

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PUBLIC HEARINGS

WM-04-14(E) and WM-11-14(E)

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041 and 227.11(2)(a), and 227.24 Stats., interpreting ss. 29.014, 29.041 and 29.192, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to the 2014 migratory game bird seasons and hunting regulations. Emergency rule order WM-11-14(E) related to teal and mourning dove hunting took effect upon publication in the official state paper on September 1, 2014. Emergency order WM-04-14(E) related to migratory bird hunting regulations took effect upon publication in the official state paper on September 11, 2014.

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on October 29, 2014 beginning at 1:00 p.m. in room 608 of the Natural Resources State Office Building (GEF-2), 101 South Webster St., Madison, 53707.

BOARD ORDER WM-11-14(E) RELATED TO TEAL AND MOURNING DOVE HUNTING SEASONS

Plain Language Analysis of WM-11-14(E) related to teal and mourning dove hunting seasons: SECTION 1 of this rule order establishes a seven day season beginning on September 1 and a six bird daily bag limit for a new, teal-only hunt. The teal-only season will occur prior to the youth duck season and the normal season for hunting all varieties of ducks.

SECTION 2 extends the mourning dove hunting season from the current 70 to 90 days.

SECTIONS 3 and 4 establish that the hunting hours for teal during the teal-only season shall begin at 9:00 a.m. on the first day and sunrise on following days. Hunting will end at 7:00 p.m. each day. The hunting hours for other migratory birds such as mourning doves or Canada geese are not modified by these rules.

Summary of, and Comparison with, Existing or Proposed Federal Regulations for WM-11-14(E) related to teal and mourning dove hunting seasons: 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.

The proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the USFWS in 50 CFR 20.

Comparison with Rules in Adjacent States for WM-11-14(E) related to teal and mourning dove hunting seasons: Since migratory bird species are managed under federal law, 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 WM-11-14(E) related to teal and mourning dove hunting seasons: The department annually promulgates emergency rules establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final season framework to Wisconsin within months of the possible opening days each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season. The department has promulgated permanent rules in the past so that information related to zones, tagging requirements for geese, and other regulations remain relatively current. However, season dates and bag limits established in the administrative code reflect the prior season frameworks and the permanent rule often does not contain current information.

The species of primary interest to duck hunters, blue-winged teal, are an early migrating bird whose numbers may be low or declining in Wisconsin when the normal duck seasons begin at the end of September or early October. Many hunters are likely to appreciate the opportunity to hunt this species earlier during the fall season, possibly prior to migration, when they may be more abundant.

In the 1960s the US Fish and Wildlife Service (USFWS) allowed states to experiment with an early duck season that offered additional duck hunting days outside of the regular duck season framework. Hunters were restricted to shooting only teal; blue-winged and green-winged teal; but the focus in the Mississippi Flyway was primarily the early migrating blue-winged teal. This "experimental season" was intended to measure whether hunters could successfully distinguish between duck species and what the impact was on non-teal ducks. The results were mixed and after debate among state and federal agencies involved, the decision was made that the "production" states (WI, MN, MI and IA) within the Mississippi Flyway would not be allowed an early teal season. However, when blue-winged teal seasons were high, "nonproduction" states would be offered an operational early teal season. "Production" refers primarily to whether a state is a major breeding area for mallards and other ducks.

The continental population of blue-winged teal has grown in recent years and a harvest assessment concluded that teal could sustain higher harvest beyond that incurred during the regular duck season and the existing early teal seasons. Following a series of meetings and recommendations among states and the USFWS, it was decided that the 4 production states would be offered a 3 year experimental teal season. It is very important to understand that this is an experimental season and that the results of the experiment will determine if a state is granted an operational early teal season. The USFWS requires states to observe hunter behavior in the field to observe whether they shoot at non-teal ducks during the teal only season. If the number of attempts to shoot non-teal ducks is too high then we will fail the experiment.

Based on the public input and staff analyses, the department proposes an early teal season in Wisconsin for 2014 that would begin on September 1 and continue through September 7. Only blue-winged and green-winged teal can be harvested. The daily bag limit would be 6 teal. Shooting hours on opening day begin at 9 am and close at 7 pm. Shooting hours from September 2 through 7 will begin at sunrise and close at 7 pm.

This rule would also extend the mourning dove hunting season. At the February, 2014 meeting of about 20 states that are part of the Eastern Dove Management Unit, a recommendation was approved to increase the dove hunting season from 70 to 90 days across the management unit. The additional 20 days will result in an increase in hunting opportunity that some hunters will appreciate. However, these days will be at a time of the year when many other hunting seasons are also open. As a result, the additional hunting opportunity may not result in a significant amount of hunting effort focused primarily on mourning doves.

Anticipated Private Sector Costs for WM-11-14(E) related to teal and mourning dove hunting seasons: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with compliance to these rules.

Effects on Small Business for WM-11-14(E) related to teal and mourning dove hunting seasons: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m) Stats.

BOARD ORDER WM-04-14(E) RELATED TO MIGRATORY BIRD HUNTING REGULATIONS

Plain Language Analysis of WM-04-14(E) related to migratory bird hunting regulations:

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

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

SECTIONS 2 and 3 increase the season harvest limit for Canada geese in the Horicon Zone from six birds to twelve. The daily bag limit will be unchanged and continues to be two birds.

Summary of, and Comparison with, Existing or Proposed Federal Regulations for WM-04-14(E) related to migratory bird hunting regulations: Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulations process. As part of the Federal rule process, the USFWS proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl

Management Plan (NAWMP). Under this harvest-management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals.

Wisconsin Canada goose harvest is supported by two different Canada goose populations; the local giant Canada geese which are part of the Temperate Breeding Population (TBP) of the Mississippi Flyway provide about 40% of our fall harvest while the Mississippi Valley Population (MVP) that breeds in northern Ontario provide about 60% of the fall harvest. These two populations are managed under cooperative management plans developed by several states and provinces. The TBP population has steadily grown and management goals are to provide additional harvest opportunity and control population growth. In contrast, the MVP population has been on a slow decline so management objectives are to maintain a lower rate of harvest and have a stable or increasing population.

The proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the USFWS in 50 CFR 20.

Comparison with Rules in Adjacent States for WM-04-14(E) related to migratory bird hunting regulations:

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 WM-04-14(E) related to migratory bird hunting regulations:

The department annually promulgates an emergency rule establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final season framework to Wisconsin on approximately August 1 each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season.

For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin. In addition, harvest strategies have been developed to inform hunting season decisions for other individual duck species such as scaup, canvasback and pintail which could drive annual changes in bag limits or season lengths for those species.

The parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and TBP Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations is measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July each year, staff conduct a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting, staff provide the attendees with breeding status information and ask for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attend the MFC Technical and Council meetings. At these meetings, staff are provided status information and the proposed framework alternative from the USFWS. Department staff work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announces its final waterfowl season framework recommendation at the end of July. Department staff then summarize waterfowl status and regulation information for Wisconsin citizens and

present this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals in early August. Staff gather public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. In 2014, public hearings were held from August 4-7 around the state to solicit additional input on the proposed annual waterfowl rule.

Anticipated Private Sector Costs for WM-04-14(E) related to migratory bird hunting regulations: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with compliance to these rules.

Effects on Small Business for WM-04-14(E) related to migratory bird hunting regulations: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m) Stats.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov. Comments may be submitted until October 29, 2014. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

Dated at Madison, Wisconsin

September 30, 2014

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

Cathy Stepp

Cathy Stepp, Secretary

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