

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

**SUBJECT:**

Request that the Board adopt Board Orders WM-05-15 (Emergency) and WM-06-15, proposed rules affecting Ch. NR 10 and 11 related to establishing the 2015 migratory bird hunting seasons and regulations.

**FOR: August 2015 Board meeting**

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

**SUMMARY:**

These emergency and permanent rule orders will modify regulations for migratory bird hunting during the 2015 seasons. The noteworthy changes to rule language are an expansion of the Horicon zone Canada goose season harvest limit from 6 to 12 birds and an increase of the daily bag limit for canvasbacks from one to two birds. Additionally, there are minor modifications to the regular duck and goose hunting season dates in the Mississippi River zone. The department's recommendation is:

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.

For Canada geese in the exterior zone, the season will be closed during splits in the duck season. The seasons and bag limits will be as follows:

- Horicon Zone - 92 days, daily bag limit of 2 (two time periods, season limit of 12)
- Exterior Zone - 92 days, daily bag limit of 2

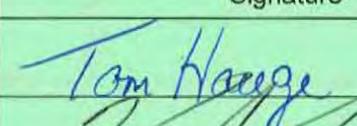
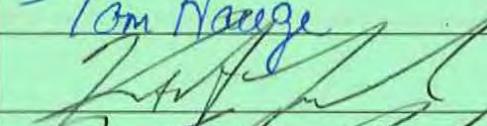
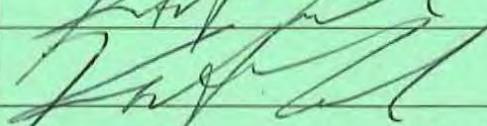
An early (September 1 to 7) teal season with a bag limit of six birds is established in this permanent order in response to previous emergency rulemaking, WM-04-15(E).

The youth waterfowl hunting season will occur on September 19 and 20.

**RECOMMENDATION:** That the Board adopt Board Orders WM-05-15 (Emergency) and WM-06-15.

**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		8/7/15
Sanjay Olson, Division Administrator		8/10/15
Cathy Stepp, Secretary		8/10/15

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: August 10, 2015

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Request Adoption of the 2015 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board adoption of the proposed 2015 Migratory Game Bird seasons and regulations, Board Orders WM-05-15(E) and WM-06-15.

The noteworthy changes to rule language are a change in the opening day shooting hours from 9 am to ½ hour before sunrise, a change in the date structure for the Mississippi River hunting zone and an increase in the daily bag limit for canvasbacks from one bird to two. In most other respects, this 2015 migratory bird season framework proposal is consistent with permanent rules currently in effect.

## **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 ranks in the top 5 states in the nation for the number of waterfowl hunters and has maintained a relatively stable level of waterfowl hunters for 30 years. The diversity of waterfowl hunting opportunities, species and habitats in our state result in a wide range of opinions and preferences among hunters for season dates. 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 New Orleans, LA from July 18-24. At this meeting, the states received the 2015 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 July 30.

## **2015 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 2015 continental breeding waterfowl conditions were good to excellent across most of the US and Canadian breeding range. The total continental breeding duck estimate of 49.5 million in 2015 was the highest on record in 60 years of this survey (Appendix 1). The 2015 continental breeding population estimates for most surveyed duck species were near 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 2015 mid-continent (US prairies, Great Lakes states and central Canada) mallard population estimate was 11.7 million and the Canadian pond count was 4.2 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 near 70% of the total duck harvest. In addition to mallards, blue-winged teal and green-winged teal are both reported in continental surveys and in 2015 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.

In 2015, spring was initially dry in Wisconsin but rainfall came later in May. Our spring breeding waterfowl survey was conducted in late April to early May and conditions across the state showed fewer than normal seasonal wetlands. These were the conditions many ducks encountered when they arrived to look for nesting locations. Overall, the survey process went smoothly and efficiently this year. Just following the survey period in mid-late May, rainfall increased and wetland conditions improved significantly. As a result, breeding conditions were better going into the brood rearing period that are reflected in these survey data. As always, the 2015 results should be viewed as part of a long term trend (Appendix 1). The total state breeding duck population estimate of 372,840 is down and considerably below the recent 10 year average of 484,000 and 16% below the long-term mean. However, with good brood rearing conditions and good production reports from around the state, we expect near 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 Canada geese that nest along the Hudson Bay coast in northern Ontario historically referred to as the Mississippi Valley Population (MVP). 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 except for 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 in 2012. 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. In 2013, the Natural Resources Board took the next step by converting 48% of the Horicon Zone with more controlled goose harvest regulations to the Exterior zone with more liberal goose harvest regulations. That rule change went into effect in 2014. No significant changes are planned for this year as we monitor conditions in response to recent changes.

In 2015, spring breeding conditions for the MVP geese were average but the spring breeding population estimate of 226,544 was down 30% from 2014 and 35% below the long term average. Field reports indicate fair to good production on the Ontario Canada goose breeding grounds despite lower breeding population estimates in 2015. In Wisconsin, the 2015 resident Canada goose breeding population estimate of 119,212 was down from 2014 but above the long term average. Field reports suggest good production following our early and warm spring conditions.

### **Previous Hunter input**

The development of the 2015 waterfowl hunting season proposal was aided by several years of hunter surveys and public meetings that indicated the majority (over 70%) of the waterfowl hunters were consistently content with most of the starting dates, season lengths and bag limits for Canada goose and duck hunting seasons.

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 2015 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 2015, the Saturday nearest September 24 is on the late end of the spectrum of shifting dates, September 26.

The USFWS framework would allow a daily bag limit of 2 hen mallards but we are once again proposing a daily bag limit of 1 hen mallard during the entire season. New research data on mallards

in Wisconsin indicates that the annual survival of adult hen mallards has declined by 11% over the last 50 years with half that decline occurring since initiation of 60 day duck seasons in 1997. The average breeding population of mallards in Wisconsin for the last 10 period is about 80,000 birds fewer the previous 10 year period. Wisconsin's mallard harvest is about 70% supported by locally breeding mallards so survival of these hens is critical to our local breeding population and future hunting opportunity. We have lost grassland duck nesting habitat in Wisconsin as a result of several changing land use patterns in our state and this likely contributed to this decline. Based on these data and continued support by duck hunters we recommend a continuation of the 1 hen mallard 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 3 times the daily bag limit for all migratory game birds.

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

Northern Zone – September 26 – November 24

Southern Zone – October 3-11, then a 5 day closure, reopening October 17 - December 6

Mississippi River Zone - October 3-9, then a 7 day closure, reopening on October 17 – December 8

2) **Youth Waterfowl Hunt.** The youth hunt will be September 19-20. 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.

