

## 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. 29.604, 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; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**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 nonhunting 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

b. May or may not have natural reproduction of trout occurring; however, stocking is necessary to fully utilize the available trout habitat or to sustain the fishery.

3. 'Class III'. A class III trout stream is a stream or portion thereof that:

a. Requires the annual stocking of trout to provide a significant harvest, and

b. Does not provide habitat suitable for the survival of trout throughout the year, or for natural reproduction of trout.

(c) After classification or reclassification of a stream or portion thereof under this subsection, the department shall, as soon as is feasible or reasonable, give notice in a newspaper or such other media the department selects in the area affected which is likely to inform the local residents. The department shall provide the information to all clerks of the county, town, city or village in which the stream or portion thereof is located. The department shall notify the legislators whose districts include the affected stream and the chairpersons of the committees of the legislature with jurisdiction for natural resources issues.

(d) The notice shall contain the location and description of the stream and the basis for its classification. If a hearing is not requested in writing within 30 days after the mailing of the notice, the department may waive the hearing. Upon receipt of a request for a hearing, the department shall, not less than 10 days before such hearing, mail written notice thereof to each person notified under par. (c).

(e) At each hearing, the department shall take evidence offered by persons in support of or in opposition to the stream classification. If the department finds the stream is not properly classified, the stream shall be reclassified on the basis of the criteria specified under par. (b).

(f) The department shall maintain a list of classified trout streams for public information. This list shall not be assumed to be exhaustive but will include all trout streams surveyed and classified.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; cr. (7), Register, July, 1981, No. 307, eff. 8-1-81; correction in (7) (b) 3. made under s. 13.93 (2m) (b) 1., Stats., Register, September, 1999, No. 525.

**NR 1.03 Mississippi river fisheries management.** In carrying out an effective management program for fish and aquatic resources, the department shall:

(1) Regulate sport and commercial harvest to provide an optimum sustained yield.

(2) Promote cooperative agreements with Iowa, Minnesota and the U.S. fish and wildlife service in an effort to maintain:

(a) The unique habitats on the river;

(b) Programs to maintain and improve public access;

(c) Cooperative research and surveys of populations and harvests, especially those related to endangered or threatened species.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**NR 1.04 Great Lakes fishery management.** The board endorses a flexible management system for the protection, development and utilization of the waters and fish populations of the Great Lakes for the maximum public benefit.

(1) Management of the Great Lakes is of intrastate, interstate, federal and international interest; therefore, cooperation with managing agencies shall be sought in developing management objectives and measures for fish stocks of common concern.

(2) The Great Lakes fisheries are to be considered part of a diverse community. The department shall promote efforts to maintain and enhance the quality of this community and its environment.

(3) Management of the fishery resources shall be based on a sound understanding of the dynamics of interacting fish stocks. The department shall conduct research and resource base, inven-

ories, and collect harvest and utilization statistics on which to base sound management decisions.

(4) The fishery resources of the Great Lakes, though renewable, experience dynamic changes and are limited. The resources will be managed in accordance with sound biological principles to attain optimum sustainable utilization. Management measures may include but are not limited to seasons, bag and quota limits, limitations on the type and amount of fishing gear, limitation as to participation in the fisheries and allocation of allowable harvest among various users and the establishment of restricted areas.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**NR 1.11 Wildlife management.** The natural resources board:

(1) Endorses the concept and principles of professional wildlife management, considers scientific findings to be the primary foundation of sound wildlife management programs, and supports research and surveys necessary to provide the technical information required for effective implementation of this policy.

(2) Recognizes that effective policy implementation requires the input and support of an informed public; endorses an active program to inform people of wildlife resource issues and alternative solutions; and will make every reasonable effort to obtain broad public input during its decision-making process.

(3) Recognizes the need to strengthen the educational efforts of the department relating to hunter competence, standards of ethical hunting behavior and respect for landowners rights; educational efforts must also be directed toward nonhunters to improve their knowledge and understanding of wildlife as a renewable natural resource and of hunting as both a method of controlling wildlife populations and as a form of outdoor recreation.

(4) Endorses the concept of comprehensive wildlife planning whereby actual and potential contributions of all functions of the department toward achievement of common wildlife management goals and objectives are recognized and, where feasible, integrated into operational activities.

(5) Recognizes that regulation of certain human activities is an integral and necessary part of wildlife management; that a sound legal system which combines equitable laws and judicious law enforcement is essential; and that wildlife law enforcement programs which are commensurate with other management efforts and contribute toward the achievement of common goals and objectives are necessary.

(6) Endorses the development and adoption of stronger regulatory measures, including more stringent license requirements, to assure an acceptable, minimum standard of hunting performance.

(7) Supports the maintenance of ecological diversity and health, and will do everything in its power to protect and maintain free-living populations of all species of wildlife currently existing in Wisconsin; extirpated species will be reintroduced whenever feasible ecologically, economically and socially.

(8) Supports the management of game species and habitat with the objective of increasing or maintaining populations to provide hunting opportunities.

(9) Supports the regulated use of wildlife for human benefits, including hunting and trapping where legal harvests do not reduce subsequent population levels of these renewable wildlife resources or where population reduction of certain species is a deliberate objective.

(10) Supports efforts to foster and promote the voluntary conservation of wildlife habitat on private lands and also supports the development and maintenance of cooperative programs for wildlife management and hunting recreation with landowners and operators of private lands.

(11) Recognizes that private use of Wisconsin's protected wildlife is appropriate provided that use for educational, recreational, scientific or economic purposes does not deleteriously affect native or migratory wildlife and identifies the necessity of

establishing and administering licensing or permit systems to insure proper care and handling of protected wildlife when persons are entrusted with their care or use.

(12) Strongly encourages the use of well trained hunting dogs in the pursuit and retrieval of game; that extensive training and field trial competition provide hunting dogs which are proficient at finding and retrieving more game; and that the department will actively participate in programs which assist and encourage the training of hunting dogs including the designation and management of specific state controlled lands for trials and training provided this use does not conflict with the primary purpose of the property.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, July, 1977, No. 259, eff. 8-1-77; cr. (11), Register, October, 1982, No. 322, eff. 11-1-82; cr. (12), Register, April, 1985, No. 352, eff. 5-1-85.

**NR 1.12 Migratory game birds.** Migratory game birds are those species listed in s. 29.001 (39), Stats., which in the course of their seasonal movements will almost always leave the land or water on which they fledged and will often cross state or international boundaries. These species are regulated under federal law and international treaties. To implement an adequate program for migratory game birds, the following needs and actions are essential:

(1) **HABITAT MANAGEMENT.** Wetlands are the primary habitat component for most migratory game bird species. Upland nesting cover and woodlands are also necessary for certain species. Legislation and programs that will protect and enhance migratory game bird habitat must be strengthened. Such a program has to include:

(a) Acquisition in fee title to protect critical lands and waters and to permit developments necessary for enhancement;

(b) Easement acquisition to protect other important lands and waters from excessive degradation by human activities;

(c) Vigorous enforcement of the state's role in the use of its regulatory powers to protect wetland resources associated with navigable waters;

(d) Strong cooperation and support to other units of government in planning and zoning programs which protect wetlands;

(e) Support for state, federal and local government programs which manage suitable public waters as production, resting and feeding areas for migratory birds, with special emphasis on the provision of nesting and brood rearing habitat for ducks;

(f) Support for the U.S. department of agriculture's soil conservation service and U.S. department of transportation in implementing, on a continuing basis, their 1975 wetland maintenance policies;

(g) Opposition to programs and activities funded by government agencies which result in loss or degradation of wetlands of wooded migratory game bird habitat; and

(h) Maintenance and development of incentive programs, including the U.S. department of agriculture's water bank program, which encourage private landowners to manage land and water for the benefit of migratory birds.

(2) **HARVEST.** (a) Migratory game bird regulations must be adopted within constraints that put the future of the resource foremost in consideration. The department shall be represented on, and take part in the activities of, the Mississippi flyway council. This council makes recommendations to the U.S. fish and wildlife service including those affecting migratory game birds using the Mississippi flyway.

(b) Some Wisconsin hunting regulations may have to be more restrictive than the federal framework to assure that local breeding populations will be maintained at optimum levels.

(c) A balance between local production and harvest is essential, and regulations must be designed to achieve this end.

(d) To provide the opportunity for a quality hunting experience on major waterfowl projects, excessive hunter densities must be reduced by every available means.

(3) **DAMAGE CONTROL AND DISEASE.** Migratory game birds, especially waterfowl, often concentrate during migration, thereby increasing the potential for agricultural crop depredations and the development of disease epidemics within the flock.

(a) As a first order of priority, management of refuges and closed areas must be directed at keeping concentrations of migratory game birds at levels that are in accord with available food supplies in the vicinity and/or at levels that will minimize the probability of disease outbreaks.

(b) Disease surveillance programs for major waterfowl concentration areas, licensed game farms with waterfowl, and urban areas with semi-domestic waterfowl, must be developed. Contingency plans to deal with disease outbreaks in wild populations must also be developed.

(c) When abnormal weather delays crop harvest on private lands near refuges or closed areas, damage abatement programs will be employed to assist landowners in protecting vulnerable crops. When unavoidable losses occur, damage payments authorized by legislation can be used to compensate for the loss of crops.

(4) **RESEARCH AND SURVEYS.** Research and surveys on local breeding populations, production, movements, harvest and habitat are essential to provide adequate information for developing regulations and programs to protect and manage these birds. Since migratory game birds utilize continental habitats, the international significance of cooperative surveys and research required to establish sound flyway management programs is recognized. Therefore, cooperation with other flyway states, federal agencies, Canadian agencies and the Mexican government shall be exercised as needed.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, July, 1977, No. 259, eff. 8-1-77; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**NR 1.13 Small game mammals.** Small game mammals include rabbits, hares and squirrels. To effectively implement the small game mammal program, the following needs and actions are necessary.

