is to encourage and provide for the establishment of friends groups, including not-for-profit concession corporations and cooperating associations. The department may work with a friends group established under the provisions of this section as the lead volunteer organization for a property, facility or program. The department may grant friends groups certain privileges, such as use of department equipment and facilities, under the terms of a written agreement. Nothing in this section prohibits the department or its individual properties, facilities and programs from accepting benefits from other groups or individuals, or from entering into separate agreements with others, if not in conflict with agreements executed with a friends group.

(2) APPLICABILITY. The provisions of this section are applicable to all friends groups formed to support department properties, facilities and programs, including not-for-profit concession corporations and cooperating associations.

(3) DEFINITIONS. (a) "Cooperating association" means a friends group organized to support only interpretive programs.

(b) "Friends group" means a non-profit, non-stock, tax-exempt corporation organized to support, assist and promote the mission and activities of department properties, facilities and programs and other activities as approved by the department under the provisions of a written agreement with the department.

(c) "Not-for-profit concession corporation" means a friends group organized to sell goods and services in a department facility and to return the profits to the department under the provisions of a written agreement with the department.

(4) OBJECTIVES AND ORGANIZATION. (a) Objectives. The objectives of friends groups shall be to:

1. Promote department properties and programs to visitors and potential visitors through publications, special events and interpretive programs.

2. Provide and coordinate volunteer service for department properties and programs.

3. Provide financial support to department properties, facilities and programs for such things as development projects, land acquisition, programs and interpretation. Friends groups may raise revenues for department properties, facilities and programs through such methods as membership fees, grants, donations, sales and special events.

4. Put particular emphasis on supporting the interpretive, educational and visitor service programs of department properties.

5. Not serve as an official advisory group to the property or program with which affiliated.

(b) Organization. 1. To be recognized as a friends group, the group shall organize as a non-profit, non-stock, tax-exempt corporation, and shall be structured through articles of incorporation and by-laws to direct its mission and activities to the support of

the property, group of properties, or other department facilities and programs as approved by the department.

2. The department shall enter into written agreements with each qualifying friends group to ensure statewide consistency and fiscal accountability. The agreements shall, at a minimum, include provisions that require friends groups to:

a. Provide an annual fiscal and program report to the department, which may not include a list of donors or itemized donations;

b. Provide meeting notice which is reasonably likely to apprise interested persons;

c. Permit a fiscal audit by the department upon request;

d. Maintain non-profit status;

e. Provide liability insurance indemnifying the department if requested by the department;

f. Prohibit department employees from serving as officers or directors;

g. Agree to not represent their employees and volunteers as department employees;

h. Permit the department to promote the friends group in its publications and announcements;

i. Distribute assets upon dissolution to another not-for-profit corporation benefiting the same property, another DNR friends group, the Wisconsin natural resources foundation, inc., or the department. The agreements will include a provision for termination upon reasonable notice by either party.

3. The department may assist friends groups by making department facilities and equipment available to them, dependent upon availability, and as specified in written agreements.

4. Department employees may be members of a friends group, but may not serve as directors or officers of the group. Department employees may, incidental to their regular duties, sell items on behalf of the friends group.

History: Cr. Register, July, 1989, No. 403, eff. 8-1-89.

NR 1.90 Public access policy for waterways. (1) It is the goal of the state of Wisconsin to provide, maintain and improve access to the state's navigable lakes, rivers and streams for the public. Public access facilities shall allow for public rights of navigation, related incidental uses and other uses which are appropriate for the waterway. Waterway uses shall be equally available to all waterway users and include enjoyment of natural scenic beauty and serenity. These public rights and uses may be provided by any combination of publicly and privately owned access facilities which are available to the general public free or for a reasonable fee. The department, alone or in cooperation with local government, shall exercise its management and regulatory responsibilities to achieve this goal and to assure that levels and types of use of navigable waters are consistent with protection of public health, safety and welfare, including protection of natural resources.

(2) The department shall:

(a) Acquire, develop, maintain and improve navigation access which meets policy objectives;

(b) Provide public access to lands adjacent to state waters for uses that are not directly related to navigation but which require or are enhanced by proximity to water;

(c) Work with local units of government, other state and federal agencies and citizens to acquire, develop, maintain and improve public access;

(d) Work with private access providers to acquire, develop, maintain and improve access available to the public;

(e) Develop standards for public access acquisition, development, maintenance and improvement that provide recreational opportunities consistent with demand, commensurate with the ca-

capacity of the resource to support recreation and that provide a broad range of recreational experiences;

(f) Provide funding and services that enhance natural resource values of a waterway only if reasonable public boating access has been provided;

(g) Enhance development of non-boating public access throughout the state to accommodate a significant population of disabled, elderly and others who elect not to use watercraft to enjoy and use the state's waterways;

(h) Increase public awareness of water user responsibilities, public safety and measures to protect the natural resource values of our lakes, rivers and streams; and

(i) Work with local units of government and citizens to help reduce use conflicts and trespass problems.

History: Cr. Register, October, 1977, No. 262, eff. 11-1-77; r. and rec. Register, March, 1994, No. 459, eff. 4-1-94.

