Chapter NR 1

NATURAL RESOURCES BOARD POLICIES

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NR 1.01 Great Lakes fishery management. (1) In accordance with the Conservation Act (23.09, Wis. Stats.) and other legislative direction, the policy of the natural resources board is to provide a flexible system for the protection, development and utilization of the waters and fish populations of the Great Lakes for the maximum public benefit.

(a) Since management of the Great Lakes is a matter of intrastate, interstate, federal and international interest, cooperation shall be sought in developing management objectives and measures for stocks of common concern.

(b) The Great Lakes fisheries are to be considered part of a diverse community in the environment of man. It is the policy of the natural resources board to promote efforts which will maintain and enhance the quality of this community and its environment.

(c) Management of the fishery resources shall be based on a sound understanding of the dynamics of interacting fish stocks. To this end, it is the policy of the natural resources board to encourage research, inventories of the resource base, and collection of harvest and utilization statistics on which to base management decisions.

(d) The fishery resources of the Great Lakes, though renewable, experience dynamic changes and are limited. The resources shall 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.

History: Cr. Register, March, 1976, No. 243, eff. 4-1-76.

NR 1.015 The management of wildlife, preamble. (1) The conservation act (section 23.09(1), Wis. 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 nongame 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 1.10 Deer management. (1) The Wisconsin deer herd shall be managed according to the following objectives:

(a) Keeping the herd in balance with its range and at densities that are compatible with agriculture, forestry and highway safety; and maintaining current levels of recreational opportunities for hunting and observation of deer in the wild.

(b) A statewide over-winter population goal of about 575,000 deer which is biologically capable of allowing a legal hunting harvest of 90,000 to 130,000 deer annually. Over-winter deer population goals for each management unit or either sex area are prescribed in Wis. Adm. Code section NR 10.24.

(2) Hunting seasons will be designed to harvest the annual surplus of deer with the objective of maintaining the population at the goals established for each unit or either sex area and discouraging abrupt increases in hunter densities.

(a) Basic types of seasons for hunting adult bucks or deer of any age or sex shall be established for designated areas of the state.

(b) When it is necessary to harvest additional deer to maintain unit population goals, deer hunting party permits authorized under section 29.107, Wis. Stats., shall be issued by the department in numbers determined by the natural resources board.

(3) Deer habitat management shall be accomplished under the forest wildlife habitat program.

(a) The objective shall be to conduct a program to maintain quality habitat for deer to achieve the over-winter population goal.

(b) Specific habitat management measures shall be employed on public lands other than designated wilderness areas and wild rivers consistent with long-term forest management plans.

(4) Surveys and research shall be conducted to provide technical information necessary to establish population estimates, harvest recommendations and habitat management needs and guidelines.

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

NR 1.11 General. 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.

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

NR 1.12 Migratory game birds. Migratory game birds are those species listed in section 29.01 (3) (d), Wis. 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 AND REGULATIONS. (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.

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 interspersion of important timber types and age classes for snowshoe hares must be considered in the course of making forest and woodlot 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 AND REGULATION. 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, 1976, 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 AND REGULATIONS. 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 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 Wis. Adm. Code chapter 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, 1976, No. 232, eff. 5-1-76; 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) A planned program of maintaining forest diversity including shade-intolerant cover types, particularly aspen and forest openings, is required to slow or halt this trend and to maintain deer populations at established goal levels.

(b) For summer range, the objective is to maintain from 25-65 percent or more (depending upon the deer population goal) of each ¼ township habitat inventory unit in a mixture of aspen, oak, upland brush, jack pine and a grass type consisting of sodded openings comprising at least 3-5 percent of the forest.

(c) Traditional deer wintering areas also require a positive management program. Planning to provide adequate browse and cover through commercial timber harvest will help maintain deer herds at population goals during normal winters. However, severe winters will place abnormal stress on deer in some areas resulting in significant mortality and reduced fawn production. In such areas emergency browse cutting for supplementing naturally available food on public lands will be authorized but only where designated in an approved deer yard plan as part of a long-range browse production program. For deer yards on private lands, department personnel may make recommendations as to when, where and how emergency browse can best be provided. Direct assistance on private lands requires the

declaration of a true emergency by the district director and the express permission of the landowner.