(1) **HABITAT MANAGEMENT.** (a) The most efficient method of management is the maintenance of existing habitat.

(b) Habitat improvement measures, however, are currently needed, primarily in rural areas near population centers. Most habitat management opportunities are associated with woodlots, forests, wetlands, and odd areas that are neither plowed nor grazed. Wherever possible, squirrel and rabbit habitat needs are to be incorporated into woodland management recommendations.

(c) The capacity to produce small game mammals on state wildlife areas must be increased through more intensive management of suitable habitat. The need for den or nut bearing trees for squirrels, brush or grassy openings for cottontail rabbits and interspersed of important timber types and age classes for snowshoe hares must be considered in the course of making forest and woodland management recommendations for all public lands.

(d) The majority of small game mammals depend upon habitat occurring on private lands. This is especially true of jackrabbits where open agricultural land is the main component of habitat. Effective management information must be provided to private landowners who request it and incentives to manage small game mammals should be provided in areas where there is high demonstrated need.

(2) **HARVEST.** In most areas of the state, harvest levels of small game mammals do not approach the surplus that could safely be removed. Therefore, with the exception of jackrabbits, which are not abundant, harvest regulations for these species should provide

maximum opportunities for sport hunting without sacrificing the quality of the hunting experience. Improved hunter/landowner relations are important to effectively meet any increasing demands for rabbit and squirrel hunting.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, July, 1977, No. 259, eff. 8-1-77.

**NR 1.14 Upland game birds.** Upland game birds are pheasants, quail, Hungarian (gray) partridge, grouse and wild turkey. While these species depend primarily upon upland sites, most species also utilize wetlands to meet part of their habitat needs. The following needs and actions are essential for effective implementation of the upland game bird program.

**(1) HABITAT MANAGEMENT.** (a) The maintenance of existing habitat and, where necessary, improvement or restoration of critical components of habitat are the preferred methods of management. Management recommendations for upland game bird habitat will become an integral part of land-use plans on all public lands.

(b) Prairie grouse (prairie chickens and sharp-tailed grouse) habitat is constantly threatened by natural forest succession and development of land for intensive agricultural and forestry uses. Positive efforts shall be made to assure that free-living populations of these species and their necessary habitat will be perpetuated.

1. Prairie grouse management and habitat restoration programs shall be accorded high priority on all publicly-owned lands designated by the department. Where remnant flocks of sharp-tailed grouse occur, associated with habitat on public lands, the emphasis in land-use plans will be on maintenance or improvement of this habitat.

2. The maintenance of huntable populations of sharp-tailed grouse shall be the management objective where suitable continuity of habitat makes this feasible. Cooperative agreements, including leases where necessary, shall be executed with other public and private owners of lands where it is deemed practicable and essential to prairie grouse management by the department.

(c) Much of the remaining habitat for upland game birds is the result of land-use decisions made by owners of private property. Therefore, programs that will promote the conservation and improvement of upland game bird habitat and improve access to private lands will be supported. In addition to the technical advice supplied by department wildlife managers, the board recognizes the contribution of wildlife management assistance given to private landowners through cooperative forest management, U.S. department of agriculture and university of Wisconsin-extension programs. However, much more must be done to offset losses of wildlife habitat in predominantly agricultural areas. Cooperative wildlife habitat management programs, including the "acres for wildlife" program, which offer additional incentives and management assistance to landowners shall be developed. Conservancy district zoning as well as other programs and policies of local and federal agencies which conserve upland game bird habitat will also be supported.

**(2) HARVEST.** Harvest regulations must have as their objective to take no more than the harvestable surplus of each species within broad areas of range. Regulations must also, to the extent of the law, have as their objective reasonable minimum standards of conduct for hunters and equitable distribution of hunting opportunities.

**(3) STOCKING AND TRANSPLANTING.** There are 3 basically different objectives to the artificial introduction of upland game birds. The first is to restore a species which has been extirpated, the second to speed recovery of severely depleted numbers as a result of catastrophe, and the third to provide birds for hunting recreation on areas where the demand exceeds the capacity to produce wild birds. The first 2 are ordinarily short-term efforts involving wildtrapped stock, which are aimed at establishing or increasing wild populations which sustain themselves. The third

is an annual effort which does not have lasting benefits and which often masks the continued deterioration of the habitat base necessary to sustain wild populations.

(a) Stocking of state wildlife areas to supplement wild populations for hunting recreation will be confined primarily to cock pheasants. However, stocked hens as well as cocks can be harvested on state wildlife areas in submarginal pheasant range. While stocking can usually put additional birds in the field at a lesser cost than habitat improvement, it yields only short-term, single-purpose benefits reaped primarily by the participants who hunt them. Therefore, user fees should be the primary means of support for pheasant stocking on designated state-owned areas. In order to assure the opportunity for a quality hunting experience on heavily hunted wildlife areas stocked with pheasants, (as was the case in s. NR 1.12 (2) (d) relating to waterfowl projects) a reduction in excessive hunter densities will be pursued by every available means.

(b) Cooperative game bird stocking (pheasant) programs will be used as necessary to supplement wild populations on privately-owned land in areas where the demand for upland game bird hunting exceeds the supply of wild birds. All game birds reared under cooperative programs continue to be the property of the state until released and harvested under general hunting regulations provided in ch. NR 10. The department will provide chicks and a specified amount of feed per chick to individuals or groups who care for the birds and provide rearing facilities that meet state standards. When the cost-sharing program is not elected, all game birds reared by private individuals or groups shall be released on lands which are accessible to the public for hunting without charge.

(c) Game birds shall not be stocked on lands to which the public is denied access for hunting unless a percentage of chicks fixed by the department is returned to the state at 8 or more weeks of age as specified in a written cost-share agreement. When cost-share birds are to be released, a percentage of the birds representing in total value the state's investment in chicks and feed shall be returned to the department and released on state wildlife areas. Cost records from the Poynette game farm will be used to determine the value at release age. The balance of the cost-share birds may be released by the individual or group on private lands, posted as desired, except that none may be released on private shooting preserves or private game farms.

**(4) RESEARCH AND SURVEYS.** Statewide or regional surveys and investigations shall have high priority. Their primary objective is the establishment of base information regarding population densities, harvest, range and habitat quality or quantity. Periodic reassessment of these same bases will yield trend information necessary for management.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, July, 1977, No. 259, eff. 8-1-77.

**NR 1.15 Big game mammals.** Big game mammals in Wisconsin are white-tailed deer and black bear. The needs and actions specified in this section are essential to an effective big game management program.

**(1) HABITAT MANAGEMENT.** The natural growth and changing composition of forest stands, particularly in the north, is causing a long-term decline in habitat quality for big game and other forest wildlife.

(a) *Forest diversity.* A planned program of maintaining forest diversity including shade-intolerant cover types, particularly aspen, oak and forest openings, is required to slow or halt this decline in habitat quality and to maintain deer populations at established goal levels.

(b) *Summer range.* Habitat conditions are deteriorating most rapidly on summer deer range. Forest maturation, conversion from sun-loving tree species to shade tolerant species and loss of grassy openings are reducing the quality of summer deer range and with it, the deer carrying capacity in northern Wisconsin. The

management objective, depending upon the deer population goal, is to provide an adequate mixture of aspen, oak, upland brush, jack pine and sodded openings in connection with regular forest management practices.

(c) *Winter range.* Winter habitat may be increasing as a result of expanding coniferous cover and implementation of deer yard plans on public lands. However, winter deer survival is largely dependent on fat acquired on the summer range. Deer have evolved physiologically and behaviorally to survive in northern forest habitats under average winter conditions. Occasional severe winters will result in deer mortality. These periodic losses are considered normal for northern deer and will occur irrespective of winter habitat quality. Severe deer losses can be mitigated most effectively by maintaining quality summer habitat. Direct feeding of hay, corn or other agricultural crops is seldom effective and even detrimental if not introduced gradually over time. While browse cutting does provide natural feed, it is largely ineffective. Specially formulated feed in pelletized form has been demonstrated to benefit malnourished deer. However, the cost and logistics of feeding enough deer to produce a measurable result in subsequent years precludes feeding as normal public policy. The department recognizes public concern for malnourished deer, public desire to feed stressed deer regardless of cost or measurable results and the benefits to individual animals which are properly fed. Therefore, the following policy is adopted for wintering deer in the northern forest.

1. The department will seek appropriate deer harvest quotas to maintain deer populations at established goals.
2. Habitat management will emphasize maintaining summer range quality which will produce well nourished deer in the fall and enhance their overwinter survival.
3. The department will monitor wintering deer herds by surveying yarding areas and measuring winter severity.
4. The department will implement existing deer yard plans to maximize browse and perpetuate priority cover.
5. The department will provide technical advice and guidance to individuals and groups on where, when, what and how to feed privately acquired food to deer during severe winters.

(2) **HARVEST.** Big game hunting regulations shall be designed to meet the following objectives:

(a) *Deer population goals.* The department shall seek to maintain a deer herd in balance with its range and at deer population goals reasonably compatible with social, economic and ecosystem management objectives for each deer management unit. Deer population goals are to be based on:

1. Carrying capacity as determined by unit population responses to habitat quality and historical records of winter severity.
2. The demand for deer hunting and viewing opportunities.
3. Ecological and economic impacts of deer browsing.
4. Disease transmission.
5. Concern for deer-vehicle collisions.
6. Chippewa treaty harvest.

