

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT:

Request that the Board authorize public hearing for Board Order WM-06-13, proposed rules affecting Ch. NR 10 related to establishing migratory bird hunting seasons and regulations.

FOR: June 2013 Board meeting

PRESENTER'S NAME AND TITLE: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

This permanent rule will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. For example, it may establish an opener on the "Saturday nearest October 1" instead of "October 5" as is currently done in the emergency rule. Primary objectives of the rule will be to reduce the amount of migratory bird-related emergency rule making that is needed each year, to simplify regulations, codify provisions already in effect by emergency rule, and repeal a sunset provision.

These rules do not make significant changes to actual seasons or bag limits except for provisions related to goose hunting and waterfowl hunting in open water which will also be topics of similar emergency rules and were subjects of spring hearing advisory questions in 2013.

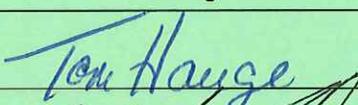
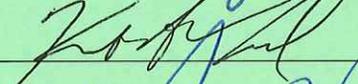
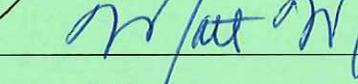
The department will recommend ways to simplify Canada goose hunting regulations. Current rules require tagging geese that are harvested in the Horicon Zone but a simpler process of recording harvest may be possible. Additionally, the department will consider eliminating the permit application deadline for Horicon zone hunters and simply issue harvest permits while recognizing the flyway management and federal protections against overharvest of the Mississippi Valley Population. The department will also reduce the size of the Horicon zone which would result in expanded hunting opportunities in areas no longer in that zone.

Through this rulemaking, the department will allow open water hunting on more lakes. By emergency rule, the department has established an exception for disabled permit holders and their assistants - this will establish the same exception by permanent rule.

RECOMMENDATION: That the Board authorize public hearing for Board Order WM-06-13.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- | | |
|---|---|
| <input checked="" type="checkbox"/> background memo | <input checked="" type="checkbox"/> Attachments to background memo |
| <input type="checkbox"/> Statement of scope | <input type="checkbox"/> Governor approval of statement of scope |
| <input checked="" type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement |
| <input type="checkbox"/> Response summary | <input checked="" type="checkbox"/> Board order/rule |

Approved by	Signature	Date
Tom Hauge, Bureau Director		6/13/13
Kurt Thiede, Administrator		6/17/13
Cathy Stepp, Secretary		6/17/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: June 11, 2013

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Authorization to conduct hearings on migratory bird hunting regulations

I am requesting Natural Resources Board authorization to conduct hearings on permanent rules establishing migratory bird hunting regulations.

Background

These rules will establish a general framework of migratory bird hunting regulations, many of which have already been implemented in 2012 or 2011 through the emergency rule process. This permanent rule package will not be in effect for the 2013 migratory bird hunting seasons. The department will request adoption of a similar emergency rule in August which will establish the 2013 season dates.

The US Fish and Wildlife issues new migratory game bird hunting frameworks annually so, while this permanent rule will serve as a general description of the hunting regulations, staff will still need to request adoption of an emergency rule each August to implement the waterfowl hunting season.

Canada Goose Hunting

In an effort to provide additional hunting opportunity and simplify regulations, while still protecting the Ontario nesting Canada geese from overharvest, these rules would shrink the size of the Horicon Zone. Areas removed from the Horicon Zone would become part of the Exterior Zone.

During regular Canada Goose seasons in the Horicon and Exterior Zones, Wisconsin harvests geese from 2 nesting populations; geese that nest locally and geese that nest in wilderness areas of northern Ontario. Harvest of the Ontario population is shared among several states and is managed to avoid overharvest. The Horicon Zone is an area where the Ontario nesting geese concentrate during migration and regulations are designed to avoid overharvest. Maintaining the Horicon Zone regulations is important because nearly 20% of the statewide regular season harvest occurs in the counties near Horicon Marsh.

However, Canada Goose hunting regulations are regularly reviewed and can adapt to changes in hunting pressure and goose distribution. In recent years, greater than 80% of the Canada Goose harvest within the Horicon Zone has occurred in Dodge and Fond du Lac counties. The band recoveries from Canada geese that nest in northern Ontario are highest on the eastern counties of the Horicon Zone within about 20 miles of the Horicon Marsh. Western and northern areas of the Horicon Zone experience very low Canada Goose harvest. Based on these data and suggestions offered during public and advisory committee meetings in 2012, the Department proposes shrinking the Horicon Canada Goose hunting zone by establishing the western boundary at Highway 73 and the northern boundary at Highway 23.

As a spring hearing advisory question in 2013, this proposal was supported by a vote of Ayes 2,692; Noes 1,200.

