

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

SUBJECT:

Request that the Board adopt Emergency Board Order WM-18-17(E), proposed rules affecting chapter. NR 10 related to establishing the 2018 migratory bird season framework and regulations

FOR: April 2018 Board meeting

PRESENTER'S NAME AND TITLE: Taylor Finger, Migratory Bird Specialist, Bureau of Wildlife Management

SUMMARY:

These rules modify season dates, bag limits, and other regulations. These seasons are part of the federal migratory bird season frameworks and the United States Fish and Wildlife Service needs to be informed of the State of Wisconsin Natural Resources Board's decisions on these seasons by April 30, 2018.

A series of four public hearings were held in March in Rice Lake, La Crosse, Appleton, and Pewaukee.

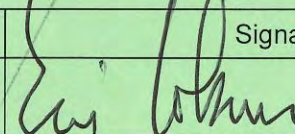
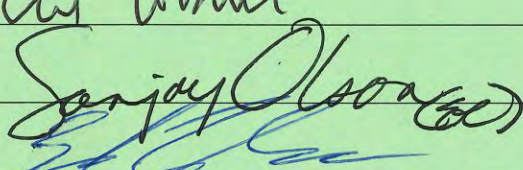

An emergency order is needed in order to have season changes in place by the time migratory bird hunting seasons begin on September 1. This emergency rule order will establish the 2018 migratory bird hunting season framework which primarily includes the seasons and regulations for ducks and geese.

Based on public input, input from conservation groups and hunter surveys, the Department migratory bird hunting season proposal has several changes in 2018. These changes include an increase in the regular season Canada goose daily bag to 3, elimination of the Horicon Canada goose management zone, including a second split in the South Exterior Zone Canada goose season, opening the North Zone duck season one week later and an increase to the pintail bag limit from one to two based on federal regulations. Hearing attendance doubled and public input volume increased by over 400% from last year

RECOMMENDATION: That the Board adopt Emergency Board Order WM-18-17(E).

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

- background memo
- Fiscal estimate and economic impact analysis (EIA) form
- Response summary
- Attachments to background memo
- Board order/rule
- (insert document name)

Approved by	Signature	Date
Eric Lobner, Bureau Director		3/23/18
Sanjay Olson, Division Administrator		3/28/18
Daniel L. Meyer, Secretary		3/28/18

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule officer - LS/8

CORRESPONDENCE/MEMORANDUM

DATE: March 26, 2018
TO: Natural Resources Board Members
FROM: Dan Meyer
SUBJECT: Request Adoption of the 2018 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board adoption of the proposed 2018 Migratory Game Bird seasons and regulations, Board Order WM-18-17(E),

Rule summary:**2018 Migratory Game Bird Hunting Seasons:**

Under the federal framework for duck hunting in the Mississippi Flyway, states are allowed no more than 2 pintails per day in the bag limit. The pintail bag limit was one daily during the previous season.

The remaining rule parameters are discussed with the public each year and changed based on current biological information or public input.

Early Migratory Bird Seasons:

Early Teal – Sept 1-7 (6 teal/day) – Shooting hours (Sunrise – Sunset)

Early Canada goose – September 1-15 (5 geese/day)

Mourning Dove – September 1 – November 29 (15 doves/day)

Woodcock – September 22 – November 5 (3 birds/day)

Duck seasons:

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

Opening day shooting hours to begin at ½ hour before sunrise.

- Youth Waterfowl Hunt - September 15-16
- Northern Zone – September 29 – November 27

- Southern Zone – September 29-October 7, then a 5-day closure, reopening October 13 - December 2
- Mississippi River Zone - September 29-October 5, then a 7-day closure, reopening October 13 - December 4

Goose Seasons:

The state is divided into 3 zones for goose hunting during the regular season; north, south and Mississippi River subzone. These correspond to the zones used for duck hunting seasons.

Exterior Zone – 92 days. Daily bag of 3 Canada geese.

- North Zone - September 16 - December 16.
- South Zone –September 16 - October 7 and October 13 - December 2 and December 16 - January 3.
- Mississippi River Subzone – September 29 - October 5, October 13 - January 3

Elimination of the Horicon Canada goose management zone

Brant, White fronted geese and Light geese

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

Other Migratory Bird Seasons:

Coot, moorhen, rails and snipe – season is the same as ducks in each duck hunting zone
Daily bag limits: Coot and moorhen – 15, Sora and Virginia Rail – 25, Snipe - 8

Background:

Each year Wisconsin establishes hunting seasons for over 35 species of migratory game birds. Migratory game birds hunted in Wisconsin include a wide range of species with very different life cycles; blue-winged teal that may nest in the marshes of Manitoba and winter in Venezuela, woodcock that breed in the northern forests of Wisconsin and winter in Louisiana, and mourning doves that are the most abundant and most harvested game bird in North America. 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 (Figure 1). Department staff are a part of this process which involves international cooperative monitoring efforts and status review for each species. Migratory birds are managed in each of the 4 flyways that encompass North America. Each flyway has a Flyway Council consisting of members from each state and province in that flyway who meet multiple times each year. Wisconsin is part of the Mississippi Flyway and is one of 17 members on the Mississippi Flyway Council (MFC). The USFWS annually prescribes the outside limits (frameworks) for each flyway within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council and the process varies across the different species.

Wisconsin supports over 135,000 migratory game bird hunters with a diversity of habitat, technique and hunting season preferences. Nationally, Wisconsin is a leader in migratory bird hunting and management ranking in the top 5 for number of waterfowl hunters and second in the nation for woodcock hunters. These hunters are strong conservationists participating through various organizations to partner with agencies in habitat conservation, hunter education and management decisions.

