

☞ **07hr_JCR-AR_Misc_pt24**



☞ Details: Emergency Rule by Department of Natural Resources.

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

NOTICE TO PRESIDING OFFICERS OF PROPOSED RULEMAKING

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Board Order Number: WM-17-08
Clearinghouse Number: 08-061
Subject of Rules: 2008 migratory game bird seasons and waterfowl hunting zones
Date of Transmittal: August 27, 2008

Send a copy of any correspondence or notices pertaining to the rule to:

**Carol Turner, Department Rules Coordinator
DNR Bureau of Legal Services
LS/8, 101 South Webster**

**Telephone: 266-1959
e-mail: Carol.Turner@Wisconsin.gov**

An electronic copy of the proposed rule submittal may be obtained by contacting Ms. Turner

REPORT TO LEGISLATURE

NR 10, Wis. Adm. Code
2008 migratory game bird seasons and waterfowl hunting zones

Board Order No. WM-17-08
Clearinghouse Rule No. 08-061

Basis and Purpose of the Proposed Rule

Under international treaty and federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulatory process. Migratory birds are managed in each of the 4 flyways that encompass North America. Wisconsin is part of the Mississippi Flyway. The USFWS annually prescribes the outside limits (frameworks) within which states may select hunting season parameters.

Wisconsin's Canada goose harvest comes primarily from 2 populations of geese: resident giant Canada geese that breed in and around Wisconsin and the Mississippi Valley Population (MVP) of Canada geese which breeds along the Hudson Bay coast in northern Ontario. In the past, the regular Canada goose season was based on the annual allowable Mississippi Valley Population harvest and was adjusted in concern with annual population changes. However, because locally produced giant Canada geese now constitute a considerable portion of the harvest in all states that also harvest MVP geese, the Mississippi Flyway Council is testing the use of a standard season framework for 5 years. Begun in 2007 and continuing for five years, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season.

While populations and habitat conditions in the U.S. and Canadian prairies determine the USFWS prescribed duck season framework for Wisconsin, much of Wisconsin's duck harvest comes from ducks raised in Wisconsin and other Great Lakes states/provinces. Therefore, Wisconsin's breeding waterfowl surveys are an important part of the decision making process for setting Wisconsin's waterfowl hunting regulations. Mallards, wood ducks, blue-winged teal and green-winged teal are generally the most abundant birds in Wisconsin's fall harvest.

With the foundation of spring survey data and USFWS waterfowl season frameworks, and hunter survey data, staff developed the proposed rule for the 2008 waterfowl season. In addition to the waterfowl hunting season rules, the proposed rule contains a proposal to extend the dove hunting season for 10 more days consistent with a federal rule change in June, 2008.

Summary of Public Comments

Overall, the majority of the public comments offered during the public hearings and submitted to the Department via phone, email and letter were in support of the proposed seasons. They are summarized below by the major groups of options.

1) Statewide same opening day for duck season in both zones:

10 individuals and 2 local waterfowl groups

2) North Zone Opening Day –

Sept 27 (Department Proposal)

- 47 individuals
- 7 waterfowl groups
- Conservation Congress Migratory Committee

October 4 or later

- 6 individuals

Based on public input the Department recommends the northern duck zone hunting season be open from September 27 – November 25.

3) Southern Zone – Opening Day

- October 4 (Department Proposal)
 - 47 individuals
 - 5 waterfowl groups
 - Conservation Congress Migratory Committee
- Sept 27 – 2 local waterfowl groups and 6 individuals
- Later – 2 individuals

Based on public input the Department recommends the south duck zone hunting season to open on October 4.

4) Southern Zone – Season Split

- No split – 3 local waterfowl groups, 4 individuals
- 5 day split (Department Proposal)
 - 35 individuals
 - 1 waterfowl group (GBDH)
 - Conservation Congress Migratory Committee
- Something longer than 5 days – 1 waterfowl group (LCCA) and 6 individuals
- Want split but not sure how long – 2 waterfowl groups (WWA and WWF)

Based on public input the Department recommends the proposed 5 day split for the southern duck zone resulting in a season of October 4-12 and October 18-December 7.

5) Scaup season – Where to put the 20 days of a 2 bird bag within the overall 60 day season

- North zone
 - October 18-November 6 (Department and Conservation Congress proposal)
 - 29 individuals
 - 6 waterfowl groups
 - Later than proposed - 5 individuals, 1 group (GBDH); Earlier – 1 individual
- South zone
 - November 1-20 (Department and Conservation Congress proposal)
 - 28 individuals
 - 1 local waterfowl group
 - Later than proposed – 1 group (GBDH), 4 individuals
 - Earlier than proposed – 4 groups (WWA, WWF, WW, LCCA), 9 individuals

Several options were discussed about where to schedule these 20 days of a special season. All participants in public input were in general agreement that this proposal from the USFWS was going to be confusing to hunters and not necessary to protect the scaup population. Most thought that there was insufficient statewide information to argue strongly for any particular date, therefore, one proposal may be as good as another given the broad area included.

