

Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item

**SUBJECT:**

Request that the Board adopt Board Orders WM-06-13 and WM-07-13 (Emergency), proposed rules affecting Ch. NR 10 related to establishing the 2013 migratory bird hunting seasons and regulations.

**FOR: August 2013 Board meeting**

**PRESENTER'S NAME AND TITLE:** Kent Van Horn, Migratory Bird Specialist

**SUMMARY:**

This emergency rule order will establish the 2013 migratory bird hunting seasons. The significant regulations are:

Ducks - The state is divided into three zones each with 60-day seasons. The daily bag limit will be 6 ducks including no more than: four mallards, of which only one may be a hen, one black duck, two canvasbacks, three wood ducks, two pintails, three scaup, and two redheads. The department is proposing split seasons in the south and Mississippi river duck zones.

Canada geese - The state is apportioned into two goose hunting zones, Horicon and Exterior. The Mississippi River is a management subzone within the Exterior Zone. Again in 2013 the US Fish & Wildlife Service has offered the option of seven additional days of goose hunting in the Exterior Zone, extending that season to 92 days. Seasons and bag limits are proposed to be as follows:

- Horicon Zone - 92 days, daily bag limit of 2 (two time periods, 6 tags per person)
- Exterior Zone - 92 days, daily bag limit of 2

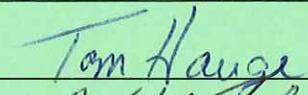
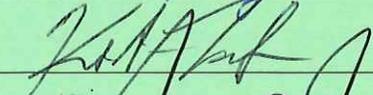
New in 2013, the possession limit for migratory birds will be three instead of two times the daily bag limit. Also new, these rules would allow open water hunting on 10 additional lakes.

The permanent rule will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. For example, it establishes an opener on the "Saturday nearest September 24" instead of that specific date in the current year, September 21, as is currently done in the emergency rule. Primary objectives of the rule are to reduce the amount of migratory bird-related emergency rule making that is needed each year, to simplify goose hunting regulations, codify provisions already in effect by emergency rule, and repeal a sunset provision.

**RECOMMENDATION:** That the Board adopt Board Orders WM-06-13 and WM-07-13 (Emergency).

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

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> background memo   | <input checked="" type="checkbox"/> Attachments to background memo    |
| <input type="checkbox"/> Statement of scope   | <input type="checkbox"/> Governor approval of statement of scope      |
| <input checked="" type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement |
| <input checked="" type="checkbox"/> Response summary  | <input checked="" type="checkbox"/> Board order/rule                  |

Approved by	Signature	Date
Tom Hauge, Bureau Director		8/9/13
Kurt Thiede, Administrator		8/12/13
Cathy Stepp, Secretary		8/12/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: August 12, 2013

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Request Adoption of the 2013 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board adoption of the proposed 2013 Migratory Game Bird seasons and regulations, board orders WM-06-13 and WM-07-13(E).

## **Background**

### Annual 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 has ranked in the top 5 states in the nation for the number of waterfowl hunters in recent years and has maintained a relatively stable level of waterfowl hunters for 30 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. 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) for each flyway 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 Bloomington, IN from July 21-26. At this meeting, the states received the 2013 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 established a framework on August 1.

### **2013 Duck population and regulation status**

The annual waterfowl hunting frameworks (season length, bag limits) offered by the USFWS are based on the current year biological data on breeding ducks and geese. This information is summarized below.

The 2013 continental breeding waterfowl conditions were much wetter than the dry conditions in 2012. The total continental duck estimate in 2013 was 45.6 million, which is the second highest estimate in the 58 year history of the survey (Appendix 1). The 2013 continental breeding population estimates for most surveyed duck species were similar to 2012 levels and/or above long term averages.

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 2013 mid-continent (US prairies, Great Lakes states and central Canada) mallard population estimate was 10.8 million and the Canadian pond count was 4.6 million. As a result of these data the USFWS established a 60 day duck season with a 6 duck daily bag limit and moderate to liberal bag limits for other specific species (Appendix 1). Wisconsin's duck harvest is dominated by 4 species; mallards, wood ducks, blue-winged teal and green-winged teal, which together make up about 75% of the total duck harvest. In addition to mallards, blue-winged teal and green-winged teal are both reported in continental surveys and in 2013 the estimates for these species were also excellent.

#### Wisconsin breeding duck conditions

While populations and habitat conditions in the U.S. and Canadian prairies determine the USFWS prescribed duck season framework for Wisconsin and other states, 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. While spring was late in coming, eventually the ducks were able to settle in Wisconsin to breed with better water conditions than in 2012 (Appendix 1). The total state breeding duck population estimate of 527,340 was similar to the 2012 estimate of 521,079 and 19% above the long-term mean. Overall, the total duck population estimate for 2013 is in the range of total duck numbers of the last 10 years (544,628). We expect overall average duck production in Wisconsin this year.

#### 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. 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 challenged with managing 2 different Canada goose populations with the same hunting regulations. The giant Canada geese in the flyway, now called the Temperate Breeding Population (TBP) has steadily grown and can sustain a higher hunting pressure while the MVP has been slowly decreasing so a more cautious regulatory approach has traditionally been used. In an effort to learn if increased liberalization of Canada goose hunting regulations is sustainable, the MFC tested the use of a standard hunting season framework for 5 years. From 2007 to 2011, fairly liberal season lengths and bag limits for each MVP harvest state remained unchanged. Each state retained the flexibility of schedule the timing of their Canada goose season. The health of these 2 populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The results of this 5 year trial were evaluated by the technical section of the MFC during the winter of 2012. The management objectives were to increase the harvest rate and potentially slow the

population growth of the TBP, while maintaining a lower harvest rate on the MVP and a stable to increasing MVP. The evaluation results were mixed, with an increased rate of harvest on TBP geese but a continued growth in the population. There was an acceptable harvest rate on MVP in all but 1 year but in the face of a declining population during this period. It was agreed among the states that share the MVP harvest that we could continue with small and cautious steps toward more liberal Canada goose hunting seasons. In Wisconsin, we took the first step by adding 7 days of Canada goose hunting in the Exterior Canada goose zone. These days occur at the end of the season so provide additional hunting opportunity but the overall harvest in December is low compared to earlier in the fall.

The next step in the process for Wisconsin are the proposed changes to the Horicon Zone as described in the June Migratory Bird permanent rule documents. These proposed changes are for an implementation date of fall 2014. The Horicon Zone is an area where the MVP geese concentrate during migration and regulations are designed to avoid overharvest. Maintaining the Horicon Zone regulations is important because nearly 20% of the statewide regular season harvest occurs in the counties near Horicon Marsh. Within the Horicon Zone over 80% of the Canada goose harvest in that zone and the highest concentration of the MVP harvest occurs in the eastern counties; Dodge, Fond du Lac and Washington and within about 20 miles of the Horicon Marsh. Western and northern areas of the Horicon Zone experience very low Canada goose harvest. Based on these data and suggestions offered during public and advisory committee meetings in 2012, the Department proposes shrinking the Horicon Canada Goose hunting zone by establishing the western boundary at Highway 73 and the northern boundary at Highway 23. The department proposes simplifying Canada goose hunting regulations in the Horicon Zone by eliminating the requirement to use carcass tags and instead require harvest reporting as is currently required in the Exterior Zone.

In 2013, spring breeding conditions for the MVP geese were improved and the spring breeding population increased 16% from last year to 320,000 but remained 10% below the long term average. Field reports indicate good production in 2013. In Wisconsin the 2013 resident Canada goose breeding population estimate of 138,925 was similar to last year. Field reports suggest varied production and hatch dates because of the delayed spring conditions.

#### Open Water Hunting

Wisconsin has a long tradition of protecting the open water of lakes and other waterbodies as a refuge for ducks during the duck hunting season. This management practice restricts duck hunters to the edge of lakes or adjacent to emergent vegetation. This practice has helped ducks by provide refuge areas and duck hunters by holding ducks on a lake. While Wisconsin duck hunters and ducks have been well served by this practice, there are methods of hunting diving ducks in open water that some hunters would like to have more opportunity to pursue. Currently "open water" duck hunting is allowed on the Great Lakes, Big Green Lake, Petewell Flowage and Lake Winnebago. In 2006, a duck hunter proposed an expansion of open water duck hunting opportunities through the Wisconsin Conservation Congress spring hearing process. This led to the following work by Department staff and duck hunters over a 6 year period.

#### Open Water Hunting Lakes Rule Development Process

- 2006 spring hearing process - Citizen resolution to open additional lakes over 1000 acres for open water duck hunting.
- 2007 - Statewide Conservation Congress question "Do you favor the CC Migratory Committee work with DNR waterfowl staff to examine the possibility of increasing open water hunting opportunities in Wisconsin?" Passes all 72 counties

- 2007 - The NR Board directs DNR and Conservation Congress to form an ad hoc group to evaluate this proposal
- 2008-2009 – Ad hoc committee of stakeholders and staff meet 3 times to evaluate 130 large lakes, develop selection criteria, and proposes list of 13 new open water lakes
- 2010- 9 local meetings held by Department staff near all 13 lakes to discuss with lake and local residents
- 2011 Some lake associations requested the summer to share information with lake residents at association annual meetings which are primarily held in summer. None provided any feedback to the Department following their meetings
- 2012 and 2013 -Spring Hearing questionnaire questions seeking input on the open water duck hunting lake proposal

This process resulted in the final recommendation. Hunters would be allowed to hunt in the open water beyond 1000 feet from shore if securely anchored on the following additional lakes:

- Beaver Dam Lake in Dodge County (excluding Rakes and Trestle Works Bays)
- Castle Rock Lake in Adams and Juneau counties (south of railroad bridge and county road G)
- Grindstone Lake in Sawyer County
- Fence, North Twin and Trout Lakes in Vilas County
- Lake Puckaway in Marquette and Green Lake counties (the waters west of the west end of the dredge bank, excluding the waters east of the west end of the dredge bank)
- Shawano Lake in Shawano County
- Lake Wisconsin in Sauk and Columbia counties (north of railroad bridge)
- Lake Wissota in Chippewa County (south of county road S and north of county road X).