#### **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 11 and October 17 – December 21.

Mississippi River Subzone – October 3- 9, October 17 – January 9

#### **Horicon Time Periods**

Hunters with Horicon zone permits will be allowed to harvest 12 Canada geese for the time period that they are awarded. The daily bag limit will be 2 geese.

Horicon – 92 days

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

### 3) Other Geese

#### Brant, White fronted geese and Light geese

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

### **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 155 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.

- **Mail survey – winter 2013-14.** Following the 2013 waterfowl season a scientifically designed survey was mailed out to a random selection of 1000 Wisconsin waterfowl hunters as we have done every other year for the last several years. This survey provided us information on waterfowl hunter experiences and preferences after 3 years with a new 3 duck zone configuration.
- **Rule process information** - Beginning in June, 2015 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 19,000 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 6.
- **July 9, Staff attended the LaCrosse County Conservation Alliance** annual waterfowl meeting to present information and received input primarily on the Mississippi River Zone season. About 20 waterfowl hunters were in attendance.
- **August 1 – Migratory Committee of the Conservation Congress. Stevens Point.** Staff presented information on the status of waterfowl and potential season structures. The committee made suggestions for the hunting season proposal and voted on all aspects. The committee had 23 members present.
- **August 1 – 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), Challenge the Outdoors, Green Bay Duck Hunters (GBDH), Lake Poygan Sportsman's Club, Burlington Conservation Club, Mead duck hunters and Black Slough Conservation Club (BSCC). A total of 20 people attended
- **August 3-6, Public Hearings.** Four public hearings were held around the state and 71 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** - 18 people attended, 12 gave oral testimony
- **Rice Lake** - 9 people attended, 2 gave oral testimony
- **Appleton** – 20 people attended, 7 gave oral testimony
- **Pewaukee** – 20 people attended, 6 gave oral testimony

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

Hearing attendance and public input volume was similar to prior years with a total of 155 individual comments and several statewide or local conservation groups representing thousands of members submitting comment. The input was in favor of most aspects of the waterfowl season proposals.

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

During the 2015 public input period on the waterfowl hunting season proposal, 87% of the individual comments were in support of the north duck zone proposed season (Appendix 2). The Conservation Congress and most of the waterfowl hunting groups were also in support of this season.

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

During the 2015 public input period on the waterfowl hunting season proposal, 93% of the individual comments were in support of the south duck zone proposed season (Appendix 2). The Conservation Congress and most of the waterfowl hunting groups, supported the season as proposed.

#### **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 in 2011. 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 4 seasons, however, this is a new zone and we have been on a learning curve regarding what works best for season dates in the zone. Preferences for dates can also vary based on the shifting calendar and most recent weather experiences. Based on hunter survey results and recent public input, a growing number of hunters do not favor the early opening date on the Mississippi River and the long 12 day split. As a result, the Department proposed a different season structure opening a week later and having 7 day closure. During the 2015 public input period, 84% of the public comments and the Conservation Congress favored this proposal. Several of the waterfowl hunting groups had alternative ideas.

**Opening day shooting hours** – Many public waterfowl hunting areas have significant numbers of waterfowl hunters on opening day and then numbers decrease for the remaining days of the season. In addition, some hunters do not scout and practice duck identification prior to opening day of the duck season. Duck identification improves during better light conditions later in the morning. For these reasons, Wisconsin duck hunters have supported a 9 am opening time and even a noon opening time in the past for shooting hours on the first day of the duck season. However, over the last several years the public opinion has been slowly shifting from majority support for the 9 am opening day shooting hours in favor of ½ hour before sunrise. In 2014, this topic created considerable debate and the individual comments were essentially split 50:50. In 2015, the Wisconsin Conservation Congress presented an advisory question on the spring hearings and 57% favored shifting the opening day shooting hours to ½

hour before sunrise. The Department proposed a ½ hour before sunrise start to opening day shooting hours during the 2015 input process and 89% of the individual responses supported this proposal. The Conservation Congress and 4 waterfowl groups supported this change, while 5 waterfowl groups had alternative ideas.

**Hen mallard bag limit** - Based on the concern over hen mallard survival rates and past public support, a 1 hen mallard bag limit was proposed. The Conservation Congress, all the waterfowl groups and 93% of the individual comments supported this proposal.

**Canada goose season dates:**

All Canada goose season dates were favored by at least 88% of the individual public comments and all of the waterfowl groups. The Conservation Congress supported the goose season proposals.

**Rule Development:**

These rules were developed with assistance from the bureaus of law enforcement, customer service & licensing, 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. The department held a comment period pursuant to Governor's Executive Order 50, Section IV over a 14 day period in July, 2015. No comments were received.

Fiscal impacts on the department were also summarized in this analysis. A copy of the economic and fiscal impact analysis is attached as part of this agenda item.

**Small Business and Regulatory Flexibility Analysis:**

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

**Effect on Existing Policy:**

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

**Previous Board Action:**

The statements of scope for both of these rules, SS 032-15 and SS 031-15, were approved by the Governor on March 26, 2015, published in Register No. 712A1, on April 6, 2015, and approved by the Natural Resources Board and hearings were authorized on May 27, 2015.

**Groups Impacted by the Rule:**

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

**Environmental Analysis:**

The rulemaking process for Board Orders WM-05-15(E) and WM-06-15 constitutes an equivalent analysis action under s. NR 150.20 (2) (b), Wis. Adm. Code and additional environmental analysis is not required.

