

SUBJECT: Adoption of board orders WM-13-09 and WM-14-09(E), revisions to NR 10 establishing the 2009 migratory game bird hunting seasons and regulations

FOR: AUGUST 2009 BOARD MEETING

TO BE PRESENTED BY: Kent Van Horn, Migratory Game Bird Specialist

SUMMARY:

The proposed rules establish the regulations for the 2009 migratory game bird season. The significant regulations are:

Ducks - The state is divided into two zones each with 60-day seasons. The daily bag limit is expected to be 6 ducks including no more than: four mallards, of which only one may be a hen, one black duck, one pintail, one canvasback, three wood ducks, two scaup and two redheads.

Canada geese - The state is apportioned into three goose hunting zones: Horicon, Collins, and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are expected to be as follows:

- Collins Zone - 66 days
- Horicon Zone - 92 days
- Exterior Zone - 85 days
- Mississippi River Subzone - 85 days

RECOMMENDATION: Adoption of board orders WM-13-09 and WM-14-09(E), revisions to NR 10 establishing the 2009 Migratory Game Bird Hunting Seasons and Regulations

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

Tom Hauge
Bureau Director, Tom Hauge

8/7/09
Date

Laurie Osterndorf
Administrator, Laurie Osterndorf

8/7/09
Date

Matt Frank
Secretary, Matt Frank

8/10/09
Date

cc: Laurie J. Ross - AD/8
Kent Van Horn - WM/6

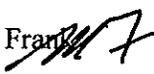
Tom Hauge - WM/6

Scott Loomans - WM/6

CORRESPONDENCE/MEMORANDUM

DATE: August 10, 2009

TO: Natural Resources Board Members

FROM: Matthew J. Frank 

SUBJECT: Request Adoption of the 2009 Migratory Game Bird Hunting Regulations

I am requesting Natural Resources Board adoption of the proposed 2009 Migratory Game Bird seasons and regulations, board orders WM-13-09 (permanent) and WM-14-09E (emergency to accommodate season opening).

Background

Each fall a diverse group of about 85,000 waterfowl hunters venture into Wisconsin's wetlands, lakes, rivers and fields to harvest 300,000-500,000 ducks and geese. Wisconsin currently ranks 3rd in the nation for the number of waterfowl hunters and has maintained a relatively stable level of waterfowl hunters for over 25 years. The annual establishment of waterfowl hunting regulations is very important to these customers. Migratory game bird populations are a shared international resource and managing them requires cooperative surveys, research and regulation. Department staff participate in a federal and a state regulatory process each year in order to apply biological data and public input to the establishment of Wisconsin's migratory game bird hunting regulations. Details of this process were provided in the May NRB memo on this topic when staff received approval to conduct the public hearings. 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) within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council.

Wisconsin hosted the 2009 summer MFC meeting in Manitowoc, Wisconsin from July 18-24. At this meeting, the states received the 2009 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 issued their final decision on waterfowl season frameworks on July 31, 2009.

Overall, continental breeding waterfowl conditions were very good this year for ducks. The survey across the prairies, parklands and boreal forests of the Dakotas, Canada and Alaska reported wetland numbers at 31% above the long term average and total ducks at 42 million or 25% above the long term average. All 10 duck species surveyed had population estimates that were either unchanged or higher than 2008. The best water conditions were in the Dakotas and southern Manitoba where production is expected to be good to excellent. 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 2009 mid-continent (US prairies, Great Lakes states and central Canada) mallard population estimate was 8.7 million (up 10% from 2008) and the Canadian pond count was 3.6 million (up 17% from 2008). As a result of these data the USFWS established a 60 day duck season with a 6 duck daily bag limit and specific recommendations for several species (Appendix 1).

In 2007 the canvasback population estimate from this continental survey was a record high (865,000) but then during a dry 2008, a surprising 43% decline in canvasback numbers (489,000) was suggested by the survey. While canvasback breeding conditions in 2008 were clearly poor, it was not biologically possible that the population had declined this much in one year. It was more likely that the canvasbacks simply moved out of the survey area to deeper water habitats waiting for next year. In 2009, snow and rain returned water to the prime breeding areas and, as expected, the canvasback returned with a 35% increase over the 2008 population estimate to 662,000 canvasbacks in 2009. In response to these data, the USFWS reopened the canvasback hunting season in the Mississippi Flyway for 2009 at 60 days with a 1 bird daily bag limit.

There is also good news for scaup in 2009 as the survey results reveal the 3rd year in a row of a population increase. The scaup population estimate for 2009 is 4.2 million, making it the 4th most abundant duck surveyed in North America. While concerns have been expressed about the decline in scaup population estimates from the highs of the 1970's to the lower levels in the 1990's, the most recent 13 years of population estimates reveal a relatively stable scaup population. In 2008, there was considerable discussion and negotiation over the scaup hunting season frameworks which ended in the USFWS further restricting hunting opportunity on scaup through reduced bag limits. The USFWS determined last year that scaup hunting should occur under a "restrictive" package which for the Mississippi Flyway states meant a 60 days season with 40 days at a 1 bird daily bag limit and 20 days at a 2 bird daily bag limit. This was one of the most restrictive frameworks ever experienced for scaup. Wisconsin and several other states requested a further review of this decision by the USFWS over the winter and, in response, the USFWS offered a more reasonable "restrictive" season framework for scaup. In the future, the "restrictive" package will be 45 days with a 2 bird daily bag limit and 15 days with a 1 bird daily bag limit. However, given the scaup population increase in 2009, the USFWS has prescribed the "moderate" season scaup framework of 60 days with a 2 bird daily bag limit.

After several years of work reviewing data on wood ducks and alternative methods for measuring the impact of harvest, the USFWS, in cooperation with the Mississippi and the Atlantic Flyway Councils, developed an acceptable method for measuring harvest rates for wood ducks. A sustained duck banding effort by state wildlife agencies is key to monitoring wood duck harvest. As a result of these analyses, the daily bag limit on wood ducks was increased from 2 to 3 in 2008. This increased bag limit will remain in effect through the 2010 season after which the impact of increased harvest will be evaluated.