### **Previous Hunter input**

The development of the 2013 waterfowl hunting season proposal was aided by several years of hunter surveys and public meetings that indicated the majority (about 2/3) of the waterfowl hunters were content with most of the starting dates, season lengths and bag limits for Canada goose and duck hunting seasons. In addition, the development of the Horicon Zone changes resulted from over 1 year of multiple analyses, committee meetings and public meeting discussions. The proposed addition of 10 open water duck hunting lakes is the result of several years of efforts between the Department and the Wisconsin Conservation Congress along with numerous other stakeholders.

With the foundation of spring survey data, USFWS waterfowl season frameworks, and public input on all aspects of the waterfowl season structure staff developed the following proposal for the 2013 waterfowl season.

### **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. An important note with regard to the federal duck season framework is that in 2013, the Saturday nearest September 24 is the earliest date possible, September 21. Next year, 2014, this will shift and the Saturday nearest September 24 is 6 days later than in 2013, or September 27.

An important change in the federal waterfowl hunting regulations is that the possession limit for all migratory game birds have been increased from 2 times the daily bag limit to 3 times the daily bag limit beginning in 2013.

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 based on the continued support by duck hunters for this reduced 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, **3 scaup** and **2 canvasback**. In addition, 5 mergansers to include not more than 2 hooded mergansers. Coot daily bag limit 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). The possession limit is increased from 2 times the daily bag limit to 3 times the daily bag limit for all migratory game birds. Opening day shooting hours to begin at 9 am.

Northern Zone – September 21 – November 19.

Southern Zone – September 28 – October 6, and October 12 - December 1.

Mississippi River Zone - September 21 – 29, then a 12 day split (September 30-October 11), reopening on October 12 – December 1.

**2) Youth Waterfowl Hunt.** The youth hunt will be September 14-15. 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 the Early September Canada goose so adults will also be able to harvest geese but not ducks during the youth hunt.

#### **3) Canada geese**

The state is apportioned into two goose hunting zones for the regular season: Horicon and Exterior. Other goose management subzones within the Exterior Zone include the Mississippi River.

**Exterior Zone** – **92 days.** Daily bag of 2 Canada geese.

North Zone - September 16- December 16.

South Zone –September 16- October 6 and October 12 – December 21.

Mississippi River Subzone – September 21– 29, October 12 – January 2.

#### **Horicon Time Periods**

Hunters with Horicon 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 27
Period 2	October 28 – December 16

### 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

The open season for White-fronted geese begins on September 20 for the Exterior (north and south) and the Horicon zone and then follows the same dates as for Canada geese in those zones. In the Mississippi River subzone of the Exterior zone the White-fronted goose season does not open until September 25 and then follows the same dates as those for Canada geese in that subzone. Daily Bag Limit: 1 white-fronted goose.

### **Public Meetings & 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. A total of 307 individuals offered comments on the waterfowl hunting seasons 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.

- **Rule process information** - Beginning in May 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. Over 18,000 people are now on GovDelivery notices regarding topics related to waterfowl management and hunting. This list was provided regular updates during the process.
- **Telephone, email and written comment.** Public comments and questions began coming in during June through telephone calls and emails. These were accepted through August 8.
- **July 11, Staff attended the LaCrosse County Conservation Alliance** annual waterfowl meeting to present information and received input primarily on the Mississippi River Zone season. About 25 waterfowl hunters were in attendance.
- **August 2, DNR Migratory Game Bird Committee, Stevens Point** This meeting is publicly noticed and the committee has staff from around the state, cooperating agencies and representatives of stakeholder groups. The status of waterfowl was presented and suggestions to the waterfowl hunting season were discussed. Committee has 20 members
- **August 3 – Migratory Committee of the Conservation Congress, Stevens Point.** Staff presented information on the status of waterfowl and a draft season proposal. The committee made suggestions for the hunting season proposal and voted on all aspects. Committee has 23 members
- **August 3 – Post-Flyway, Stevens Point.** A public meeting was held to present the population status and proposed season structure in an informal setting with waterfowl groups and interested individuals. 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), Lake Poygan

Sportsman's Club, Burlington Conservation Club, Land Hunt and Fish Club and Black Slough Conservation Club (BSCC). A total of 15 people attended

- **July 30-August 2, Public Hearings.** Four public hearings were held around the state and 116 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** - 30 people attended, 19 gave oral testimony
  - **Rice Lake** - 14 people attended, 6 gave oral testimony
  - **Appleton** - 44 people attended, 20 gave oral testimony
  - **Pewaukee** - 28 people attended, 3 gave oral testimony

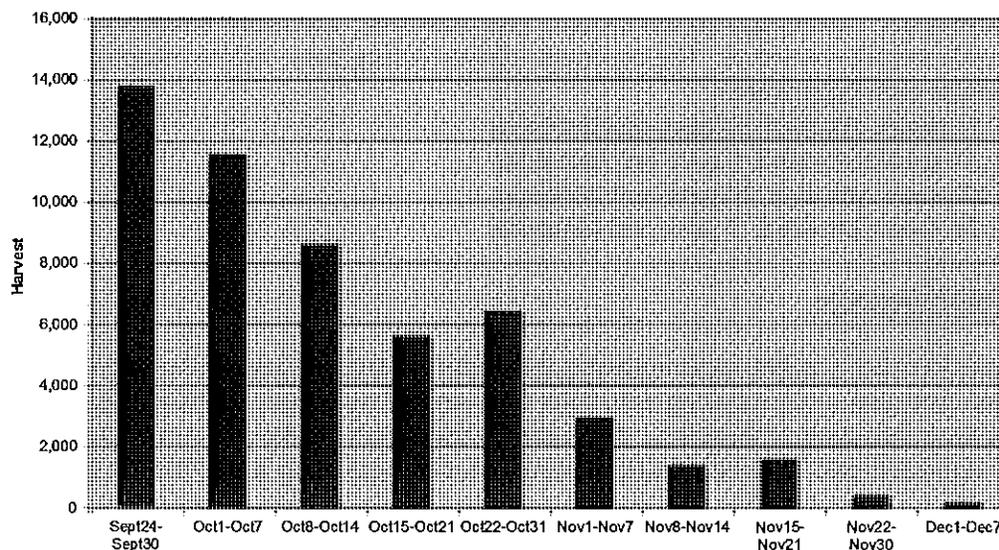
### **Public Input and Data Summary:**

There was a significant increase in public input regarding the waterfowl hunting seasons in 2013 with a total of 307 individual comments received along with input from several statewide and local conservation organizations representing thousands of members. There were a few aspects of the rule proposal which received most of the comments and I have summarized comments and supporting data related to those comments below.

### **North Duck Hunting Zone Season dates:**

Statewide waterfowl hunter mail surveys conducted in 2007 and 2009 revealed that about 60% of Wisconsin's duck hunters favored a north duck zone season that opened as early as possible or the Saturday nearest September 21. The primary motivations for this early opening date are that the earlier migrating ducks such as blue-winged teal are still present in late September but often not in October and that in much of the north duck zone area waters are frozen prior to the end of a 60 day duck season. A summary of 10 years of harvest data presented in the graph below clearly supports an early opening date for the north duck zone.

## Northern Counties, harvest by date (HIP data 1999-2009)

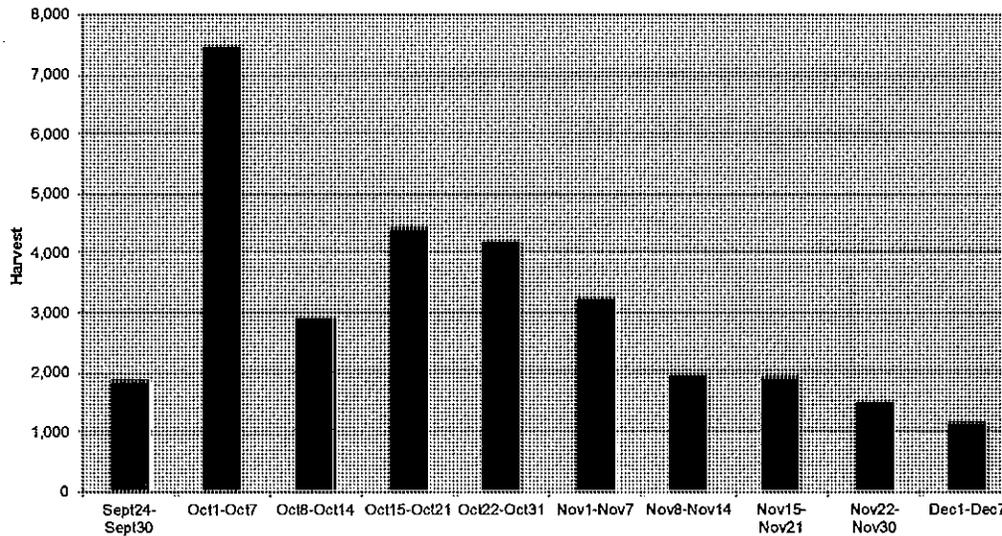


During the 2013 public input period on the waterfowl hunting season proposal, individual comments were almost evenly divided between opening on September 21 or September 28, with 57 comments in favor of the 21<sup>st</sup> and 65 in favor of the 28<sup>th</sup> (Appendix 2). The Conservation Congress and most of the waterfowl hunting groups, including the statewide groups of Wisconsin Waterfowl Association and Wisconsin Wildlife Federation, supported the September 21<sup>st</sup> opening date.

### South Duck Hunting Zone Season dates:

Statewide waterfowl hunter mail surveys conducted in 2007 and 2009 revealed that about 60% of Wisconsin's duck hunters favored the south zone opening the Saturday nearest October 1<sup>st</sup> and a week after the north duck zone. This input also favored the south duck zone opening for 9 days and then closing for a 5 day Monday-Friday period and reopening for the remainder of duck season. This season structure recognizes the significant difference in freeze up dates and duck migration that occurs from northern Wisconsin to southern Wisconsin. This opening date along with the 5 day closure or "split" accommodates some of the differences between the duck hunters that prefer earlier season duck hunting versus those who prefer later duck hunting. A summary of 10 years of harvest for the most southern part of Wisconsin, shows that most duck harvest occurs in October despite the desire for later hunting by some duck hunters.