Figure 1. 2015 FEDERAL SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS

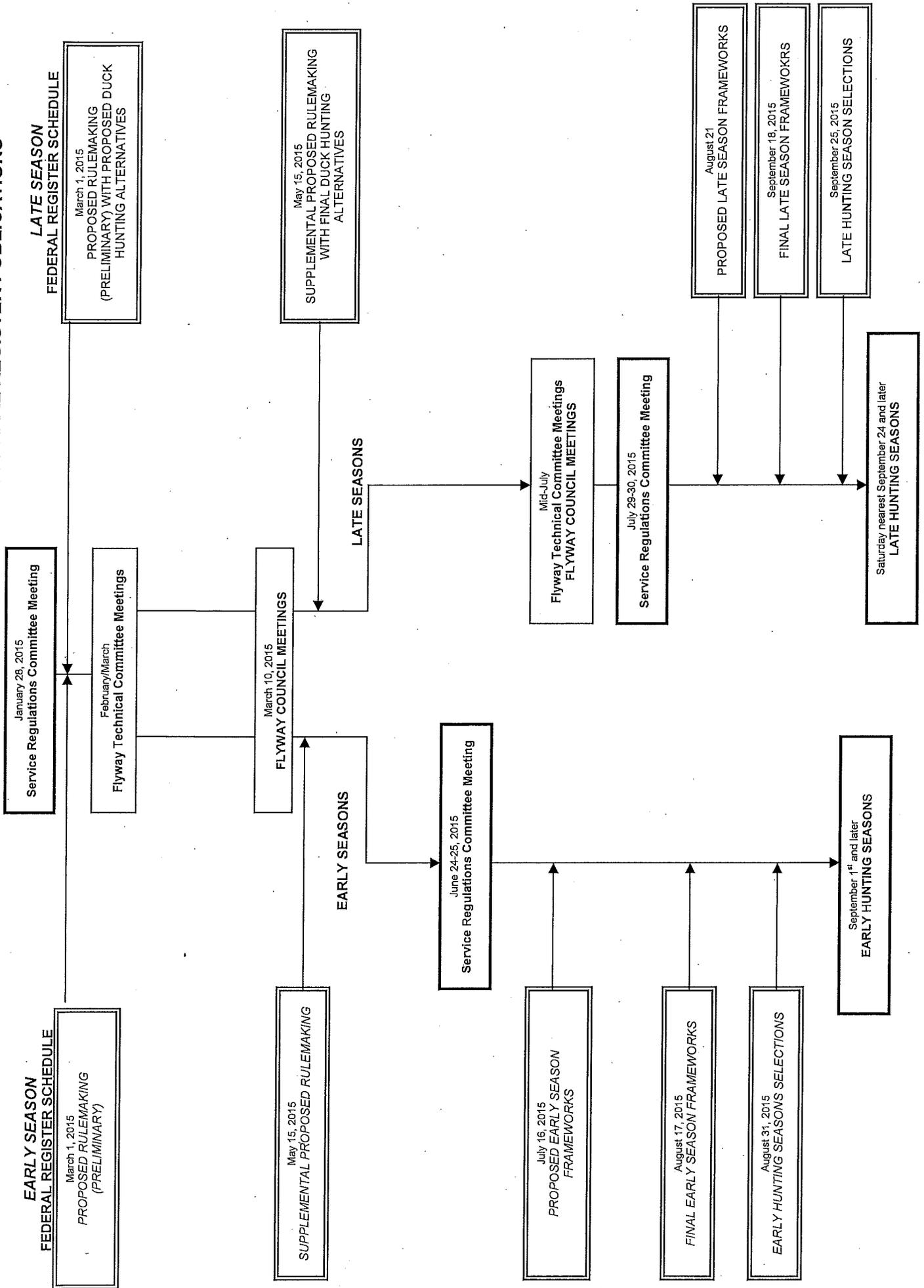
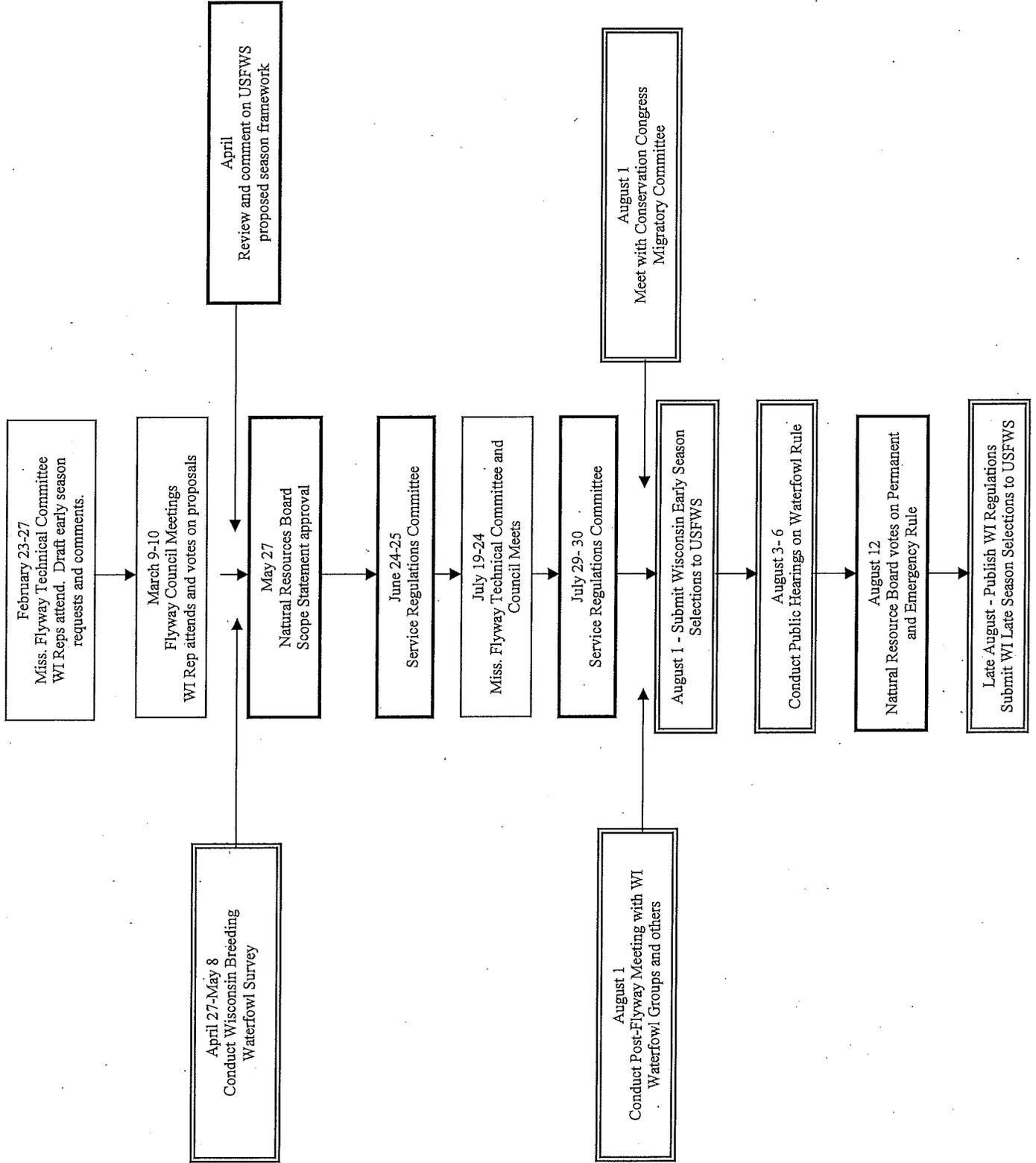