The Department recommends implementing the Conservation Congress proposals for the north and south zones resulting in 60 day overall scaup seasons in both zones and the north zone having the period of October 18-November 6 as the 2 duck bag period and the south zone having the period of November 1-20 as the 2 duck bag period.

6) Exterior Zone Canada Goose Season

- Opening day in the north and south zones: September 20 (Department Proposal)
 - 38 individuals
 - 5 waterfowl groups
- Open Exterior Canada goose concurrent with duck season
 - 4 individuals
 - 2 waterfowl groups (WWA and LCCA)

Based on the public input, the Department recommends implementing the season as proposed with the following dates; North zone - September 20 – December 13 and South zone – September 20 –October 12 and October 18 – December 18.

7) Opening Day Shooting Hours

In 2006, the Department implemented a change in the beginning of shooting hours for the opening day of duck season from noon to 9:00 am. This was a compromise among the different hunter desires on this topic. The 9:00 am opener went well as reported by staff around the state the last 2 seasons and many staff continue to favor a later opening time, however, opinions on this issue are still varied.

- Noon – 2 local waterfowl groups, 2 individuals favored
- 9:00 am – Conservation Congress, 2 waterfowl groups (LCCA, WWF, SPCL) and 23 individuals favored
- ½ hour before sunrise – 2 waterfowl groups (WWA and GBDH) and 15 individuals favored.

The Department recommends maintaining a 9:00 am beginning of shooting hours on opening day.

Modifications Made

Because of the timing of Wisconsin's rule process and the U.S. Fish and Wildlife Service rule process, it was necessary to submit a proposed rule before the actual season lengths, dates and bag limits could be determined. As a point of reference, the rule, as it was originally proposed, used much of the 2007 regulatory framework adjusted for 2008 dates. Attendees at the public hearings were presented with population status information and the proposed rules incorporating the U. S. Fish and Wildlife season framework. No modifications to the rule were made as a result of public hearing comments.

Appearances at the Public Hearing

August 4, 2008 – La Crosse

In support:

Steve Heerey, 2204 Highland Avenue, Janesville, WI 53548

In opposition – none

As interest may appear:

Jim March, N3406 Verde Valley Road, La Crosse, WI 54601

Scott Newmann, N6102 Eric Avenue, Onalaska, WI 54650
Daniel Heidel, N5680 Bernard Street, Apt. 1, Onalaska, WI 54650
Harry Meinking, Sr., 1902 Charles Street, La Crosse, WI 54650
Brandon Ewert, N3598 County Road N, Melrose, WI 54682
Wayne Ewert, N3598 County Road N, Melrose, WI
Josh Craner, W8369 Woodview Drive, Onalaska, WI 54650
Todd Lensing, 14812 State Highway 35, Ferryville, WI 54628
Matt Ellis, 329 N. Main Street, Stoddard, WI 54658
Myles Johnson, 306 Kay Street, Holmen, WI 54636
Mike Schultz, W8376 N. Shore Drive, Onalaska, WI 54650
Marc A. Schultz, W8155 County Road ZB, Onalaska, WI 54650
Jesse Boutin, 2134 South 31st Street, La Crosse, WI
Ray Heidel, W8043 Highway ZN, Onalaska, WI 54650
Don Heidel, W5779 Mahlum Road, Holmen, WI 54636
John Wetzal, N8020 Amsterdam Prairie Road, Holmen, WI 54636

August 5, 2008 – Rice Lake

In support:

Jon R. Bergquist, 220 2nd Street, Amery, WI 54001
Jerry Merryfield, 11210 County Highway N, Drummond, WI 54832

In opposition – none

As interest may appear:

Logan Hile, 1725 28 ¾ Avenue, Rice Lake, WI 54868
Chuck Hile, 1725 28 ¾ Avenue, Rice Lake, WI 54868
Brian Spangler, P.O. Box 276, Elmwood, WI 54740

August 6, 2008 – Appleton

In support:

Kent Sikorski, N2894 Mayflower Road, Appleton, WI 54913
Michael Sikorski, N2894 Mayflower Road, Appleton, WI 54913
Dan Kray, 1669 Little Ranch Road, Appleton, WI 54913
Lawrence Benedick, 5815 Woodland Road, Winneconne, WI 54986

In opposition:

Robert Sabott, 1741 Michigan Street, Oshkosh, WI 54902
Tom Krueger, 321 N. Westhaven, Oshkosh, WI 54904

As interest may appear:

Paul Wait, 1303 Nassau Street, New London, WI 54961
Tom Van Handal, W3514 E. Broadway, Appleton, WI
John M. Krupp, 512 Cleveland Avenue, Manitowoc, WI 54220
Jim Haak, N10057 Vander Maazen Drive, Greenville, WI 54942
Cindy Rueth, 2309 S. Gmeiner Road, Appleton, WI 54915
Roger Wilfuer, 2602 N. William Street, Appleton, WI 54914
Roger Hanson, 2480 Meadow Park Drive, Green Bay, WI
Noel Dolde, 119 S. Oxford Street, Apt. 2, Wautoma, WI 54982
Andrew Holley, 1861 Cormier Road, Green Bay, WI 54313

