Form 1100-001
(R 2/07)

NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3B3

SUBJECT: Authorization for public hearing for Board Orders WM-19-07 and WM-19-07(E), revisions to NR 10 and 12 establishing the 2007 Migratory Game Bird Hunting Seasons and Regulations

FOR: MAY 2007 **BOARD MEETING**

TO BE PRESENTED BY: Kent Van Horn, Migratory Bird Specialist

SUMMARY:

The proposed rules establish the regulations for the 2007 migratory game bird season. The significant regulations are:

Ducks - The state is divided into two zones each with 60-day seasons. The daily bag limit is expected to be 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, 2 wood ducks, 2 redheads and 3 scaup.

Canada geese - The state is apportioned into three goose hunting zones: Horicon, Collins, and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are expected to be as follows:

- Collins Zone - 62 days
- Horicon Zone - 92 days
- Exterior Zone - 85 days
- Mississippi River Subzone - 70 days

In addition to these annual regulatory issues we will propose:
1) Requiring the use of non-toxic shot for rail, snipe, and moorhen statewide
2) Requiring the use of non-toxic shot for mourning doves on department managed lands only beginning in 2008.
3) Allowing the placement of decoys and shooting at birds that are within a 75 yard area around the boundary of the Horicon National Wildlife Refuge as long as the hunter is more than 75 yards from the boundary.
4) Relaxing Canada goose nuisance control requirements for airports.

RECOMMENDATION: Authorize public hearings for Board Order WM-19-07, revisions to NR 10 and 12 establishing the 2007 Migratory Game Bird Hunting Seasons and Regualtions

LIST OF ATTACHED MATERIALS:

No	☐	Fiscal Estimate Required	Yes ☑	Attached
No	☑	Environmental Assessment or Impact Statement Required	Yes ☐	Attached
No	☐	Background Memo	Yes ☑	Attached

APPROVED:

Tom Hauge — Bureau Director, Tom Hauge — Date 4/24/07

Laurie Osterndorf (sgd) — Administrator, Laurie Osterndorf — Date 4/25/07

Scott Hassett — Secretary, Scott Hassett — Date 4/28/07

cc: Laurie J. Ross - AD/5
Kim Benton - WM/6
GLIFWC & Tribes - 13 (WM/6)
Cons. Congress Exec. Comm. - 4 (LS/5)
Kent Van Horn - WM/6
Tim Andryk / Carol Turner - LS/5
Randy Stark - LE/5
Tom Hauge - WM/6
Bill Vander Zouwen - WM/6
Diane Brookbank - CS/G3
Bob Manwell - CE/8
Regional Wildlife Supervisors - 5 (WM/6)
LE Regional Supervisors - 5 (LE/5)
Scott Loomans - WM/6
Tom Van Haren - LE/5

STAFF REVIEW - DNR BOARD AGENDA ITEM

REMINDER

Have the following questions been answered under the summary section of this form?

- -Why is the rule needed?
- -What are the significant changes?
- -What are the key issues/controversies?
- -What was the last action of the Board?

LIST OF ATTACHED REFERENCE MATERIAL REQUIRED FOR RULE PROPOSALS:

Hearing authorization:	Final adoption:
Background Memo (if needed)*	Background Memo (if needed)*
Fiscal Estimate	Response Summary
Environmental Assessment (if needed)	Fiscal Estimate
Rule	Environmental Assessment (if needed)
	Rule

* If all the questions listed in the REMINDER section above can be adequately summarized on the Green Sheet (and a second sheet if needed), the Background Memo may be omitted.

Unit	Reviewer	Date	Comments
Environmental Analysis and Review			
Management and Budget			
Legal Services -Program Attorney -Carol Turner		la 4/24 CT 4/24	Approved with recommended changes
Other (if applicable)			

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: April 24, 2007

TO: Natural Resources Board Members

FROM: Scott Hassett

SUBJECT: Request Board authorization to hold public hearings on the 2007 migratory bird hunting season proposals, WM-19-07 and WM-19-07(E).

I am requesting Natural Resources Board (NRB) approval to hold public hearings on board order WM-19-07 and WM-19-07(E) relating to establishing the 2007 migratory bird hunting seasons.

Each fall, about 85,000 waterfowl hunters venture into Wisconsin's wetlands and fields to harvest 300,000-500,000 ducks and geese. These migratory game bird populations are a shared international resource that requires cooperative surveys, research and regulation to manage. 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. Because of the timing of Wisconsin's rule process and the USFWS rule process, it is necessary to submit this hearing request about 3 months prior to the preliminary federal framework regulations. **Therefore, the actual season lengths, dates and bag limits cannot be determined at this time for much of the rule.** As a point of reference we have provided a rule package that uses much of the 2006 regulatory framework adjusted for 2007 dates however, in 2007, there are some proposals in the rule that can be accurately stated at this time. Rule proposals for the Canada goose season length and bag limit, nontoxic shot requirements for snipe, rail, moorhen and mourning dove hunting, and airport permit exemptions for control of Canada geese are new proposals which will not be affected by USFWS decisions this summer.

Background

I. Federal Process (See Figure 1).

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

The USFWS process includes 2 separate regulations development schedules; one for early hunting seasons (those that begin prior to Oct 1) and one for late hunting seasons (those that begin after Oct 1) as outlined in Figure 1. These schedules are very condensed and workload intensive to assure that each year's biological data and public input are part of the decision making process. The data from the spring pond, duck, and goose surveys that are part of this process are not available each year until July. The early seasons process impacts Wisconsin's early September goose season, early opening of the regular goose season, youth waterfowl hunt, falconry season, woodcock, and mourning dove seasons. The late seasons process impacts the regular duck and goose seasons.

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For the regular duck season, a process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives will be offered to the states. The option of a closed season is also possible if survey conditions indicate that this is necessary for the management of duck populations. In 2007, the proposed parameters for the frameworks were published by the USFWS for each Flyway on April 11 and are outlined in Figure 2 for the Mississippi Flyway. These will be finalized following public comment. 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 the traditional survey areas as well as surveys from select states, including Wisconsin.