Carcass Tags for Canada Geese in the Horicon Zone

The department proposes simplifying Canada goose hunting regulations in the Horicon Zone by eliminating the requirement to use carcass tags and instead require harvest reporting as is currently required in the Exterior Zone. Current rules require applying for tags and tagging each goose harvested in the Horicon Zone. In recent years the department has been able to provide more carcass tags to each applicant than most hunters were able to use. With improved harvest reporting methods, reduced Horicon Zone hunter numbers and efforts to reduce management costs, it is possible to eliminate the use of a carcass tag. Hunters will continue to be restricted to a specific number of Canada geese harvested in the Horicon Zone each season but this will be controlled through a punch card and telephone reporting system rather than issuance of a carcass tag.

Open Water Hunting

In order to increase areas available to waterfowl hunters and to provide more opportunities for a unique type of waterfowl hunting, the department proposes allowing hunting from open water areas of ten additional lakes. Those lakes are:

- Beaver Dam Lake in Dodge County (excluding Rakes and Trestle Works Bays)
- Castle Rock Lake in Adams and Juneau counties (south of railroad bridge and county road G)
- Grindstone Lake in Sawyer County
- Fence, North Twin and Trout Lakes in Vilas County
- Lake Puckaway in Marquette and Green Lake counties (the waters west of the west end of the dredge bank, excluding the waters east of the west end of the dredge bank)
- Shawano Lake in Shawano County
- Lake Wisconsin in Sauk and Columbia counties (north of railroad bridge)
- Lake Wissota in Chippewa County (south of county road S and north of county road X).

The proposal to expand open water hunting received strong support in statewide voting as a spring hearing advisory question in 2013. All proposals were also supported in local voting except for lakes Butte des Morts, Winneconne and Poygan, which are not recommended in this rule. Voting results are summarized below.

Question Description	Yes Votes	No Votes	Statewide Vote	County Vote (Yes/No/Tie)	Local Vote (Yes / No)
Expanding open water hunting opportunities for waterfowl, by county					
Beaver Dam Lake in Dodge	2,041	1,167	Yes	60 / 11 / 1	72 / 18
Lake Butte des Morts in Winnebago	2,077	1,159	Yes	62 / 10 / 0	50 / 77
Lakes Poygan and Winneconne in Waushara and Winnebago	2,058	1,165	Yes	61 / 11 / 0	13 / 5 (Waushara) 46 / 78 (Winnebago)
Castle Rock Lake in Adams and Juneau	2,039	1,147	Yes	62 / 10 / 0	8 / 4 (Adams) 20 / 11 (Juneau)
Grindstone Lake in Sawyer	2,003	1,152	Yes	61 / 10 / 1	39 / 18
Fence Lake in Vilas	2,007	1,184	Yes	60 / 11 / 1	63 / 41
North Twin Lake in Vilas	2,001	1,198	Yes	61 / 11 / 0	66 / 47
Trout Lake in Vilas	2,006	1,188	Yes	60 / 12 / 0	64 / 42
Lake Puckaway in Marquette and Green Lake	2,036	1,160	Yes	62 / 9 / 1	15 / 14 (Marquette) 35 / 9 (Green Lake)
Shawano Lake in Shawano	1,994	1,151	Yes	61 / 11 / 0	37 / 22

Question Description	Yes Votes	No Votes	Statewide Vote	County Vote (Yes/No/Tie)	Local Vote (Yes / No)
Lake Wisconsin in Sauk and Columbia	1,999	1,132	Yes	61 / 11 / 0	48 / 23 (Sauk) 33 / 12 (Columbia)
Lake Wisconsin in Chippewa	1,983	1,144	Yes	61 / 11 / 0	27 / 20

Season Dates

This permanent rule will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. For example, it may establish an opener on first "Saturday nearest October 1" instead of "October 5" as is currently done in the emergency rule. An objective of this provision is to reduce the amount of migratory bird-related emergency rule making that is needed each year.

Provisions Already in Effect by Emergency Rule

A number of proposals in this board order have already been in effect by emergency rule in previous migratory bird hunting seasons. These provisions have been topics of rule hearings and Conservation Congress and department spring hearing/meeting advisory questions. Those include the duck hunting zones, an exception to open water hunting restrictions for disabled permit holders, and special hunting hours for migratory birds at the Zeloski Unit of the Lake Mills Wildlife Area (Jefferson County) and George W. Mead Wildlife Area (Wood, Portage, and Marathon Counties).

Annual Process

Each fall a diverse group of about 80,000 waterfowl hunters venture into Wisconsin's wetlands, lakes, rivers and fields to harvest 300,000-500,000 ducks and geese. Wisconsin currently ranks 4th in the nation for the number of waterfowl hunters and has maintained a relatively stable level of waterfowl hunters for 30 years. The annual establishment of waterfowl hunting regulations is very important to these customers. 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.

