

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WM-06-15

Relating to: Migratory bird hunting regulations in chs. NR 8, 10, 11, 15, and 18.

Rule Type: Permanent

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

These will be permanent rules.

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

This proposal will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. Primary objectives of the rule will be to codify provisions already in effect for the fall, 2015 seasons by emergency rule.

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

These rules may modify season dates, bag limits, and other regulations for the early September teal-only duck season, mourning dove, and early Canada goose hunting seasons. These rules may modify season dates, bag limits, and other regulations for the regular duck and goose hunting seasons beginning in mid-September.

In the past, the department has annually promulgated emergency and permanent rules establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final early season framework by late June and a late season framework on approximately August 1 each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season. As part of the federal regulation of migratory game bird hunting, groups of states are organized into councils by migratory flyways to work together on the management and regulation of migratory game birds. Wisconsin is part of the Mississippi Flyway Council (MFC) which consists of 14 states and 3 Canadian provinces and state rules are subject to flyway council management plans and agreements. The department promulgates permanent rules so that information related to zones, tagging requirements for geese, and other regulations remain current.

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

These rules may modify the regulations of people who practice falconry for pursuing migratory game birds if necessary changes are identified during the rulemaking process.

The department may include other, minor, non-controversial rule proposals passed at the annual Spring Fish & Wildlife Hearings as advisory questions by the Conservation Congress.

Finally, the department has recently completed an extensive rulemaking process related to deer hunting and will be implementing new regulations in the fall season, 2015. If the department identifies remedial or non-controversial revisions which are necessary to implement the deer or migratory bird hunting seasons those may also be topics of this rule making process.

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

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting.

Special regulations on the taking of certain wild animals are authorized under s. 29.192, Stats., including specific language that authorizes rules related to Canada goose hunting.

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

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

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

5. Estimate of amount of time that state employees will spend developing 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.

6. List with description of all entities that may be affected by the proposed rule :

These rules will impact migratory game bird hunters, primarily those pursuing ducks and geese.

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

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

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

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be comparable to those in place during the previous season. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

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