Wisconsin's Canada goose harvest comes primarily from 2 populations; resident giant Canada geese that breed in and around Wisconsin and the Mississippi Valley Population (MVP) of Canada geese which breeds along the Hudson Bay coast in northern Ontario. In the past, the regular Canada goose season was based on the annual allowable Mississippi Valley Population (MVP) harvest and was adjusted in concert with annual population changes. However, 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 testing the use of a standard season framework for 5 years. Beginning in 2007 and continuing for five years, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season. The health of these populations is being measured with spring breeding population surveys, survival data and harvest rates

obtained from banding and production studies. In 2009, winter conditions persisted on the MVP breeding grounds in northern Ontario into early June. These conditions resulted in a breeding population estimate of 239,000 which is 35% below the long term estimate and a very poor nesting effort. Despite these conditions, the total population estimate (including non-breeders and failed breeders) was 518,000 which is only 3% below the long term average. The Wisconsin 2009 resident Canada goose breeding population estimate increased to 148,000 which was 27% above 2008.

While populations and habitat conditions in the U.S. and Canadian prairies determine the USFWS prescribed duck season framework for Wisconsin, much of Wisconsin's duck harvest comes from ducks raised in Wisconsin and other Great Lakes states/provinces. Therefore, Wisconsin's breeding waterfowl surveys are an important part of the decision making process for setting Wisconsin's waterfowl hunting regulations.

Mallards, wood ducks, blue-winged teal and green-winged teal are generally the most abundant birds in Wisconsin's fall harvest. Of these only green-winged teal do not breed in substantial numbers in Wisconsin. Waterfowl breeding conditions in Wisconsin were mixed in 2009 with some wet areas and some very dry areas (Appendix 1). Our May breeding waterfowl survey population estimates showed total duck numbers about average at 502,000 with mallards showing a small increase and wood ducks and blue-winged teal showing decreases over last year.

In 2008, we summarized a random mail survey of Wisconsin waterfowl hunters that aided in the development of our waterfowl hunting season structure. Public input collected during meetings and hearings over the last few years revealed similar results. The survey asked waterfowl hunters what they thought about the waterfowl regulations over the last few years and what they wanted in the regulations. In answer to questions from the survey we learned the following:

- 80% thought the duck bag limit was about right
- 51% favored 1 hen mallard, 33% 2 hens, 7% 0 hens, 9% no opinion
- 65% thought the duck season length about right (28% too short)
- 59% thought timing of duck season was about right (29% too early, 6% too late)
- Opening day in the north 44% for Saturday nearest September 24 (29% for Oct 1)
- Opening day in the south 40% for Saturday nearest October 1st (18% for Sept 24, 20% for Oct 8)
- Would you like one statewide duck season opening day? – No - 44%, Yes - 33%, Unsure - 23%
- Canada goose regular season daily bag limit – 53% about right, 44% too low, 3% no opinion
- Exterior zone Canada goose season length – 72% about right, 25% too short, 3% no opinion
- Timing of Canada goose regular seasons – 79% about right, 14% too early, 3% too late, 4% no opinion

With the foundation of spring survey data, USFWS waterfowl season frameworks, and previous public input, staff developed the following proposal for the 2009 waterfowl season and took it out for public review. The season proposal was first discussed and approved in its entirety by the Migratory Committee of the Conservation Congress on August 1.

Rule Summary

- 1) **Ducks.** The duck season regulation proposal has some important changes for 2009 driven largely by changes in federal frameworks. 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. The proposed Wisconsin season below is the result of the following options.

- We are proposing a September 26 start for the northern zone. For the southern zone, we propose an October 3 start with a 5-day split (Oct 12-16), reopening on October 17 and ending on December 6. The earlier opener in the northern zone is intended to accommodate the earlier freeze up in the north and provide hunting opportunity on early migrating teal.
- The 5-day early October split within the southern zone is a compromise between differing hunting conditions and requests of marsh dabbling hunters, deep-water diver hunters and field hunters across the zone. Because of differing conditions and target species some hunters want more days earlier in the season while others want more days later in the season.
- The USFWS framework would allow a daily bag limit of 2 hen mallards but we are once again proposing to a daily bag limit of 1 hen mallard during the entire season to protect the breeding potential of Wisconsin mallards. Other states in the Mississippi Flyway have been following Wisconsin's lead on this bag limit.

Season Summary:

During the 60-day season, the overall daily bag limit for ducks is 6, no more than 4 mallards of which only 1 can be a hen, 3 wood ducks, 2 redheads, 1 black duck, 1 pintail, 2 scaup (60 days) and 1 canvasback (60 days). In addition, 5 mergansers to include not more than 2 hooded mergansers. Coot daily bag of 15.

Northern Zone – September 26 at 9:00 am – November 24.

Southern Zone – October 3 at 9:00 am – October 11, and October 17 - December 6.

- 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. These days overlap with open goose seasons in most areas so adults will also be able to shoot geese but not ducks during the youth hunt.

3) Canada geese

The state is apportioned into three goose hunting zones: Horicon, Collins and Exterior. Other goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River.

Exterior Zone (including Brown and Rock Prairie subzones) – 85 days. Daily bag of 2 geese.

North Zone - September 19-25 and September 26, 9:00 am) – December 12.

South Zone –September 19-October 2, October 3 (9:00 am) – October 11 and October 17 – December 17.

Mississippi River Subzone – October 3 (9:00 a.m.) - 11 and October 17 – December 31.

Burnett County Subzone - closed

Horicon/Collins Time Periods

Hunters with Horicon and Collins zone permits will be issued 6 tags for the time period that they are awarded. The daily bag limit will be 2 geese with a possession limit of 6.

Horicon – 92 days

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

Collins – 66 days

Period 1 September 16- October 4
Period 2 October 5 - 25
Period 3 October 26- November 20

3) Other Geese

Brant and Light geese

Seasons will be the same as for the Canada goose zones/subzones.

The daily bag limit will be 1 brant and 20 snow, blue or Ross's geese

White fronted geese

Season will be the same as Canada geese for the Exterior and Collins zones. Within the Horicon zone the season will be from Sept 22 – Dec 16th.

The daily bag limit will be 1.

Public Hearing & 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. As a result, there is considerable input during a short period of time (Appendix 2). The following tools were used to involve interested parties in the rule making process.

- **Rule process information** - Beginning in June 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.
- **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, 2009. Email is becoming a more common method of public input while hearing attendance is dropping.
- **July 10, 2009 – Pre-Flyway public meeting** was held in Portage. Preliminary population status information was presented and input on the season structure was received. Several waterfowl and conservation organizations were represented by 10 people.