NR 1.91 Public boating access standards. (1) APPLICABILITY. Sections NR 1.91 to 1.93 shall apply to department decisions related to acquiring, developing, maintaining and improving public boating access sites, providing natural resources enhancement services and to other department decisions relating to protection and use of navigable waters. Sections NR 1.91 to 1.93 do not allow trespass across private lands, change existing trespass law nor change navigation laws. Sections NR 1.91 to 1.93 would not apply to waterways which are not public navigable waters such as most artificial manmade ponds. The rights of riparian owners for singular access to adjacent waterways would also be unaffected.

(2) DEFINITIONS. As used in ss. NR 1.90 to 1.93, the following definitions apply:

(a) "Abandon", "abandonment", "discontinuance" means a permanent or long-term closure of an access site whether by resolution, ordinance, signing, placement of a physical barrier or by other means that reduces access.

(b) "Access site" means an area of land providing public boat access or carry-in access, which provides parking for vehicles with or without trailers.

(c) "Carry-in access" means access designed only for non-trailer boat launching.

(d) "Natural resources enhancement services" means funding or activities that increase the recreational or environmental values of a waterway. These services include but are not limited to fish stocking, removal or other fish population management, habitat development, financial assistance for aquatic plant harvesting and lake restoration grants as defined in s. NR 191.03 (5).

(e) "Open water acres" means the water body surface which appears as water predominantly devoid of emergent vegetation on recent aerial photographs representative of the navigation season. This determination shall be made by the department and shall include open water acres on all contiguous waters connected by a channel or river commonly navigated by motorized craft.

(f) "Plan" means an alternative boating access and waterway protection plan developed by the department or a local unit of government pursuant to sub. (6).

(g) "Public access", for purposes of s. NR 1.92, means any site providing motor vehicle access to ice-bound waters, public boating access or carry-in access.

(h) "Public boating access" means any site or combination of sites including private sites meeting the provisions of sub. (7) at which the general public may gain legal access to a body of water by the process of launching a boat.

(i) "Reasonable public boating access" means opportunities for public enjoyment and use of navigable waters which:

1. Allow public rights of navigation and related incidental uses of the water which are equal for all,
2. Comply with the standards for boating access established in this policy,

3. Are available free or at a reasonable fee as determined by standards established in this policy, and

4. Assure that levels and types of waterway use by all users do not interfere with public health, safety and welfare.

(j) "Reduced" means lowering the number of parking units available for public use.

(k) "Resident" means a natural person who permanently resides or owns real property within the unit of government maintaining or operating the access site.

(l) "Resource protection services" include but are not limited to nonpoint pollution control grants, loans for municipal sewage treatment facilities, acquisition grants under the urban green space program, lake planning grants, lake protection grants and funding for municipal boating safety patrols and aids to navigation.

(m) "Season pass" means authorization to use boat access facilities provided by the issuing authority when use of the facilities are available from January 1 to December 31 of each year.

(n) "Services level" means that level of public boating access which meets or exceeds the levels described in sub. (4).

(3) PRIORITIES. When acquiring and developing public boating access sites, the following shall have priority, in no prescribed order of importance:

(a) Sites on waters without boating access.

(b) Sites on lakes of over 500 open water acres that fail to meet the services level specified in sub. (4).

(c) Sites, statewide, on waters having the greatest boating demands.

(d) Sites which will provide public boating access to rivers and carry-in access to streams failing to meet the services level specified in sub. (4).

(4) MINIMUM PUBLIC BOATING ACCESS TO QUALIFY WATERS FOR RESOURCE ENHANCEMENT SERVICES. (a) The department may only provide natural resource enhancement services for a body of water when it determines that the general public has been provided with reasonable public boating access. The department may not provide natural resource enhancement services on waters where public access has been abandoned or reduced without prior approval by the department.

(b) The department may continue to provide enhancement services to waters that do not meet minimum public boating access development standards where the department determines that existing access facilities are sufficient to meet existing public demand for access.

(c) The department may provide resource protection services for pollution abatement or prevention, natural resources protection, public safety or public boating access if public boating access is not available on a waterway.

(d) A waterway has reasonable public boating access and is eligible for natural resource enhancement services when public boating access meets the following standards:

| | Minimum Public Boating Access Development |
|---------------------------|---|
| 1. Inland Lakes | |
| (Open water acres) | |
| Less than 50 acres | One carry-in access site for 5 vehicles |
| 50 to 99 acres | One or more access sites which in total provide a combination of 5 vehicle and car-trailer units |
| 100 to 499 acres | One or more access sites which in total provide 1 car-trailer unit per 30 open water acres but no less than 5 units for lakes of 50 to 150 open water acres |

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| 500 to 999 acres | One or more access sites which in total provide 1 car-trailer unit per 35 open water acres but no less than 17 units for lakes of 500 to 595 open water acres |
| 1000 to 4,999 acres | One or more access sites which in total provide 1 car-trailer unit per 50 open water acres but no less than 29 units for lakes with 1000 to 1450 open water acres |
| 5,000 or more acres | One or more access sites which in total provide 1 car-trailer unit per 70 open water acres but no less than 100 units for lakes of 5000 to 7000 open water acres |

Rivers and Great Lakes

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| Rivers and Lakes Michigan and Superior and their bays | One access site within 5 miles of each incorporated community bordering the shore |
| Rivers and streams accessed primarily by carry-in | One access site per 10 miles of stream thread |
| Exceptions | Determined case-by-case based on a plan. |

2. In addition to these standards, additional parking for handicapped individuals meeting the federal and state standards shall also be met. Lakes greater than 50 open water acres in size shall be provided with facilities capable of launching a trailered boat unless exempted by an approved plan.

