

SUBJECT: Request approval of the statement of scope for emergency Board Order WM-02-12 (E) related to establishing the 2012 migratory bird hunting seasons.

FOR: MAY, 2012 BOARD MEETING

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

SUMMARY:

This emergency rule order will establish the 2012 migratory bird hunting seasons.

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2012. The State of Wisconsin's season proposal will be based on the federal framework and local conditions. Wisconsin will also not be more restrictive than the federal bag limit framework except that we will propose one less hen mallard in the bag limit if the federal framework allows two or more, consistent with existing Wisconsin rules. This rule proposal modifies existing Canada goose hunting regulations and zones and lifts a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

Once the USFWS final framework is available, department staff will meet with the Migratory Committee of the Conservation Congress and hold a public meeting with interest groups and individuals. The following week, four public hearings/meetings will be held around the state to solicit additional input.

The department will request Natural Resources Board adoption of the emergency rule at its August meeting.

Holding hearings is not a statutory requirement for promulgating emergency rules but has been the department's past practice and is an expectation of stakeholders. Staff will place the same weight on input gathered at these hearings as it has in the past when also promulgating permanent rules.

RECOMMENDATION: Approval of the statement of scope for emergency Board Order WM-02-12 (E) related to establishing the 2012 migratory bird hunting seasons.

LIST OF ATTACHED MATERIALS:

- | | | | |
|--|---|---|----------|
| No <input checked="" type="checkbox"/> | Fiscal Estimate Required | Yes <input 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

5/1/12
Date

Kurt Thiede
Administrator, Kurt Thiede

5/2/12
Date

Cathy Stepp
Secretary, Cathy Stepp

5/7/12
Date

cc: NRB Liaison
DNR Rules Coordinator

Tom Hauge, WM/6
Kent Van Horn, WM/6

Scott Loomans, WM/6

DATE: April 26, 2012

TO: Natural Resources Board Members

FROM: Cathy Stepp, Secretary

SUBJECT: Scope statement for emergency rules establishing the 2012 migratory game bird seasons

Subject of Proposed Rule:

Chapters NR 10 and 11 relating to seasons, daily bag limits, and areas closed to migratory game bird hunting in 2012.

Policy Analysis:

This emergency rule order will establish the 2012 migratory bird hunting seasons. Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2012. The State of Wisconsin's season proposal will be based on the federal framework and local conditions. Wisconsin will also not be more restrictive than the federal bag limit framework except that we will propose one less hen mallard in the bag limit if the federal framework allows two or more, consistent with existing Wisconsin rules. This rule may relax the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities and lift a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

In mid July, department staff will attend Mississippi Flyway Council (MFC) technical and council meetings where we will receive proposed season framework options from the service. Staff will then work with other states in our Flyway to develop recommendations that are voted upon by the council. Proposals that are passed at the council meeting are forwarded to the service for consideration by their regulations committee in late July.

Once the USFWS final framework is available (approximately August 1), department staff will meet with the Migratory Committee of the Conservation Congress and hold a public meeting with interest groups and individuals. The following week, public hearings will be held around the state to solicit additional input. The department will then request Natural Resources Board adoption of the emergency rule at its August meeting.

Statutory Authority:

ss. 29.014, 29.041, 29.192 and 227.11, Stats.

Estimate of Staff Time Needed to Develop the Proposed Revision:

Approximately 400 hours will be needed by the department prior to and following the hearings.

Groups Likely Affected by the Proposed Rule:

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

Preliminary Federal Regulatory Analysis:

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service 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). Hunting opportunity increases as duck populations approach the goals in the NAWMP. Factors such as habitat are also considered.

Locally produced giant Canada geese are now a considerable portion of the harvest in states that also harvest Mississippi Valley Population geese that nest in northern Ontario. The MFC tested the use of a standard season framework for 5 years, ending in 2011. Season lengths and bag limits for each MVP harvest state remained unchanged. In February 2012, the MFC reviewed harvest rates, population levels and hunters surveys to evaluate these stable regulations and establish a framework for future seasons. Based on this review, the department is recommending the Exterior Zone Canada goose season be lengthened from 85 to 92 days with a 2 bird daily bag limit. In addition, changes to the Horizon Zone boundary and regulations will also be discussed with the public for future consideration.

Agency Contact:

Kent Van Horn, Migratory Birds Specialist, 101 South Webster Street, PO Box 7921, Madison, WI 53707-7921, (608) 266-8841, Kent.Vanhorn@wisconsin.gov

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-02-12(E)

Relating to: Establishing the 2012 Migratory Bird Season Framework

1. Description of the objective of the rule:

This emergency rule order will establish the 2012 migratory bird hunting seasons.

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

This is an annual rule that will be consistent with a federal framework and is not a change from past policies. Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2012. The State of Wisconsin's season proposal will be based on the federal framework and local conditions. Wisconsin will also not be more restrictive than the federal bag limit framework except that we will propose one less hen mallard in the bag limit if the federal framework allows two or more, consistent with existing Wisconsin rules. This rule may relax the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities and lift a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

3. Statutory authority for the rule (including the statutory citation and language):

ss. 29.014, 29.041, 29.192 and 227.24, Stats.

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

Approximately 400 hours will be needed by the department prior to and following the hearings.

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

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

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

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service 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). Hunting opportunity increases as duck populations approach the goals in the NAWMP. Factors such as habitat are also considered.