- **August 1, 2009 – Migratory Committee of the Conservation Congress.** Our waterfowl specialist presented the population status and proposed season structure to the committee. Twenty five of the 27 committee members were present.
- **August 1, 2009 – Post-Flyway public meeting** was held in Wausau to present the population status and proposed season structure in an informal setting with waterfowl groups and interested individuals. Several waterfowl and conservation organizations were represented by 16 people. The groups represented were: Wisconsin Waterfowl Association (WWA), Wisconsin Wildlife Federation (WWF), LaCrosse County Conservation Alliance (LCCA), Green Bay Duck Hunters (GBDH), and Black Slough Conservation Club (BSCC).
- **August 3-6, 2009 Public Hearings.** Four public hearings were held around the state and 54 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** - 15 people attended, 8 gave oral testimony
 - **Rice Lake** - 7 people attended, 6 gave oral testimony
 - **Appleton** – 14 people attended, 4 gave oral testimony
 - **Pewaukee** – 18 people attended, 5 gave oral testimony

Issues:

Overall, a strong majority of the public comments offered during the public hearings and submitted to the Department via phone, email and letter were in support of the proposed seasons. They are summarized below by the major groups of options.

- 1) Statewide same opening day for duck season in both zones: 5 individuals
- 2) North Zone - Season dates

Opening Day –

Sept 26 (Department Proposal)

- 58 individuals
- 4 waterfowl groups
- Conservation Congress Migratory Committee

October 3 or later

- 5 individuals requested this later opening date and one individual requested a split in the north zone

Based on public input the Department recommends the northern duck zone hunting season be open from September 26 – November 24.

2) Southern Zone – Opening Day

– October 3 (Department Proposal)

- 37 individuals
- 3 waterfowl groups
- Conservation Congress Migratory Committee

- Sept 26 – 1 local waterfowl group and 5 individuals
- Later – 1 local waterfowl group and 3 individuals

Based on public input the Department recommends the south duck zone hunting season to open on October 3.

3) Southern Zone – Season Split

- No split – 5 individuals
- 5 day split (Department Proposal)
 - 35 individuals
 - 3 waterfowl groups
 - Conservation Congress Migratory Committee
- Something longer than 5 days – 1 waterfowl group (LCCA) and 7 individuals

Based on public input the Department recommends the proposed 5 day split for the southern duck zone resulting in a season of October 3-11 and October 17-December 6.

4) Exterior Zone Canada Goose Season

- Opening day in the north and south zones: September 19 and a 5 day season closure in the south zone with duck season (Department Proposal)
 - 36 individuals
 - 3 waterfowl groups
- Several other options were offered by a few people but without substantial support
 - Open on Sept 16 – 1 group and 1 individual
 - Open with duck on Oct 3 – 1 group and 1 individual
 - Open with duck on Sept 26 – 2 individuals
 - No split in the south zone – 2 individuals

Based on the public input, the Department recommends implementing the season as proposed with the following dates; North zone - September 19 – December 12 and South zone – September 19 – October 11 and October 17 – December 17.

6) Opening Day Shooting Hours

In 2006, the Department implemented a change in the beginning of shooting hours for the opening day of duck season from noon to 9:00 am. This was a compromise among the different hunter desires on this topic. The 9:00 am opener went well as reported by staff around the state the last 3 seasons. Opinions remain varied but most people believe this is an acceptable compromise.

- 9:00 am – Conservation Congress, 3 waterfowl groups and 32 individuals favored
- Noon – 1 local waterfowl group, 3 individuals favored
- ½ hour before sunrise – 1 local waterfowl group and 7 individuals favored.

The Department recommends maintaining a 9:00 am beginning of shooting hours on opening day.

Rule Development

These rules were developed with the assistance of the Bureaus of Law Enforcement, Legal Services, Customer Service & Licensing, and Management & Budget.

Final Regulatory Flexibility Analysis

The revisions to Ch. NR 10 relate to migratory game bird management. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Environmental Analysis

These rule revisions are a Type III action under Chapter 150, Wis. Adm. Code, and no environmental analysis is required.

Legislative Council Rules and Clearinghouse Report:

All of the comments that the department received from the Legislative Council Clearinghouse have been incorporated (see attached report).

Appendix 2. Migratory Game Bird Public Comment Summary

Bold/Italics = Department proposal

Issue	Email/phone /other	Hearing attendees	Groups at meetings	Conservation Congress Vote
One Statewide Duck Opener	4	1	0	
<i>North Duck Zone opener, Sept 26</i>	26	32	4	x
North Duck Zone opener, later	5	0	0	
North Duck Zone, with split	0	1	0	
<i>South Duck Zone opener, Oct 3*</i>	8	31	3	x
South Duck Zone opener, earlier	1	4	1	
South Duck Zone opener, later	3	0	1	
<i>South Duck Zone split, 5-day, Oct 12-16</i>	8	27	3	x
South Duck Zone split, longer	1	6	1	
South Duck Zone, no split	3	2	0	
<i>Duck Shooting Hours on Opening Day, 9am</i>	5	27	3	x
Duck Shooting Hours on Opening Day, 1/2 hr before sunrise	3	4	1	
Duck Shooting Hours on Opening Day, noon	1	2	1	
<i>Exterior Goose Zone, Sept 19, split in South during duck split</i>	6	30	3	x
Exterior Goose Zone, Sept 16, split in South during duck split*	0	1	1	
Exterior Goose concurrent with duck season - 10/3	0	1	1	
Exterior Goose concurrent with duck season - 9/26	1	1	0	
Split with gun deer season	1	0	0	
No split in South	2	0	0	
<i>Youth Hunt Sept 19+20</i>	8	35	5	x
No Youth Hunt	1	1	0	
Total commenting individuals or groups, by category	49	36	6	

Appendix 1. 2009 Waterfowl Population Status

USFWS Surveys:

- Traditional survey area mallards – 8.5 million (10% above 2008 and 13% above the long term average (LTA))
- May Ponds - Canada – 3.6 million (17% above 2008 and 6% above LTA)
- Total Ducks – 42 million (13% above 2008 and 25% above long term average)
- Mid-continent mallards = 8.7 million, calculated as follows: 8.5 million (traditional survey area) - 0.5 million (AK) + 0.7 million (WI, MN, MI)
- Others:
 - ◊ Blue-winged Teal – 7.4 million – 60% above LTA
 - ◊ Gadwall – 3.1 million – 73% above LTA
 - ◊ Green-winged Teal – 3.4 million – 79% above LTA
 - ◊ Northern Shoveler – 4.3 million – 92% above LTA
 - ◊ Northern Pintail – 3.2 million – 20% below LTA
 - ◊ Scaup – 4.2 million – 18% below LTA
 - ◊ Wigeon - 2.5 million – 5% below LTA
 - ◊ Canvasback - 662,000 – 16 % above LTA

The combination of 8.7 million mid-continent mallards and a Canada pond count at 3.6 million results in a liberal 60 day season under the Adaptive Harvest Management model.

