

 **07hr_SC-ENR_CRule_07-055_pt02**



(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)

NATURAL RESOURCES BOARD AGENDA ITEM

SUBJECT: Adoption of board orders WM-19-07 and WM-19-07(E), revisions to NR 10 and 12 establishing the 2007 migratory game bird hunting seasons and regulations

FOR: AUGUST 2007 BOARD MEETING

TO BE PRESENTED BY: Kent Van Horn, Migratory Bird Specialist

SUMMARY:

This rule order establishes the seasons and regulations for the 2007 migratory game bird season. For ducks, the state is divided into two zones with 60-day seasons. The season begins at 9:00 a.m. September 22 in the north and closes 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, reopening on October 13 and continuing through December 2. The dates of the youth waterfowl hunt are Sept. 15 and 16. The daily bag limit is 6 ducks including no more than: 4 mallards (one hen), one black duck, one pintail, 2 canvasbacks, 2 wood ducks, 2 redheads and 2 scaup.

For Canada geese, the state is apportioned into the Horicon, Collins and Exterior zones plus four subzones within the Exterior Zone. Season lengths are: Collins Zone - 62 days (3 periods, first period beginning Sept. 16); Horicon Zone - 92 days (4 periods, first period beginning Sept. 16); 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 5-day split and Oct. 13 - 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 is 2 birds per day.

In addition to these annual regulatory issues this rule; 1) Requires the use of non-toxic shot for rail, snipe, and moorhen statewide in 2007; 2) Requires the use of non-toxic shot for mourning doves on department managed lands beginning in 2008; 3) Allows the placement of decoys and shooting at birds that are within a 75 yard area around the boundary of the Horicon National Wildlife Refuge as long as the hunter is more than 75 yards from the boundary; 4) Relaxes Canada goose nuisance control requirements for airports (permanent order only).

RECOMMENDATION: Adopt Board Order WM-19-07, revisions to NR 10 and 12 establishing the 2007 migratory game bird hunting seasons and regulations

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

Tom Hauge
Bureau Director, Tom Hauge

Laurie Osterndorf
Administrator, Laurie Osterndorf

Scott Hassett
Secretary, Scott Hassett

8/13/07
Date

8/13/07
Date

8/13/07
Date

- | | | |
|---------------------------------------|----------------------------------|--|
| cc: Laurie J. Ross - AD/5 | Tim Andryk / Carol Turner - LS/5 | Bob Manwell - CE/8 |
| Kim Benton - WM/6 | Randy Stark - LE/5 | Regional Wildlife Supervisors - 5 (WM/6) |
| GLIFWC & Tribes - 13 (WM/6) | Tom Hauge - WM/6 | LE Regional Supervisors - 5 (LE/5) |
| Cons. Congress Exec. Comm. - 4 (LS/5) | Bill Vander Zouwen - WM/6 | Scott Loomans - WM/6 |
| Kent Van Horn - WM/6 | Diane Brookbank - CS/G3 | Tom Van Haren - LE/5 |

STAFF REVIEW - DNR BOARD AGENDA ITEM

REMINDER

Have the following questions been answered under the summary section of this form?

- Why is the rule needed?
- What are the significant changes?
- What are the key issues/controversies?
- What was the last action of the Board?

LIST OF ATTACHED REFERENCE MATERIAL REQUIRED FOR RULE PROPOSALS:

Hearing authorization:

Final adoption:

Background Memo (if needed)*

Background Memo (if needed)*

Fiscal Estimate

Response Summary

Environmental Assessment (if needed)



Fiscal Estimate

Rule

Environmental Assessment (if needed)

Rule

* If all the questions listed in the REMINDER section above can be adequately summarized on the Green Sheet (and a second sheet if needed), the Background Memo may be omitted.

