

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT:

Request that the board approve the statement of scope for Board Order WM-04-14 (E), modifying Ch. NR 10, related to establishing the 2014 migratory bird hunting seasons.

FOR: May 2014 Board meeting

TO BE PRESENTED BY: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

This is an annual emergency rule order which will establish the 2014 migratory bird hunting seasons.

These rules may modify season dates, bag limits, and other regulations for any migratory bird species but in particular ducks and geese. In 2014, the department also anticipates that the USFWS will offer states an option to lengthen the mourning dove hunting season.

Another significant opportunity is the likelihood that the USFWS will offer Wisconsin the option to establish an early season for hunting teal only. The season could be as long as 16 days occurring prior to the regular duck season, but not earlier than September 1, with a bag limit of 6 teal. The department has flexibility under the federal framework to propose a season which might be shorter, has a lower bag limit, or more restrictive hunting hours. The department has been surveying hunters, meeting with interest groups, and is planning additional public involvement to assess how hunters would like to utilize this opportunity.

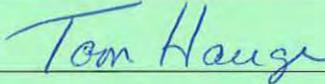
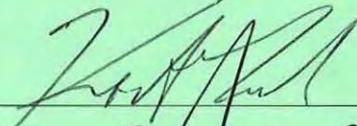
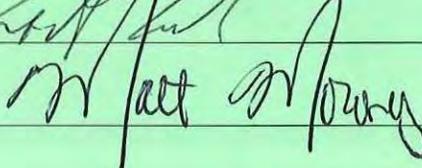
Because the dove and early teal seasons are part of the "early season framework" of federal migratory bird seasons, the USFWS will offer a final framework and will need to be informed of Wisconsin's selections earlier than for other migratory bird regulations. From this scope statement, the department will draft two separate board orders. We will request adoption of one related to the mourning dove and early teal seasons at the Board's June meeting. Adoption of all other duck and goose season regulations, the federal "late season framework", will be requested at the August meeting as in other years.

The department plans to conduct additional public involvement related to the dove and early teal seasons in May and early June. We will also conduct our normal public involvement process in early August for the late season frameworks. The locations for both series of meetings will be La Crosse, Rice Lake, Appleton, and Pewaukee.

RECOMMENDATION: Approval of the statement of scope for Board Order WM-04-14 (E), modifying Ch. NR 10, related to establishing the 2014 migratory bird hunting seasons.

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

- | | |
|---|--|
| <input checked="" type="checkbox"/> Background memo | <input checked="" type="checkbox"/> Governor's approval of the scope statement |
| <input checked="" type="checkbox"/> Scope Statement | <input type="checkbox"/> NA |

Approved by	Signature	Date
Tom Hauge, Bureau Director		4/23/14
Kurt Thiede, Administrator		4/28/14
Cathy Stepp, Secretary		4/30/14

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-04-14 (E)

Relating to: Establishing the 2014 Migratory Bird Season Framework in Ch. NR 10 Wis. Admin. Code

Rule Type: These will be emergency rules

1. Finding/nature of emergency (Emergency Rule only):

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, when a number of the migratory bird hunting seasons open. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

2. Detailed description of the objective of the proposed rule:

This emergency rule order will establish the 2014 migratory bird hunting seasons.

3. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

This is an annual rule that will be consistent with a federal framework and is not a change from past policies. Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2014. The State of Wisconsin's season proposal will be based on the federal framework and local conditions. Wisconsin will also not be more restrictive than the federal bag limit framework except that we will propose one less hen mallard in the bag limit if the federal framework allows two or more, consistent with existing Wisconsin rules.

These rules may modify season dates, bag limits, and other regulations for any migratory bird species but in particular ducks and geese. In 2014, the department also anticipates that the USFWS will offer states an option to lengthen the mourning dove hunting season.

The department will consider simplifications to migratory bird hunting regulations that may be identified during this rulemaking process.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The chapter related to 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.

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.

The establishment of migratory game bird refuges is authorized in s. 23.09(2)(b) Stats., relating to the department's ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

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 on state lands such as migratory bird refuges, establish general department powers, and authority to establish hunting and trapping regulations on department managed lands.

5. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

Approximately 640 hours will be needed by the department prior to and following the hearings.

6. Description of all entities that may be impacted by the rule:

These rules will impact migratory game bird hunters and those who enjoy viewing waterfowl in Wisconsin.

7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

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

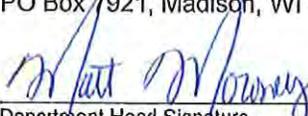
8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be comparable to those in place during the previous season. 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.

9. Anticipated number, month and locations of hearings.

The department will hold four public hearings on these emergency rules during the first week of August in four locations spread geographically around the state.

Contact Person: Scott Loomans, 101 S Webster St., Madison, WI 53707, (608)267-2452, scott.loomans@wisconsin.gov or Kent Van Horn, Migratory Birds Specialist, 101 South Webster Street, PO Box 7921, Madison, WI 53707-7921, (608) 266-8841, kent.vanhorn@wisconsin.gov



Department Head Signature

Date Submitted

Scott Gunderson approval:
Signature 
Date 2-19-14



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 10, 2014

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

**RE: Scope Statement for WM-04-14 Emergency Rule modifying Chapter NR 10
relating to establishing the 2014 Migratory Bird Season Framework**

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on February 21, 2014, pursuant to Wisconsin Statutes § 227.135, in regards to an emergency rule modifying Chapter NR 10 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

Scott Walker
Governor