

 **07hr_SC-ENR_CRule_07-055_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate, or Joint)

Committee on ...
Environment and Natural Resources
(SC-ENR)

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 ... **HR** ... **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**

* Contents organized for archiving by: Mike Barman (LRB) (July/2014)

Senate

Record of Committee Proceedings

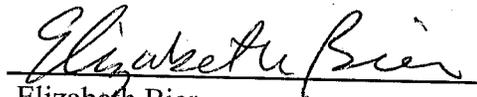
Committee on Environment and Natural Resources

Clearinghouse Rule 07-055

Relating to the 2007 migratory game bird seasons and waterfowl hunting zones.
Submitted by Department of Natural Resources.

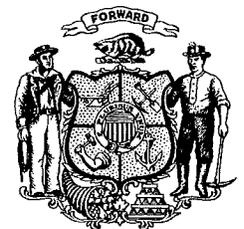
August 22, 2007 Referred to Committee on Environment and Natural Resources.

September 22, 2007. No action taken.


Elizabeth Bier
Committee Clerk



WISCONSIN STATE LEGISLATURE



Bier, Beth

From: Van Horn, Kent - DNR
Sent: Tuesday, August 21, 2007 1:00 PM
To: Bier, Beth
Cc: Loomans, Scott D - DNR; Vander Zouwen, Jr, William - DNR; Hauge, Tom M - DNR
Subject: Migratory Bird Hunting Seasons

Beth,

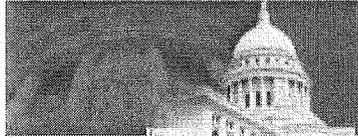
Last month, Scott Loomans mentioned to you that the Department was in the process of proposing the 2007 waterfowl hunting seasons and taking public input. I wanted to send a note as a follow up to that conversation. Scott told me that you were familiar with the abbreviated schedule of our rule process because of its relationship with federal requirements. We held public hearings (August 6-9,2007) on the rule order outlining the proposed waterfowl hunting seasons for 2007 as well as nontoxic shot requirements for rail, snipe and moorhen in 2007 and mourning doves on department managed lands beginning in 2008. The Natural Resources Board approved these proposals at their meeting on August 15. Subsequently, we have forwarded the Natural Resources Board Order and background document which describes the regulatory proposals and public input to Senator Miller's office.

If you or the Senator have any questions related to the migratory game bird regulations or the process, please feel free to contact me.

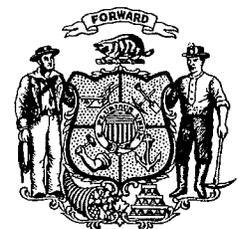
Thank you,

Kent Van Horn

Migratory Game Bird Ecologist
Bureau of Wildlife
Wisconsin Department of Natural Resources
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e-mail: kent.vanhorn@dnr.state.wi.us



WISCONSIN STATE LEGISLATURE



REPORT TO LEGISLATURE

NR 10, Wis. Adm. Code 2007 migratory game bird seasons and waterfowl hunting zones

Board Order No. WM-19-07
Clearinghouse Rule No. 07-055

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. Each flyway has a Flyway Council consisting of one member from each state and province in that flyway. Wisconsin is part of the Mississippi Flyway and is one of 17 members on the Mississippi Flyway Council (MFC). The USFWS annually prescribes the outside limits (frameworks) within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council. The rule summary is as follows:

- 1) **Ducks.** The duck season regulation proposal is similar to 2006. The USFWS has approved a 60-day season framework in which a state could begin the duck season as early as the Saturday nearest September 24. In 2007 this is September 22 which is on the early side of this framework. In 2008, we will be on the late side of this framework with the Saturday nearest the 24th being the 27th. The Wisconsin season below is the result of the following options.
 - A September 22 start for the northern zone. For the southern zone, a September 29 start with a 5-day split (Oct 8-12), reopening on October 13 and ending on December 2. The earlier opener in the northern zone is intended to accommodate the earlier freeze up in the north and provide hunting opportunity on early migrating teal. As a result of the duck zone line change in 2006, duck hunters in northwest Wisconsin were able to enjoy this earlier opening for the first time in over 10 years and reported some of the best opening weekend duck hunting experienced in years.