Eric Dellamater, 2536 Cherrywood Lane, Green Bay, WI 54304
Joel Salzman, W2651 Woodview Lane, Marinette, WI 54143
James Pape, 3041 W. Roselawn Drive, Appleton, WI 54914
Joe Loehlein, 2518 Clear Brook Circle, Green Bay, WI 54313
Tim Braunel, 1704 Nancy Avenue, Green Bay, WI 54303
Clarence Kunde, 104 Wenban Avenue, Neenah, WI 54956
Todd Murdock, W8231 Oak Avenue, Shawano, WI 54166
John Rueth, 2309 S. Gmeiner Road, Appleton, WI 54915
Trevor Murdock, 107 S. Jefferson Street, #9, Bonduel, WI 54107
Dick Koerner, 540 Sunrise Bay Road, Neenah, WI 54956
Lawrence Enger, 1302 W. Spencer, Appleton, WI 54914

August 7, 2008 – Delafield

In support:

Steven Moratz, 523 First Street, Hayward, WI 53027
Timothy J. Niemiec, 3849 S. Whitnall Avenue, Milwaukee, WI 53207
Al Shook, W339 S2576 Highway C, Oconomowoc, WI
Dale W. Arenz, W324 N1198 Lapham Peak, Delafield, WI 53018

In opposition:

Dean Zastrow, 805 Melbourne Road, Eagle, WI 53119
Greg Calhoun, 1901 Delafield Street, Waukesha, WI 53188

As interest may appear:

Peter Peshek, 2 East Mifflin Street, Madison, WI 53711
Edward Seebach, N11 W29747 Southampton Drive, Waukesha, WI 53188
Thomas Dunlop, W3326 N6501 Sylvian Drive, Hartland, WI 53029
Dennis Fruehauf, 8961 W. Herbert Avenue, Milwaukee, WI 53225
Jim Totsky, W263 S7465 Mt. Everest Road, Waukesha, WI 53189
David Fenner, 859 Ridge View Drive, Hartford, WI 53027
Tim [last name illegible], W302 N9389 Hoff Road, Hartland, WI
Richard Hauke, W159 N9530 Cherokee Drive, Menomonee Falls, WI 53051
Barbara Hauke, W159 N9530 Cherokee, Menomonee Falls, WI 53051
Jim Tessmer, 1204 Milwaukee Street, Delafield, WI 53018
John Goll, W285 N2088 Louis Court, Pewaukee, WI 53072

Changes to Rule Analysis and Fiscal Estimate

The rule analysis was revised to reflect the actual season dates and bag limits. The fiscal note was unchanged.

Response to Legislative Council Rules Clearinghouse Report

The recommendations have been incorporated into the rule.

Final Regulatory Flexibility Analysis

The revisions to ch. NR 10 relate to migratory game bird management. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.

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

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(1)(v) and 10.06(5); and to repeal and recreate NR 10.01(1)(b), (g), (h) and (u) relating to the 2008 migratory game bird seasons and waterfowl hunting zones.

WM-17-08

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041 and 29.885, Stats., have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state and establish the two-day youth waterfowl hunt.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014 and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters and s. 29.197, Stats., and authorizes the establishment of special hunts

Related Statute or Rule: This rule order establishes the season length and bag limits for the Wisconsin migratory game bird seasons. Each year similar or identical emergency and permanent rule packages are promulgated. This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures.

Plain Language Analysis: This rule order establishes the season length and bag limits for the 2008 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60-day seasons. The season begins at 9:00 a.m. September 27 and continues for 60 consecutive days in the north, closing on November 25. In the South, the season begins at 9:00 a.m. on October 4 and continues through October 12, followed by a 5-day split, and then reopens on October 18 and continues through December 7. The special season for hunters age 12 through 15 will occur on September 20 and 21.

The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, 3 wood ducks and 2 redheads. The daily bag limit may include 1 scaup except that from Oct. 18 to Nov. 6 in the north zone and Nov. 1 to Nov. 20 in the south zone the daily bag may include 2 scaup.

The USFWS has reduced the daily bag limit on scaup from 2 for the entire season to 1 for a portion of the season in response to a declining population trend from the 1970's until about 2001. Scaup are, however, still the third most abundant duck in continental surveys at 3.7 million. The Mississippi Flyway was given a scaup season of 60 days with 40 days at a 1 bird daily bag and 20 days at a 2 bird daily bag. Wisconsin had the option to pick where the 20 days with a 2 bird bag fall during the season.

