

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

SUBJECT:

Request that the Board adopt Board Order WM-04-14 (Emergency), proposed rules affecting Ch. NR 10 related to establishing the 2014 migratory bird hunting seasons and regulations.

FOR: August 2014 Board meeting

PRESENTER'S NAME AND TITLE: Kent Van Horn, Migratory Bird Specialist

SUMMARY:

This emergency rule order will modify regulations for migratory bird hunting during the 2014 seasons. The noteworthy changes to rule language are an expansion of the Horicon zone Canada goose season harvest limit from 6 to 12 birds and a reduction of the daily bag limit for canvasbacks from two birds to one. The department's recommendation is:

Ducks - The state is divided into three zones each with 60-day seasons. The daily bag limit will be 6 ducks including no more than; four mallards of which only one may be a hen, one black duck, one canvasback, three wood ducks, two pintails, three scaup, and two redheads. The department is proposing split seasons in the south and Mississippi river duck zones.

For Canada geese the seasons will be closed during splits in the duck season. The seasons and bag limits will be as follows:

- Horicon Zone - 92 days, daily bag limit of 2 (two time periods, season limit of 12)
- Exterior Zone - 92 days, daily bag limit of 2

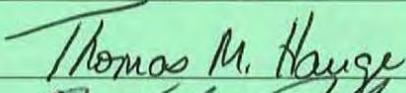
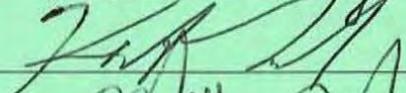
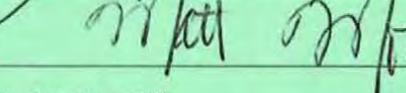
An early, September 1 to 7, teal season has already been established by previous rulemaking and is not a subject of this rule order.

The youth waterfowl season would occur on September 20 and 21. This season is also established by permanent rule and is not a subject of this board order.

RECOMMENDATION: That the Board adopt Board Order WM-04-14 (Emergency).

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 checked="" type="checkbox"/> Response summary | <input checked="" type="checkbox"/> Board order/rule |

Approved by	Signature	Date
Tom Hauge, Bureau Director		8/8/14
Kurt Thiede, Administrator		8/8/14
Cathy Stepp, Secretary		8/11/14

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: August 13, 2014

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Request Adoption of the 2014 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board adoption of the proposed 2014 Migratory Game Bird seasons and regulations, Board Order WM-04-14(E).

The noteworthy changes to rule language are an expansion of the Horicon zone Canada goose season harvest limit from 6 to 12 birds and a reduction of the daily bag limit for canvasbacks from two birds to one. In most other respects, this 2014 migratory bird season framework proposal is consistent with permanent rules currently in effect.

Background

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 ranks in the top 5 states in the nation for the number of waterfowl hunters and has maintained a relatively stable level of waterfowl hunters for 30 years. The diversity of waterfowl hunting opportunities, species and habitats in our state result in a wide range of opinions and preferences among hunters for season dates. 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. Two flow charts are attached for your reference (Figures 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) for each flyway within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council.

Staff attended the summer MFC meeting in Johnston, IA from July 19-25. At this meeting, the states received the 2014 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 established a framework on August 1.

2014 Duck population and regulation status

The annual waterfowl hunting frameworks (season length, bag limits) offered by the USFWS are based on the current year biological data on breeding ducks and geese. This information is summarized below.

The 2014 continental breeding waterfowl conditions were good to excellent across most of the US and Canadian breeding range. The total continental breeding duck estimate of 49.2 million in 2014 was the highest on record in 59 years of this survey (Appendix 1). The 2014 continental breeding population estimates for most surveyed duck species were similar to 2013 levels and/or above long term averages.

The population estimate for the mid-continent mallards and the pond counts in prairie Canada are the 2 primary annual variables that drive the federal Adaptive Harvest Management system. This system forms the basis of the annual duck season frameworks issued by the USFWS. The 2014 mid-continent (US prairies, Great Lakes states and central Canada) mallard population estimate was 11 million and the Canadian pond count was 4.6 million. As a result of these data the USFWS established a 60 day duck season with a 6 duck daily bag limit and moderate to liberal bag limits for other specific species (Appendix 1). Wisconsin's duck harvest is dominated by 4 species; mallards, wood ducks, blue-winged teal and green-winged teal, which together make up over 70% of the total duck harvest. In addition to mallards, blue-winged teal and green-winged teal are both reported in continental surveys and in 2014 the estimates for these species were also excellent.