(b) *Hunting objectives.* Achieving and maintaining opportunities for a range of deer hunting experience while still allowing to the extent possible, freedom of choice by hunters. Regulations should provide incentives or disincentives to encourage better distribution of hunting pressure. If hunter numbers continue to increase, control of hunting pressure may become necessary.

(c) *Black bear.* Maintaining the black bear as a trophy big game animal and offering the best opportunity for a quality hunting experience. In addition, the maintenance of a quality hunt will be emphasized by continuing controls over the use of bait and dogs.

(d) *Animal damage.* Deer and bear damage complaints will be handled according to the provisions of s. 29.889, Stats., and rules

as published in the Wisconsin administrative code. Damage can be most economically controlled by maintaining populations with a hunting season harvest as specified in par. (a).

(3) **RESEARCH AND SURVEYS.** Surveys, investigations and research shall be conducted to provide technical information necessary to establish population estimates, harvest recommendations, population goals and habitat management needs and guidelines.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, July, 1977, No. 259, eff. 8-1-77; am. (2) (d), Register, January, 1984, No. 337, eff. 2-1-84; am. (1) (a), (2) (a) and (b), r. and recr. (1) (b) and (c), Register, July, 1987, No. 379, eff. 8-1-87; r. and recr. (2) (a), Register, July, 1996, No. 487, eff. 8-1-96; correction in (2) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**NR 1.16 Furbearers.** For the purposes of this section, furbearers are muskrat, mink, weasel, beaver, otter, skunk, raccoon, fox, coyote, bobcat and opossum. The furbearer management program has the following essential needs and actions:

(1) **HABITAT MANAGEMENT.** (a) Wetlands are the primary habitat component for many furbearers so the actions regarding wetland protection and management stated in s. NR 1.12 (1) are reemphasized in relation to furbearers.

(b) The capacity to produce furbearers on lands and waters under the management and control of the department can be increased through more intensive management of suitable habitat. Generally, management activities designed to improve furbearer populations are compatible with management for other species of wildlife. In certain situations, populations of furbearers such as fox, raccoon, coyotes and skunks can depress the population of other game species. Management activities on department lands should be designed to achieve a desirable balance between predator and prey species which is consistent with goals and objectives established in the course of developing master plans for state properties.

(c) Since the majority of furbearers depend upon habitat under the control of private landowners, management information will be provided to private landowners requesting it. Incentive programs to encourage habitat preservation and management on private lands will be developed where they are feasible.

(2) **HARVEST.** Furbearers are significant from a biological, recreational and economic standpoint. Regulations will be designed to make optimum use of these species for these purposes.

(a) Every effort shall be made to design regulations on as uniform a basis as possible that will still maintain desirable population levels from year to year. High pelt prices on these species can result in temporarily depressed, local populations. Both recreational and biological objectives shall be accorded primary consideration in the establishment of harvest regulations.

(b) Because of the recreational and economic value of the furbearer harvest present trapping methods and techniques must continue. However, efforts to develop new trapping methods and techniques will be encouraged.

(3) **STOCKING.** Stocking of furbearers is restricted to the trapping and relocation of certain species to effect planned range extension or introductions.

(4) **DAMAGE.** (a) All of these species are capable of causing economic damage. Section 29.885, Stats., provides a procedure for dealing with wild animals causing damage to private property. Desired population levels of furbearers and hunted carnivores will be maintained primarily by the use of general public hunting and trapping seasons. Control of damage through the issuance of permits to the complainant shall be the next step employed to control problem animals. Direct control by the department shall be employed only where other control methods are not feasible or effective.

(b) In addition to the above, beaver activities can harm trout habitat and lowland forest stands but at the same time can benefit the habitat of other wildlife species. Beaver reduction and management programs shall be based on the following guidelines:

1. In all areas containing class I trout waters or productive lowland coniferous stands, a program to keep beaver populations at low levels that do not adversely affect these resources shall be conducted;

2. On reaches of other trout streams, where it is clearly demonstrated that beaver activity is deleterious to water quality or trout habitat, beaver populations shall be kept at sufficiently low levels to protect these resources;

3. In all other areas, beaver shall be managed to produce populations that will provide sustained annual harvest.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r and recr. Register, July, 1977, No. 259, eff. 8-1-77; correction in (4) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**NR 1.17 Nongame wildlife.** Nongame species play an important role in the normal functioning of ecosystems and contribute to the aesthetic quality of our environment. Since nongame management programs provide significant benefits to many segments of society, new sources of revenue (other than hunting license fees or excise taxes) will be sought to support expansion of these programs. New federal excise taxes on selected outdoor recreation equipment are supported as one appropriate source of funding for this program. Nongame species include all birds, mammals and other terrestrial vertebrates which usually have no open season for hunting or trapping. Species classified as endangered or threatened are also included in this section. To implement an adequate program for nongame wildlife, the following needs and actions are essential:

(1) **HABITAT MANAGEMENT.** Habitat requirements of nongame wildlife collectively encompass almost every combination of topography, soils, water and vegetative types. The highest priority for management will be allotted to endangered, threatened and uncommon species. In order to protect and manage habitat for nongame species on public and private lands, programs will be initiated as required which may include the protection, development and maintenance of key nesting grounds, den sites, feeding areas, roosting areas, wintering areas, strategic migrational rest areas and other critical habitat components. Program implementation may employ one or more of the following actions:

(a) Acquisition, lease or easement of land rights;

(b) Food and cover management, construction of artificial nest or roost devices, refuge creation, protective fencing, incorporating important habitat needs into management plans for public lands, or providing incentives to private landowners to develop or protect habitat.

(2) **PROTECTION.** Most nongame species are protected by law; however, certain species may become so low in numbers that the special status of "endangered" is created by administrative rule under s. 29.604, Stats., and ch. NR 27. Endangered species are those whose continued existence as a part of the state's wild fauna (or flora) is in jeopardy and, without further state action, may become extirpated. Threatened species currently receive some protection under ss. 23.09, 23.11, 29.011, 29.014 (1) and 29.041, Stats., and those which appear likely, within the foreseeable future, to become endangered. Additional regulations will be adopted as necessary for the protection of endangered and threatened species and for any nonhunted wildlife species that is exhibiting a chronic decline in abundance. Human access to critical areas of endangered or threatened species habitat on public lands will be limited or prohibited as necessary.

(3) **DAMAGE.** The payment of damages caused by nonhunted wildlife species is opposed. Should legislation mandate such payment, sources of funding other than hunting license fees or excise taxes will be sought.

(4) **RESEARCH AND SURVEYS.** (a) Many nongame species require the development of new survey techniques as well as a system to monitor population trends. Annual surveys will not be required for most species. Indications of marked population declines will require more frequent and precise surveys to deter-

mine if management action is required. Endangered and threatened species will require close monitoring until they become more abundant.

(b) A nongame program must rely on the knowledge available for each individual species to be managed. Research projects will be initiated as required to provide the following information: life history, habitat requirements, population distribution and abundance, census methods, management techniques and effects of land use changes, pesticides or other environmental population depressants.

(5) **PROPAGATION AND STOCKING.** Due to habitat changes or other ecological factors, a species may decline to the extent that viable breeding populations are absent. In this event, a reintroduction program would be considered and evaluated to determine potential adverse interactions with other species, and any environmental factors that would negate successful establishment. Wisconsin pledges cooperation with other state and federal agencies in feasible reintroduction programs which require the capture and export of Wisconsin wildlife.

**History:** Cr. Register, July, 1977, No. 259, eff. 8-1-77; corrections in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**NR 1.18 Captive birds and mammals.** (1) **DEFINITIONS.** (a) "Captivity" or "captive" means the state of confinement within a fence, pen, cage, house or similar enclosure.

(b) "Captive game farm birds and mammals" means birds and mammals which were propagated in captivity.

(c) "Wildlife" means birds and mammals which have inhabited and were propagated in a natural environment.

(2) **GENERAL.** (a) Authorized activities involving captive wildlife result in recreational, educational and economic benefits. The department, when feasible, will establish joint permit systems with other agencies having jurisdiction of the protected wildlife.

(b) Permits authorizing possession of captive wildlife or captive game farm birds and mammals shall be denied or revoked upon a showing that such possession results in care practices which are not humane, adequate or sanitary.

(c) The department may receive confiscated wildlife and shall render care consistent with standards and guidelines established for captive, protected wildlife.

(3) **REHABILITATION.** (a) First aid and temporary care administered to orphaned, injured or confiscated wildlife may provide important benefits to the scientific community through knowledge gained during such treatment as well as benefit the wildlife being treated.

(b) Necessary standards for facilities and care shall be established to assure proper care and confinement.

(c) Skunks may not be held under this permit authority.

(d) Wildlife may be destroyed by the department or permittees when there is no hope of successful release to the wild or for cost free use for falconry, wildlife exhibits, propagation, zoos or educational institutions.

(e) The department may not actively engage in a rehabilitation program but provide coordination of referrals to authorized rehabilitators. The department may continue to provide care for confiscated wildlife.

(4) **FALCONRY.** (a) The use of certain species of raptors for the pursuit and capture of wild animals is a legitimate use of a natural resource which requires skill and dedication on that part of the user and may yield important biological, ecological and other scientific knowledge of predatory birds.

(b) Because of the complexities of the sport, permit applicants will be tested for their knowledge of basic biology, raptor care, literature, laws, and regulations.

(c) Special hunting seasons may be established within the biological limits of the wildlife species to provide recreational opportunities.

