

Clearinghouse Rule 13-108

Report to
Legislative Council Rules Clearinghouse
NR 10, 19 and 45 Wis. Adm. Code
Natural Resources Board Order WM-21-13

Wisconsin Statutory Authority

The state trails system and department responsibilities and powers are established in s. 23.175 Stats. State trails are described as part of the state park system in sub. (2) (a). The state park system is established in s. 27.01 Stats. and specific authority for the department to promulgate rules necessary to govern the conduct of state park visitors and for the protection of state parks is found in sub. (2) (j).

The department's authority to establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game is established in s. 29.014 Stats.

These proposed rules use the statutory authority described above to interpret s. 29.089 Stats. related to trapping on land in state parks. This provision establishes that state parks are open to hunting and trapping and that the department may prohibit hunting or trapping in a park or portion of a park if necessary to protect public safety or a unique animal or plant community.

Federal Authority

Not applicable.

Court Decisions Directly Relevant

None.

Analysis of the Rule – Rule Effect – Reason for the Rule

Prior to 2011 ACT 168, state parks were statutorily closed to hunting unless the department had written rules specifically allowing a hunting opportunity at an individual state park. Statutes did not grant rule authority for the department to allow bear hunting. Statutes did not grant rule authority to allow trapping. Today, hunting and trapping are both allowed at state parks except where the Natural Resources Board has prohibited the activities in order to protect public safety or a unique plant or animal community. Under the ACT, the Department may prohibit hunting or trapping on lands within 100 yards of a designated use area. Examples of designated use areas include locations such as campgrounds, certain hiking trails and beaches.

These rules simplify turkey hunting regulations by eliminating the 16 state park turkey hunting zones so that they will become part of the surrounding unit. As a result, most parks will be open to turkey hunting by people who possess a turkey permit for the zone surrounding the state park. Under previous law, it was necessary under the authorizing statute for each state park to have a season established by administrative rule. With changes that resulted from the 2011 ACT 168, these parks can now open to hunting without establishing a specific season by rule for each park. This change may result in an initial increase in turkey hunting pressure because anyone who holds a turkey hunting permit for the surrounding larger zone would be able to hunt in a state park in that zone. However, turkey hunter numbers are controlled in the larger zone by the use of a permit system. The limited nature of the spring turkey season helps to assure a high quality hunt with limited amounts of interference from other hunters. The department anticipates that our

limited draw permit system for the larger zone will continue to assure a quality hunt on state park areas, just as the permit system does for other public properties in a zone.

Of the 16 state park hunting zones repealed by these rule, the following 11 were open to all applicants; Governor Dodge, Devils Lake, Wyalusing, Wildcat Mountain, Mirror Lake, Buckhorn (including the wildlife area), Newport, Hartman Creek, Interstate, Willow River, Straight Lake. Another 5 state parks turkey hunting zones which are currently open only to applicants who hold disabled permits are; Natural Bridge, Nelson Dewey, Belmont Mound, New Glarus Woods and Rocky Arbor. Special turkey hunting opportunities for disabled hunters on private lands are not affected by these rules.

The ACT allowed the department to prohibit hunting in designated use areas. For safety purposes, these rules would also prohibit the discharge of firearms, air-guns, bows, and crossbows from-or-across trails. For instance, under these rules, it would be illegal to discharge a firearm from an area where hunting is allowed to another area where hunting is allowed if the two areas are separated by a designated hiking trail.

These rules restrict trapping to the use of dog proof traps only. The type of trap that meets the requirement of being a "dog proof trap" is an "enclosed trigger trap". These are already defined by administrative rule as any trap with a pull-activated trigger, inside an enclosure, and recessed 1 1/4 inches or more, from an opening that is no greater than 1 3/4 inches in diameter. While these trap types are very effective for catching raccoons, they may be the only animal that is capable of activating the trigger and being captured. These rules allow all trap types which are normally allowed in locations where the traps are completely submerged under water.

These rules expand an exemption from the state park leash law for hunters' dogs actively engaged in hunting from three named parks under current rules to any areas where hunting is allowed.

These rules allow small game hunting with rifles or handguns at three parks where small game hunting has been allowed under current rules; Governor Dodge, Mill Bluff, and Mirror Lake. Other state parks where hunting is now allowed under 2011 ACT 168 do not have similar restrictions and the department believes that the prohibition is not necessary for safety or wildlife management purposes.

These rules eliminate a requirement to obtain an access permit and sign-in at a check station before small game hunting at three parks where small game hunting has been allowed under current rules; Governor Dodge, Mill Bluff, and Mirror Lake. Other state parks where hunting is now allowed under 2011 ACT 168 do not have similar requirements. Experience with these requirements has demonstrated that they are not necessary to control hunter activity and the information collected is infrequently or not used by the department.

Additionally, this proposal repeals rules which would have allowed hunting at State Ice Age Trail areas. These rules are no longer needed following the enactment of 2011 ACT 168 because State Ice Age Trail areas are established by statute as part of the state park system.

Current rule clarifies current rules primarily related to special learn-to-hunt events because, with the enactment of 2011 ACT 168, it is no longer necessary to limit them to just deer and turkey if they are held at state parks.

Agency Procedures for Promulgation

Public hearings, followed by Natural Resources Board adoption, followed by legislative review.

Description of any Forms (attach copies if available)

Fiscal and economic impact analysis.

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