The 5-day early October split within the southern zone is a compromise between differing hunting conditions and requests of marsh dabbler hunters, deep-water diver hunters and field hunters across the zone. Because of differing conditions and target species some hunters want more days earlier in the season while others want more days later in the season. In 2006, we provided a 7-day split as a change from the 5-days we had experienced in the few years prior. However, significant negative feedback was received during the 2006 season on this decision to remove a weekend of duck hunting in October.

- The USFWS framework would allow a daily bag limit of 2 hen mallards but we are once again proposing to a daily bag limit of 1 hen mallard during the entire season to protect the breeding potential of Wisconsin mallards. Other states in the Mississippi Flyway have been following Wisconsin's lead on this bag limit.

SEASON SUMMARY:

During the 60-day season, the daily bag limit will be 6 ducks including no more than; 4 mallards, of which only one may be a hen, one black duck, one pintail, 2 canvasback, 2 wood ducks, 2 redheads and 2 scaup.

Northern Zone – September 22 at 9:00 am – November 20.

Southern Zone – September 29 at 9:00 am – October 7, and October 13 - December 2.

4) Other Geese

Brant and Light geese

Seasons will be the same as for the Canada goose zones/subzones.

The daily bag limit will be 1 brant and 20 snow, blue or Ross's geese

White fronted geese

Season will be the same as Canada geese for the Exterior and Collins zones. Within the Horicon zone the season will be from Sept 22 – Dec 16th.

The daily bag limit will be 1.

5) **Nontoxic shot requirement for rails, snipe, moorhens and mourning doves.**

- Beginning in 2007, the use of nontoxic shot will be required while hunting snipe, rails, and moorhens statewide.
- Beginning in 2008, the use of nontoxic shot will be required while hunting mourning doves on lands which are under the management, supervision and control of the Department.

Summary of Public Comments

The timing of the duck hunting seasons was the most debated topic this year with a wide range of options being discussed. They are summarized below by the major groups of options.

1) North Zone - Season dates

Opening Day –

Sept 22 (Department Proposal)

- 65 individuals
- 4 waterfowl groups

Sept 29 or later (Most looking for one statewide opener)

- 50 individuals
- 3 waterfowl groups
- Conservation Congress Migratory Committee

Across the northern zone, duck hunters differ in their preference for the opening day date. Those opposed to this opening day were primarily people who live in the northern zone and hunt near the zone line. These hunters have had a negative experience of hunters living in the southern zone hunting the northern zone opener and increasing hunting pressure in some local areas. The hunter density problems appear to be focused in some areas of about 10 counties out of about 36 counties in the northern zone. These 10 counties are just over the zone line from Marathon County east to a portion of Brown County and those that are serviced by Hwy 51/39 (Oneida/Vilas). They favored a statewide opener on September 29. The Department is reviewing alternatives to address the hunter density issues on state wildlife areas that are popular for waterfowl hunting.

On the other side of this issue are the duck hunters in the other 26 counties of the northern zone that mostly wish to be able to participate in hunting the early migrating teal and avoid freeze up of their lakes and marshes before the season ends. This geographic difference is the reason for the 2 duck zones reestablished in 2006. Others who particularly favor the different opening dates are those

season goose hunters proposed a later opening date. During the public meetings, the department requested input on hunter's ideas for a potential split to this season in order to move the ending date later in December. Department law enforcement staff would generally favor a closure of the Canada goose season during the duck season closure for more consistency.

Comments on an Exterior zone split:

- Split Exterior goose during southern zone duck split - 22 individuals and 1 group
- Split Exterior goose during 9 day gun deer season – 15 individuals
- Opposed to Exterior goose split during 9 day gun deer season – 6 individuals

6) 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, however, opinions on this issue are still varied.

