

Report to
Legislative Council Rules Clearinghouse
NR 10 Wis. Adm. Code
Natural Resources Board Order No. WM-16-22

Wisconsin Statutory Authority

Chapter 29 of the Wisconsin Statutes addresses the department's authority with respect to wild animals and plants. Section 29.014(1), 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 migratory game bird hunting.

Additionally, s. 29.197 (2), Stats. allows the department to waive the requirement for certain approvals if the department determines that certain requirements are met.

Federal Authority

Migratory bird species are managed under federal law. The USFWS annually promulgates regulations and guidelines which permit states to administer migratory bird seasons. State migratory bird regulations must fall within the guidelines and sideboards established by the USFWS. Therefore, these rules are consistent with federal regulations.

Comparison of Adjacent States

Since migratory bird species are managed under federal law, each region of the country is organized in a specific geographic flyway which represents distinct migratory game bird populations. Wisconsin, along with Minnesota, Michigan, Illinois, and Iowa, are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the USFWS. The USFWS regulations and guidelines for the Mississippi Flyway apply to all states within the Flyway, and therefore the regulations in the adjoining states closely resemble the rules established in this rule order, and only differ slightly based on hunter desires, habitat, and population management goals. However, these variations fall within guidelines and sideboards established by the USFWS.

Court Decisions Directly Relevant

None.

Analysis of the Rule - Rule Effect - Reason for the Rule

This rule provides that the department secretary may set migratory season dates and bag limits consistent with the requirements established by the U.S. fish and wildlife service by use of an order. The selections will be made from a suite of pre-identified options that align with potential federal allowances. The State of Wisconsin must comply with federal allowances in the establishment of migratory bird hunting seasons and conditions. Federal allowances are not made available to states until the same year that the regulations must be implemented. Normal rule-making procedures do not allow the promulgation of permanent rules prior to when the seasons should be open so historically the season frameworks were established on a yearly basis through the use of an emergency rule. Use of an order pairs well with federal timelines and give hunters additional time to plan for the hunting seasons.

This rule adjusts and simplifies the open water restrictions on all approved inland open water hunting lakes. In 2011 the Department identified several inland lakes that would be open to open water hunting. At that time, the minimum distance from shore where hunters can be without having to adhere to

concealment regulations was set to “greater than 1000 feet” as a precaution until the Department had some time to review how this opportunity was utilized. With these regulations having been in place more than a decade, the Department feels that the 1000-foot restriction can be reduced to 500 feet, a distance which would align the definition of open water hunting for both the inland lakes and the Great Lakes. This change simplifies regulations while adding additional open water hunting opportunity on these identified inland lakes. Public input was in support of this rule simplification. This change was initially implemented by an emergency rule during the 2022 migratory season and will be continued by this rule.

This rule will also continue the clarification of the duck zone boundary for the Open Water Zone—another item which was initially implemented by the 2022 emergency rule. Specifically, this rule will update the definition of the Open Water Zone boundary as, “waters greater than 500 feet from the mainland shore of Green Bay and Lake Michigan; for the purposes of the Open Water Zone, mainland shore includes all adjacent rooted vegetation, adjacent floating cattail and Long Tail and Little Tail points.”

During the annual two-day youth waterfowl hunt in September, hunters under the age of 16 are allowed to hunt all species of wild duck, mergansers, geese, coots, and moorhens. During this youth season all license and stamp requirements are waived, except for the state Canada Goose Hunting Permit. This rule waives the state Canada Goose Hunting Permit for youth hunters during the youth waterfowl hunt. Waiving this permit would provide consistency to youth hunters by waiving all applicable state and federal license, stamps and permits for the youth season.

This rule also adjusts the crow season dates. The department is allowed to establish a crow season that last no more than 124 days. Previously, the crow season began on the Saturday nearest September 15 and continued until the Thursday before the opening of the gun deer season in November. The season would then reopen in January and then close on March 20th for a 124-day season. This rule would set a single continuous crow season that would begin on the same day the gun deer season opens and last for 124 days. A single continuous open season is less complex for hunters to remember and most crow hunting takes place during the winter after other hunting seasons have closed.

Agency Procedures for Promulgation

This rule will be brought to the Natural Resource Board for approval in the fall of 2023.

Description of any Forms (attach copies if available)

N/A

Name and Telephone Number of Agency Contacts

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