

**SUBJECT:** Adoption of board orders WM-21-10 and WM-22-10(E), revisions to NR 10 establishing the 2010 migratory game bird hunting seasons and regulations

**FOR:** AUGUST 2010 BOARD MEETING

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

**SUMMARY:**

The proposed rules establish the regulations for the 2010 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: four mallards, of which only one may be a hen, one black duck, two pintails, one canvasback, three wood ducks, two scaup and two redheads.

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 and the Mississippi River. Season lengths are expected to be as follows:

- Collins Zone - 65 days
- Horicon Zone - 92 days
- Exterior Zone - 85 days
- Mississippi River Subzone - 85 days

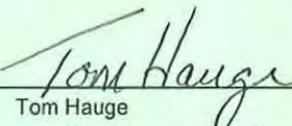
This rule proposal will also eliminate the Collins Canada goose hunting zone in 2011. With the expansion of the Giant Canada goose population in Manitowoc County and the decreased interest in hunting the Collins zone, there is no longer a need for special restrictions.

**RECOMMENDATION:** Adoption of board orders WM-21-10 and WM-22-10(E), revisions to NR 10 establishing the 2010 Migratory Game Bird Hunting Seasons and Regulations

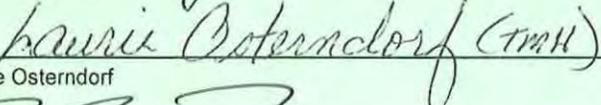
**LIST OF ATTACHED MATERIALS:**

- |                                        |                                                       |                                         |          |
|----------------------------------------|-------------------------------------------------------|-----------------------------------------|----------|
| No <input type="checkbox"/>            | Fiscal Estimate Required                              | Yes <input checked="" type="checkbox"/> | Attached |
| No <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes <input type="checkbox"/>            | Attached |
| No <input type="checkbox"/>            | Background Memo                                       | Yes <input checked="" type="checkbox"/> | Attached |

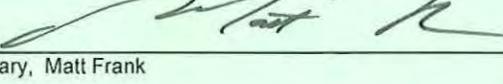
**APPROVED:**

  
 Bureau Director, Tom Hauge

8/6/10  
 Date

  
 Administrator, Laurie Osterndorf

8/6/10  
 Date

  
 Secretary, Matt Frank

8-6-10  
 Date

cc: Laurie J. Ross - AD/8  
Kent Van Horn - WM/6

Tom Hauge - WM/6

Scott Loomans - WM/6

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	JDP	08/06/2010	
Management and Budget	Pal Nemman	8/6/10	
Legal Services -Program Attorney -Linda Haddix	Tom Stencil for Tim Andryk Linda Haddix	8/6/10	
Other (if applicable)			

DATE: August 9, 2010

TO: Natural Resources Board Members

FROM: Matthew J. Frank 

SUBJECT: Request Adoption of the 2010 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board adoption of the proposed 2010 Migratory Game Bird seasons and regulations, board orders WM-21-10 and WM-22-10(E).

## Background

### Process

Each fall a diverse group of about 80,000 waterfowl hunters venture into Wisconsin's wetlands, lakes, rivers and fields to harvest 300,000-500,000 ducks and geese. Wisconsin currently ranks 4th in the nation for the number of waterfowl hunters and has maintained a relatively stable level of waterfowl hunters for over 25 years. The annual establishment of waterfowl hunting regulations is very important to these customers. Migratory game bird populations are a shared international resource and managing them requires cooperative surveys, research and regulation. Department staff participate in a federal and a state regulatory process each year in order to apply biological data and public input to the establishment of Wisconsin's migratory game bird hunting regulations. Details of this process were provided in the May NRB memo on this topic when staff received approval to conduct the public hearings. Two flow charts are attached for your reference (Figures 1 and 2).

Under international treaty and federal law, migratory game bird seasons are closed unless opened annually via the U. S. Fish and Wildlife Service (USFWS) regulatory process. Migratory birds are managed in each of the 4 flyways that encompass North America. Each flyway has a Flyway Council consisting of one member from each state and province in that flyway. Wisconsin is part of the Mississippi Flyway and is one of 17 members on the Mississippi Flyway Council (MFC). The USFWS annually prescribes the outside limits (frameworks) within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council.

Staff attended the summer MFC meeting in Mobile, Alabama from July 18-24. At this meeting, the states received the 2010 continental survey results for duck and goose populations and early indications of the season frameworks from the USFWS (Appendix 1). The states discussed and voted on various population management and hunting regulation parameters. Recommendations from the 4 flyway councils were made to the USFWS who in turn recommended a framework on July 30 and published a final decision on waterfowl season frameworks on August 2, 2010.

### Duck population and regulation status

Overall, continental breeding waterfowl conditions were very good this year for ducks. The survey across the prairies, parklands and boreal forests of the Dakotas, Canada and Alaska reported wetland numbers at 34% above the long term average and total ducks at 41 million or 21% above the long term average. All

duck species except blue-winged teal had population estimates that were either unchanged or higher than 2009. The best water conditions were in the Dakotas and southern prairie Canada where production is expected to be good to excellent.

The population estimate for the mid-continent mallards and the pond counts in prairie Canada are the 2 primary annual variables that drive the federal Adaptive Harvest Management system. This system forms the basis of the annual duck season frameworks issued by the USFWS. The 2010 mid-continent (US prairies, Great Lakes states and central Canada) mallard population estimate was 8.6 million (similar to 2009) and the Canadian pond count was 3.7 million (similar to 2009). As a result of these data the USFWS established a 60 day duck season with a 6 duck daily bag limit and specific recommendations for several species (Appendix 1). In addition to mallards, blue-winged teal and green-winged teal are both reported in continental surveys and are an important part of the Wisconsin duck harvest. In 2010, the green-winged teal continental population estimate was 3.5 million (78% above average) and the blue-winged teal population estimate was 6.3 million (36% above average).