3. Parking shall be contiguous with the launch site unless the department determines that resource protection, spatial restrictions or other factors require a greater distance. At each site parking for persons with disabilities may be provided at a location different from that for the general public if necessary to comply with federal accessibility standards.

4. Public boating access shall be available free or at a fee meeting the requirements of sub. (11).

5. Public boating access support facilities such as toilets, waste containers, lights, etc., shall be provided where necessary for public safety, or to protect resources or resolve conflicts with affected property owners.

6. Public boating access shall, at a minimum, be open during normal operating hours for outdoor public recreational facilities in the vicinity and year-round unless public safety requires closure. An exception may be made when public boating access is provided through agreement with a private provider. Any boat launched during operating hours may not be denied egress from the water at any time through the public boating access. Any designated parking unit when found unoccupied shall be considered available for use regardless of prior occupancy, except those designated for handicap use.

7. Public boating access shall provide for use which is consistent with protection of navigable water and generally enjoyed by all users.

(5) **MAXIMUM PUBLIC BOATING ACCESS.** (a) Local units of government or the department may pursue more public boating access to waters than is required in sub. (4). The department may pursue public boating access to achieve the maximums in par. (b) unless local governments or the department adopt and implement a plan.

(b) The department has determined that granting permits for boating access on bodies of water where the maximum access standards are exceeded will materially impair navigation and is

detrimental to the public interest. The department may not pursue public boating access development nor may it approve permits or provide financial assistance for public boating access beyond the levels described in this subsection unless greater levels are established in a plan.

| Inland Lakes | Maximum Public Boating Access |
|----------------------|--|
| (Open water acres) | |
| Less than 50 acres | One carry-in access site for 5 vehicles |
| 50 to 99 acres | One or more access sites which in total provide 5 car-trailer units |
| 100 to 499 acres | One or more access sites which in total provide 1 car-trailer unit per 15 open water acres |
| 500 to 999 acres | One or more access sites which in total provide 1 car-trailer unit per 25 open water acres but no less than 33 units for lakes of 500 to 825 open water acres |
| 1,000 to 4,999 acres | One or more access sites which in total provide 1 car-trailer unit per 30 open water acres but no less than 40 units for lakes of 1,000 to 1,200 open water acres |
| 5,000 or more acres | One or more access sites which in total provide 1 car-trailer unit per 50 open water acres but no less than 167 units for lakes of 5,000 to 8,350 open water acres |

Rivers and Great Lakes

| | |
|---|--|
| Rivers and Lakes Michigan and Superior and their bays | One access site per 5 miles of flowing water or where the department determines additional facilities would exceed resource capacity of that part of the water body. |
|---|--|

Rivers and Streams

| | |
|---|---|
| Rivers and streams accessed primarily by carry-in | One carry-in site per 10 miles of flowing water |
| Exceptions | Determined by a plan |

(c) Access site development shall meet the criteria in subs. (4) to (7).

(6) **ALTERNATIVE PUBLIC BOATING ACCESS AND WATERWAY PROTECTION PLANS.** (a) Natural resource enhancement services may be provided for waters that have less public boating access than that in sub. (4) (d) 1., and public boating access may be developed that exceeds levels in sub. (5) (b) only if local governments or the department implement a plan. Plans developed by local governments require written approval by the department prior to adoption.

(b) Plans shall identify and assess the effects of waterway use on natural resources, describe mechanisms to protect public safety and natural resources, and identify public boating access that meets the objectives of s. NR 1.90. Plans may apply to individual waters or groups of similar waters. Plans shall consider environmental as well as social and developmental factors which may include:

1. Environmental sensitivity criteria:
 - a. Lake size and irregularity.
 - b. Lake depth and contour.
 - c. Sensitive areas for fish, wildlife and aquatic plants.
 - d. Nature and composition of fish, wildlife and presence of threatened or endangered resources.
 - e. Lake bottom sediment types.
 - f. Natural shoreline features.
 - g. Sensitivity to exotic species.
 - h. Water quality.
 - i. River or stream characteristics.
2. Social and developmental criteria:
 - a. Shoreline beauty.
 - b. Shoreland zoning.
 - c. Land use and land cover.
 - d. Traditional, existing and potential water uses.
 - e. Ability of the municipality to regulate land use and development.
 - f. Ability of the municipality to enforce public safety regulations.
 - g. Water use regulations proposed or in effect.
 - h. Proximity to other waters.
 - i. Proximity to population centers.
 - j. Demand for recreational opportunities.
 - k. Impact on public safety.
 - l. Presence of culturally or historically significant features.
 - m. Trespass problems associated with increased access on rivers and streams.
3. Appropriate levels and types of public access based on a consideration of the issues in subds. 1. and 2.
4. Ability of the municipality to effectively implement the plan.

