

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

SUBJECT: Request that the board approve the statements of scope and conditionally approve the hearing notices and notices of submittal to the legislative council clearinghouse for Board Orders WM-04-15 (E), WM-05-15 (E) and WM-06-15, proposed rules modifying Ch. NR 10 related to establishing the 2015 migratory bird hunting seasons.

FOR: May 2015 Board meeting

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

These rule processes will establish the 2015 migratory bird hunting seasons.

Emergency rule order WM-04-15 (E) will establish the "early" migratory bird hunting seasons, the early teal, mourning dove, and early Canada goose hunting seasons which begin on September 1. We anticipate requesting adoption of these rules in June 2015. A series of four hearings was held on comparable emergency rules in 2014 and the department proposes not holding hearings again prior to adoption in 2015. A statutorily required hearing would be held following adoption.

Emergency rule order WM-05-15 (E) will establish the "late" migratory bird hunting seasons, including the regular duck and goose hunting seasons which begin in mid-September to early October. The early and late season frameworks are broken into two separate rule packages because adoption will be requested in different months. We anticipate requesting adoption of this order at the board's August 12, 2015 meeting. Adoption will be preceded by hearings held in LaCrosse, Rice Lake, Appleton and Pewaukee during the first week in August.

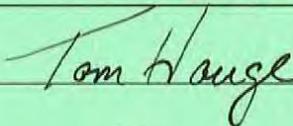
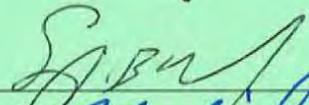
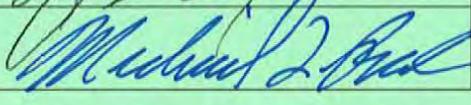
These emergency rules are necessary because there is not sufficient time, between Wisconsin's receipt of federal migratory game bird season frameworks and the opening dates of those seasons, to promulgate a permanent rule.

Board order WM-16-15 is a permanent rule that will include the provisions of the emergency orders establishing both the early and late season frameworks. The department will hold hearings and request adoption of the permanent rule in August, concurrent with the emergency board order establishing the late migratory bird hunting season framework.

RECOMMENDATION: Approval of the statements of scope and conditional approval of the hearing notices and notices of submittal to the legislative council clearinghouse for Board Orders WM-04-15 (E), WM-05-15 (E) and WM-06-15, proposed rules establishing the 2015 migratory bird hunting seasons

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

- Background memo
- Scope statements
- Governor's approval of scope statements
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Approved by	Signature	Date
Tom Hauge Bureau Director		4/10/15
Sanjay Olson, Land Division Administrator		4/15/15
Cathy Stepp, Secretary <i>for</i>		4/24/15

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-04-15(E)

Relating to: Establishing the 2015 migratory bird, early season framework in Ch. NR 10 Wis. Admin. Code

Rule Type: These will be emergency rules

1. Finding/nature of emergency (Emergency Rule only):

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 summer 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, 2015. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

2. Detailed description of the objective of the proposed rule:

This emergency rule order will establish the "early migratory bird season framework" for 2015 which may include the early teal-only, mourning dove, and early Canada goose hunting seasons.

3. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

These rules may modify season dates, bag limits, and other regulations for the early September teal-only duck season, mourning dove, and early Canada goose hunting seasons. These seasons are part of the federal "early migratory bird season framework" and the United States Fish and Wildlife Service needs to be informed of the State of Wisconsin Natural Resources Board decision on these seasons in June.

This is an annual rule that will be consistent with a federal framework and is not a change from past policies. Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin in late June, 2015. The State of Wisconsin's season proposal will be based on the federal framework, flyway agreements, and local conditions.

These rules may expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be "concealed" if they are within 3 feet of the shoreline. The WI Conservation Congress has recommended modifications to this rule.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The chapter on wild animals and plants, in s. 29.014, "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 and hunting and trapping for other species.

Special regulations on the taking of certain wild animals are authorized under s. 29.192, including specific language that authorizes rules related to Canada goose hunting.