- Maintain Noon Opening Time – 4 waterfowl groups, 2 individuals favored
- 9:00 am – Conservation Congress, 1 waterfowl group and 44 individuals favored
- ½ hour before sunrise – 2 waterfowl groups and 21 individuals favored.

7) Nontoxic shot proposals

The public input received on these 2 proposals was overwhelmingly in support of both proposals.

The attached table indicates the number of comments received on the specific rule revisions.

Modifications Made

Based on public input the Department recommends the proposed 5 day split.

Based on the public input, the Department has changed its recommendation to propose the Exterior Zone Canada goose season include a 5 day split in the southern zone along with the duck season split. The season therefore is proposed as September 16 – December 9 in the Northern zone and Sept 16- October 7 and October 13- December 14 in the Southern zone.

Appearances at the Public Hearing

AUGUST 6, 2007 – LA CROSSE

In support – none

In opposition:

Jesse Boutin, 2134 S. 31st Street, La Crosse, WI

As interest may appear:

Jim March, N3406 Verde Valley Road, La Crosse, WI 54601
Greg Egan, 3711 Ebner Coulee Road, La Crosse, WI 54601
Christopher M. Johnson, 130 Lake Street, Holmen, WI 54636
Marc A. Schultz, W8155 County Road ZB, Onalaska, WI 54650
Ray Heidel, W8043 Highway ZN, Onalaska, WI 54650
Joe VandeHey, 3081 County Road M, Boscobel, WI 53805
Tony Toye, 43605 County E, Boscobel, WI 53805

James Pape, 3041 W. Roselawn Drive, Appleton, WI 54914
Noel Dolde, 504 S. Oxford Street, Wautoma, WI 54982
Clarence Kunde, 104 Wenban Avenue, Neenah, WI 54956
Kurt Mueller, 2137 W. Roselawn Drive, Appleton, WI 54914
Tim Braunel, 1704 Nancy Avenue, Green Bay, WI 54303
Joe Loehlein, 2518 Clear Brook Circle, Green Bay, WI 54313
Joel Salzman, W2651 Woodview Lane, Marinette, WI 54143
Eric Dallamater, 2536 Cherrywood Lane, Green Bay, WI 54304
Ronald J. Buss, W8076 Peterson Road, Shiocton, WI 54170
Peter A. Peshek, 1121 Winston Drive, Madison, WI 53711
Lawrence Enger, 1302 W. Spencer, Appleton, WI 54914
Nathan T. VanDynHoven, 424 S. Telulah Avenue, Appleton, WI 54915
Len Doran, 820 Bengal Road, Neenah, WI 54956
Joe Treiber, 1024 W. Kamps Avenue, Appleton, WI 54914
Corey Mullard, W2972 Creekside Court, Appleton, WI 54915
Andrea Camozzi, 857 3rd Street, Menasha, WI
Cindy Rueth, 2309 S. Gmeiner Road, Appleton, WI 54915
John Rueth, 2309 S. Gmeiner Road, Appleton, WI 54915
David Acker, 724 Paris Street, Menasha, WI 54952
Shawn Fischer, 717 Paris Street, Menasha, WI 54952
Jim Haber, 309 South Maple, Kimberly, WI 54136
Robert Sabott, 1741 Michigan Street, Oshkosh, WI 54902
Jim Christenson, 2440 Newberry Avenue, Green Bay, WI 54302
John Mott, 918 Catherine Street, Green Bay, WI
Jesse F. Rangle, 3930 County Road G, Oshkosh, WI
Kevin Clark, 1806 E. Byrd Street, Appleton, WI 54911
John M. Kropp, 512 Cleveland Avenue, Manitowoc, WI
Tim Salzman, 4251 Touchstone Drive, Oneida, WI 54155
Wayne Schroeder, 3530 N. Story Street, Appleton, WI 54914
Donald Kettner, 405 Wittlin Drive, Black Creek, WI 54106
Larry Kettner, N8298 Old Highway 47, Black Creek, WI 54106
Michael Kettner, N8298 Old Highway 47, Black Creek, WI 54106
Bryan Schmidt, W4004 Faro Springs Road, Hilbert, WI 54129