Table 8. Optimal regulatory strategy^a for the Mississippi and Central Flyways for the 2009 hunting season. This strategy is based on current regulatory alternatives (including the closed-season constraint), on current mid-continent mallard models and weights, and on 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 2009.

Bpop ^b	Ponds ^c									
	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
4.75–5.75	R	R	R	R	R	R	R	R	R	R
6.00	R	R	R	R	R	R	R	R	M	M
6.25	R	R	R	R	R	R	M	M	M	L
6.5	R	R	R	R	M	M	M	L	L	L
6.75	R	R	R	M	L	L	L	L	L	L
7.0	R	M	M	L	L	L	L	L	L	L
7.25	M	M	L	L	L	L	L	L	L	L
7.5	M	L	L	L	L	L	L	L	L	L
≥ 7.75	L	L	L	L	L	L	L	L	L	L

^a C = closed season, R = restrictive, M = moderate, L = liberal.

^b Mallard breeding population size (in millions) in the WBPMS (strata 13–18, 20–50, 75–77) and Michigan, Minnesota, and Wisconsin.

^c Ponds (in millions) in Prairie Canada in May.

2009 Wisconsin spring duck survey waterfowl population estimates.

<u>Species</u>	<u>Population Estimate</u>	<u>Standard Error</u>	<u>Years of Air-ground Data Used</u>	<u>Long-term (1973-07) Averages</u>	<u>Test for Diff from 2007-08</u>	
					<u>Z-stat</u>	<u>Prob</u>
Mallard	200,497	27,251	2008-09	181,497	0.33	=0.75
BW Teal	112,793	21,564	2004-09	115,629	1.50	=0.13
Wood Duck	113,523	20,115	2004-09	74,959	0.41	=0.69
Other Ducks	75,602	21,321	1995-09	57,186	1.68	=0.09
Total Ducks	502,416	68,930	-	438,165	1.69	=0.09
Canada Geese	148,293	22,762	2008-09	78,739*	1.07	=0.28

* = average of 1986-2008.

Overall breeding duck survey results indicate a healthy, relatively stable population of breeding ducks in Wisconsin experiencing normal annual fluctuations. This is a positive indication of hunting regulations and habitat management/protection. Given the varied wetland conditions across much of the state and moderate breeding duck estimates, duck production in Wisconsin is expected to be moderate in 2009 and the long term trend in waterfowl breeding populations is relatively stable.

The 2009 Wisconsin breeding population estimate for mallards is up slightly from last year. Blue-winged teal breeding population estimate is down from 2008 but similar to the long term mean. Wood ducks are down slightly from 2008, but near average for the last 10 years.