In the past, the Regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest which was determined by the spring breeding population estimate obtained from an aerial survey of the MVP breeding range in Ontario. However, 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 would like to test the use of a standard season framework for 5 years. Beginning this fall and continuing for five years, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season. If the MVP spring population numbers drop to a predetermined low level during the 5 year period, the stable season framework will be adjusted. Wisconsin's regular Canada goose season harvest consists of approximately 50% resident giant and 50% MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons will be guided by the Mississippi Flyway management plans for the MVP *and* giant Canada goose populations and approved by the MFC and the USFWS. The health of these populations will be measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies.

II. State Process (Figure 3)

Wisconsin's state process for the development of Migratory Bird Hunting Regulations has been designed to work into the federal schedule, follow state laws with regard to rule development, and provide for ample public input opportunity. We do not anticipate significant annual variation in regulations for migratory species such as mourning doves and woodcock, so these species are not addressed in the annual regulatory process but would be addressed if the need developed. In contrast, the federal and thus the state regulations for ducks and geese can change significantly each year based on annual survey results.

The primary elements of Wisconsin's waterfowl regulatory process include spring surveys, participation in MFC meetings, commenting on Federal proposals, and soliciting input from the public (Figure 3). The state process begins each year with Flyway meetings in February and March where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In the spring, breeding waterfowl surveys are conducted to support the regulatory process. At the Natural Resources Board meeting in May, staff seek approval to conduct public hearings that will occur in August to coincide with state and federal processes.

In 2007, staff will conduct a public meeting called the "Pre-Flyway" meeting on July 13 where we solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting we provide the attendees with any breeding status information we have received and we ask for any items that they wish us to pursue at the MFC meetings. Staff will attend the MFC Technical and Council meetings from July 22-29 in 2007. At these meetings we will be provided status information and

the proposed framework alternative from the USFWS. We then work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that are passed at the MFC meeting are forwarded to the USFWS for consideration at the Service Regulations Committee (SRC) meeting on August 1-2. On August 3, the USFWS will hold a press conference to announce the final recommended season frameworks.

Once the USFWS's final Draft framework is available, Department staff can summarize waterfowl status and regulation information for Wisconsin citizens. On August 1, Department staff will meet with the Migratory Game Bird Advisory committee (department staff and waterfowl groups) to discuss a season proposal. This information will be presented to the Migratory Committee of the Conservation Congress and at a public meeting of interest groups and individuals on August 4 (Post-Flyway Meeting). Staff will receive input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl season given the federal framework. The following week, August 6-9, four public hearings will be held around the state to solicit additional input to the proposed annual waterfowl rule. On August 15, staff will present final Migratory Game Bird season recommendations and a summary of public input to the Natural Resources Board for discussion and action. It is important to note that the NRB will be receiving both emergency and permanent rule packages for action. This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures. A draft of the season regulations pamphlet is prepared prior to this meeting and a final draft is quickly prepared following NRB direction so that the pamphlet can be published and distributed in time for the upcoming season.

III. Public Hearing Issues

Based on past experience with the diverse opinions of parties interested in the Migratory Game Bird Regulations and the new changes this year, the following topics are anticipated to be issues of discussion:

- The date of the opening day of duck season
- Season splits or a continuous season in either the North or South Zone
- Daily bag limits for ducks and geese
- Canada Goose season dates and permit rules in each zone
- Special season restrictions on pintails, scaup or canvasbacks
- Nontoxic shot restrictions
- Clarification of 2006 zone changes for the Horicon zone and duck hunting zones

<u>The issues or changes unique to the 2007 waterfowl rule process include the following:</u>

1) Five year stable Canada goose regular seasons.

Previously, WI regular Canada goose seasons varied annually in response to the spring breeding population results for the MVP in northern Ontario. Over the last year, the Mississippi Flyway Council (MFC), in cooperation with the USFWS, developed a trial harvest management strategy of stable season length and bag limit for five years. Each state on the MVP committee had to submit a proposal to be approved by the committee at meetings in January and February 2007. Department staff negotiated a Canada goose season structure for the Horicon and Collins zones with two options for the Exterior zone in Wisconsin which were approved by the MFC and then presented to the public during the 2007 Spring Hearings as an advisory question. The season structure with either Exterior zone option is liberal in comparison to recent Canada goose season structures. Horicon and Collins zone hunters will be issued 6 harvest tags per season with a maximum of 92 days in the

Horicon zone and 70 days in the Collins zone. The 2 Exterior zone options presented in the spring hearing were:

1) 85 day season with a 2 goose daily bag limit
2) 92 day season with 70 days having a 2 goose daily bag and 22 days having a 1 goose daily bag.

The spring hearing results were 2,166 to 846 in favor of the 85 day with 2 goose daily bag limit, therefore, the Department proposal is for an 85 day/2 goose daily bag limit

2) Control of nuisance resident Canada geese.

In the fall of 2006, the USFWS released rule changes to the management of resident Canada geese in an effort to provide states more flexibility in controlling problem Canada goose situations. The impact of these changes affected each state differently and after much analysis, the changes in Wisconsin are primarily procedural with regard to the depredation permitting process. With our increasing harvest levels in the Early September Canada goose season and other changes to our Canada goose harvest strategy, no other changes to our Canada goose seasons are anticipated at this time. One proposed change to our depredation permit process is to exempt airports from a state permit for the take of adult Canada geese, nests or eggs on their properties and in a 3 mile radius around their properties with landowner permission. This change is consistent with the federal rule changes. It is anticipated that this will impact from 10-15 airports in Wisconsin. Airports will continue to receive professional wildlife control assistance from the USDA-Wildlife Services and will be required by the USFWS to obtain permits for other migratory birds causing a hazard (such as gulls). In addition, they will be required to submit an annual report of control actions to the USFWS which will be copied to the Department.