Unit	Reviewer	Date	Comments
Environmental Analysis and Review			
Management and Budget			
Legal Services -Program Attorney -Carol Turner	 	8/12/07 8/12/07	
Other (if applicable)			

CORRESPONDENCE/MEMORANDUM

DATE: August 13, 2007

FILE REF:

TO: Natural Resources Board Members

FROM: Scott Hassett

SUBJECT: Request Adoption of the 2007 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board (NRB) adoption of the proposed 2007 Migratory Game Bird seasons and regulations (WM-19-07 and WM-19-07 (E)).

Background

Each fall a diverse group of about 85,000 waterfowl hunters venture into Wisconsin's wetlands, lakes, rivers and fields to harvest 300,000-500,000 ducks and geese. Wisconsin currently ranks 3rd in the nation for the number of waterfowl hunters. Migratory game bird populations are a shared international resource and managing them requires cooperative surveys, research and regulation. Department staff participate in a federal and a state regulatory process each year in order to apply biological data and public input to the establishment of Wisconsin's migratory game bird hunting regulations. Details of this process were provided to you in the May NRB memo on this topic when staff received approval to conduct the public hearings and two flow charts are attached for your reference (Figure 1 and 2).

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 MFC met in Huron, OH from July 23-28, 2007. At this meeting, the states received the 2007 continental survey results for duck and goose populations and early indications of the season frameworks from the USFWS (Appendix 1). The states discussed and voted on various population management and hunting regulation parameters. Recommendations from the 4 flyway councils were made to the USFWS who in turn issued their final decision on waterfowl season frameworks August 2, 2007.

The USFWS presented the recommendation of the Adaptive Harvest Management system for a 60 day duck season with a 6 duck/day bag limit and specific recommendations for pintails, scaup and canvasbacks (Appendix 1). Overall, continental breeding waterfowl conditions were very good this year with several species being at or near all time highs for breeding populations. In particular, blue-winged teal numbers and green-winged teal numbers were high prompting the USFWS to offer an additional 16 day September teal for states that do not support major duck breeding populations. Wisconsin is not eligible for this teal season. After a high breeding population in 2006, canvasbacks reached a record high breeding population in 2007. This high population and other data prompted department staff to initiate a proposal to increase the canvasback bag limit from 1 to 2 per day for 60 days in cooperation with the other states and flyways across the country. After review of the available data and following discussions

with the Flyway Councils, the USFWS agreed to this proposal. Therefore, a 60 day, 2 canvasback daily bag limit is proposed for 2007. In 2005, the USFWS expressed concern over the declining scaup population and reduced the daily bag from 3 to 2 resulting in a decrease in the harvest of 24% nationwide over the last 2 years. The best data currently available suggests that the population decline is not related to hunting but the USFWS thought the 2005 bag reduction was a prudent measure. In 2006, the scaup population declined again. The USFWS did not further reduce the bag limit but requested that the USFWS and the Flyway Councils agree on a new scaup harvest strategy by 2007. Meanwhile numerous research projects are ongoing and looking to issues of habitat and production related to the scaup decline.

The Flyway Councils and the USFWS were unable to agree on a scaup harvest strategy by 2007. The available data on scaup in 2007 did not indicate a recovery but did show an encouraging ratio of young to adults in 2006, decreased harvest in 2006, and an increased breeding population in 2007. While scaup numbers have declined over a number of years, their population is still the 4th most abundant duck (3.5 million) of the 10 principle species surveyed and the annual US harvest is only about 280,000.

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 (MVP) harvest and was adjusted in concert 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 would like to test the use of a standard season framework for 5 years. Beginning 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. The health of these populations will be measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. In 2007, the MVP population showed an increase of 5% in the spring breeding population over 2006 and this was 10% above the long term average. The WI 2006 resident Canada goose breeding population decreased 7% compared to 2006.

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. Of these only green-winged teal do not breed in substantial numbers in Wisconsin. Waterfowl breeding conditions within Wisconsin were variable in 2007 but most of the state was very dry with below average duck breeding conditions (Appendix 1). In our May survey of breeding adults, mallard and total duck numbers were slightly below the last few years, wood duck were well below recent years and blue-winged teal numbers were up slightly.