Canvasback, scaup and pintails are three additional duck species which are counted in the continental surveys and we watch their population estimates closely. These 3 ducks are not a large part of our harvest but because of harvest restrictions on these species by the US Fish and Wildlife Service, they have had added complexity to our duck hunting regulations in the past. The good news in 2010 is that all 3 species have prescribed moderate season frameworks with bag limits will fit easily into our overall hunting season package. The canvasback population estimate was 585,000 which is down from 2009 and 3% above the long term average. A 60 day season with a daily bag of 1 canvasback is allowed in 2010. Scaup were the third most abundant duck in the continental survey at 4.2 million. This is slightly higher than 2009 and 16% below the long term average. A 60 day season with a daily bag of 2 scaup is allowed in 2010. The story for pintails is a little different. The 2010 population estimate for pintails is 3.5 million, up slightly from 2009 and 13% below their long term average. However, the US Fish and Wildlife Service has been working on a new harvest strategy for pintails which would use the same annual data for pintails but through a different analysis offers differ harvest options. The USFWS and the flyway councils have been in negotiation on this new strategy for the last few years and it will be implemented in 2010. In 2010, this new strategy prescribes a 2 pintail daily bag limit under a 60 day season. In future years, we will not have the option of a 30 day pintail season within a longer overall duck season and the harvest model predicts that the pintail season will be closed more frequently.

After several years of work reviewing data on wood ducks and alternative methods for measuring the impact of harvest, the USFWS, in cooperation with the Mississippi and the Atlantic Flyway Councils, developed an acceptable method for measuring harvest rates for wood ducks. As a result of these analyses, the daily bag limit on wood ducks was increased from 2 to 3 in 2008. A sustained duck banding effort by state wildlife agencies is key to monitoring wood duck harvest. After 2 years of harvest under the 3 bird bag limit it appears that the rate of harvest has not changed significantly from that under a 2 bird daily bag limit. While the 3 bird bag limit gives hunters additional "opportunity" because of annual variations in weather and hunter success it does not appear to have resulted in additional harvest. After the 2010 season, we will have a review of the results from a 3 bird daily bag limit on wood ducks.

#### Canada geese

Wisconsin's Canada goose harvest comes primarily from 2 populations; resident giant Canada geese that breed in and around Wisconsin and the Mississippi Valley Population (MVP) of Canada geese which breeds along the Hudson Bay coast in northern Ontario. In the past, the regular Canada goose season was based on the annual allowable Mississippi Valley Population (MVP) harvest and was adjusted in concert

with annual population changes. 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 is testing the use of a standard season framework for 5 years. Beginning in 2007 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. The health of these populations is being measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. After 2 poor production years, spring came early to the MVP breeding grounds in 2010. This is good news and normally results in a high breeding effort and good gosling production. The spring breeding population was 339,000 which is up from 239,000 in 2009 and 6% below the long term average. We expect good production but there was also a high predation rate on goose nests from gulls in 2010. The Wisconsin 2010 resident Canada goose breeding population estimate increased to 165,853 which was 12% above 2009.

### Wisconsin conditions

While populations and habitat conditions in the U.S. and Canadian prairies determine the USFWS prescribed duck season framework for Wisconsin, much of Wisconsin's duck harvest comes from ducks raised in Wisconsin and other Great Lakes states/provinces. Therefore, Wisconsin's breeding waterfowl surveys are an important part of the decision making process for setting Wisconsin's waterfowl hunting regulations.

Mallards, wood ducks, blue-winged teal and green-winged teal are generally the most abundant birds in Wisconsin's fall harvest. Of these only green-winged teal do not breed in substantial numbers in Wisconsin. Waterfowl breeding conditions in Wisconsin were overall very dry in April and early May when ducks were deciding where to nest but since then conditions have improved (Appendix 1). Our May breeding waterfowl survey population estimates showed total duck numbers 12% below average at 386,501. Mallard and wood duck breeding population estimates were near average for the last few years but many blue-winged teal appear to have migrated beyond Wisconsin to seek breeding areas in 2010. With good rainfalls following the nesting season, we expect overall duck production to be near average for mallards and wood ducks.

### Hunter input

Following the 2007 and the 2009 hunting seasons we conducted a random mail survey of Wisconsin waterfowl hunters that has aided in the development of our waterfowl hunting season structure. Public input collected during meetings and hearings over the last few years revealed similar results. The survey asked waterfowl hunters what they thought about the waterfowl regulations over the last few years and what they wanted in the regulations. I have summarized below the 2009 results to some of those questions. The 2007 survey results are in parentheses.

- 79% (80%) thought the duck bag limit was about right
- 50% (51%) favored 1 hen mallard, 33% (33%) 2 hens, 5% (7%) 0 hens, 12% (9%) no opinion
- 70% (65%) thought the duck season length about right, 26% too short (28%)
- 61% (59%) thought timing of duck season was about right, 23% (29%) said the season was too early, 10% (6%) said the season was too late
- Opening day in the north 48% (44%) for Saturday nearest September 24, 25% (29%) Oct 1
- Opening day in the south 38% (40%) for Saturday nearest October 1<sup>st</sup>, 20% (18%) for Sept 24, 20% (20%) for Oct 8

- Canada goose regular season daily bag limit – 49% (53%) about right, 44% (44%) too low, 6% (3%) no opinion
- Exterior zone Canada goose season length – 73% (72%) about right, 19% (25%) too short, 7% (3%) no opinion
- Timing of Canada goose regular seasons – 75% (79%) about right, 14% (12%) too early, 4% (3%) too late, 9% (4%) no opinion

With the foundation of spring survey data, USFWS waterfowl season frameworks, and previous public input, staff developed the following proposal for the 2010 waterfowl season and took it out for public review. The season proposal was first discussed and approved in its entirety by the Migratory Committee of the Conservation Congress on July 31.

## Rule Summary

1) **Ducks.** The USFWS has approved a 60 day season framework in which a state could begin the duck season as early as the Saturday nearest September 24. The proposed Wisconsin season below is the result of the following options.

