

Clearinghouse Rule 06-074

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.31(11); to amend NR 10.01(1)(v) and 10.12(4), and to repeal and recreate NR 10.01(1)(b), (g)1., (g)2.a. to k., (g)3.a. to k., and (u) and 10.32 relating to the 2006 migratory game bird seasons and waterfowl hunting zones.

WM-26-06

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014 and 29.041, 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 sections 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 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: This rule order establishes the season length and bag limits for the 2006 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 23 and continues for 60 consecutive days in the north, closing on November 21. In the South the season begins at 9:00 a.m. on September 30 and continues through October 8, followed by a 5-day split, and then reopens on October 14 and continues through December 3. The change from a 12:00 noon opener, to a 9:00 a.m. opener was a compromise in response to those interested in a ½ hour prior to sunset start and those wanting to retain a 12:00 noon start. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, one canvasback (from Oct. 14 – Nov. 12 statewide), 2 wood ducks, 2 redheads and 2 scaup.

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 - 64 days (3 periods, first period beginning September 16); Horicon Zone - 92 days (4 periods, first period beginning September 16); Exterior Zone - 92 days (North: Sept. 16 – 22 and Sept. 23 (9:00 a.m.) – Dec. 16 and South: Sept 16 – Sept. 29 and Sept. 30 (9:00 a.m.) – Dec. 16); and Mississippi River subzone - 70 days (Sept. 30 (9:00 a.m.) – Oct. 8 and Oct. 14 - Dec. 13). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in the Horicon and Collins Zones is 2 birds per day during the open seasons within each zone. In the Exterior zone and its subzones the daily bag limit will be one bird per day from Sept. 16 – October 1 and 2 birds per day for the remainder of the season.

In addition, the rule includes a 5-year sunset of the goose hunting blind restrictions in the Horicon Intensive Harvest Zone. Finally, the rule establishes a new boundary between the northern and southern migratory game bird hunting zones for ducks and other migratory game birds. The new zone boundary will be in place through the 2010 waterfowl season.

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, also need to be considered. The Regular Canada goose season is based on the allowable Mississippi Valley Population (MVP) harvest which will be determined based on the spring breeding population goal for that population and the spring population estimate obtained from an aerial survey of the MVP breeding range. All the 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 a 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, all of these variations fall within the 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, duck, and goose surveys). The option of a closed season is also possible if survey conditions indicated that this was 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 the traditional survey areas as well as surveys from select states, including Wisconsin.

The parameters of Wisconsin's regular goose season are based on our allowable harvest of the Mississippi Valley Population of Canada geese (MVP) as outlined in the MFC's MVP management plan. Each year an MVP breeding population survey is conducted in Ontario, Canada and is used to determine the annual allowable harvest. These data become available in early July and are used to determine season parameters at the July Mississippi Flyway Council (MFC) meeting.

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 the spring, breeding waterfowl surveys are conducted in support of the regulatory process.

In early July, staff conduct a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Bird Committee. At this meeting staff provide the attendees with any breeding status information we have received and we ask for any items that they wish us to pursue at the MFC meeting that will occur in mid July. Department staff then attend the MFC Technical and Council meetings (July 17 -23, 2006). At this meeting staff will be provided status information and the proposed framework alternative from the USFWS. Staff then work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that are passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting (July 26-27, 2006). Department staff contact the USFWS following the SRC meeting to obtain the latest season recommendations.

Once the USFWS's final Draft framework is available, Department staff can summarize waterfowl status and regulation information for Wisconsin citizens. This information is presented to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals. Staff receive input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. The following week, public hearings are held around the state to solicit additional input on the proposed annual waterfowl rule.

The USFWS has established 3 different options for dividing a state geographically by zones and "splitting" the season into different time periods. Every 5 years, states must choose the option they will use for the next 5-year period. No changes are allowed during the 5 years. These "zone/split" options include:

- 1) One statewide zone with an opportunity to annually select 2 splits.
- 2) Establish 2 zones within the state with an opportunity to annually select 1 split in each zone. Note: This is the option Wisconsin is currently using
- 3) Establish 3 zones within the state with no opportunity to select an annual split. Note: Each zone must be continuous (not broken).

The Department of Natural Resources must select one of these three duck season options for the next 5 seasons (2006-2010). Based on feedback received over the past two years including ad-hoc committees and input via public hearings, including the 2006 Spring Hearings, the department has proposed a new zone boundary which is included in this rule order.

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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Deadline for Public Comments: August 10, 2006.

Section 1. NR 10.01(1)(b), (g)1., (g)2. a. to k., (g)3.a. to k., (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. 23 at 9:00 a.m. – Oct. 13		6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, 0 canvasbacks, one pintail, 2 redheads, 2 wood ducks, and 2 scaup. In addition 5 mergansers to include not more than one hooded merganser.
			Oct. 14 – Nov. 12		6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, 2 redheads, 2 wood ducks, 2 scaup, one canvasback, and one pintail. In addition 5 mergansers to include not more than one hooded merganser.
Nov. 13 – Nov. 21	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, 2 redheads, 2 wood ducks, 2 scaup, 0 canvasbacks, and one pintail. In addition 5 mergansers to include not more than one hooded merganser.				

