Clearinghouse Rule 19-131

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to **amend** NR 10.01 (2) (a) and NR 10.33, relating to ruffed grouse management.

WM-17-19

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Chapter 29 of the Wisconsin Statutes addresses the department's authority with respect to wild animals and plants. Section 29.014, Stats., confers broad rule-making authority to the department 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 that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping. This grant of rule-making authority allows the department to promulgate rules related to resident game bird hunting.

2. Statutory Authority: In promulgating these rules, statutes being interpreted or establishing agency authority include s. 29.014.

3. Explanation of Agency Authority: In the chapter on wild animals and plants, s. 29.014, "rule making for this chapter", establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to make changes related to hunting regulations.

4. Related Statutes or Rules: There are no currently active related administrative rules.

5. Plain Language Analysis:

SECTION 1 closes the ruffed grouse season for Zone A on January 5, 2019.

SECTION 2 changes the ruffed grouse management zone boundaries.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations: For resident game bird hunting, there are no related federal regulations. States possess inherent authority to manage the wildlife resources located within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register.

7. Comparison with Similar Rules in Adjacent States: Minnesota and Michigan's ruffed grouse season ends on January 1st. Iowa's ends on January 31st. Illinois does not have a ruffed grouse season.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

The state is currently split into two ruffed grouse management zones. Zone B is primarily made up of southeastern portion of the state with the majority of the state falling in Zone A. Under current rules, the season in Zone A begins on the Saturday closest to September 15th and closes on January 31st

of the following year while Zone B opens on the Saturday nearest October 17th and runs through December 8th.

To monitor the ruffed grouse population, the department utilizes annual drumming surveys and estimates harvest annually through a small game hunter survey. Ruffed grouse drumming activity declined 34% statewide from 2017 to 2018. The decline was greatest in the northern region, with a 38% decline in drumming grouse detected. This area contains the most extensive early-successional forest habitat and healthiest ruffed grouse populations, so focus is generally placed on trends in the northern region. Also, estimated ruffed grouse harvest declined from 262,943 in 2016 to 185,336 in 2017, a 29.5% decline. This represents the lowest estimated harvest in the 34 years the department has been conducting the small game hunter survey. While spring drumming counts were higher in 2019, the cause of the decline from 2017-2018 is still unkown, and the decline occurred after the drumming surveys were completed.

9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

According to the U.S. Fish and Wildlife Service and U.S. National Survey of Fishing, Hunting, and Wildlife-2011 (USFWS 2011), grouse hunting in Wisconsin accounts for only 7% of the total hunting effort (hunting days) in Wisconsin. The Wisconsin DNR or the USWFW does not keep specific data on hunting expenditure related to grouse hunting. Additionally, the closure will occur after prime portions of the season that are most desirable to travelling hunters. Based on the limited number of days that hunters dedicate to grouse hunting relative to other types of hunting in Wisconsin, we do not expect that the impact of limiting the grouse hunting season in Wisconsin on hunting expenditure (reduced expenditure) will be significant.

10. Effect on Small Business (initial regulatory flexibility analysis): 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. However, there might be an economic impact to small business who depend on ruffed grouse hunters for revenue. This rule may shorten the ruffed grouse season by almost two months, which could result in decreased revenue during that time.

11. Agency Contact Person: Mark Witecha, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. mark.witecha@wisconsin.gov (608) 267-7861

12. Place where comments are to be submitted and deadline for submission:
Written comments may be submitted at the public hearings, by regular mail, fax or email to:
Mark Witecha
Department of Natural Resources
P.O. Box 7921
Madison, WI 53707
mark.witecha@wisconsin.gov
608-267-7861
608-267-7857 (fax)

Written comments may also be submitted to the Department at DNRAdministrativeRulesComments@wisconsin.gov.

Hearing dates and the comment submission deadline are to be determined.

SECTION 1. NR 10.01 (2) (a) is amended to read:

Kind of Animal and Locality	Open season (all dates inclusive)	Limit
NR 10.01 (2) (a) *Ruffed Grouse* 1. Zone A as established under s. NR 10.33.	Beginning on the Saturday nearest September 15 and continuing through ~~January 31~~ the first Sunday in January.	Daily bag 5; possession 15

SECTION 2. NR 10.33 is amended to read:

NR 10.33 Ruffed grouse management zones

SECTION 3. EFFECTIVE DATE. This rule takes 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 4. 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 _____

Preston D. Cole, Secretary

(SEAL)