With the foundation of spring survey data and USFWS waterfowl season frameworks, staff developed the following proposal for the 2007 waterfowl season and took it out for public review. In addition, we were encouraged not to make major changes to the season proposal from recent years based on the results of a 2005 random survey of Wisconsin duck hunters that indicated 73% of the hunters thought the duck season timing the last 5 years was okay or had improved.

In addition to the waterfowl hunting season rules, the 2007 Migratory Game Bird rule package contains proposals requiring nontoxic shot for hunting snipe, rail and moorhen statewide beginning in 2007 and for

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hunting mourning doves on Department managed lands in 2008. Evidence of the lethal impact of toxic shot ingestion on wildlife where this shot is concentrated during hunting has been growing. Twenty six states have non-toxic shot requirements that are more restrictive than federal rules including all of Wisconsin's neighboring states. Of the 40 states that hunt doves, 16 have some level of nontoxic shot requirements for dove hunting.

Rule Summary

- 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 proposed Wisconsin season below is the result of the following options.
 - We are proposing a September 22 start for the northern zone. For the southern zone, we propose 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.

- 2) **Youth Waterfowl Hunt.** The youth hunt will be September 15-16. Youth may harvest Canada geese in all zones during these 2 days, however, the bag limit and/or tag requirement applies for the respective zones. In 2007, the early framework dates result in the first day of the youth waterfowl hunt occurring in the Early September Canada goose season while the second day would be in the

regular season. These days overlap with open goose seasons in most zones so adults will also be able to shoot geese but not ducks during the youth hunt.

3) **Canada Goose.** All regular Canada goose seasons are proposed within the limits agreed to as part of the Mississippi Flyway 5-year trial period for MVP harvest states. There will be no threat of season closure in the Exterior zone. We continue to design the season structure to maximize harvest on our resident giant Canada goose population. The following conditions were considered in proposing the season structure for Canada geese.

- The early opening (September 16) of the Exterior zone regular Canada goose season attracts more hunters than later dates and results in greater harvest on our resident giant population than placing those hunting days in December at the end of the season.
- The end of the season in Dec- Jan is not an effective time to target resident giants. Based on past neck collar observations and banding data we know that both resident giant and MVP migrant geese are present in Dec-Jan if weather permits.

The state is apportioned into three goose hunting zones: Horicon, Collins and Exterior. Other goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River.

Exterior (including Brown and Rock Prairie subzones) – 85 days. Daily bag of 2 geese.

North Zone - September 16-21 and September 22 (9:00 am) – December 9.

South Zone –September 16- 28, September 29 (9:00 am) – October 7 and October 13 – December 14.

Mississippi River Subzone – September 29 (9:00 a.m.) - Oct. 7 and Oct. 13 - Dec. 27.

Burnett County Subzone - closed

Horicon/Collins Time Periods

Hunters with Horicon and Collins zone permits will be issued 6 tags for the time period that they are awarded. The daily bag limit will be 2 geese with a possession limit of 6. In 2007, we merged Horicon 1 and 2 over the same period and we merged Horicon 3 and 4 over the same period in order to provide more hunting days.

Horicon – 92 days

Period 1	September 16- October 26
Period 2	September 16- October 26
Period 3	October 27- December 16
Period 4	October 27- December 16

Collins – 62 days

Period 1	September 16- September 30
Period 2	October 1- October 21
Period 3	October 22- November 16

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.

Public Hearing & Comments

The process for receiving public input on proposed waterfowl seasons is very condensed because of the timing of the Federal regulation process, however, our most active waterfowl groups and individuals are aware of the time frame. As a result, there is considerable input during a short period of time (Appendix 2). The following tools were used to involve interested parties in the rule making process.