(c) The department shall approve proposed plans and implementing ordinances if it determines that the plans and implementing ordinances are consistent with protection of public health, safety and welfare, the objectives of s. NR 1.90 and include an accurate analysis of the issues in par. (b). Department decisions related to plan approval may be appealed under ch. 227, Stats. The department shall withhold enhancement services until an approved plan is fully implemented. Public boating access site development shall comply with any approved plan. The department may not approve grants and permits if the decision would conflict with an approved plan.

(d) The sponsor of an approved plan shall publish a summary of the plan as a class I legal notice.

(e) The department may waive the minimum reasonable access standards or the need for an alternative plan where it finds that this would not serve to protect the public rights and interest in the waterway.

(7) PRIVATE PROVIDERS. Privately owned public boating access shall be included in any determination of access availability for purposes of compliance with ss. NR 1.91 to 1.93 and provision of resource enhancement services if:

(a) It is provided free or for a reasonable fee, as defined in sub. (11),

(b) The owner furnishes an irrevocable contract with the state, agreeing to provide specified public boating access facilities for not less than 5 years, and

(c) Facilities meet the public boating access site development standards under sub. (8).

(8) PUBLIC BOATING ACCESS SITE DEVELOPMENT STANDARDS. In addition to other state and federal requirements, including but not limited to the uniform federal accessibility standards (UFAS) published by the architectural and transportation barriers compliance

board (ATBCB), the Americans with disabilities act (P.L. 101-336) accessibility guidelines (ADAAG) and the state of Wisconsin building codes (chs. ILHR 50-64), the following standards shall apply to acquisition, development and maintenance of boating access sites for the purpose of determining compliance with ss. NR 1.90 to 1.93:

(a) Natural shoreline beauty shall be protected by preserving or creating adequate vegetative screening for facilities and parking.

(b) The sum of all public boating access sites on a water body shall accommodate multiple types of use appropriate for the waterway. Individual access sites shall be designed to minimize conflicts between uses at the site and on the water body.

(c) The site and support facilities shall be designed and located so as to avoid damage to critical habitat and other environmentally sensitive areas.

(d) Each site shall be designed to provide barrier-free public boating access for persons with disabilities.

(e) Each site shall be clearly marked at public roadways. Fees and hours of operation shall be clearly posted.

(9) FINANCIAL ASSISTANCE PROGRAMS. Providing public boating access is a partnership program between state and local units of government. The department may only provide financial assistance for projects which comply with ss. NR 1.90 to 1.93 and other applicable state and federal requirements. The department shall assist municipalities in applying for state financial assistance for renovation, operation or maintenance expenses if the maximum allowable launch fees do not provide enough revenue to pay for these access site expenses.

(10) MAINTENANCE AGREEMENTS. When in the best interests of the state, the department may engage the services of others, by written agreement, with or without compensation, for maintenance of state-owned or funded public boating access sites.

(11) BOAT LAUNCHING FEES. The department encourages free boat launching. A reasonable launch fee may be charged under authority of s. 30.77, Stats., for the purpose of operating and maintaining a boat access site owned or operated by municipalities, lake management districts and other access providers meeting the provisions of sub. (7). Charging excessive, unjustified or unreasonable boat launching fees restricts or prohibits public boating access and use of navigable waters in the state. A reasonable launch fee for the purposes of s. 30.77, Stats., is one that does not exceed the maximum allowable amount under the following criteria:

(a) *Base fee.* A base is that fee that is charged a state resident vehicle for entrance to the state parks.

(b) *Public boating access surcharges.* Municipalities, lake management districts and other public boating access providers that maintain any of the following services may add to the base fee not more than the following surcharges for vehicles with trailers. No more than the base fee may be charged for non-motorized or non-trailerred boats.

| | |
|--|------------|
| 1. Attendant when on duty | .20 X Base |
| 2. On-site toilet facilities | .20 X Base |
| 3. Great Lakes sites | .30 X Base |
| 4. Boats 20 ft. in length or more but less than 26 ft. | .30 X Base |
| 5. Boats 26 ft. or greater in length | .60 X Base |

(c) *Daily launch fee.* The total of base fee and all applicable surcharges, rounded to the nearest quarter of a dollar, shall constitute the daily launch fee. A daily launch fee that is paid shall be valid for all boat access facilities provided by the issuing authority for that day. If different fees are charged by the issuing authority for different access sites, the higher fee shall be allowed for use of all the sites.

(d) *Season pass.* If a launch fee is charged, a season pass at a fee not to exceed 10 times the daily launch fee shall be provided for both residents and non-residents. A mechanism to obtain a season pass shall be provided by the public access provider at the launch site.