Figure 2. 2015 WISCONSIN MIGRATORY GAME BIRD REGULATORY SCHEDULE



## Appendix 1. 2015 Waterfowl Population Status

### USFWS Surveys:

- Traditional area mallards – 11.6 million (similar to 2014 and 51% above the long-term average (LTA))
- May Ponds – Canada – 4.2 million (10 % below 2014 and 19% above LTA)
- Total Ducks – 49.5 million (highest on record and 43% above LTA)
- Mid-continent mallards (traditional area minus AK, +WI, MN, MI) = 11.7 million
- Others:
  - ◊ Blue-winged Teal – 8.5 million – 73% above LTA
  - ◊ Gadwall – 3.8 million – 100% above LTA
  - ◊ Green-winged Teal – 4.1 million (highest on record) – 98% above LTA
  - ◊ Northern Shoveler – 4.4 million – 75% above LTA
  - ◊ Northern Pintail – 3.0 million – 24% below LTA
  - ◊ Scaup – 4.4 million – 13% below LTA
  - ◊ Wigeon – 3.0 million – 17% above LTA
  - ◊ Canvasback - 800,000 – 30% above LTA

The combination of 11.7 million mid-continent mallards and a Canada pond count at 4.2 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 2015 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. The shaded cell indicates the regulatory prescription for 2015.**

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
4.75–6.25	R	R	R	R	R	R	R	R	R	R
6.5	R	R	R	R	R	R	R	R	R	M
6.75	R	R	R	R	R	R	R	R	M	M
7	R	R	R	R	R	R	M	M	M	L
7.25	R	R	R	R	M	M	L	L	L	L
7.5	R	R	M	M	M	L	L	L	L	L
7.75	R	M	M	L	L	L	L	L	L	L
8.0	M	M	L	L	L	L	L	L	L	L
≥8.25	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 WBPHS (strata 13–18, 20–50, 75–77) and Michigan, Minnesota, and Wisconsin.

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

**Appendix 2. Migratory Game Bird Public Comment Summary 2015**  
*Bold/italics = Department proposal*

Issue	Email/ Hearing/other	Groups at Meetings	Cons Congress	% of comment s in favor 84%
Mississippi River Duck Zone, Oct 3-Oct 9 & Oct 17-Dec 8	99		X	
Mississippi River Duck Zone, Sept 26-Oct 4, Oct 17-Dec 6	10			
Mississippi River Duck Zone, Oct 3-11, Oct 17-Dec 6	7	6		
Mississippi River Duck Zone, Sept 26-Oct 11, Oct 17-Nov 29	1			
Mississippi River Duck Zone, Sept 26-Nov 24	1			
<b>North Duck Zone, Sept 26-Nov 24</b>	97	6	X	<u>87%</u>
North Duck Zone, Oct 3 - Oct 11, Oct 17 - Dec 6	6	2		
North Duck Zone, Oct 3-Dec 1	6			
North Duck Zone open Oct 3-Nov 21, Nov 30-Dec 10	2			
<b>South Duck Zone, Oct 3 - Oct 11, Oct 17 - Dec 6</b>	108	6	X	<u>93%</u>
South Duck Zone Sept 26-Nov 24	3			
South Duck Zone Open later	1			
South Duck Zone open Oct 3-Nov 21, Nov 30-Dec 10	2			
Statewide	2			
<b>South Duck Zone split, 5-day, Oct 12-16</b>	105	6	X	<u>96%</u>
South Duck Zone, no split	1			
Split during 9 day deer gun season/for longer split	3			
<b>Duck Shooting Hours on Opening Day, 1/2 hr before sunrise</b>	100	4	X	<u>89%</u>
Duck Shooting Hours on Opening Day, 9am	10			
Duck Shooting Hours on Opening Day, noon	2	1		
Duck Shooting Hours on Opening Day, 1/2 hr before sunrise and close at 4pm for first week		4		
<b>Exterior Goose Zone, Sept 16, split in South and Miss River during duck split</b>	110	9	X	<u>88%</u>
Exterior Goose Zone, Oct 3, no split in South	1			
Exterior Goose open with youth season	1			
Exterior Goose Zone, Sept 16-Dec 6, Dec 24-Jan 7	13			
<b>Hen Mallard Bag Limit, 1/day</b>	99	9	X	<u>93%</u>
2 hen mallard daily bag limit	8			
<b>Horicon Canada Goose Zone, H1 and H2 Season Harvest Limit of 12</b>	94	9	X	<u>100%</u>
Horicon Canada Goose Zone, H1 and H2 Season Harvest Limit of 6	0			
<b>Youth Hunt Sept 20+21</b>	104	8	X	<u>98%</u>
No Youth Hunt	2	1		
Total comments	155			
Attendance at Public Hearings	67			

## 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 Orders WM-06-15 and WM-05-15(E).

Subject

Establishing migratory game bird hunting seasons and regulations, including an early duck season for teal-only and the hunting regulations for teal and mourning doves.

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

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

In the permanent order, the department proposes an early teal season in Wisconsin for 2015 that would begin on September 1 and continue through September 7. Only blue-winged and green-winged teal can be harvested. The daily bag limit would be 6 teal. Shooting hours on opening day begin at 9 am and close at 7 pm. Shooting hours from September 2 through 7 will begin at sunrise and close at 7 pm.

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

Both the emergency and permanent board orders eliminate the 9:00 start of shooting hours for ducks and geese on the first day of the regular duck hunting seasons so that shooting hours will begin 30 minutes before sunrise. These rules also modify the duck and goose hunting season dates in the Mississippi river zone so that they will open on October 3 and continue through October 9. The season will then be closed for seven days, reopening on October 17 and continuing through December 8.

Other regulation modifications are minor and would have minimal to no impact on hunting opportunities and no resulting fiscal or economic impacts.

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)

The department held a comment period pursuant to Governor's Executive Order 50, Section IV over a 14 day period in July, 2015. No comments were received.

Fiscal impacts on the department are also summarized in this analysis.

Economic Impact

A September season for hunting teal-only is a recent opportunity for Wisconsin hunters and it will result in an increase in the richness and diversity of hunting activities that people enjoy. It is likely to result in an increase in the amount of hunting activity that occurs at this time of year and the resulting incidental expenditures of hunters. However, the amount of increased activity may be limited and cannot accurately be anticipated prior to having experience with this new opportunity. A factor that may result in none or a very limited economic impact is that the hunting season for other migratory birds, Canada geese and mourning doves, are already established and will be open concurrently with the proposed teal season. Early September is considered the best time for hunting mourning doves. A certain amount of hunting during the early teal-only season may be by hunters who would otherwise have been hunting doves or geese and this teal hunting would not be considered new activity or related spending.

The additional 20 days of mourning dove hunting proposed in these rules will result in an increase in hunting opportunity that some hunters will appreciate. However, these days will be at a time of the year when many other highly anticipated hunting seasons are also open. As a result, the additional hunting opportunity may not result in a significant amount of hunting effort focused primarily on mourning doves, nor related expenditures by hunters or resulting economic impacts.

Both dove and teal hunters are likely to be people who already participate in those activities during the existing seasons. Dove and teal hunters are not likely to need to purchase new gear or durable goods such as boats, shotguns, or decoys.