The establishment of migratory game bird refuges is authorized in s. 23.09(2)(b) relating to the department's ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

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.

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

5. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

Approximately 640 hours will be needed by the department prior to and following the hearings.

6. Description of all entities that may be impacted by the rule:

These rules will impact migratory game bird hunters and those who enjoy viewing waterfowl in Wisconsin.

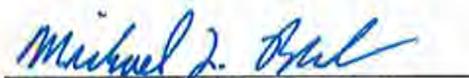
7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20. Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service annually evaluates migratory game bird populations and breeding habitat in cooperation with state provincial agencies and the Canadian Wildlife Service. After considering recommendations from the flyway councils of states and the guidance of cooperatively developed harvest strategies, the USFWS establishes annual frameworks within flyway or bird populations regions. States can then establish hunting seasons within the sideboards for each species and region. As a result, the hunting seasons of neighboring states are similar to Wisconsin migratory game bird hunting regulations because they are subject to the same federal frameworks.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be comparable to those in place during the previous season. 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.

Contact Person: Scott Loomans, 101 S Webster St., Madison, WI 53707, (608)267-2452, scott.loomans@wisconsin.gov or Kent Van Horn, Migratory Birds Specialist, 101 South Webster Street, PO Box 7921, Madison, WI 53707-7921, (608) 266-8841, Kent.Vanhorn@wisconsin.gov



Department Head Signature

3-6-15

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 26, 2015

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Scope Statement for Emergency Rule modifying NR 10 (WM-04-15E) relating to the establishing the 2015 migratory bird, early season framework

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on March 12, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule modifying Chapter NR 10 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

Scott Walker
Governor

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-05-15(E)

Relating to: Establishing the 2015 migratory bird, late season framework in Ch. NR 10 Wis. Admin. Code

Rule Type: These will be emergency rules

1. Finding/nature of emergency (Emergency Rule only):

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 summer 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, 2015. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

2. Detailed description of the objective of the proposed rule:

This emergency rule order will establish the "late migratory bird season framework" for 2015 which primarily includes the regular duck and goose hunting seasons.

3. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

These rules may modify season dates, bag limits, and other regulations for the regular duck and goose hunting seasons beginning in mid-September. These seasons are part of the federal "late migratory bird season framework" and the United States Fish and Wildlife Service needs to be informed of the State of Wisconsin Natural Resources Board decision on these seasons in August.

This is an annual rule that will be consistent with a federal framework and is not a change from past policies. Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2015. The State of Wisconsin's season proposal will be based on the federal framework, flyway agreements, and local conditions.

These rules may expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be "concealed" if they are within 3 feet of the shoreline. The WI Conservation Congress has recommended modifications to this rule.

Finally, the department has recently completed an extensive rulemaking process related to deer hunting and will be implementing new regulations in the fall season, 2015. If the department identifies remedial or non-controversial revisions which are necessary to implement the deer or migratory bird hunting seasons or manage those species, and thus constitute an emergency, those may also be topics of this rule making process.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The chapter on wild animals and plants, in s. 29.014, "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 and hunting and trapping for other species.

Special regulations on the taking of certain wild animals are authorized under s. 29.192, including specific language that authorizes rules related to Canada goose hunting.

The establishment of migratory game bird refuges is authorized in s. 23.09(2)(b) relating to the department's ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

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.

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

5. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

Approximately 640 hours will be needed by the department prior to and following the hearings.

6. Description of all entities that may be impacted by the rule:

These rules will impact migratory game bird hunters and those who enjoy viewing waterfowl in Wisconsin.

7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20. Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service annually evaluates migratory game bird populations and breeding habitat in cooperation with state provincial agencies and the Canadian Wildlife Service. After considering recommendations from the flyway councils of states and the guidance of cooperatively developed harvest strategies, the USFWS establishes annual frameworks within flyway or bird populations regions. States can then establish hunting seasons within the sideboards for each species and region. As a result, the hunting seasons of neighboring states are similar to Wisconsin migratory game bird hunting regulations because they are subject to the same federal frameworks.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be comparable to those in place during the previous season. 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.