AUGUST 9, 2007 – WAUKESHA

In support:

Mark Kakatsch, N55 W37090 Harvard, Oconomowoc, WI 53066
Dennis Maass, N5700 Town Line Road, Elkhorn, WI 53121
Dan Brown, S51 W29202 Ridgefield Road, Waukesha, WI 53189
Brian Wencka, 419 N. Grandview Blvd., Waukesha, WI 53188
Kent Ward, 26420 Grace Drive, Wind Lake, WI 53185
Steven Hutson, 9402 W. Prairie Grass Way, Franklin, WI 53132

In opposition – None

As interest may appear:

Dean Gebhardt, 7888 Nenno Road, Allenton, WI 53002
Al Shook, W339 S2576 Highway C, Oconomowoc, WI 53066
Dale W. Arenz, W324 N1198 Lapham Peak Road, Delafield, WI 53018
Michael Seebach, 4305 Glenway Street, Wauwatosa, WI 53222
Jeff Hintz, N92 W25490 Blue Heron Drive, Sussex, WI 53089
Bill Watson, 139 W. Wilson Street, #103, Madison, WI 53703

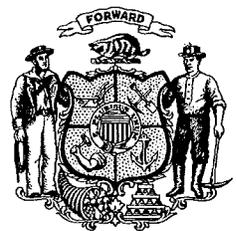
Migratory Game Bird Public Comment Summary

*Bold = Department proposal, * indicates Conservation Congress Migratory Committee vote*

<u>Issue</u>	<u>Email/phone /other</u>	<u>Hearing attendees</u>	<u>Groups at meetings</u>
North Duck Zone opener, Sept 22	28	37	4
North Duck Zone opener, later	40	10	4*
South Duck Zone opener, Sept 29	48	46	6*
South Duck Zone opener, earlier	7	1	1
South Duck Zone opener, later	20	2	1
South Duck Zone split, 5-day, Oct 8-12	24	34	6*
South Duck Zone split, longer	10	11	1
South Duck Zone, no split	6	2	1
Duck Shooting Hours on Opening Day, 9am	18	26	2*
Duck Shooting Hours on Opening Day, 1/2 hr before sunrise	3	18	2
Duck Shooting Hours on Opening Day, noon	0	2	4
Exterior Goose Zone, Sept 16-Dec 9	12	12	7*
Exterior Goose Zone, with 1 or 2 splits	11	23	1
<i>[split during duck split]</i>	<i>[5]</i>	<i>[17]</i>	<i>[1]</i>
<i>[split during gun-deer season]</i>	<i>[5]</i>	<i>[10]</i>	<i>[0]</i>
Do not split during gun-deer season	0	6	0
Mourning Doves			
Nontoxic shot requirement on Public Lands	2	35	8*
Mourning Doves - no Nontoxic shot requirement	1	2	0 (and 1 neutral)
Total commenting individuals or groups, by category	157	60	9



WISCONSIN STATE LEGISLATURE



Fiscal Estimate — 2007 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-19-07 and WM-19-07(E)

Subject
 2007 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.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 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 2007 season lengths and bag limits. The 2007 season framework is not significantly different than the migratory game bird seasons in previous years.

For ducks the state is divided into two zones, each with 60-day seasons. Under this proposal, the season begins at 9:00 a.m. September 22 and continues for 60 consecutive days in the north, closing on November 20. In the South the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5-day split, and then reopens on October 13 and continues through December 2. 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, one canvasback, 2 wood ducks, 2 redheads and 2 scaup.