This rule order does not allow the harvest of canvasback ducks which is a stipulation of the federal framework. The season closure is in response to a decrease in the canvasback breeding population. The reason for this decrease remains unanswered but may be due to over-flight to non-breeding areas because of dry conditions in the prairie region. The canvasback harvest in 2007 (125,000 nationwide) was only one-third of the number of birds that were projected could be safely harvested.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 67 days (three hunting periods, September 16 – October 5, October 6 – 26, October 27 – November 21); Horicon Zone - 92 days (2 hunting periods, first period beginning September 16 and the second on November 3); Exterior Zone in the northern duck zone - 85 days (Sept. 20 – Dec. 13); Exterior Zone in the southern duck zone – 85 days (Sept. 20 – Oct. 12 and Oct. 18 – Dec. 18) and Mississippi River subzone - 85 days (Oct. 4 – Oct. 12 and Oct. 18 – Jan. 1). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

This rule order adds ten days to the mourning dove season so that it extends to November 9 which is consistent with a new opportunity offered in the federal hunting season framework.

Finally, this rule corrects an inconsistency between the section that establishes shooting hours and the section that establishes when the hunting season begins. Both should indicate a 9:00 a.m. start on the first day of the duck season but the section on shooting hours incorrectly describes a 12:00 noon start.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (FWS) regulations process. As part of the Federal rule process, the FWS proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest-management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals. Additionally, while FWS believes that the NAWMP's population goals tend to exert a conservative influence on overall duck harvest-management, other factors such as habitat are considered.

In the past, the regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest and was determined based on the spring breeding population estimate obtained from an aerial survey of the MVP breeding range as prescribed by the Mississippi Flyway MVP management plan. However, because locally produced giant Canada geese now constitute a considerable portion of the harvest in all states that also harvest Mississippi Valley Population birds, the Mississippi Flyway Council is testing the use of a standard season framework for 5 years. Beginning in the fall of 2007 and continuing through 2011, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season. In addition, if the MVP spring population numbers drop to a predetermined low level during the 5-year period, the stable season framework will be adjusted.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service in 50 CFR 20.

Comparison with Rules in Adjacent States: Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year these states meet to discuss regulations and guidelines offered to the flyways by the FWS. The FWS regulations and guidelines 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. These variations fall within guidelines and sideboards established by the FWS.

Summary of Factual Data and Analytical Methodologies: For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The result of this work is reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on Federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In May and June, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Bird Committee. At this meeting staff provided the attendees with breeding status information and asked for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At this meeting staff were provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to discuss and develop proposals and recommendations that were voted upon by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announced its final waterfowl season framework recommendation on August 1. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory Committee of the Conservation Congress and at a public

meeting (Post-Flyway Meeting) of interest groups and individuals in early August. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held in early August around the state to solicit additional input on the proposed annual waterfowl rule.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: 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. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

Agency Contact Person: Kent Van Horn, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. kent.vanhorn@wisconsin.gov (608) 266-8841

Section 1. NR 10.01(1)(b), (g), (h) and (u) are repealed and recreated to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 27 at 9:00 a.m. – Nov. 25	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 0 canvasback, 2 redheads and 3 wood ducks. The daily bag limit may include one scaup except during the period beginning on Oct. 18 and continuing through Nov. 6 when the bag limit may include 2 scaup. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Dec. 7	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 0 canvasback, 2 redheads, and 3 wood ducks. The daily bag limit may include one scaup except during the period beginning on Nov. 1 and continuing through November 20 when the bag limit may include 2 scaup. In addition, 5 mergansers to include not more than 2 hooded mergansers.	

Section I. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) <i>Geese</i> 1. Canada geese and its subspecies	a. Entire state	Sept. 1 — Sept. 15	5	10
	b. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 1.c. and d.	Sept. 20 — Sept. 26 and Sept. 27 at 9:00 a.m. — Dec. 13	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 20 — Sept. 26 and Sept. 27 at 9:00 a.m. — Dec. 13	2	4
	d. Burnett County subzone	None	None	None
	e. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 1. f. to j.	Sept. 20 — Oct. 3 and Oct 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 20 — Oct. 3 and Oct 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Two permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 2	2	
		Nov. 3 – Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Oct. 5	2	
		Oct. 6 – Oct 26	2	
		Oct. 27 – Nov. 21	2	
	i. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18	2	4
	j. Mississippi River subzone	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Jan. 1	2	4

Note: Season dates listed in this subdivision may be closed early when the harvest may exceed the level authorized, according to the procedure in s. NR 10.125(6).