Under the new federal regulatory process, the 2018 migratory bird hunting seasons will be based on prior, rather than current year data. At a continental level, duck populations in 2017 were near an all-time high for the 62 years of the survey at 47.2 million ducks while Wisconsin's breeding duck population was 9% above the long-term average at 479,099 (Appendix 1). Wisconsin depends upon two Canada goose populations for the regular goose season harvest; those that nest in northern Ontario are about 45% of the harvest while those that breed in Wisconsin are about 55% of the harvest. The population of Canada geese that breeds in northern Ontario has been on a long-term decline but because of changing survey effort, we do not have a current population estimate. While Wisconsin's breeding Canada goose population estimate for 2017 was 10% above the previous 10-year average.

Public involvement:

Over the years, the Department has used various methods to engage migratory bird hunters in season decisions and learn about their season and hunting preferences. These hunters have a wide range of practices and preferences, some of which result in opposing views on various season parameters. However, hunting groups and individuals have been very engaged and over time have helped the Department develop compromises and produce a season structure which has strong majority support. A total of 712 individuals offered comments on the waterfowl hunting seasons over the last few weeks in addition to the Wisconsin Conservation Congress Migratory Committee and several waterfowl groups. The following tools were used to involve interested parties in the rule making process.

- **Mail survey – winter 2017-18.** Following the 2018 waterfowl season a scientifically designed survey was mailed out to a random selection of 2700 Wisconsin waterfowl hunters as we have done every other year for the last several years. This survey provided information on waterfowl hunter experiences, input on hunting seasons.
- **Rule process information** - Beginning in February 2018 we issued preliminary information and instructions on how the public could provide input to the regulation setting process through press releases, social media post and live events, the Department website and direct mailings to waterfowl groups. Over 270,000 people are now on GovDelivery email notices regarding topics related to migratory game bird management, and general hunting. This list was provided regular updates during the process.
- **Facebook and Facebook Live.** Posted 3 posts, two of which included live video. In total, the posts and video reached over 51,000 people with over 15,000 views on the video alone.
- **Telephone, email and written comment.** Public comments and questions began coming in during January through telephone calls and emails. These were accepted through March 16.
- **February 10, Wisconsin Wildlife Federation. Stevens Point.** Meeting was held to present the population status and season structure options with the waterfowl committee of the federation. Several conservation organizations or individuals were present, the groups represented were: Wisconsin Wildlife Federation (WWF), Wisconsin Waterfowl Association (WWA), La Crosse County Conservation Alliance (LCCA), Green Bay Duck Hunters (GBDH) and Black Slough Conservation Club (BSCC).

- **February 12, Mead waterfowl hunter meeting.** Mead Wildlife Area. Meeting was held to present the population status and season structure options with the waterfowl committee of the federation. Several conservation organizations or individuals were present. About 40 waterfowl hunters were in attendance
- **February 13, Staff attended the La Crosse County Conservation Alliance** annual waterfowl meeting to present information and received input primarily on the Mississippi River Zone season. About 30 waterfowl hunters were in attendance.
- **March 3 – Migratory Committee of the Conservation Congress. Stevens Point.** Staff presented information on the status of waterfowl and potential season structures. The committee made suggestions for the hunting season proposal and voted on all aspects. The committee had about 20 members present.
- **March 11 – Wisconsin Waterfowl Hunters Conference Special Sessions. Wausau.** Presentations and special breakout sessions were held to present the population status and proposed season structure with conference attendees. The conference had about 100 in attendance while about 35 people participated in the breakout discussions.
- **March 12-15, Public Hearings.** Four public hearings were held around the state and 123 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.
 - **La Crosse** - 14 people attended, 7 gave oral testimony
 - **Rice Lake** - 30 people attended, 13 gave oral testimony
 - **Appleton** – 33 people attended, 7 gave oral testimony
 - **Pewaukee** – 46 people attended, 5 gave oral testimony

Public Input and Data Summary:

Based on public input, input from conservation groups and hunter surveys, the Department migratory bird hunting season proposal has several changes in 2018. These changes include an increase in the regular season Canada goose daily bag to 3, elimination of the Horicon Canada goose management zone, including a second split in the South Exterior Zone Canada goose season, opening the North Zone duck season one week later and an increase to the pintail bag limit from one to two based on federal regulations. Hearing attendance doubled and public input volume increased by over 400% from last year with a total of 712 individual comments and several statewide or local conservation groups representing thousands of members submitting comment. Of the individual comments received the majority (71-98% on various season parameters) agreed with the proposed duck and goose hunting zones and season dates (Appendix 2). Most of the waterfowl hunting groups that submitted comment supported the season proposal with no changes. The Migratory Committee of the Conservation Congress voted in support of all the proposed season structures.

Rule Development:

These rules were developed with assistance from the Office of Applied Science and the bureaus of law enforcement, customer service & licensing, and legal services.

Economic Impact of Proposed Rules:

The department has determined that these rules will have no economic impact locally or statewide. A copy of the economic and fiscal impact analysis is attached as part of this agenda item.

Small Business and Regulatory Flexibility Analysis:

The revisions to Ch. NR 10, Wis. Admin. Code, relating to hunting, and trapping are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m) Stats., a final regulatory flexibility analysis is not required.

Effect on Existing Policy:

All of the policies in this proposed rule are consistent with past board policies of regulating fish and game harvest for conservation purposes.