3) Nontoxic shot requirement for snipe and rail hunting

This proposal is to require nontoxic shot for hunting snipe, rail and moorhen. There has a been a nationwide ban on the use of lead shot for waterfowl and coot hunting since 1991 because of the toxic affects of ingested lead pellets in waterfowl. Twenty-five states have nontoxic shot requirements for hunting beyond those required by the federal government for waterfowl. Most hunting of rail snipe, and moorhen in Wisconsin occurs in similar habitats as waterfowl hunting and in many cases occurs while the hunter is waterfowl hunting. It is already prohibited for a waterfowl hunter to be in possession of lead shot while waterfowl hunting. Hunting specifically for snipe or rail in Wisconsin separate from waterfowl hunting is very uncommon. Anecdotal evidence suggests that most hunters assumed that requirements to use only nontoxic shot for snipe and rail hunting already existed. It is anticipated that there will be little public opposition to this proposed rule change.

4) Nontoxic shot requirement for hunting mourning doves on Department managed lands

Wisconsin implemented a mourning dove hunting season in 2003 and this season has become popular with an estimated 15,000-20,000 dove hunters out each fall. Department managed lands that have become popular for dove hunting are often important waterfowl management areas or have high concentrations of dove hunters in relatively small areas. Either of these situations can cause undesirable deposits of lead shot. Where concentrations of lead in the environment are significant, it has been documented that this lead has caused poisoning in 37 species of birds in addition to waterfowl species. A number of states have recognized this potential problem and 16 of 40 states that hunt doves have implemented some level of nontoxic shot restrictions. Within the Midwest, Minnesota and Illinois both have some level of nontoxic shot restrictions on certain public lands while Michigan and Iowa do not hunt doves. Within Wisconsin, nontoxic shot is already required to

hunt mourning doves on US Fish and Wildlife Service lands. In a survey of Illinois dove hunters, 95% of the hunters indicated that they hunt doves with either 12 or 20 gauge shot guns. Nontoxic shot is readily available for these shot guns and there are now nine shot types approved by the USFWS as nontoxic. In states that have implemented nontoxic shot requirements for dove hunting, there have been no problems with shortages of nontoxic shot among local distributors. In a Natural Resources advisory question on the 2007 Spring hearing, asking hunters if they were in favor of requiring the use of nontoxic shot for hunting doves on state lands, 1,740 voted yes while 1,591 voted no. This rule proposes to require the use of nontoxic shot while hunting mourning doves on all Department managed lands. The effective date would not be until 2008 in order to allow time for incorporation of this provision in the small game hunting regulations pamphlet.

5) Clarification of Canada goose hunting rules in the former Horicon Intensive Management subzone

At the August 2006 Natural Resources Board meeting, removal of the Horicon Intensive Management subzone was approved. During the first season without this zone, there were very few problems or complaints with this rule simplification. In a survey of Horicon Zone Canada goose permit holders, 87% indicated that their hunting experience was the same or better after removal of the subzone. However, one inadvertent impact of the rule language change in 2006 was the prohibition of placing decoys within a 75 yard zone around the Horicon National Wildlife Refuge or shooting at a duck or goose within this area. It is clarified in this rule order that a hunter may place decoys in this 75 yard refuge boundary zone and discharge a firearm into the zone as long as the hunter is beyond 75 yards from the refuge boundary.

IV. Rule Development

These rules were developed with the assistance of the Bureaus of Law Enforcement, Customer Service and Licensing, and Legal Services.

V. Small Business and Initial Regulatory Flexibility Analysis

The revisions to Ch. NR 10 relate to migratory game bird management. These rules 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.