2. Snow or blue and Ross' geese	Entire state	As established by zone	20	40
---------------------------------	--------------	------------------------	----	----

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 2.b. and c.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	c. Burnett County subzone	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 2. e. to i.	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	f. Horicon zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 21		
	h. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	i. Mississippi river subzone	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Jan. 1		

Section I. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 3.b. and c.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	c. Burnett County subzone	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in this subd. 3.e. to i.	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	f. Horicon zone	Sept. 22 – Oct. 3 and Oct. 4 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 21		
	h. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	i. Mississippi River subzone	Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Jan. 1		
4. Brant	Entire state	As established by zone	1	2
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 3 b. and c.	Sept. 20 - Sept. 26 and Sept. 27 at 9:00 a.m. - Dec. 13		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 20 - Sept. 26 and Sept. 27 at 9:00 a.m. - Dec. 13		
	c. Burnett County subzone	Sept. 20 - Sept. 26 and Sept. 27 at 9:00 a.m. - Dec. 13		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 3. e. to i.	Sept. 20 - Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 20 - Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	f. Horicon zone	Sept. 16 - Oct. 3 and Oct. 4 at 9:00 a.m. - Dec. 16		
	g. Collins zone	Sept. 16 - Oct. 3 and Oct. 4 at 9:00 a.m. - Nov. 21		
	h. Rock Prairie subzone	Sept. 20 - Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	i. Mississippi River subzone	Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Jan. 1		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(h) <i>Mourning dove</i>	a. Entire state	Sept. 1 — Nov. 9	15	30

NR 10.01(1)(u) *Falconry special season.* Any person possessing a valid falconry permit and hunting license shall be restricted to the following migratory game bird seasons:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
1. All species of wild ducks, mergansers and coots	Northern zone as established in s. NR 10.32	Sept. 20 – Sept. 21, Sept. 27 at 9:00 a.m. – Nov. 25 and Jan. 9 – Feb. 22	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
	Southern zone as established in s. NR 10.32	Sept. 20 – Sept. 21, Oct. 4 at 9:00 a.m. – Oct. 12, Oct. 18 – Dec. 7 and Jan. 9 – Feb. 22	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock	Entire state	Sept. 1 – Dec. 16	3 in aggregate with those species listed under subd. 1.	6 in aggregate with those species listed under subd. 1.
3. Geese	Within the zones and subzones established in s. NR 10.31	Concurrent with the open season for geese established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone

Section 2. NR 10.01(1)(v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event.* Persons 12 years of age or older but under 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September 15 ~~20~~. Approvals under ch. 29, Stats., are not required pursuant to s. 29.197 (1), Stats., except for registration in the harvest information program under s. NR 10.12 (11) and a Canada goose hunting permit for theseason or zone where goose hunting, as listed in par. (g) 1., if hunting Canada geese. Daily bag limits are those described under pars. (b), (c) and (g), except that the daily bag limit for the zone or sub zone being hunted as listed in par. (g) 1.a. to j., on that date shall apply to Canada geese, and all other waterfowl hunting regulations apply. Hunters shall be accompanied by an adult 18 years of age or older. One adult may not accompany more than 2 hunters.

Section 3. NR 10.06(5) is amended to read:

NR 10.06(5) HUNTING HOURS. Hunting hours for bear, bow deer, deer with firearms, elk and small game are 30

minutes before sunrise through 20 minutes after sunset. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset. All waterfowl hunting starts at ~~12:00 noon~~ 9:00 a.m. on the first day of the duck hunting season established in s. NR 10.01 (1) (b). The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392-5420 for Sheboygan, Wisconsin and Powers, Michigan, respectively. The hunting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

Zone Adjustment

- B Add 4 minutes
- C Add 8 minutes
- D Add 12 minutes
- E Add 16 minutes
- F Add 20 minutes

Section 4. EFFECTIVE DATE. The rules 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.)

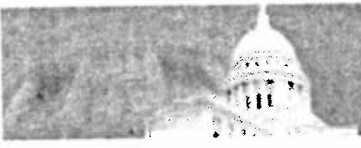
Section 5. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 13, 2008.

Dated at Madison, Wisconsin _____.

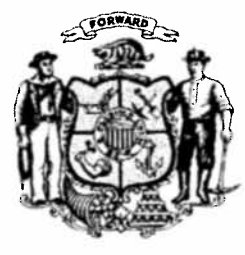
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)



WISCONSIN STATE LEGISLATURE



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

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(1)(v) and 10.06(5); and to repeal and recreate NR 10.01(1)(b), (g), (h) and (u) relating to the 2008 migratory game bird seasons and waterfowl hunting zones.

WM-18-08(E)

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041 and 29.885, Stats., have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state and establish the two-day youth waterfowl hunt.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014, 227.11 and 227.24, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters and s. 29.197, Stats., and authorizes the establishment of special hunts

Related Statute or Rule: This rule order establishes the season length and bag limits for the Wisconsin migratory game bird seasons. Each year similar or identical emergency and permanent rule packages are promulgated. This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures.

Plain Language Analysis: This rule order establishes the season length and bag limits for the 2008 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60-day seasons. The season begins at 9:00 a.m. September 27 and continues for 60 consecutive days in the north, closing on November 25. In the South, the season begins at 9:00 a.m. on October 4 and continues through October 12, followed by a 5-day split, and then reopens on October 18 and continues through December 7. The special season for hunters age 12 through 15 will occur on September 20 and 21.

