

Chapter NR 1

NATURAL RESOURCES BOARD POLICIES

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

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

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

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

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

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

(7) With access to Wisconsin's lakes and streams a prerequisite for their use by the public, the acquisition and development of public access to waters should be accelerated, particularly in the more populous areas of the state.

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

(9) Sport fishing should remain a true amateur sport which combines the pleasures and skills of angling with wildlife and scenic enjoyment, contemplation, and other subtle pleasures, not competition. Recent trends toward commercialization of sport fishing through contests and tournaments will be closely monitored. Appropriate action within the existing authority will be taken to control excesses.

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

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

- (a) Protect and manage nongame species, particularly endangered, threatened and uncommon species;
- (b) Acquire and lease lands;
- (c) Conduct research and surveys;
- (d) Establish long-range resource management plans and priorities;
- (e) Manage wildlife habitat on public land;
- (f) Provide regulations to govern the harvest of game species and fur-bearing mammals;

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(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. 269, eff. 8-1-77.

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

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

(2) **HABITAT PROTECTION AND IMPROVEMENT.** The department shall actively protect and maintain habitat capable of supporting aquatic species. Management efforts include deterring point and nonpoint pollution, vegetation control, rough fish control, water level manipulation and limiting shoreline development. Habitat shall be improved where fish populations can be increased and such improvements are economically and ecologically feasible. Improvements include in-stream devices, wing deflectors, bank riprap, stream bank fencing, fish shelters, dredging and streamside brushing. The application of these techniques shall be consistent with the wild and wilderness policies of the board.

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

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

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

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

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

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

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

a. Investigates the variety of habitat types present in the water being surveyed;

b. Provides a representative sample of the fish species present, and their relative abundance;

c. Provides the length distribution and the age structure of the trout population.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The notice shall contain the location and description of the stream and the basis for its classification. If a hearing is not requested in writing within 30 days after the mailing of the notice, the department may waive the hearing. Upon receipt of a request for a hearing, the department

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shall, not less than 10 days before such hearing, mail written notice thereof to each person notified under par. (c).

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

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

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; cr. (7), Register, July, 1981, No. 307, eff. 8-1-81.

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

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

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

(a) The unique habitats on the river;

(b) Programs to maintain and improve public access;

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

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

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

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

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

(3) Management of the fishery resources shall be based on a sound understanding of the dynamics of interacting fish stocks. The department shall conduct research and resource base, inventories, and collect harvest and utilization statistics on which to base sound management decisions.

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

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tion of allowable harvest among various users and the establishment of restricted areas.

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

NR 1.11 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.

(11) Recognizes that private use of Wisconsin's protected wildlife is appropriate provided that use for educational, recreational, scientific or economic purposes does not deleteriously affect native or migratory wildlife and identifies the necessity of establishing and administering licensing or permit systems to insure proper care and handling of protected wildlife when persons are entrusted with their care or use.

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

NR 1.12 Migratory game birds. Migratory game birds are those species listed in s. 29.01 (3) (d), 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;

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(4) **DAMAGE.** (a) All of these species are capable of causing economic damage. Section 29.596, 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 impor-

tant habitat needs into management plans for public lands, or providing incentives to private landowners to develop or protect habitat.

(2) **PROTECTION.** Most nongame species are protected by law; however, certain species may become so low in numbers that the special status of "endangered" is created by administrative rule under s. 29.415, Stats., and ch. NR 27. Endangered species are those whose continued existence as a part of the state's wild fauna (or flora) is in jeopardy and, without further state action, may become extirpated. Threatened species currently receive some protection under ss. 23.09, 23.11, 29.02, 29.085 and 29.174, 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 1.18 Captive birds and mammals. (1) **DEFINITIONS.** (a) "Captivity" or "captive" means the state of confinement within a fence, pen, cage, house or similar enclosure.

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

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

(2) **GENERAL.** (a) Authorized activities involving captive wildlife result in recreational, educational and economic benefits. The department, October, 1982, No. 322

ment, when feasible, will establish joint permit systems with other agencies having jurisdiction of the protected wildlife.

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

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

(d) Permit programs described in subs. (3) through (6) are the only legitimate sources for additional captive possession of wildlife provided a proper receipt is obtained.

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

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

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

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

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

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

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

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

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

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

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

(5) WILDLIFE EXHIBITS. (a) The use of game farm birds and mammals or wildlife which cannot be released to the wild for advertising or exhibi-

tion purposes serves the public interest when the public's general knowledge of wildlife is increased by such use.

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

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

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

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

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

(7) ENDANGERED AND THREATENED SPECIES. Birds and mammals on the Wisconsin endangered and threatened species list (s. NR 27.03) may be acquired and possessed only by persons possessing a Wisconsin endangered species permit issued under s. 29.415 (6), Stats.

(8) SCIENTIFIC COLLECTION. Except as provided by specific rule or law, all protected wild animals, alive or dead, not listed as endangered or threatened species may be acquired and possessed only by persons possessing a scientific collectors permit issued under s. 29.17, Stats. Such permits shall be issued only if the use of the wild animal provides useful scientific knowledge or educational opportunities in the natural sciences consistent with s. NR 19.11.

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

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

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82.

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:

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(4) **DAMAGE.** (a) All of these species are capable of causing economic damage. Section 29.596, 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.

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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 impor-

tant habitat needs into management plans for public lands, or providing incentives to private landowners to develop or protect habitat.

