

850 – UNMANNED AERIAL VEHICLE OR DRONE USE

I. SUBJECT MATTER DESCRIPTION

What are the limitations on the public's use of unmanned aerial vehicles (UAVs, also commonly referred to as "drones") within the context of natural resource related activities and existing hunting, fishing, trapping, wildlife viewing, and WDNR land use regulations?

II. INFORMATION & REFERENCES

A. HUNTING

s. 29.001, Stats.

Definitions. *In this chapter, unless the context requires otherwise:*

(6) "Aircraft" means any contrivance invented, used or designed for navigation of or flight in the air.

s. 29.307, Stats.

Hunting with aid of aircraft prohibited.

(1) No person may hunt any animal with the aid of an aircraft, including the use of an aircraft to spot, group or drive, or otherwise attempt to affect the behavior of, animals for hunters on the ground.

Analysis

By statutory definition, unmanned aerial vehicles are considered aircraft, and are subject to the general "hunting with the aid of aircraft" prohibition. The broad text of the aircraft hunting prohibition means that UAVs effectively have no lawful role in assisting hunters while pursuing game in Wisconsin.

Examples of prohibited uses:

- Utilizing a weapon-equipped UAV to hunt
- Using any type of information, including digital signals, originating from a UAV (e.g. imaging-equipped) to assist with hunting, whether such signals are delivered via third-party or directly via electronic device
- Hunting animals that have been affected in any way (including grouped or driven) by the visual or auditory presence, or action of a UAV
- Searching for wounded/potentially downed game while hunting

B. FISHING

s. NR 20.05, Wis. Adm. Code.

General restrictions. *No person may do any of the following:*

(1) Fish by any means other than hook and line except as specifically authorized in this chapter or chs. NR 21, 22, 23, 24 and 25.

s. NR 20.06, Wis. Adm. Code.

Hook and line fishing. *No person may do any of the following:*

(10) Fish in open water with a free-floating, remote controlled or anchored buoyant device with attached hook and line that is not held or otherwise controlled by the angler with the use of a line connected to the device.

Analysis

Consistent with the department's position on remote-control boats, UAVs (as remotely controlled devices, wireless or tethered) are generally not an authorized method for fishing. The only exception to this is if the line to which the hook is attached is routed through the UAV and back to the operator, such that the angler can attend the line and immediately respond to indication of a bite.

C. TRAPPING

s. NR 19.25, Wis. Adm. Code.

Wild animal protection. *Unless engaged in dog training or dog trials as authorized by the department in s. NR 17.001 (3) and (5), or other activity specifically authorized by the department, a closed season is established and no person may harass, disturb, pursue, shoot, trap, catch, take, or kill protected wild animals by any means, except as described under s. NR 12.10 (1) (b) 4.*

Analysis

UAV use while trapping is generally unregulated, likely because UAVs theoretically provide little benefit to trapping activities. However, the general “wild animal protection” code provision would prevent a UAV from being used to harass or disturb animals in an attempt to drive them into traps. Additionally, an imaging-equipped UAV cannot be used to meet trap tending requirements, similar to the department’s position that current law does not permit remotely-viewed cameras to sufficiently meet these obligations.

D. WILDLIFE VIEWING

s. NR 19.25, Wis. Adm. Code.

Wild animal protection. *Unless engaged in dog training or dog trials as authorized by the department in s. NR 17.001 (3) and (5), or other activity specifically authorized by the department, a closed season is established and no person may harass, disturb, pursue, shoot, trap, catch, take, or kill protected wild animals by any means, except as described under s. NR 12.10 (1) (b) 4.*

Analysis

The use of an UAV for observing or photographing wildlife is somewhat restricted, because a UAV cannot harass or disturb the animals, in accordance with s. NR 19.25, Wis. Adm. Code. Wildlife enthusiasts must be particularly sensitive to the auditory and visual senses of species in the vicinity of UAV operations, as predator/prey behavior and territorial instincts frequently cue from visual observations and noises, including reflections and shadows, or sounds inaudible to humans.

Factors/situations where UAV use may rise to the level of “harass” or “disturb”:

- Using a UAV in a manner that disturbs an animal’s natural behavior, such as causing a bird to leave its nest or altering the path an animal travels because of the visual or auditory presence, or action of a UAV
- Interfering with migration or hibernation through the use or presence of a UAV
- Creating harassment zones through the use of an UAV to alter the natural presence or movement of animals, unless authorized by the department as a nuisance wildlife abatement measure

E. WDNR LANDS

s. NR 45.04(1)(c), Wis. Adm. Code.

(c) Flying related activities, including but not limited to, hang gliding, parasailing, hot air ballooning, land sailing, flying model airplanes or sky diving on state parks, state recreation areas, state natural areas, Kettle Moraine and Point Beach state forests and Lower Wisconsin state riverway shall be restricted to areas posted for their use.

Analysis

The use of UAVs is prohibited, except where posted for their use, at state parks, state recreation areas, state natural areas, Kettle Moraine and Point Beach state forests, and the Lower Wisconsin state riverway. UAV use is currently unregulated by NR 45 at state wildlife areas, other state forests, and additional DNR lands not otherwise included in s. NR45.04(1)(c), Wis. Adm. Code. For regulations on other government owned properties (local, county, state, federal), users will need to contact the appropriate supervising authority.

III. BACKGROUND

As UAV technology and prevalence continues to increase, existing legal frameworks will be challenged to assess, adapt, and integrate UAV regulation. Current Wisconsin law adequately addresses most proposed UAV uses within the conservation context, although constant innovation necessitates diligent intervention when new, unanticipated uses are proposed that challenge the biological, public safety, or fair chase principles upon which Wisconsin's conservation laws are based.

NOTE: Potential users are responsible for researching and adhering to all applicable laws affecting the deployment of UAV technology. This document presents an interpretive summary of certain Wisconsin natural resource laws applicable to UAV use; other sections of state and federal law, including FAA regulations, may impose additional controlling provisions.

IV. APPROVAL

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V. REVISION HISTORY

4-1-15: Created