The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, 3 wood ducks and 2 redheads. The daily bag limit may include 1 scaup except that from Oct. 18 to Nov. 6 in the north zone and Nov. 1 to Nov. 20 in the south zone the daily bag may include 2 scaup.

The USFWS has reduced the daily bag limit on scaup from 2 for the entire season to 1 for a portion of the season in response to a declining population trend from the 1970's until about 2001. Scaup are, however, still the third most abundant duck in continental surveys at 3.7 million. The Mississippi Flyway was given a scaup season of 60 days with 40 days at a 1 bird daily bag and 20 days at a 2 bird daily bag. Wisconsin had the option to pick where the 20 days with a 2 bird bag fall during the season.

This rule order does not allow the harvest of canvasback ducks which is a stipulation of the federal framework. The season closure is in response to a decrease in the canvasback breeding population. The reason for this decrease remains unanswered but may be due to over-flight to non-breeding areas because of dry conditions in the prairie region. The canvasback harvest in 2007 (125,000 nationwide) was only one-third of the number of birds that were projected could be safely harvested.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 67 days (three hunting periods, September 16 - October 5, October 6 - 26, October 27 - November 21); Horicon Zone - 92 days (2 hunting periods, first period beginning September 16 and the second on November 3); Exterior Zone in the northern duck zone - 85 days (Sept. 20 - Dec. 13); Exterior Zone in the southern duck zone - 85 days (Sept. 20 - Oct. 12 and Oct. 18 - Dec. 18) and Mississippi River subzone - 85 days (Oct. 4 - Oct. 12 and Oct. 18 - Jan. 1). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

This rule order adds ten days to the mourning dove season so that it extends to November 9 which is consistent with a new opportunity offered in the federal hunting season framework.

Finally, this rule corrects an inconsistency between the section that establishes shooting hours and the section that establishes when the hunting season begins. Both should indicate a 9:00 a.m. start on the first day of the duck season but the section on shooting hours incorrectly describes a 12:00 noon start.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (FWS) regulations process. As part of the Federal rule process, the FWS proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest-management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals. Additionally, while FWS believes that the NAWMP's population goals tend to exert a conservative influence on overall duck harvest-management, other factors such as habitat are considered.

In the past, the regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest and was determined based on the spring breeding population estimate obtained from an aerial survey of the MVP breeding range as prescribed by the Mississippi Flyway MVP management plan. However, because locally produced giant Canada geese now constitute a considerable portion of the harvest in all states that also harvest Mississippi Valley Population birds, the Mississippi Flyway Council is testing the use of a standard season framework for 5 years. Beginning in the fall of 2007 and continuing through 2011, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season. In addition, if the MVP spring population numbers drop to a predetermined low level during the 5-year period, the stable season framework will be adjusted.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service in 50 CFR 20.

Comparison with Rules in Adjacent States: Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year these states meet to discuss regulations and guidelines offered to the flyways by the FWS. The FWS regulations and guidelines 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. These variations fall within guidelines and sideboards established by the FWS.

Summary of Factual Data and Analytical Methodologies: For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The result of this work is reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In May and June, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Bird Committee. At this meeting staff provided the attendees with breeding status information and asked for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At this meeting staff were provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to discuss and develop proposals and recommendations that were voted upon by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announced its final waterfowl season framework recommendation on August 1. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory

Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals in early August. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held in early August around the state to solicit additional input on the proposed annual waterfowl rule.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: 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. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

Agency Contact Person: Kent Van Horn, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921.
kent.vanhorn@wisconsin.gov (608) 266-8841

Section 1. NR 10.01(1)(b), (g), (h) and (u) are repealed and recreated to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 27 at 9:00 a.m. – Nov. 25	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 redheads and 3 wood ducks. The daily bag limit may include one scaup except during the period beginning on Oct. 18 and continuing through Nov. 6 when the bag limit may include 2 scaup. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Dec. 7	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 redheads, and 3 wood ducks. The daily bag limit may include one scaup except during the period beginning on Nov. 1 and continuing through November 20 when the bag limit may include 2 scaup. In addition, 5 mergansers to include not more than 2 hooded mergansers.	

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) <i>Geese</i> 1. Canada geese and its subspecies	a. Entire state	Sept. 1 — Sept. 15	5	10
	b. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 1.c. and d.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13	2	4
	d. Burnett County subzone	None	None	None
	e. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 1. f. to j.	Sept. 20 – Oct. 3 and Oct 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 20 – Oct. 3 and Oct 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Two permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 2	2	
		Nov. 3 – Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Oct. 5	2	
		Oct. 6 – Oct 26	2	
		Oct. 27 – Nov. 21	2	
	i. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18	2	4
	j. Mississippi River subzone	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Jan. 1	2	4

Note: Season dates listed in this subdivision may be closed early when the harvest may exceed the level authorized, according to the procedure in s. NR 10.125(6).