Because the hunting season frameworks proposed in this rule will be comparable 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

The department anticipates no fiscal impact resulting from these rules. The USFWS does require states to observe hunter behavior in the field to observe whether they shoot at non-teal ducks during the teal only season. If the number of attempts to shoot non-teal ducks is too high then we will fail the experiment. The department anticipates that these observation efforts can be absorbed within the department's current budget. Though an undetermined amount of staff time will be needed to meet this federal requirement, this staff time will be accounted for by re-prioritizing work duties. The department will not hire new employees or be requiring additional hours of work.

Other regulations modified by this proposal will not require changes to past practices or procedures and will also have no fiscal impact.

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

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

season, possibly prior to migration, when they may be more abundant.

The new teal and dove hunting opportunities will both contribute to the presence of excellent hunting opportunities which are enjoyed by outdoor enthusiasts.

Additional alternatives which were evaluated in preparation of these rules were to adopt a full 16 day season, which is an option offered by the United States Fish and Wildlife Service, and to decline to hold a season. This seven day season represents a compromise between two opinions commonly expressed during public participation in rule development; that Wisconsin should take full advantage of new hunting opportunities, and that Wisconsin should not hold an early teal season because it could result in incidental harvest of other duck species or have an impact on duck hunting which occurs later in the fall season.

**Long Range Implications of Implementing the Rule**

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

**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 the new opportunities offered under the federal framework but the seven day teal-only season does represent a compromise between people who are opposed to a teal season and those who would prefer the full 16 day season.

**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, AMENDING AND CREATING RULES**

The statement of scope for this rule, SS 031-15, was approved by the Governor on March 26, 2015, published in Register No. 712A1, on April 6, 2015, and approved by the Natural Resources Board on May 27, 2015. This rule was approved by the governor on \_\_\_\_\_.

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.01 (g) 4.; to amend Ch. NR 10.01 (1) (b), (g) 1. (intro.) and e., 2. (intro) and d., 3., and (u) 1. (intro.) and 3. (intro.), 10.06 and 11.044 (5); and to create NR 10.01 (1) (g) 1. dm. related to establishing migratory bird hunting seasons and regulations.

WM-05-15 (E)

Analysis Prepared by the Department of Natural Resources

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

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.

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

The establishment of game refuges is authorized in s. 23.09 (2) (b) 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.

**Statutes Interpreted and Explanation of Agency Authority:** In promulgating these rules, statutes being interpreted or establishing agency authority include ss. 23.09 (2) (b), 29.014, 29.041, 29.192.

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

**Related Statute or Rule:** In 2015, the department will promulgate two emergency rule orders establishing the migratory bird hunting seasons and regulations. The first is SS 030-15, WM-04-15 (E), related to the early season framework for teal and mourning dove hunting. The second is SS 031-15, WM-05-15 (E), related to the late season framework for the regular duck and goose hunting seasons. The permanent rule order will promulgate in Administrative Code the season and regulations for both the early teal-only season and extension of the mourning dove hunting season and other bag limit and season date modifications necessary to make the regular duck and goose hunting seasons consistent with the federal framework.

Adoption of the two separate emergency rule orders was needed because there are two different times when the service needs to be informed of Wisconsin’s season selections.

One section of this rule modifies rule language that is also currently being amended by earlier rule making, CR 15-024, the 2015 wildlife management spring hearings rule order. The provision which modifies migratory bird

hunting hours in NR 10.06 (5) contains the changes from the earlier proposal which modified pheasant hunting hours.

**Plain Language Analysis:** SECTIONS 1 and 3 eliminate the 9:00 opening time of shooting hours for ducks and geese on the first day of the regular duck hunting seasons. Both sections also modify the duck and goose hunting season dates in the Mississippi river zone so that they will open on October 3 and continue through October 9. The season will then be closed for seven days, reopening on October 17 and continuing through December 8. The season for white-fronted geese and brant is extended from 88 to 92 days in length.

SECTION 2 increases the season harvest limit for Canada geese in the Horicon Zone from six birds to twelve. The daily bag and possession limits will continue to be 2 and 6 respectively.

SECTION 4 repeals the subdivision establishing the brant season and bag limit. The brant season and bag limit are instead established under the subdivision for "other geese".

SECTION 5 repeals the 9:00 a.m. start of hunting hours during the falconry seasons.

SECTION 6 establishes that waterfowl shooting hours on the first day of the regular seasons will begin at 30 minutes before sunrise instead of 9:00 a.m. For consistency with other rulemaking that affects the same subsection, the hunting hours for teal during a teal-only season are also re-established.

SECTION 7 repeals a sunset provision of special regulations for waterfowl hunting at the Mead wildlife area that was overlooked in Ch. NR 11 when the same sunset date was repealed in Ch. NR 10 by previous rulemaking.

**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.

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 distinct migratory game bird populations. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the USFWS. The USFWS regulations and guidelines apply to all states within the Flyway and therefore the regulations in the adjoining states closely resemble the rules established in this rule order, and only differ slightly based on hunter desires, habitat and population management goals. However, these variations fall within guidelines and sideboards established by the USFWS.

**Summary of Factual Data and Analytical Methodologies:** These rules will modify the duck and goose hunting season dates in the Mississippi river zone consistent with options available under the federal framework for Wisconsin in 2015. The regular duck and Canada goose hunting seasons will open on October 3 and continue through October 9. The season will then be closed for seven days, reopening on October 17 and continuing through December 8. In addition to consistency with the federal framework for migratory bird hunting, these season dates are proposed in response to the requests of Mississippi river zone hunters expressed at hearings and meetings.

In the Horicon goose management zone the department proposes a season harvest limit of 12 Canada geese. This will be the second year of a 12 bird season limit. Prior to 2014, the season limit had been 6. The department will continue to monitor harvest and hunter response to confirm that a 12 goose harvest limit continues to be appropriate for this zone.

These rules will repeal the delayed, 9:00 a.m. start of shooting hours on the first day of the regular duck hunting seasons. Hunting will begin 30 minutes before sunrise as it does during the rest of the season. In the past, the delayed start may have been in place for variety of reasons, including reduced hunter conflict on the first day of hunting and improved duck identification. Recently, hunters have considered these issues during open meetings and registered opinions with the Conservation Congress established under s. Ch. 15.348. Hunter opinion has shifted from support of the 9:00 a.m. opening day shooting hours to ½ hour before sunrise. Wisconsin's surrounding states all begin shooting hours 30 minutes before sunrise on the first day of regular duck hunting seasons although some alter shooting hours in other ways. During the early teal season, shooting hours would continue to be delayed so that hunting is not allowed until 9:00 a.m. on the first day and sunrise on subsequent days based on public input and duck identification concerns. Teal are the only duck species that may be harvested during this early season.