VI. Environmental Analysis

These rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

Figure 1. 2007 FEDERAL SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS

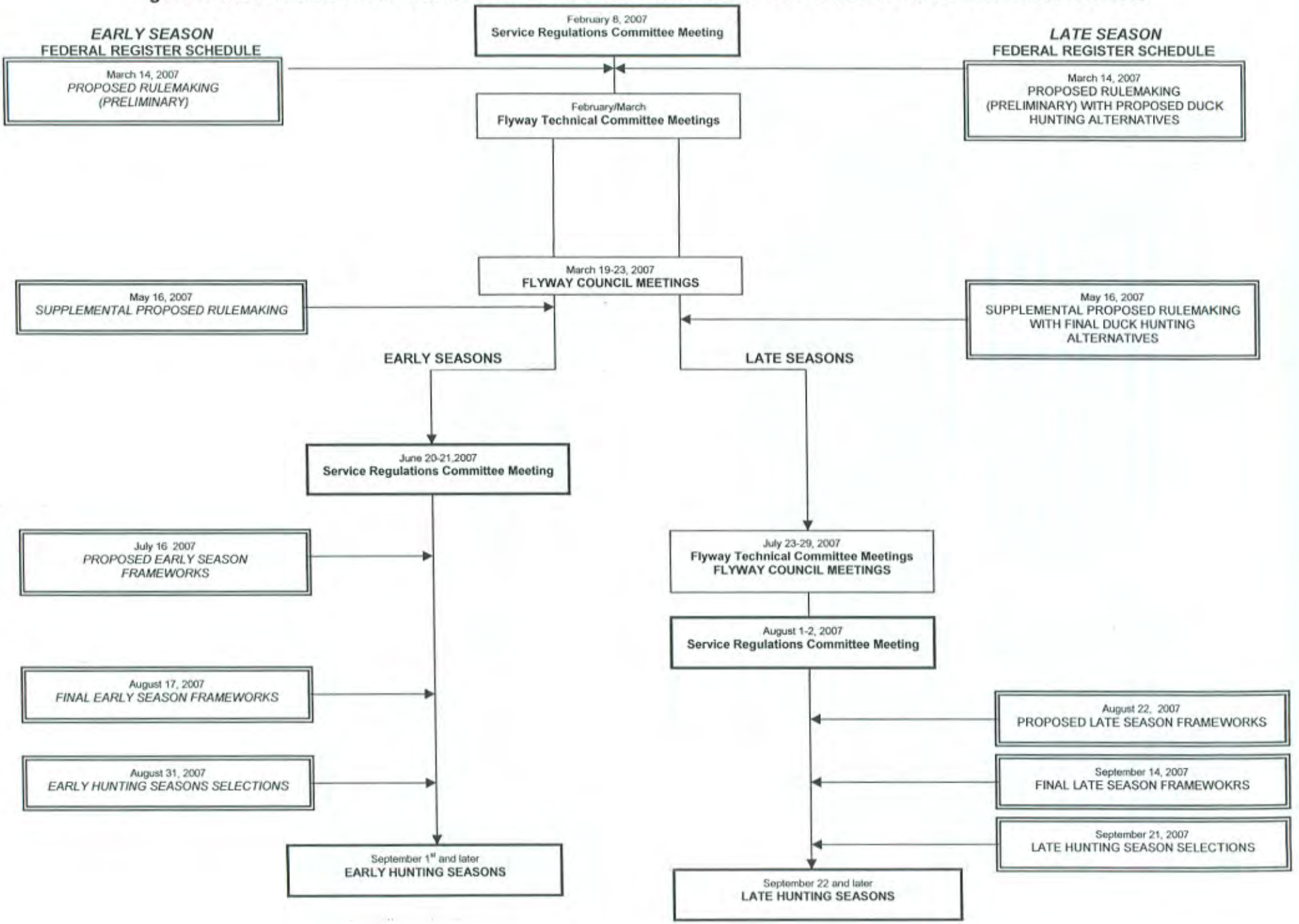


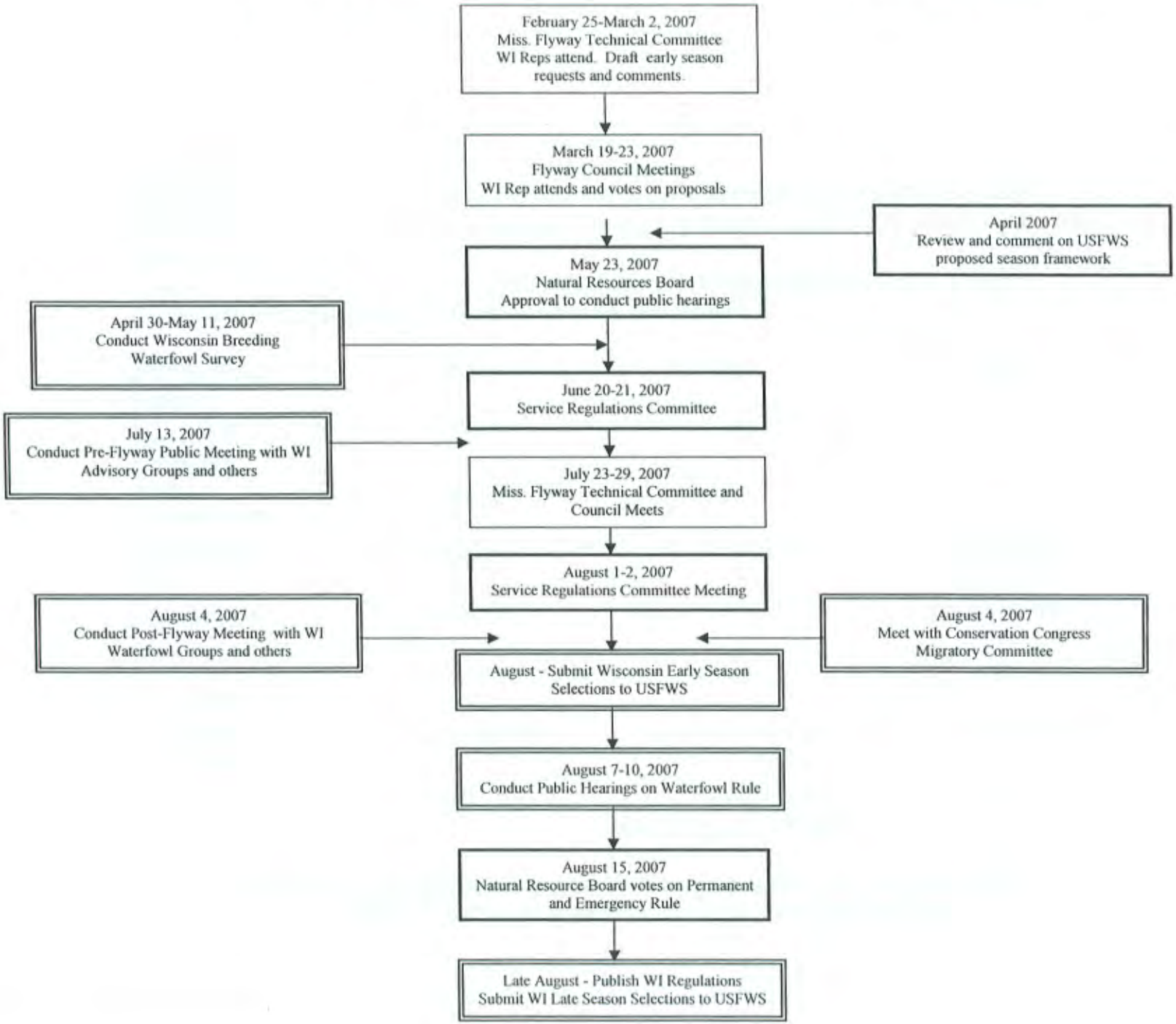
Figure 2. PROPOSED REGULATORY ALTERNATIVES FOR DUCK HUNTING IN THE MISSISSIPPI FLYWAY DURING THE 2007-08 SEASON

	MISSISSIPPI FLYWAY		
	RES	MOD	LIB
Beginning Shooting Time	1/2 hour before sunrise	1/2 hour before sunrise	1/2 hour before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset
Opening Date	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60
Daily Bag/ Posession Limit	3 6	6 12	6 12
Mallards (Total/Female)	2/1	4/1	4/2

Traditional bag limits for other species under these alternatives

Pintail	ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY		
Black Duck	1	1	1
Scaup	TO BE DETERMINED BASED ON CURRENT SCAUP STATUS INFORMATION		
Canvasback	0 OR 1, ACCORDING TO THE CANVASBACK HARVEST STRATEGY		
Redhead	1	2	2
Wood Duck	2	2	2

Figure 3. 2007 WISCONSIN MIGRATORY GAME BIRD REGULATORY SCHEDULE



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

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(1)(v), 10.12(5)(d), 10.15(6), and 12.10(1)(b)4.; to repeal and recreate NR 10.01(1)(b), (g) and (u); and to create NR 12.10(1)(b)6. relating to the 2007 migratory game bird seasons and waterfowl hunting zones.

