

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** WM-05-15(E)

**Relating to:** Establishing the 2015 migratory bird, late season framework in ch. NR 10

**Rule Type:** These will be emergency rules

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

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 summer each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1, 2015. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

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

This emergency rule order will establish the “late migratory bird season framework” for 2015 which primarily includes the regular duck and goose hunting seasons.

### **3. 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:**

These rules may modify season dates, bag limits, and other regulations for the regular duck and goose hunting seasons beginning in mid-September. These seasons are part of the federal “late migratory bird season framework” and the United States Fish and Wildlife Service needs to be informed of the State of Wisconsin Natural Resources Board decision on these seasons in August.

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, 2015. The State of Wisconsin’s season proposal will be based on the federal framework, flyway agreements, and local conditions.

These rules may expand the areas where waterfowl hunting is allowed by eliminating the requirement that hunters and blinds be “concealed” if they are within 3 feet of the shoreline. The WI Conservation Congress has recommended modifications to this rule.

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 or manage those species, and thus constitute an emergency, 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 and hunting and trapping for other species.

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, Stats.

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

**5. 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 640 hours will be needed by the department prior to and following the hearings.

**6. 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.

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