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

(a) Maintaining a deer herd in balance with its range and at population goals reasonably compatible with agricultural and forest management objectives in each deer management unit. Deer management units are areas of similar habitat bounded by major roads. Population goals in the forested deer range are to be based on long-term average carrying capacity as determined by unit population responses to past winters of varying severity. Goals in the agricultural range are to be based upon hunter demand balanced with an assessment of local human tolerance to deer numbers, particularly as it relates to crop damage and the frequency of deer-vehicle collisions on highways. Annual hunting seasons will harvest deer to maintain goal levels and will include buck, either-sex or buck and party permit bag limits as the need dictates.

(b) Achieving and maintaining opportunities for a quality 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) 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) Deer and bear damage complaints will be handled according to the provisions of section 29.595, Wis. 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 (2) (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.

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 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 AND REGULATIONS. 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 29.596, Wis. 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.

NR 1.17 Nongame wildlife. Nongame species play an important role in the normal functioning of eco-systems and contribute to the esthetic 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) REGULATIONS AND 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 section 29.415, Wis. Stats., and Wis. Adm. Code chapter 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 sections 23.09, 23.11, 29.02, 29.085 and 29.174, Wis. 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 determine 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.

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) Trees may be cut for Christmas tree purposes only where they are a product of plantation thinning. Christmas tree cutting shall not reduce the number of trees below 500 per acre.

(f) Trees and shrubs may be made available free of charge except for the cost of transportation to educational institutions, youth groups (such as 4-H, future farmers, boy scouts and similar vocational or

character building organizations), lessors of public hunting and fishing grounds, and state and county agencies and semi-public or nonprofit organizations for planting on public lands or lands open to the public or for research purposes, provided the department is assured the project will have adequate supervision.

(g) All trees and shrubs distributed for planting on privately owned land (except as provided in paragraph (f)) shall be paid for at prices approved by the department.

(h) Free trees and shrubs will be limited to a maximum of 1,000 per year to lessors of public hunting and fishing grounds.

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

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

NR 1.21 Private forestry. (1) The department shall provide technical forestry assistance on privately owned forest lands in Wisconsin.

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

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

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

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 esthetic 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 esthetic 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 esthetically 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 monotype culture within an area shall be discouraged. Plantations shall be established to achieve a more esthetically 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 esthetic 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 shall be constructed in state parks.

(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.

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 1.40 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) A high priority shall be placed on the consolidation and completion of existing projects and new projects shall be initiated only where unusual conditions of quality, location, cost, availability and need exist which justify their establishment and implementation.

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

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

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

(a) Acquisitions involving cost of $100,000 or more.

(b) Acquisitions partially or completely outside an established project boundary.

(c) Acquisitions, the cost of which exceeds the highest appraised value.

(d) Condemnations of land.

(e) Gifts of land to the department.

(2) The secretary is authorized to approve a proposed acquisition for board confirmation at a subsequent meeting if all of the following conditions exist:

(a) The acquisition cost is under $100,000.

(b) The acquisition involves land completely inside a project boundary established by the board.

(c) The acquisition cost does not exceed the highest appraised value.

(d) Where short tenure with substantial increased value is not involved.

(3) The department shall submit to the board each year a 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 of 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.

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 1.45 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.

(2) When such lands are to be sold to other than a unit of government, the sale shall be conducted by public auction or sealed bids.

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

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) New leases:

(a) No new leases for private use shall be executed.

(b) Short-term use permits for public use or public benefit may be issued in accordance with the statutes.

(2) Existing leases:

(a) No existing leases shall be extended or renewed.

(b) Acquisition of the rights of the lessees and tenants prior to the expiration date of such tenancies shall be made by the state when the consideration therefor is commensurate with public benefits.

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

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 NR 1.