(e) *Prior approval required.* Each public boating access provider charging a launch fee in excess of the resident state park daily entrance fee shall provide its fee schedule to the department for approval prior to its adoption. The fee schedule shall be submitted on department forms available from [the] department's central office. Department approval shall be based solely on demonstration that the provider maintains the facilities or services described in par. (b) that justify charges in excess of the resident state park daily entrance fee and that a season pass is available.

Note: The department's mailing address is: Department of Natural Resources, P.O. Box 7921, Madison, WI 53707.

(f) *Existing approved fee structures.* Reasonable fees under pars. (a) to (e), do not apply to access sites which the department has determined in a written decision to have a reasonable fee prior to the effective date of this rule.

(g) *Differential fee based on residency.* Local units of government, including lake management districts, which maintain and operate public boating access sites, may charge differential fees on the basis of residency within the unit of government maintaining or operating the access. If a fee is charged, the fees for a non-resident may not exceed 150% of the fee charged a resident and nonresident fees may not exceed the maximum allowable amounts except when par. (b) 4. or 5. are applicable.

Note: For example, with a daily resident entrance fee of \$4.00 for state parks, at an access site on an inland lake with an attendant on duty and toilet facilities, a launch fee for an 18 foot boat may be as high as \$5.50 (4 + 0.2 (4) + 0.2 (4), rounded to nearest 0.25) for both residents and non-residents, and for a 26 foot boat as high as \$8.00 (4 + 0.2 (4) + 0.2 (4) + 0.6 (4), rounded to nearest 0.25) for residents and \$12.00 (8 x 1.5, rounded to nearest 0.25) for non-residents.

History: Cr. Register, October, 1977, No. 262, eff. 11-1-77; r. and recr. Register, March, 1994, No. 459, eff. 4-1-94; am. (2) (d), Register, June, 1995, eff. 7-1-95.

NR 1.92 Abandonment of access. (1) **NOTICE OF INTENT TO ABANDON AN ACCESS.** (a) Any municipality subject to s. 80.41, Stats., which proposes to abandon or discontinue any highway, street, alley or right-of-way, which provides public access to a navigable waterway, shall provide a copy of the resolution or ordinance and notify the department at least 10 working days prior to acting on a resolution or ordinance to abandon or discontinue. Within 10 working days of enacting an ordinance or resolution subject to approval under s. 80.41, Stats., the municipality shall submit a copy of the ordinance or resolution to the department. Upon receipt of the ordinance or resolution, the department shall publish a notice of the proposed abandonment pursuant to the procedures in s. 31.06, Stats. If no hearing is requested, the department shall proceed under sub. (2) to grant or deny the petition.

(b) If a hearing is requested, the department shall hold the hearing as a class 1 contested case in the county in which the public access is proposed to be abandoned. The department shall make its decision based on the standards in sub. (2).

(2) **FINDINGS FOR GRANTING.** The department may grant the petition to abandon or discontinue the public access only if:

(a) Any access sites or part thereof proposed to be abandoned or discontinued is replaced prior to granting the petition; or

(b) The department finds that the access proposed to be abandoned does not contribute to the quality or quantity of public access on the body of water.

(3) **APPROVAL CONDITIONS.** The department may order conditions of approval including, but not limited to, a showing of financial capability of the petitioner to provide and maintain an equivalent or superior replacement public access site, and other conditions related to assurance of protection of the interest of the public in the body of water.

(4) **ENVIRONMENTAL DEGRADATION.** Access sites may also be abandoned where environmental degradation is occurring at the

site as a result of existing use, and abandonment of the access will reduce or eliminate the degradation without reducing public interests in access to that body of water.

History: Cr. Register, April, 1975, No. 232, eff. 5-1-75; renun. from NR 1.32, Register, October, 1977, No. 262, eff. 11-1-77; r. and recr. Register, March, 1994, No. 459, eff. 4-1-94.

NR 1.93 Access in platted subdivisions. Under s. 236.16 (3), Stats., the department has authority to recommend wider access at less frequent intervals than are prescribed in the statutes. The department shall consider waiver of the 60-foot access requirement only where the department determines:

(1) It will be advantageous to public interests in navigable water;

(2) Adequate space for access users and adequate buffering for private property is assured by access wider than 60 feet where possible; and

(3) The access that would result provides an equal or greater opportunity for public access than would be provided by dedication at statutorily prescribed intervals and the 60-foot width.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; am. (2) (a) and (2) (b) 7., r. and recr. (3), r. (4) (a) 3., Register, October, 1982, No. 322, eff. 11-1-82; r. and recr. Register, March, 1994, No. 459, eff. 4-1-94.

NR 1.95 Wetlands preservation, protection and management. (1) **PURPOSE.** It is the intent of the natural resources board to establish rules for the preservation, protection and management of wetlands in the state of Wisconsin. The rules shall be applied in such a manner as to avoid or minimize the adverse effects on wetlands due to actions over which the department has regulatory or management authority and to maintain, enhance and restore wetland values.

(2) **AUTHORITY.** The department, under existing law, has the responsibility of making regulatory and management decisions which, directly or indirectly, affect the quantity and quality of many Wisconsin wetlands.