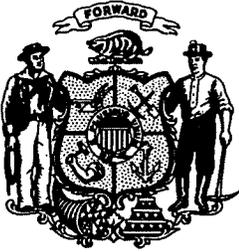
Contact Person: Scott Loomans, 101 S Webster St., Madison, WI 53707, (608)267-2452, scott.loomans@wisconsin.gov or Kent Van Horn, Migratory Birds Specialist, 101 South Webster Street, PO Box 7921, Madison, WI 53707-7921, (608) 266-8841, Kent.Vanhorn@wisconsin.gov



Department Head Signature



Date Submitted



SCOTT WALKER
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STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 26, 2015

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

**RE: Scope Statement for Emergency Rule modifying NR 10 (WM-05-15E) relating
to the establishing the 2015 migratory bird, late season framework**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on March 12, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule modifying Chapter NR 10 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

Scott Walker
Governor

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-06-15

Relating to: Migratory bird hunting regulations in Ch's. NR 8, 10, 11, 15 and 18.

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

These will be permanent rules.

2. Detailed description of the objective of the proposed 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 codify provisions already in effect for the fall, 2015 seasons by emergency rule.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

These rules may modify season dates, bag limits, and other regulations for the early September teal-only duck season, mourning dove, and early Canada goose hunting seasons. These rules may modify season dates, bag limits, and other regulations for the regular duck and goose hunting seasons beginning in mid-September.

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 early season framework by late June and a late season framework on approximately August 1 each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season. As part of the federal regulation of migratory game bird hunting, groups of states are organized into councils by migratory flyways to work together on the management and regulation of migratory game birds. Wisconsin is part of the Mississippi Flyway Council (MFC) which consists of 14 states and 3 Canadian provinces and state rules are subject to flyway council management plans and agreements. The department promulgates permanent rules so that information related to zones, tagging requirements for geese, and other regulations remain current.

The department will consider other simplifications to migratory bird hunting regulations that may be identified during this rulemaking process.

These rules may modify the regulations of people who practice falconry for pursuing migratory game birds if necessary changes are identified during the rulemaking process.

The department may include other, minor, non-controversial rule proposals passed at the annual Spring Fish & Wildlife Hearings as advisory questions by the Conservation Congress.

Finally, the department has recently completed an extensive rulemaking process related to deer hunting and will be implementing new regulations in the fall season, 2015. If the department identifies remedial or non-controversial revisions which are necessary to implement the deer or migratory bird hunting seasons those may also be topics of this rule making process.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The chapter on wild animals and plants, in s. 29.014, "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.

Special regulations on the taking of certain wild animals are authorized under s. 29.192, including specific language that authorizes rules related to Canada goose hunting.

The establishment of migratory game bird refuges is authorized in s. 23.09(2)(b) relating to the department's ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

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.

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.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 400 hours will be needed by the department prior to and following the hearings.

6. List with description of all entities that may be affected by the proposed rule:

These rules will impact migratory game bird hunters, primarily those pursuing ducks and geese.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20. Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service annually evaluates migratory game bird populations and breeding habitat in cooperation with state provincial agencies and the Canadian Wildlife Service. After considering recommendations from the flyway councils of states and the guidance of cooperatively developed harvest strategies, the USFWS establishes annual frameworks within flyway or bird populations regions. States can then establish hunting seasons within the sideboards for each species and region. As a result, the hunting seasons of neighboring states are similar to Wisconsin migratory game bird hunting regulations because they are subject to the same federal frameworks.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be comparable to those in place during the previous season. 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.

Contact Person: Scott Loomans (608)267-2452, or Kent Van Horn (608) 266-8841



Department Head or Authorized Signature

3-6-15

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 26, 2015

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

**RE: Scope Statement for NR 8, 10, 11, 15, and 18 (WM-06-15) relating to migratory
bird hunting regulations**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on March 12, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 8, 10, 11, 15, and 18 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

A handwritten signature in black ink, appearing to be "Scott Walker".

Scott Walker
Governor