(d) When the security of any wild population of raptor is in doubt or in jeopardy, the department shall prohibit the use of wild-trapped birds of that species for falconry.

(e) The use of raptors hatched, raised or rehabilitated in captivity will be encouraged for falconry to reduce the use of wild raptors.

(f) The department will encourage educational efforts to improve the public's knowledge of raptors and monitor the program, particularly regarding the health, care, taking and transfer of raptors.

**(5) WILDLIFE EXHIBITS.** (a) The use of game farm birds and mammals or wildlife which cannot be released to the wild for advertising or exhibition purposes serves the public interest when the public's general knowledge of wildlife is increased by such use.

(b) Standards for facilities and care shall be reviewed by the department to insure humane and sanitary treatment of captive birds and mammals and compliance with the animal welfare act of 1966 (P.L. 89-544), as amended.

(c) No exhibited bird or mammal may be released to the wild. Further precaution shall be taken to minimize contact between captive and free-roaming wildlife.

**(6) PROPAGATION.** (a) Use of propagated game birds, game mammals and raptors contributes to the satisfaction of public demands by providing an alternative to the complete reliance upon wildlife populations. Habitat components beneficial to the survival of wild populations may be protected by private citizens participating in these programs.

(b) The department shall provide housing guidelines and each permittee shall implement control measures which minimize disease and potential threats to wildlife.

(c) The department may authorize the periodic taking of wildlife for breeding purposes.

**(7) ENDANGERED AND THREATENED SPECIES.** Birds and mammals on the Wisconsin endangered and threatened species list (s. NR 27.03) may be acquired and possessed only by persons possessing a Wisconsin endangered species permit issued under s. 29.604 (6), Stats.

**(8) SCIENTIFIC COLLECTION.** Except as provided by specific rule or law, all protected wild animals, alive or dead, not listed as endangered or threatened species may be acquired and possessed only by persons possessing a scientific collectors permit issued under s. 29.614, Stats. Such permits shall be issued only if the use of the wild animal provides useful scientific knowledge or educational opportunities in the natural sciences consistent with s. NR 19.11.

**(9) VETERINARIANS.** Licensed veterinarians providing emergency treatment of wildlife or game farm birds and mammals shall not be required to possess additional department permits.

**(10) TEMPORARY POSSESSION.** Wildlife is often obtained by citizens attempting to rescue sick, injured or orphaned birds and mammals. Such person shall notify a conservation warden within 24 hours and advise of such possession.

**(11) DOG TRIALS AND DOG TRAINING.** The use of captive game farm birds and mammals for dog trial and training activities is consistent with sound resource management principles and provides opportunities for hunters to improve their dog handling skills and the dog's performance during periods closed to hunting.

**History:** Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. (2) (d), cr. (11), Register, April, 1985, No. 352, eff. 5-1-85; corrections in (7) and (8) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**NR 1.20 Growing trees and shrubs. (1)** The department shall produce and make available from state-operated nurseries trees and shrubs of suitable species and size to be planted in the state of Wisconsin for forestry and other types of conservation projects. No trees or shrubs intended for private ornamental or landscape planting shall be sold by the department.

**(2)** The following guidelines shall be adhered to:

(a) No trees or shrubs over 5 years of age or more than once transplanted shall be produced for general distribution by state-operated nurseries.

(b) Species grown shall be limited to trees and shrubs normally used for forestry and wildlife plantings.

(c) No shipment of less than 500 trees will be made to an applicant. However, "wildlife packets", including trees and shrubs and tree packets for windbreaks, shelterbelts and erosion control in quantities of not less than 250 trees or shrubs shall be made available where practicable.

(d) No trees or shrubs shall be made available to commercial or municipal nurseries for lining out stock or other nursery purposes.

(e) Nursery stock produced in state-operated nurseries may not be utilized for the commercial production of Christmas trees.

(f) Trees and shrubs may be purchased for education and public awareness purposes by educational institutions, youth groups (such as 4-H, future farmers, boy scouts, girl scouts and similar vocational or character building organizations), and nonprofit organizations for planting, provided the department is assured the project will have adequate supervision.

(g) All trees and shrubs distributed for planting on private lands, except as provided in par. (h), shall be purchased at prices established by the department in accordance with s. 28.06 (2), Stats.

(h) Trees and shrubs may be made available free of charge for department-sponsored forestry promotional events, university research and project respect participants, provided the department is assured the project will have adequate supervision and pending availability of nursery stock.

(i) Species inventories exceeding sales and allotments may be sold or traded with other states or the U.S.F.S.

(j) Nursery stock produced in state-operated nurseries shall be made available for reforestation purposes on county forest lands entered under s. 28.11, Stats., at 50% of the prevailing price established in accordance with s. 28.06 (2), Stats.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. (2) (e) and (h), am. (2) (f) and (g), cr. (2) (j), Register, April, 1993, No. 449, eff. 5-1-93.

**NR 1.21 Private forestry assistance. (1) PURPOSE.** This section and ss. NR 1.211 to 1.213 contain rules for the administration of the private forestry assistance program to private, non-industrial landowners under ss. 26.35, 28.01 and 28.07, Stats. Priorities for servicing private forestry requests and a cooperative program with consulting foresters is established.

**(2) DEFINITIONS.** For the purpose of this section and ss. NR 1.211 to 1.213:

(a) "Consulting forester" means a forester who provides a variety of professional forestry services to and represents private landowners on a contract or fee basis which is paid by the landowner.

(b) "Cooperating forester" means a consulting forester or industrial forester who enters into a cooperative agreement with the department relating to the providing of forestry services to private landowners.

(c) "Department" means the Wisconsin department of natural resources.

(d) "Department forester" means a person meeting the qualifications of the department and employed by the department to carry out assigned forest management responsibilities.

(e) "Forester" means a person other than one employed by the department who has received a forestry degree in an accredited forest management curriculum from a university or college with a 4-year curriculum, or accredited graduate degree in the management of forest resources.

(f) "Forestry firm" means a business that employs a forester or foresters and is engaged in providing forest management services to private landowners.



(g) "Industrial forester" means a forester employed by a wood-using industry, who, as part of his or her employment, provides advice and assistance to private landowners to promote approved forest management practices.

(h) "Poletimber" means those trees that range from 5 to 9 inches in diameter for conifers and 5 inches to 11 inches in diameter for all other species when measured 4.5 feet above ground level and which contain a minimum volume of 3 cords per acre.

(i) "Sawtimber" means those trees that are at least 9 inches and larger in diameter for conifers and 11 inches and larger in diameter for all other species when measured 4.5 feet above ground level and which contain a minimum volume of 1300 board feet per acre.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, July, 1989, No. 403, eff. 8-1-89; am. (2) (d), Register, May, 1994, No. 461, eff. 6-1-94; renum. (2) (a) to (f), (i) and (j) to be (2) (b) to (f), (a), (h) and (i) and am. (2) (a), (b) and (e), am. (2) (g), r. (2) (h), Register, February, 1996, No. 482, eff. 3-1-96.

**NR 1.211 Cooperative forestry policy.** The department shall administer the private forestry program in a manner which will provide management assistance to owners of private forest lands.

(1) The department shall provide technical forestry assistance on privately owned forest lands in Wisconsin.

(2) The department may enter into agreements with any governmental agency, public or private corporation or private owner to achieve improved forest land management.

(3) The private forestry program shall focus on leadership in forestry through management planning, demonstration, education and coordination of forestry activities. The department shall strive to reach a large number of people and effect forest management on the most acreage as is reasonably possible.

(4) Department foresters shall cooperate with other professional foresters, groups and individuals to influence and encourage forest land management.

(5) Department foresters shall recommend integrated management principles that enhance forests, wildlife, aesthetics, recreation and watershed protection through applied silvicultural practices.

(6) The concept of multiple-use of forest lands will be utilized to assure maximum public benefits of wood production, wildlife management, improved watershed protection, recreational use and aesthetics.

(7) Department efforts shall be concentrated on those activities having the greatest potential of providing for present or future multiple use and public economic benefits.

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

**NR 1.212 Private forestry priorities for assistance.** Department foresters shall comply with the following priorities in providing assistance to and responding to requests for assistance from private landowners within the resources available and normal work plan:

(1) **PRIORITY I ACTIVITIES.** Department foresters shall follow the priorities established in this section in servicing requests. (Activities are of equal priority within this section.)

(a) Education of forest landowners and the general public.

**Note:** The role of the forester in education is to use all reasonable means, including demonstration to increase the public's awareness of forest land management. It is not expected that such educational endeavors will normally include teaching in educational institutions.

(b) Administration and oversight of the forest tax laws, or forest practices on the land under the forest tax programs in subchs. I and VI of ch. 77, Stats. Administration and oversight includes review of petitions for eligibility, preparation of management plans and enforcement of the provisions of the law and is not subject to the 3 day per year limit. Forest practices include woodland reconnaissance, tree planting, timber sale set-up and cultural operations and are subject to the 3 day per year limitation.

(c) Certification of need and performance of federal cost-sharing programs administered by the consolidated farm services agency.

(d) Conducting general forest land reconnaissance on new requests for assistance to determine management needs, provide information to encourage sound forestry practices and long-term management programs, and provide private landowners with information on the forest tax programs. This includes the preparation of management plans on land not under the forest tax programs in subchs. I and VI of ch. 77, Stats., which appear to provide the best potential to result in productive management.

(2) **PRIORITY II ACTIVITIES.** Department foresters shall respond to the following types of forestry assistance requests upon completion of Priority I activities listed under sub. (1).

(a) Designating for harvest and market, timber on land not under the forest tax programs in subchs. I and VI of ch. 77, Stats., but for which there is a written management plan and within the limitations specified in sub. (3).