## South Counties, harvest by date (HIP data 1999-2009)



During the 2013 public input period on the waterfowl hunting season proposal, individual comments were almost evenly divided between opening the season on September 28 or October 5, with 55 comments in favor of September 28<sup>th</sup> and 67 in favor of October 5<sup>th</sup> (Appendix 2). The Conservation Congress and most of the waterfowl hunting groups, including the statewide groups of Wisconsin Waterfowl Association and Wisconsin Wildlife Federation, supported the September 28<sup>th</sup> opening date.

### Mississippi River Zone Duck Hunting Season dates:

After many years of discussion, negotiations with the US Fish and Wildlife Service and duck hunter surveys, we established a new duck hunting zone specifically for the Mississippi River. At that time, a compromise season structure was developed attempting to balance between the duck hunters that prefer to hunt early versus late on the Mississippi River. This season structure was to open the river duck season the Saturday nearest September 21<sup>st</sup> and remain open for 9 days, close for 12 days and reopen for the remainder of the 60 day season. This is the structure we have used for the last 2 seasons and is proposed for 2013. At the August 3 meeting of the Migratory Committee of the Conservation Congress, committee members from the LaCrosse County Conservation Alliance requested an alternative season structure be considered that had a 19 day versus 12 day midseason closure. For 2013, these 2 proposals are the following:

Department Proposal: Sept 21- 29; Oct 12- Dec 1

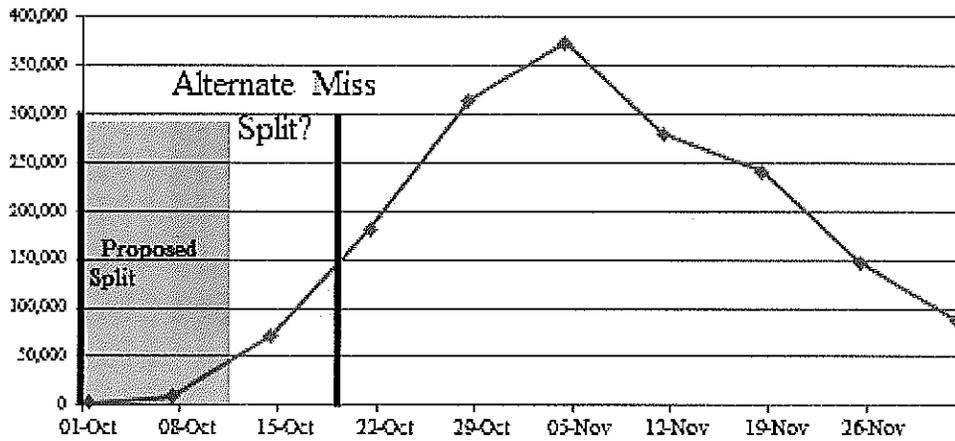
Conservation Congress Proposal: Sept 21-29, (19 day split), Oct 19- Dec 8

The primary motivation for this long closure and later duck hunting is the desire of some duck hunters to hunt ducks as areas are freezing up and ducks are concentrating on the remaining open water in the Mississippi River.

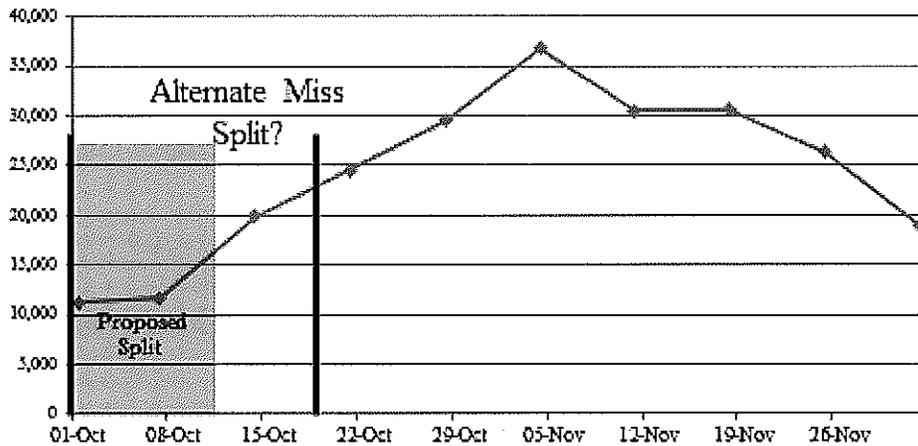
An analysis of duck migration data on the Mississippi River would suggest that a 19 day closure of the duck season during a significant part of October would shift 7 days of hunting from a period where duck

numbers are building on the river to a period in early December when total duck numbers have declined and in some years major areas would be frozen out. A Mississippi River Duck season proposal with this long of a closure in October would reduce overall duck hunting opportunity.

### Mississippi River Fall Surveys- Diver Average 1996-2012



## Mississippi River Fall Surveys- Dabbler average 1996-2012



During the 2013 public input period on the waterfowl hunting season proposal, individual comments were divided among 3 options. A total of 52 individual comments were in favor of the Department proposal, 40 comments in favor of the Conservation Congress alternative proposal and 12 comments preferred that we return to the old season framework of opening the Saturday nearest October 1 with only a 5 day split identical to the south zone proposal (Appendix 2). The Wisconsin Waterfowl Association and Wisconsin Wildlife Federation favored the Department proposal. The LaCrosse County Conservation Alliance, Conservation Congress Migratory Committee and the Burlington Conservation Club favored the alternative proposal.

### **Rule Development:**

These rules were developed with assistance from the bureaus of law enforcement, science services, and legal services.

### **Economic Impact of Proposed Rules**

The department has determined that these rules will have no economic impact locally or statewide because they do not represent a significant change from the rules in effect in previous seasons.

Pursuant to the Governor's Executive Order 50, Section IV, the department provided notice that we would accept comments on this Economic Impact Analysis from July 9 through July 22. A comment period of 14 calendar days was selected because this rule will have no or minimal economic impact locally or statewide. No comments were received.

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 and 45, Wis. Admin. Code, relating to hunting, trapping and the management of department lands 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:**

The department has determined that 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 comments the department received from Legislative Council Clearinghouse have been incorporated (see attached report).

