

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

SUBJECT:

Request that the Board adopt Board Order WM-20-20, proposed rules affecting related to establishing the 2021 migratory bird season framework and regulations.

FOR: October 2021 Board meeting

PRESENTER'S NAME AND TITLE: Scott Karel, Wildlife Policy Specialist

SUMMARY:

An identical companion emergency rule was adopted in April based on the need to inform the US Fish and Wildlife Service by April 30 of our migratory bird hunting season decisions. We had not completed the 30 day legislative clearinghouse review of this permanent version of the rule in time to adopt it at the same meeting.

Adopting a permanent rule, even though it will not be in effect before many of the 2021 season begin, is still important because odd number years are when we can true-up the permanent rule language in administrative code with the seasons that we are implementing by emergency rule..

RECOMMENDATION: That the Board adopt Board Order WM-20-20.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- Background Memo
Fiscal estimate and economic impact analysis (EIA) form
Response summary
Attachments to background memo
Board order/rule
(insert document name)

Table with 3 columns: Approved by, Signature, Date. Rows include Eric Lobner, Keith Warnke, and Preston D. Cole.

cc: Board Liaison - AD/8 [Signature] Program attorney - LS/8 by Todd Ambs Department rule officer - LS/8

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CORRESPONDENCE/MEMORANDUM

DATE: September

TO: All Members of the Natural Resources Board

FROM: Preston D. Cole, Secretary

SUBJECT: Background memo on Board Order WM-20-20 relating to establishing the 2021 migratory bird season framework and regulations.

1. Subject of Proposed Rule:

The proposed rule addresses migratory game bird seasons and regulations for 2021. This rule will permanently codify the emergency rule which was approved by the board in at the April meeting. This rule is necessary to authorize migratory game bird hunting in a manner consistent with federal frameworks for the Mississippi Flyway.

2. Background:

Each year Wisconsin establishes hunting seasons for over 35 different species of migratory game birds. Migratory game birds hunted in Wisconsin include a wide range of species with very different life cycles: for example, blue-winged teal that may nest in the marshes of Manitoba and winter in Venezuela, woodcock that breed in the northern forests of Wisconsin and winter in Louisiana, and mourning doves that are the most abundant and most harvested game bird in North America.

Wisconsin supports over 135,000 migratory game bird hunters with a diversity of habitat, technique and hunting season preferences. Nationally, Wisconsin is a leader in migratory bird hunting and management ranking in the top 5 for number of waterfowl hunters and second in the nation for woodcock hunters. These hunters are strong conservationists participating through various organizations to partner with agencies in habitat conservation, hunter education and management decisions.

Under international treaty and federal law, state migratory game bird seasons are closed unless opened annually via the U. S. Fish and Wildlife Service (USFWS) regulatory process (Figure 1). Department staff are a part of this process which involves international cooperative monitoring efforts and status review for each species. Migratory birds are managed in each of the 4 flyways that encompass North America. Each flyway has a Flyway Council consisting of members from each state and province in that flyway that meet multiple times each year. 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) for each flyway within which states may select hunting season parameters. This process involves the USFWS working cooperatively with each Flyway Council and the process varies across the different species.

Under the current federal regulatory process, migratory bird hunting seasons are ordinarily based on prior rather than current year data. The Covid pandemic prevented spring breeding surveys from being conducted in 2020. As a result, 2021 migratory bird season frameworks will be based on 2019 data. At a continental level, duck populations in 2019 were near an all-time high for the 63 years of the survey at 39 million ducks while Wisconsin's breeding duck population was just below the long-term average at 413,662 (Appendix 1). Wisconsin depends upon two Canada goose populations for the regular goose season harvest; those that nest in northern Ontario are about 45% of the harvest while those that breed in Wisconsin are about 55% of the harvest. The population of Canada geese

that breeds in northern Ontario has been on a long-term decline but because of changing survey effort, the Department does not have a current population estimate. By contrast, Wisconsin's breeding Canada goose population estimate for 2019 was 16% above the previous 10-year average.

3. Why is the rule being proposed?

The purpose of this rule is to establish migratory game bird seasons and regulations for 2021 which are consistent with the federal framework established by the USFWS for the Mississippi Flyway. Annually the department establishes these seasons and regulations through the emergency rule process. In odd-numbered years the department also promulgates a permanent rule so that the changes to the migratory seasons are permanently established in administrative code.

4. Summary of the rule.

This rule adjusts migratory game bird seasons and regulations for 2021 to be consistent with the federal framework for the Mississippi Flyway, current biological information and public input. In general, season frameworks for migratory birds in 2021 are identical to those implemented for 2020. There are two exceptions.