WM-19-07

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041, and 29.885, Stats. have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state, establish the two day youth waterfowl hunt, authorize the removal of wild animals that are causing damage or that are a nuisance, modify the types of activities that are allowed within a 75 yard area around the Horicon National Wildlife Refuge, and require the use of non-toxic shot for rails and snipe.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include sections 29.014, and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters, s. 29.197, Stats., authorizes the establishment of special hunts, and s. 29.885, Stats. authorizes the department to regulate wildlife damage and nuisance control.

Related Statute or Rule: This rule order establishes the season length, bag limits, and shot-type requirements for the Wisconsin migratory game bird seasons. Each year similar or identical Emergency and Permanent rule packages are promulgated. 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: This rule order establishes the season length and bag limits for the 2007 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60-day seasons. The season begins at 9:00 a.m. September 22 and continues for 60 consecutive days in the north, closing on November 20. In the South the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5-day split, and then reopens on October 13 and continues through December 2. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, one canvasback, 2 wood ducks, 2 redheads and 2 scaup.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 62 days (3 periods, first period beginning September 16); Horicon Zone - 92 days (4 periods, first period beginning September 16); Exterior Zone - 85 days (North: Sept. 16 – 21 and Sept. 22 (9:00 a.m.) – Dec. 9 and South: Sept 16 – Sept. 28 and Sept. 29 (9:00 a.m.) – Dec. 9); and Mississippi River subzone - 70 days (Sept. 29 (9:00 a.m.) – Oct. 7 and Oct. 13 - Dec. 12). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

Additionally, this rule eliminates the requirement that airport officials complete a written application and receive written approval from the department before destroying Canada geese that are causing a nuisance or damage. Airports would be able to trap and relocate birds, destroy nests and eggs from March 1 – June 30, kill adult birds and goslings by trapping or shooting from April 1 – September 15, and do so on neighboring lands with landowner permission.

At the Horicon National Wildlife Refuge, this rule would allow the placement of decoys and shooting at waterfowl that are within 75 yards of the refuge boundary by people who are hunting from outside of the 75 yard secondary boundary. The discharge of firearms at waterfowl by a person who is within 75 yards of the refuge boundary would continue to be illegal. The nature of this proposal is a housekeeping change that will restore a hunting strategy which was inadvertently eliminated when the Horicon Intensive Management Zone was eliminated.

Finally, this rule will require the use of non-toxic shot by people who are hunting rails, snipe and moorhens in 2007. The rule will require the use of non-toxic shot for dove hunting on lands that under the management, supervision, and control of the department beginning in 2008. Non-toxic shot is already required for use when hunting waterfowl and coot.

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 (FWS) regulations process. As part of the Federal rule process, the FWS 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. Additionally, while FWS believes that the NAWMP's population goals would tend to exert a conservative influence on overall duck harvest- management, other factors, such as habitat, also need to be considered.

In the past, the Regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest which was determined based on the spring breeding population estimate obtained from an aerial survey of the MVP breeding range as prescribed by the Mississippi Flyway MVP management plan. However, because locally produced giant Canada geese now constitute a considerable portion of the harvest in all states that also harvest Mississippi Valley Population birds, the Mississippi Flyway Council would like to test the use of a standard season framework for 5 years. Beginning this fall and continuing for five years, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing 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 would be adjusted.

Finally, the FWS has modified its regulations on the management of resident Canada geese. The overall intent of those modifications is to reduce federal involvement in the permitting and management of resident geese in nuisance situations. However, the final result of the modifications simply created some state procedural changes for most areas of resident Canada goose management. The proposed modification to exempt airports from Canada nuisance control permits in this proposed rule makes our regulations consistent with new federal guidelines in 50 CFR 21.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service 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 a 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 FWS. The FWS 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 FWS.

This rule would require the use of non-toxic shot when hunting rails, snipe, and moorhens. Non-toxic shot would be required for hunting mourning doves on department managed lands. Non-toxic shot is already required for most bird hunting on federally owned waterfowl production areas and refuges. There are 26 states that have non-toxic shot requirements that are more restrictive than federal rules including all of Wisconsin's neighboring states.

Summary of Factual Data and Analytical Methodologies: 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, duck, and goose surveys). The option of a closed season is also possible if survey conditions indicated that this was 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 the traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 rate between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons will be guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the MFC and the USFWS. The health of these populations will be 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 results of this work will be reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

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 May and June, 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 Bird Committee. At this meeting staff provide the attendees with any breeding status

information we have received and we ask for any items that they wish us to pursue at the MFC meeting that will occur in mid July. Department staff then attend the MFC Technical and Council meetings (July 23 -29, 2007). At this meeting staff will be provided status information and the proposed framework alternative from the USFWS. Department staff then work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that are passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting (August 1 - 2, 2007). On August 3, the USFWS will announce its final waterfowl season framework recommendation. Once the USFWS's final Draft framework is available, Department staff can summarize waterfowl status and regulation information for Wisconsin citizens. This information is presented to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals. Staff receive input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. The following week, public hearings are held around the state to solicit additional input on the proposed annual waterfowl rule.