Figure 1. 2013 FEDERAL SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS

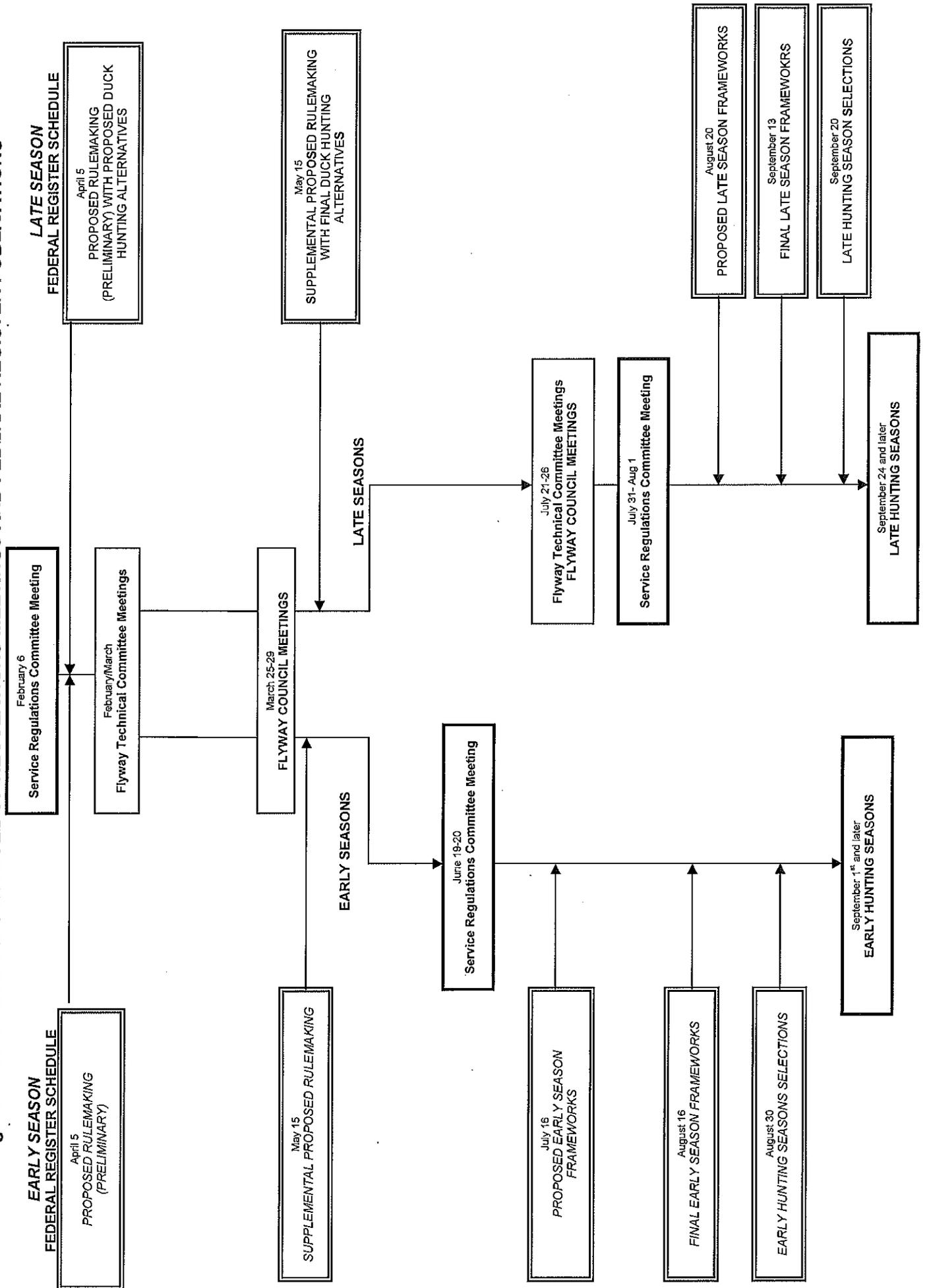
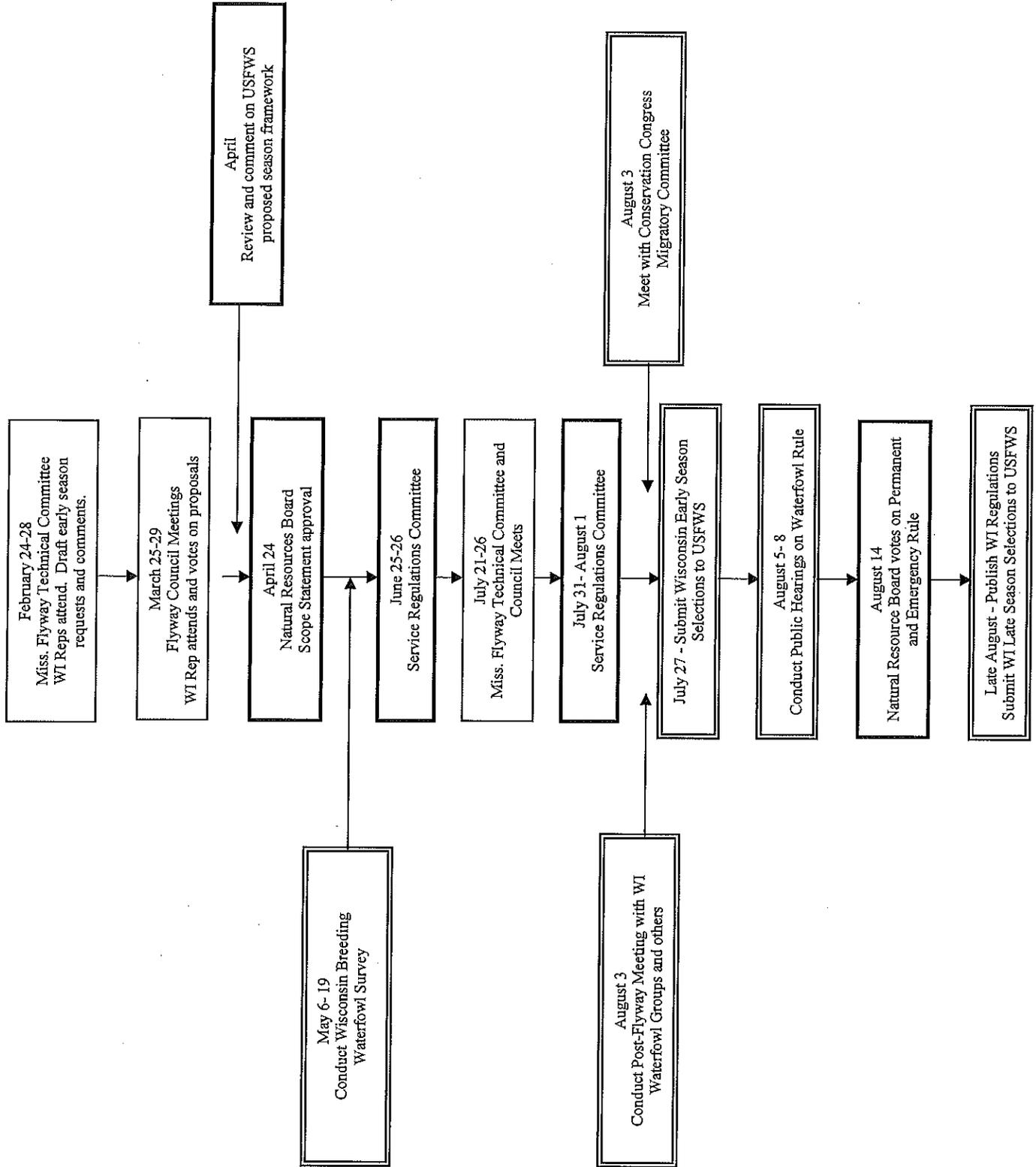


Figure 2. 2013 WISCONSIN MIGRATORY GAME BIRD REGULATORY SCHEDULE



## Appendix 1. 2013 Waterfowl Population Status

### USFWS Surveys:

- Traditional area mallards – 10.4 million (similar to 2012 and 36% above the long-term average (LTA))
- May Ponds – Canada – 4.6 million (17 % above 2012 and 32% above LTA)
- Total Ducks – 45.6 million (2<sup>nd</sup> highest, after record 2012 and 33% above LTA)
- Mid-continent mallards (traditional area minus AK, +WI, MN, MI) = 10.8 million
- Others:
  - ◊ Blue-winged Teal – 7.7 million – 60% above LTA
  - ◊ Gadwall – 3.3 million – 80% above LTA
  - ◊ Green-winged Teal – 3.1 million – 51% above LTA
  - ◊ Northern Shoveler – 4.8 million – 96% above LTA
  - ◊ Northern Pintail – 3.3 million – 17% below LTA
  - ◊ Scaup – 4.2 million – 17% below LTA
  - ◊ Wigeon - 2.6 million – equal to LTA
  - ◊ Canvasback - 787,000 – 37% above LTA

The combination of 10.8 million mid-continent mallards and a Canada pond count at 4.6 million results in a liberal 60 day season under the Adaptive Harvest Management model.

**Table 3** - Optimal regulatory strategy<sup>a</sup> for the Mississippi and Central Flyways for the 2012 hunting season. This strategy is based on current regulatory alternatives (including the closed-season constraint), mid-continent mallard models and weights, and the dual objectives of maximizing long-term cumulative harvest and achieving a population goal of 8.5 million mallards.

BPOP <sup>b</sup>	Ponds <sup>c</sup>									
	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0
≤4.5	C	C	C	C	C	C	C	C	C	C
4.75–6.0	R	R	R	R	R	R	R	R	R	R
6.25	R	R	R	R	R	R	R	R	R	M
6.5	R	R	R	R	R	R	R	M	M	M
6.75	R	R	R	R	R	M	M	M	L	L
7	R	R	R	M	M	M	L	L	L	L
7.25	R	R	M	M	L	L	L	L	L	L
7.5	R	M	L	L	L	L	L	L	L	L
7.75	M	L	L	L	L	L	L	L	L	L
≥8.0	L	L	L	L	L	L	L	L	L	L

<sup>a</sup> C = closed season, R = restrictive, M = moderate, L = liberal.

<sup>b</sup> Mallard breeding population size (in millions) in the WBPBS (strata 13–18, 20–50, 75–77) and Michigan, Minnesota, and Wisconsin.

<sup>c</sup> Ponds (in millions) in Prairie Canada in May.

Table 1. 2013 Wisconsin Spring Duck Survey waterfowl population estimates.

<u>Species</u>	<u>Population Estimate</u>	<u>Standard Error</u>	<u>Years of Air-ground Data Used</u>	<u>Long-term (1973-12) Averages</u>	<u>Test for Diff from 2012-13</u>	
					<u>Z-stat</u>	<u>Prob</u>
Mallard	181,200	21,663	2012-13	182,957	0.50	=0.61
BWT	73,483	16,929	2005-13	112,847	1.25	=0.21
Wood Duck	91,516	16,084	2008-13	79,223	0.46	=0.64
Other Ducks	181,141	44,949	1997-13	59,184	1.36	=0.17
Total Ducks	527,340	55,091	-	442,425	0.09	=0.93
Canada Geese	138,925	23,786	2013	91,718*	0.18	=0.85

\* = average of 1986-2012.

Wisconsin is fortunate to have a substantial breeding population of ducks supported by mallards, wood ducks, blue-winged teal, and others which each take advantage of a unique composition of wetland and nesting habitats. Both mallard and wood duck breeding population estimates appear to have leveled off after long-term increases and will continue to be monitored for any change, along with blue-winged teal. Current Wisconsin landscape conditions combined with a good rain/snowfall year seem to be supporting total breeding duck numbers at a level over 500,000 and mallard breeding numbers around 200,000. The 2013 Wisconsin total spring breeding duck population estimate of 527,340 was similar to 2012 and 19% above the long term average. While interpretation of the 2013 waterfowl survey results is difficult due to a late winter and mixed habitat data, it appears that the landscape will provide good duck production in 2013.

**Appendix 2. Migratory Game Bird Public Comment Summary 2013**

*Bold/Italics = Department proposal*

<u>Issue</u>	<u>Input/Hearings</u>	<u>Groups at meetings</u>	<u>Conservation Congress</u>
<b><i>Miss River Duck Zone Sept 21- Sept 29, Oct 12-Dec 1)</i></b>	52	2	-
Miss River Duck Zone Sept 21- Sept 29, Oct 19-Dec 8)	40	2	x
Miss River Duck Zone Sept 28- Oct 6, Oct 12- Dec 1	12	1	
Miss River Duck Zone Sept 28- Dec 1	0	1	
<b><i>North Duck Zone, Sept 21- Nov 19</i></b>	57	6	x
North Duck Zone opener, Sept 28- Dec 1	65	2	
<b><i>South Duck Zone opener, Sept 28- Oct 6, Oct 12- Dec 1</i></b>	55	6	x
South Duck Zone opener, Oct 5- 13, Oct 19- Dec 8	67	2	
South Duck Zone open Sept 21 (main concern same opener)	4 (16)	0	
<b><i>Duck Shooting Hours on Opening Day, 9am</i></b>	31	1	x
Duck Shooting Hours on Opening Day, 1/2 hr before sunrise	54	5	
Duck Shooting Hours on Opening Day, noon	6	2	
<b><i>Horicon Goose Zone Changes</i></b>	48	8	x
Oppose or want modification	3	0	
<b><i>Bag Limit 1 Hen Mallard</i></b>	49	8	x
2 hens	11	0	
<b><i>Addition of 10 Open Water Hunting Lakes</i></b>	48	6	x
Oppose additional lakes	5	2	
Want lakes Poygan/Butte des Morts added	17	0	
Total email/mail/phone comments	191		
Attendance at Public Hearings	116		



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Scott Grosz and Jessica Karls-Ruplinger  
*Clearinghouse Co-Directors*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 13-052

#### 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 November 2011.]**

#### 2. Form, Style and Placement in Administrative Code

a. Throughout the proposed rule, proper spacing should be used in citations. For example, “NR 10.01(1)(b)” should read “NR 10.01 (1) (b)”. [See the example following s. 1.03 (1), Manual.]

b. In s. NR 10.01 (1) (b), the “Daily Bag Limit” for wild duck appears to be the same in each zone. Would it be clearer to establish a single statewide bag limit?

c. In s. NR 10.01 (1) (g) 1. d., use of parentheses should be avoided. [s. 1.01 (6), Manual.] Is the material in the parentheses substantive in nature? Should the material be placed in a note?

d. In s. NR 10.01 (1) (g) 3., the following headings appear to have been omitted: Locality; Open Season; Daily Bag Limit; and Possession Limit.

e. Throughout the proposed rule, the department should confirm that cross-references conform to the style prescribed by s. 1.07 (2), Manual. For example, the reference to “par. b.” in s. NR 10.01 (1) (g) 1. e. should instead refer to “subd. 1. b.”