Wisconsin breeding duck conditions

While populations and habitat conditions in the U.S. and Canadian prairies determine the USFWS prescribed duck season framework for Wisconsin and other states, 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.

In 2014, spring was late in coming to Wisconsin and included heavy rainfall in many areas. Our spring breeding waterfowl survey is normally conducted in late April to early May but had to be delayed because of persisting ice cover in the north. When the survey was ultimately conducted duck migration and breeding phenology was outside the norm so completing a good survey was challenging. The 2014 results should be interpreted in this context and viewed as part of a long term trend (Appendix 1). The total state breeding duck population estimate of 395,099 is down and considerably below the recent 10 year average of 519,000 and 11% below the long-term mean. As a result, spring flooding and the late winter, re-nesting occurred in many areas of the state. Overall, we expect near average duck production in Wisconsin this year.

Canada geese

Wisconsin's Canada goose harvest comes primarily from 2 populations; resident giant Canada geese that breed in and around Wisconsin and the Canada geese that nest along the Hudson Bay coast in northern Ontario historically referred to as the Mississippi Valley Population (MVP). 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 is challenged with managing 2 different Canada goose populations with the same hunting regulations. The giant Canada geese in the flyway, now called the Temperate Breeding Population (TBP) has steadily grown and can sustain a higher hunting pressure while the MVP has been slowly decreasing so a more cautious regulatory approach has traditionally been used.

In an effort to learn if increased liberalization of Canada goose hunting regulations is sustainable, the MFC tested the use of a standard hunting season framework for 5 years. From 2007 to 2011, fairly liberal season lengths and bag limits for each MVP harvest state remained unchanged. Each state retained the flexibility of schedule the timing of their Canada goose season. The health of these 2 populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The results of this 5 year trial were evaluated by the technical section of the MFC during the winter of 2012. The management objectives were to increase the harvest rate and potentially slow the population growth of the TBP, while maintaining a lower harvest rate on the MVP and a stable to increasing MVP. The evaluation results were mixed, with an increased rate of harvest on TBP geese but a continued growth in the population. There was an acceptable harvest rate on MVP in all but 1 year but in the face of a declining population during this period. It was agreed among the states that share the MVP harvest that we could continue with small and cautious steps toward more liberal Canada goose hunting seasons. In Wisconsin, we took the first step by adding 7 days of Canada goose hunting in the Exterior Canada goose zone in 2012. These days occur at the end of the season so provide additional hunting opportunity but the overall harvest in December is low compared to earlier in the fall. In 2013, the Natural Resources Board took the next step by converting 48% of the Horicon Zone with more controlled goose harvest regulations to the Exterior zone with more liberal goose harvest regulations. That rule change goes into effect this fall, 2014.

In 2014, spring breeding conditions for the MVP geese were moderate and the spring breeding population of 323,000 was similar to 2013 and the long term average. Field reports indicate good production in 2014. In Wisconsin the 2014 resident Canada goose breeding population estimate of 126,000 was down from 2013 but above the long term average. Field reports suggest varied production and hatch dates because of the delayed spring conditions.

Previous Hunter input

The development of the 2014 waterfowl hunting season proposal was aided by several years of hunter surveys and public meetings that indicated the majority (about 2/3) of the waterfowl hunters were content with most of the starting dates, season lengths and bag limits for Canada goose and duck hunting seasons.

With the foundation of spring survey data, USFWS waterfowl season frameworks, and public input on all aspects of the waterfowl season structure staff developed the following proposal for the 2014 waterfowl season.

Rule Summary

- 1) **Ducks.** 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. An important note with regard to the federal duck season framework is that in 2014, the Saturday nearest September 24 is the latest date possible, September 27.

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. New research data on mallards in Wisconsin indicates that the annual survival of adult hen mallards has declined by 11% over the last 50 years with half that decline occurring since initiation of 60 day duck seasons in 1997. Wisconsin's mallard harvest is about 70% supported by locally breeding mallards so survival of these

hens is critical to future hunting opportunity. Based on these data and continued support by duck hunters we recommend a continuation of the 1 hen mallard bag limit.

Season Summary:

During the 60-day season, a daily bag limit of 6 ducks in total. Of the 6 ducks, no more than: 4 mallards of which only 1 can be a hen, 3 wood ducks, 2 redheads, 1 black duck, 2 pintail, 3 scaup and **1 canvasback**. In addition, 5 mergansers to include not more than 2 hooded mergansers. Coot daily bag limit of 15. (For duck species not listed such as teal and ring-necked ducks, the combined total with all other species may not exceed 6 ducks). The possession limit is 3 times the daily bag limit for all migratory game birds.