- We are proposing a September 25 start for the northern zone. For the southern zone, we propose a October 2-10 first period then a 5-day split (Oct 11-15), reopening on October 16 and ending on December 5. The earlier opener in the northern zone is intended to accommodate the earlier freeze up in the north and provide hunting opportunity on early migrating teal.
  - The 5-day early October split within the southern zone is a compromise between differing hunting conditions and requests of marsh dabbling hunters, deep-water diver hunters and field hunters across the zone. Because of differing conditions and target species some hunters want more days earlier in the season while others want more days later in the season.
- The USFWS framework would allow a daily bag limit of 2 hen mallards but we are once again proposing to a daily bag limit of 1 hen mallard during the entire season to protect the breeding potential of Wisconsin mallards. Other states in the Mississippi Flyway have been following Wisconsin's lead on this bag limit.

### Season Summary:

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

Opening day shooting hours to begin at 9 am.

Northern Zone – September 25 at 9:00 am – November 23.

Southern Zone – October 2 at 9:00 am – October 10, and October 16 - December 5.

2) **Youth Waterfowl Hunt.** The youth hunt will be September 18-19. Youth may harvest Canada geese in all zones during these 2 days, however, the bag limit and/or tag requirement applies for the

respective zones. These days overlap with open goose seasons in most areas so adults will also be able to harvest geese but not ducks during the youth hunt.

### 3) **Canada geese**

The state is apportioned into three goose hunting zones: Horicon, Collins and Exterior. Other goose management subzones within the Exterior Zone include Brown County and the Mississippi River. The Burnett County and Rock Prairie subzones were approved for elimination following the spring hearings but their removal is included in this emergency rule so this change will be in effect by the hunting seasons.

**Exterior Zone** – 85 days. Daily bag of 2 geese.

North Zone - September 18-24 and September 25, (9:00 am) – December 11.

South Zone –September 18-October 1, October 2 (9:00 am) – October 10 and October 16 – December 16.

Mississippi River Subzone – October 2 (9:00 a.m.) - 10 and October 16 – December 30.

### **Horicon/Collins Time Periods**

Hunters with Horicon and Collins zone permits will be issued 6 tags for the time period that they are awarded. The daily bag limit will be 2 geese with a possession limit of 6.

Horicon – 92 days

Period 1	September 16- October 31
Period 2	November 1 – December 16

Collins – 65 days

Period 1	September 16- October 3
Period 2	October 4 - 24
Period 3	October 25- November 19

### 3) **Other Geese**

#### **Brant and Light geese**

Seasons will be the same as for the Canada goose zones/subzones. The daily bag limit will be 1 brant and 20 snow, blue or Ross's geese

#### **White fronted geese**

Season will be the same as Canada geese for the Exterior and Collins zones. Within the Horicon zone the season will be from Sept 22 – Dec 16<sup>th</sup>. The daily bag limit will be 1.

## Public Hearing & Comments

The process for receiving public input on proposed waterfowl seasons is very condensed because of the timing of the Federal regulation schedule; however, our most active waterfowl groups and individuals are aware of the time frame. As a result, there is considerable input during a short period of time (Appendix 2). The following tools were used to involve interested parties in the rule making process.

- **Rule process information** - Beginning in June we issued preliminary information and instructions on how the public could provide input to the regulation setting process through press releases, the Department website and direct mailings to waterfowl groups.
- **Telephone, email and written comment.** Public comments and questions began coming in during June through telephone calls and emails. These were accepted through August 5, 2009. Email is becoming a more common method of public input while hearing attendance is dropping.
- **July 12, 2010 – Pre-Flyway** public meeting was held in Portage. Preliminary population status information was presented and input on the season structure was received. Several waterfowl and conservation organizations were represented by 10 people.
- **July 31, 2010 – Migratory Committee of the Conservation Congress.** Our waterfowl specialist presented the population status and proposed season structure to the committee. Twenty-six of the 27 committee members were present.
- **July 31, 2010 – Post-Flyway** public meeting was held in Wausau to present the population status and proposed season structure in an informal setting with waterfowl groups and interested individuals. Several waterfowl and conservation organizations were represented by 14 people. The groups represented were: Wisconsin Waterfowl Association (WWA), Wisconsin Wildlife Federation (WWF), LaCrosse County Conservation Alliance (LCCA), Green Bay Duck Hunters (GBDH), and Black Slough Conservation Club (BSCC).
- **August 2-5, 2010 Public Hearings.** Four public hearings were held around the state and 78 people attended overall. Attendees were presented with population status information and the proposed waterfowl rules. Following a period for clarifying questions, individuals could make oral testimony or provide written comments. The comments offered during these various meetings are included below under each major issue.
  - **LaCrosse** - 20 people attended, 8 gave oral testimony
  - **Rice Lake** - 11 people attended, 3 gave oral testimony
  - **Appleton** – 20 people attended, 10 gave oral testimony
  - **Pewaukee** – 27 people attended, 6 gave oral testimony

### Issues:

Overall, a strong majority of the public comments offered during the public hearings and submitted to the Department via phone, email and letter were in support of the proposed seasons. They are summarized below by the major groups of options.

- 1) Statewide same opening day for duck season in both zones: 7 individuals

2) North Zone - Season dates

Opening Day –

Sept 25 (Department Proposal)

- 51 individuals
- 4 waterfowl groups
- Conservation Congress Migratory Committee

Sept 25 with a split – 6 individuals

October 2 or later - 6 individuals requested this later opening date

**Based on public input the Department recommends the northern duck zone hunting season be open from September 25 – November 23.**

2) Southern Zone – Opening Day

October 2 (Department Proposal)

- 56 individuals
- 2 waterfowl groups
- Conservation Congress Migratory Committee

Sept 25 – 3 waterfowl groups but only with a 12 day split, 12 individuals

Sept 25 – 10 individuals

Later opening date – 2 individuals

**Based on public input the Department recommends the south duck zone hunting season to open on October 2.**

3) Southern Zone – Season Split

No split – 5 individuals

5 day split (Department Proposal)

- 42 individuals
- 1 waterfowl group
- Conservation Congress Migratory Committee
- 

Something longer than 5 days – 4 waterfowl groups and 14 individuals

**Based on public input the Department recommends the proposed 5 day split for the southern duck zone resulting in a season of October 2-10 and October 16-December 5.**

#### 4) Exterior Zone Canada Goose Season

Opening day in the north and south zones: September 18 and a 5 day season closure in the south zone with duck season (Department Proposal)

- Conservation Congress Migratory Committee
- 56 individuals
- 1 waterfowl group.
  