Locally produced giant Canada geese are now a considerable portion of the harvest in states that also harvest Mississippi Valley Population geese that nest in Canada. The MFC has been testing the use of a standard season framework for 5 years, ending in 2011. Season lengths and bag limits for each MVP

harvest state have remained unchanged. In 2012, the MFC will conduct an evaluation of harvest impacts of these stable regulations and establish a framework for future seasons. Following the 2012 review, changes to the Canada goose zones or hunting regulations may be proposed in Wisconsin.

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



Department Head Signature

1/30/12

Date Submitted

Natural Resources Board Order Number (If Applicable) WM-02-12(E)	Bureau Wildlife Management
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended	Date 12/21/2011

1. Subject of the administrative code action/nature of board action.

This emergency rule order will establish the 2012 migratory bird hunting seasons.

2. Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service, in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2012. The State of Wisconsin's season proposal will be based on the federal framework and local conditions. Wisconsin will also not be more restrictive than the federal bag limit framework except that we will propose one less hen mallard in the bag limit if the federal framework allows two or more, consistent with existing Wisconsin rules. This rule may relax the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities and lift a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

Groups impacted or interested in this issue include the Wisconsin Conservation Congress, Wisconsin Waterfowl Association, Wisconsin Wildlife Federation and many other regional waterfowl hunting groups.

3. Does rule/board action represent a change from past policy? Yes No Explain the facts that necessitate the proposed change.

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service 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). Hunting opportunity increases as duck populations approach the goals in the NAWMP. Factors such as habitat are also considered.

Locally produced giant Canada geese are now a considerable portion of the harvest in states that also harvest Mississippi Valley Population geese that nest in Canada. The Mississippi Flyway Council has been testing the use of a standard season framework for 5 years, ending in 2011. Season lengths and bag limits for each MVP harvest state have remained unchanged. In 2012, the MFC will conduct an evaluation of harvest impacts of these stable regulations and establish a framework for future seasons.

4. Does rule/board action represent an opportunity for pollution prevention and/or waste minimization?

- Yes
- Unsure. Will consult with the Bureau's pollution prevention expert(s) and/or the Bureau of Cooperative Environmental Assistance.
- No. Adoption of federal requirements that do not include or allow for pollution prevention.
- No. Other reason (explain):

5. Who will participate in board action/rule development, and what is the anticipated time commitment?

	Name of Person Responsible	Time Before Hearing	Time After Hearing	Acknowledgement
a. Drafting bureau	Kent Van Horn/Scott Loomans	(160/20)	(80/20)	<i>[Signature]</i>
b. Legal Services	Tim Andryk/Linda Haddix	10 hrs	8 hrs / 10 hrs	<i>[Signature]</i>
c. Env. Analysis/Liaison (SS)				
d. Management & Budget	William Christianson	1 hr	1 hr	<i>[Signature]</i>
e. Other Department staff	Assistant Migratory Bird Specialist (60/20)			
f. Recommended Public Participation	Pre and Post-Flyway meetings and Public Hearings			

Rule Agenda/Board Action Checklist

Form 1000-6 (R 9/00)

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6. Which federal statute, regulation, state statute or judicial decision is the authority for the proposed rule/board action?

s. 29.014, Stats. and Ch. 50 Code of Federal Regulations.

- a. The proposed rule/board action conforms to and does not exceed requirements of a federal or state statute or controlling judicial decision.
- b. The proposed rule/board action exceeds the minimum requirements of a federal or state statute or controlling judicial decision.
- c. The proposed rule/board action is based on general authorization that requires rule making, but contains no specific standards.
- d. The proposed rule/board action is based on a general authorization, with no specific direction that rules must be developed.

Tom Cudde
Bureau of Legal Services

7. Proposed schedule (Fill in blanks applicable)

a. Month of green sheet for requesting authorization for hearing or briefing on proposed board action: May, 2011

b. Hearing(s) - Number: Four

Date(s): August 2012

Location(s): Northern, Eastern and Western Wisconsin and the Fox Valley/Green Bay Area

c. Rule adoption or action by Board: August 8, 2011

Anticipated timing of Legislative review - Start: These are emergency rules only.

End: _____

Anticipated effective date: August 31, 2012

Initials of Bureau Director: TMH

FOR DIVISION ADMINISTRATOR'S USE

8a. Recommendation to Secretary Approved Approved as amended Disapproved

b. Other Board actions Approved Approved as amended Disapproved

Division Administrator's Signature *[Signature]*

Date Signed

FOR SECRETARY'S USE

9. Secretary's approval required before drafting begins.

Drafting may may not proceed on rule or action.

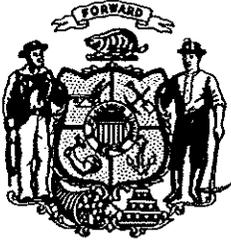
Secretary's Approval

[Signature]

Date Approved

1/20/12

Completed original to be filed with the Bureau of Legal Services.



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

February 15, 2012

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

RE: Statement of Scope for Emergency Rule WM-02-12

Dear Secretary Stepp,

I hereby approve the revised statement of scope submitted on February 9, 2012, pursuant to Wisconsin Statutes § 227.135. You may send the scope statement to LRB for publication pursuant to Wisconsin Statutes § 227.24(1)(e)1d.

Sincerely,

Scott Walker
Governor