Opening day shooting hours to begin at 9 am.

Northern Zone – September 27 – November 25.

Southern Zone – October 4-12, and October 18 - December 7.

Mississippi River Zone - September 27-October 5, then a 12 day split, reopening on October 18 – December 7.

2) **Youth Waterfowl Hunt.** The youth hunt will be September 20-21. 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.

3) **Canada geese**

The state is apportioned into two goose hunting zones for the regular season: Horicon and Exterior. Other goose management subzones within the Exterior Zone include the Mississippi River.

Exterior Zone – 92 days. Daily bag of 2 Canada geese.

North Zone - September 16- December 16.

South Zone –September 16- October 12 and October 18 – December 21.

Mississippi River Subzone – September 27- October 5, October 18 – January 8.

Horicon Time Periods

Hunters with Horicon zone permits will be allowed to harvest 12 Canada geese for the time period that they are awarded. The daily bag limit will be 2 geese.

Horicon – 92 days

Period 1	September 16- November 2
Period 2	November 3 – December 16

3) 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

The open season for White-fronted geese begins on September 20 for the Exterior (north and south) and the Horicon zone and then follows the same dates as for Canada geese in those zones. In the Mississippi River subzone of the Exterior zone the White-fronted goose season does not open until October 1 and then follows the same dates as those for Canada geese in that subzone. Daily Bag Limit: 1 white-fronted goose.

Public Meetings & 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 182 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 May 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 18,000 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 7.
- **July 10, Staff attended the LaCrosse County Conservation Alliance** annual waterfowl meeting to present information and received input primarily on the Mississippi River Zone season. About 27 waterfowl hunters were in attendance.
- **August 2 – Migratory Committee of the Conservation Congress. Plover.** 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. Committee had 21 members present.
- **August 2 – Post-Flyway. Plover.** 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), Hunters Rights Coalition, Lake Poygan Sportsman's Club, Burlington Conservation Club, Mead duck hunters and Black Slough Conservation Club (BSCC). A total of 18 people attended

- **August 4-7, 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** - 20 people attended, 10 gave oral testimony
 - **Rice Lake** - 3 people attended, 0 gave oral testimony
 - **Appleton** – 28 people attended, 12 gave oral testimony
 - **Pewaukee** – 20 people attended, 6 gave oral testimony

Public Input and Data Summary:

Hearing attendance and public input volume was below 2013 but similar to prior years with a total of 182 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 2014 public input period on the waterfowl hunting season proposal, 75% 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, including the statewide groups of Wisconsin Waterfowl Association and Wisconsin Wildlife Federation, were also in support of this season.

South Duck Hunting Zone Season dates:

During the 2014 public input period on the waterfowl hunting season proposal, 75% 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 3 seasons and is proposed again for 2014. Based on hunter survey results and public input this summer, it appears that a growing number of hunters do not favor the early opening date on the Mississippi River and the long 12 day split. A number of different proposals were presented and discussed for a later opening date and/or a shorter split (closure) period. However, in the end, the majority of the individual public comments, 66%, favored keeping the status quo. The Conservation Congress, most of the waterfowl hunting groups (including the statewide groups of Wisconsin Waterfowl Association and Wisconsin Wildlife Federation) as well as the local group, the Lacrosse County Conservation Alliance supported the proposed season.

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 as proposed and even noon opening time for shooting hours for the first day of the duck season. In 2014, this topic created considerable debate and the individual comments were essentially split 50:50. We received 46 comments for a 9 am, 48 comment for 1/2 hour before sunrise and 2 comments for noon. The Conservation Congress and 4 waterfowl groups supported the proposed 9 am opening time and 5 supported the ½ hour before sunrise. We have not changed the proposal but anticipate seeking additional feedback on this topic before next year's season.

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 84% of the individual comments supported this proposal.

Canada goose season dates:

All Canada goose season dates were favored by over 90% of the individual public comments and all but 1 group. For the Horicon Zone season harvest limit, the proposal was for an increase from 6 to 10 geese. While 65% of the statewide public input was in favor of this increase, a number of Horicon Zone hunters and 4 waterfowl groups requested a Horicon goose season harvest limit of 12 rather than 10. We believe that this is a reasonable request so we have changed the proposal to reflect an increase to a 12 Canada goose season harvest limit in the Horicon Zone. We will monitor harvest and hunter response to confirm a 12 goose harvest limit is appropriate for this zone.