- **Rule process information** - Beginning in June we issued preliminary information and instructions on how the public could provide input to the regulation setting process through press releases, the Department website and direct mailings to waterfowl groups.
- **Telephone, email and written comment.** Public comments and questions began coming in during June through telephone calls and emails. These were accepted through August 9, 2006. Again, this year we saw an increase in email comments with a total of 157 comments received via email, written or telephone.
- **July 13, 2007 – Pre-Flyway public meeting** was held. Preliminary population status information was presented and input on the season structure was received. Several waterfowl and conservation organizations were represented.
- **August 4, 2006 – Migratory Committee of the Conservation Congress.** The staff specialist presented the population status and proposed season structure to the committee. They discussed and voted on various aspects of the season structure.
- **August 4, 2006 – Post-Flyway public meeting** was held to present population status and proposed season structure in an informal setting with waterfowl groups and interested individuals. Several waterfowl and conservation organizations were represented.

- **August 6-9, 2006 Public Hearings.** Four public hearings were held around the state and 110 people attended overall. Attendees were presented with population status information and the proposed waterfowl rules. Following a period for clarifying questions, individuals could make oral testimony or provide written comments. The comments offered during these various meetings are included below under each major issue.
 - **LaCrosse** - 24 people attended, 10 gave oral testimony
 - **Rice Lake** - 10 people attended, 9 gave oral testimony
 - **Appleton** - 42 people attended, 19 gave oral testimony
 - **Waukesha** - 34 people attended, 11 gave oral testimony

Issues:

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 Wisconsin residents that live in southern Wisconsin but have land in the northern zone and enjoy the increased hunting opportunity.

In the myriad of suggestions received from people on this issue some versions included proposals to have a season split closure similar to the southern duck zone.

The Department believes that a September 22-November 20, 60 day, no split season in the northern zone is the best option in on a divided issue. This is particularly important to hunters in northwest Wisconsin that were in the northern zone for the first time in 2006 and enjoyed this early opener. In addition, the federal regulatory calendar will shift in 2008 so that the earliest date to open the duck season will be September 27 so seasons will shift later next year.

2) Southern Zone – Opening Day

- Sept 29
 - 94 individuals
 - 5 waterfowl groups
 - Conservation Congress Migratory Committee
- Sept 22 – 1 group and 8 individuals
- Oct 6 or later – 1 group and 22 individuals

While many options are discussed each year, the Department's proposal represents a good compromise among different interests and was supported by most of the public input.

The Department recommends maintaining the south duck zone opener on September 29 as proposed based on public input.

3) Southern Zone – Season Split

- No split – 1 waterfowl group, 8 individuals
- 5 day split (Department Proposal)
 - 58 individuals
 - 5 waterfowl groups
 - Conservation Congress Migratory Committee
- Something Longer than 5 days – 1 waterfowl group and 21 individuals

In 2006, the Department lengthened the split from 5 to 7 days based on public input, however, during the 2006 season we received significant negative feedback on that decision.

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

4) Duck Bag Limits – There was wide public support for the bag limits as proposed. Most people were pleased with the increased canvasback bag limit, however, many were so surprised they had difficulty knowing how to react. There were a few suggested changes that did not receive substantial support.

5) Exterior Zone Canada Goose Season

Each year the scheduling of the Exterior Zone Canada Goose Season is a balance of the Department management goals for the WI giant Canada goose population, adhering to Mississippi Flyway management plans and the desires of both early and late season goose hunters. From 2007-2011, the Department will have a stable season length and bag limit for this zone as a result of a new flyway management strategy. This assures that we will not have to close the season early because of a quota level and the proposal of 85 days with a 2 bird bag is on the liberal side of what Wisconsin has had

for this season the last few years: The September 16 opening of this season has been successful in reducing the percent harvest of migrant Mississippi Valley Population geese from 80% in 2000 to 45% in 2006 with a subsequent increase in the proportion of resident giant Canada geese in the harvest. The majority of the comments supported the season as proposed but a number of late 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

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.