This rule adjusts migratory game bird zone configurations. In 2020, the Department gathered public input regarding the reconfiguration of these zones. Public input favored the creation of a new Open Water Zone to allow hunters to take advantage of unique late season opportunities which exist in open waters (waters greater than 500 feet offshore) of Lake Michigan and Green Bay. The creation of this new zone would result in the elimination of the Mississippi Zone. Based on federal deadlines requiring the Department to provide its zone configurations for 2021 prior to this rule being presented for adoption, the Department presented to this proposal to the Natural Resources Board for preliminary approval in April of 2020. The Board approved of the new zone configuration, with recognition that the changes would be included in this rule-making and would not go into effect until the 2021 migratory bird season.

This rule also implements a daily bag limit of 5 Canada geese per day during the "Holiday Hunt" that is offered from December 20 – January 4 in the South Zone. This change responds to public support favoring an increased bag limit during this time.

This rule additionally continues several changes that were in place for 2020, including an earlier duck season start date in the North Zone, a restricted daily bag limit for scaup with dates updated to reflect the 2021 calendar, and an increase in the hen mallard bag limit. These changes were implemented in 2020 based on public support, which continues in 2021.

A summary of the complete migratory bird season framework for 2021 which takes into account the proposed changes follows.

Early Migratory Bird Seasons:

- *Early Teal*: September 1 – 9 (6 teal/day)
- *Early Goose Season*: September 1 – 15 (5 Canada geese/day; 20 Light geese/day)
- *Mourning Dove*: September 1 – November 29 (15 doves/day)
- *Woodcock*: September 25 – November 8 (3 birds/day)

Duck Seasons:

- *Bag Limit for Duck, Other than Scaup:* 60-day season. Daily bag limit of 6 ducks in total. The number and sex of each species which may contribute to the 6 duck aggregate daily bag is limited to no more than: 4 mallards of which only 2 may be a hen; 3 wood ducks; 2 redheads; 2 black duck; 1 pintail; 2 canvasback.; and 5 mergansers of which only 2 may be hooded mergansers. (For duck species not listed such as teal and ring-necked ducks, the combined total with all other species may not exceed 6 ducks).
- *Bag Limit for Scaup:* 60-day season. Restrictive statewide scaup bag limit of 1 scaup/day for 15 days and 2 scaup/day for 45 days. The maximum number of scaup that may be harvested in a single zone to contribute to the statewide bag is limited by date as follows:
 - Northern Zone: 1 scaup/day September 25 – October 9; 2 scaup/day October 10 – November 23
 - Southern Zone: 1 scaup/day October 2 – 10 and October 16 – 21; 2 scaup/day October 22 – December 5
 - Open Water Zone (Green Bay and Lake Michigan): 1 scaup/day October 16 – 30; 2 scaup/day October 31 – December 14
- *Season Dates:*
 - Youth Waterfowl Hunt: September 18 – 19
 - Northern Zone: September 25 – November 23
 - Southern Zone: October 2 – 10, followed by a 5-day closure, reopening October 16 – December 5
 -
 - Open Water Zone (Green Bay and Lake Michigan): October 16 – December 14

Goose Seasons:

- *Canada Geese:* 92-day season. The state is divided into 3 zones for goose hunting during the regular season; north, south and Mississippi River Zones. These correspond to the zones used for duck hunting seasons.
 - North Zone: 3 geese/day September 16 – December 16.
 - South Zone: 3 geese/day September 16 – October 10 and October 16 – December 5; 5 geese/day December 20 – January 4.
 - Mississippi River Zone: 3 geese/day October 2 – October 10 and October 16 – January 4
- *Brant, White Fronted Geese and Light Geese:* Season dates will be the same as for the Canada goose zones/subzones. The daily bag limit will be 1 brant, 1 white-fronted and 20 snow, blue or Ross's geese

Other Migratory Bird Seasons:

- *Coot:* Follows the same migratory game bird zones and zone-specific season dates as ducks.
- *Common Gallinule (Moorhen), Rails and Snipe:* September 1 – November 9

- *Daily Bag Limits:*
 - Coot and Common Gallinule: 15/day of each
 - Sora and Virginia Rail: 25/day in aggregate
 - Snipe: 8

5. How does this proposal affect existing policy?

All of the policies in this proposed rule are consistent with past Board policies of regulating fish and game harvest for conservation purposes.

6. Has Board dealt with these issues before?

The statement of scope for this rule, SS 150-20, was approved by the Governor on September 24, 2020, published in Register No. 780A1, on December 7, 2020, and approved by the Natural Resources Board on January 27, 2020. A nearly identical emergency rule, WM-19-20 (E) was approved by the board at the April 2021 meeting.