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	Southern zone as established in s. NR 10.32	Sept. 30 at 9:00 a.m. – Oct. 8	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, 2 redheads, 2 wood ducks, 2 scaup, and 0 canvasbacks. In addition 5 mergansers to include not more than one hooded merganser.	
		Oct. 14 – Nov. 12	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, one pintail, one canvasback, 2 redheads, 2 wood ducks, and 2 scaup. In addition 5 mergansers to include not more than one hooded merganser.	
		Nov. 13 – Dec. 3	6 ducks to include not more than 4 mallards of which only one may be a hen mallard, one black duck, 2 redheads, 2 wood ducks, 2 scaup, 0 canvasbacks, and one pintail. In addition 5 mergansers to include not more than one hooded merganser.	

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. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 1.b.	Sept. 16 – Sept. 22 and Sept. 23 at 9:00 a.m. – Oct. 1	1	2	
		Oct. 2 – Dec. 16	2	4	
	b. Brown County subzone	Sept. 16 – Sept. 22 and Sept. 23 at 9:00 a.m. – Oct. 1	1	2	
		Oct. 2 – Dec. 16	2	4	
	c. 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. 1. d. to k.	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Oct. 1.	1	2	
		Oct. 2 – Dec. 16	2	4	
	d. Burnett county subzone	None	None	None	
	g Horicon zone	Four permit periods:	Sept. 16 – Sept. 30 and Oct. 1 at 9:00 a.m. – Oct. 16	2	The possession limit is equivalent to the number of carcass tags issued.
			Sept. 23 – Sept. 29 and Sept. 30 at 9:00 a.m. – Oct. 27	2	
			Oct. 14 - Nov. 17	2	
Oct. 31 - Dec. 16			2		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
	h. Collins zone	Three permit periods:		The possession limit is equivalent to the number of carcass tags issued.
		Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Oct. 1	2	
		Oct. 2 - Oct. 22	2	
		Oct. 23 - Nov. 17	2	
	i. Rock Prairie subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Oct. 1	1	2
		Oct. 2 – Dec. 16	2	4
	k. Mississippi river subzone	Sept. 30 at 9:00 a.m. – Oct. 1	1	2
		Oct. 2 – Oct. 8 and Oct. 14 – Dec. 13	2	4
	L. Entire state	Sept. 1 — Sept. 15	5	10

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

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
2. Snow or blue and Ross' geese	Entire state	As established by zone	10	20
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 2.b.	Sept. 16 – Sept. 22 and Sept. 23 at 9:00 a.m. – Dec. 16		
	b. Brown county subzone	Sept. 16 – Sept. 22 and Sept. 23 at 9:00 a.m. – Dec. 16		
	c. 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. 2. d. to k.	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	d. Burnett county subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	g. Horicon zone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	h. Collins zone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Nov. 17		
	i. Rock Prairie subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	k. Mississippi river subzone	Sept. 30 at 9:00 a.m. – Oct. 8 and Oct. 14 – Dec. 13		

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 subzone described in subd. 3.b.	Sept. 22 and Sept. 23 at 9:00 a.m. – Dec. 16		
	b. Brown county subzone	Sept. 22 and Sept. 23 at 9:00 a.m. – Dec. 16		
	c. 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. d. to k.	Sept. 22 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	d. Burnett county subzone	Sept. 22 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	g. Horicon zone	Sept. 22 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	h. Collins zone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Nov. 17		
	i. Rock Prairie subzone	Sept. 22 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	k. Mississippi river subzone	Sept. 30 at 9:00 a.m. – Oct. 8 and Oct. 14 – Dec. 13		

Section 1. Continued.

Kind of Animal	Locality	Open season (all dates inclusive)	Daily Bag Limit	Possession Limit
4. Brant	Entire state	As established by zone	1 brant	2 brant
	a. All that part of the exterior zone lying within the northern zone established in s. NR 10.32 except for the subzone described in subd. 3.b.	Sept. 16 – Sept. 22 and Sept. 23 at 9:00 a.m. – Dec. 16		
	b. Brown county subzone	Sept. 16 – Sept. 22 and Sept. 23 at 9:00 a.m. – Dec. 16		
	c. 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. d. to k.	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	d. Burnett county subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	g. Horicon zone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	h. Collins zone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Nov. 17		
	i. Rock Prairie subzone	Sept. 16 – Sept. 29 and Sept. 30 at 9:00 a.m. – Dec. 16		
	k. Mississippi river subzone	Sept. 30 at 9:00 a.m. – Oct. 8 and Oct. 14 – Dec. 13		

Section 1. Continued.

NR 10.01(1)(u) *Falconry special season.* 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. 16– Sept. 17, Sept. 23 at 9:00 a.m. – Nov. 21 and Jan. 14 – Feb. 27	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. 16 – Sept. 17, Sept. 30 at 9:00 a.m. – Oct. 8, Oct. 14 – Dec. 3 and Jan. 14 – Feb. 27	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 gallinules for 2 consecutive days starting on September ~~17~~¹⁶. 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 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) 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 10.12(4) is amended to read:

NR 10.12(4) SPECIAL BLIND RESTRICTIONS. The department may restrict hunters to certain blind locations within the Collins, Eldorado, Grand River, Pine Island and Theresa state wildlife areas by posted notice. If posted, maps shall be provided by the department indicating where blind sites are located. The following blind restrictions apply to goose hunting in the Horicon zone beginning in 2011:

Section 4. NR 10.31(11) is repealed.

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



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.), Stats.

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 _____
Scott Hassett, Secretary

(SEAL)