

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING RULES**

The statement of scope for this rule, SS 081-16, was approved by the Governor on September 13, 2016, published in Register No. 729A3, on September 19, 2016, and approved by the Natural Resources Board on January 25, 2017. This rule was approved by the governor on August 15, 2017.

The Wisconsin Natural Resources Board proposes an order to amend Ch. NR 10.01 (1) (b) and (g) 1. d. and dm. related to establishing migratory bird hunting seasons and regulations.

WM-01-17 (E)

Analysis Prepared by the Department of Natural Resources

Statutory Authority: Chapter 29 of the Wisconsin Statutes addresses the department's authority with respect to wild animals and plants. Section 29.014, Stats., confers broad rule-making authority to the department to "establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting.

Additional rule-making authority is found in s. 29.192, Stats., which enables the department to regulate the harvest of Canada geese.

Statutes Interpreted and Explanation of Agency Authority: In promulgating these rules, statutes being interpreted or establishing agency authority include ss. 29.014 and 29.192.

The emergency rule making process is established in s. 227.24, Stats.

Related Statute or Rule: The department is promulgating a companion to this emergency rule, permanent Board Order WM-02-17 which was authorized under the same scope statement. The department promulgates identical or nearly identical emergency and permanent migratory bird season rules in odd years when legislative review will occur.

Plain Language Analysis: SECTION 1 of this rule reduces the daily bag limit for pintails from two to one.

This section also eliminates the two periods for Canada goose hunting in the Horicon Canada goose management zone. The rule establishes one Canada goose hunting season and people will be allowed to hunt on any day of the continuous 92 day season instead of selecting either an early or a late permit period.

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 (USFWS) regulations process. As part of the Federal rule process, the USFWS 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.

The proposed modifications included in this rule order are consistent with the parameters and guidelines which are annually established by the USFWS in 50 CFR 20.

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

Summary of Factual Data and Analytical Methodologies: These rules will modify the Canada goose hunting season in the Horicon Canada goose management zone consistent with options available under the federal framework for Wisconsin in 2017. Prior to 2016 there were two permit periods and hunters were required to select one and were limited to hunting in only one of the periods. This served to distribute hunting pressure and improve the quality of hunting opportunities in an era when interest in Horicon area goose hunting was significant and there was a great deal of hunting pressure. For the first time in 2016, the department determined that the regulation is no longer needed because Canada geese are now distributed much more widely across the state and hunting pressure is no longer focused as heavily in the Horicon area. Eliminating the two permit periods in favor of a single, continuous hunting season will simplify hunting regulations and increase hunting opportunities.

Under the federal framework for duck hunting, the USFWS is allowing Wisconsin no more than one pintail per day in the bag limit. The pintail bag limit was two daily during the previous season.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with compliance to these rules.

Effects on Small Business: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m) Stats.

Agency Contact Person: Taylor Finger 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. Taylor.Finger@wisconsin.gov or call (608) 266-8841

Deadline for Written Comments: The deadline for written comments was March 16, 2017.

SECTION 1. NR 10.01 (1) (b) and (g) 1. d. and dm. are amended to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
<p>NR 10.01 (1) (b) <i>All species of wild ducks</i></p>	<p>Entire state.</p>	<p>As established by zone.</p>	<p>6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, <u>1 pintail</u>, 2 canvasbacks, 2 redheads, 3 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.</p>	<p>Three times the daily bag limit except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag limit.</p>
	<p>Northern zone as established in s. NR 10.32.</p>	<p>Beginning on the Saturday nearest September 24 and continuing for 60 consecutive days.</p>		
	<p>Southern zone as established in s. NR 10.32.</p>	<p>Beginning on the Saturday nearest October 1 and continuing for 9 days, followed by a 5-day split, and then reopens for 51 consecutive days.</p>		
	<p>Mississippi River zone as established in s. NR 10.32.</p>	<p>Beginning on the Saturday nearest October 1 and continuing for 7 days, followed by a 7-day split, and then reopens for 53 consecutive days.</p>		

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
(g) <i>Geese</i> 1. Canada geese and its subspecies.	d. Horicon zone	Two permit periods <u>Begins on September 16 and continues for a season total of 92 days.</u>	<u>2</u>	Three times the daily bag limit except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.
		First permit period beginning on September 16 and continuing until the Sunday following the last Friday in October.	2	
		Second permit period beginning on the Monday following the last Friday in October and continuing for a season total of 92 days combined for both periods.	2	
	dm. Horicon zone season harvest limit.			No person may harvest more than 12 Canada geese during a <u>permit period</u> <u>the season</u> established in subd. par. d.

SECTION 2. FINDING 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 March of each year. This order is designed to bring state hunting regulations into conformity with federal regulations. Normal rule-making procedures will not allow the establishment of these changes prior to the beginning of migratory bird hunting seasons in September. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

SECTION 3. EFFECTIVE DATE. This rule shall take effect upon publication in the Wisconsin state paper pursuant to s. 227.24(1)(c).

SECTION 4. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 12, 2017.