Finally, these rules repeal a sunset provision of special regulations for waterfowl hunting at the Mead wildlife area that was overlooked in Ch. NR 11 when the same sunset date was repealed in Ch. NR 10 by previous rulemaking.

**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 6, 2015.

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SECTION 1. NR 10.01 (1) (b) and (g) 1. (intro.) and d. are amended to read:

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
<p><b>NR 10.01 (1) (b)</b>  <i>All species of wild duck</i></p>	<p>Entire state</p>	<p>As established by zone</p>	<p>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.</p>	<p>Three times the daily bag limit <del>through the entire season</del> except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</p>
	<p>Northern zone as established in s. NR 10.32</p>	<p><del>9:00 a.m</del> <u>Beginning</u> on the Saturday nearest September 24 and <del>continues continuing</del> for 60 consecutive days</p>		
	<p>Southern zone as established in s. NR 10.32</p>	<p><del>9:00 a.m.</del> <u>Beginning</u> on the Saturday nearest October 1 and <del>continues continuing</del> for 9 days, followed by a 5-day split, and then reopens for 51 <del>days</del> consecutive days.</p>		
	<p>Mississippi River zone as established in s. NR 10.32</p>	<p><del>9:00 am</del> <u>Beginning</u> on the Saturday nearest <del>September 24</del> <u>October 1</u> and <del>continues continuing</del> for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> split, and then reopens for <del>51</del> <u>53</u> consecutive days.</p>		

(g) Geese 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.	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.
		<u>First permit period beginning on September 16 and continuing until the Sunday following the last Friday in October.</u>	2	<u>Three times the daily bag limit except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</u>
		<u>Begins Second permit period beginning on the Monday following the last Friday in October and continuing for a season total of 92 days combined for both periods.</u>	2	

**SECTION 2. NR 10.01 (1) (g) 1. dm. is created to read:**

NR 10.01 (1) (g) 1. dm. HORICON ZONE SEASON HARVEST LIMIT. No person may harvest more than 12 Canada geese during a permit period established in subd. par. d.

**SECTION 3. NR 10.01 (1) (g) 1. e., 2. (intro) and d., and 3. are amended to read:**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01 (1) (g) 1.	e. Mississippi River subzone	Begins on the Saturday nearest <del>September 24</del> <u>October 1</u> and continues for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> 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.

<p>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.</p>				
	<p>d. Mississippi river subzone</p>	<p>Begins on the Saturday nearest <del>September 24</del> <u>October 1</u> and continues for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> split, and then reopens for a season total of 92 days.</p>		
<p>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.</p>	<p>a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.</p>	<p>September 20 and continues for <del>88</del> <u>92</u> consecutive days</p>	<p>1 white-fronted goose and 1 brant</p>	<p>3 white-fronted geese and 3 brant except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit</p>
	<p>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.</p>	<p>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 <del>88</del> <u>92</u> days.</p>		
	<p>c. Horicon zone</p>	<p>September 20 and continues for <del>88</del> <u>92</u> consecutive days</p>		

	d. Mississippi River subzone	Begins on the Saturday nearest <del>September 24</del> <u>October 1</u> and continues for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> split, and then reopens for a season total of 92 days.		
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**Section 4. NR 10.01 (1) (g) 4. is repealed.**

**Section 5. NR 10.01 (1) (u) 1. (intro.) and 3. (intro.) are amended to read:**

10.01 (1) (u) 1. All species of wild ducks, mergansers and coots <del>except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.</del>	
3. Geese <del>except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.</del>	

**SECTION 6. NR 10.06 (5) (Intro.), as affected by CR 15-024, is amended to read:**

**NR 10.06 Hunting hours. (5) HUNTING HOURS.** Hunting hours for bear, bow deer, deer with firearms, elk and small game are 30 minutes before sunrise through 20 minutes after sunset. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset except for teal during a season for hunting teal species only. ~~All waterfowl hunting starts at 9:00 a.m. on the first day of the duck hunting season established in s. NR 10.01 (1) (b). The hours for hunting teal during a teal-only season shall be sunrise through 7:00 p.m. except on the first day when hunting hours begin at 9:00 a.m.~~ All pheasant hunting starts at 9:00 a.m. on the first day of the pheasant hunting season established in s. NR 10.01 (2) (c). The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392-5420 for Sheboygan, Wisconsin and Powers, Michigan, respectively. The hunting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

**SECTION 7. NR 11.044 is amended to read:**

**NR 11.044 Early waterfowl hunting season closed area.** A closed season is established at the Mead wildlife area. No person may hunt waterfowl until the beginning of the duck season established in s. NR 10.01 (1), except that hunting is allowed on the dates of the youth duck hunt established in s. NR 10.01 (1) by all people who may legally hunt waterfowl on those dates. ~~This subsection does not apply after December 31, 2012.~~

**SECTION 8. FINDING OF EMERGENCY.** The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until 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 9. EFFECTIVE DATE.** This rule shall take effect upon publication in the Wisconsin state paper pursuant to s. 227.24(1)(c).

**SECTION 10. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

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

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

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

(SEAL)

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

The statement of scope for this rule, SS 032-15, was approved by the Governor on March 26, 2015, published in Register No. 712A1, on April 6, 2015, and approved by the Natural Resources Board on May 27, 2015. This rule was approved by the governor on \_\_\_\_\_.

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.01 (g) 4.; to amend NR 10.01 (1) (b), (g) 1. (intro.) and d. and e., 2. (intro) and d., 3., (h), and (u) 1. (intro.) and 3. (intro.), 10.06 (5), 10.12 (3) (a), and 11.044; to repeal and recreate NR 10.12 (3) (e); and to create NR 10.01 (1) (a) and (g) 1. dm. related to establishing migratory bird hunting seasons and regulations.

WM-06-15

Analysis Prepared by the Department of Natural Resources

**Statutory Authority:** 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.

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.

The establishment of game refuges is authorized in s. 23.09 (2) (b) 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.

**Statutes Interpreted and Explanation of Agency Authority:** In promulgating these rules, statutes being interpreted or establishing agency authority include ss. 23.09 (2) (b), 23.11, 29.014 and 29.041,

**Related Statute or Rule:** In 2015, the department will promulgate two emergency rule orders establishing the migratory bird hunting seasons and regulations. The first is SS 030-15, WM-04-15 (E), related to the early season framework for teal and mourning dove hunting. The second is SS 031-15, WM-05-15 (E), related to the late season framework for the regular duck and goose hunting seasons. This permanent rule order will promulgate in Administrative Code the season and regulations for both the early teal-only season and extension of the mourning dove hunting season and other bag limit and season date modifications necessary to make the regular duck and goose hunting seasons consistent with the federal framework.