Rule Development:

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

Economic Impact of Proposed Rules

The department has determined that these rules will have no economic impact locally or statewide because they do not represent a significant change from the rules in effect in previous seasons.

A copy of the economic and fiscal impact analysis is attached as part of this agenda item.

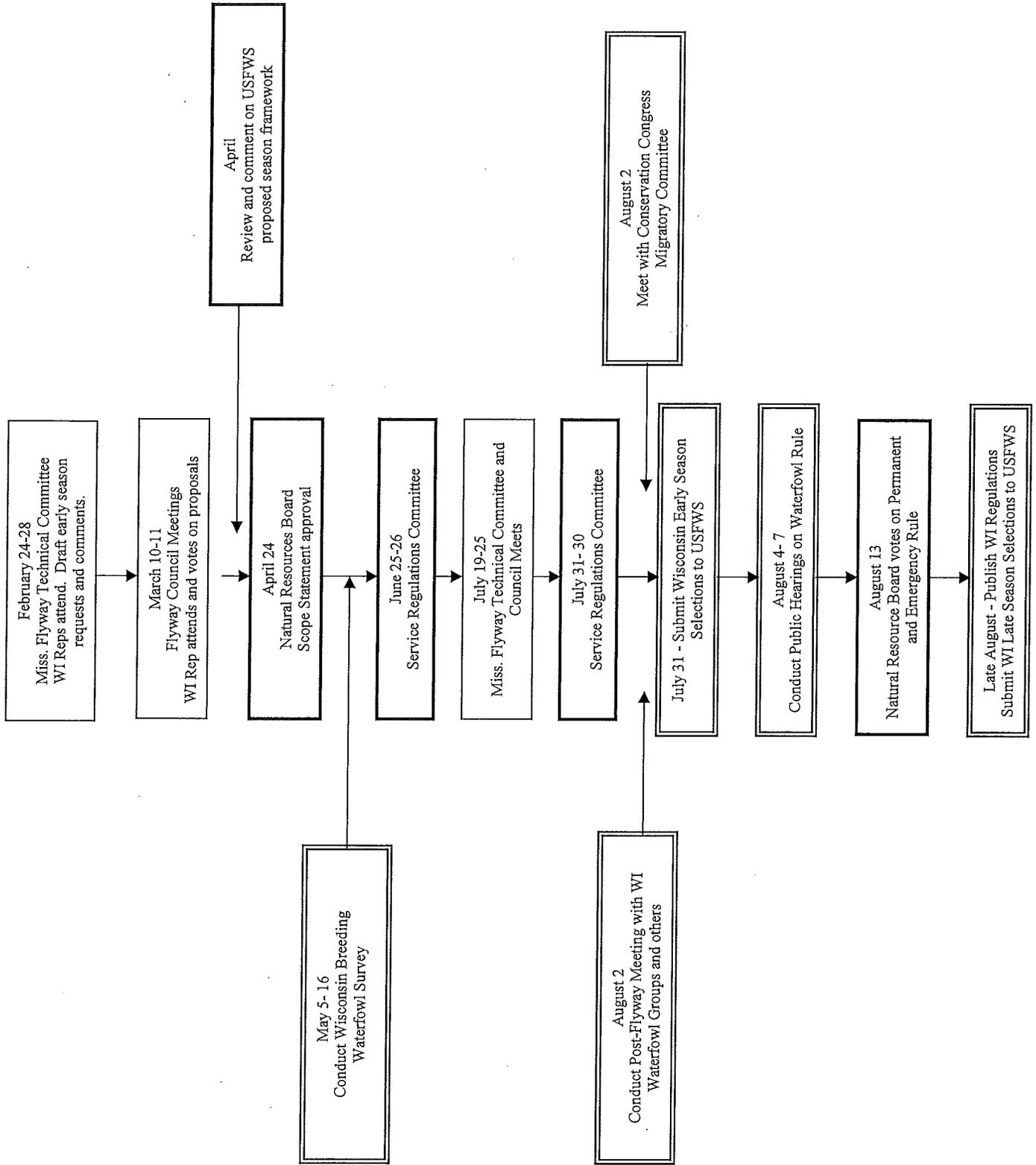
Small Business and Regulatory Flexibility Analysis:

The revisions to Ch. NR 10, Wis. Admin. Code, relating to hunting, and trapping 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.