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.

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

7) Nontoxic shot proposals

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

The Department recommends implementing a nontoxic shot requirement for hunting rails, snipe and moorhens statewide in 2007 and implementing nontoxic shot requirement for hunting mourning doves on Department managed lands in 2008.

Rule Development

These rules were developed with the assistance of the Bureaus of Law Enforcement and Legal Services.

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.

Environmental Analysis

These rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

Legislative Council Rules and Clearinghouse Report:

All of the comments and corrections that the department received from the Legislative Council Clearinghouse have been incorporated (See Attached Report).

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

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(1)(v), 10.12(5)(d), 10.15(6), and 12.10(1)(b)4.; to repeal and recreate NR 10.01(1)(b), (g) and (u); and to create NR 12.10(1)(b)6. relating to the 2007 migratory game bird seasons and waterfowl hunting zones.

WM-19-07

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, 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, 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.

Additionally, this rule eliminates the requirement that airport officials complete a written application and receive written approval from the department before destroying Canada geese that are causing a nuisance or damage. Airports would be able to trap and relocate birds, destroy nests and eggs from March 1 – June 30, kill adult birds and goslings by trapping or shooting from April 1 – September 15, and do so on neighboring lands with landowner permission.

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 in 2007. The rule will require the use of non-toxic shot for dove hunting on lands that under the management, supervision and control of the department beginning in 2008. 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.

Finally, the FWS has modified its regulations on the management of resident Canada geese. The overall intent of those modifications is to reduce federal involvement in the permitting and management of resident geese in nuisance situations. However, the final result of the modifications simply created some state procedural changes for most areas of resident Canada goose management. The proposed modification to exempt airports from Canada nuisance control permits in this proposed rule makes our regulations consistent with new federal guidelines in 50 CFR 21.

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 would be required for hunting mourning doves on department managed lands. 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 survey). 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 any 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 then 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 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. Non-toxic shot would be required for hunting mourning doves on department managed lands beginning in 2008. Doves and some dove hunting have similarities to ducks and duck hunting in that both bird groups are flocking species that concentrate in relatively small areas of the landscape, thus concentrating hunting pressure and the deposition of shot. All of these species of game birds and some non-game birds sharing the same habitats 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 sportspersons 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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kent.vanhorn@wisconsin.gov (608) 266-8841

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	
	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

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
4. Brant	i. Mississippi River subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 27	1	2
	Entire state	As established by zone		
	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 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, or mourning doves on lands which are under the management, supervision and control of the department, no person may:

1. Take, catch, kill or pursue waterfowl, mourning doves, 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. NR 12.10(1)(b)4. is amended to read:

NR 12.10(1)(b) 4. Harass or disturb protected wild birds, not listed as endangered or threatened in s. NR 27.03, in such a way as to relieve a damage or nuisance situation in urban areas and, golf courses, and airports provided the bird is not physically harmed.

Section 6. NR 12.10(1)(b)6. is created to read:

NR 12.10(1)(b)6. Conduct any of the following activities in order to control Canada geese at an airport or within a 3 mile radius of the airport with landowner permission, if the activities are conducted by airport employees or their designees in compliance with the restrictions, requirements and conditions as described by the U.S. fish and wildlife service in 50 CFR 21.49 and provided that all birds are disposed of as directed by the department:

- a. Live-trap and relocate Canada geese.
- b. Destroy nests and eggs of Canada geese from March 1 to June 30.
- c. Kill adult Canada geese and goslings by trapping or shooting from April 1 to September 15.

Section 7. 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 8. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)

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-19-07(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.