Adoption of the two separate emergency rule orders was needed because there are two different times when the service needs to be informed of Wisconsin’s season selections.

Two sections of this rule modify rule language that is also currently being modified by earlier rule making, CR 15-024, the 2015 wildlife management spring hearings rule order. The provision which modifies migratory bird hunting hours in NR 10.06 (5) contains the changes from the earlier proposal which modified pheasant hunting hours. The revision to NR 10.12 (3) (e) related to waterfowl hunting by holders of permits for disabled hunters establishes a cross-reference to language created by CR 15-024.

**Plain Language Analysis:** SECTION 1 of this rule order establishes a seven day season beginning on September 1 and a six bird daily bag limit for a teal-only season. The teal-only season will occur prior to the youth duck season and the normal season for hunting all varieties of ducks.

SECTIONS 2 and 4 eliminate the 9:00 start of shooting hours for ducks and geese on the first day of the regular duck hunting seasons so that shooting hours will begin 30 minutes before sunrise. Both sections also modify the duck and goose hunting season dates in the Mississippi river zone so that they will open on October 3 and continue through October 9. The season will then be closed for seven days, reopening on October 17 and continuing through December 8. The season for white-fronted geese and brant is extended from 88 to 92 days in length.

SECTION 3 increases the season harvest limit for Canada geese in the Horicon Zone from six birds to twelve. The daily bag and possession limits will continue to be 2 and 6 respectively.

SECTION 5 repeals the subdivision establishing the brant season and bag limit. The brant season and bag limit are instead established under the subdivision for "other geese".

SECTION 6 extends the mourning dove hunting season from the current 70 to 90 days and repeals the 9:00 a.m. start of hunting hours during the falconry seasons.

SECTION 7 establishes that the hunting hours for teal during a teal-only season shall begin at 9:00 a.m. on the first day and sunrise on following days. Hunting will end at 7:00 p.m. each day. On the first day of the regular duck season shooting hours will begin at 30 minutes before sunrise instead of 9:00 a.m.

SECTION 8 corrects an inconsistency between the introductory language and the text of a rule which establishes an exception from the requirement that hunters in boats and blinds must be concealed in emergent vegetation. The exception is for hunters on the Mississippi River only and does not apply to hunters on all waters in counties adjacent to the Mississippi River.

SECTION 9 creates introductory language for consistency with the drafting style of other paragraphs in the subsection related to open water restrictions, updates a cross-reference, and simplifies the language of an existing exception for disabled hunters from the prohibition of hunting waterfowl in open water.

SECTION 10 repeals a sunset provision of special regulations for waterfowl hunting at the Mead wildlife area that was overlooked in Ch. NR 11 when the same sunset date was repealed in Ch. NR 10 by previous rulemaking.

**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.

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 distinct migratory game bird populations. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the USFWS. The USFWS regulations and guidelines apply to all states within the Flyway and therefore the regulations in the adjoining states closely resemble the rules established in this rule order, and only differ slightly based on hunter desires, habitat and population management goals. However, these variations fall within guidelines and sideboards established by the USFWS.

**Summary of Factual Data and Analytical Methodologies:** The species of primary interest to duck hunters, blue-winged teal, are an early migrating bird whose numbers may be low or declining in Wisconsin when the normal duck seasons begin at the end of September or early October. Many hunters are likely to appreciate the opportunity to hunt this species earlier during the fall season, possibly prior to migration, when they may be more abundant. The federal authorization for an early teal season is for a three year trial period beginning in 2014 and continuing through 2016.

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

The continental population of blue-winged teal has grown in recent years and a harvest assessment concluded that teal could sustain higher harvest beyond that incurred during the regular duck season and the existing early teal seasons. Following a series of meetings and recommendations among states and the USFWS, it was decided that the four production states would be offered a three-year year “experimental” teal season, the results of which will determine if a state is granted an operational (i.e. permanent) early teal season. The USFWS requires states to observe hunter behavior in the field to observe whether they shoot at non-teal ducks during the teal only season. If the number of attempts to shoot non-teal ducks is too high, Wisconsin will fail the experiment.

Based on public input and staff analyses, the department proposes an early teal season in Wisconsin that would begin on September 1 and continue through September 7. Only blue-winged and green-winged teal can be harvested. The daily bag limit would be 6 teal. Shooting hours on opening day begin at 9:00 a.m. and close at 7:00 p.m. Shooting hours from September 2 through 7 will begin at sunrise and close at 7:00 p.m.

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

These rules will modify the duck and goose hunting season dates in the Mississippi river zone consistent with options available under the federal framework for Wisconsin in 2015. The regular duck and Canada goose hunting seasons will open on October 3 and continue through October 9. The season will then be closed for seven days, reopening on October 17 and continuing through December 8. In addition to consistency with the federal framework for migratory bird hunting, these season dates are proposed in response to the requests of Mississippi river zone hunters expressed at hearings and meetings.

These rules will repeal the delayed, 9:00 a.m. start of shooting hours on the first day of the regular duck hunting seasons. Hunting will begin 30 minutes before sunrise as it does during the rest of the season. In the past, the delayed start may have been in place for variety of reasons, including reduced hunter conflict on the first day of hunting and improved duck identification. Recently, hunters have considered these issues during open meetings and registered opinions with the Conservation Congress established under s. Ch. 15.348. Hunter opinion has shifted from support of the 9:00 a.m. opening day shooting hours to ½ hour before sunrise. Wisconsin’s surrounding states all begin shooting hours 30 minutes before sunrise on the first day of regular duck hunting seasons although some alter shooting hours in other ways. During the early teal season, shooting hours would continue to be delayed so that hunting is not allowed until 9:00 a.m. on the first day and sunrise on subsequent days based on public input and duck identification concerns. Teal are the only duck species that may be harvested during this early season.

In the Horicon goose management zone the department proposes a season harvest limit of 12 Canada geese. This will be the second year of a 12 bird season limit. Prior to 2014, the season limit had been 6. The department will continue to monitor harvest and hunter response to confirm that a 12 goose harvest limit continues to be appropriate for this zone.

These rules make revisions which the department considers to be remedial in nature. The proposal corrects an inconsistency between the introductory language and the text of a rule that exempts hunters on the Mississippi River from the requirement that hunters in boats and blinds be concealed by emergent vegetation. The exception is for hunters on the Mississippi River only and does not apply to hunters on all waters in counties adjacent to the Mississippi River. Disabled hunters are also exempt from the requirement to be concealed and this proposal creates introductory language for consistency with other provisions of that subsection, updates a cross-reference, and simplifies that language. Finally, these rules repeal a sunset provision of special regulations for waterfowl hunting at the Mead wildlife area that was overlooked in Ch. NR 11 when the same sunset date was repealed in Ch. NR 10 by previous rulemaking.

