

Report From Agency

REPORT TO LEGISLATURE

NR 10 and 11, Wis. Adm. Code
Establishing migratory bird hunting seasons and regulations

Board Order No. WM-06-15
Clearinghouse Rule No. 15-052

Basis and Purpose of the Proposed Rule

This proposal establishes a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting and falconry.

SECTION 1 of this rule order establishes a seven day season beginning on September 1 and a six bird daily bag limit for a teal-only season. The teal-only season will occur prior to the youth duck season and the normal season for hunting all varieties of ducks.

SECTIONS 2 and 4 eliminate the 9:00 start of shooting hours for ducks and geese on the first day of the regular duck hunting seasons so that shooting hours will begin 30 minutes before sunrise. Both sections also modify the duck and goose hunting season dates in the Mississippi river zone so that they will open on October 3 and continue through October 9. The season will then be closed for seven days, reopening on October 17 and continuing through December 8. The season for white-fronted geese and brant is extended from 88 to 92 days in length.

SECTION 3 increases the season harvest limit for Canada geese in the Horicon Zone from six birds to twelve. The daily bag and possession limits will continue to be 2 and 6 respectively.

SECTION 5 repeals the subdivision establishing the brant season and bag limit. The brant season and bag limit are instead established under the subdivision for "other geese".

SECTION 6 extends the mourning dove hunting season from the current 70 to 90 days and repeals the 9:00 a.m. start of hunting hours during the falconry seasons.

SECTION 7 establishes that the hunting hours for teal during a teal-only season shall begin at 9:00 a.m. on the first day and sunrise on following days. Hunting will end at 7:00 p.m. each day. On the first day of the regular duck season shooting hours will begin at 30 minutes before sunrise instead of 9:00 a.m.

SECTION 8 corrects an inconsistency between the introductory language and the text of a rule which establishes an exception from the requirement that hunters in boats and blinds must be concealed in emergent vegetation. The exception is for hunters on the Mississippi River only and does not apply to hunters on all waters in counties adjacent to the Mississippi River.

SECTION 9 creates introductory language for consistency with the drafting style of other paragraphs in the subsection related to open water restrictions, updates a cross-reference, and simplifies the language of an existing exception for disabled hunters from the prohibition of hunting waterfowl in open water.

SECTION 10 repeals a sunset provision of special regulations for waterfowl hunting at the Mead wildlife area that was overlooked in Ch. NR 11 when the same sunset date was repealed in Ch. NR 10 by previous rulemaking.

Summary of Public Comments

The process for receiving public input on proposed waterfowl seasons is very condensed because of the timing of the Federal regulation schedule; however, our most active waterfowl groups and individuals are aware of the time frame. A total of 155 individuals offered comments on the waterfowl hunting seasons in addition to the Wisconsin Conservation Congress Migratory Committee and several waterfowl groups. The following tools were used to involve interested parties in the rule making process.

- **Mail survey – winter 2013-14.** Following the 2013 waterfowl season a scientifically designed survey was mailed out to a random selection of 1000 Wisconsin waterfowl hunters as we have done every other year for the last several years. This survey provided us information on waterfowl hunter experiences and preferences after 3 years with a new 3 duck zone configuration.
- **Rule process information** - Beginning in June, 2015 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. Over 19,000 people are now on GovDelivery notices regarding topics related to waterfowl management and hunting. This list was provided regular updates during the process.
- **Telephone, email and written comment.** Public comments and questions began coming in during June through telephone calls and emails. These were accepted through August 6.
- **July 9, Staff attended the LaCrosse County Conservation Alliance** annual waterfowl meeting to present information and received input primarily on the Mississippi River Zone season. About 20 waterfowl hunters were in attendance.
- **August 1 – Migratory Committee of the Conservation Congress. Stevens Point.** Staff presented information on the status of waterfowl and potential season structures. The committee made suggestions for the hunting season proposal and voted on all aspects. The committee had 23 members present.
- **August 1 – Post-Flyway. Stevens Point.** A public meeting was held to present the population status and proposed season structure in an informal setting with waterfowl groups and interested individuals. Several conservation organizations or individuals were present. The groups represented were: Wisconsin Wildlife Federation (WWF), Wisconsin Waterfowl Association (WWA), La Crosse County Conservation Alliance (LCCA), Challenge the Outdoors, Green Bay Duck Hunters (GBDH), Lake Poygan Sportsman's Club, Burlington Conservation Club, Mead duck hunters and Black Slough Conservation Club (BSCC). A total of 20 people attended.
- **August 3-6, Public Hearings.** Four public hearings were held around the state and 71 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** - 18 people attended, 12 gave oral testimony
 - **Rice Lake** - 9 people attended, 2 gave oral testimony
 - **Appleton** – 20 people attended, 7 gave oral testimony
 - **Pewaukee** – 20 people attended, 6 gave oral testimony

Public Input and Data Summary: Hearing attendance and public input volume was similar to prior years with a total of 155 individual comments and several statewide or local conservation groups representing thousands of members submitting comment. The input was in favor of most aspects of the waterfowl season proposals.

North Duck Hunting Zone Season dates: During the 2015 public input period on the waterfowl hunting season proposal, 87% of the individual comments were in support of the north duck zone proposed season (Appendix 2). The Conservation Congress and most of the waterfowl hunting groups were also in support of this season.