Previous Board Action:

The statement of scope for this rule, SS 005-18, was approved by the Governor on January 29, 2018, published in Register No. 746A1, on February 5, 2018, and approved by the Natural Resources Board on February 28, 2018

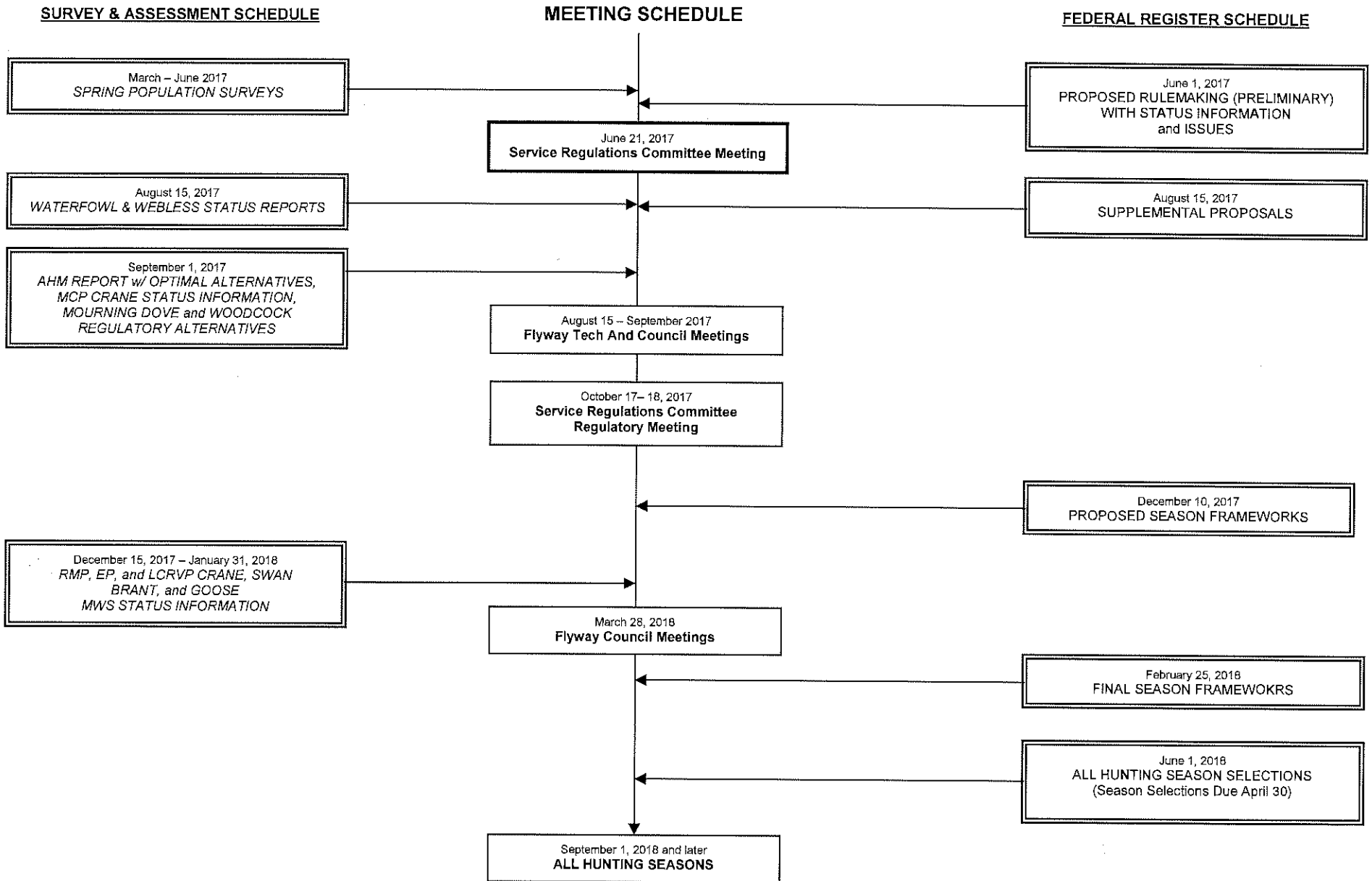
Groups Impacted by the Rule:

Migratory bird hunters are the principal groups that will be affected by this rulemaking.

Environmental Analysis:

The rulemaking process for Board Order WM-18-17(E) constitutes an equivalent analysis action under s. NR 150.20 (2) (b), Wis. Adm. Code and additional environmental analysis is not required.

