

## 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

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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

(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 non-profit 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.

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**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

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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

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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, 1976, No. 232, eff. 5-1-76.

**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, 1976, No. 232, eff. 5-1-76.

**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, 1976, No. 232, eff. 5-1-76.

**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.*

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**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

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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  $\frac{1}{4}$  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  $\frac{1}{4}$  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 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, 1976, No. 232, eff. 5-1-75; renum. from NR 1.32, Register, October, 1977, No. 262, eff. 11-1-77.