Figure 1. 2009 FEDERAL SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS

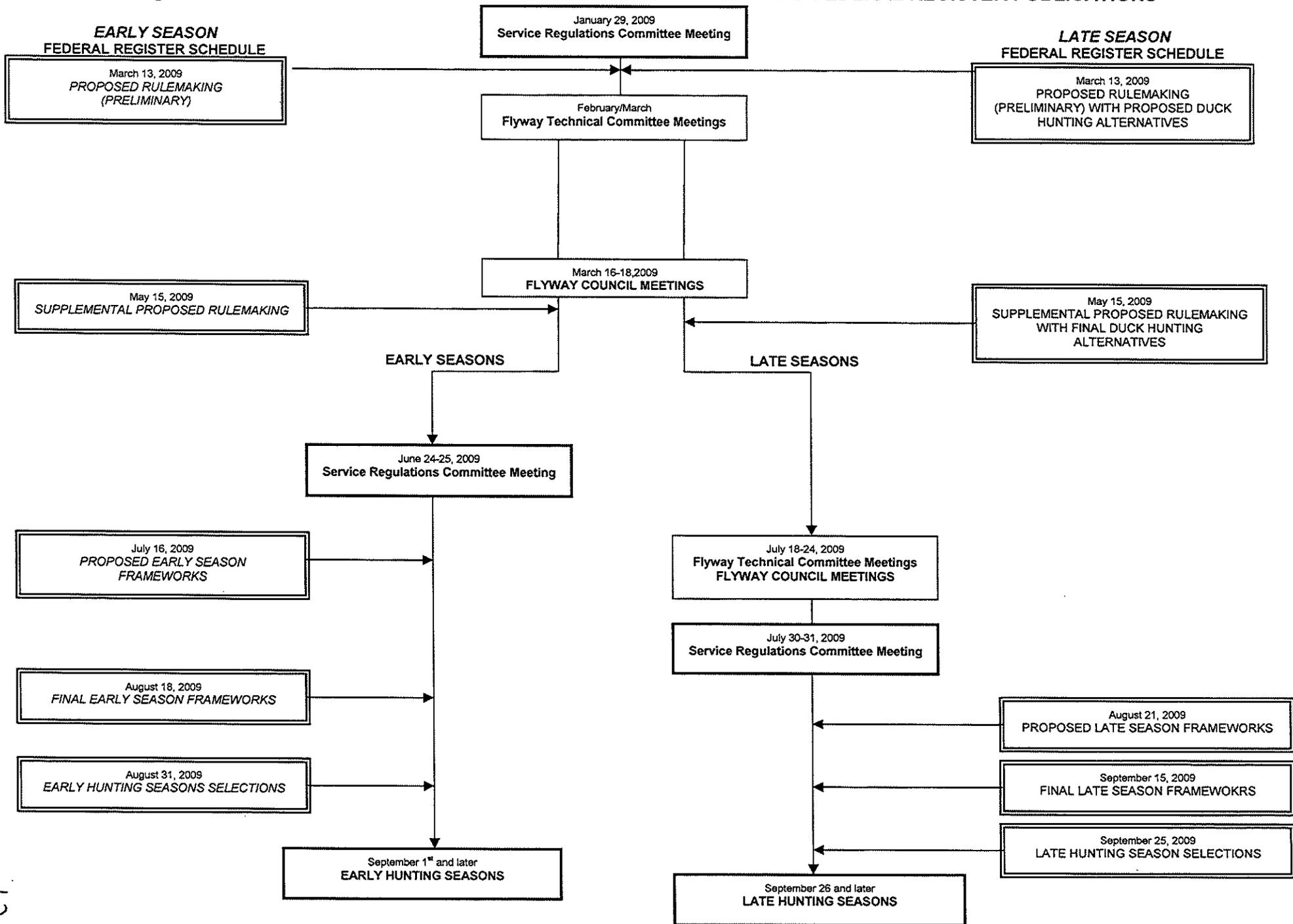
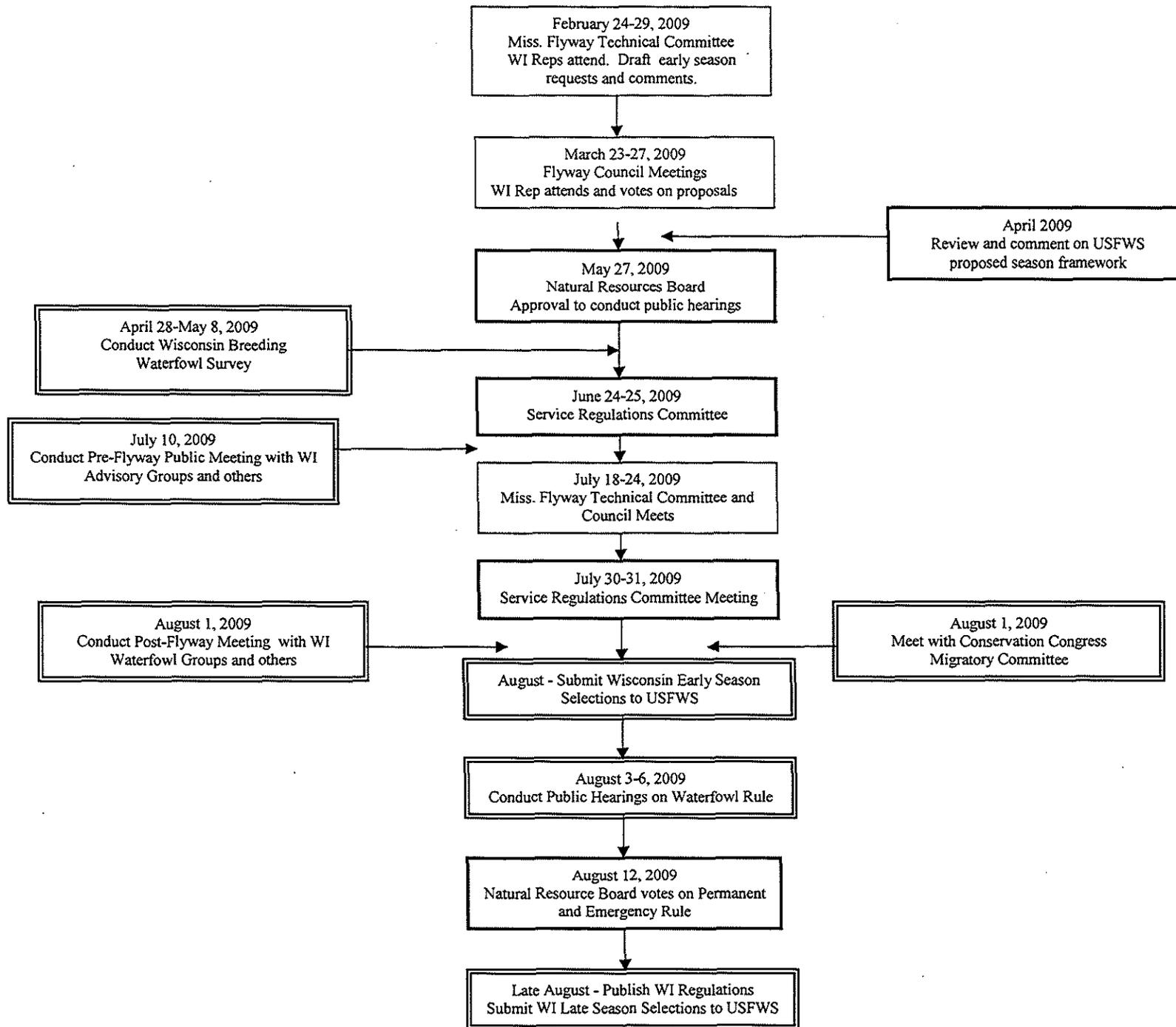


Figure 2. 2009 WISCONSIN MIGRATORY GAME BIRD REGULATORY SCHEDULE





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-042

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

- a. In the statutory authority and explanation of agency authority section of the rule analysis, the last instance of “and” should be moved and inserted after “boundary waters.”
- b. In s. NR 10.01 (1) (b), “will be” should be changed to “shall be”.
- c. In s. NR 10.01 (1) (v), if the department intends to amend this paragraph instead of repealing and recreating it, “September 20” should be left in the rule and stricken through and the new “September 19” should be underlined. In addition, “sub zone” should be changed to “subzone”.

Fiscal Estimate — 2009 Session

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-13-09 and WM-14-09(E)

Subject
 2009 Migratory Game Bird Seasons

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

Check columns below only if bill makes a direct appropriation
 or affects a sum sufficient appropriation.

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs — May be possible to absorb
 within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs
 Indeterminate

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

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 rule order establishes the 2009 season lengths and bag limits. The 2009 season framework is not significantly different than the migratory game bird seasons in previous years.

Ducks - The state is divided into two zones each with 60-day seasons. The daily bag limit is expected to be six ducks including no more than: four mallards, of which only one may be a hen, one black duck, one pintail, one canvasback, three wood ducks, two scaup and two redheads.

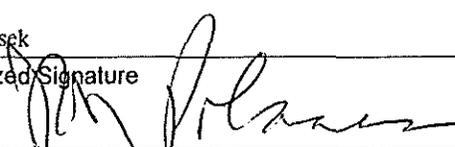
Canada geese - The state is apportioned into three goose hunting zones: Horicon, Collins, and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are expected to be as follows:

- Collins Zone - 66 days - Horicon Zone - 92 days
- Exterior Zone - 85 days - Mississippi River Subzone - 85 days

FISCAL IMPACT: This proposed migratory bird season rule is similar to the season in previous years and will not result in any significant changes in spending or revenue. There are no new government costs anticipated due to the provisions of this rule.