- Several other options were offered but none with overwhelming support
  - Open on Sept 16 –1 individual
  - Open on Sept 18 statewide but do not split the goose season with duck – 3 groups, 2 individuals
  - Open with duck on Oct 2 in south zone and no split with duck season – 1 group
  - Concurrent with south duck season – 5 individuals
  - Open with duck on Sept 26 – 1 individuals
  - No split in the south zone – 5 individuals

**Based on the public input, the Department recommends implementing the season as proposed with the following dates; North zone - September 18 – December 11 and South zone – September 18 – October 10 and October 16 – December 16.**

#### 6) Opening Day Shooting Hours

In 2006, the Department implemented a change in the beginning of shooting hours for the opening day of duck season from noon to 9:00 am. This was a compromise among the different hunter desires on this topic. The 9:00 am opener went well as reported by staff around the state the last 4 seasons. Opinions remain varied but most people believe this is an acceptable compromise.

- 9:00 am – Conservation Congress, 3 waterfowl groups and 52 individuals
- Noon – 1 local waterfowl group, 4 individuals
- ½ hour before sunrise – 1 local waterfowl group and 13 individuals

**The Department recommends maintaining a 9:00 am beginning of shooting hours on opening day.**

**Rule Development**

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

**Final Regulatory Flexibility Analysis**

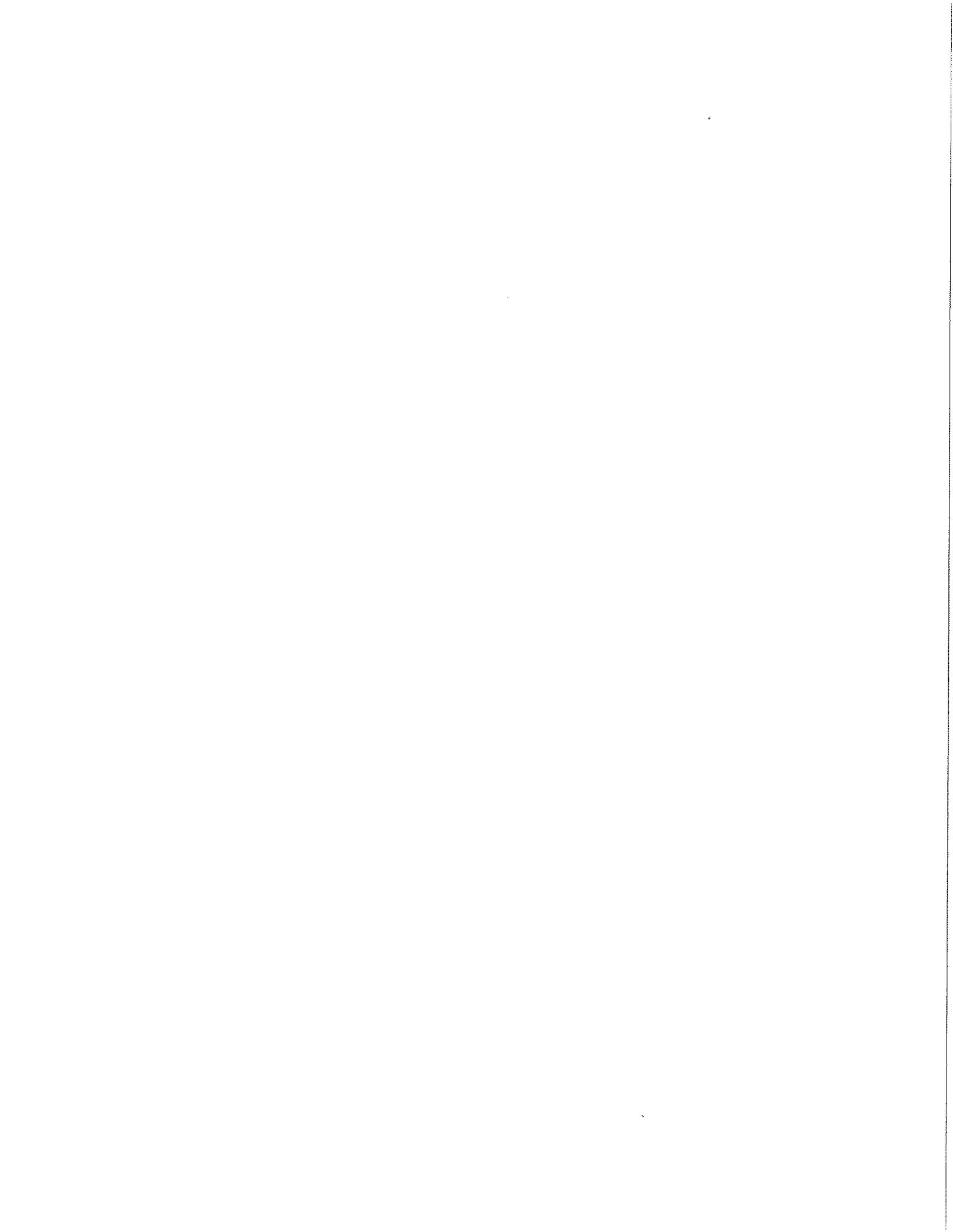
The revisions to Ch. NR 10 relate to migratory game bird management. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

**Environmental Analysis**

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

**Legislative Council Rules and Clearinghouse Report:**

All of the comments that the department received from the Legislative Council Clearinghouse have been incorporated (see attached report).



**Fiscal Estimate — 2009 Session**

<input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected <input type="checkbox"/> Supplemental	LRB Number	Amendment Number if Applicable
	Bill Number	Administrative Rule Number WM-21-10 and WM-22-10(E)

Subject  
 2010 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.

- |                                                          |                                                     |
|----------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> 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. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> 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 2010 season lengths and bag limits. The 2010 season framework is not significantly different than the migratory game bird seasons in previous years.

This statement has been updated to reflect that the bag limit on pintails will be two instead of one, a change that has no fiscal effect.