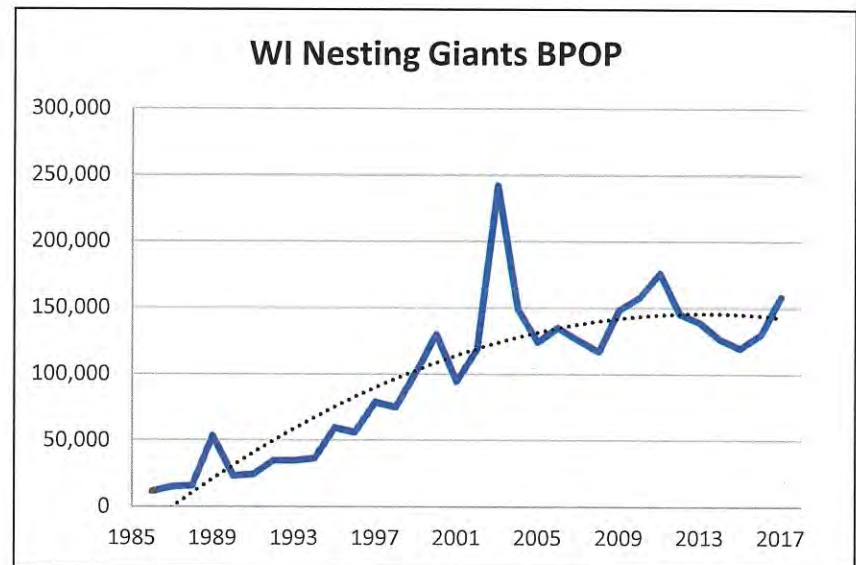
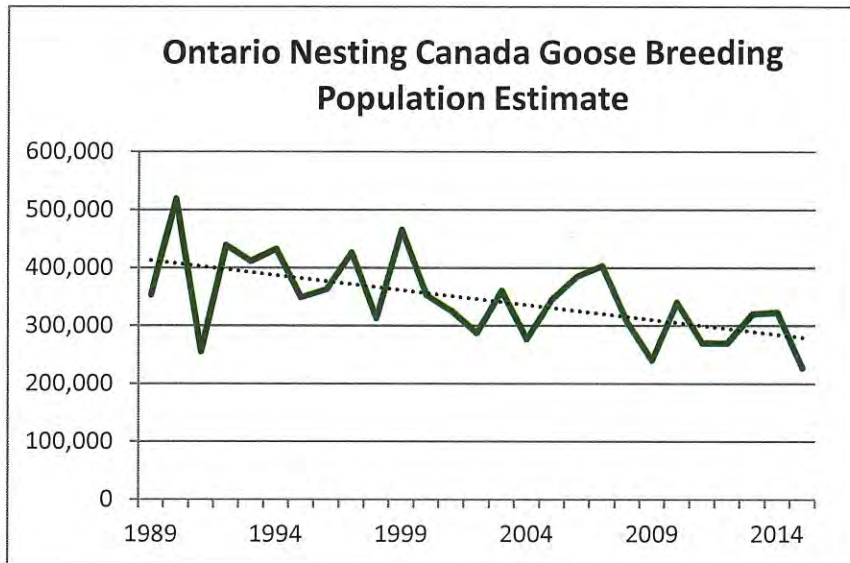
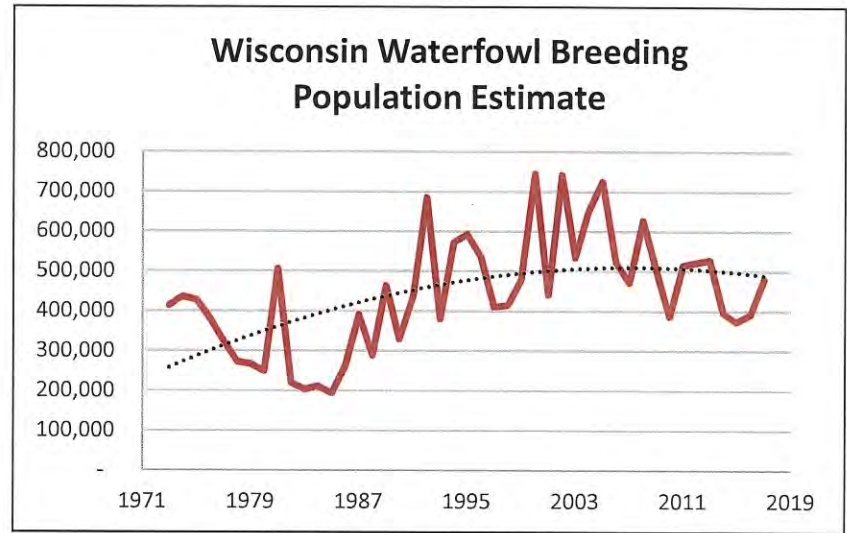
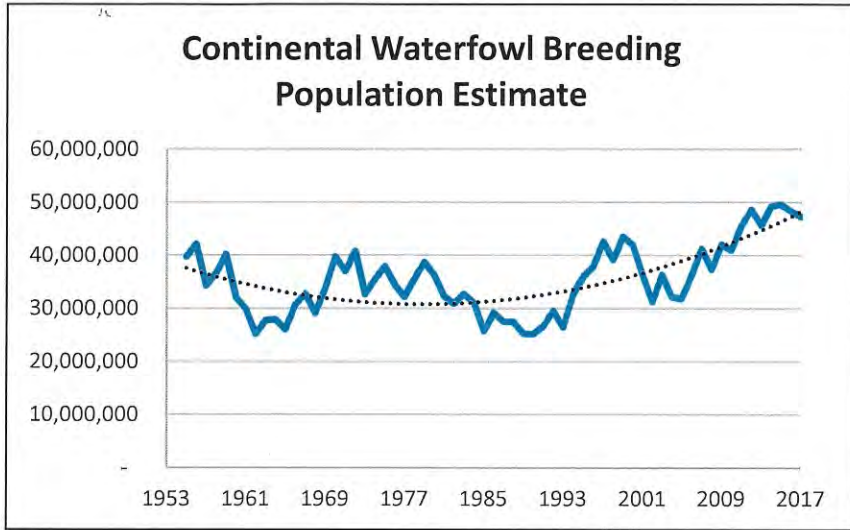
Figure 1. 2018-2019 FEDERAL SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS



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Natural Resources Board Appendix 1



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Appendix 2. Migratory Game Bird Public Comment Summary 2018