(2) **PROTECTION.** Most nongame species are protected by law; however, certain species may become so low in numbers that the special status of "endangered" is created by administrative rule under s. 29.415, Stats., and ch. NR 27. Endangered species are those whose continued existence as a part of the state's wild fauna (or flora) is in jeopardy and, without further state action, may become extirpated. Threatened species currently receive some protection under ss. 23.09, 23.11, 29.02, 29.085 and 29.174, 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 1.18 Captive birds and mammals. (1) **DEFINITIONS.** (a) "Captive" or "captive" means the state of confinement within a fence, pen, cage, house or similar enclosure.

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

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

(2) **GENERAL.** (a) Authorized activities involving captive wildlife result in recreational, educational and economic benefits. The department, October, 1982, No. 322

ment, when feasible, will establish joint permit systems with other agencies having jurisdiction of the protected wildlife.

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

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

(d) Permit programs described in subs. (3) through (6) are the only legitimate sources for additional captive possession of wildlife provided a proper receipt is obtained.

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

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

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

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

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

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

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

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

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

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

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

(5) **WILDLIFE EXHIBITS.** (a) The use of game farm birds and mammals or wildlife which cannot be released to the wild for advertising or exhibi-

tion purposes serves the public interest when the public's general knowledge of wildlife is increased by such use.

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

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

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

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

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

(7) ENDANGERED AND THREATENED SPECIES. Birds and mammals on the Wisconsin endangered and threatened species list (s. NR 27.03) may be acquired and possessed only by persons possessing a Wisconsin endangered species permit issued under s. 29.415 (6), Stats.

(8) SCIENTIFIC COLLECTION. Except as provided by specific rule or law, all protected wild animals, alive or dead, not listed as endangered or threatened species may be acquired and possessed only by persons possessing a scientific collectors permit issued under s. 29.17, Stats. Such permits shall be issued only if the use of the wild animal provides useful scientific knowledge or educational opportunities in the natural sciences consistent with s. NR 19.11.

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

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

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82.

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:

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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 ch. NR 50.

(5) **ACCESS IN PLATS.** Under s. 236.16 (3), 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 s. 236.16 (3), 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.

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(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 (s. 30.77, 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.

NR 1.93 Fees for vehicular access. (1) The department finds that charging excessive or unreasonable boat launching fees serves to restrict or prohibit public access to and use of navigable bodies of water in the state. A reasonable fee for the use of a vehicular access site to navigable lakes and streams, including parking fees assessed the users of the access site, is that currently charged an individual vehicle for daily entrance to state park and forest areas. Access fees charged in excess of such daily entrance fees are unreasonable unless the department has approved them in accordance with this section.

(2) (a) A city, village, town or county may petition the department in writing for approval of launching fees in excess of the fee established in sub. (1). Documentation of expenses directly attributable to the operation and maintenance of the access site, fees collected for the use of a site for up to 5 years preceding the petition, the fees proposed, and such other information as it deems pertinent or the department requests shall be submitted along with the petition.

(b) Expenses of operation or maintenance of a site may include:

1. Installation and maintenance of a pier useful for boat control, loading and unloading.
2. Clean-up and trash pick-up.
3. Installation and maintenance of a roadway and ramp serving the access site.
4. Installation and maintenance of access user parking facilities.
5. Signs and directional devices guiding or assisting access users.
6. Installation and maintenance of toilet facilities assignable to the access use.
7. Traffic management at heavily used sites. Personnel costs shall be at normal wage rates commensurate with the work performed.

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8. Land acquisition including interest on deferred payments. Acceptable interest rates are those encountered in normal government borrowing.

9. The proportionate share of boat policing costs not covered by state aids. The proportionate share shall be based on estimates of the number of access site users.

10. Such other costs as are directly attributable to the access site operation and use.

(3) (a) Upon receipt of the petition and supporting information under sub. (2) (a), the department shall publish a class 1 notice under ch. 985, Stats., in the county in which the access site lies, informing the public of the facts and proposals in the petition. Copies of the notice shall be sent to committees of the assembly and senate with jurisdiction of natural resource issues. Within 60 days of receipt of the petition and supporting information under sub. (2), the department shall issue a determination of the reasonableness of the proposed fees.

(b) Upon objection to the decision by the petitioner, a legislative committee or any other person filing a written comment on the petition prior to issuance, the matter will be considered as and set for a class 1 proceeding under s. 227.01 (2) (a), Stats. The determination as a result of such hearing shall be issued within 30 days from the date that the record is closed.

(4) (a) In making its determination, the department shall consider:

1. The past and present use of the body of water upon which the site is located; and

2. The adequacy of public access sites on that body of water according to the standards in ss. NR 1.90 and 1.92.

3. Public interest in the site.

(b) The department shall approve a fee higher than such daily entrance fees if it finds that:

1. Such fees are related directly to the expenses of the operation and maintenance of the access site and are reasonable, taking into consideration the use and demand on the body of water and the access sites thereto; and

2. Such fees and access management are not designed or intended to restrict or prohibit members of the public from using the body of water upon which the site is located; and

3. The charging of such fees on the body of water affected will not significantly restrict public access to those waters.

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

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

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which the department has regulatory or management authority and to maintain, enhance and restore wetland values.

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

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

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

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

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

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

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

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

2. **Watershed functions.** In addition to their biological functions, wetlands may serve important physical and chemical functions with respect to other wetlands and waters of the state. A specific wetland (or set of

wetlands) may play a critical role in maintaining the stability of the entire system to which it is physically and functionally related. This functional role may include the maintenance of both the hydrologic patterns and the physical and chemical processes of related wetlands and other related waters of the state.

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

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