Long-Range Fiscal Implications

None

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 07-28-09

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WM-13-09 and WM-14-09(E)

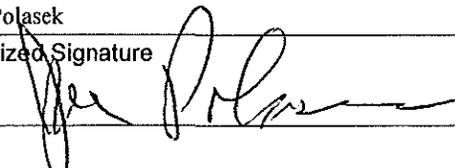
Subject
 2009 Migratory Game Bird Seasons

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes		\$ 0	\$ - 0
(FTE Position Changes)		(0.00 FTE)	(- 0.00 FTE)
State Operations — Other Costs		0	- 0
Local Assistance		0	- 0
Aids to Individuals or Organizations		0	- 0
Total State Costs by Category		\$ 0	\$ - 0
B. State Costs by Source of Funds			
		Increased Costs	Decreased Costs
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$ 0	\$ - 0

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 07-28-09

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.31(3)b., to amend 10.01(1)(v), 10.31(3) (intro.); and to repeal and recreate 10.01(1)(b), (g) and (u), and 10.32 relating to the 2009 migratory game bird seasons and waterfowl hunting zones.

WM-13-09

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041, 29.197 and 29.885, Stats. have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state and establish the two-day youth waterfowl hunt.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014 and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters, and s. 29.197, Stats., authorizes the establishment of special hunts.

Related Statute or Rule: This rule order establishes the season length and bag limits, for the Wisconsin migratory game bird seasons. Each year similar or identical emergency and permanent rule packages are promulgated. This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures.

Plain Language Analysis: Sections 1 and 2 of this rule order establish the season length and bag limits for the 2009 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60-day seasons. The season begins at 9:00 a.m. September 26 and continues for 60 consecutive days in the north, closing on November 24. In the South the season begins at 9:00 a.m. on October 3 and continues through October 11, followed by a 5-day split, and then reopens on October 17 and continues through December 6. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 1 black duck, 1 pintail, 1 canvasback, 3 wood ducks, 2 scaup and 2 redheads.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 66 days (three hunting periods, September 16 – October 4, October 5 – 25, October 26 – November 20); Horicon Zone - 92 days (2 hunting periods, first period beginning September 16 and the second on November 2); Exterior Zone in the northern duck zone - 85 days (Sept. 19 – Dec. 12); Exterior Zone in the southern duck zone – 85 days (Sept. 19 – Oct. 11 and Oct. 17 – Dec. 17) and Mississippi River subzone - 85 days (Oct. 3 – Oct. 11 and Oct. 17 – Dec. 31). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

Sections 3 and 4 make a housekeeping change to eliminate the map of the Horicon Intensive Management Zone for geese. Related regulations were eliminated three years ago.

Section 5 updates road names in the migratory game bird hunting zone map following the completion of new highway construction. The location of the boundary is not changed.

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 (FWS) regulations process. As part of the Federal rule process, the FWS 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. Additionally, while FWS believes that the NAWMP's population goals would tend to exert a conservative influence on overall duck harvest-management. Other factors, such as habitat, are to be considered.

In the past, the regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest which was determined based on the spring breeding population estimate obtained from an aerial survey of the MVP breeding range as prescribed by the Mississippi Flyway MVP management plan. However, because locally produced giant Canada geese

now constitute a considerable portion of the harvest in all states that also harvest Mississippi Valley Population birds, the Mississippi Flyway Council is testing the use of a standard season framework for 5 years. Beginning in the fall of 2007 and continuing through 2011, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season. In addition, if the MVP spring population numbers dropped to a predetermined low level during the 5-year period, the stable season framework would be adjusted.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service in 50 CFR 20.

Comparison with Rules in Adjacent States: Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the FWS. The FWS 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 FWS.

Summary of Factual Data and Analytical Methodologies: For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin's regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The result of this work is reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In May and June, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting staff provided the attendees with breeding status information and asked for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At this meeting staff were provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to discuss and develop proposals and recommendations that were voted upon by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announced its final waterfowl season framework recommendation on July 31. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals on August 1. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held from August 3 – 6 around the state to solicit additional input on the proposed annual waterfowl rule.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules 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.

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

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 26 at 9:00 a.m. – Nov. 24	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 1 pintail, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec. 6	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 1 pintail, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition 5 mergansers to include not more than 2 hooded mergansers.	

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) <i>Geese</i> 1. Canada geese and its subspecies	a. Entire state	Sept. 1 — Sept. 15	5	10
	b. All that part of the exterior zone lying-within the northern zone established in s. NR 10.32 except for the subzones described in subd. 1.c. and d.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12	2	4
	d. Burnett county subzone	None	None	None
	e. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 1. f. to j.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Two permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 1	2	
		Nov. 2 – Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Oct. 4	2	
		Oct. 5 – Oct 25	2	
		Oct. 26 – Nov. 20	2	
	i. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17	2	4
	j. Mississippi River subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31	2	4

Note: Season dates listed in this subdivision may be closed early when the harvest may exceed the level authorized, according to the procedure in s. NR 10.125(6).

2. Snow or blue and Ross' geese	Entire state	As established by zone	20	40
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Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 2.b. and c.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	c. Burnett county subzone	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 2. e. to i.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	f. Horicon zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 20		
	h. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	i. Mississippi river subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 3.b. and c.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	c. Burnett county subzone	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	d. 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.e. to i.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	f. Horicon zone	Sept. 22 – Oct. 2 and Oct. 3 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 20		
	h. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	i. Mississippi River subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31		
4. Brant	Entire state	As established by zone	1	2
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in sub. 3.b. and c.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	c. Burnett County subzone	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 3. e. to i.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	f. Horicon zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 20		
	h. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	i. Mississippi River subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(u) <i>Falconry special season</i> . Any person possessing a valid falconry permit and hunting license shall be restricted to the following migratory game bird seasons:				
Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
1. All species of wild ducks, mergansers and coots	Northern zone as established in s. NR 10.32	Sept. 19 – Sept. 20, Sept. 26 at 9:00 a.m. – Nov. 24 and Jan. 8 – Feb. 21	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2 .
	Southern zone as established in s. NR 10.32	Sept. 19 – Sept. 20, and Oct 3 at 9:00 a.m. – Oct. 11, Oct. 17 – Dec. 6 and Jan. 8 – Feb. 21	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock	Entire state	Sept. 1 – Dec. 16	3 in aggregate with those species listed under subd. 1.	6 in aggregate with those species listed under subd. 1.
3. Geese	Within the zones and subzones established in s. NR 10.31	Concurrent with the open season for geese established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone

Section 2. NR 10.01(1)(v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event*. Persons 12 years of age or older but under 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September 20 19. Approvals under ch. 29, Stats., are not required pursuant to s. 29.197 (1), Stats., except for registration in the harvest information program under s. NR 10.12 (11) and a Canada goose hunting permit for the season or zone where goose hunting, as listed in par. (g) 1., if hunting Canada geese. Daily bag limits are those described under pars. (b), (c) and (g), except that the daily bag limit for the zone or subzone being hunted as listed in par. (g)1.a. to j., on that date shall apply to Canada geese, and all other waterfowl hunting regulations apply. Hunters shall be accompanied by an adult 18 years of age or older. One adult may not accompany more than 2 hunters.