2. Snow or blue and Ross' geese	Entire state	As established by zone	20	40
---------------------------------	--------------	------------------------	----	----

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 2. b. and c.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	c. Burnett County subzone	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 2. e. to i.	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	f. Horicon zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 21		
	h. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	i. Mississippi river subzone	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Jan. 1		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 3.b. and c.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	c. Burnett County subzone	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in this subd. 3.e. to i.	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	f. Horicon zone	Sept. 22 – Oct. 3 and Oct. 4 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 21		
	h. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	i. Mississippi River subzone	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Jan. 1		
4. Brant	Entire state	As established by zone	1	2
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 3.b. and c.	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	c. Burnett County subzone	Sept. 20 – Sept. 26 and Sept. 27 at 9:00 a.m. – Dec. 13		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 3. e. to i.	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	f. Horicon zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 3 and Oct. 4 at 9:00 a.m. – Nov. 21		
	h. Rock Prairie subzone	Sept. 20 – Oct. 3 and Oct. 4 at 9:00 a.m. - Oct. 12 and Oct. 18 - Dec. 18		
	i. Mississippi River subzone	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Jan. 1		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(h) <i>Mourning dove</i>	a. Entire state	Sept. 1 — Nov. 9	15	30

NR 10.01(1)(u) *Falconry special season.* Any person possessing a valid falconry permit and hunting license shall be restricted to the following migratory game bird seasons:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
1. All species of wild ducks, mergansers and coots	Northern zone as established in s. NR 10.32	Sept. 20 – Sept. 21, Sept. 27 at 9:00 a.m. – Nov. 25 and Jan. 9 – Feb. 22	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
	Southern zone as established in s. NR 10.32	Sept. 20 – Sept. 21, Oct. 4 at 9:00 a.m. – Oct. 12, Oct. 18 – Dec. 7 and Jan. 9 – Feb. 22	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock	Entire state	Sept. 1 – Dec. 16	3 in aggregate with those species listed under subd. 1.	6 in aggregate with those species listed under subd. 1.
3. Geese	Within the zones and subzones established in s. NR 10.31	Concurrent with the open season for geese established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone

Section 2. NR 10.01(1)(v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event.* Persons 12 years of age or older but under 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September 15 20. Approvals under ch. 29, Stats., are not required pursuant to s. 29.197 (1), Stats., except for registration in the harvest information program under s. NR 10.12 (11) and a Canada goose hunting permit for theseason or zone where goose hunting, as listed in par. (g) 1., if hunting Canada geese. Daily bag limits are those described under pars. (b), (c) and (g), except that the daily bag limit for the zone or sub zone being hunted as listed in par. (g) 1. a. to j., on that date shall apply to Canada geese, and all other waterfowl hunting regulations apply. Hunters shall be accompanied by an adult 18 years of age or older. One adult may not accompany more than 2 hunters.

Section 3. NR 10.06(5) is amended to read:

NR 10.06(5) HUNTING HOURS. Hunting hours for bear, bow deer, deer with firearms, elk and small game are 30

minutes before sunrise through 20 minutes after sunset. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset. All waterfowl hunting starts at ~~2:00 noon~~ 9:00 a.m. on the first day of the duck hunting season established in s. NR 10.01 (1) (b). The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392-5420 for Sheboygan, Wisconsin and Powers, Michigan, respectively. The hunting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

Zone Adjustment

- B Add 4 minutes
- C Add 8 minutes
- D Add 12 minutes
- E Add 16 minutes
- F Add 20 minutes

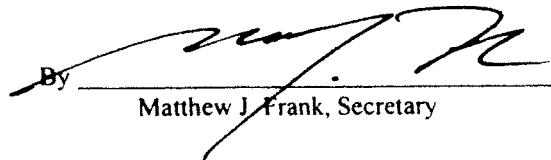
Section 4. STATEMENT OF EMERGENCY. The emergency rule procedure, pursuant to s. 77.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agency rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rulemaking procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Section 5. EFFECTIVE DATE. The rules shall take effect on the day of publication in the official state newspaper.

Section 6. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 13, 2008.

Dated at Madison, Wisconsin August 18, 2008

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By 
Matthew J. Frank, Secretary

(SEAL)

Fiscal Estimate — 2007 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number WM-17-08 and WM-18-08(E)

Subject
2008 Migratory game bird seasons

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
- Decrease Costs

Local: No Local Government Costs
 Indeterminate

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Annually the department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. This rule order establishes the 2008 season lengths and bag limits. The 2008 season framework is not significantly different than the migratory game bird seasons in previous years.

Ducks - The state is divided into two zones each with 60-day seasons. The daily bag limit is expected to be six ducks including no more than: four mallards, of which only one may be a hen, one black duck, one pintail, three wood ducks, and two redheads. The daily bag limit may include 1 scaup except that from Oct. 18 to Nov. 6 in the north duck hunting zone and Nov. 1 to Nov. 20 in the south zone the daily bag may include 2 scaup. Canvasback ducks may not be harvested.