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. NR 10.001 (9w), insert the word “a” between the words “as” and “separate”.

b. The department should consider revising s. NR 10.01 (1) (g) 1. e. for clarity. Subdivision 1. e. establishes a goose hunting season concurrent to a portion of the duck hunting season established in the Mississippi River Zone. It may be clearer to specify those dates in subd. 1. e. instead of referencing s. NR 10.01 (1) (b). Subdivision 1. e. could read as follows: "Begins on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for a season total of 92 days." If this change is adopted, the remainder of the proposed rule should be reviewed for similar instances.

c. In s. NR 10.01 (1) (v), should the amended language read as follows: "the Saturday before the beginning of the open season established for the north duck zone by par. (b)"?

d. Section NR 10.32 repeals and recreates a map which indicates the boundaries of the north zone, south zone, and Mississippi River zone. It appears that the recreated map is identical to the repealed map. Is repealing and recreating this map necessary?

**ADMINISTRATIVE RULES  
FISCAL ESTIMATE AND  
ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original     Updated     Corrected

Administrative Rule Chapter, Title and Number

Ch. NR 10, Game and Hunting. Board Order WM-06-13

Subject

Establishing the 2013 migratory game bird seasons, waterfowl hunting zones, and regulations.

Fund Sources Affected

GPR     FED     PRO     PRS     SEG SEG-S

Chapter 20, Stats. Appropriations Affected

None

Fiscal Effect of Implementing the Rule

No Fiscal Effect  
 Indeterminate

Increase Existing Revenues  
 Decrease Existing Revenues

Increase Costs  
 Could Absorb Within Agency's Budget  
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy  
 Local Government Units

Specific Businesses/Sectors  
 Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes     No

Policy Problem Addressed by the Rule

This proposal will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. Primary objectives of the rule will be to reduce the amount of migratory bird-related emergency rule making that is needed each year, to simplify regulations, codify provisions already in effect by emergency rule, and repeal a sunset provision.

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 IV, the department provided notice that we would accept comments on this Economic Impact Analysis from July 9 through July 22. A comment period of 14 calendar days was selected because this rule will have no or minimal economic impact locally or statewide. No comments were received.

Economic Impact

Because the hunting season frameworks proposed in this rule will be comparable or identical to those in place during previous seasons, no economic impacts are anticipated. 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

This rule will have a minor fiscal impact on the department in the first year. In future years, the department anticipates an annual saving of \$6,000 to nearly \$9,000 because of simplifications to Canada goose hunting regulations. These savings will result from no longer having to print and mail carcass tags to goose hunters. This is presented as a range of potential savings because actual costs have varied in the previous 3 years based on the price of print stock, printing, mailing, and the number of hunters. Instead of carcass tags, Horicon Zone goose hunters will need to report their harvest on a punch card and to the department by telephone, but this

infrastructure is already in place for Exterior zone goose hunters and will result in minimal costs to edit the call in program. The department anticipates a cost savings of only \$2,000 in the first year of implementation because savings will be offset by \$4,750 in expenditures for our automated license system vendor to make program updates.

Other regulations modified by this proposal will not require significant changes to past practices or procedures and will have no fiscal impact but may result in more efficient use of department staff time if the need for annual rule making is reduced.

**Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule**

Changes to the Canada goose regulations and harvest reporting will result in simpler, more understandable rules and simpler hunting practices.

Through this rulemaking process, the department will establish more general descriptions of the migratory bird hunting season in Wis. Admin. Code. For example, new rule language might start the duck season on the "last Saturday in September" instead of a specific date. Emergency rulemaking will still be required of the department as the federal frameworks are established each year, but a result would be less rulemaking overall. It is difficult to estimate a precise amount of costs and other benefits as a result of reduced rule making needs. The amount of reductions will depend on the consistency of the federal framework for migratory bird hunting regulations. The federal framework does change a certain amount every year and the amount of change varies by year. The resulting benefit will primarily be improved use of department staff time.

An alternative is to not implement a rule and continue establishing migratory bird hunting regulations entirely by emergency rule each year. The disadvantage of this alternative is that it is absolutely certain that a complete emergency rules package would need to be promulgated each year. Another disadvantage is that the permanent rules contained in NR Ch. 10 will never reflect the regulations that are actually in place. This can be a disadvantage for law enforcement officers and anyone who seeks migratory bird hunting regulation information from that source.

**Long Range Implications of Implementing the Rule**

Implementing these rules may help reduce the amount of time invested in the rulemaking process by department staff. Implementing these rules will have little impact on the public except that they will continue to have good waterfowl hunting opportunities into the future. A subset of Canada goose hunters in the Horicon Zone will benefit from simplified goose hunting regulations and no need to worry about missing the permit application deadline and not being able to hunt in that zone.

**Compare With Approaches Being Used by Federal Government**

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 proposal takes advantage of nearly all of the opportunities offered under the federal framework. One difference is that Wisconsin allows one hen mallard in the daily bag limit even though the state could allow two. This is done at the request of waterfowl hunters who want to be conservative in regulating the harvest of breeding female mallards.

**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.

**Name and Phone Number of Contact Person**

Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.

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

The statement of scope for this rule, SS 027-13, was approved by the Governor on March 6, 2013, published in Register No. 687, on March 31, 2013, and approved by the Natural Resources Board on April 24, 2013. This rule was approved by the Governor on \_\_\_\_\_.

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.06 (9) (b) and 10.31 (1) (a), to amend NR 10.001 (9w), 10.01 (1) (v), 10.125 (3) (intro.), 10.125 (4) (a); to repeal and recreate NR 10.01 (1) (b) to (u), 10.12 (3) (c), and 10.31 (3) (a); and to create NR 10.12 (3) (e), and 10.125 (2) (b) 3. related to migratory bird hunting regulations.

WM-06-13

Analysis Prepared by the Department of Natural Resources

**Statutory Authority:** The chapter on wild animals and plants, in s. 29.014, Stats., "rule making for this chapter", establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting. Additional statutory authority is found in §§. 23.11, 29.192 and 29.041, Stats.

**Statutes Interpreted and Explanation of Agency Authority:** Special regulations on the taking of certain wild animals are authorized under s. 29.192, Stats., including specific language that authorizes rules related to Canada goose hunting.

Wisconsin's boundary waters with other states are popular waterfowl hunting locations. Specific authority to regulate hunting in and on all interstate boundary waters and outlying waters is established in s. 29.041 Stats.

Sections 23.11 and 29.014, Stats. allow for the protection of natural resources, establish general department powers on lands it manages including migratory bird refuges, and authorize the establishment of hunting and trapping regulations on department managed lands.

**Related Statute or Rule:** This rule order establishes the season length, bag and possession limits for the Wisconsin migratory game bird seasons. Each year similar emergency rules are promulgated and the board order number for that related rule is WM-07-13(E). This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures.

**Plain Language Analysis:** SECTIONS 1, 2 and 10 of this rule eliminate references to the Brown County and New Auburn subzones of the Exterior Zone for Canada goose hunting. Those subzone designations have not been used by the department in recent years when setting migratory bird hunting seasons by emergency rule.

SECTION 2 of this rule order establishes the season length, bag and possession limits for the migratory game bird seasons. For ducks, the state is divided into three zones, each with 60-day seasons as allowed by federal rule under liberal season frameworks. The proposed seasons in each zone are:

North duck zone - the season begins at 9:00 a.m. on the Saturday nearest September 24 and continues for 60 consecutive days.

South duck zone - the season begins at 9:00 a.m. on the Saturday nearest October 1 and continues for 9 days, followed by a 5-day split, and then reopens for 51 consecutive days.

Mississippi River duck zone - the season begins at 9:00 am on the Saturday nearest September 24 and continues for 9 days, followed by a 12 day split, and then reopens for 51 consecutive days.

The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 1 black duck, 2 canvasbacks, 3 wood ducks, 3 scaup, 2 pintails and 2 redheads.

For Canada geese, the state is apportioned into 2 goose zones for the regular hunting season, Horicon and Exterior, each with a 92 day season. The Mississippi River Subzone is a special goose management subzone within the Exterior Zone. Season lengths are:

Horicon Zone – Two hunting periods, the first period beginning September 16 and the second on the Monday following the last Friday in October until December 16

Exterior Zone in the northern duck zone - Begins on September 16 and continues for 92 consecutive days

Exterior Zone in the southern duck zone – Begins on September 16 continuing until a closure during the 5 day split in the southern duck zone hunting season and then reopens following this split for the remainder of a season total of 92 days.

Mississippi River subzone – Begins the same day as the duck hunting season in the Mississippi River Zone, closes during the Mississippi River Zone duck hunting season split and reopens following this split for the remainder of a season total of 92 days.