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) for each flyway within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council.

Staff will attend the summer MFC meeting where the states will receive the 2013 continental survey results for duck and goose populations and early indications of the season frameworks from the USFWS. The states will discuss and vote on various population management and hunting regulation parameters. Recommendations from the four flyway councils will be made to the USFWS who in turn will establish a hunting season framework at the end of July.

Hearings:

The department proposes holding four hearings spread geographically around the state during the first week in August. In addition to hearings on this permanent rule, input will be taken on a similar emergency rule which will establish the 2013 migratory bird hunting season, bag limits, and regulations.

Rule Development:

These rules were developed with assistance from the bureaus of law enforcement, science services, and legal services.

Small Business and Regulatory Flexibility Analysis:

The revisions to Ch. NR 10 and 45, Wis. Admin. Code, relating to hunting, trapping and the management of department lands 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:

The department has determined that these rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Ch. NR 10, Game and Hunting. Board Order WM-06-13

Subject

Establishing the 2013 migratory game bird seasons, waterfowl hunting zones, and regulations.

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20, Stats. Appropriations Affected

None

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

This proposal will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. Primary objectives of the rule will be to reduce the amount of migratory bird-related emergency rule making that is needed each year, to simplify regulations, codify provisions already in effect by emergency rule, and repeal a sunset provision.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Pursuant to the Governor's Executive Order 50, Section IV, the department will accept comments on this Economic Impact Analysis for a period of 14 calendar days because this rule will have no or minimal economic impact locally or statewide. A notice for solicitation of comments on the analysis will be posted on the department's website from July 1 through July 14 and various interest groups will be contacted by email.

Economic Impact

Because the hunting season frameworks proposed in this rule will be comparable or identical to those in place during previous seasons, no economic impacts are anticipated. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Fiscal Impact

This rule will have a minor fiscal impact on the department in the first year. In future years, the department anticipates an annual saving of \$6,000 to nearly \$9,000 because of simplifications to Canada goose hunting regulations. These savings will result from no longer having to print and mail carcass tags to goose hunters. This is presented as a range of potential savings because actual costs have varied in the previous 3 years based on the price of print stock, printing, mailing, and the number of hunters. Instead of carcass tags, Horicon Zone goose hunters will need to report their harvest on a punch card and to the department by telephone, but this

infrastructure is already in place for Exterior zone goose hunters and will result in minimal costs to edit the call in program. The department anticipates a cost savings of only \$2,000 in the first year of implementation because savings will be offset by \$4,750 in expenditures for our automated license system vendor to make program updates.

Other regulations modified by this proposal will not require significant changes to past practices or procedures and will have no fiscal impact but may result in more efficient use of department staff time if the need for annual rule making is reduced.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Changes to the Canada goose regulations and harvest reporting will result in simpler, more understandable rules and simpler hunting practices.

Through this rulemaking process, the department will establish more general descriptions of the migratory bird hunting season in Wis. Admin. Code. For example, new rule language might start the duck season on the "last Saturday in September" instead of a specific date. Emergency rulemaking will still be required of the department as the federal frameworks are established each year, but a result would be less rulemaking overall. It is difficult to estimate a precise amount of costs and other benefits as a result of reduced rule making needs. The amount of reductions will depend on the consistency of the federal framework for migratory bird hunting regulations. The federal framework does change a certain amount every year and the amount of change varies by year. The resulting benefit will primarily be improved use of department staff time.

An alternative is to not implement a rule and continue establishing migratory bird hunting regulations entirely by emergency rule each year. The disadvantage of this alternative is that it is absolutely certain that a complete emergency rules package would need to be promulgated each year. Another disadvantage is that the permanent rules contained in NR Ch. 10 will never reflect the regulations that are actually in place. This can be a disadvantage for law enforcement officers and anyone who seeks migratory bird hunting regulation information from that source.

Long Range Implications of Implementing the Rule

Implementing these rules may help reduce the amount of time invested in the rulemaking process by department staff. Implementing these rules will have little impact on the public except that they will continue to have good waterfowl hunting opportunities into the future. A subset of Canada goose hunters in the Horicon Zone will benefit from simplified goose hunting regulations and no need to worry about missing the permit application deadline and not being able to hunt in that zone.

Compare With Approaches Being Used by Federal Government

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 proposal takes advantage of nearly all of the opportunities offered under the federal framework. One difference is that Wisconsin allows one hen mallard in the daily bag limit even though the state could allow two. This is done at the request of waterfowl hunters who want to be conservative in regulating the harvest of breeding female mallards.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. Because of the federal guidelines, Wisconsin's regulations are similar to those in neighboring states.

Name and Phone Number of Contact Person

Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.