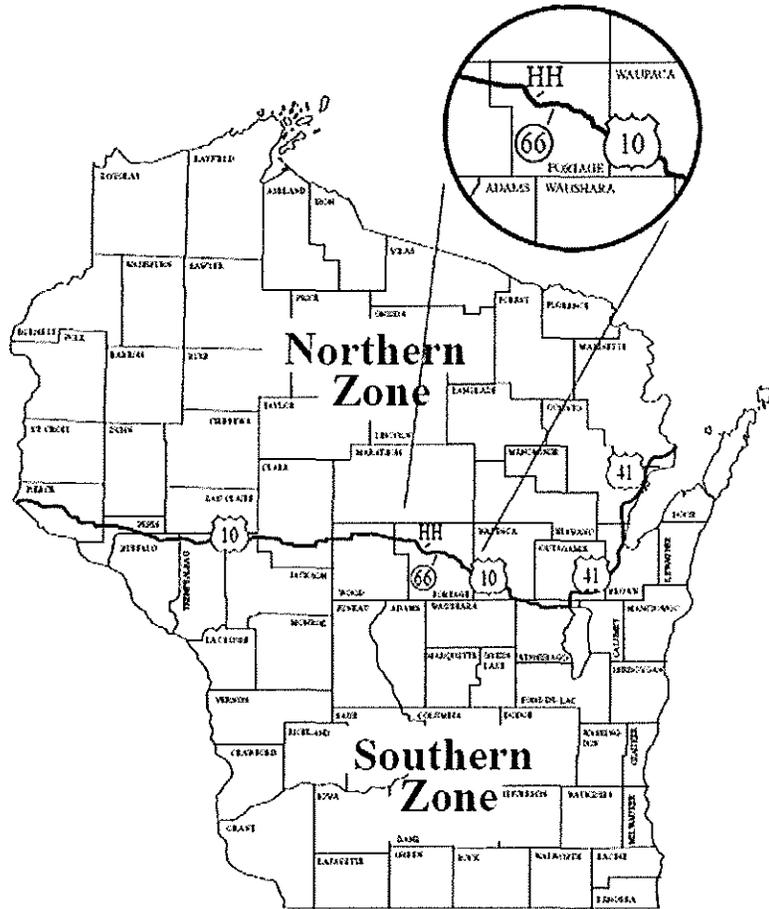
Section 3. NR 10.31(3)(intro.) is amended to read:

NR 10.31(3) HORIZON ZONE. ~~The Horizon goose management zone is defined in s. NR 10.001 (9w) and includes one subzone.~~

Section 4. NR 10.31(3)b. is repealed.

Section 5. NR 10.32 is repealed and recreated to read:

NR 10.32 Migratory game bird hunting zones.



Section 6. EFFECTIVE DATE. The rules 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.).

Section 7. 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 _____
Matthew Frank, Secretary

(SEAL)

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

The Wisconsin Natural Resources Board proposes an order to amend 10.01(1)(v); and to repeal and recreate 10.01(1)(b), (g) and (u), and 10.32 relating to the 2009 migratory game bird seasons and waterfowl hunting zones.

WM-14-09(E)

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041, 29.197, 29.885, 227.24, Stats. have been interpreted as allowing the department the authority to establish the migratory game bird seasons within the state as well as on and in all waters bordering the state and establish the two-day youth waterfowl hunt.

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 29.014 and 227.11 and 227.24, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and provide that all rules promulgated under this authority are subject to review under ch. 227, Stats. In addition, s. 29.041, Stats., authorizes the department to promulgate rules that regulate hunting on and in all interstate boundary waters, and s. 29.197, Stats., authorizes the establishment of special hunts.

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Section 3 updates road names in the migratory game bird hunting zone map following the completion of new highway construction. The location of the boundary is not changed.

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retains the flexibility to schedule the timing of their Canada goose season. In addition, if the MVP spring population numbers dropped to a predetermined low level during the 5-year period, the stable season framework would be adjusted.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service in 50 CFR 20.

Comparison with Rules in Adjacent States: Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the FWS. The FWS 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 FWS.

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Wisconsin's regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The result of this work is reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In May and June, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting staff provided the attendees with breeding status information and asked for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At this meeting staff were provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to discuss and develop proposals and recommendations that were voted upon by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announced its final waterfowl season framework recommendation on July 31. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals on August 1. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held from August 3 – 6 around the state to solicit additional input on the proposed annual waterfowl rule.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules 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.

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

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(b) <i>All species of wild duck</i>	Entire state	As established by zone	As established by season and zone	Double the daily bag limit through the entire season, except opening day when it is the same as the daily bag limit.
	Northern zone as established in s. NR 10.32	Sept. 26 at 9:00 a.m. – Nov. 24	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, 1 pintail, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.	
	Southern zone as established in s. NR 10.32	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec. 6	6 ducks to include not more than 4 mallards of which only 1 may be a hen mallard, 1 black duck, one pintail, 1 canvasback, 2 redheads, 2 scaup and 3 wood ducks. In addition 5 mergansers to include not more than 2 hooded mergansers.	

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(g) <i>Geese</i> 1. Canada geese and its subspecies	a. Entire state	Sept. 1 — Sept. 15	5	10
	b. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 1.c. and d.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12	2	4
	c. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12	2	4
	d. Burnett county subzone	None	None	None
	e. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 1. f. to j.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17	2	4
	f. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17	2	4

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	g. Horicon zone	Two permit periods		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 1	2	
		Nov. 2 – Dec. 16	2	
	h. Collins zone	Three permit periods:		6 (equivalent to the prescribed number of carcass tags)
		Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Oct. 4	2	
		Oct. 5 – Oct 25	2	
		Oct. 26 – Nov. 20	2	
	i. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17	2	4
	j. Mississippi River subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31	2	4

Note: Season dates listed in this subdivision may be closed early when the harvest may exceed the level authorized, according to the procedure in s. NR 10.125(6).