(a) Wisconsin has a history of active water resource protection under the public trust doctrine which originated in the northwest ordinance of 1787, the enabling act under which Wisconsin became a state, and the Wisconsin constitution.

(b) The department is designated under s. 144.025, Stats., as the central unit of state government responsible for protecting, maintaining and improving the quality of the waters of the state. Department actions must be consistent with the goal of maintaining, protecting and improving water quality.

(c) Under the Wisconsin environmental policy act, s. 1.11, Stats., the department is required to study, develop and describe appropriate alternatives to recommended courses of action for proposals which involve unresolved conflicts concerning alternative uses of available resources and to make decisions with the knowledge of their effects on the quality of the human environment.

(d) The department, pursuant to ss. 23.09 and 29.02, Stats., and s. NR 1.015, must provide for the protection, development and use of forests, fish and game, lakes, streams, plant life, flowers and other outdoor resources of the state. The department is obliged to develop and implement appropriate scientific management practices to achieve these objectives.

(3) **NATURAL RESOURCES BOARD FINDINGS.** (a) *Introduction.* The presence of wetlands signifies physical characteristics which are limiting factors in the human activities which may occur in and adjacent to them. What may be limitations for one use of a wetland may also be the principal values supporting a different use. The state's policy as articulated in its trusteeship of navigable waters and the statutes enacted to further the protection and enhancement of the quality of its waters, creates a presumption against activities which adversely affect those wetlands under department jurisdiction or control.

(b) *Wetland values.* Wetlands are known to possess a wide range of natural and human values, some or all of which may apply to a particular wetland under review. Assessing the value of a wetland is a complex procedure requiring thoughtful analysis of all possible wetland values and functions.

1. *Biological functions.* Wetlands are environments in which a variety of biological functions occur. In many cases, wetlands are very productive ecosystems which support a wide diversity of aquatic and terrestrial organisms. Many wetland areas are vital spawning, breeding, nursery or feeding grounds for a variety of indigenous species. Some wetlands are the habitats for state or federally designated rare, threatened or endangered species.

2. *Watershed functions.* In addition to their biological functions, wetlands may serve important physical and chemical functions with respect to other wetlands and waters of the state. A specific wetland (or set of wetlands) may play a critical role in maintaining the stability of the entire system to which it is physically and functionally related. This functional role may include the maintenance of both the hydrologic patterns and the physical and chemical processes of related wetlands and other related waters of the state.

a. A particular wetland may function to maintain the hydrologic characteristics, and thereby the physical and chemical integrity of an entire aquatic ecosystem.

b. Groundwater may discharge to a wetland, recharge from a wetland to another area, evaporate from and/or flow through a wetland.

c. Some wetlands may be important for storing water and retarding flow during periods of flood or storm discharge. Even wetlands without surface water connections to other water bodies may serve this function. Such wetlands can reduce or at least modify the potentially damaging effects of floods by intercepting and retaining water which might otherwise be channelled through open flow systems. The importance of a given wetland for storm and flood water storage may be modified by the cumulative effects of the proposed activities and previous activities within the watershed.

d. Wetlands also function to dissipate the energy of wave motion and runoff surges from storms and snowmelt, and thus lessen the effects of shoreline erosion. Wave action shielding by wetlands is not only important in preserving shorelines and channels, but also in protecting valuable residential, commercial and industrial acreage located adjacent to the aquatic ecosystems.

e. A wetland may perform a variety of other important functions within a watershed. Wetlands may degrade, inactivate or store materials such as heavy metals, sediments, nutrients, and organic compounds that would otherwise drain into waterways.

3. *Recreational, cultural and economic value.* Some wetlands are particularly valuable in meeting the demand for recreational areas (for uses such as hunting, canoeing, hiking, snowshoeing, and nature study), directly or indirectly, by helping to maintain water quality and providing wildlife habitat. To some people and cultures certain wetlands provide an important part of their economic base and/or contribute to their cultural heritage.

4. *Scarcity of wetland type.* Certain wetland types (e.g., fens, wild rice lakes) which are statewide or regionally scarce possess special resource significance. Scarcity or rareness depends on the frequency of occurrence of the type, the area of the type in existence prior to settlement, the historical conversion of the type and its resultant degree of destruction, and the amount of similar habitat in the present landscape of the region.

5. *Aquatic study areas, sanctuaries and refuges.* Through various local, state and federal actions, large areas of the nation's wetlands have been designated and preserved by public agencies for scientific study, and the protection of aquatic and terrestrial habitats. Many public and private groups have also established sanctuaries and refuges in wetlands.

6. *The ecosystem concept in a regional context.* The previous sections suggest that wetlands may not only have important functions within their boundaries, but may also interact with ecosystems of the surrounding region. The potential impact of wetland modification may influence distant wetlands if they are structurally and functionally related in the region. Similarly, the functions and values of any wetland may be affected by other existing and potential water resource activities in the region. Therefore, consideration should be given to those impacts which are shown to be of regional concern.