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

The statement of scope for this rule, SS 027-13, was approved by the Governor on March 6, 2013, published in Register No. 687, on March 31, 2013, and approved by the Natural Resources Board on April 24, 2013. This rule was approved by the Governor on _____.

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.06 (9) (b), to amend NR 10.001 (9w), 10.01 (1) (v), 10.125 (3) (intro.), 10.125 (4) (b); to repeal and recreate NR 10.01 (1) (b), (g) and (u), 10.12 (3) (c), 10.31 (3) (a), and 10.32; and to create NR 10.12 (3) (e), 10.125 (2) (b) 3. related to migratory bird hunting regulations.

WM-06-13

Analysis Prepared by the Department of Natural Resources

Statutory Authority: The chapter on wild animals and plants, in s. 29.014 Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting. Additional statutory authority is found in ss. 23.11, 29.192 and 29.041.

Statutes Interpreted and Explanation of Agency Authority: Special regulations on the taking of certain wild animals are authorized under s. 29.192 Stats., including specific language that authorizes rules related to Canada goose hunting.

Wisconsin’s boundary waters with other states are popular waterfowl hunting locations. Specific authority to regulate hunting in and on all interstate boundary waters and outlying waters is established in s. 29.041 Stats.

Sections 23.11 and 29.014, Stats. allow for the protection of natural resources, establish general department powers on lands it manages including migratory bird refuges, and authority to establish hunting and trapping regulations on department managed lands.

Related Statute or Rule: This rule order establishes the season length and bag limits for the Wisconsin migratory game bird seasons. Each year similar emergency rules are promulgated and the board order number for that related rule is WM-07-13(E). 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: SECTIONS 1 and 2 of this rule eliminate references to the Brown County and New Auburn subzones of the Exterior Zone for Canada goose hunting. Those subzone designations have not been used by the department in recent years when setting migratory bird hunting seasons by emergency rule.

SECTION 2 of this rule order establishes the season length and bag limits for the migratory game bird seasons. For ducks, the state is divided into three zones, each with 60-day seasons as allowed by federal rule under liberal season frameworks. The proposed seasons in each zone are:

North duck zone - the season begins at 9:00 a.m. on the Saturday nearest September 24 and continues for 60 consecutive days.

South duck zone - the season begins at 9:00 a.m. on the Saturday nearest October 1 and continues for 9 days, followed by a 5-day split, and then reopens for 51 consecutive days.

Mississippi River duck zone - the season begins at 9:00 am on the Saturday nearest September 24 and continues for 9 days, followed by a 12 day split, and then reopens for 51 consecutive days.

The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 1 black duck, 1 canvasback, 3 wood ducks, scaup, 2 pintails and 2 redheads.

For Canada geese, the state is apportioned into 2 goose zones for the regular hunting season, Horicon and Exterior, each with a 92 day season. The Mississippi River Subzone is a special goose management subzone within the Exterior Zone. Season lengths are:

Horicon Zone – Two hunting periods, the first period beginning September 16 and the second on the Monday following the last Friday in October until December 16

Exterior Zone in the northern duck zone - Begins on September 16 and continues for 92 consecutive days

Exterior Zone in the southern duck zone – Begins on September 16 continuing until a closure during the 5 day split in the southern duck zone hunting season and then reopens following this split for the remainder of a season total of 92 days.

Mississippi River subzone – Begins the same day as the duck hunting season in the Mississippi River Zone, closes during the Mississippi River Zone duck hunting season split and reopens following this split for the remainder of a season total of 92 days.

The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the regular open seasons within the zones.

SECTION 3 establishes that the youth waterfowl hunting season dates.

SECTION 4 lifts a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

SECTION 5 expands open water hunting opportunities for migratory birds by adding 10 lakes to the list of those where open water hunting is allowed if the hunter is more than 1,000 feet from the shoreline and islands.

SECTION 6 relaxes the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities.

SECTIONS 7 to 9 simplify Canada goose hunting regulations in the Horicon Zone by providing the department the option of not requiring carcass tags and eliminating the permit application deadline when those measures are not necessary to restrict the harvest of Canada geese.

SECTION 10 decreases the size of the Horicon Zone for goose hunting by redesignating portions of Columbia, Winnebago, Fond du Lac, Marquette, and Green Lake counties from Horicon Zone to Exterior Zone.

SECTION 11 establishes a duck hunting zone that consists of the Wisconsin portions of the Mississippi River west of the Burlington Northern Santa Fe Railroad tracks. This is the same zone configuration that was in place for the 2011 and 2012 seasons and has been approved by the USFWS for a five year 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.