(b) Tree planting advice on land not under the forest tax programs in subchs. I and VI of ch. 77, Stats., or a federal cost-sharing program.

(c) Designating cultural operations on young stands on land not under the forest tax law programs in subchs. I and VI of ch. 77, Stats., or a federal cost-sharing program.

(d) Conducting insect and disease control surveys and recommendations. Major forest pest outbreaks, however, shall be responded to on a Priority I basis.

(3) **LIMITATIONS, EXEMPTIONS AND PROHIBITIONS ON ASSISTANCE.** Assistance by department foresters shall ensure that forestry benefits will be provided to the greatest number of landowners.

(a) *Limitations.* 1. Each landowner requesting forest management assistance may receive no more than 3 work days (24 hours) of technical forestry service during each calendar year.

2. Department foresters may establish timber sales for private landowners where no more than 20 acres of sawtimber or no more than 40 acres of poletimber will be harvested and if the service has not been provided, up to these acreage limits, in the prior 10 year period.

3. All timber sale marking and volume designation on land subject to a request for assistance when the landowner's timber sale requirements exceed the limitations specified in subd. 2., shall be referred to cooperating foresters pursuant to cooperative agreements between the department and the cooperating foresters. The department may not provide timber sale marking assistance unless the landowner can demonstrate to the department's satisfaction that timber sale assistance is not reasonably available from a cooperating forester, or such service has been reasonably requested by the landowner and the request has been refused by a cooperating forester. The department shall provide the necessary forms and specifications for this referral system.

4. Department foresters may establish timber sales only after higher priorities are met.

5. Department foresters may only establish timber sales on lands for which there is a current forest management plan.

(b) *Exemptions.* The following activities are exempt from the work day assistance limit established in par. (a):

1. Activities related to compliance with the forest tax programs in subchs. I and VI of ch. 77, Stats.

2. Department cooperative services pertaining to administration of federal cost-sharing programs administered by the consolidated farm services agency.

3. Assistance to state and federal agencies, and local units of government, as time and workload priorities permit. This exemption does not preclude the use of cooperating foresters to provide service to these agencies and governments.

(c) *Prohibitions.* The following are services which may not be provided by department foresters on privately owned lands:

1. Appraisals of forest land, timber, timber damage, or right-of-ways. This prohibition does not preclude department foresters from providing general information on established stumpage values and current market trends.
2. Timber sale boundary establishment other than with a hand compass.
3. Private boundary line establishment by any means.
4. Preparation or enforcement of timber sale contracts other than providing an approved sample contract form.
5. Investigation or involvement with civil trespass, other than when investigating for a violation of ch. 26, Stats.
6. Shearing of Christmas trees except for instructional or educational purposes.
7. Arboriculture and tree-trimming.
8. Performing cultural practices or tree planting except for instructional or educational purposes.
9. Scaling cut forest products except for instructional or educational purposes.

**History:** Cr. Register, July, 1989, No. 403, eff. 8-1-89; am. (1) (intro.), (3) (a) 3., (b) 2. and 3., (c) 1., r. (1) (a), renum. (1) (b) to (e) to be (1) (a) to (d) and am. (1) (c), cr. (3) (a) 5., Register, February, 1996, No. 482, eff. 3-1-96.

**NR 1.213 Cooperating forester program.** (1) **PURPOSE.** To encourage the practice of forestry, maximize sound management of private forests in the state and provide forestry benefits to the public, a cooperative effort between the department and independent consulting foresters and industrial consulting foresters practicing in Wisconsin is established as provided in this section.

(2) Foresters or forestry firms who wish to enter into a cooperative agreement with the department shall apply to the department on department forms and submit the information requested by the department.

(3) The department may enter into cooperative agreements with foresters, including all persons identified as a consulting forester on the department's consulting foresters list as of February 1, 1989, and maintain a listing of cooperating consulting foresters and industrial foresters or forestry firms available to provide forestry services to private landowners. The cooperative agreements shall provide that:

- (a) The department shall establish a cooperative program of referrals of landowner requests for forestry assistance which will utilize cooperating foresters to provide private forestry assistance.
- (b) The cooperating forester shall manage private lands referred to the consulting or industrial forester in a manner which complies with standards established by the department for the management of department land.
- (c) The cooperating forester shall use accepted methods that recognize the landowner's personal land management objectives.
- (d) The cooperating forester shall attend a minimum of 6 hours of department-approved training annually.
- (e) The cooperating forester agrees to submit to the department reports of timber sale stumpage volumes and values for sales he or she administers.
- (f) Any other provisions deemed reasonable by the department to further the practice of sound forestry in the state.

**History:** Cr. Register, July, 1989, No. 403, eff. 8-1-89; am. (1) and (3) (intro.) to (e), Register, February, 1996, No. 482, eff. 3-1-96.

**NR 1.22 Establishment of coniferous plantations.** The department shall encourage the establishment and intensive management of coniferous plantations planted with suitable species and spacing. The landowner shall be encouraged to maintain access ways which will aid in the management, diversified use,

prevention, detection and suppression of destructive forces which might endanger such plantations

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.23 Fire control cooperation.** The department shall assist local governments in fire emergencies whenever possible, utilizing personnel and equipment from the department.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.24 Management of state and county forests.**

(1) The natural resources board's objective for the management of state forests and other department properties where timber cutting is carried out and county forests is to grow forest crops by using silvicultural methods that will perpetuate the forest and maintain diversified plant and animal communities, protect soil, watersheds, streams, lakes, shorelines and wetlands, in a true multiple-use concept. In the management of the forests, it shall be the goal of the board to insure stability in incomes and jobs for wood producers in the communities in which the state and county forest lands are located, and to increase employment opportunities for wood producers in future years. Whenever possible, large sale contracts shall be for 4 years which will assist wood producers in dealing with uneven demand and prices for their products.

(2) To achieve this objective, sale areas or cutting blocks and timber harvest operations will be planned through an intra-departmental inter-disciplinary review process when 10-year plans are developed in cooperation with the affected county to optimize management practices; to recognize the long-term values of preserving the integrity of the soil; to assure the maintenance of water quality; and to achieve multiple objectives of forest land management. Although multiple use shall be the guiding principle on state and county forests, the board recognizes that optimization of each use will not be possible on every acre. Desirable practices include:

(a) Fully utilizing available topographic maps, aerial photographs and soil surveys and combining these with local knowledge or field reconnaissance to ascertain on-the-ground conditions.

(b) Wherever practical, use perennial streams as harvest-cutting boundaries with provision for a streamside management zone to protect stream bank integrity and water quality, and with skidding planned away from these streams and the adjacent streamside management zones.

(c) An appropriate silvicultural system and cutting design should be planned to optimize economic skidding distances, to minimize road densities and unnecessary road construction and for efficient establishment and management of subsequent forest crops.

(d) Cutting boundaries should utilize topographic terrain, ridges, roads and forest type changes where ownership patterns permit and should provide a harvest area size consistent with economical skidding, available logging equipment, silvicultural requirements and other management objectives.

(e) Plan cutting layouts to avoid leaving narrow unmanageable strips of timber susceptible to storm damage and windthrow.

(3) Department properties and county forests shall be zoned and managed primarily for aesthetic values in selected areas as identified in the master plan to recognize the importance of scenic values to the economy of the state. When clearcutting can be used to develop specialized habitat conditions within the forest, i.e., savanna type openings for sharp tail grouse management or is the appropriate silvicultural system, due consideration shall be given to the attainment of biological diversity of the future forest, the development of edge for wildlife, a variety of age classes in future growth and aesthetic quality of the area. Clearcutting is a silvicultural system usually applicable to intolerant species and is defined for purposes of this policy as a timber removal practice that results in a residual stand of less than 30 feet of basal area per acre upon completion of a timber sale. Furthermore, as the existing acreage of overmature even-aged stands change, the long-range goal of

the board shall be to increase the intensities of professional management on the state and county forests.

(4) Special management practices shall apply to eagle and osprey nesting sites, deer yards, to lake and stream shoreline zones, to sensitive soil types, to springs and important watersheds, to selected aesthetically managed roadsides and to land use zones identified in the master plan as managed more restrictive.

(5) Block type plantings of a single species that create a mono-type culture within an area shall be discouraged. Plantations shall be established to achieve a more aesthetically pleasing appearance and to provide for added diversity of type. Planting will be accomplished by varying the direction of the rows or contouring to create a more natural appearance, planting on the contour, using shallow furrows or eliminating furrows where practical. In planting adjacent to a major roadway, the first rows should be parallel to the roadway to meet aesthetic concern and provide game cover. Existing and new plantations will be thinned at the earliest opportunity and periodically thereafter to develop an understory for wildlife habitat and a more natural environment.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78.

**NR 1.30 State park system.** (1) State parks shall be classified, as follows, into their most logical employment and greatest usefulness:

(a) *Scenic parks.* Parks having unusual scenic charm and beauty, distinctive landscapes, and particular appeal to nature lovers, and of sufficient size to enable use by large numbers of people without destruction of the qualities essential to their purpose.

(b) *Historical – memorial parks.* Parks of archaeological, memorial and historical significance.

(c) *Roadside parks.* Parks possessing scenic and other park characteristics adjacent to or associated with important state trunk or interstate highways.

(d) *Recreation parks.* Parks which offer the best natural values for recreation, have scenic qualities, and contain water for recreational purposes and are of sufficient size to prevent destruction through overuse.

(e) *Park trails.* Continuous corridors, whether or not associated with a state park or state forest, suitable for hiking, biking, horseback riding, snowmobiling, canoeing or nature study.