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 under this proposal would be: Collins Zone - 62 days (3 periods, first period beginning September 16); Horicon Zone - 92 days (4 periods, first period beginning September 16); Exterior Zone - 85 days (North: Sept. 16 - 21 and Sept. 22 (9:00 a.m.) - Dec. 9 and South: Sept 16 - Sept. 28 and Sept. 29 (9:00 a.m.) - Dec. 9); and Mississippi River subzone - 70 days (Sept. 29 (9:00 a.m.) - Oct. 7 and Oct. 13 - Dec. 12). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in the Horicon and Collins Zones is 2 birds per day during the open seasons within each zone. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

In addition, the rule would require the use of non-toxic shot for snipe, rails, and moorhens. Non-toxic shot would be required for hunting doves on department managed lands. Hunting regulations in a 75 yard area around the Horicon National Wildlife Refuge are modified, and the procedure for controlling nuisance geese at airports is simplified.

FISCAL IMPACT: The proposed changes will not result in any significant changes in spending or revenue. There are no 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) 04-23-07

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-19-07 and WM-19-07(E)

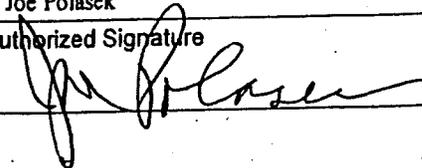
Subject
 2007 Migratory game bird seasons

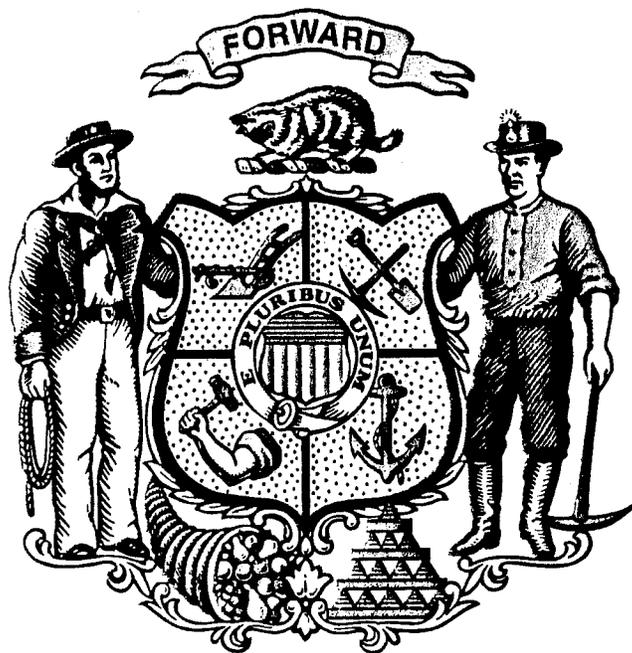
One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

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			
		Increased Costs	Decreased Costs
GPR		\$ 0	\$ - 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		0	- 0
		Increased Revenue	Decreased Revenue
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$	\$ -

Net Annualized Fiscal Impact

	State	Local
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) 04-23-07



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), 10.12(5)(d) and 10.15(6); to repeal and recreate NR 10.01(1)(b), (g) and (u) relating to the 2007 migratory game bird seasons and waterfowl hunting zones.

WM-20-07(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, 29.885 and 227.24 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, establish the two-day youth waterfowl hunt, authorize the removal of wild animals that are causing damage or that are a nuisance, modify the types of activities that are allowed within a 75-yard area around the Horicon National Wildlife Refuge, and require the use of non-toxic shot for hunting rails and snipe.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014 and 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, s. 29.197, Stats., authorizes the establishment of special hunts, and s. 29.885, Stats., authorizes the department to regulate wildlife damage and nuisance control.

Related Statute or Rule: This rule order establishes the season length, bag limits, and shot-type requirements 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 2007 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 22 and continues for 60 consecutive days in the north, closing on November 20. In the south, the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5-day split, and then reopens on October 13 and continues through December 2. 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, 2 canvasbacks, 2 wood ducks, 2 redheads and 2 scaup.