Figure 2. 2014 WISCONSIN MIGRATORY GAME BIRD REGULATORY SCHEDULE



Appendix 1. 2014 Waterfowl Population Status

USFWS Surveys:

- Traditional area mallards – 10.9 million (similar to 2013 and 42% above the long-term average (LTA))
- May Ponds – Canada – 4.6 million (2 % above 2013 and 33% above LTA)
- Total Ducks – 49.2 million (highest on record and 43% above LTA)
- Mid-continent mallards (traditional area minus AK, +WI, MN, MI) = 11 million
- Others:
 - ◊ Blue-winged Teal – 8.5 million – 69% above LTA
 - ◊ Gadwall – 3.8 million – 102% above LTA
 - ◊ Green-winged Teal – 3.4 million – 69% above LTA
 - ◊ Northern Shoveler – 5.2 million – 114% above LTA
 - ◊ Northern Pintail – 3.2 million – 20% below LTA
 - ◊ Scaup – 4.6 million – 8% below LTA
 - ◊ Wigeon – 3.1 million – 20% above LTA
 - ◊ Canvasback - 685,000 – 18% above LTA

The combination of 11 million mid-continent mallards and a Canada pond count at 4.6 million results in a liberal 60 day season under the Adaptive Harvest Management model.

Table 3 – Optimal regulatory strategy^a for the Mississippi and Central Flyways for the 2014 hunting season. This strategy is based on current regulatory alternatives (including the closed-season constraint), mid-continent mallard models and weights, and the dual objectives of maximizing long-term cumulative harvest and achieving a population goal of 8.5 million mallards. The shaded cell indicates the regulatory prescription for 2014.

BPOP ^b	Ponds ^c									
	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0
≤4.5	C	C	C	C	C	C	C	C	C	C
4.75–6.25	R	R	R	R	R	R	R	R	R	R
6.5	R	R	R	R	R	R	R	R	R	M
6.75	R	R	R	R	R	R	R	M	M	L
7	R	R	R	R	R	M	M	M	L	L
7.25	R	R	R	M	M	M	L	L	L	L
7.5	R	R	M	M	L	L	L	L	L	L
7.75	M	M	M	L	L	L	L	L	L	L
≥8.0	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 WBPHS (strata 13–18, 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 2014

Bold/Italics = Department proposal

Issue	Email/ Hearing/Other	Groups at Meetings	Cons Congress	% of comments in favor
Mississippi River Duck Zone, Sept 27-Oct 5 & Oct 18-Dec 7	58	5	X	66%
Mississippi River Duck Zone, Oct 4-12, Oct 18-Dec 7	23			
Mississippi River Duck Zone, Oct 4 - Dec 2	4	1		
Mississippi River Duck Zone, Oct 1	3			
Mississippi River Duck Zone, Sept 27-Oct 5 & Oct 15-Dec 4	-	3		
North Duck Zone opener, Sept 27-Nov 25	73	8	X	75%
North Duck Zone opener, later	4			
Statewide	6			
North Duck Zone, Oct 4 with split	14	1		
South Duck Zone opener, Oct 4 - Oct 12, Oct 18 - Dec 7	83	6	X	75%
South Duck Zone Oct 4 - Dec 2	13			
South Duck Zone Open later	5			
South Duck Zone open Sept 27 - Oct 5, Oct 11 - Nov 30	5	1		
South Duck Zone open Sept 27 - Oct 5, Oct 18 - Dec 7		2		
Statewide	4			
South Duck Zone split, 5-day, Oct 13-17	86	9	X	91%
South Duck Zone, no split	8			
Duck Shooting Hours on Opening Day, 9am	46	4	X	48%
Duck Shooting Hours on Opening Day, 1/2 hr before sunrise	48	5		
Duck Shooting Hours on Opening Day, noon	2			
Exterior Goose Zone, Sept 16, split in South and Miss River during duck split	66	8	X	94%
Exterior Goose Zone, Sept 16, no split in South	1	1		
Exterior Goose with split in north	3			
Hen Mallard Bag Limit, 1/day	78	9	X	84%
2 hen mallard daily bag limit	15			
Horicon Canada Goose Zone, H1 and H2 Season Harvest Limit of 10	32	1	X	65%
Horicon Canada Goose Zone, H1 and H2 Season Harvest Limit of 12	17	4		
Youth Hunt Sept 20+21	76	7	X	99%
No Youth Hunt	1	2		
Total comments	182			
Attendance at Public Hearings	71			

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-04-14 (E)

Subject

Establishing the 2014 migratory game bird hunting 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 emergency rule order will modify regulations for migratory bird hunting during the 2014 seasons.