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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 sportspersons 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
4. Brant	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 27	1	2
	Entire state	As established by zone		
	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 _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)

Figure 1. 2007 FEDERAL SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS

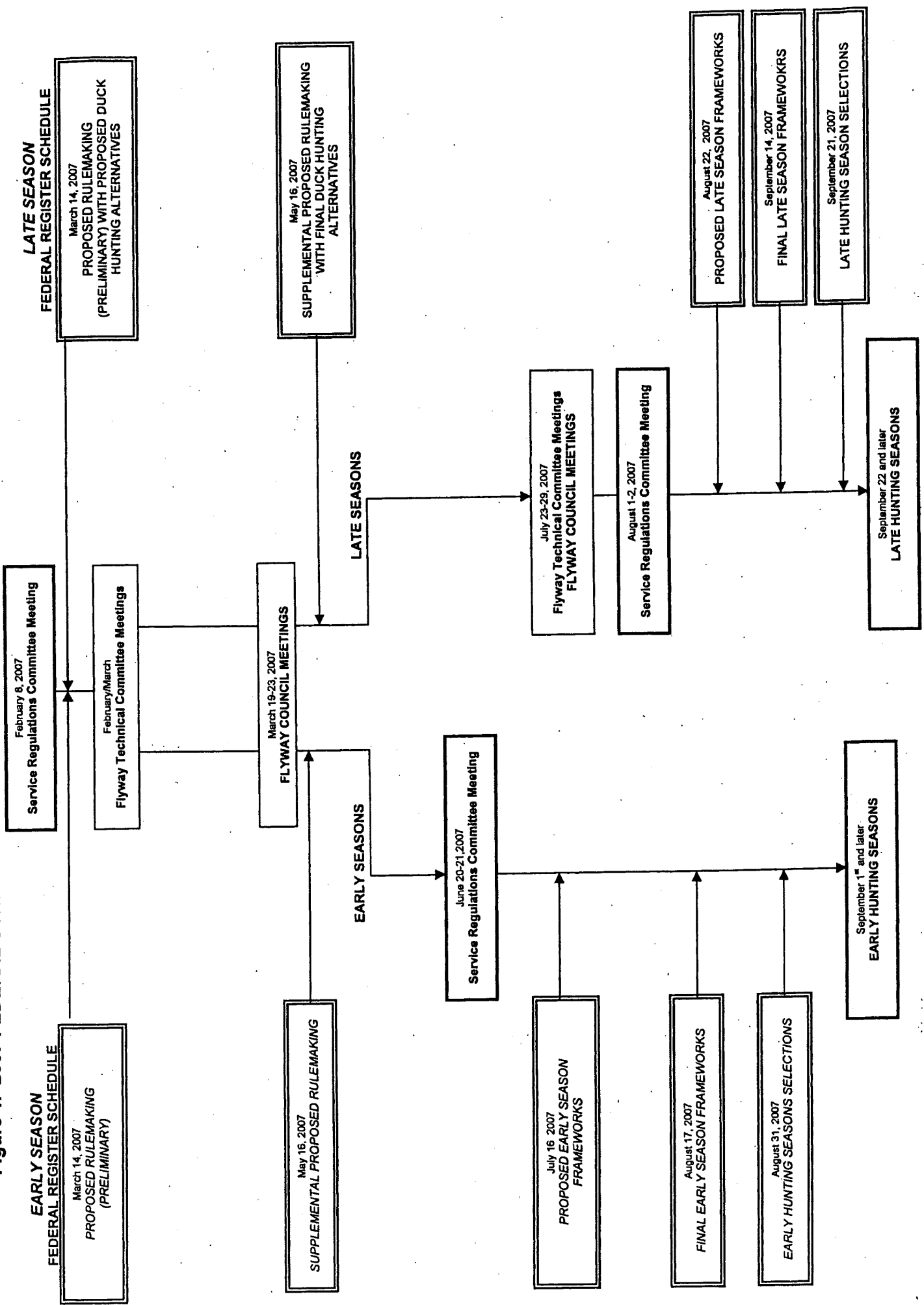
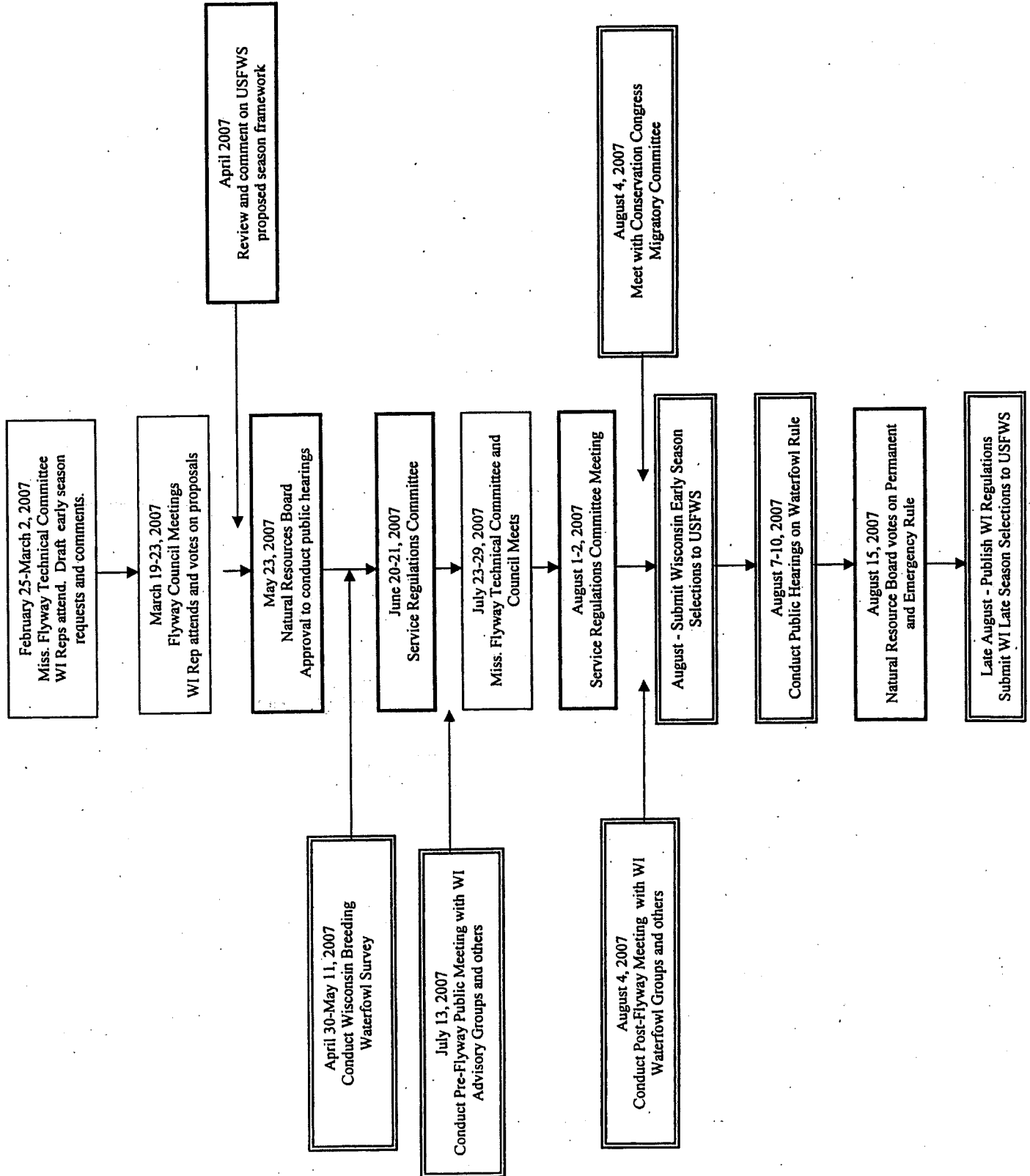