South Duck Hunting Zone Season dates: During the 2015 public input period on the waterfowl hunting season proposal, 93% of the individual comments were in support of the south duck zone proposed season (Appendix 2). The Conservation Congress and most of the waterfowl hunting groups, supported the season as proposed.

Mississippi River Zone Duck Hunting Season dates: After many years of discussion, negotiations with the US Fish and Wildlife Service and duck hunter surveys, we established a new duck hunting zone specifically for the Mississippi River in 2011. At that time, a compromise season structure was developed attempting to balance between the duck hunters that prefer to hunt early versus late on the Mississippi River. This season structure was to open the river duck season the Saturday nearest September 21st and remain open for 9 days, close for 12 days and reopen for the remainder of the 60 day season. This is the structure we have used for the last 4 seasons, however, this is a new zone and we have been on a learning curve regarding what works best for season dates in the zone. Preferences for dates can also vary based on the shifting calendar and most recent weather experiences. Based on hunter survey results and recent public input, a growing number of hunters do not favor the early opening date on the Mississippi River and the long 12 day split. As a result, the Department proposed a different season structure opening a week later and having 7 day closure. During the 2015 public input period, 84% of the public comments and the Conservation Congress favored this proposal. Several of the waterfowl hunting groups had alternative ideas.

Opening day shooting hours: Many public waterfowl hunting areas have significant numbers of waterfowl hunters on opening day and then numbers decrease for the remaining days of the season. In addition, some hunters do not scout and practice duck identification prior to opening day of the duck season. Duck identification improves during better light conditions later in the morning. For these reasons, Wisconsin duck hunters have supported a 9 am opening time and even a noon opening time in the past for shooting hours on the first day of the duck season. However, over the last several years the public opinion has been slowly shifting from majority support for the 9 am opening day shooting hours in favor of ½ hour before sunrise. In 2014, this topic created considerable debate and the individual comments were essentially split 50:50. In 2015, the Wisconsin Conservation Congress presented an advisory question on the spring hearings and 57% favored shifting the opening day shooting hours to ½ hour before sunrise. The Department proposed a ½ hour before sunrise start to opening day shooting hours during the 2015 input process and 89% of the individual responses supported this proposal. The Conservation Congress and 4 waterfowl groups supported this change, while 5 waterfowl groups had alternative ideas.

Hen mallard bag limit: Based on the concern over hen mallard survival rates and past public support, a 1 hen mallard bag limit was proposed. The Conservation Congress, all the waterfowl groups and 93% of the individual comments supported this proposal.

Canada goose season dates: All Canada goose season dates were favored by at least 88% of the individual public comments and all of the waterfowl groups. The Conservation Congress supported the goose season proposals.

Modifications Following Hearings and Response to Legislative Council Rules Clearinghouse Report

Comments the department received from the Legislative Council Clearinghouse have been incorporated.

The rule proposal has been modified during the hearing process in three noteworthy ways. The duck and goose hunting seasons in the Mississippi river subzone have been modified to begin on the first Saturday in October instead of the Saturday nearest September 24 and the season split has been shortened by one week. In addition to consistency with the federal framework for migratory bird hunting, these season dates are proposed in response to the requests of Mississippi river zone hunters expressed at hearings and meetings. However, the duck season continues to be 60 days in length.

In the Horicon goose management zone the department proposes a season harvest limit of 12 Canada geese. This will be the second year of a 12 bird season limit. Prior to 2014, the season limit had been 6. The department will continue to monitor harvest and hunter response to confirm that a 12 goose harvest limit continues to be appropriate for this zone.

Finally, these rules will repeal the delayed, 9:00 a.m. start of shooting hours on the first day of the regular duck hunting seasons. Hunting will begin 30 minutes before sunrise as it does during the rest of the season. In the past, the delayed start may have been in place for variety of reasons, including reduced hunter conflict on the first day of hunting and improved duck identification. Recently, hunters have considered these issues during open meetings and registered opinions with the Conservation Congress established under s. Ch. 15.348. Hunter opinion has shifted from support of the 9:00 a.m. opening day shooting hours to ½ hour before sunrise. Wisconsin's surrounding states all begin shooting hours 30 minutes before sunrise on the first day of regular duck hunting seasons although some alter shooting hours in other ways. During the early teal season, shooting hours would continue to be delayed so that hunting is not allowed until 9:00 a.m. on the first day and sunrise on subsequent days based on public input and duck identification concerns. Teal are the only duck species that may be harvested during this early season.

Changes to Rule Analysis and Fiscal Estimate

The rule analysis was updated to reflect modifications made.

Since finalization of the economic impact analysis, this rule proposal has been amended, most notably, to modify the duck and goose hunting seasons in the Mississippi river subzone, to establish a 12 bird seasonal limit for Canada geese in the Horicon Zone, and to open shooting hours one half hour before sunrise on the first day of the regular duck hunting season. There will be no economic or fiscal impacts as a result of these rule amendments. Governor's Executive Order # 50 relating to guidelines for promulgating administrative rules establishes, in IV. 9. a., that a revised economic impact analysis is only required if there would be a "significant change". Therefore, the department has not revised the economic impact analysis documents.

Final Regulatory Flexibility Analysis

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.