Bold/Italics = Department proposal

Issue	Email/ Hearing/ other	Groups at Meeting	Cons Congr ess	% of comments in favor
<i>Early Teal Season</i>	<u>371</u>	6	X	70%
No Teal season	161			
<i>Early Teal Season Sept. 1-7 with a bag of 6 birds</i>	<u>275</u>	5	X	76%
Longer Teal season	87	1		
Shorter Teal Season	25			
<i>Hen Mallard Bag Limit, 1/day</i>	<u>436</u>	6	X	92%
2 hen mallard daily bag limit	37			
<i>Youth Hunt Sept 15-16</i>	<u>422</u>	6	X	88%
No Youth Hunt	37			
Youth Hunt, 1 day or something different	21			
<i>North Duck Zone, Sept 29- Nov 27</i>	<u>379</u>	3	X	73%
North Duck Zone, Sept 22	81	3		
North Duck Zone, Oct 8 or include a split	57			
<i>South Duck Zone, Sept 29- Oct 7, Oct 13-Dec 2</i>	<u>358</u>	6	X	69%
South Duck Zone, Oct 6 or longer split	132			
South Duck Zone, Sep 22 or shorter split	29			
<i>Mississippi River Duck Zone, Sept 29-Oct 5, Oct 13-Dec 4</i>	<u>372</u>	6	X	81%
Mississippi River Duck Zone, Oct 8 or longer split	54			
Mississippi River Duck Zone, Sep 22 or shorter split	31			
<i>Exterior Goose Bag Limit, 3 geese/day daily bag limit</i>	<u>528</u>	5	X	97%
Exterior Goose Bag Limit, 2 or more geese per day daily bag limit	18	1		
<i>Exterior Goose Zone, South Zone Sept 16.-Oct 7, Oct 13-Dec 2, Dec 16-Jan 3</i>	<u>205</u>	2		60%
Exterior Goose Zone, South Zone Sept 16.-Oct 7, Oct 13-Dec 21	136	1	X	
<i>Exterior Goose Zone, North Zone Sept 16.-Dec.16</i>	<u>369</u>	5	X	94%
Exterior Goose Zone, North Zone Include a Split	15			
Different	7			
<i>Exterior Goose Zone, Miss. Zone Sept 29-Oct 5, Oct 13-Jan 3</i>	<u>326</u>	6	X	96%
Different	12			
<i>Horicon Canada Goose Zone, Eliminate</i>	<u>476</u>	6	X	97%
Keep the Horicon Canada Goose Zone	13			
Total comments	712			
Attendance at Public Hearings	123			

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 3/27/2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Ch. NR. 10, Game and Hunting	
4. Subject 2018 Migratory Bird Hunting Seasons	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected None
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

11. Policy Problem Addressed by the Rule

These rules will modify the Canada goose hunting season in what was considered the Horicon Canada goose management zone consistent with options available under the federal framework for Wisconsin in 2018. Hunter harvest has declined by 85% and the number of permits issued has declined by 75% since 1999. The purpose of the Horicon Canada goose management zone was to limit the impact that hunters would have on the Interior nesting population (formerly Mississippi Valley Population) of Canada geese. Over the past several decades the concentration of Interior nesting Canada geese has declined in the Horicon Zone to the point that 2017 was the lowest recorded year with fewer than 30,000 geese observed in the Horicon National Refuge. Observations indicate that the local Temperate nesting (Giant) Canada geese have increased to a point that they are now decoying the migrating Canada geese away from Horicon and now can be found in areas all throughout the state. The department has determined that a specialized zone is no longer needed as the necessity for the management zone has diminished and no longer functions as the management tool for which it was intended. Eliminating the Horicon Canada goose management zone will simplify hunting regulations and increase hunting opportunity.

The proposed increase in regular Canada goose season daily bag from 2 to 3 is based on changes in harvest derivations over the past 20 years. In 1996, 80% of Wisconsin Canada goose harvest occurred on the Ontario migrating population and 20% occurred on Wisconsin's own local Temperate Breeding (Giant) Canada geese. By 2006 that had changed to 60% Ontario migrants and 40% Giants. As of 2015 Temperate Breeding Canada geese now make up the majority of our harvest at 55% and the Ontario migrants make up 45%. Despite seeing these changes in Canada goose origins over the past decade, the department has not seen any substantial change in overall harvest. Based on this recent information we are proposing liberalizing the Canada goose bag limit to match the federal framework.

Per federal regulations, states within the Mississippi Flyway may utilize 2 season splits during the regular Canada goose season. In the past the department has not elected to do so, but the department addressed the potential season structure this year in the public input process, and a majority of the public favor adding the second split in the South Zone Exterior

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

Canada goose season. This second split would close the Canada goose season with the South Zone duck season (Dec. 2) for 13 days, then re-open the goose season on Dec. 16 and remain open through Jan. 3. The input indicated a desire from hunters to extend the season over the Christmas and the New Year's holidays when people have time off and could take advantage of this additional hunting opportunity. From a harvest perspective, 90% of all Canada goose harvest occurs before Dec. 1, so the department is not averse to adjusting season dates in the month of December as very few hunters participate during this time and it will have a very minimal impact on overall harvest.

The proposed later start date for the North Zone duck season was based on input collected from conservation organizations as well as the public. The department has seen a change occurring in both input collected from hunters via the waterfowl hunters survey as well as input collected through public contact, including emails, phone calls and public hearings. The input from the waterfowl hunter survey still shows slight support for a start in the North Zone on the Saturday nearest Sept. 24, however input received from hunters through public contact combined with input from the Wisconsin Conservation Congress has shown a shift in support for a later start in the North Zone. Generally, hunters recall their most recent experience. Since Wisconsin has had above average fall temperatures over the past several years, the position that hunters express is that there is additional duck hunting opportunity after the season has closed. Based on the shift in interest and input over the past 2 years to start later in the North Zone as well as the position that the Conservation Congress expresses, the department proposes starting the North on the Saturday nearest Oct. 1.