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

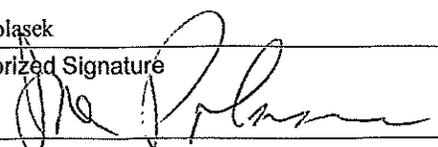
Canada geese - The state is apportioned into three goose hunting zones: Horicon, Collins, and Exterior. Other special goose management subzones within the Exterior Zone include Brown County and the Mississippi River. Season lengths are expected to be as follows:

- Collins Zone - 65 days      - Horicon Zone - 92 days
- Exterior Zone - 85 days      - Mississippi River Subzone - 85 days

**FISCAL IMPACT:** This proposed migratory bird season rule is similar to the season in previous years and will not result in any significant changes in spending or revenue. There are no new government costs anticipated due to the provisions of this rule.

**Long-Range Fiscal Implications**

None

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 08-05-10

**Fiscal Estimate — 2009 Session**

**Page 2 Assumptions Narrative  
Continued**

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-21-10 and WM-22-10(B)

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Assumptions Used in Arriving at Fiscal Estimate – Continued

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### Fiscal Estimate Worksheet — 2009 Session

Detailed Estimate of Annual Fiscal Effect

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-21-10 and WM-22-10(E)

Subject  
 2010 Migratory Game Bird Seasons

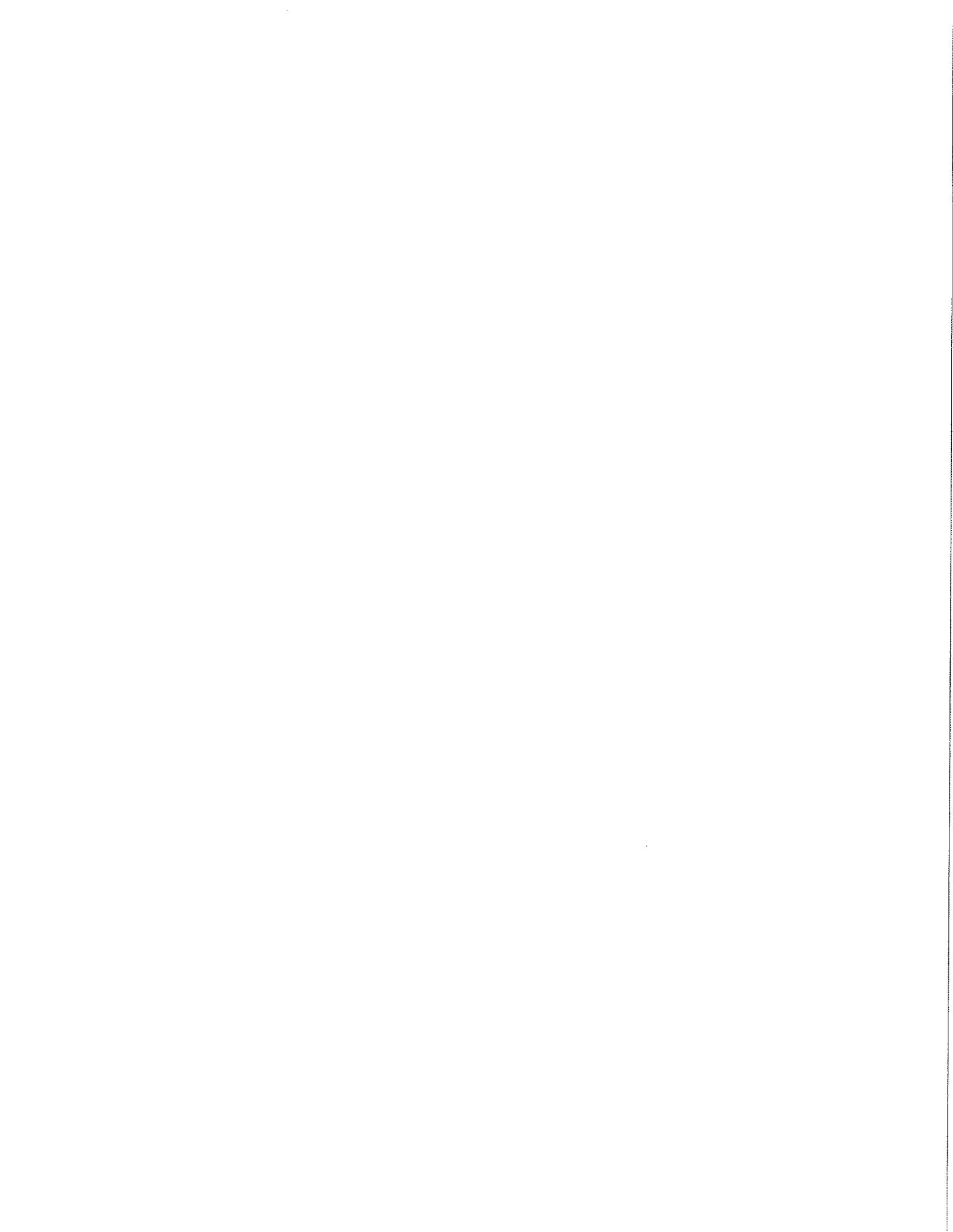
One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

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	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	\$ 0	\$ - 0

**Net Annualized Fiscal Impact**

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 08-05-10






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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 10-066

AN ORDER to repeal NR 10.31 (2); to amend NR 10.001 (9w), 10.01 (1) (v), and 10.125 (1) (c) 2. a., (2), and (3) (intro.) and (a) (intro.); and to repeal and recreate 10.01 (1) (b), (g), and (u), relating to hunting and the 2010 migratory game bird seasons and waterfowl hunting zones.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-14-2010 RECEIVED BY LEGISLATIVE COUNCIL.

07-07-2010 REPORT SENT TO AGENCY.