The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the regular open seasons within the zones.

Finally, this SECTION establishes that the possession limit for migratory birds is three times the daily bag limit instead of two.

SECTION 3 establishes the youth waterfowl hunting season dates.

SECTION 4 lifts a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

SECTION 5 expands open water hunting opportunities for migratory birds by adding 10 lakes to the list of those where open water hunting is allowed if the hunter is more than 1,000 feet from the shoreline and islands.

SECTION 6 relaxes the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities.

SECTIONS 7 to 9 simplify Canada goose hunting regulations in the Horicon Zone by providing the department the option of not requiring carcass tags and eliminating the permit application deadline when those measures are not necessary to restrict the harvest of Canada geese.

SECTION 11 decreases the size of the Horicon Zone for goose hunting by redesignating portions of Columbia, Winnebago, Fond du Lac, Marquette, and Green Lake counties from Horicon Zone to Exterior Zone.

**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.

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. These contrasting goals create a challenge in the development of hunting regulations. In order to improve our harvest management, the Mississippi Flyway Council tested the use of a standard season framework for 5 years while monitoring population size and harvest rates for the MVP and TBP. From 2007 - 2011, season lengths and bag limits for each MVP harvest state were unchanged. Each state retained the flexibility to schedule the timing of their Canada goose season. At the winter 2012 flyway meeting, analysis of the impacts of these 5 years of stable regulation were reviewed and the results were mixed with regard to the management objectives. It was decided among the member states that a cautious and slow approach should be taken toward continued liberalization of Canada goose hunting seasons.

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:** 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:** In the past, the department has annually promulgated emergency and permanent rules establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final necessary 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. 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 are not useful, current information. Through this rulemaking process, the department is evaluating ways to establish more general descriptions of the migratory bird hunting season in administrative code. For example, new rule language starts the northern duck season on the "Saturday nearest September 24" instead of a specific date. Emergency rulemaking will still be required of the department as the federal frameworks are established each year, but the result would be less rulemaking overall.

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.

In 2011 the USFWS gave our state the option of reconfiguring duck hunting zones and after an 11 month public input process Wisconsin implemented changes for a 5 year period. Waterfowl hunters have been supportive of the new zone configuration and this proposal contains the same zone configuration that was in effect for the 2011 season. The department's position has been that the configuration of duck zones is an issue of hunter opportunity and satisfaction which does not have significant impact on duck populations.

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 on August 3. Staff gather public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. In 2013, public hearings were held from August 5-8 around the state to solicit additional input on the proposed annual waterfowl rule.

Wisconsin has a long tradition of restricting waterfowl hunting to the near shore and marsh areas of lakes and flowages. This provides safe open water resting areas for migrating waterfowl and helps keep ducks on water bodies for a longer period during the hunting season. However, "open water" hunting is allowed on some large lakes and the Great Lakes where it is believed that open water hunting does not eliminate safe resting areas. This type of hunting may involve specialized boats and other equipment and primarily targets diving species of ducks. All open water blinds must be removed at the close of hunting hours each day. Following a citizen request to increase hunting opportunities by expanding the number of lakes available for open water duck hunting, an ad hoc committee of citizens conducted a statewide review of 130 of the state's largest lakes, held local meetings, and made recommendations for additional open water hunting lakes. Adding the lakes in this proposal will increase areas available to waterfowl hunters and provide more opportunities for a unique type of waterfowl hunting.

This rule will expand opportunity for waterfowl hunters with disabilities. Open water waterfowl hunting is currently prohibited on all but a handful of lakes in WI. A person who is hunting near emergent vegetation as required under current rules is not considered to be hunting from open water. The concern is that those with disabilities may physically not be able to get into a smaller boat, skiff, or blind and that it may be difficult or impossible to place an accessible boat or blind near enough vegetation capable of meeting the rule's requirements. This proposal will make it possible for disabled permit holders, and their companions, to hunt from a craft such as a pontoon boat, which may be impossible to locate within three feet of required emergent vegetation.

This proposal would simplify Canada goose hunting regulations in the Horicon Zone by providing the department the option of not requiring carcass tags and eliminating the permit application deadline when those measures are not necessary to restrict the harvest of Canada geese. In recent years the department has been able to provide more carcass tags to each applicant than most hunters were able to use. With improved harvest reporting methods, reduced Horicon Zone hunter numbers and efforts to reduce management costs, it is possible to eliminate the use of a carcass tag. Hunters will continue to be restricted to a specific number of Canada geese harvested in the Horicon Zone each season but this will be controlled through a punch card and telephone reporting system rather than issuance of a carcass tag.

In an effort to provide additional hunting opportunity and simplify regulations, while still protecting Ontario nesting Canada geese from overharvest, this proposal would shrink the size of the Horicon Zone. Areas removed from the Horicon Zone would become part of the Exterior Zone. During regular Canada goose seasons in the Horicon and Exterior Zones, Wisconsin harvests geese from 2 nesting populations; geese that nest locally and geese that nest in wilderness areas of northern Ontario. Harvest of the Ontario population is shared among several states and is managed to avoid overharvest. The Horicon Zone is an area where the Ontario nesting geese concentrate during migration and regulations are designed to avoid overharvest. Maintaining the Horicon Zone regulations is important because nearly 20% of the statewide regular season harvest occurs in the counties near Horicon Marsh.

However, Canada goose hunting regulations are regularly reviewed and can adapt to changes in hunting pressure and goose distribution. In recent years, greater than 80% of the Canada goose harvest within the Horicon Zone has occurred in Dodge and Fond du Lac counties. The band recoveries from Canada geese that nest in northern Ontario are highest on the eastern counties of the Horicon Zone within about 20 miles of the Horicon Marsh. Western and northern areas of the Horicon Zone experience very low Canada goose harvest. Based on these data and suggestions offered during meetings in 2012, the Department proposes shrinking the Horicon Canada goose hunting zone by establishing the western boundary at Highway 73 and the northern boundary at Highway 23.

Closing migratory bird hunting hours early on managed public hunting areas in some states has been shown to provide good hunting across an entire property rather than just near refuges, hold ducks in an area for a longer period of time, and provide better hunting opportunities throughout the season. An experimental early closure has been applied at the Mead Wildlife Area in Marathon and Wood counties and at Zeloski Marsh, Lake Mills Wildlife Area in Jefferson. The regulation has been in place only during the early part of the season when hunting pressure is heaviest. The regulation has sunset after a three year trial period. There continues to be support for the special regulations and reauthorization by rule is needed for them to remain in effect.

**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:** 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

**Deadline for Written Comments:** The deadline for written comments was August 8.

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**Section 1. NR 10.001 (9w) 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 Horicon goose management zone described in s. NR 10.31, and includes the Mississippi River, ~~Brown County and New Auburn subzones~~ subzone which shall be treated as a separate management ~~subzones~~ subzone for other purposes.

SECTION 2. NR 10.01 (1) (b) to (u), are repealed and recreated to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01 (1) (b) <i>All species of wild duck</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, 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 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 limit.
	Northern zone as established in s. NR 10.32	9:00 a.m on the Saturday nearest September 24 and continues for 60 consecutive days		
	Southern zone as established in s. NR 10.32	9:00 a.m. on the Saturday nearest October 1 and continues for 9 days, followed by a 5-day split, and then reopens for 51 days consecutive days.		
	Mississippi River zone as established in s. NR 10.32	9:00 am on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for 51 consecutive days.		

**SECTION 2. Continued.**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01 (1) (c) <i>Coots and moorhens</i>	Entire state	Concurrent with the open season for ducks established in par. (b)	15	45 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>Note:</b> Moorhen is synonymous with gallinule.				
NR 10.01 (1) (e) <i>Sora and Virginia a rails</i>	Entire state	Concurrent with the open season for ducks established in par. (b)	25	75 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.
NR 10.01 (1) (f) 1. <i>Snipe</i>	Entire state	Concurrent with the open season for ducks established in par. (b)	8	24 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.
NR 10.01 (1) (f) 2. <i>Woodcock</i>	Entire state	Beginning on the first Saturday nearest Sept. 22 and continuing for 45 consecutive days	3	9 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.

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 except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	a. Entire state	September 1 — September 15	5	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.
	b. 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	2	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.
	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.	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 for a season total of 92 days.	2	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.
	d. Horicon zone	Two permit periods		Equivalent to the seasonal limit established by the department 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.
		September 16 until the Sunday following the last Friday in October.	2	

SECTION 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
		Begins on the Monday following the last Friday in October continuing for a season total of 92 days combined for both periods.	2	
	e. Mississippi River subzone	Begins on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for a season total of 92 days.	2	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.
2. Snow or blue and Ross' geese except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	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. 2. e. and g.	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 for a season total of 92 days.		
	c. Horicon zone	September 16 and continues for 92 consecutive days		
	d. Mississippi river subzone	Begins on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for a season total of 92 days.		

SECTION 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 20 and continues for 88 consecutive days	1 white-fronted goose	3 white-fronted geese 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 established in s. NR 10.32 except for the zones and subzones described in this subd. 3.c. and d.	Begins on September 20 continuing until the closure during the 5-day split in the southern duck zone hunting season in par. b and then reopens, continuing for a season total of 88 days.		
	c. Horicon zone	September 20 and continues for 88 consecutive days		
	d. Mississippi River subzone	Begins on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for a season total of 88 days.		

