

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, AMENDING,  
REPEALING AND RECREATING, AND CREATING RULES**

The statement of scope for this permanent rule, SS 082-13, was approved by the Governor on July 15, 2013, published in Register No. 691 on July 31, 2013 and approved by the Natural Resources Board on August 14, 2013. This rule was approved by the Governor on \_\_\_\_\_.

The Wisconsin Natural Resources Board proposes an emergency order to repeal Ch.'s NR 10.01 (2) (f) 3., 10.275 (2) (a), 10.275 (3) and (4), 10.40 (4); to amend NR 10.275 (Intro.), 10.275 (2) (c), 19.025, and 45.09 (1); to repeal and recreate NR 10.29, and to create NR 10.13 (Note) and 10.275 (5) relating to hunting and trapping in state parks.

WM-21-13

Analysis Prepared by the Department of Natural Resources

**Statutory Authority and Explanation of Agency 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.

**Statutes Interpreted and Explanation:** 23.175, 27.01, 29.014 and 29.089 Stats.

**Related Statute or Rule:** A similar emergency rule, WM-22-13(E), is also being promulgated by the department. The emergency rule contains language which is identical to this rule related to shooting from or across trails and trapping regulations. Those are the only two provisions in the emergency rule.

**Plain Language Rule Analysis:** These will be the first rule revisions related to hunting and trapping in state parks since passage of 2011 ACT 168 which established that those activities are generally allowed. These rules will eliminate language that is no longer needed, simplify existing regulations, and create new rules related to safety. These rules will not establish new season dates or modify periods when hunting and trapping are allowed in state parks. Specifically, these rules will:

SECTIONS 1, 8 and 9 simplify turkey hunting regulations by eliminating the state park turkey hunting zones so that they will become part of the surrounding zone.

SECTION 2 creates a note in the section of Ch. NR 10 related to furbearing animals and trapping to alert readers that additional trapping regulations are established in the section related to hunting and trapping in state parks.

SECTIONS 3 and 7 establish that dry land trapping on lands which are part of the Wisconsin State Park System is limited to the use of dog proof traps in order to protect the public safety as established in s. 29.089 (1m) (b) 2. Stats., a provision created by 2011 ACT 168. Trapping on dry land will be allowed with the use of enclosed-trigger-type-traps. Raccoons are the primary species which are targeted with this trap type. Trapping will continue to be allowed using any type of trap that is otherwise legal if it is completely submerged under water.

SECTION 4 eliminates a prohibition of hunting small game with rifles or pistols at three state parks where small game hunting is allowed under current rules.

SECTION 5 expands 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. This is a remedial revision because hunting with dogs is allowed under other, existing, rules.

SECTION 6 eliminates registration and check-in requirements for small game hunting at three state parks where small game hunting is allowed under current rules. Additionally, this section 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.

SECTION 10 updates a cross reference to statute and clarifies that special educational hunting events may be held at state parks for species in addition to deer and turkeys, with the enactment of 2011 ACT 168.

SECTION 11 clarifies that it is illegal to discharge a firearm in an area of a state park where hunting is not allowed.

**Federal Regulatory Analysis:** Federal regulations allow states to manage the wildlife and property resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

**Comparison with rules in Adjacent States:** These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of public lands which are under their control.

**Summary of Factual Data and Analytical Methodologies:** 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 rules, 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.

**Anticipated Private Sector Costs and Economic Impact of Implementing the Rule:** These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Significant policy decisions that could potentially result in increased use of state parks by some users or decreased use by other users were made with enactment of 2011 ACT 168 and again when the Natural Resources Board developed policies under authority of the ACT. These rules will not have significant additional impacts on the use of the state park system or the related economic activity of park users.

**Effects on Small Business:** These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.24(3m).

**Deadline for Written Comments:** The deadline for written comments is January 24, 2014.

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**SECTION 1. NR 10.01 (2) (f) 3. is repealed.**

**SECTION 2. NR 10.13 (Note) is created to read:**

**Note:** Additional restrictions on trapping furbearing animals on department managed lands that are part of the Wisconsin State Park System are established in s. NR 10.275 (5). This section limits dry land trapping activities to the use of enclosed trigger traps.

**SECTION 3. NR 10.275 (Intro.) is amended to read:**

NR 10.275 **State park trapping, small game and migratory game bird hunting.** No person may hunt game species listed in s. NR 10.01 (1), (2) (a), (c), (e), (g), (3) (a), (bt), (c), (f) or (h) on the state owned portions of state parks except as provided in this section. No person may trap on the state owned portions of state parks except as provided in this section. Portions of the properties listed may be posted closed to trapping and, small game and migratory bird hunting.

**SECTION 4. NR 10.275 (2) (a) is repealed.**

**SECTION 5. NR 10.275 (2) (c) is amended to read:**

**NR 10.275 (2) (c) Other hunting methods.** Dogs shall be kept on a leash not more than 8 feet long and under control at all times in all areas within the state parks ~~listed in sub. (1)~~ except when pursuing,

hunting or retrieving game species authorized for hunting by the department, other than deer and turkey, in designated areas open to hunting ~~in Governor Dodge, Mill Bluff and Mirror Lake state parks.~~