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 - 62 days (three hunting periods, September 16 – 30, October 1 – 21, October 22 – November 16); Horicon Zone - 92 days (essentially 2 hunting periods, first period beginning September 16 and the second on October 27); Exterior Zone in the Northern Duck Zone – 85 days (Sept. 16 – Dec. 9); Exterior Zone in the Southern Duck Zone - 85 days (Sept. 16 – Oct. 7, followed by a five day split, and then reopens on October 13 and continues through Dec. 14); and Mississippi River subzone - 85 days (Sept. 29 – Oct. 7 and Oct. 13 - Dec. 27). 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.

Adjacent to the Horicon National Wildlife Refuge, this rule would allow the placement of decoys and shooting at waterfowl that are within 75 yards of the refuge boundary by people who are hunting from outside of the 75-yard secondary boundary. The discharge of firearms at waterfowl by a person who is within 75 yards of the refuge boundary would continue to be illegal. The nature of this proposal is a housekeeping change that will restore a hunting strategy which was inadvertently eliminated when the Horicon Intensive Management Zone was eliminated.

Finally, this rule will require the use of non-toxic shot by people who are hunting rails, snipe and moorhens. Non-toxic shot is already required for use when hunting waterfowl and coot.

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 would tend to exert a conservative influence on overall duck harvest- management. Other factors, such as habitat, also need to be considered.

In the past, the regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest which 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 would like to test the use of a standard season framework for 5 years. Beginning this fall and continuing for 5 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. In addition, if the MVP spring population numbers dropped to a predetermined low level during the 5-year period, the stable season framework would 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 the states included in the flyways 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. However, these variations fall within guidelines and sideboards established by the FWS.

This rule would require the use of non-toxic shot when hunting rails, snipe, and moorhens. Non-toxic shot is already required for most bird hunting on federally owned waterfowl production areas and refuges. There are 26 states that have non-toxic shot requirements that are more restrictive than federal rules including all of Wisconsin's neighboring states.

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 surveys). The option of a closed season is also possible if survey conditions indicated that this was 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 the 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 will be 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 will be 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 results of this work will be 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 items that they wish us to pursue at the MFC meeting that occurred in mid July. Department staff then attended the MFC Technical and Council meetings (July 23 -29, 2007). 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 (August 1 - 2, 2007). On August 2, the USFWS announced its final waterfowl season framework recommendation. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals on August 4. Staff received input at these meetings regarding citizen suggestions for the development of

Wisconsin's waterfowl regulations given the federal framework. Public hearings were held each day on August 6 – 9 around the state to solicit additional input on the proposed annual waterfowl rule.

Non-toxic shot is already required for use when hunting waterfowl and coot and this rule will expand that requirement to people who are hunting rails, snipe and moorhens. All of these species of game birds and some non-game birds sharing the same habitat are susceptible to lead poisoning when they ingest pellets for their crop as grit. The seed grinding process wears down the soft lead pellets, causing lead to be absorbed in the bloodstream. Examinations of dead birds collected from the wild still commonly identify lead toxicity as a cause of death.

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 sportspeople and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

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Section 1. NR 10.01(1)(b), (g) 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. 22 at 9:00 a.m. – Nov. 20	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 canvasbacks, 2 redheads, 2 wood ducks, and 2 scaup. In addition 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 2	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 canvasbacks, 2 redheads, 2 wood ducks, and 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 subzone described in subd. 1.c. and d.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9	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. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Four permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 26	2	
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 26	2	
		Oct. 27 – Dec. 16	2	
		Oct. 27 – Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Sept. 30	2	
		Oct. 1 – Oct 21	2	
		Oct. 22 – Nov. 16	2	
	i. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14	2	4
	j. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 27	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
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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 subzone described in subd. 2.b. and c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	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. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	f. Horicon zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 - Dec. 27		

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 subzone described in subd. 3.b. and c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	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. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	f. Horicon zone	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 27		
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 sub. 3.b. and c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 9		
	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. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	e. All that part of the Brown county subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	f. Horicon zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 14		
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 27		

Section 1. Continued.