SECTION 2. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
4. Brant except on the first day of the duck season in par. b. when brant hunting is not allowed until 9:00 a.m.	Entire state	As established by zone	1	3 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. 3. c. and d.	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 for a season total of 92 days.		
	c. Horicon zone	September 16 and continues for 92 consecutive days		
	d. Mississippi River subzone	Begins on the Saturday nearest September 24 and continues for 9 days, followed by a 12-day split, and then reopens for a season total of 92 days.		
10.01 (1) (h) <i>Mourning dove</i>	Entire State	Sept. 1 – Nov. 9	15	45

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 except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.	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 for 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.
	Southern zone as established in s. NR 10.32	Concurrent with the open youth waterfowl hunt in par. v. and open southern zone regular duck season par. b. Reopens on first or second Friday in January and continues for 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.
	Mississippi River zone as established in s. NR 10.32	Concurrent with the open youth waterfowl hunt par. v. and the open Mississippi River zone regular duck season in subd. 1. b. Reopens on first or second Friday in January and continues for 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.
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.	9 in aggregate with those species listed under subd. 1 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.
3. Geese except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.	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 the age of 16 may hunt all species of wild duck, mergansers, geese, coots, and moorhens statewide for 2 consecutive days starting on ~~September 17~~ the Saturday before the beginning of the open season established for the north duck zone by par. (b). 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 subzone being hunted as listed in par. (g) 1 .a. to h., 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 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 10.06 (9) (b) is repealed.**

**SECTION 5. NR 10.12 (3) (c) is repealed and recreated to read:**

10.12 (3) (c). *Large Lakes.* Blinds in open waters of the following lakes if more than 1,000 feet from any shoreline including islands provided blinds are securely anchored: Beaver Dam Lake in Dodge County (excluding Rakes and Trestle Works Bays), Castle Rock Lake in Adams and Juneau counties (south of railroad bridge and county road G), Fence Lake in Vilas County, Grindstone Lake in Sawyer County, North Twin Lake in Vilas County, Petenwell flowage in Adams, Juneau and Wood counties (north of state highway 21 and south of state highway 73), Lake Puckaway in Marquette and Green Lake counties (the waters west of the west end of the dredge bank, excluding the waters east of the west end of the dredge bank), Shawano Lake in Shawano County, Trout Lake in Vilas County, Lake Winnebago, Lake Wisconsin in Sauk and Columbia counties (north of railroad bridge), and Lake Wissota in Chippewa County (south of county road S and north of county road X).

**SECTION 6. NR 10.12 (3) (e) is created to read:**

NR 10.12 (3) (e) Persons holding a Class A or B disabled permit that authorizes hunting from a stationary vehicle and which has been issued for more than 1 year, and any person who assists the disabled hunter in the same boat, may hunt more than 3 feet from emergent vegetation that provides the required 50 % concealment of the hunters and boat, but not farther than necessary to maintain the minimum depth of water necessary for operation of the boat being used by the hunters.

**SECTION 7. NR 10.125 (2) (b) 3. is created to read:**

NR 10.125 (2) (b) 3. Horicon zone permits may be obtained at a license vendor or department service center location throughout the open season unless the department has determined that the special requirements established in sub. (3) are necessary to restrict the harvest of Canada geese.

**SECTION 8. NR 10.125 (3) (intro.) is amended to read:**

**NR 10.125 (3) SPECIAL REQUIREMENTS.** ~~Unless otherwise directed by the department,~~ If the department determines that extra harvest control measures are necessary to restrict the harvest of Canada geese, the following requirements apply to the Horicon zone:

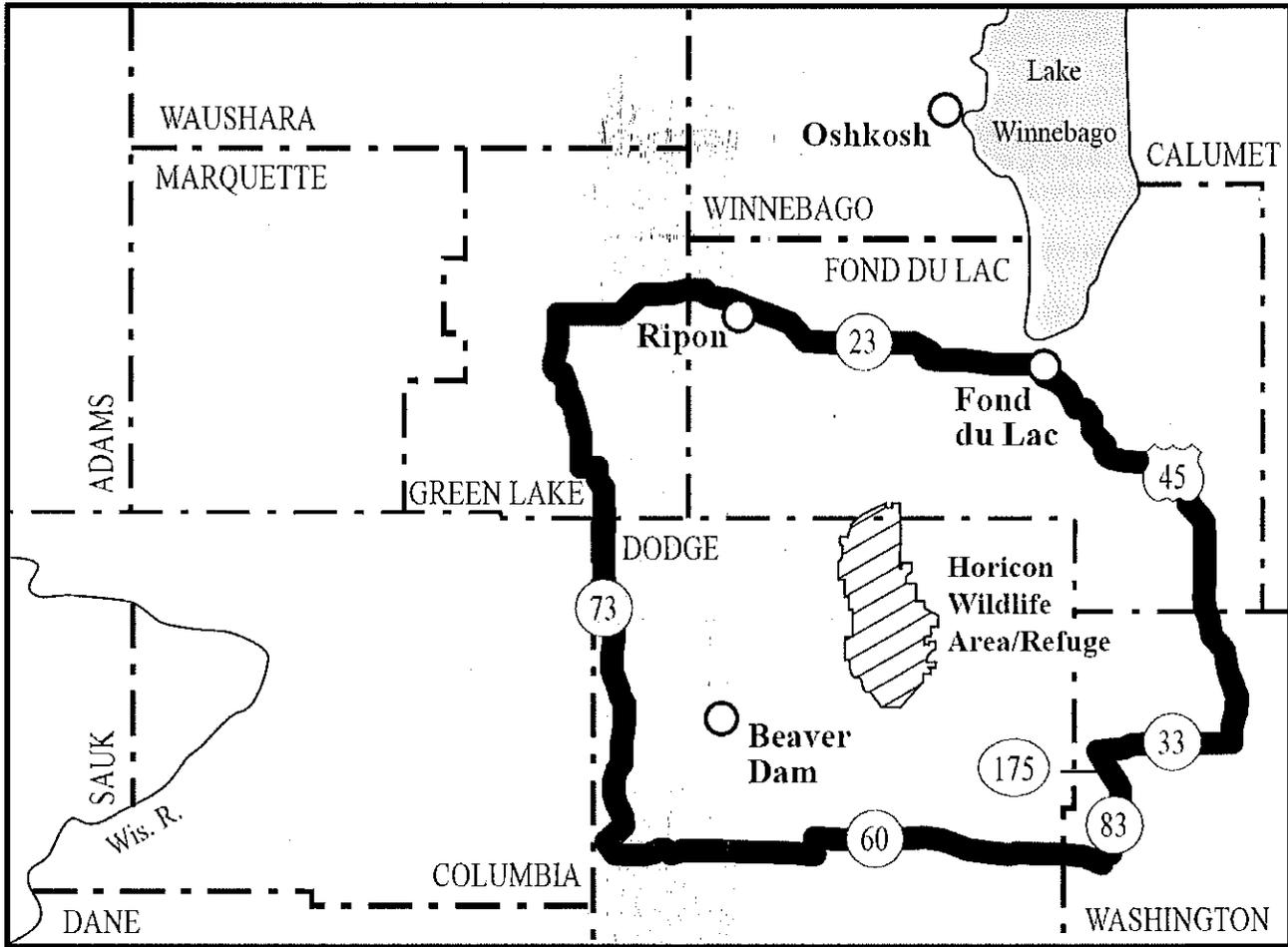
**SECTION 9. NR 10.125 (4) (a) is amended to read:**

NR 10.125 (4) (a) *Harvest reports.* The department may require each successful ~~exterior zone and early~~ ~~goose hunt subzone~~ applicant to submit a harvest report in a manner prescribed by the department within 48 hours of harvesting a goose.

**SECTION 10. NR 10.31 (1) (a) is repealed.**

SECTION 11. NR 10.31 (3) (a) is repealed and recreated to read:

NR 10.31 (3) (a) *Horicon zone boundaries.*



**SECTION 12. EFFECTIVE DATE.** This rule 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.), Stats.

**SECTION 13. 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 \_\_\_\_\_  
Cathy Stepp, Secretary

(SEAL)

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

The statement of scope for this rule, SS 018-13, was approved by the Governor on February 18, 2013, published in Register No. 687, on March 14, 2013, and approved by the Natural Resources Board on April 24, 2013. This rule was approved by the Governor on \_\_\_\_\_.

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.06 (9) (b), to amend NR 10.01 (1) (v); to repeal and recreate NR 10.01 (1) (b) to (u), and 10.12 (3) (c); and to create NR 10.12 (3) (e), related to migratory bird hunting regulations.

WM-07-13(E)

Analysis Prepared by the Department of Natural Resources

**Statutory Authority:** The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting. Additional statutory authority is found in ss. 23.11, 29.192 and 29.041, Stats. The emergency rule making process is established in s. 227.24, Stats.

**Statutes Interpreted and Explanation of Agency Authority:** Special regulations on the taking of certain wild animals are authorized under s. 29.192, Stats., including specific language that authorizes rules related to Canada goose hunting.

Wisconsin’s boundary waters with other states are popular waterfowl hunting locations. Specific authority to regulate hunting in and on all interstate boundary waters and outlying waters is established in s. 29.041, Stats.

Sections 23.11 and 29.014, Stats. allow for the protection of natural resources, establish general department powers on lands it manages including migratory bird refuges, and authorize the establishment of hunting and trapping regulations on department managed lands.

**Related Statute or Rule:** This rule order establishes the season length, bag and possession limits for the Wisconsin migratory game bird seasons. In odd numbered years, similar permanent rules are promulgated and the board order number for that related rule is WM-03-13. This emergency rulemaking process is necessary to have regulations in place for the fall hunting season while following the federal and state rule procedures.

**Plain Language Analysis:** SECTION 1 of this rule order establishes the season length and bag limits for the migratory game bird seasons. For ducks, the state is divided into three zones, each with 60-day seasons as allowed by federal rule under liberal season frameworks. The proposed seasons in each zone are:

North duck zone - the season begins at 9:00 a.m. on September 21 through November 19

South duck zone - the season begins at 9:00 a.m. September 28 until October 6, closed from October 7-11 and then reopens on October 12 – December 1.

Mississippi River duck zone - the season begins at 9:00 am on September 21-29, closed September 30-October 11 and then reopens on October 12-December 1.

The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 1 black duck, 2 canvasbacks, 3 wood ducks, 3 scaup, 2 pintails and 2 redheads.

For Canada geese, the state is apportioned into 2 goose zones for the regular hunting season, Horicon and Exterior, each with a 92 day season. The Mississippi River Subzone is a special goose management subzone within the Exterior Zone. Season dates are:

Horicon Zone – Two hunting periods, the first period September 16-October 27 and the second October 28-December 16

Exterior Zone in the northern duck zone - September 16 – December 16

Exterior Zone in the southern duck zone - September 16- October 6 and October 12-December 21

The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the regular open seasons within the zones.