Non-toxic shot is already required for use when hunting waterfowl coot and this rule will expand that requirement to people who are hunting rails, snipe, moorhens. Non-toxic shot would be required for hunting mourning doves on department managed lands beginning in 2008. All of these species of birds are susceptible to lead poisoning when they ingest pellets for their crop, then other grit material wears down the soft lead pellets, causing lead particles to be absorbed in the bloodstream. Examinations of dead birds collected from the wild still commonly identify lead toxicity as a cause of death.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules 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.

Agency Contact Person: Kent Van Horn, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. kent.vanhorn@wisconsin.gov (608) 266-8841

Deadline for Public Comments: August 9, 2007.

Section 1. 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) *All species of wild duck*	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	Sept. 22 at 9:00 a.m. – Nov. 20	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one canvasback, one pintail, 2 redheads, 2 wood ducks, and 2 scaup. In addition 5 mergansers to include not more than one hooded merganser.	
	Southern zone as established in s. NR 10.32	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 2	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 redheads, 2 wood ducks, 2 scaup, and one canvasback. In addition 5 mergansers to include not more than one hooded merganser.	

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) *Geese* 1. Canada geese and its subspecies	a. Entire state	Sept. 1 — Sept. 15	5	10
	b. All that part of the exterior zone lying-within the northern zone established in s. NR 10.32 except for the subzone described in subd. 1.c. and 1.d.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9	2	4
	d. Burnett county subzone	None	None	None
	e. 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. f. to j.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Four permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 28	2	
		Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 2	2	
		Oct. 13 – Nov. 23	2	
		Oct. 27 - Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Sept. 30	2	
		Oct. 1 – Oct 21	2	
		Oct. 22 – Nov. 16	2	
	i. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9	2	4
	j. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7	2	4
		Oct. 13 – Dec. 12	2	4

Note: Season dates listed in this subdivision may be closed early when the harvest may exceed the level authorized, according to the procedure in s. NR 10.125(6).

2. Snow or blue and Ross' geese	Entire state	As established by zone	10	20

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 2.b. and 2.c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	d. 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. to i.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	f. Horicon zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 - Dec. 12		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 3.b. and 3.c.	Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 22 at 9:00 a.m. – Dec. 9		
	d. 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.e. to i.	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	f. Horicon zone	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 12		
4. Brant	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 except for the subzone described in sub. 3.b. and 3.c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 9		
	d. 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. e. to i.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	e. All that part of the Brown county subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	f. Horicon zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 - Dec. 12		

Section 1. 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:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
1. All species of wild ducks, mergansers and coots	Northern zone as established in s. NR 10.32	Sept. 15– Sept. 16, Sept. 22 at 9:00 a.m. – Nov. 20 and Jan. 13 – Feb. 26	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2 .
	Southern zone as established in s. NR 10.32	Sept. 15 – Sept. 16, Sept. 29 at 9:00 a.m. – Oct. 7, Oct. 13 – Dec. 2 and Jan. 13 – Feb. 26	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock	Entire state	Sept. 1 – Dec. 16	3 in aggregate with those species listed under subd. 1.	6 in aggregate with those species listed under subd. 1.
3. Geese	Within the zones and subzones established in s. NR 10.31	Concurrent with the open season for geese established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone

Section 2. NR 10.01(1)(v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event.* Persons 12 years of age or older but under 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September ~~16~~ 15. 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 sub zone being hunted as listed in par. (g)1.a. to j., 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. One adult may not accompany more than 2 hunters.

Section 3. NR 10.12(5)(d) is amended to read:

NR 10.12(5)(d) *Non-toxic shot requirements.* While hunting waterfowl, snipe, rails, moorhens and coot within any areas of the state, or mourning doves on lands which are under the management, supervision and control of the department, no person may:

1. Take, catch, kill or pursue waterfowl, mourning doves, snipe, rails, moorhens and coot with any shot, either in shotshells or as loose shot for muzzle-loading, other than non-toxic shot.

2. Possess any shotshell or muzzle-loading firearm loaded with any material other than non-toxic shot.

Section 4. NR 10.15(6) is amended to read:

NR 10.15(6) WATERFOWL SEASON. No person may hunt waterfowl within 75 yards of the Horicon national wildlife refuge boundary during the open season for hunting waterfowl. For purposes of this section, the placement of decoys or shooting at waterfowl which are located within the 75-yard zone immediately outside of the refuge are allowed as long as the hunter does not discharge a firearm or bow and arrow from within that area when shooting at waterfowl.

Section 5. NR 12.10(1)(b)4. is amended to read:

NR 12.10(1)(b) 4. Harass or disturb protected wild birds, not listed as endangered or threatened in s. NR 27.03, in such a way as to relieve a damage or nuisance situation in urban areas ~~and~~, golf courses, and airports provided the bird is not physically harmed.

Section 6. NR 12.10(1)(b)6. is created to read:

NR 12.10(1)(b)6. Conduct any of the following activities in order to control Canada geese at an airport or within a three mile radius of the airport with landowner permission, if the activities are conducted by airport employees or their designees in compliance with the restrictions, requirements and conditions as described by the U.S. fish and wildlife service in 50 CFR 21.49 and provided that all birds are disposed of as directed by the department:

a. Live-trap and relocate Canada geese.

b. Destroy nests and eggs of Canada geese from March 1 to June 30.

c. Kill adult Canada geese and goslings by trapping or shooting from April 1 to September 15.

Section 7. EFFECTIVE DATE. The rules 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.).

Section 8. 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 _____
Scott Hassett, Secretary

(SEAL)

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

The Wisconsin Natural Resources Board proposes an order to amend NR 10.01(1)(v), 10.12(5)(d) and 10.15(6); to repeal and recreate NR 10.01(1)(b), (g) and (u) relating to the 2007 migratory game bird seasons and waterfowl hunting zones.

WM-19-07(E)

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041, 29.885 and 227.24 Stats. have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state, establish the two day youth waterfowl hunt, authorize the removal of wild animals that are causing damage or that are a nuisance, modify the types of activities that are allowed within a 75 yard area around the Horicon National Wildlife Refuge, and require the use of non-toxic shot for rails and snipe.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include sections 29.014, and 227.11, and 227.24 Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters, s. 29.197, Stats., authorizes the establishment of special hunts, and s. 29.885, Stats. authorizes the department to regulate wildlife damage and nuisance control.