(2) No overnight lodging facilities other than designated campgrounds, group camps and staff residences may be constructed in state parks, except:

(a) Those constructed for use exclusively by people with physical disabilities, with their family or attendant or both, and

(b) Overnight lodging in the Seth Peterson cottage at Mirror Lake state park.

(3) Archaeological features and historic buildings located in state parks may be restored and preserved.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; am. (2), Register, January, 1991, No. 421, eff. 2-1-91; am. (2), Register, June, 1994, No. 462, eff. 7-1-94.

**NR 1.31 State-owned islands.** The department shall maintain state-owned islands in natural and undisturbed condition consistent with controlled public use on islands suited for recreational purposes. Each state-owned island shall be classified for its most desirable use such as camping or picnicking, or to be maintained in a natural condition. Preference shall be given to aesthetic management and every effort shall be made to maintain forest growth and ground vegetation in as near a natural state consistent with other desirable uses.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.32 Natural areas and scientific areas.** (1) The legislature has indicated its intent to acquire, establish and preserve natural areas and scientific areas by creating ss. 15.347 (4), 23.27 and 23.092, Stats. The natural resources board agrees that such areas, by their preservation, protect the state's natural diver-

sity, provide sites for research and environmental education, and serve as benchmarks for assessing and guiding use of other lands in the state.

**Note:** Section 23.27, Stats., defines "natural areas" to include tracts of land or water which have native biotic communities, unique natural features or significant geological or archeological sites. Generally, natural areas are remnant areas which largely have escaped disturbance since settlement or which exhibit little recent disturbance so that recovery has occurred and presettlement conditions are approached. Generally, scientific areas are natural areas of at least statewide significance and useful for education or research.

(2) The department, with the advice and assistance of the scientific areas preservation council, shall:

(a) Conduct inventories of natural areas statewide including department controlled properties.

(b) Recommend for natural resources board approval sites on department properties as scientific areas.

(c) Recommend for natural resources board approval the acquisition of natural areas and designation of appropriate tracts as additions to the scientific areas system.

(d) Manage natural areas and scientific areas to perpetuate the native biotic communities, unique natural features and geological or archaeological sites.

(e) Encourage research and educational use by groups and persons on department controlled scientific areas, consistent with the individual site management guidelines.

(3) Prior to any change in status of a scientific area located on lands owned or controlled by the department, the natural resources board, with the advice of the scientific areas preservation council, shall determine in each instance that:

(a) The site is no longer suitable and no longer needed for the scientific area use for which it was established; or

(b) Other public uses are required due to unavoidable public necessity, but then only after notice to concerned groups and individuals and opportunity for public comment.

**History:** Cr. Register, May, 1982, No. 317, eff. 6-1-82.

**NR 1.40 Acquisition of recreational land.** (1) In the acquisition of recreational lands, the department shall place principal emphasis on the acquisition of lands in the heavily populated areas of the state and in places readily accessible to such areas.

(2) Projects under this section will be undertaken based on the following descending order of priority:

(a) Consolidation and completion of existing projects.

(b) New acquisition projects based on the following criteria listed in descending order of priority:

1. Land to protect rare and threatened natural resources; to protect genetic and biological diversity; and to protect, manage or restore critical fish and wildlife habitat.

2. Unique, one-of-a-kind opportunities that may only be available once; projects of special scenic quality; and projects that are "irreplaceable"; an uncommonly large tract of unique natural resources of sufficient size to provide immediate and significant results in meeting program goals.

3. Water-based resources that include land important to protect and improve the quality of the state's surface and ground water; and land for recreation and management along streams, rivers, lakes and flowages.

4. Lands to accommodate broad, natural resource-based outdoor recreation and state recreational trails.

5. Land within 40 miles of Wisconsin's 12 largest cities. If funding limits the ability to purchase available lands within existing urban areas, preference will be given to rural lands near population centers.

**Note:** Wisconsin's 12 largest cities are: Milwaukee, Madison, Green Bay, Racine, Kenosha, Appleton, West Allis, Waukesha, Eau Claire, Oshkosh, Janesville and LaCrosse.

6. Protection of scenic lands that meet the department priorities in subs. 1. to 5.

(c) Proposed new projects which fall within the following criteria will be given lower priority. Low priorities are not listed in order.

1. Wetland projects acquired primarily to provide additional protection beyond regulation and zoning that do not meet other recreational, water quality or resource management needs.

2. Projects to protect and preserve natural resources not threatened with incompatible use.

3. Projects not part of large, broad-based integrated management efforts to provide multiple outdoor recreational opportunities.

4. Timber production areas that do not meet other recreational, water quality or resource management needs.

5. Lands owned by another unit of government and not threatened with sale or incompatible use.

(3) All new projects shall be subject to natural resources board approval.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. (2), Register, February, 1996, No. 482, eff. 3-1-96.

**NR 1.41 Land acquisition authorization.** (1) The following land transactions of the department shall require board approval:

(a) Acquisitions where the purchase price is \$150,000 or more.

(b) Acquisitions where more than 40 acres are outside of an established project boundary.

(c) Acquisitions where the purchase price exceeds the highest appraised value.

(d) Acquisitions by condemnations of land.

(e) Acquisitions by gifts of land to the department.

(f) Acquisitions where improvement values exceed 35% of total appraised value.

(g) Acquisitions of short tenure with substantial increased value.

(h) Sales of state land that are no longer needed for conservation purposes where the value exceeds \$50,000 or where the acreage exceeds 40 acres.

(2) The secretary may approve all other land transactions.

(3) The department shall submit to the board a yearly statistical report on the land control program, including an analysis of the program's status in relationship to the state recreational plan.

(4) The department shall submit to the board at each meeting a report on the status of all options and pending land acquisitions showing the date of each option.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; am. Register, April, 1976, No. 244, eff. 5-1-76; r. and recr. Register, November, 1985, No. 359, eff. 12-1-85.

**NR 1.415 Policy on redesignation of department land uses.** (1) The department shall conduct a periodic review of land use designations in order to determine whether a redesignation will secure better management.

(2) Each redesignation of land use shall be subject to approval of the board.

**History:** Cr. Register, November, 1976, No. 251, eff. 12-1-76.

**NR 1.42 Acquisition of state forest land.** (1) Within established state forest boundaries, the department shall acquire suitable forest lands for the purpose of better blocking, consolidation of ownership and improvement of management possibilities. In the acquisition program, the department shall:

(a) Acquire by purchase or by exchange suitable publicly owned lands.

(b) Acquire by purchase suitable privately owned lands.

(c) Acquire suitable privately owned lands within the forest boundary by exchange for state-owned lands located outside the forest boundary which are no longer needed for conservation purposes.

(2) Outside established state forest boundaries, the department shall acquire lands for forestry purposes only when such lands are needed for specific purposes.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.43 Acquisition of fish and game lands adjacent to water.** (1) Lands on certain streams and lakes have been designated for acquisition by the board. Adequate land area, associated with the water, shall be acquired in connection with the acquisition of water frontage for preservation or recreational purposes.

(2) The width of parcels to be acquired on areas adjoining the water shall be based on the management objective of the project, the quality of the water or habitat, the opportunities for scenic enhancement or preservation, the level of public use, and the topography of the area, all with the purpose of protecting the water, the land and the associated flora and fauna.

(3) The boundaries of all land acquisition projects involving water frontage, shall extend a distance of a minimum of 150 feet from the shoreline, except for perpendicular access or where narrower strips of land will provide adequate access and habitat protection due to specific physical conditions, such as the presence of roads, favorable topography or land use conditions.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; am. (3), Register, April, 1976, No. 244, eff. 5-1-76.

**NR 1.44 Cooperation with county, town and municipal boards on land acquisition.** The department shall inform county, town and municipal boards of proposed boundaries of land purchase projects in their areas. If these boards officially object, they shall be afforded an opportunity for personal appearances to present such objections to the board before a final decision on the proposed acquisition is made.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.445 County board approval of land purchase.**

(1) PURPOSE. The purpose of this section is to implement the provisions of s. 23.0917(8)(d), Stats.

(2) DEFINITIONS. In this section:

(a) "Land" means any ground considered as real property, but does not include the beds of lakes or flowages below the ordinary high water mark.

(b) "Local government unit" has the meaning given in s. 66.0131(1)(a), Stats.

(c) "Members-elect" has the meaning given in s. 59.001(2m), Stats.

(d) "Own" means to hold in fee title.

(e) "Under the jurisdiction of" means subject to supervision, management and control as those terms are used in s. 23.11(4), Stats.

(3) CALCULATION OF LAND AREAS; NOTIFICATION TO COUNTY.

(a) Upon taking an option to purchase land, the department shall determine whether the requirements of s. 23.0917(8)(d), Stats., are applicable. The department shall develop and maintain information to allow a determination to be made.

(b) In making a determination on the applicability of s. 23.0917(8)(d), Stats., to a pending option, the department shall calculate the sum of the following areas for the county in which the option was taken:

1. Land owned or under the jurisdiction of the board of commissioners of public lands;

2. Land contained in parks, forests or recreation areas owned or under the jurisdiction of a local governmental unit;

3. Land contained in parks, forests, fish and wildlife refuges, lakeshores, military reservations, recreation areas, and wild and scenic rivers owned or under the jurisdiction of the United States government; and

4. Land owned or under the jurisdiction of the department for the purposes listed in s. 23.09(2)(d), Stats.

**Note:** The Wisconsin Register of Waterbodies, which is the state's official electronic database for identification of surface waters of the state, will be utilized to determine the areas of lake or flowage bed within a county. The Register is maintained by the Bureau of Fisheries Management and Habitat Protection and is available for inspection at the Department's offices at 101 S. Webster Street, Madison, and at DNR service centers.