Canada geese - The state is apportioned into three goose hunting zones: Horicon, Collins, and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are expected to be as follows:

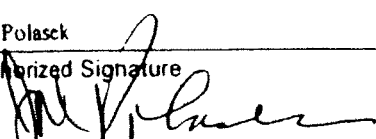
- Collins Zone - 67 days
- Horicon Zone - 92 days
- Exterior Zone - 85 days
- Mississippi River Subzone - 85 days

In addition to these annual regulatory issues, this proposal would add ten days to the mourning dove hunting season which is consistent with the new federal season framework offered in 2008.

FISCAL IMPACT: This proposed migratory bird season rule is similar to the season in previous years and will not result in any significant changes in spending or revenue. There are no new government costs anticipated due to the provisions of this rule.

Long-Range Fiscal Implications

None

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 08-01-08

Fiscal Estimate Worksheet — 2007 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-17-08 and WM-18-08(E)


Subject
 2008 Migratory game bird seasons

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes		\$ 0	\$ - 0
(FTE Position Changes)		(0.00 FTE)	(- 0.00 FTE)
State Operations — Other Costs		0	- 0
Local Assistance		0	- 0
Aids to Individuals or Organizations		0	- 0
Total State Costs by Category		\$ 0	\$ - 0
B. State Costs by Source of Funds			
GPR		\$ 0	\$ - 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		0	- 0
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$ 0	\$ - 0

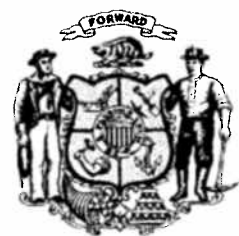
Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 08-06-08



WISCONSIN STATE LEGISLATURE

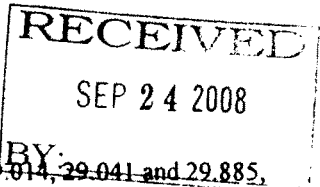


ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(1)(b) as created by Natural Resources Board Emergency Order No. WM-18-08(E) relating to 2008 migratory game bird hunting regulations.

WM-18-08(M)

Analysis Prepared by the Department of Natural Resources



Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. ~~29.014, 29.041 and 29.885~~, Stats., have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state and establish the two-day youth waterfowl hunt.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014 and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters and s. 29.197, Stats., and authorizes the establishment of special hunts

Related Statute or Rule: This rule order establishes the season length and bag limits for the Wisconsin migratory game bird seasons. Each year similar or identical emergency and permanent rule packages are promulgated. This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures.

Plain Language Analysis: This rule order amends WM-18-08(E) to clarify that no canvasback ducks are allowed in the bag limit.

This rule order does not allow the harvest of canvasback ducks which is a stipulation of the federal framework. The season closure is in response to a decrease in the canvasback breeding population. The reason for this decrease remains unanswered but may be due to over-flight to non-breeding areas because of dry conditions in the prairie region. The canvasback harvest in 2007 (125,000 nationwide) was only one-third of the number of birds that were projected could be safely harvested.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (FWS) regulations process. All proposed modifications included in this rule order are consistent with the parameters and guidelines which are annually established by the Fish and Wildlife Service in 50 CFR 20.

Comparison with Rules in Adjacent States: Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year these states meet to discuss regulations and guidelines offered to the flyways by the FWS. The FWS regulations and guidelines apply to all states within the Flyway and therefore, the regulations in the adjoining states closely resemble the rules established in this rule order.

Summary of Factual Data and Analytical Methodologies: For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In May and June, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

Public hearings were held in early August around the state to solicit additional input on the proposed annual waterfowl rule.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: 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. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

Agency Contact Person: Kent Van Horn, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921.
kent.vanhorn@wisconsin.gov (608) 266-8841

Section 1. Amend NR 10.01(1)(b) as created by NR-18-08(E) to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 27 at 9:00 a.m. – Nov. 25	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 0 canvasback, 2 redheads and 3 wood ducks. The daily bag limit may include one scaup except during the period beginning on Oct. 18 and continuing through Nov. 6 when the bag limit may include 2 scaup. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 4 at 9:00 a.m. – Oct. 12 and Oct. 18 – Dec. 7	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 0 canvasback, 2 redheads, and 3 wood ducks. The daily bag limit may include one scaup except during the period beginning on Nov. 1 and continuing through November 20 when the bag limit may include 2 scaup. In addition, 5 mergansers to include not more than 2 hooded mergansers.	

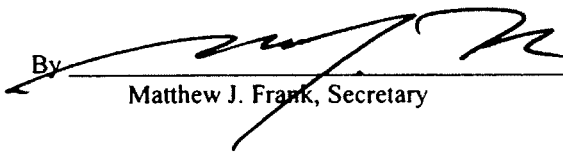
Section 4. STATEMENT OF EMERGENCY. The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rulemaking procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Section 5. EFFECTIVE DATE. The rules shall take effect on the day of publication in the official state newspaper.

Section 6. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 13, 2008.

Dated at Madison, Wisconsin September 17, 2008

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By 
Matthew J. Frank, Secretary

(SEAL)