With the inclusion of the early teal season in Wisconsin, the current language in Wisconsin Administrative Code exceeds the maximum allowable days to hunt ducks per federal regulations because of the extended falconry season. Prior to the early teal season, the department set the regular duck season to match all dates that are available to hunt ducks and in addition opened the falconry season starting the second Friday in January and continuing for 45 days. With the inclusion of the early teal season, the department increased the number of days to hunt ducks by potentially 16 days. The number of days to hunt ducks by method of falconry per Migratory Bird Treaty Act cannot exceed 107 days. This rule proposal would change the language to state that the falconry season opens the second Friday in January and continues for a length of time to not exceed 45 days; this accounts for all potential possibilities.

Under the federal framework for duck hunting, the USFWS is allowing Wisconsin no more than two pintail per day in the bag limit. The pintail bag limit was one daily during the 2017 season

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

Pursuant to the Governor's Executive Order 50, Section II, this will be a level 3 economic impact analysis. A notice for solicitation of comments on this analysis were posted on the department's website in March 2018 and various interest groups were contacted. No fiscal effects on small businesses, their associations, or local governments are anticipated.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

Pursuant to the Governor's Executive Order 50, Section II, this is a level 3 economic impact analysis, this will be a level 3 economic impact (less than \$50,000). A notice for solicitation of comments on this analysis will be posted on the department's website during a 10 day period in March 2018 and various interest groups, including local governments, may be contacted..

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Pursuant to the Governor's Executive Order 50, Section II, this will be a level 3 economic impact analysis. A notice for Solicitation of comments on this analysis was posted on the department's website in March 2018 and various interest groups may have been contacted by email.

No effects on small businesses, their associations, or local governments are anticipated. The department does not

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

anticipate any fiscal impacts as a result of these rules. Following is the department's preliminary analysis.

Economic Impact

Because the hunting season framework proposed in this rule will be very similar to those in place during previous seasons, no economic impacts are anticipated. We do not anticipate that these rules will result in changes in the activities of migratory bird hunters, their expenditures, and the related economic activity. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Fiscal Impact

The department anticipates no fiscal impact resulting from these rules. The department currently annually conducts a number of activities related to migratory bird hunting such as managing department lands, selling licenses, providing law enforcement services, and surveys and related research. The department will continue to conduct the same activities under the season framework proposed in this rule and does not anticipate any new or reduced expenditures.

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

By implementing this rule, Wisconsin's migratory bird hunters will continue to enjoy excellent hunting opportunities. The expenditures of migratory bird hunters and the economic impacts resulting from their expenditures will continue to benefit the state's economy.

16. Long Range Implications of Implementing the Rule

Implementing these rules will have little impact on the public except that they will continue to have good hunting opportunities into the future.

17. Compare With Approaches Being Used by Federal Government

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

None of the provisions of this rule conflict with the federal framework

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. Because of the federal guidelines, Wisconsin's regulations are similar to those in neighboring states.

<h4>19. Contact Name</h4>	<h4>20. Contact Phone Number</h4>
Scott Karel, Wildlife Regulation Policy Specialist,	608-267-2452

This document can be made available in alternate formats to individuals with disabilities upon request.

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING AND AMENDING RULES**

The statement of scope for this rule, SS 0005-18, was approved by the Governor on January 29, 2018, published in Register No. 746A1, on February 5, 2018, and approved by the Natural Resources Board on February 28, 2018. This rule was approved by the governor on _____.

The Wisconsin Natural Resources Board proposes an order to repeal Ch. NR 10.01 (1) (g) d. & dm., 2. c., & 3. c., NR 10.05 (2), NR 10.125 (1) (c) 2. a. & b., (2) (b) 1. & 3., (2) (c) a. & b., & NR 10.31 (3) (a); and amend Ch. NR 10.001 (9w), NR 10.01 (1) (a), (b), (g) 1. a.-c., e., 2 a. & b., 3. a. & b., & (u), & NR 10.125 (2) (c) 1. related to establishing migratory bird hunting seasons and regulations.

WM-18-17 (E)

Analysis Prepared by the Department of Natural Resources

Statutory Authority: Chapter 29 of the Wisconsin Statutes addresses the department's authority with respect to wild animals and plants. Section 29.014, Stats., confers broad rule-making authority to the department to "establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting.

Additional rule-making authority is found in s. 29.192, Stats., which enables the department to regulate the harvest of Canada geese.

Statutes Interpreted and Explanation of Agency Authority: In promulgating these rules, statutes being interpreted or establishing agency authority include ss. 29.014 and 29.192.

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

Related Statute or Rule: The department promulgates identical or nearly identical emergency and permanent migratory bird season rules in odd years when legislative review will occur.

Plain Language Analysis:

SECTIONS 2, 4 & 6 increase the daily bag limit for pintails from one to two and move the North Zone duck season one week later by opening on the Saturday nearest Oct. 1. These sections also increase the daily bag limit for Canada geese during the Regular Canada goose season from two to three and utilizes the second split (13 day season closure) in the South Zone Exterior Canada goose season to extend the season to Jan. 3. It also corrects an error in administrative code to maintain a consistent open date for all species of geese.

SECTIONS 1, 3, 5, 7, & 9-14 eliminate the Horicon Canada goose management zone. The rule establishes one Exterior Canada goose hunting season and zone statewide.

SECTION 8 adjusts the number of days allowed to hunt ducks by use of falconry to match the maximum federal allowance per the Migratory Bird Treaty Act.

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 adaptive waterfowl management strategies identified in the North American Waterfowl Management Plan (NAWMP). NAWMP primary goals are: **Goal 1** – achieve abundant and resilient waterfowl populations to support hunting on other uses without imperiling habitat, **Goal 2** – achieve wetlands and related habitats sufficient to sustain waterfowl populations at desired levels, while providing places to recreate and ecological services that benefit society and **Goal 3** – grow numbers of waterfowl hunters, other conservationists, and citizens who enjoy and actively support waterfowl and wetlands conservation.