Wisconsin Canada goose harvest is supported by two different Canada goose populations; the local giant Canada geese which are part of the Temperate Breeding Population (TBP) of the Mississippi Flyway provide about 40% of our fall harvest while the Mississippi Valley Population (MVP) that breeds in northern Ontario provide about 60% of the fall harvest. These two populations are managed under cooperative management plans developed by several states and provinces. The TBP population has steadily grown and management goals are to provide additional harvest opportunity and control population growth. In contrast, the MVP population has been on a slow decline so management objectives are to maintain a lower rate of harvest and have a stable or increasing population. These contrasting goals create a challenge in the development of hunting regulations. In order to improve our harvest management, the Mississippi Flyway Council tested the use of a standard season framework for 5 years while monitoring population size and harvest rates for the MVP and TBP. From 2007 - 2011, season lengths and bag limits for each MVP harvest state were unchanged. Each state retained 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 could be adjusted. At the winter 2012 flyway meeting, analysis of the impacts of these 5 years of stable regulation were reviewed and the results were mixed with regard to the management objectives. It was decided among the member states that a cautious and slow approach should be taken toward continued liberalization of Canada goose hunting seasons.

The proposed modifications included in this rule order are consistent with these 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 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 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: In the past, the department has annually promulgated emergency and permanent rules establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final season framework to Wisconsin on approximately August 1 each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season. The department has promulgated permanent rules in the past so that information related to zones, tagging requirements for geese, and other regulations remain relatively current. However, season dates and bag limits established in the administrative code reflect the prior season frameworks and are not useful, current information. Through this rulemaking process, the department is evaluating ways to establish more general descriptions of the migratory bird hunting season in administrative code. For example, new rule language starts the northern duck season on the "Saturday nearest September 24" instead of a specific date. Emergency rulemaking will still be required of the department as the federal frameworks are established each year, but the result would be less rulemaking overall.

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

In 2011 the USFWS gave our state the option of reconfiguring duck hunting zones and after an 11 month public input process Wisconsin implemented changes for a 5 year period. Waterfowl hunters have been supportive of the new zone configuration and this proposal contains the same zone configuration that was in effect for the 2011 season. The department's position has been that the configuration of duck zones is an issue of hunter opportunity and satisfaction which does not have significant impact on duck populations.

The parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and TBP Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations is 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 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 spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conduct a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting, staff provide the attendees with breeding status information and ask for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attend the MFC Technical and Council meetings. At these meetings, staff are provided status information and the proposed framework alternative from the USFWS. Department staff work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announces its final waterfowl season framework recommendation at the end of July. Department staff then summarize waterfowl status and regulation information for Wisconsin citizens and present 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 3.. Staff gather public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. Public hearings will be held from August 5-8 around the state to solicit additional input on the proposed annual waterfowl rule.

Wisconsin has a long tradition of restricting waterfowl hunting to the near shore and marsh areas of lakes and flowages. This provides safe open water resting areas for migrating waterfowl and helps keep ducks on water bodies for a longer period during the hunting season. However, "open water" hunting is allowed on some large lakes and the Great Lakes where it is believed that open water hunting does not eliminate safe resting areas. This type of hunting may involve specialized boats

and other equipment and primarily targets diving species of ducks. All open water blinds must be removed at the close of hunting hours each day. Following a citizen request to increase hunting opportunities by expanding the number of lakes available for open water duck hunting, an ad hoc committee of citizens conducted a statewide review of 130 of the state's largest lakes, held local meetings, and made recommendations for additional open water hunting lakes. Adding the lakes in this proposal will increase areas available to waterfowl hunters and provide more opportunities for a unique type of waterfowl hunting.

This rule will expand opportunity for waterfowl hunters with disabilities. Open water waterfowl hunting is currently prohibited on all but a handful of lakes in WI. A hunter who is "concealed" in emergent vegetation under current rules is not considered to be in open water. The concern is that those with disabilities may physically not be able to get into a smaller boat, skiff, or blind and that it may be difficult or impossible to place an accessible boat or blind near vegetation capable of meeting the concealment requirements. This proposal will make it possible for disabled permit holders, and their companions, to hunt from a craft such as a pontoon boat, which may be impossible to conceal in emergent vegetation.

This proposal would simplify Canada goose hunting regulations in the Horicon Zone by providing the department the option of not requiring carcass tags and eliminating the permit application deadline when those measures are not necessary to restrict the harvest of Canada geese. In recent years the department has been able to provide more carcass tags to each applicant than most hunters were able to use. With improved harvest reporting methods, reduced Horicon Zone hunter numbers and efforts to reduce management costs, it is possible to eliminate the use of a carcass tag. Hunters will continue to be restricted to a specific number of Canada geese harvested in the Horicon Zone each season but this will be controlled through a punch card and telephone reporting system rather than issuance of a carcass tag.