Figure 2. 2007 WISCONSIN MIGRATORY GAME BIRD REGULATORY SCHEDULE



Appendix 1. 2007 Waterfowl Population Status

USFWS Surveys:

- Traditional area mallards – 8.3 million (14% above 2006 and 11% above the long term average (LTA))
- May Ponds - Canada – 5 million 13% above 2006 (49% above LTA)
- Total Ducks – 41.2 million (14% above 06 and 24% above long term average)
- Mid continent mallards 8.3 + 0.7 million (WI, MN, MI) = 9 million
- Others:
 - ◊ Blue-winged Teal - 6.7 million – 48% above LTA
 - ◊ Gadwall – 3.4 million - 96% above LTA
 - ◊ Green-winged Teal – 2.9 million – 54% above LTA
 - ◊ Northern Shoveler – 4.6 million – 106% above LTA
 - ◊ Northern Pintail – 3.3 million – 19% below LTA
 - ◊ Scaup - 3.5 million – 33% below LTA
 - ◊ Wigeon - 2.8 million – at LTA
 - ◊ Canvasback - 865,000 - 53 % above LTA

The combination of 9 million mid-continent mallards and a Canada pond count at 5 million results in a liberal 60 day season under the Adaptive Harvest Management model.

Table 9. Optimal regulatory strategy^a for the three western Flyways for the 2007 hunting season. This strategy is based on current regulatory alternatives (including the closed-season constraint), on current mid-continent mallard models and weights, and on the dual objectives of maximizing long-term cumulative harvest and achieving a population goal of 8.8 million mallards. The shaded cell indicates the regulatory prescription for 2007.

Bpop ^b	Ponds ^c									
	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0
≤5.25	C	C	C	C	C	C	C	C	C	C
5.50-6.25	R	R	R	R	R	R	R	R	R	R
6.50	R	R	R	R	R	R	R	R	M	M
6.75	R	R	R	R	R	R	M	M	M	L
7.00	R	R	R	R	R	M	M	L	L	L
7.25	R	R	R	M	L	L	L	L	L	L
7.50	R	M	M	L	L	L	L	L	L	L
7.75	M	M	M	L	L	L	L	L	L	L
8.00	M	L	L	L	L	L	L	L	L	L
≥8.25	L	L	L	L	L	L	L	L	L	L

^a C = closed season, R = restrictive, M = moderate, L = liberal.

^b Mallard breeding population size (in millions) in the traditional survey area (survey strata 1-18, 20-50, 75-77) and Michigan, Minnesota, and Wisconsin.

^c Ponds (in millions) in Prairie Canada in May.

Appendix 2. Migratory Game Bird Public Comment Summary

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

Issue	Email/phone /other	Hearing attendees	Groups at meetings
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

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)

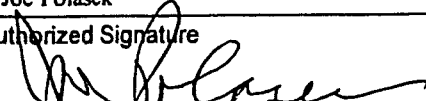
Subject
 2007 Migratory game bird seasons

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			
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		\$	\$ -

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) 04-23-07



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 07-055

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

a. It would be helpful to the reader if the migratory bird season changes were made with amendments to the previous year’s season code, instead of repealing and recreating all of the text. The changes to the rule would be more evident.

b. In s. NR 10.01 (1) (g) 1. b., the cross-reference should read: “subd. 1. c. and d.” [See also s. NR 10.01 (1) (g) 2. a., (3) (a), and 4. a.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The following comments refer to the rule preface:

1. In the last sentence of the first paragraph of the discussion of federal regulations, the phrase “harvest-management and other factors” should be replaced by the phrase “harvest-management. Other factors.” In the second to the last sentence of the second paragraph, the word “of” should be inserted before the phrase “their Canada goose season.”
2. In the comparison with rules in adjacent states, the word “a” in the first sentence should be replaced by the word “an.”
3. In the summary of factual data and analytical methodologies, the first occurrence of the acronym “MFC” should be fully spelled out. In the final

paragraph of this section, the phrase "their crop, then other grit material" should be replaced by the phrase "their crop. Other grit material."