Related Statute or Rule: This rule order establishes the season length, bag limits, and shot-type requirements for the Wisconsin migratory game bird seasons. Each year similar or identical Emergency and Permanent rule packages are promulgated. 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: This rule order establishes the season length and bag limits for the 2007 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60-day seasons. The season begins at 9:00 a.m. September 22 and continues for 60 consecutive days in the north, closing on November 20. In the South the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5-day split, and then reopens on October 13 and continues through December 2. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, one canvasback, 2 wood ducks, 2 redheads and 2 scaup.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 62 days (3 periods, first period beginning September 16); Horicon Zone - 92 days (4 periods, first period beginning September 16); Exterior Zone - 85 days (North: Sept. 16 – 21 and Sept. 22 (9:00 a.m.) – Dec. 9 and South: Sept 16 – Sept. 28 and Sept. 29 (9:00 a.m.) – Dec. 9); and Mississippi River subzone - 70 days (Sept. 29 (9:00 a.m.) – Oct. 7 and Oct. 13 - Dec. 12). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

At the Horicon National Wildlife Refuge, this rule would allow the placement of decoys and shooting at waterfowl that are within 75 yards of the refuge boundary by people who are hunting from outside of the 75 yard secondary boundary. The discharge of firearms at waterfowl by a person who is within 75 yards of the refuge boundary would continue to be illegal. The nature of this proposal is a housekeeping change that will restore a hunting strategy which was inadvertently eliminated when the Horicon Intensive Management Zone was eliminated.

Finally, this rule will require the use of non-toxic shot by people who are hunting rails, snipe and moorhens. Non-toxic shot is already required for use when hunting waterfowl and coot.

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 (FWS) regulations process. As part of the Federal rule process, the FWS 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. Additionally, while FWS believes that the NAWMP's population goals would tend to exert a conservative influence on overall duck harvest- management, other factors, such as habitat, also need to be considered.

In the past, the Regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest which was determined based on the spring breeding population estimate obtained from an aerial survey of the MVP breeding range as prescribed by the Mississippi Flyway MVP management plan. However, because locally produced giant Canada geese now constitute a considerable portion of the harvest in all states that also harvest Mississippi Valley Population birds, the Mississippi Flyway Council would like to test the use of a standard season framework for 5 years. Beginning this fall and continuing for five years, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing 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 would be adjusted.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service 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 a 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 FWS. The FWS 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 FWS.

This rule would require the use of non-toxic shot when hunting rails, snipe, and moorhens. Non-toxic shot is already required for most bird hunting on federally owned waterfowl production areas and refuges. There are 26 states that have non-toxic shot requirements that are more restrictive than federal rules including all of Wisconsin's neighboring states.

Summary of Factual Data and Analytical Methodologies: 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, duck, and goose surveys). The option of a closed season is also possible if survey conditions indicated that this was 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 the traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 rate between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons will be guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the MFC and the USFWS. The health of these populations will be 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 results of this work will be reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

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 May and June, 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 Bird Committee. At this meeting staff provide the attendees with any breeding status information we have received and we ask for any items that they wish us to pursue at the MFC meeting that will occur in mid July. Department staff then attend the MFC Technical and Council meetings (July 23 -29, 2007). At this meeting staff will be provided status information and the proposed framework alternative from the USFWS. Department staff then work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that are passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting (August 1 - 2, 2007). On August 3, the USFWS will announce its final waterfowl season framework recommendation. Once the USFWS's final Draft framework is available, Department staff can summarize waterfowl status and regulation information for Wisconsin citizens. This information is presented to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals. Staff receive input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. The following week, public hearings are held around the state to solicit additional input on the proposed annual waterfowl rule.

Non-toxic shot is already required for use when hunting waterfowl coot and this rule will expand that requirement to people who are hunting rails, snipe, moorhens. All of these species of birds occupy and are hunted in similar types of habitat. They and other birds are susceptible to lead poisoning when they ingest pellets for their crop, then other grit material wears down the soft lead pellets, causing lead particles to be absorbed in the bloodstream. Examinations of dead birds collected from the wild still commonly identify lead toxicity as a cause of death.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules 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.

Agency Contact Person: Kent Van Horn, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. kent.vanhorn@wisconsin.gov (608) 266-8841

Deadline for Public Comments: August 9, 2007.

Section 1. 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) *All species of wild duck*	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	Sept. 22 at 9:00 a.m. – Nov. 20	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one canvasback, one pintail, 2 redheads, 2 wood ducks, and 2 scaup. In addition 5 mergansers to include not more than one hooded merganser.	
	Southern zone as established in s. NR 10.32	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 2	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 redheads, 2 wood ducks, 2 scaup, and one canvasback. In addition 5 mergansers to include not more than one hooded merganser.	

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) *Geese* 1. Canada geese and its subspecies	a. Entire state	Sept. 1 — Sept. 15	5	10
	b. All that part of the exterior zone lying-within the northern zone established in s. NR 10.32 except for the subzone described in subd. 1.c. and 1.d.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9	2	4
	d. Burnett county subzone	None	None	None
	e. 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. f. to j.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Four permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Oct. 28	2	
		Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 2	2	
		Oct. 13 – Nov. 23	2	
		Oct. 27 - Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Sept. 30	2	
		Oct. 1 – Oct 21	2	
		Oct. 22 – Nov. 16	2	
	i. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9	2	4
	j. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7	2	4
		Oct. 13 – Dec. 12	2	4

Note: Season dates listed in this subdivision may be closed early when the harvest may exceed the level authorized, according to the procedure in s. NR 10.125(6).