(c) The department shall divide the sum of the land areas included in par. (b) by the total area of land in the county. If the result of the calculation equals or exceeds 66%, the department shall provide the county with the location and legal description of the optioned property. The department shall advise the county of the procedural requirements for county notification of residents and a vote by the members—elect of the county board pursuant to s. 23.0917 (8)(d), Stats.

**(4) DEPARTMENT PROCEDURES AFTER COUNTY BOARD VOTE.** The department shall note the county's action in its records filed at the bureau of facilities and lands at the department's offices at 101 S. Webster Street, Madison. If the vote is for approval, the department may use the appropriation under s. 20.866 (2) (ta), Stats., to purchase the lands in question. If the vote is against approval, the department may not use the appropriation under s. 20.866 (2) (ta), Stats., to purchase the lands in question.

**History:** Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

**NR 1.45 Disposition of state forest lands. (1)** State forest lands and other state-owned islands within state forest boundaries and lands which provide desirable public access to waters may be sold for the following purposes only:

(a) To a local unit of government when required for a public use.

(b) To others for the purpose of making land adjustments due to occupancy resulting from errors of survey.

(c) To convey good quality, arable land.

(d) To settle land title disputes.

(e) To public utilities and co-operative associations when needed for power and telephone substations, transformers, booster stations and similar installations.

(f) To dispose of land no longer needed for conservation purposes.

**(2)** State forest lands outside state forest boundaries which the natural resources board determines are no longer necessary for the state's use for conservation purposes shall be disposed of in accordance with the following priorities:

(a) Sale to or exchange with a unit of government.

(b) Sale to others.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.46 Disposition of state fish and game lands.**

**(1)** State-owned fish and game management lands may be sold only when the natural resources board determines such lands are no longer necessary for the state's use for conservation purposes and only in accordance with the following priorities:

(a) Sale to or exchange with another unit of government when the lands to be conveyed are required for another public purpose or the lands received in exchange are required for department project purposes.

(b) Sale to others.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. (2), Register, December, 1983, No. 336, eff. 1-1-84.

**NR 1.47 Disposition of state park lands. (1)** State-owned lands within state park boundaries shall not be sold or otherwise disposed of.

**(2)** State-owned lands outside state park boundaries and not within any other department project which serve no project purpose may be sold when the natural resources board determines such lands are no longer necessary for the state's use for conservation purposes and then shall be disposed of only in accordance with the following priorities:

(a) Sale to or exchange with a local unit of government when required for a public use.

(b) Exchange with others to consolidate state ownership within a park boundary.

(c) Sale to others.

**(3)** Restrictions may be imposed on lands disposed of to insure aesthetic park settings or compatible adjacent land uses.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.48 Leasing department lands. (1)** No leases for private use shall be executed, extended or renewed.

**(2)** The secretary may execute leases for public use or public benefit, including leases of department houses to department employees as a condition of employment for the benefit and convenience of the department.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, January, 1978, No. 265, eff. 2-1-78.

**NR 1.483 Leasing department tower sites for telecommunications systems. (1)** This rule establishes department policy regarding leasing of department tower sites to others for telecommunications systems not presently installed at department tower sites. These provisions apply to all nondepartment telecommunications users.

**(2)** For the purposes of this section:

(a) "Telecommunications system" means the components necessary to form a single functioning communications system at a tower site. Basic components of a telecommunications system include one equipment cabinet, one antenna, and one transmission line connecting the 2.

(b) "Tower site" means any department radio tower or lookout tower and the grounds in the vicinity of it. A tower site may or may not include a department transmitter building.

**(3)** The department will only consider a request to install a telecommunications system at a department tower site if it meets one of the criteria set forth in sub. (4). The department may reject a request to install a telecommunications system at a department tower site for any reason, including technical, legal or environmental problems associated with the request, or if granting the request could conflict with future department needs.

**(4)** The department will only consider a request to install a telecommunications system at a department tower site if the request is for a telecommunications system which is a:

(a) State of Wisconsin telecommunications system providing necessary communications between a state of Wisconsin agency and its employees, provided it meets the following criteria:

1. The specific equipment to be installed and the system it ties into are state-owned; and

2. The licensee, as defined in the station authorization granted by the federal communications commission, must be the state of Wisconsin; and

3. Communications must be between state employees conducting state business; or

(b) State of Wisconsin telecommunications system providing noncommercial broadcast services to the citizens of Wisconsin, provided it meets the following criteria:

1. Both the specific equipment to be installed and the system it ties into must be state-owned; and

2. The licensee, as defined in the station authorization granted by the federal communications commission, must be the state of Wisconsin; and

3. All programming must be noncommercial and must be available to the public without charge; or

(c) Telecommunications system owned by governmental entities other than the state of Wisconsin providing necessary public safety communications between a governmental entity and its employees, provided it meets the following criteria:

1. Both the specific equipment to be installed and the system it ties into must be owned by a unit of local government or the federal government; and

2. The licensee, as defined in the station authorization granted by the federal communications commission or the interagency radio administrative council, must be a governmental body; and

3. Communications must be between government employees conducting government business.

(5) If the department approves a request to install a telecommunications system at a tower site, it shall enter into a written lease with the requester. The department shall draft the lease.

(6) Lease charges shall be as follows:

(a) No charge for a lease meeting criteria in sub. (4) (a) or (b).

(b) \$25 per month for a lease meeting criteria in sub. (4) (c).

(7) Fees received from telecommunications site leases shall be used to offset, in part, the statewide costs involved in maintaining telecommunications tower sites.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**NR 1.485 Granting easements.** (1) Each conveyance across state lands for a right-of-way for public or private roads, public utility lines, other public purposes, or for flowage rights where such use does not conflict with the planned development by the department, may be granted by the department, but shall be presented to the board for approval if unusual circumstances or material impairment of project values are involved.

(2) A complete record of such conveyances shall be maintained by the department.

(3) Compensation shall be determined by appraisal. The loss of any project values shall be considered in establishing the value of such easement.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75.

**NR 1.49 Trespass.** (1) The natural resources board may cure unintentional trespasses by purchase or sale where practicable subject to state laws relating to purchase, sale, lease or exchange of lands not withstanding any other provisions of this chapter.

(2) Improvements may be removed and any trespass terminated, or legal eviction action may be taken, where a trespasser on state-owned land under the jurisdiction of the department of natural resources has been found by the natural resources board to have been guilty of willful, intentional or negligent conduct with respect to such trespass.

**History:** Cr. Register, April, 1975, No. 232, eff. 5-1-75; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1996, No. 487.

**NR 1.50 Policy on issuance of environmental pollution orders.** (1) **DEFINITIONS.** (a) "Department" means the department of natural resources.

(b) "Board" means the natural resources board.

(c) "Air pollution" means the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

(d) "Water pollution" includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(e) "Rule" means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing), of general application and having the effect of law, issued by the department to implement, interpret or make specific legislation enforced or administered by the department or to govern the organization or procedure of the department.

(f) "General orders" of the department are rules and mean orders issued by the department applicable throughout the state

for the construction, use and operation of practicable and available systems, methods and means for preventing and abating environmental pollution.

(g) "Special orders" of the department mean orders issued by the department applicable to and directing specific persons to secure operating results in the control of environmental pollution within the time or times prescribed in the orders.

(h) "Emergency orders" of the department mean temporary orders issued by the department under emergency conditions of environmental pollution.

(2) **RULES.** Rules and general orders shall be adopted in accordance with the provisions of ch. 227, Stats. The notice of hearing on each rule requiring a hearing shall include the express terms or an informative summary of the proposed rules.

(3) **SPECIAL ORDERS.** (a) *Water pollution.* Special orders shall be issued by the department only after a hearing held for the purpose of ascertaining whether such orders are necessary for controlling or abating environmental pollution. Each proposed special order shall be served upon the persons affected thereby together with the notice of hearing thereon. The notice of hearing shall also be published as a class 1 notice in a newspaper having wide distribution in the area. Not less than 10 days notice specifying the time and place of the hearing shall be given by the department. The hearing shall be conducted in accordance with and be governed by ch. 227, Stats. After the hearing, the proposed special order may be set aside or it may be modified, amended or affirmed in whole or in part and a special order issued accordingly.

(b) *Air pollution and solid waste.* 1. In issuing special orders for air pollution and solid waste the department may follow the procedure set forth in par. (a) or

2. The department may serve on alleged violators a notice of alleged violation specifying the statute or rule allegedly violated and findings of fact on which the violation is based. An order shall accompany said notice. The order shall become effective unless the person named in the order requests in writing a hearing within 10 days of the service of the order. If a hearing is requested, the order shall be suspended. After the hearing is closed, the department shall affirm, amend or rescind the order.

(4) **EMERGENCY ORDERS.** Emergency orders may be issued by the department without a hearing whenever the department determines that a condition of imminent or actual water or air pollution exists which requires immediate action. The emergency orders shall specify the time and place of hearing thereon, not more than 24 hours after service of the order on the persons affected thereby in the case of air pollution, and as soon as practicable but not more than 20 days after service of the order on the persons affected thereby in cases of water pollution. Before the close of the hearing, and not more than 24 hours after the commencement thereof, the board, in air pollution cases, shall affirm, modify or set aside the emergency order or issue a special order. In the case of water pollution the department shall modify or rescind the temporary emergency order or issue a special order after the close of the hearing.