(4) *STATEMENT OF POLICY.* (a) The board is concerned with the continuing reduction in the quantity and quality of wetlands in this state. A large percentage of Wisconsin's wetlands have been altered or destroyed in the years since settlement. It is the policy of the natural resources board that wetlands shall be preserved, protected and managed to maintain, enhance or restore their values in the human environment.

(b) It is in the public interest that department decisions which lead to alteration of or effects on wetlands under its jurisdiction or control are based on the intent to preserve, protect and manage them for the maintenance or enhancement of their values.

(c) "Wetland" as defined in s. 23.32 (1), Stats., means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

(d) It is the intention of the natural resources board that where the term "wetland" appears in a rule promulgated by the department and the rule does not contain a specific definition, the definition of "wetland" in this section shall apply.

(5) *GENERAL STANDARDS TO BE APPLIED IN DECISIONS AFFECTING WETLANDS.* (a) *Department regulatory actions.* The department shall consider proposals which require its approval with the presumption that wetlands are not to be adversely impacted or destroyed and that the least overall adverse environmental impact shall result. Therefore, the department shall give primary consideration to reasonable alternatives, including the alternative of denying the requested approval, that avoid adverse impacts on wetlands and that result in the least overall adverse environmental impact. When all reasonable alternatives necessarily result in adverse impacts on wetlands, the proposed activity shall be conducted in a manner which minimizes the loss of wetlands and the loss of functions which those wetlands may serve with respect to related wetlands and other waters of the state both in and outside the proposed area of use, and which results in the least overall adverse environmental impact. Where consistent with its existing authority, the department shall require that sponsors of actions affecting wetlands convincingly demonstrate that their proposals:

1. Need to be located in or adjacent to the wetland(s) in question,
2. Are technically, economically and environmentally feasible, and
3. Meet other applicable criteria as provided by law.

(b) *Department management actions.* The department shall select resource management techniques which enhance wetland values with no significant or irreversible adverse effects. Actions shall be limited to those specifically required to meet the objectives enumerated in sub. (2) (d).

(6) *IMPLEMENTATION.* (a) In making a regulatory decision where adverse wetland impacts may result, and where its existing authority allows, the department shall evaluate the proposed action and all reasonable alternatives, including the alternative of no action, through consideration of the wetland values enumerated in sub. (3) (b). In its evaluation, the department shall also consider:

1. The potential reversibility or irreversibility of wetland impacts which would result from implementation of proposed actions;

2. The potential impacts of proposed actions on other scarce natural resources in and outside the proposed area of use;

3. The effects of the use of non-wetland areas, which may alter adversely the biological, hydrological, physical or chemical characteristics of wetlands and other waters of the state in and outside the proposed area of use;

4. The presence or absence of physical alterations resulting from human activity;

5. Other existing or potential uses of wetlands in the region; and

6. The cumulative effects on wetlands of piecemeal alterations.

(b) The department shall conduct its resource management activities in a manner consistent with sub. (5) (b).

(c) The department's land acquisition program shall place special emphasis on obtaining wetlands that provide quality fish and wildlife habitat, particularly for threatened or endangered species; that significantly affect the maintenance or improvement of water quality; that have special value as scientific or natural areas; or that are imminently threatened with extensive alteration or destruction.

(d) The department's enforcement activities shall include steps to assure, to the fullest extent practicable, the restoration of wetlands which were unlawfully altered.

(e) In its liaison activities with federal, local and other state agencies and in the absence of regulatory authority, the department shall strongly recommend avoidance of wetland areas and concur with their use or alteration only when necessary to minimize the overall environmental impacts of a proposal. In such cases, the recommended amount of wetland use or alteration shall be held to the minimum.

(f) The department, in evaluating the wetland effects of proposed actions, shall not recognize the conveyance of land (or other consideration) to local units of government, the state of Wisconsin or the federal government as off-setting the adverse impacts of the proposal and shall only consider the net effects of the action by itself.

(g) The department shall ensure that its proposals for administrative rules and for legislation include appropriate provisions, consistent with this rule, except as otherwise provided by law.

(h) The department shall cooperate with appropriate governmental units, the public and private groups to further the protection and enhancement of wetlands and to provide opportunities for education on wetland values and ecology.

(i) For its activities subject to the requirements of this rule, the department shall establish procedures, within the existing decision-making framework, to cause evaluations to be made and decisions rendered in accordance with the standards described in sub. (5). The department shall also take steps to ensure that its decisions altering or affecting wetlands are documented and available for review. The department shall, in selecting a course of action, indicate how impacts on wetlands were considered in the decision-making process.

(7) **MONITORING AND REPORTING.** The board intends that the department shall evaluate and monitor its own progress in achieving the objectives of this rule and shall establish procedures, subject to board approval, for reporting such progress to the board.

History: Cr. Register, March, 1978, No. 267, eff. 4-1-78; r. and recr. Register, January, 1980, No. 289, eff. 2-1-80; am. (4) (c) and cr. (4) (d), Register, June, 1984, No. 342, eff. 7-1-84.