**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 6, 2015.

**SECTION 1. NR 10.01 (1) (a) is created to read:**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
<b>NR 10.01 (1) (a)</b> <i>Teal species</i>	Entire state	9:00 a.m. on Sept. 1 to 7, 2016	6 teal.	Three times the daily bag limit through the entire season except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag limit.

**SECTION 2. NR 10.01 (1) (b) and (g) 1. (intro.) and d. are amended to read:**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
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<p><b>NR 10.01 (1)</b> (b) <i>All species of wild duck</i></p>	<p>Entire state</p>	<p>As established by zone</p>	<p>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.</p>	<p>Three times the daily bag limit <del>through the entire season</del> except opening day when it is the same as the daily bag limit and the second day; when it is twice the daily bag limit.</p>
	<p>Northern zone as established in s. NR 10.32</p>	<p>9:00 a.m. <del>Beginning</del> on the Saturday nearest September 24 and <del>continues continuing</del> for 60 consecutive days</p>		
	<p>Southern zone as established in s. NR 10.32</p>	<p>9:00 a.m. <del>Beginning</del> on the Saturday nearest October 1 and <del>continues continuing</del> for 9 days, followed by a 5-day split, and then reopens for 51 <del>days</del> consecutive days.</p>		
	<p>Mississippi River zone as established in s. NR 10.32</p>	<p>9:00 a.m. <del>Beginning</del> on the Saturday nearest <del>September 24</del> <u>October 1</u> and <del>continues</del> <u>continuing</u> for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> split, and then reopens for <del>51</del> <u>53</u> consecutive days.</p>		
<p>(g) Geese 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.</p>	<p>d. Horicon zone</p>	<p>Two permit periods</p>		<p><del>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.</del></p>

		<u>First permit period beginning on September 16 and continuing until the Sunday following the last Friday in October.</u>	2	<u>Three times the daily bag limit except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag limit.</u>
		<u>Begins Second permit period beginning on the Monday following the last Friday in October and continuing for a season total of 92 days combined for both periods.</u>	2	

**SECTION 3. NR 10.01 (1) (g) 1. dm. is created to read:**

**NR 10.01 (1) (g) 1. dm. HORICON ZONE SEASON HARVEST LIMIT.** No person may harvest more than 12 Canada geese during a permit period established in subd. par. d.

**SECTION 4. NR 10.01 (1) (g) 1. e., 2. (intro) and d., and 3. are amended to read:**

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
<b>NR 10.01 (1) (g) 1.</b>	e. Mississippi River subzone	Begins on the Saturday nearest <del>September 24</del> <u>October 1</u> and continues for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> 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 geese hunting is not allowed until 9:00 a.m.				

	d. Mississippi river subzone	Begins on the Saturday nearest <del>September 24</del> <u>October 1</u> and continues for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> split, and then reopens for a season total of 92 days.		
3. All other geese <del>except on the first day of the duck season in par. b. when goose hunting is not allowed until 9:00 a.m.</del>	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32.	September 20 and continues for <del>88</del> <u>92</u> consecutive days	1 white-fronted goose <u>and 1 brant</u>	3 white-fronted geese <u>and 3 brant</u> 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 <del>88</del> <u>92</u> days.		
	c. Horicon zone	September 20 and continues for <del>88</del> <u>92</u> consecutive days		
	d. Mississippi River subzone	Begins on the Saturday nearest <del>September 24</del> <u>October 1</u> and continues for <del>9</del> <u>7</u> days, followed by a <del>12-day</del> <u>7-day</u> split, and then reopens for a season total of 92 days.		

Section 5. NR 10.01 (1) (g) 4. is repealed.

Section 6. NR 10.01 (1) (h), and (u) 1. (intro.) and 3. (intro.) are amended to read:

NR 10.01 (1) (h) Mourning dove	Entire State	Sept. 1 – <del>Nov. 9</del> <u>Nov. 29</u>	15	45
(u) 1. All species of wild ducks, mergansers and coots <del>except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.</del>				
3. Geese <del>except on the first day of the duck season in par. b. when hunting is not allowed until 9:00 a.m.</del>				

**SECTION 7. NR 10.06 (5) (Intro.), as affected by CR 15-024, is amended to read:**

**NR 10.06 Hunting hours. (5) HUNTING HOURS.** Hunting hours for bear, bow deer, deer with firearms, elk and small game are 30 minutes before sunrise through 20 minutes after sunset. Hunting hours for migratory game birds are 30 minutes before sunrise to sunset except for teal during a season for hunting teal species only. ~~All waterfowl hunting starts at 9:00 a.m. on the first day of the duck hunting season established in s. NR 10.01 (1) (b).~~ The hours for hunting teal during a teal-only season shall be sunrise through 7:00 p.m. except on the first day when hunting hours begin at 9:00 a.m. All pheasant hunting starts at 9:00 a.m. on the first day of the pheasant hunting season established in s. NR 10.01 (2) (c). The department shall establish the specific opening and closing times annually in the hunting regulations pamphlets. Opening and closing times for zone A southern and northern areas shall be based on astronomical data collected by the U.S. naval observatory, Washington D.C., 20392-5420 for Sheboygan, Wisconsin and Powers, Michigan, respectively. The hunting hours for the other zones shall be obtained by adding minutes to the Zone A a.m. and p.m. columns as follows:

**SECTION 8. NR 10.12 (3) (a) is amended to read:**

**NR 10.12 (3) (a) *Mississippi river.*** Blinds in any of the waters of the Mississippi river and adjoining ~~counties~~ waters west of the Burlington Northern railway provided the blinds are securely anchored and located not more than 100 feet from any shoreline including islands. Blinds in open water in Grant county and the Lake Pepin portions of the Mississippi river are permitted regardless of the distance from shore provided the blinds are securely anchored.

**SECTION 9. NR 10.12 (3) (e), as affected by CR 15-024, is repealed and recreated to read:**

**NR 10.12 (3) (e) *Disability provision.*** If the boat, blind, or similar device is occupied by at least one individual engaged in hunting who holds 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 is substantially in compliance with par (f) considering necessary additional distance to maintain the minimum depth of water for operation of the boat, blind, or similar device used.

**SECTION 10. NR 11.044 is amended to read:**

**NR 11.044 Early waterfowl hunting season closed area.** A closed season is established at the Mead

wildlife area. No person may hunt waterfowl until the beginning of the duck season established in s. NR 10.01 (1), except that hunting is allowed on the dates of the youth duck hunt established in s. NR 10.01 (1) by all people who may legally hunt waterfowl on those dates. ~~This subsection does not apply after December 31, 2012.~~

**SECTION 11. 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 12. 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)