In an effort to provide additional hunting opportunity and simplify regulations, while still protecting Ontario nesting Canada geese from overharvest, this proposal would shrink the size of the Horicon Zone. Areas removed from the Horicon Zone would become part of the Exterior Zone. During regular Canada goose seasons in the Horicon and Exterior Zones, Wisconsin harvests geese from 2 nesting populations; geese that nest locally and geese that nest in wilderness areas of northern Ontario. Harvest of the Ontario population is shared among several states and is managed to avoid overharvest. The Horicon Zone is an area where the Ontario nesting geese concentrate during migration and regulations are designed to avoid overharvest. Maintaining the Horicon Zone regulations is important because nearly 20% of the statewide regular season harvest occurs in the counties near Horicon Marsh.

However, Canada goose hunting regulations are regularly reviewed and can adapt to changes in hunting pressure and goose distribution. In recent years, greater than 80% of the Canada goose harvest within the Horicon Zone has occurred in Dodge and Fond du Lac counties. The band recoveries from Canada geese that nest in northern Ontario are highest on the eastern counties of the Horicon Zone within about 20 miles of the Horicon Marsh. Western and northern areas of the Horicon Zone experience very low Canada goose harvest. Based on these data and suggestions offered during meetings in 2012, the Department proposes shrinking the Horicon Canada goose hunting zone by establishing the western boundary at Highway 73 and the northern boundary at Highway 23.

Closing migratory bird hunting hours early on managed public hunting areas in some states has been shown to provide good hunting across an entire property rather than just near refuges, hold ducks in an area for a longer period of time, and provide better hunting opportunities throughout the season. An experimental early closure has been applied at the Mead Wildlife Area in Marathon and Wood counties and at Zeloski Marsh, Lake Mills Wildlife Area in Jefferson. The regulation has been in place only during the early part of the season when hunting pressure is heaviest. The regulation has sunset after a three year trial period. There continues to be support for the special regulations and reauthorization by rule is needed for them to remain in effect.

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.

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Section 1. NR 10.001 (9w) is amended to read:

NR 10.001 (9w) For the purpose of administering the Canada goose hunting permit system, "Exterior goose management zone" or the "Exterior zone" means all that part of the state outside of the Horicon goose management zone described in s. NR 10.31, and includes the Mississippi River, ~~Brown County and New Auburn subzones~~ subzone which shall be treated as separate management ~~subzones~~ subzone for other purposes.

SECTION 2. 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	9:00 a.m on the Saturday nearest September 24 and continues for 60 consecutive days	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	9:00 a.m. on the Saturday nearest October 1 and continues for 9 days, followed by a 5-day split, and then reopens for 51 days consecutive days.	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Mississippi River zone as established in s. NR 10.32	9:00 am on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for 51 consecutive days.	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	

SECTION 2. 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 except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	a. Entire state	September 1 — September 15	5	10
	b. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 16 and continues for 92 consecutive days	2	4
	c. 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. d. and e.	Begins on September 16 continuing until the closure during the 5-day split in the southern duck zone hunting season in par. b and then reopens, continuing for a season total of 92 days.	2	4
	d. Horicon zone	Two permit periods		6 (equivalent to the seasonal limit established by the department)
		September 16 until the Sunday following the last Friday in October.	2	
		Begins on the Monday following the last Friday in October continuing for a season total of 92 days combined for both periods.	2	
	e. Mississippi River subzone	Begins the same day as the duck hunting season in the Mississippi River Zone in par. b, closes during the Mississippi River Zone duck hunting season split and reopens, continuing for a season total of 92 days.	2	4

SECTION 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
2. Snow or blue and Ross' geese except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	Entire state	As established by zone	20	40
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 16 and continues for 92 consecutive days		
	b. 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. and g.	Begins on September 16 continuing until the closure during the 5 day split in the southern duck zone hunting season in par. b and then reopens, continuing for a season total of 92 days.		
	c. Horicon zone	September 16 and continues for 92 consecutive days		
	d. Mississippi river subzone	Begins the same day as the duck hunting season in the Mississippi River Zone in par. b, closes during the Mississippi River Zone duck hunting season split and reopens, continuing for a season total of 92 days.		

SECTION 2. Continued.

Kind of Animal	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
3. All other geese except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 16 and continues for 92 consecutive days		
	b. 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.c. and d.	Begins on September 16 continuing until the closure during the 5-day split in the southern duck zone hunting season in par. b and then reopens, continuing for a season total of 92 days.		
	c. Horicon zone	September 16 and continues for 92 consecutive days		
	d. Mississippi River subzone	Begins the same day as the duck hunting season in the Mississippi River Zone in par. b, closes during the Mississippi River Zone duck hunting season split and reopens, continuing for a season total of 92 days.		