Finally, this SECTION establishes that the possession limit for migratory birds is three times the daily bag limit instead of two.

SECTION 2 establishes the youth waterfowl hunting season dates.

SECTION 3 lifts a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

SECTION 4 Expands open water hunting opportunities for migratory birds by adding 10 lakes to the list of those where open water hunting is allowed if the hunter is more than 1,000 feet from the shoreline and islands.

SECTION 5 relaxes the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities.

**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.

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. These contrasting goals create a challenge in the development of hunting regulations. In order to improve our harvest management, the Mississippi Flyway Council tested the use of a standard season framework for 5 years while monitoring population size and harvest rates for the MVP and TBP. From 2007 - 2011, season lengths and bag limits for each MVP harvest state were unchanged. Each state retained the flexibility to schedule the timing of their Canada goose season. At the winter 2012 flyway meeting, analysis of the impacts of these 5 years of stable regulation were reviewed and the results were mixed with regard to the management objectives. It was decided among the member states that a cautious and slow approach should be taken toward continued liberalization of Canada goose hunting seasons.

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:** 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:** In the past, the department has annually promulgated emergency and permanent rules establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final 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. 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 are not useful, current information.

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.

In 2011 the USFWS gave states the option of reconfiguring duck hunting zones and after an 11 month public input process Wisconsin implemented changes for a 5 year period. Waterfowl hunters have been supportive of the new zone configuration and this proposal contains the same zone configuration that was in effect for the 2011 season. The department's position has been that the configuration of duck zones is an issue of hunter opportunity and satisfaction which does not have significant impact on duck populations.

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, staff shared available breeding status information with stakeholders via website, committee contacts and GovDelivery email notices encouraging feedback. In addition, Department staff attended the July 11 waterfowl meeting of the LaCrosse County Conservation Alliance to share status information and hear feedback from waterfowl hunters. Department staff then attended the MFC Technical and Council meetings in Indiana from July 21-26. At these meetings, staff were 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 were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting on July 31 and August 1. The USFWS announced its final waterfowl season framework recommendation on August 1. Department staff then held a meeting of the Migratory Game Bird Migratory Committee that consists of stakeholders, regional wildlife staff and representatives of various Department programs on August 2. On August 3, Department staff summarized waterfowl status and regulation information 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. Staff gathered public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. A draft season proposal was finalized on August 4 and then posted on the Department website on August 5. Public hearings were held from August 5-8 around the state to solicit additional input on the proposed annual waterfowl rule.

Wisconsin has a long tradition of restricting waterfowl hunting to the near shore and marsh areas of lakes and flowages. This provides safe open water resting areas for migrating waterfowl and helps keep ducks on water bodies for a longer period during the hunting season. However, "open water" hunting is allowed on some large lakes and the Great Lakes where it is believed that open water hunting does not eliminate safe resting areas. This type of hunting may involve specialized boats and other equipment and primarily targets diving species of ducks. All open water blinds must be removed at the close of hunting hours each day. Following a citizen request to increase hunting opportunities by expanding the number of lakes available for open water duck hunting, an ad hoc committee of citizens conducted a statewide review of 130 of the state's largest lakes, held local meetings, and made recommendations for additional open water hunting lakes. Adding the lakes in this proposal will increase areas available to waterfowl hunters and provide more opportunities for a unique type of waterfowl hunting.

This rule will expand opportunity for waterfowl hunters with disabilities. Open water waterfowl hunting is currently prohibited on all but a handful of lakes in WI. A person who is hunting near emergent vegetation as required under current rules is not considered to be hunting from open water. The concern is that those with disabilities may physically not be able to get into a smaller boat, skiff, or blind and that it may be difficult or impossible to place an accessible boat or blind near enough vegetation capable of meeting the rule's requirements. This proposal will make it possible for disabled permit holders, and their companions, to hunt from a craft such as a pontoon boat, which may be impossible to locate within three feet of required emergent vegetation.

Closing migratory bird hunting hours early on managed public hunting areas in some states has been shown to provide good hunting across an entire property rather than just near refuges, hold ducks in an area for a longer period of time, and provide

better hunting opportunities throughout the season. An experimental early closure has been applied at the Mead Wildlife Area in Marathon and Wood counties and at Zeloski Marsh, Lake Mills Wildlife Area in Jefferson. The regulation has been in place only during the early part of the season when hunting pressure is heaviest. The regulation has sunset after a three year trial period. There continues to be support for the special regulations and reauthorization by rule is needed for them to remain in effect.

**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.

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**Deadline for Written Comments:** The deadline for written comments was August 8.

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SECTION 1. NR 10.01 (1) (b) to (u), are repealed and recreated to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01 (1) (b) <i>All species of wild duck</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, 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 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 limit.
	Northern zone as established in s. NR 10.32	9:00 a.m September 21- November 19		
	Southern zone as established in s. NR 10.32	9:00 a.m. September 28 – October 6, October 12- December 1		
	Mississippi River zone as established in s. NR 10.32	9:00 am. September 21- 29, October 12- December 1		

SECTION 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01 (1) (c) <i>Coots and moorhens</i>	Entire state	Concurrent with the open season for ducks established in par. (b)	15	45 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>Note:</b> Moorhen is synonymous with gallinule.				
NR 10.01 (1) (e) <i>Sora and Virginia rails</i>	Entire state	Concurrent with the open season for ducks established in par. (b)	25	75 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.
NR 10.01 (1) (f) 1. <i>Snipe</i>	Entire state	Concurrent with the open season for ducks established in par. (b)	8	24 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.
NR 10.01 (1) (f) 2. <i>Woodcock</i>	Entire state	Beginning on the Saturday nearest Sept. 22 and continuing for 45 consecutive days	3	9 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.

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 except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	a. Entire state	September 1 — September 15	5	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.
	b. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 16 – December 16.	2	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.
	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.	September 16 - October 6, October 12-December 21	2	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.
	d. Horicon zone	Two permit periods		Equivalent to the seasonal limit established by the department 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.
		September 16 – October 27	2	
		October 28-December 16	2	
	e. Mississippi River subzone	September 21– 29, October 12-January 2	2	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.

SECTION 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
2. Snow or blue and Ross' geese except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	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 – December 16		
	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. 2. e. and g.	September 16 – October 6, October 12-December 21		
	c. Horicon zone	September 16 – December 16.		
	d. Mississippi river subzone	September 21– 29, October 12- January 2		

**SECTION 1. Continued.**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 20 – December 16	1 white-fronted goose	3 white-fronted geese 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 established in s. NR 10.32 except for the zones and subzones described in this subd. 3.c. and d.	September 20 – October 6, October 12-December 21		
	c. Horicon zone	September 20 – December 16		
	d. Mississippi River subzone	September 25– 29, October 12- January 2		

SECTION 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
4. Brant except on the first day of the duck season in par. b. when brant hunting is not allowed until 9:00 a.m.	Entire state	As established by zone	1	3 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 – December 16		
	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. 3. c. and d.	September 16 – October 6, October 12-December 21		
	c. Horicon zone	September 16 – December 16		
	d. Mississippi River subzone	September 21– 29, October 12- January 2		
10.01 (1) (h) <i>Mourning dove</i>	Entire State	Sept. 1 – Nov. 9.	15	45

**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 except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.	Northern zone as established in s. NR 10.32	Sept. 14 – Sept. 15, Sept. 21 at 9:00 a.m. – Nov. 19 and Jan. 10 – Feb. 23	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 as established in s. NR 10.32	Sept. 14 – Sept. 15, Sept. 28 at 9:00 a.m. October 6, October 12- Dec. 1 and Jan. 10 – Feb. 23	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	Sept. 14 – Sept. 15, Sept. 21 at 9:00 a.m. – 29, October 12- December 1 and Jan. 10 – Feb. 23	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.
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.	9 in aggregate with those species listed under subd. 1. 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.
3. Geese except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.	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 the age of 16 may hunt all species of wild duck, mergansers, geese, coots, and moorhens statewide for 2 consecutive days starting on September 17 14. 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 subzone being hunted as listed in par. (g) 1. a. to h., 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 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. NR 10.06 (9) (b) is repealed.**

**SECTION 4. NR 10.12 (3) (c) is repealed and recreated to read:**

10.12 (3) (c). *Large Lakes.* Blinds in open waters of the following lakes if more than 1,000 feet from any shoreline including islands provided blinds are securely anchored: Beaver Dam Lake in Dodge County (excluding Rakes and Trestle Works Bays), Castle Rock Lake in Adams and Juneau counties (south of railroad bridge and county road G), Fence Lake in Vilas County, Grindstone Lake in Sawyer County, North Twin Lake in Vilas County, Petenwell flowage in Adams, Juneau and Wood counties (north of state highway 21 and south of state highway 73), Lake Puckaway in Marquette and Green Lake counties (the waters west of the west end of the dredge bank, excluding the waters east of the west end of the dredge bank), Shawano Lake in Shawano County, Trout Lake in Vilas County, Lake Winnebago, Lake Wisconsin in Sauk and Columbia counties (north of railroad bridge), and Lake Wissota in Chippewa County (south of county road S and north of county road X).

**SECTION 5. NR 10.12 (3) (e) is created to read:**

NR 10.12 (3) (e) Persons holding a Class A or B disabled permit that authorizes hunting from a stationary vehicle and which has been issued for more than 1 year, and any person who assists the disabled hunter in the same boat, may hunt more than 3 feet from emergent vegetation that provides the required 50 % concealment of the hunters and boat, but not farther than necessary to maintain the minimum depth of water necessary for operation of the boat being used by the hunters.

**SECTION 6.** 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 late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

**SECTION 7.** This rule shall take effect upon publication in the Wisconsin state paper pursuant to s. 227.24(1)(c).

**SECTION 8. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Cathy Stepp, Secretary

(SEAL)