RNS:REL

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached            YES             NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached            YES             NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached            YES             NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]  
Comment Attached            YES             NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached            YES             NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]  
Comment Attached            YES             NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached            YES             NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

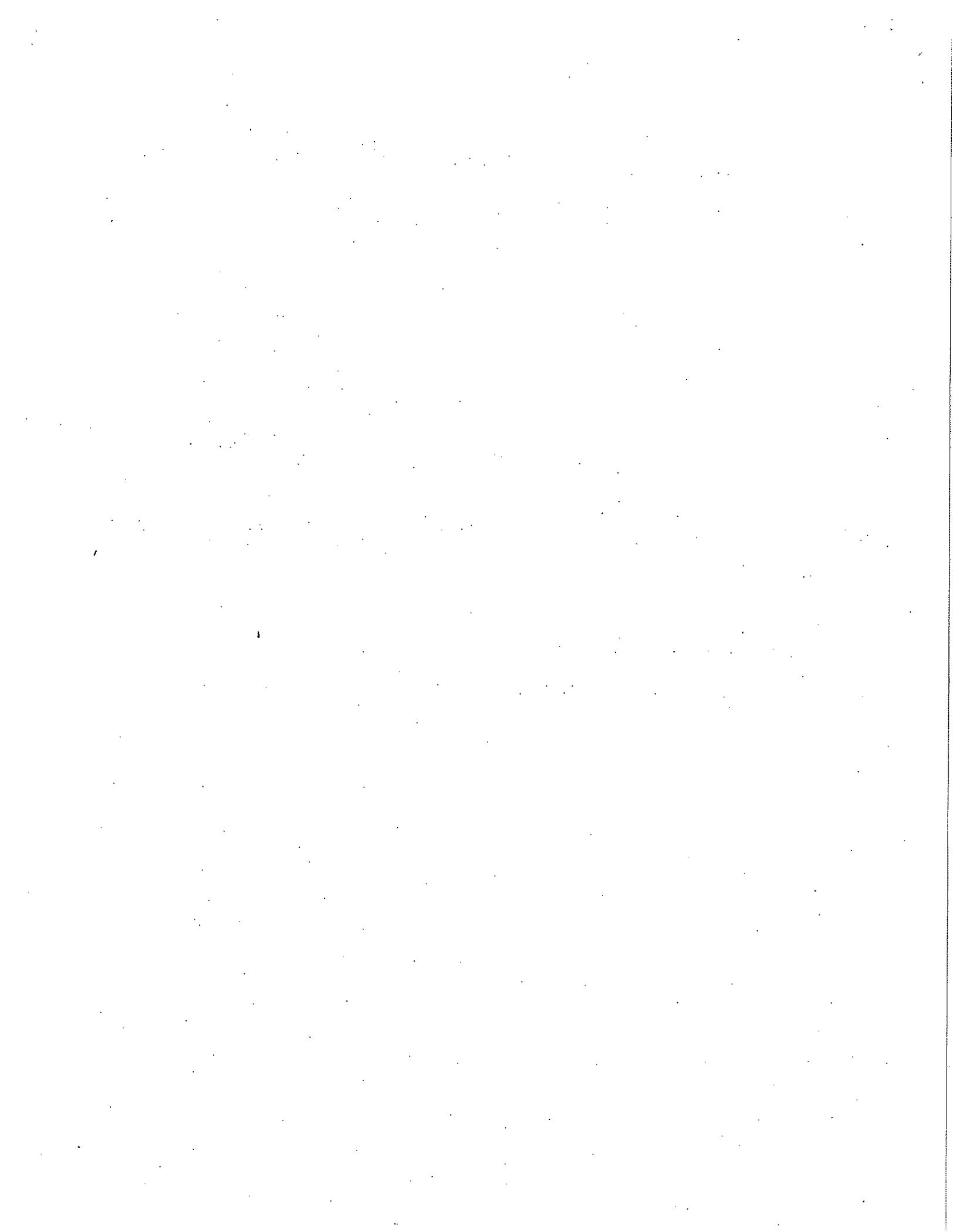
### CLEARINGHOUSE RULE 10-066

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

#### 4. Adequacy of References to Related Statutes, Rules and Forms

In s. NR 10.01 (1) (v), the citations “ss. 29.52 and 29.53, Stats.” should be changed to “ss. 29.592 and 29.593, Stats.”. Also in that paragraph, “or older” should replace “orolder”.



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 repeal NR 10.31(2); to amend ss. NR10.001(9w), 10.01(1)(v), 10.125(1)(c)2.a., 10.125(2), 10.125(3)(intro) and 10.125(3)(a)(intro), and to repeal and recreate 10.01(1)(b), (g) and (u) relating to hunting and the 2010 migratory game bird seasons and waterfowl hunting zones.

WM-21-10

Analysis Prepared by the Department of Natural Resources

**Statutes Interpreted and Explanation of Agency Authority:** In promulgating this rule, ss. 29.014, 29.041, 29.197 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 and establish the two-day youth waterfowl hunt.

**Statutory Authority and Explanation of Agency Authority:** Statutes that authorize the promulgation of this rule order include ss. 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, and s. 29.197, Stats., authorizes the establishment of special hunts.

**Related Statute or Rule:** This rule order establishes the season length and bag limits, 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. Clearinghouse Rule 10-020, the Wildlife Management Spring Hearing Rules package, repeals the Burnett and Rock Prairie Canada goose management subzones. This rule order is written as affected by CR 10-020.

**Plain Language Analysis:** Sections 1 and 4 through 8 repeal the Collins goose management zone, which will be effective February 1, 2011.

Section 2 of this rule order establishes the season length and bag limits for the 2010 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 25 and continues for 60 consecutive days in the north, closing on November 23. In the South the season begins at 9:00 a.m. on October 2 and continues through October 10, followed by a 5-day split, and then reopens on October 16 and continues through December 5. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 3 wood ducks, 2 scaup, 2 redheads, 2 pintails, 1 canvasback and 1 black duck.

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 and the Mississippi River. Season lengths are: Collins Zone - 65 days (three hunting periods, September 16 – October 3, October 4 – 24, October 25 – November 19); Horicon Zone - 92 days (2 hunting periods, first period beginning September 16 and the second on November 1); Exterior Zone in the northern duck zone - 85 days (Sept. 18 – Dec. 11); Exterior Zone in the southern duck zone – 85 days (Sept. 18 – Oct. 10 and Oct. 16 – Dec. 16) and Mississippi River subzone - 85 days (Oct. 2 – Oct. 10 and Oct. 16 – Dec. 30). The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

Section 3 establishes the youth waterfowl hunting season dates.