The proposed modifications included in this rule order are consistent with the 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 federal law, each region of the country is organized in a specific geographic flyway which represents distinct migratory game bird populations. 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: These rules will modify the Canada goose hunting season in what was considered the Horicon Canada goose management zone consistent with options available under the federal framework for Wisconsin in 2018. Hunter harvest has declined by 85% and the number of permits issued has declined by 75% since 1999. The purpose of the Horicon Canada goose management zone was to limit the impact that hunters would have on the Interior nesting population (formerly Mississippi Valley Population) of Canada geese. Over the past several decades the concentration of Interior nesting Canada geese has declined in the Horicon Zone to the point that 2017 was the lowest recorded year with fewer than 30,000 geese observed in the Horicon National Refuge. Observations indicate that the local Temperate nesting (Giant) Canada geese have increased to a point that they are now decoying the migrating Canada geese away from Horicon and now can be found in areas all throughout the state. The department has determined that a specialized zone is no longer needed as the necessity for the management zone has diminished and no longer functions as the management tool for which it was intended. Eliminating the Horicon Canada goose management zone will simplify hunting regulations and increase hunting opportunity.

The proposed increase in regular Canada goose season daily bag from 2 to 3 is based on changes in harvest derivations over the past 20 years. In 1996, 80% of Wisconsin Canada goose harvest occurred on the Ontario migrating population and 20% occurred on Wisconsin's own local Temperate Breeding (Giant) Canada geese. By 2006 that had changed to 60% Ontario migrants and 40% Giants. As of 2015 Temperate Breeding Canada geese now make up the majority of our harvest at 55% and the Ontario migrants make up 45%. Despite seeing these changes in Canada goose origins over the past decade, the

department has not seen any substantial change in overall harvest. Based on this recent information the department is proposing liberalizing the Canada goose bag limit to match the federal framework.

Per federal regulations, states within the Mississippi Flyway may utilize 2 season splits during the regular Canada goose season. In the past the department has not elected to do so, but the department addressed the potential season structure this year in the public input process, and a majority of the public favor adding the second split in the South Zone Exterior Canada goose season. This second split would close the Canada goose season with the South Zone duck season (Dec. 2) for 13 days, then re-open the goose season on Dec. 16 and remain open through Jan. 3. The input indicated a desire from hunters to extend the season over the Christmas and the New Year's holidays when people have time off and could take advantage of this additional hunting opportunity. From a harvest perspective, 90% of all Canada goose harvest occurs before Dec. 1, so the department is not averse to adjusting season dates in the month of December as very few hunters participate during this time and it will have a very minimal impact on overall harvest.

The proposed later start date for the North Zone duck season was based on input collected from conservation organizations as well as the public. The department has seen a change occurring in both input collected from hunters via the waterfowl hunters survey as well as input collected through public contact, including emails, phone calls and public hearings. The input from the waterfowl hunter survey still shows slight support for a start in the North Zone on the Saturday nearest Sept. 24, however input received from hunters through public contact combined with input from the Wisconsin Conservation Congress has shown a shift in support for a later start in the North Zone. Generally, hunters recall their most recent experience. Since Wisconsin has had above average fall temperatures over the past several years, the position that hunters express is that there is additional duck hunting opportunity after the season has closed. Based on the shift in interest and input over the past 2 years to start later in the North Zone as well as the position that the Conservation Congress expresses, the department proposes starting the North on the Saturday nearest Oct. 1.

With the inclusion of the early teal season in Wisconsin, the current language in Wisconsin Administrative Code exceeds the maximum allowable days to hunt ducks per federal regulations because of the extended falconry season. Prior to the early teal season, the department set the regular duck season to match all dates that are available to hunt ducks and in addition opened the falconry season starting the second Friday in January and continuing for 45 days. With the inclusion of the early teal season, the department increased the number of days to hunt ducks by potentially 16 days. The number of days to hunt ducks by method of falconry per Migratory Bird Treaty Act cannot exceed 107 days. This rule proposal would change the language to state that the falconry season opens the second Friday in January and continues for a length of time to not exceed 45 days; this accounts for all potential possibilities.

The early teal season shooting hour proposed change is sunrise to sunset. During the early teal season experiment, opening day shooting hours were 9:00am to 7:00 pm and sunrise to 7:00pm for the remainder of the season. The 9:00 am shooting hours for opening day reflected the opening day shooting hours for the regular duck season at the start of the early teal season experiment. With the change in shooting hours for the regular duck season to ½ hour before sunrise, the department proposes starting the shooting hours on opening day earlier as well. Per federal regulations the early teal season cannot open any earlier than sunrise. Also, the department proposes closing the season at sunset as it then is consistent with the other migratory bird season shooting hours occurring at the same time.

Under the federal framework for duck hunting, the USFWS is allowing Wisconsin no more than two pintail per day in the bag limit. The pintail bag limit was one daily during the 2017 season.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no costs are associated with compliance to these rules.

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

Agency Contact Person: Scott Karel, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. scottr.karel@wisconsin.gov (608) 267-2452

Deadline for Written Comments: The deadline for written comments was March 16, 2018.

SECTION 1. NR 10.001 (9w) is amended to read:

NR 10.125 (9w) For the purpose of administering the Canada goose hunting permit system, “Exterior goose management zone” or the “Exterior zone” means the entire state reflecting the North and South duck zones all that part of the state outside of the Horicon goose management zone described in s. NR ~~10.31~~ 10.32, and includes the Mississippi River subzone which shall be treated as a separate management subzone for other purposes.