NR 1.98 Public and private source funding of research. (1) **PREAMBLE.** (a) It is the policy of the department of natural resources to seek the best, most current scientific information available on which to base its management and regulatory decisions. In keeping with this policy, the department operates a research program, through the bureau of research, which conducts

and oversees research in natural resource management and environmental protection.

(b) It is the policy and statutory obligation of the department to make management and regulatory decisions to protect and enhance the natural resources of Wisconsin and the public's interests in and rights to those natural resources.

(c) It is the policy and statutory obligation of the department to conduct its actions in an open and publicly accessible manner to facilitate public involvement, understanding and acceptance, and in accordance with the public records and open meeting laws of Wisconsin.

(d) It is the policy of the department to accept donations of land, money, time, equipment and human effort to support department programs under the authority provided in s. 23.09 (2) (c), Stats., "to accept and administer gifts, grants, bequests, and devises".

(2) **PURPOSE.** To assure that the authority provided in s. 23.09 (2) (k), Stats., is exercised in a manner consistent with the department's mission and policies and with applicable statutory obligations and ethical requirements, the department finds it appropriate to adopt these guidelines for the receipt of such public or private source funding.

(3) **DEFINITIONS.** (a) "Public or private source" means any organization, entity or individual outside of the department of natural resources, and includes public and private sector entities which are regulated, either directly or indirectly, by the department. This term does not include the department of natural resources, the Wisconsin state legislature, or the agencies of the federal government.

(b) "Public or private source funds" or "public or private source funding" or "funds from public or private sources" means anything of value, including money, time, land, equipment or human effort, which is offered to the department to support, in whole or in part, research efforts.

(c) "Anonymous funds" are those from an unidentified source. This term does not include funds from a private, non-profit foundation when the original source is unidentified.

(4) **CRITERIA FOR CONSIDERATION OF PUBLIC OR PRIVATE SOURCE FUNDING.** (a) The natural resources board may accept funds from public or private sources to support research needs in the department. These public or private source funds may be specifically designated by the source to support a particular research project or subject area for research, or may be undesignated in which case the funds may be applied to research needs on a priority basis as determined by the department.

(b) The decision to accept public or private source funding shall be made by the natural resources board in public session with opportunity for public scrutiny and input in the following manner:

1. Public or private source funds which have a value of \$5000 or more shall be accepted only by the natural resources board.

2. Public or private source funds which have a value of less than \$5000 may be accepted by the secretary without the approval of the natural resources board. The secretary may bring any proposal with a value of less than \$5000 to the natural resources board for action if he or she deems it appropriate to do so. The provisions of pars. (c) and (d) apply to any funds accepted by the secretary.

(c) Before accepting an offer of public or private source funding, the natural resources board shall ensure that all of the following conditions have been met:

1. The resource project to be supported is a high priority for the department and merits the expenditure of department time and resources.

2. The department, not the public or private source, will control the design and conduct of the study, the interpretation of the data and the write-up of the results. The department will be fully

responsible for any decisions as to how, if at all, the research results will be used by the department.

3. No assurance has been given by the department to the public or private source about the content of the research results nor the regulatory application of those results.

4. The public or private source has not imposed any conditions on the offer of funds which would control the department's conduct of the research project or the research program, or commit the department to any particular action, including any particular exercise of discretion in its regulatory or management decisions or programs.

5. All research shall be conducted in a manner consistent with the requirements of the public records law.

6. The department has not agreed to assume any liability on behalf of the public or private source which the department would not otherwise be responsible for in the conduct of the research.

(d) The natural resources board may impose such other restrictions on the receipt of funds from a public or private source as it deems appropriate to comply with the intent of this policy. Such restrictions may include, but are not limited to, restrictions on the amount of funds which shall be accepted from a given public or private source in a given period of time.

(e) Notwithstanding satisfaction of all the conditions in par. (c), the natural resources board may refuse the offer of public or private source funding for other reasons deemed pertinent by the board.

Note: For example, if the board believes that the fact of the public or private source funding will be so controversial as to render the research results challengeable it may refuse to accept the public or private source funding.

(f) The department shall keep records of all such public or private source funds so that they are available for audit at any time by the natural resources board or the public. The department shall prepare an annual report of all such funds. The report shall specify, at a minimum, the source of the funds, the total project cost, the amount per source if multiple sources of funds, the entity which conducted the research, and a summary of the project. The department may include other information which it believes will facilitate full public disclosure.

(g) The department shall, to the extent possible, seek the advice and opinions of qualified reviewers in the design and implementation of its research projects.

(5) SOLICITATION OF PUBLIC OR PRIVATE SOURCE FUNDS. (a) The department may solicit funds from public or private sources to lend support to research efforts in the department.

(b) The secretary shall designate a person or persons to be responsible for such solicitation. Such person may not hold a position in any of the department's regulatory programs.

(c) Any funds solicited from public or private sources are subject to the provisions of sub. (4).

(6) FUNDS FROM ANONYMOUS SOURCES. Except for amounts deposited in gift boxes at state parks, the department may not accept anonymous funds.

History: Cr. Register, March, 1990, No. 411, eff. 4-1-90.