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. 15– Sept. 16, Sept. 22 at 9:00 a.m. – Nov. 20 and Jan. 11 – Feb. 24	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. 15 – Sept. 16, Sept. 29 at 9:00 a.m. – Oct. 7, Oct. 13 – Dec. 2 and Jan. 11 – Feb. 24	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 ~~16~~ 15. 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 the season 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 10.12(5)(d) is amended to read:

NR 10.12(5)(d) *Non-toxic shot requirements.* While hunting waterfowl, snipe, rails, moorhens and coot within any areas of the state, no person may:

1. Take, catch, kill or pursue waterfowl, snipe, rails, moorhens and coot with any shot, either in shotshells or as loose shot for muzzle-loading, other than non-toxic shot.
2. Possess any shotshell or muzzle-loading firearm loaded with any material other than non-toxic shot.

Section 4. NR 10.15(6) is amended to read:

NR 10.15(6) WATERFOWL SEASON. No person may hunt waterfowl within 75 yards of the Horicon national wildlife refuge boundary during the open season for hunting waterfowl. For purposes of this section, the placement of decoys or shooting at waterfowl which are located within the 75-yard zone immediately outside of the refuge are allowed as long as the hunter does not discharge a firearm or bow and arrow from within that area when shooting at waterfowl.

Section 5. 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 rule-making 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 6. EFFECTIVE DATE. The rules shall take effect on the day of publication in the official state newspaper.

Section 7. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 15, 2007.

Dated at Madison, Wisconsin

August 16, 2007

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

Scott Hassett

Scott Hassett, Secretary

(SEAL)

Fiscal Estimate — 2007 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-19-07 and WM-19-07(E)

Subject
 2007 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.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 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 2007 season lengths and bag limits. The 2007 season framework is not significantly different than the migratory game bird seasons in previous years.

For ducks the state is divided into two zones, each with 60-day seasons. Under this proposal, the season begins at 9:00 a.m. September 22 and continues for 60 consecutive days in the north, closing on November 20. In the South the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5-day split, and then reopens on October 13 and continues through December 2. 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, one canvasback, 2 wood ducks, 2 redheads and 2 scaup.

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 under this proposal would be: Collins Zone - 62 days (3 periods, first period beginning September 16); Horicon Zone - 92 days (4 periods, first period beginning September 16); Exterior Zone - 85 days (North: Sept. 16 - 21 and Sept. 22 (9:00 a.m.) - Dec. 9 and South: Sept. 16 - Sept. 28 and Sept. 29 (9:00 a.m.) - Dec. 9); and Mississippi River subzone - 70 days (Sept. 29 (9:00 a.m.) - Oct. 7 and Oct. 13 - Dec. 12). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in the Horicon and Collins Zones is 2 birds per day during the open seasons within each zone. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

In addition, the rule would require the use of non-toxic shot for snipe, rails, and moorhens. Non-toxic shot would be required for hunting doves on department managed lands. Hunting regulations in a 75 yard area around the Horicon National Wildlife Refuge are modified, and the procedure for controlling nuisance geese at airports is simplified.

FISCAL IMPACT: The proposed changes will not result in any significant changes in spending or revenue. There are no government costs anticipated due to the provisions of this rule.

Long-Range Fiscal Implications

None

Prepared By: Joe Polasck	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 04-23-07

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-19-07 and WM-19-07(E)

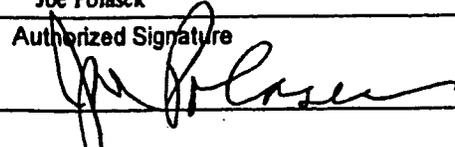
Subject
 2007 Migratory game bird seasons

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	Increased Costs	Decreased Costs
GPR	\$ 0	\$ - 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
State Revenues	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	\$	\$ -

Net Annualized Fiscal Impact

	State	Local
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) 04-23-07