**Summary of, and Comparison with, Existing or Proposed Federal Regulations:** Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulations process. As part of the Federal rule process, the USFWS proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest-management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals. Other factors, such as habitat, are also 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 is testing the use of a standard season framework for 5 years. Beginning in the fall of 2007 and

continuing through 2011, 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. 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 USFWS in 50 CFR 20.

**Comparison with Rules in Adjacent States:** Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the USFWS. The 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 USFWS.

**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 and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was 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 result of this work is 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 spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting staff provided the attendees with breeding status information and asked for items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At these meetings, staff was provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to develop proposals and recommendations that were voted on by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The SRC recommended its final waterfowl season framework on July 30 and it was announced on August 2. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals on July 31. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held from August 2 through 5 around the state to solicit additional input on the proposed annual waterfowl rule.

This rule proposal will eliminate the Collins Canada goose hunting zone in 2011. The Collins zone in Manitowoc County was established in 1988 because it was a site specifically used by the Mississippi Valley Population of Canada geese and was hunted intensively. With the expansion of the Giant Canada goose population in Manitowoc County and the decreased interest in hunting the Collins zone, there is no longer a need for special restrictions. Staff has already collected public input and Mississippi Flyway Council review for the elimination of this zone with favorable results. As part of annual harvest management of the Collins zone, all hunting permit holders are mailed a questionnaire. For the 2009 season, we included a question asking the permit holders if they would favor eliminating the Collins Zone and 80% favored elimination of the zone. Only 14% opposed elimination and 6% did not respond. We can increase efficiency and collect input from waterfowl hunters statewide by taking the proposal through the 2010 summer waterfowl rule hearings.

**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 is 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](mailto:kent.vanhorn@wisconsin.gov) (608) 266-8841

**Section 1: NR 10.001(9w), as affected by CR 10-020, is amended to read:**

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

**Section 2. NR 10.01(1)(b), (g) and (u), as affected by CR 10-020, are repealed and recreated to read:**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 25 at 9:00 a.m. – Nov. 23	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec. 5	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition 5 mergansers to include not more than 2 hooded mergansers.	

Section 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) <i>Geese</i> 1. Canada geese and its subspecies	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 subzones described in subd. 1.c.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11	2	4
	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. 1. f. to h.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16	2	4
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16	2	4

Section 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	f. Horicon zone	Two permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Oct. 31	2	
		Nov. 1 – Dec. 16	2	
	g. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Oct. 3	2	
		Oct. 4 – Oct 24	2	
		Oct. 25 – Nov. 19	2	
	h. Mississippi River subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30	2	4
2. Snow or blue and Ross' geese	Entire state	As established by zone	20	40

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).

Section 2. 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 subzones described in subd. 2.b.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	c. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 2. d. to g.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	d. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	e. Horicon zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Dec. 16		
	f. Collins zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Nov. 19		
	g. Mississippi river subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30		

Section 2. 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 subzones described in subd. 3.b.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	c. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in this subd. 3.d. to g.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	d. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	e. Horicon zone	Sept. 22 – Oct. 1 and Oct. 2 at 9:00 a.m. – Dec. 16		
	f. Collins zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Nov. 19		

Section 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Mississippi River subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30		
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 subzones described in sub. 3.b.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	c. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 3. d. to g.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	d. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	e. Horicon zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Dec. 16		
	f. Collins zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Nov. 19		
	g. Mississippi River subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30		

**Section 2. Continued.**

NR 10.01(1)(u) *Falconry special season.* Any person possessing a valid falconry permit and hunting license shall be restricted to the following migratory game bird seasons:

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. 18 – Sept. 19, Sept. 25 at 9:00 a.m. – Nov. 23 and Jan. 7 – Feb. 20	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. 18 – Sept. 19, and Oct 2 at 9:00 a.m. – Oct. 10, Oct. 16 – Dec. 5 and Jan. 7 – Feb. 20	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 3. NR 10.01(1)(v) is amended to read:**

NR 10.01(1)(v) *Special youth waterfowl hunt event.* ~~Persons under 16 years of age~~ the age of 16 may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September 19 18. 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 and be in compliance with ~~s. 29.592 Stats. ss. 29.592 and 29.593, Stats.~~ One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2 hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province.

**Section 4: NR 10.125(1)(c)2.a. is amended to read:**

NR 10.125(1)(c)2.a. Issue Horicon and Collins zone permits that are also valid for the exterior zone during a time period specified by the department.

**Section 5: NR 10.125(2) is amended to read:**

NR 10.125(2) APPLICATION AND ISSUANCE REQUIREMENTS. (a) *Forms.* Applications shall be on forms supplied by the department.

(b) *Deadlines.* 1. All applications for the Horicon, Collins and Exterior zones shall be postmarked no later than the deadline dates indicated on the forms or received by a department service center location on that date to be considered for selection. The annual application deadlines may not be sooner than July 1.

Note: The department conducts extensive publicity on the application deadlines beginning several months prior to any deadline. Application deadline dates are published in news releases, the department Web site at [www.dnr.wi.gov](http://www.dnr.wi.gov), license outlet handouts, and pertinent regulation pamphlets. Department service center hours may vary by location.

2. Exterior zone and early goose hunt subzone permits may be obtained at a license vendor or department service center location throughout the open season.

**Note:** Department service center office hours may vary by location.

(c) *Application limitations.* 1. No person may submit more than one application per year except that:

a. Persons who submitted an invalid permit application for the ~~Collins or Horicon zones~~ zone may reapply, provided the goose season is open, for an Exterior zone permit.

b. Persons applying for an early goose hunt subzone permit may also apply for a ~~Collins, Horicon, or Exterior zone~~ permit.

2. If 2 or more persons wish to hunt together in the ~~Collins or Horicon zones~~ zone, each applicant shall complete and submit an application form. A group application shall be considered one application.

(d) *Selection preference.* When applications exceed the number of permits available, successful applicants shall be randomly selected with first preference given to persons who unsuccessfully applied for a permit during the previous year.

(e) *Undersubscribed zones.* If the number of permit applications is less than the number of permits available for any time period, the department may issue the remaining permits to successful applicants by random selection.