2. Snow or blue and Ross' geese	Entire state	As established by zone	20	40
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Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 2.b. and c.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	c. Burnett county subzone	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 2. e. to i.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	f. Horicon zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 20		
	h. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	i. Mississippi river subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
3. All other geese	Entire state	As established by zone	1 white-fronted goose	2 white-fronted geese
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in subd. 3.b. and c.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	b. All that part of the Brown County subzone lying within the northern zone established in s. NR 10.32	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	c. Burnett county subzone	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	d. 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.e. to i.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	f. Horicon zone	Sept. 22 – Oct. 2 and Oct. 3 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 20		
	h. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
4. Brant	i. Mississippi River subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31	1	2
	Entire state	As established by zone		
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzones described in sub. 3.b. and c.	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	b. All that part of the Brown county subzone lying within the northern zone established in s. NR 10.32	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	c. Burnett County subzone	Sept. 19 – Sept. 25 and Sept. 26 at 9:00 a.m. – Dec. 12		
	d. All that part of the exterior zone lying within the southern zone established in s. NR 10.32 except for the zones and subzones described in subd. 3. e. to i.	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	e. All that part of the Brown County subzone lying within the southern zone established in s. NR 10.32	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	f. Horicon zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Dec. 16		
	g. Collins zone	Sept. 16 – Oct. 2 and Oct. 3 at 9:00 a.m. – Nov. 20		
	h. Rock Prairie subzone	Sept. 19 – Oct. 2 and Oct 3 at 9:00 a.m. - Oct. 11 and Oct. 17 - Dec. 17		
	i. Mississippi River subzone	Oct. 3 at 9:00 a.m. – Oct. 11 and Oct. 17 – Dec 31		

Section 1. Continued.

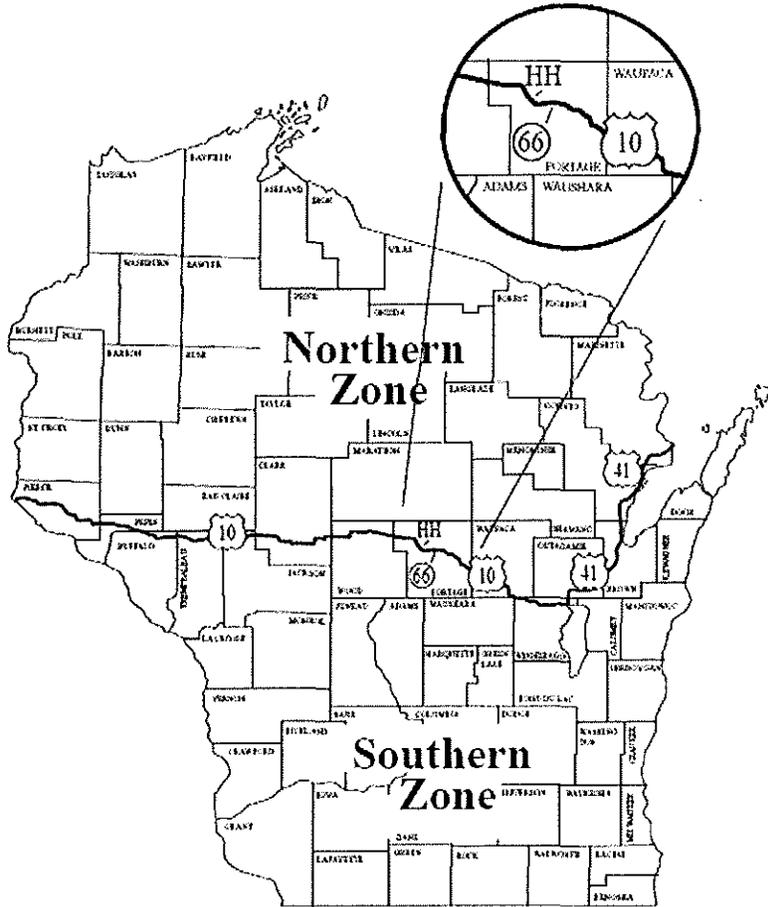
Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
NR 10.01(1)(u) <i>Falconry special season</i> . Any person possessing a valid falconry permit and hunting license shall be restricted to the following migratory game bird seasons:				
Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
1. All species of wild ducks, mergansers and coots	Northern zone as established in s. NR 10.32	Sept. 19 – Sept. 20, Sept. 26 at 9:00 a.m. – Nov. 24 and Jan. 8 – Feb. 21	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
	Southern zone as established in s. NR 10.32	Sept. 19 – Sept. 20, and Oct 3 at 9:00 a.m. – Oct. 11, Oct. 17 – Dec. 6 and Jan. 8 – Feb. 21	3 in aggregate with those species listed under subd. 2.	6 in aggregate with those species listed under subd. 2.
2. Gallinules, Sora rail, Virginia rail, common snipe and woodcock	Entire state	Sept. 1 – Dec. 16	3 in aggregate with those species listed under subd. 1.	6 in aggregate with those species listed under subd. 1.
3. Geese	Within the zones and subzones established in s. NR 10.31	Concurrent with the open season for geese established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone	As established in par. (g) for each zone or subzone

Section 2. NR 10.01(1)(v) is amended to read:

NR 10.01(1)(v) *Special youth waterfowl hunt event*. Persons 12 years of age or older but under 16 years of age who possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state or province, may hunt all species of wild duck, mergansers, geese, coots, and moorhens for 2 consecutive days starting on September 20 19. Approvals under ch. 29, Stats., are not required pursuant to s. 29.197 (1), Stats., except for registration in the harvest information program under s. NR 10.12 (11) and a Canada goose hunting permit for the season or zone where goose hunting, as listed in par. (g) 1., if hunting Canada geese. Daily bag limits are those described under pars. (b), (c) and (g), except that the daily bag limit for the zone or subzone being hunted as listed in par. (g)1.a. to j., on that date shall apply to Canada geese, and all other waterfowl hunting regulations apply. Hunters shall be accompanied by an adult 18 years of age or older. One adult may not accompany more than 2 hunters.

Section 3. NR 10.32 is repealed and recreated to read:

NR 10.32 Migratory game bird hunting zones.



Section 4. STATEMENT 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 mid-August of each year. This order is designed to bring the state hunting regulations to 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 5. EFFECTIVE DATE. The rules shall take effect on the day of publication in the official state newspaper.

Section 6. 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 _____
Matthew Frank, Secretary

(SEAL)