

**Chapter NR 1**

**NATURAL RESOURCES BOARD POLICIES**

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**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 Deer-proof fencing.** (1) Chapter 29.595, Wis. Stats., provides for capturing or destroying deer doing damage, payment of damage claims, and erection of deer-proof fences. Fencing to abate deer damage may be authorized when all of the following criteria are met:

(a) The area to be fenced is in use for long-term, stationary crops only (fruit orchards and nurseries).

(b) Deer damage to the area to be fenced has occurred for the 2 immediately preceding years.

(c) Future damage by deer on the area is predicted by the department.

(d) The owner demonstrates that other control remedies have been tried and found unsuccessful. (Shooting permit control, repellents, scare devices and lesser types of fencing.)

(e) Total fence costs to the state are less than the estimated damage payments for the ensuing 5 years.

(f) The producer of crops agrees to erect the fence and maintain it so long as the fenced lands are subject to deer damage.

(g) The producer of crops waives all future animal damage claims within the fenced area.

(h) The landowner meets all requirements of law for deer damage payments.

(2) The secretary of the department will screen all proposals to assure that the above criteria have been met and will authorize each fencing agreement.

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

**NR 1.12 Game bird stocking by cooperators.** (1) 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 for release on state wildlife areas, as specified in a written cost-share agreement.

(2) The department will provide chicks and up to 4 pounds of feed per chick to individuals or groups who provide rearing facilities and a caretaker. When the birds are to be released, a percentage of the birds fixed by the department and representing in total value the state's investment in chicks and feed shall be returned to the department for release 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 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.

(3) When the cost-sharing program is not elected, all game birds reared by private individuals or groups shall be released on lands to which the public has access for hunting without paying a fee.

(4) All game birds reared under these cooperative programs continue to be the property of the state until released and harvested under general hunting regulations provided in Wis. Adm. Code section NR 10. ✓

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

**NR 1.13 Controlled burning.** (1) Controlled burning is an important and often inexpensive tool in forestry and wildlife management. Controlled burning is an approved practice when employed by the department to maintain or enhance wildlife habitat, native plant communities, regeneration of desirable forest species or reduction of fire hazards.

(2) Alternative management procedures shall be developed and utilized whenever controlled burning entails excessive risk or loss of control or is in conflict with Wis. Adm. Code section NR 154. ✓

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

**NR 1.14 Forest wildlife habitat management program.** (1) The natural growth and changing composition of forest stands results in a long-term decline of habitat quality for the major forest wildlife species in Wisconsin. A planned program for regeneration of aspen and other shade intolerant species is required to halt the trend. Maintaining aspen stands is particularly important because of value of the species to the pulp industry and as a critical component of habitat for white-tailed deer, ruffed grouse and other forest wildlife. Forest openings and swamp conifers also have high wildlife habitat values and require a positive management program.

(2) The department of natural resources shall support and emphasize wildlife habitat needs under the multiple use concept of forest management. The department shall implement such a forest wildlife habitat management program to the extent approved from time to time by the natural resources board.

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

**NR 1.15 Prairie grouse (prairie chicken and sharptailed grouse).** (1) The natural resources board recognizes the continued threat to prairie grouse habitat from natural forest succession and development of land for intensive agricultural and forestry uses. Every reasonable effort shall be made through management and restoration of habitat to assure that these species will continue to play a role in Wisconsin's wildlife future.

(2) Prairie grouse management and habitat restoration programs shall be accorded high priority on all state-owned lands designated by the department which have remnant flocks of prairie grouse.

(3) Cooperative agreements for action programs, including leases and easements, shall be executed where practicable with other public and private owners of lands determined essential to prairie grouse management by the department.

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

**NR 1.16 Beaver management.** (1) Beaver management programs shall be based on conditions prevailing in watersheds as follows:

(a) In all areas containing class I trout waters or productive lowland coniferous stands, a program designed to achieve minimum beaver populations shall be conducted.

(b) In all areas containing class II trout waters where it is clearly demonstrated that beaver activity is deleterious to water quality, removal of the beaver may be initiated at the discretion of the area supervisor.

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

(2) The desired level of beaver populations shall be maintained by the use of the general public trapping seasons, designed on a watershed basis if necessary. Control of damage through issuance of trapping permits, or control by state personnel, shall be employed where general trapping seasons are not effective.

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

**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 subsection (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 1.30 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 1.32 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 to 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 section NR 50. ✓

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(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 adequate 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.

**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 \$50,000 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 \$50,000.
- (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.

(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.

**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.

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**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, except for perpendicular access, shall extend a distance of a minimum of 150 feet from the shoreline.

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

**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.

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(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, 1972, No. 194, eff. 3-1-72.