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)

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

Regulations modified by this proposal will not require changes to past practices or procedures and will have no fiscal impact.

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

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 late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Long Range Implications of Implementing the Rule

These are emergency rules that will be in effect for only the 2014 migratory bird hunting season.

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.

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
AMENDING AND CREATING RULES**

The statement of scope for this rule, SS 020-14, was approved by the Governor on March 10, 2014, published in Register No. 699, on March 31, 2014, and approved by the Natural Resources Board on May 27, 2014. This rule was approved by the Governor on _____.

The Wisconsin Natural Resources Board proposes an order to amend Ch. NR 10.01 (1) (b), 10.01 (1) (g) 1. d.; and to create NR 1001 (1) (g) 1. dm. related to migratory bird hunting regulations.

WM-04-14 (E)

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.

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.

Additional statutory authority is found in s. 29.192, Stats. related to establishing regulations for hunting Canada geese.

Statutes Interpreted and Explanation of Agency Authority: In promulgating these rules, statutes being interpreted or establishing agency authority include ss. 23.11, 29.014 and 29.041,

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

Related Statute or Rule: In 2014, the department will promulgate two emergency rule orders establishing the migratory bird hunting seasons and regulations. Adoption of two separate orders is needed because there are two different times when the service needs to be informed of Wisconsin’s season selections.

This year, by a separate board order drawn from the same statement of scope and approved at the board’s June meeting, emergency rulemaking will establish the season and regulations for an early teal-only season and extend the mourning dove hunting season. These seasons are part of the federal “early migratory bird season framework” and the United States Fish and Wildlife Service needed to be informed of the State of Wisconsin Natural Resources Board decision on these seasons in June. The board order number for rules establishing the early teal season is WM-11-14(E).

This rule order is part of the “late migratory bird season framework” and it establishes what are commonly considered to be the regular waterfowl hunting season framework including the traditional late September to early October duck season opening days and Canada goose hunting season and regulations.

Final promulgation of both orders will occur simultaneously with publication in the state paper in late August, prior to the September 1 opening day of several of the seasons being established. Both of these emergency rulemaking processes are necessary to have regulations in place for the fall hunting season while following the federal and state rule procedures.

Plain Language Analysis: This emergency rule order will modify regulations for migratory bird hunting during the 2014 seasons.

SECTION 1 of these rules reduces the daily bag limit for canvasback ducks from two birds to one.

SECTION 2 increases the season harvest limit for Canada geese in the Horicon Zone from six birds to twelve. The daily bag limit will be unchanged and continues to be two birds.

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.

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: The department annually promulgates an emergency rule 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.

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 addition, harvest strategies have been developed to inform hunting season decisions for other individual duck species such as scaup, canvasback and pintail which could drive annual changes in bag limits or season lengths for those species.

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 each year, 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 in early August. Staff gather public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. In 2014, public hearings were held from August 4-7 around the state to solicit additional input on the proposed annual waterfowl rule.

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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Deadline for Written Comments: The deadline for written comments was August 7.

SECTION 1. NR 10.01 (1) (b) is 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 duck</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, 2 canvasbacks, 1 <u>canvasback</u>, 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 through the entire season 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>9:00 a.m. on the Saturday nearest September 24 and continues for 60 consecutive days</p>		
	<p>Southern zone as established in s. NR 10.32</p>	<p>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.</p>		
	<p>Mississippi River zone as established in s. NR 10.32</p>	<p>9:00 a.m. on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for 51 consecutive days.</p>		

SECTION 2. NR 10.01 (1) (g) 1. d. is amended to read:

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.	d. Horicon zone	Two permit periods		Equivalent to the seasonal limit established by the department 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.
		<u>First permit period beginning on September 16 and continuing until the Sunday following the last Friday in October.</u>	2	<u>6 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.</u>
		<u>Begins 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.</u>	2	

SECTION 3. NR 10.01 (1) (g) 1. dm. is created to read:

NR 10.01 (1) (g) 1. dm. HORICON ZONE SEASON HARVEST LIMIT. No person may harvest more than 12 Canada geese during a permit period established in subd. par. d.

SECTION 4. 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 late July of each year. This order is designed to bring the state hunting regulations into 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 5. 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 6. 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)