SECTION 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
4. Brant except on the first day of the duck season in par. b. when brant hunting is not allowed until 9:00 a.m.	Entire state	As established by zone	1	2
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 16 and continues for 92 consecutive days		
	b. 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. c. and d.	Begins on September 16 continuing until the closure during the 5-day split in the southern duck zone hunting season in par. b and then reopens, continuing for a season total of 92 days.		
	c. Horicon zone	September 16 and continues for 92 consecutive days		
	d. Mississippi River subzone	Begins the same day as the duck hunting season in the Mississippi River Zone in par. b, closes during the Mississippi River Zone duck hunting season split and reopens, continuing for a season total of 92 days.		

SECTION 2. 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:

<p>1. All species of wild ducks, mergansers and coots except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.</p>	<p>Northern zone as established in s. NR 10.32</p>	<p>Concurrent with the open youth waterfowl hunt in par. v and open northern zone regular duck season in par. b. Reopens on first or second Friday in January and continues for 45 days.</p>	<p>3 in aggregate with those species listed under subd. 2.</p>	<p>6 in aggregate with those species listed under subd. 2.</p>
	<p>Southern zone as established in s. NR 10.32</p>	<p>Concurrent with the open youth waterfowl hunt in par. v. and open southern zone regular duck season par. b. Reopens on first or second Friday in January and continues for 45 days.</p>	<p>3 in aggregate with those species listed under subd. 2.</p>	<p>6 in aggregate with those species listed under subd. 2.</p>
	<p>Mississippi River zone as established in s. NR 10.32</p>	<p>Concurrent with the open youth waterfowl hunt par. v. and the open Mississippi River zone regular duck season par. b. Reopens on first or second Friday in January and continues for 45 days.</p>	<p>3 in aggregate with those species listed under subd. 2.</p>	<p>6 in aggregate with those species listed under subd. 2.</p>
<p>2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock</p>	<p>Entire state</p>	<p>Sept. 1 – Dec. 16</p>	<p>3 in aggregate with those species listed under subd. 1.</p>	<p>6 in aggregate with those species listed under subd. 1.</p>
<p>3. Geese except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.</p>	<p>Within the zones and subzones established in s. NR 10.31</p>	<p>Concurrent with the open season for geese established in par. (g) for each zone or subzone</p>	<p>As established in par. (g) for each zone or subzone</p>	<p>As established in par. (g) for each zone or subzone</p>

SECTION 3. NR 10.01 (1) (v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event.* Persons under the age of 16 may hunt all species of wild duck, mergansers, geese, coots, and moorhens statewide for 2 consecutive days starting on ~~September 17~~ the Saturday before the beginning of the north duck zone. 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 subzone being hunted as listed in par. (g) 1 .a. to h., 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 and be in compliance with ss. 29.592 and 29.593, Stats. One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2 hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province.

SECTION 4. NR 10.06(9)(b) is repealed.

SECTION 5. NR 10.12 (3) (c) is repealed and recreated to read:

10.12 (3) (c). *Large Lakes.* Blinds in open waters of the following lakes if more than 1,000 feet from any shoreline including islands provided blinds are securely anchored; Beaver Dam Lake in Dodge County (excluding Rakes and Trestle Works Bays), Castle Rock Lake in Adams and Juneau counties (south of railroad bridge and county road G), Fence Lake in Vilas County, Grindstone Lake in Sawyer County, North Twin Lake in Vilas County, Petenwell flowage in Adams, Juneau and Wood counties (north of state highway 21 and south of state highway 73), Lake Puckaway in Marquette and Green Lake counties (the waters west of the west end of the dredge bank, excluding the waters east of the west end of the dredge bank), Shawano Lake in Shawano County, Trout Lake in Vilas County, Lake Winnebago, Lake Wisconsin in Sauk and Columbia counties (north of railroad bridge), and Lake Wissota in Chippewa County (south of county road S and north of county road X).

SECTION 6. NR 10.12 (3) (e) is created to read:

NR 10.12 (3) (e) Persons holding a Class A or B disabled permit that authorizes hunting from a stationary vehicle and which has been issued for more than 1 year, and a person who assists the disabled hunter in the same boat, may hunt more than 3 feet from emergent vegetation that provides the required 50 % concealment of the hunters and boat, but not farther than necessary to maintain the minimum depth of water necessary for operation of the boat being used by the hunters.

SECTION 7. NR 10.125 (2) (b) 3. is created to read:

NR 10.125 (2) (b) 3. Horicon zone permits may be obtained at a license vendor or department service center location throughout the open season unless the department has determined that the special requirements established in sub. (3) are necessary to restrict the harvest of Canada geese.