2. Snow or blue and Ross' geese	Entire state	As established by zone	10	20

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 2.b. and 2.c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	d. 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. to i.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	f. Horicon zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 - Dec. 12		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 3.b. and 3.c.	Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 22 at 9:00 a.m. – Dec. 9		
	d. 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.e. to i.	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	f. Horicon zone	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 22 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 – Dec. 12		
4. Brant	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 except for the subzone described in sub. 3.b. and 3.c.	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 16 – Sept. 21 and Sept. 22 at 9:00 a.m. – Dec. 9		
	c. Burnett county subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 9		
	d. 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. e. to i.	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	e. All that part of the Brown county subzone lying within the southern zone established in s. NR 10.32	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	f. Horicon zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Nov. 16		
	h. Rock Prairie subzone	Sept. 16 – Sept. 28 and Sept. 29 at 9:00 a.m. – Dec. 9		
	i. Mississippi river subzone	Sept. 29 at 9:00 a.m. – Oct. 7 and Oct. 13 - Dec. 12		

Section 1. 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:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
1. All species of wild ducks, mergansers and coots	Northern zone as established in s. NR 10.32	Sept. 15– Sept. 16, Sept. 22 at 9:00 a.m. – Nov. 20 and Jan. 13 – Feb. 26	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2 .
	Southern zone as established in s. NR 10.32	Sept. 15 – Sept. 16, Sept. 29 at 9:00 a.m. – Oct. 7, Oct. 13 – Dec. 2 and Jan. 13 – Feb. 26	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock	Entire state	Sept. 1 – Dec. 16	3 in aggregate with those species listed under subd. 1.	6 in aggregate with those species listed under subd. 1.
3. Geese	Within the zones and subzones established in s. NR 10.31	Concurrent with the open season for geese established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone

Section 2. NR 10.01(1)(v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event.* Persons 12 years of age or older but under 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September ~~16~~ 15. 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 sub zone being hunted as listed in par. (g)1.a. to j., 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. One adult may not accompany more than 2 hunters.

Section 3. NR 10.12(5)(d) is amended to read:

NR 10.12(5)(d) *Non-toxic shot requirements.* While hunting waterfowl, snipe, rails, moorhens and coot within any areas of the state, no person may:

1. Take, catch, kill or pursue waterfowl, snipe, rails, moorhens and coot with any shot, either in shotshells or as loose shot for muzzle-loading, other than non-toxic shot.

2. Possess any shotshell or muzzle-loading firearm loaded with any material other than non-toxic shot.

Section 4. NR 10.15(6) is amended to read:

NR 10.15(6) WATERFOWL SEASON. No person may hunt waterfowl within 75 yards of the Horicon national wildlife refuge boundary during the open season for hunting waterfowl. For purposes of this section, the placement of decoys or shooting at waterfowl which are located within the 75-yard zone immediately outside of the refuge are allowed as long as the hunter does not discharge a firearm or bow and arrow from within that area when shooting at waterfowl.

Section 5. EFFECTIVE DATE. The rules 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.).

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 _____
Scott Hassett, Secretary

(SEAL)

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2048 (R10/2000)

Fiscal Estimate — 2007 Session

☒ Original ☐ Updated	LRB Number	Amendment Number if Applicable
☐ Corrected ☐ Supplemental	Bill Number	Administrative Rule Number WM-19-07 and WM-19-07(E)

Subject
2007 Migratory game bird seasons

Fiscal Effect
State: ☒ No State Fiscal Effect
☐ Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs — May be possible to absorb within agency's budget. ☐ Yes ☐ No
☐ Decrease Costs

Local: ☒ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues ☐ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected: ☐ Towns ☐ Villages ☐ Cities ☐ Counties ☐ Others ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

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 rule order establishes the 2007 season lengths and bag limits. The 2007 season framework is not significantly different than the migratory game bird seasons in previous years.

For ducks the state is divided into two zones, each with 60-day seasons. Under this proposal, the season begins at 9:00 a.m. September 22 and continues for 60 consecutive days in the north, closing on November 20. In the South the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5-day split, and then reopens on October 13 and continues through December 2. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, one canvasback, 2 wood ducks, 2 redheads and 2 scaup.

For Canada geese the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths under this proposal would be: Collins Zone - 62 days (3 periods, first period beginning September 16); Horicon Zone - 92 days (4 periods, first period beginning September 16); Exterior Zone - 85 days (North: Sept. 16 – 21 and Sept. 22 (9:00 a.m.) – Dec. 9 and South: Sept 16 – Sept. 28 and Sept. 29 (9:00 a.m.) – Dec. 9); and Mississippi River subzone - 70 days (Sept. 29 (9:00 a.m.) – Oct. 7 and Oct. 13 - Dec. 12). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in the Horicon and Collins Zones is 2 birds per day during the open seasons within each zone. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

In addition, the rule would require the use of non-toxic shot for snipe, rails, and moorhens. Non-toxic shot would be required for hunting doves on department managed lands. Hunting regulations in a 75 yard area around the Horicon National Wildlife Refuge are modified, and the procedure for controlling nuisance geese at airports is simplified.

FISCAL IMPACT: The proposed changes will not result in any significant changes in spending or revenue. There are no government costs anticipated due to the provisions of this rule.

Long-Range Fiscal Implications

None

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature: [signature]	Telephone No. 266-2794	Date (mm/dd/ccyy) 04-23-07

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2047 (R10/2000)

Fiscal Estimate Worksheet — 2007 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original	☐ Updated	LRB Number	Amendment Number if Applicable
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number WM-19-07 and WM-19-07(E)

Subject

2007 Migratory game bird seasons

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations — Salaries and Fringes	$ 0	$ - 0
(FTE Position Changes)	(0.00 FTE)	(- 0.00 FTE)
State Operations — Other Costs	0	- 0
Local Assistance	0	- 0
Aids to Individuals or Organizations	0	- 0
Total State Costs by Category	$ 0	$ - 0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	$ 0	$ - 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
State Revenues — Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes	$	$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	$	$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	$ 0	$ 0
Net Change in Revenues	$ 0	$ 0

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Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	04-23-07