(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.

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 chapter 227, Wis. 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 chapter 227, Wis. 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 paragraph (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, Pyare Square Building, 4610 University Avenue, Madison, Wisconsin 53701.

History: Cr. Register, February, 1971, No. 194, eff. 3-1-72.

NR 1.51 Management of state wildlife areas. Section 23.09(2) (d) 3., Wis. 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), Wis. Stats., provides for the general care, protection and supervision of state lands. Section 23.30, Wis. 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 1.90 Adequacy of access. (1) It is the purpose of this section and sections NR 1.91 and NR 1.92 to provide guidelines for access adequacy or abandonment decisions by the department. The public interest in the waters of this state and access to them shall be protected to the fullest extent authorized by the law. Abandonment of public access to a body of water shall not be approved if such abandonment would result in injury to the public rights as determined by the use of standards provided herein and in sections NR 1.91 and NR 1.92. The burden of demonstrating that abandonment will not injure the rights and interests of the public in a body of water shall be on the party requesting the approval of the abandonment. The availability of a body of water for public use may be used by the department as a factor in the development of priorities for the following so that the public is afforded the opportunity to utilize or receive benefit from:

(a) The awarding of development grants;

(b) The development of facilities adjacent to a body of water; or

(c) The delivery of management services designed to provide quality uses of a body of water.

(2) (a) "Adequate access" exists when the general public has been provided with entry to a body of water to enjoy quality uses at a reasonable fee, if one is charged, considering the character and uses of the water. The following criteria must also be met:

1. The public should be able to park within a reasonable walking distance of the body of water, given the character and use of the access, but in no case more than ¼ of a mile from the water. This paragraph is not applicable if the body of water or land surrounding it either has been designated as wild or wilderness by the department or is being managed as wild or wilderness in a manner and for a purpose acceptable to the department.

2. For a body of water having uses involving boating, adequate car-trailer unit parking must be provided to ensure that the existing or potential users are given an opportunity to park their vehicles within ¼ of a mile from the water.

3. The state of Wisconsin or one town, county, village, city or public inland lake protection and rehabilitation district in which the body of water is located shall have an interest in an access to the body of water by deed, easement or lease. In lieu thereof, the secretary of the department may decide that an acceptable alternative exists if there is sufficient privately owned access that is open to use by the general public.

(b) "Body of water" includes all waters of the state as used in section 147.015 (13), Wis. Stats.

(c) "Quality use" means an activity that can be enjoyed, given the character of the body of water, without damage to the resource or endangering the public health, safety or welfare.

(d) "Reasonable fee" means a fee that is consistent with, and acceptable under, section NR 1.92 (6) (f).

(3) In determining eligibility for a development grant or management services for a project on a body of water, the department shall make findings regarding the following:

(a) The amount and character of the existing public and private access, and the fees charged for the use of such access;

(b) The present uses of the body of water;

(c) Additional quality uses that could be made of the body of water, given its existing character, but which are presently restricted by the character of the existing access;

(d) If the character or quality of the body of water will be changed by the proposed action, the additional quality uses that could be made of the water and the additional access necessary to accommodate such uses; and

(e) Regulatory activities and management services that have recently occurred or are contemplated to occur on the body of water other than the ones presently proposed.

(4) A project on a body of water shall be eligible for management services or a development grant if:

(a) The existing access provides the public with an adequate opportunity to engage in any existing or potential quality use of the body of water, and the fee charged, if any, for the use of the access is reasonable; or

(b) There is a need to provide the public with a higher quality or higher quantity of use of the body of water, and a written commitment has been made to provide adequate access so that the public will benefit from the development grant or management services.

History: Cr. Register, October, 1977, No. 262, eff. 11-1-77.

NR 1.91 Access abandonment. (1) (a) The department of natural resources, upon receiving a petition for the abandonment of a public access to a navigable lake or stream, will publish a notice of the proposed abandonment pursuant to the procedures in section 31.06, Wis. Stats. If no hearing is requested, the department shall proceed under (3) 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 access is proposed to be abandoned. At the close of the hearing, the department shall make its decision based on the standards in (3).