**SECTION 6. NR 10.275 (3) and (4) are repealed.**

**SECTION 7. NR 10.275 (5) is created to read:**

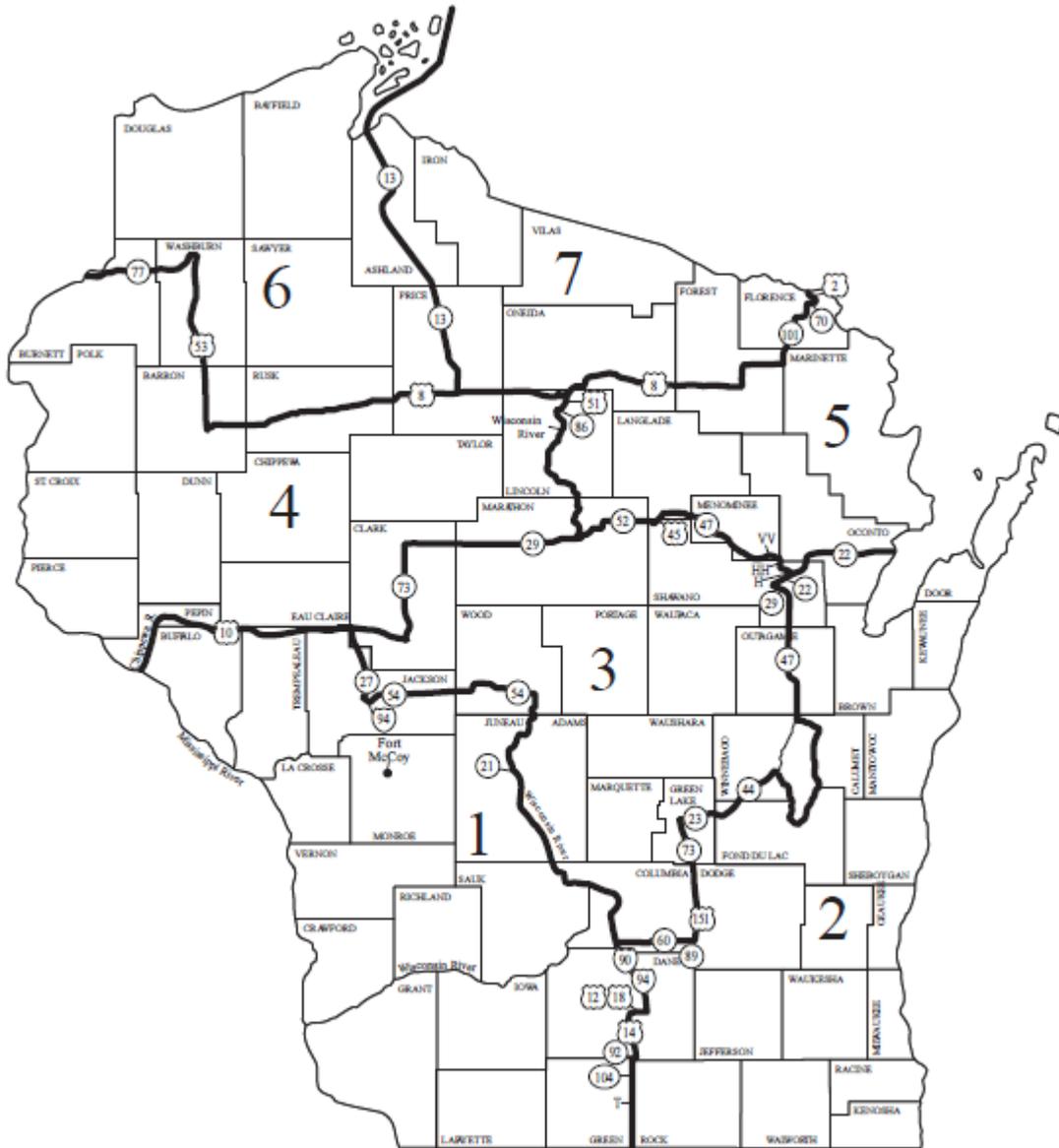
TRAPPING. (a) *Purpose.* Section 29.089 (1m) (a) Stats. establishes that trapping is allowed in the state park system. This subsection is created because the board has determined under 29.089 (1m) (b) 2. that prohibiting trapping by certain methods and in certain locations is necessary to protect public safety.

(b) *Applicability.* The provisions of this subsection apply to state park system areas as established in ss. 23.17 (2), 23.175 (2) (a), 23.293 (1) (c), 27.01 and 29.089 Stats., when the property is owned by the department. When traversing another type of department property established under s 23.09 (2), portions of state trails and other state park related properties are subject to the hunting and trapping rules of that property type unless otherwise posted.

(c) *Dry land trapping.* No person may place any trap on dry land or which is set or staked in such a manner as to permit the trap, snare or trapped animal to reach dry land on the state owned portions of state parks except if the trap is an enclosed trigger trap.

**Section 8. NR 10.29 is repealed and recreated to read:**

NR 10.29 Wild turkey hunting zones.



**SECTION 9. NR 10.40 (4) is repealed.**

**SECTION 10. NR 19.025 is amended to read:**

NR 19.025 (6) (c) ~~Shooting of deer and turkey~~ Hunting or trapping on properties opened for the hunting of these species under ~~s. 29.089 (3), Stats~~ s. 29.089 (1m), Stats.

**SECTION 11. NR 45.09 (1) is amended to read:**

NR 45.09 Firearms and hunting. (1) No person may take, catch, kill, hunt, trap or pursue any wild animal or bird, or discharge any firearm, or have in possession or under control any firearm or air gun as defined in s. 939.22, Stats., unless it is unloaded and enclosed in a carrying case, or any bow, slingshot or spring-load devise designed for shooting a projectile unless the same is unstrung or enclosed in a carrying case while in any state park, fish hatchery, or within 100 yards of any state campground,

picnic area or other special use area designated by the department by posted notice. No person may discharge a firearm, bow, crossbow, or airgun from, on, or across any ~~Ice Age Trail~~ state trail corridor or other state park area which is not open to hunting.

**SECTION 12. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**SECTION 13. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Cathy Stepp, Secretary

(SEAL)