SECTION 8. NR 10.125 (3) (intro.) is amended to read:

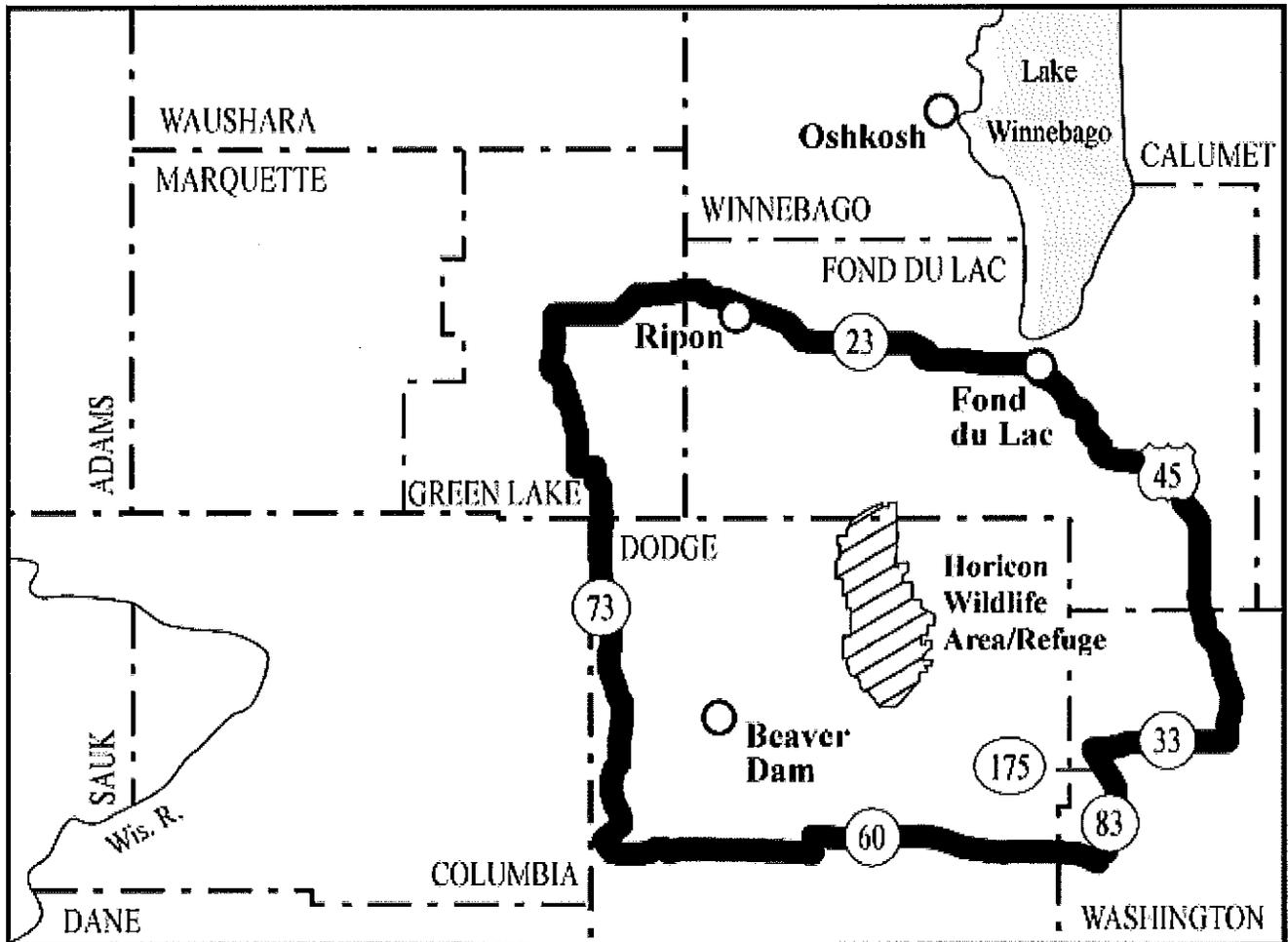
NR 10.125 (3) SPECIAL REQUIREMENTS. ~~Unless otherwise directed by the department,~~ If the department determines that extra harvest control measures are necessary to restrict the harvest of Canada geese, the following requirements apply to the Horicon zone:

SECTION 9. NR 10.125 (4) (a) is amended to read:

NR 10.125 (4) (a) *Harvest reports.* The department may require each successful ~~exterior zone and early goose hunt subzone~~ applicant to submit a harvest report in a manner prescribed by the department within 48 hours of harvesting a goose.

SECTION 10. NR 10.31 (3) (a) is repealed and recreated to read:

NR 10.31 (3) (a) *Horicon zone boundaries.*



█ Proposed Horicon Zone Boundary

SECTION 12. EFFECTIVE DATE. This rule 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.), Stats.

SECTION 13. 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 _____
Cathy Stepp, Secretary

(SEAL)