~~(f) *Permit limits.* The department may not issue more than 425 permits for any time period for the Collins zone.~~

**Section 6: NR 10.125(3)(intro) is amended to read:**

NR 10.125(3) SPECIAL REQUIREMENTS. Unless otherwise directed by the department, the following requirements apply to the Horicon and ~~Collins zones~~ zone:

**Section 7: NR 10.125(3) (a)(intro) is amended to read:**

NR 10.125(3) (a) *Tagging.* When a Canada goose is killed within Horicon and ~~Collins zones~~ zone, the hunter shall:

**Section 8: NR 10.31(2) is repealed.**

**Section 9. 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.) except for sections 1 and 4 through 8 which shall take effect on February 1, 2011.

**Section 10. 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 \_\_\_\_\_  
Matthew Frank, 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 10.01(1)(v) and to repeal and recreate 10.01(1)(b), (g) and (u) relating to hunting and the 2010 migratory game bird seasons and waterfowl hunting zones.

WM-22-10(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, 29.197, 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 and establish the two-day youth waterfowl hunt.

**Statutory Authority and Explanation of Agency Authority:** Statutes that authorize the promulgation of this rule order include ss. 29.014, 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, and s. 29.197, Stats., authorizes the establishment of special hunts.

**Related Statute or Rule:** This rule order establishes the season length and bag limits, 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. Clearinghouse Rule 10-020, the Wildlife Management Spring Hearing Rules package, repeals the Burnett and Rock Prairie Canada goose management subzones. This rule order is written as affected by CR 10-20.

**Plain Language Analysis:** Section 1 of this rule order establishes the season length and bag limits for the 2010 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 25 and continues for 60 consecutive days in the north, closing on November 23. In the South the season begins at 9:00 a.m. on October 2 and continues through October 10, followed by a 5-day split, and then reopens on October 16 and continues through December 5. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 3 wood ducks, 2 scaup, 2 redheads, 2 pintails, 1 black duck and 1 canvasback.

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 and the Mississippi River. Season lengths are: Collins Zone - 65 days (three hunting periods, September 16 – October 3, October 4 – 24, October 25 – November 19); Horicon Zone - 92 days (2 hunting periods, first period beginning September 16 and the second on November 1); Exterior Zone in the northern duck zone - 85 days (Sept. 18 – Dec. 11); Exterior Zone in the southern duck zone – 85 days (Sept. 18 – Oct. 10 and Oct. 16 – Dec. 16) and Mississippi River subzone - 85 days (Oct. 2 – Oct. 10 and Oct. 16 – Dec. 30). The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

Section 2 establishes the youth waterfowl hunting season dates.

**Summary of, and Comparison with, Existing or Proposed Federal Regulations:** Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulations process. As part of the Federal rule process, the USFWS proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest-management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals. Other factors, such as habitat, are 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 is testing the use of a standard season framework for 5 years. Beginning in the fall of 2007 and continuing through 2011, 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. 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 USFWS in 50 CFR 20.

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

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

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was 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 result of this work is 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 spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting staff provided the attendees with breeding status information and asked for items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At these meetings, staff was provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to develop proposals and recommendations that were voted on by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The SRC recommended its final waterfowl season framework on July 30 and it was announced on August 2. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals on July 31. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held on the permanent version of this rule order from August 2 through 5 around the state to solicit additional input.

**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 is any design or operational standards contained in the rule.

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Section 1. NR 10.01(1)(b), (g) and (u), as affected by CR 10-020, are repealed and recreated to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 25 at 9:00 a.m. – Nov. 23	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec. 5	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 2 pintails, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition 5 mergansers to include not more than 2 hooded mergansers.	

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) <i>Geese</i> 1. Canada geese and its subspecies	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 subzones described in subd. 1.c.	Sept. 18 — Sept. 24 and Sept. 25 at 9:00 a.m. — Dec. 11	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 18 — Sept. 24 and Sept. 25 at 9:00 a.m. — Dec. 11	2	4
	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. 1. f. to h.	Sept. 18 — Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16	2	4
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 18 — Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	f. Horicon zone	Two permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Oct. 31	2	
		Nov. 1 – Dec. 16	2	
	g. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Oct. 3	2	
		Oct. 4 – Oct 24	2	
		Oct. 25 – Nov. 19	2	
	h. Mississippi River subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30	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	20	40
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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 subzones described in subd. 2.b.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	c. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 2. d. to g.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	d. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	e. Horicon zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Dec. 16		
	f. Collins zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Nov. 19		
	g. Mississippi river subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30		

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 subzones described in subd. 3.b.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	c. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in this subd. 3.d. to g.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	d. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	e. Horicon zone	Sept. 22 – Oct. 1 and Oct. 2 at 9:00 a.m. – Dec. 16		
	f. Collins zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Nov. 19		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Mississippi River subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30		
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 subzones described in sub. 3.b.	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 18 – Sept. 24 and Sept. 25 at 9:00 a.m. – Dec. 11		
	c. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 3. d. to g.	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	d. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 18 – Oct. 1 and Oct 2 at 9:00 a.m. - Oct. 10 and Oct. 16 - Dec. 16		
	e. Horicon zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Dec. 16		
	f. Collins zone	Sept. 16 – Oct. 1 and Oct. 2 at 9:00 a.m. – Nov. 19		
	g. Mississippi River subzone	Oct. 2 at 9:00 a.m. – Oct. 10 and Oct. 16 – Dec 30		

**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. 18 – Sept. 19, Sept. 25 at 9:00 a.m. – Nov. 23 and Jan. 7 – Feb. 20	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. 18 – Sept. 19, and Oct 2 at 9:00 a.m. – Oct. 10, Oct. 16 – Dec. 5 and Jan. 7 – Feb. 20	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 under 16 years of age~~ the age of 16 may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September 19 ~~18~~. 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 and be in compliance with ~~s. 29.592 Stats. ss. 29.592 and 29.593, Stats.~~ One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2 hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province.

**Section 3. STATEMENT OF EMERGENCY.** The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

**Section 4.** EFFECTIVE DATE. These rules shall take effect on September 1, 2010.

**Section 5.** 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 \_\_\_\_\_  
Matthew Frank, Secretary

(SEAL)