(2) "Adequate access" is defined in section NR 1.90 (2) (a).

(3) The department shall grant the petition to abandon the public access if it finds one of the following:

(a) There is alternate adequate access available to meet the existing uses of the body of water and such other uses as may be reasonably anticipated; or

(b) Conditions of approval ordered by the department such as, but not limited to, a showing of financial capability of an applicant for approval of abandonment to maintain a comparable or superior replacement public access site, existence of a comparable or superior replacement public access site provided by the applicant or other conditions related to assurance of protection of the interest of the public in the body of water have been fully complied with by the applicant; or

(c) Environmental degradation is occurring as a result of existing usage of the body of water, and abandonment of the access will reduce or eliminate such degradation so as to outweigh the public rights and interest in access to that body of water.

History: Cr. Register, October, 1977, No. 262, eff. 11-1-77.

NR 1.92 Providing vehicular access to lakes and streams. (1) ACCESS TO WATERS. Access to waters is a variable requirement which must be based on the qualities of the waters, the space available, and the levels of use experienced. The department shall provide such public access, consistent with the quality of the resource and respecting private rights and developments, when approved by the natural resources board.

(2) PUBLIC ACCESS. Public access to navigable waters is defined as a way to such waters, publicly owned or under public control, reasonably direct and available to all by means of water, road, trail or otherwise through the privilege of crossing public or private lands without involving trespass.

(3) LAND ACQUISITION. Subject to approval of the natural resources board, the department shall:

(a) Acquire boat launching access to important stream systems.

(b) Actively pursue acquisition on lakes having more than 1,000 acres of surface water.

(c) Pursue acquisition on smaller lakes when the importance for recreational activities to the general public are such that the board determines it is desirable for the state to take action.

(d) Provide assistance to local units of government through state or federal aids administered by the state on waters where public access is desirable.

(4) AID PROGRAMS FOR ACCESS TO WATERS. Providing access is the joint responsibility of the state and local governments. The secretary is authorized to approve qualified aid projects in compliance with the rules set forth in Wis. Adm. Code chapter NR 50.

(5) ACCESS IN PLATS. Under section 236.16 (3), Wis. Stats., the department has authority to recommend wider access at less frequent intervals than prescribed in the statutes. The department shall:

(a) Consider waiver of the 60-foot access requirement only where it will be advantageous to the public to do so;

(b) Assure adquate space for users and adequate buffering for private property, with access wider than 60 feet where possible;

(c) Assure adequate access to the body of water upon approval of accessway abandonment.

(6) GUIDELINES FOR PUBLIC ACCESS. In state acquisition for access, in granting state or federal aids administered by the department to local governmental units, and in reviewing plats under section 236.16 (3), Wis. Stats., the following guidelines shall apply.

(a) Each project, whether an aid project or state development, shall have a demonstrable public interest and need.

(b) Lakes of less than 50 acres in size shall not be considered for improved boat launching developments or vehicular access. Walk-in and trail access will be encouraged for lakes of less than 50 acres. Parking for not more than 5 cars may be provided at the entry to trail accesses.

(c) For lakes of 50 or more acres and rivers, the parking capacity of an access site shall be in accord with the size of the lake or river. The general rule to be applied for lakes shall be not more than one parking unit for each 10 acres of water.

(d) The minimum width of an accessway to assure adequate buffering between public and private sites shall be 60 feet, but the department shall attempt to obtain a width of at least 100 feet.

(e) The primary objective of the state access aid program is to provide public access where needed and none exists. Where access exists but is inadequate, improvement will be considered as a lower priority.

(f) State boating laws (section 30.77, Wis. Stats.) authorize local units of government to charge reasonable fees for the use of access sites. Reasonable fees shall be deemed to be those currently charged

for daily entrance to state parks and forest areas and shall be stipulated prior to the granting of state aid. Fees shall not be increased without the written approval of the department.

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.