SECTION 2. NR 10.01 (1) (a), (b), and (g) 1. a.-c. are amended to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01 (1) <i>(a) Teal species</i>	Entire state.	9:00 am <u>Sunrise to sunset</u> on Sept. 1 to 7.	6 teal.	Three times the daily bag limit through the entire season except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag

<i>(b) All species of wild ducks</i>	Entire state.	As established by zone.	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 1 pintail, 2 pintails, 2 canvasbacks, 2 redheads, 3 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	Three times the daily bag limit except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag limit.
	Northern zone as established in s. NR 10.32.	Beginning on the Saturday nearest September 24 <u>October 1</u> and continuing for 60 consecutive days.		
	Southern zone as established in s. NR 10.32.	Beginning on the Saturday nearest October 1 and continuing for 9 days, followed by a 5-day split, and then reopens for 51 consecutive days.		
	Mississippi River zone as established in s. NR 10.32.	Beginning on the Saturday nearest October 1 and continuing for 7 days, followed by a 7-day split, and then reopens for 53 consecutive days.		

<p>(g) Geese 1. Canada geese and its subspecies</p>	<p>a. Entire state.</p>	<p>September 1 – September 15</p>	<p>5</p>	<p>15 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</p>
	<p>b. All that part of the exterior zone lying within the northern zone established in s. NR 10.32</p>	<p>September 16 and continues for 92 consecutive days.</p>	<p>2 3</p>	<p>9 6 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</p>
	<p>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. 1. d. and e.</p>	<p>Begins on September 16 continuing until the closure during the 5-day split in the southern duck zone hunting season in par. B and then reopens continuing <u>until the closure of the southern duck zone hunting season in par. B and then reopens on Dec. 16 continuing</u> for a season total of 92 days</p>	<p>2 3</p>	<p>9 6 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</p>

SECTION 3. NR 10.01 (1) (g) d. & dm. are repealed.

SECTION 4. NR 10.01 (1) (g) 1. e., 2. a. & b. are amended to read:

	<p>e. Mississippi River subzone.</p>	<p>Begins on Saturday nearest October 1 and continues for 7 days followed by a 7-day split, and then reopens for a season total of 92 days.</p>	<p>2 3</p>	<p>9 6 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</p>
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2. Snow or blue and Ross' geese.	Entire state	As established by zone.	20	60 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32	September 16 and continues for 92 consecutive days.		
	b. 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. d. and e.	Begins on September 16 continuing until the closure during the 5-day split in the southern duck zone hunting season in par. B and then reopens continuing <u>until the closure of the southern duck zone hunting season in par. B and then reopens on Dec. 16 continuing</u> for a season total of 92 days		

SECTION 5. NR 10.01 (1) (g) 2. c. is repealed.

SECTION 6. NR 10.01 (1) (g) 3. a. & b. is amended to read:

3. All other geese.	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 20 <u>16</u> and continues for 92 consecutive days.	1 white-fronted goose and 1 brant.	3 white-fronted geese and 3 brant except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.
	b. All that part of the exterior zone lying within the southern zone	Begins on September 20 <u>16</u> continuing until the closure during the		

	established in s. NR 10.32 except for the zones and subzones described in subd. 1. d. and e.	5-day split in the southern duck zone hunting season in par. B and then reopens continuing <u>until the closure of the southern duck zone hunting season in par. B and then reopens on Dec. 16</u> continuing for a season total of 92 days		
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SECTION 7. NR 10.01 (1) (g) 3. c. is repealed.

SECTION 8. NR 10.01 (1) (u) is amended to read:

<i>(u) Falconry: special season. Any person possessing a valid falconry permit and hunting license shall be restricted to the following migratory game bird species.</i>				
1. All species of wild ducks, mergansers and coots.	Northern zone as established in s. NR 10.32.	Concurrent with the open youth waterfowl hunt in par. V and open northern zone regular duck season in par. b. Reopens on first or second Friday in January and continues to <u>not exceed 45 days</u>	3 in aggregate with those species listed under subd. 2.	9 in aggregate with those species listed under subd. 2 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.
	Southern zone established in s. NR 10.32	Concurrent with the open youth waterfowl hunt in par. V and open northern zone regular duck season in par. b. Reopens on first or second Friday in January and continues to <u>not exceed 45 days</u>	3 in aggregate with those species listed under subd. 2.	9 in aggregate with those species listed under subd. 2 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.

	Mississippi River zone as established in s. NR 10.32	Concurrent with the open youth waterfowl hunt in par. V and open northern zone regular duck season in par. b. Reopens on first or second Friday in January and continues <u>to not exceed</u> 45 days	3 in aggregate with those species listed under subd. 2.	9 in aggregate with those species listed under subd. 2 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.
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SECTION 9. NR 10.05 (2) is repealed.

SECTION 10. NR 10.125 (1) (c) 2. a. & b. are repealed.

SECTION 11. NR 10.125 (2) (b) 1. & 3. are repealed.

SECTION 12. NR 10.125 (2) (c) 1. is amended to read:

NR 10.125 (2) (c) *Application limitations.*

1. No person may submit more than one application per year. ~~except that:~~

SECTION 13. NR 10.125 (2) (c) a. & b. is repealed.

SECTION 14. NR 10.31 (3) (a) is repealed.

SECTION 15. FINDING OF EMERGENCY. The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until March of each year. This order is designed to bring state hunting regulations into conformity with federal regulations. Normal rule-making procedures will not allow the establishment of these changes prior to the beginning of migratory bird hunting seasons in September. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

SECTION 16. EFFECTIVE DATE. This rule takes effect on the day of publication in the Wisconsin State Newspaper, as provided in s. 227.24 (1) (c), Stats.

SECTION 17. 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 _____
Daniel Meyer, Secretary

(SEAL)