(5) **NOTICES.** All notices given by the department hereunder shall be served personally or by mail, and shall be deemed to have been served upon deposit in the United States mails addressed to the last known address of the person to whom addressed, with postage prepaid thereon. All petitions and notices to the department shall be served by delivery thereof to the Department of Natural Resources, 101 S. Webster St., Madison, Wisconsin 53702.

**History:** Cr. Register, February, 1971, No. 194, eff. 3-1-72; correction in (5) made under s. 13.93 (2m) (b) 6., Stats. Register, January, 1989, No. 397.

**NR 1.51 Management of state wildlife areas.** Section 23.09 (2) (d) 3., Stats., provides legislative authority and direction for the acquisition and management of wildlife areas. The primary purpose as stated in this statute is to provide "areas in which any citizen may hunt, trap or fish". Section 23.11 (1), Stats., provides for the general care, protection and supervision of state lands. Sec-

tion 23.30, Stats., deals with the provisions of the outdoor recreation program.

(1) In order to fulfill the statutory charge of providing public hunting and trapping on wildlife areas, the quality of their wildlife habitat must be maintained or developed. However, this is not to be construed as authority for exclusive single-purpose management of entire properties. Wildlife habitat needs and public hunting objectives shall receive major consideration in management planning for wildlife areas; however, fishery, forestry, wild resource and outdoor recreational objectives will be accommodated when they are compatible and do not detract significantly from the primary objective.

(2) The concept of a general user fee to fund operational activities on wildlife areas which require maintenance to keep them safe, functional and attractive is endorsed.

(3) The following uses will be accommodated on wildlife areas in accord with the priorities and constraints of practical and scientific wildlife management principles and obligations:

(a) *Public hunting and trapping.* The primary use on all designated wildlife areas shall be hunting and trapping. Legislation and regulations are encouraged to limit numbers of participants utilizing state land where necessary to insure opportunities for a quality recreational experience. The use of closed areas and/or refuges is endorsed to provide wildlife with required sanctuary from hunting and to protect property.

(b) *Scientific study.* Relatively undisturbed biological systems on wildlife areas provide a unique opportunity for scientific research on natural or near-natural systems. Since a thorough knowledge of wildlife ecology is the basis of a sound wildlife management program, the designation of suitable tracts as scientific areas is encouraged.

(c) *Compatible open-space uses.* Open-space pedestrian uses, including hiking, nature study, wildlife viewing and cross-country skiing are generally compatible with the primary purpose of wildlife areas. These activities will be accommodated but may have to be limited in time and location to avoid interference with wildlife production or survival and public hunting or trapping.

(d) *Camping.* Limited primitive camping may be permitted on wildlife areas. Camping should not be encouraged nor will developments be undertaken to service campers except at locations designated in the property master plan.

(e) *Off-road vehicles.* Unrestricted use of off-road vehicles, including snowmobiles, will not be permitted on wildlife areas. Agreements may be made with counties, other municipalities, or private clubs for the use and maintenance of designated trails or areas where such use will not be detrimental to wildlife or conflict with public hunting.

(f) *Horses.* Indiscriminate horseback riding will not be permitted on wildlife areas. Use of horses may be permitted on designated trail systems, specific dog trial and training areas and in other areas where such use will not unduly damage wildlife habitat or conflict with wildlife production and public hunting.

(g) *Special use permits.* Special use permits may be authorized for outdoor recreational activities such as organized youth group camping, dog trials, etc., but only where such activities do not conflict with each other and where they are compatible with the primary purpose of the property. Sites where such activities are to be permitted and the facilities required shall be designated in the property master plan.

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

**NR 1.52 Policy on promulgation of environmental quality standards.** (1) **DEFINITIONS.** As used in this section, "environmental quality standard" means a regulatory measure needed to prevent or reduce environmental pollution as that term is defined in s. 299.01 (4), 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; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

### 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 technical college system 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; correction in (3) (b) made under s. 13.93 (2m) (b) 6., Stats., Register July 2001, No. 547.

**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 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 recr. 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:

1. Inland Lakes	Minimum Public Boating Access Development
<b>(Open water acres)</b>	
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
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
<b>Rivers and Great Lakes</b>	
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
<b>(Open water acres)</b>	
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
<b>Rivers and Great Lakes</b>	
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.
<b>Rivers and Streams</b>	
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), 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 subs. 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. Comm 50 to 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-trailer 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; correction in (6) (a) and (8) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

**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; renum. 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, restoration and management.** (1) PURPOSE. It is the intent of the natural resources board to establish rules policy for the preservation, protection, restoration and management of wetlands in the state of Wisconsin. The administrative rules regarding wetlands 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 functions and values. Proposals for administrative rules and for legislation shall include appropriate provisions, consistent with this section, except as otherwise provided by law.

(2) AUTHORITY. The department, under existing law, has the responsibility of making and enforcing 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. 281.11, 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 29.011, 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 ecosystem 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 channeled 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., calcareous 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'. Wetlands that are sustainable, diverse and interspersed with healthy aquatic and terrestrial communities contribute to the overall ecosystem health. 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 natural resources board is concerned with the continuing reduction in the quantity and quality of natural wetlands in this state and is committed to reversing the loss of our state's wetlands. 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, restored and managed to maintain, enhance or restore their values. The natural resources board promotes, protects, restores, enhances and preserves the quantity, quality and diversity of Wisconsin's wetlands as a critical component of ecosystems essential to the health and quality of life of our state's diverse citizenry, plants, animals and landscapes. 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, restore and manage them for the maintenance or enhancement of their values.

(b) "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. 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 paragraph shall apply.

(c) The department shall strengthen relationships with stakeholders through outreach and technical assistance and stewardship incentive programs.

1. 'Outreach and technical assistance'. The department shall encourage public and private owners of wetlands to make sound decisions to use their land in a way that sustains both wetland and socio-economic benefits.

2. 'Partnerships'. The department shall cooperate with appropriate governmental units, private groups and the public to further the protection and enhancement of wetlands to provide

opportunities for education on wetland values and ecology. The department shall work directly with local officials and developers to encourage them to avoid wetland destruction or incorporate the wetland into their project planning and reduce the need for a permit.

3. 'Stewardship incentives'. The department shall, in cooperation with other state and federal agencies, provide incentives and conservation programs for wetland owners that encourage ecological restoration of altered and degraded wetlands and reward the perpetual preservation of wetlands and associated upland areas.

(d) The department shall preserve, protect, restore and manage the state's wetland communities to be sustainable, diverse and interspersed with healthy aquatic and terrestrial communities.

1. 'Ecosystem health and integrity'. The department shall protect, restore and manage the state's wetlands to contribute to ecosystem health. The department shall work with stakeholders to identify high quality wetlands taking into consideration ecosystem needs, physical and biological watershed processes, as well as social values, uses and perceptions.

2. 'Department management actions'. The department shall select resource management techniques which maintain or improve wetland functions and 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).

3. 'Land acquisition and easements'. The department's land acquisition and community financial assistance land acquisition programs 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. Unique, exceptionally high quality or scarce wetland community types and associated aquatic and terrestrial communities will be held in perpetuity through acquisition of land or easements by federal, state, tribal and local government or not-for-profit conservation organizations for future generations.

4. 'Restoration'. The department shall consider the full range of ecological concerns and meet multiple purposes in wetland restoration and enhancement projects. These projects shall help recapture previously drained or filled wetlands and result in an increase in wetland acreage and function. The department, with assistance from stakeholders, shall identify restoration sites in each watershed based on the potential to successfully restore important wetland functions and values, and the opportunity to restore a watershed's ecological integrity.

5. 'Enhancement for specific functions'. The department shall develop statewide plans and programs that allow wetlands to be managed and enhanced for specific functions.

(e) The department shall administer a comprehensive regulatory and enforcement program for protecting wetlands.

1. 'Regulation'. The department shall seek to administer a comprehensive state wetland regulatory program that is simple, straightforward and reasonable, and make decisions in a predictable, timely and fair manner. The department's wetland regulatory decisions shall be made in accordance with standards in ch. NR 103.

2. 'Enforcement'. The department shall have an effective wetland enforcement program that discourages permit violations and illegal wetland fill activities. The department's enforcement activities shall include steps to assure, to the fullest extent practicable, the restoration of wetlands which were unlawfully altered.

3. 'Compensatory mitigation'. The department shall administer an easy-to-understand compensatory mitigation program available to permit applicants. The full range of wetland impacts shall be considered when planning development projects. This

program shall recognize the need to avoid and minimize adverse wetland effects, to replace wetland functions, and to enable fair, protective and common sense regulatory decisions. The department's wetland compensatory mitigation decisions shall be made in accordance with the procedures in ch. NR 103 and the standards in ch. NR 350.

4. 'Liaison activities'. In its liaison activities with federal, tribal, 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 those cases, the recommended amount of wetland use or alteration shall be held to the minimum. The department shall encourage applicants to consider the full range of wetland impacts when planning development projects.

(f) The department shall develop and maintain an up-to-date inventory of the state's wetland resources and track management actions.

1. 'Technology'. The department shall make use of technological advances to ensure that staff and the public have the most current wetland information that can be easily integrated with other environmental and geographical databases.

2. 'Inventory and tracking'. The department shall maintain an inventory of the state's wetland resources and make it readily available to the public and staff for a full range of planning, policy, management and regulatory applications. The department shall develop and maintain a unified system to track and monitor restoration, preservation, management and regulatory actions.

**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; correction in (2) (b) and (d) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525; **CR 00-163: am. (1), (2) (intro.), (3) (b) 2, (intro.), 2, c., 4., and 6., r. and recr. (4) and r. (5) and (6), Register July 2001, No. 547 eff. 8-1-01.**

#### **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) (o), 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.