7. Who will be impacted by the proposed rule? How?

Migratory bird hunters are the principal groups that will be affected by this rulemaking.

8. Soliciting public input on economic impact synopsis

A notice for solicitation of comments on this analysis was posted on the department's website in August 2021 for fourteen days. No comments on this analysis were received. Because the hunting season framework proposed in this rule will be very similar to those in place during previous seasons, no economic impacts are anticipated. We do not anticipate that these rules will result in changes in the activities of migratory bird hunters, their expenditures, and the related economic activity. 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.

9. Small Business Analysis

The revisions to Ch. NR 10, Wis. Admin. Code, relating to hunting, and trapping 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.

10. Summary of Public Input

Over the years, the Department has used various methods to engage migratory bird hunters in season decisions and learn about their season and hunting preferences. Hunters have a wide range of practices and preferences, some of which result in opposing views on various season parameters. However, hunting groups and individuals have been very engaged and over time have helped the Department develop compromises and produce a season structure which has strong majority support. A total of 1,543 comments were received as it relates to the 2021 waterfowl hunting seasons. The Wisconsin Conservation Congress Migratory Committee and several waterfowl groups also offered comments. The following tools were used to involve interested parties in the rule making process.

- **Mail Survey (Winter 2019-20):** Following the 2019 waterfowl season a scientifically designed survey was mailed out to a random selection of 2700 Wisconsin waterfowl hunters as we have

done every other year for the last several years. This survey provided information on waterfowl hunter experiences, input on hunting seasons.

- **Rule process information:** Beginning in March 2021, the Department issued preliminary information and instructions on how the public could provide input to the regulation setting process through press releases, social media post and live events, the Department website and direct mailings to waterfowl groups. Over 395,000 people are now on GovDelivery email notices regarding topics related to migratory game bird management, and general hunting. This list was provided regular updates during the process.
- **Online Public Input Tool:** An online input tool was utilized to provide an easier, more efficient and more convenient method for hunters to provide their input to the migratory bird program. This tool required hunters to identify themselves. Hunters were then presented with Department season proposals and allowed to select the season options they most preferred. Over 1,500 comments were received through this online tool.
- **Telephone, Email and Written Comment:** Public comments and questions began coming in during January through telephone calls and emails. These were accepted through March 19.
- **February 28, Waterfowl Committee of the Wisconsin Wildlife Federation (Virtual):** Department staff presented information on the population status of waterfowl and season structure options to the committee. Several conservation organizations were present, including: Wisconsin Wildlife Federation (WWF), Wisconsin Waterfowl Association (WWA), La Crosse County Conservation Alliance (LCCA), Green Bay Duck Hunters (GBDH) and Black Slough Conservation Club (BSCC). Several individuals were also present.
- **March 1, Migratory Committee of the Wisconsin Conservation Congress (Virtual):** Department staff presented information on the population status of waterfowl and season structure options to the committee. The committee made suggestions for the hunting season proposal and voted on all aspects. The committee had about 16 members present.
- **March 16 – 18, Public Hearings:** Four public hearings were held around the state and 110 people attended overall. Attendees were presented with information on the population status of waterfowl and season structure options. Following a period for clarifying questions, individuals could make oral testimony or provide written comments.
 - March 16: 50 people attended, 15 gave oral testimony
 - March 17: 45 people attended, 10 gave oral testimony
 - March 18: 15 people attended, 5 gave oral testimony
- **September 29, Rule Public Hearing.** The Department held a virtual joint public hearing on the proposed permanent rule, WM-20-20 and the approved emergency rule, WM-19-20 (E). One member of the public attended this meeting. This person represented the Wisconsin Animal Protection Society and testified that they would like the bag limits to be as low as possible and the season as short as possible because they wish there to be no hunting or trapping of animals.

Drafter: Taylor Finger

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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

| | |
|---|---|
| 1. Type of Estimate and Analysis <input type="checkbox"/> Original <input checked="" type="checkbox"/> Updated <input type="checkbox"/> Corrected | 2. Date 9/29/2021 |
| 3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Ch. NR. 10, Game and Hunting, WM-20-20 | |
| 4. Subject Establishing the 2021 migratory bird season framework and regulations. | |
| 5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S | 6. Chapter 20, Stats. Appropriations Affected None |
| 7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget | |
| 8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A) | |
| 9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$ 0 (No implementation and compliance cost anticipated) | |
| 10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 11. Policy Problem Addressed by the Rule <p>Per federal regulations, states within the Mississippi Flyway may utilize two season splits during the regular Canada goose season. Traditionally, the department elected to utilize only a single season split. That changed in 2020, when data gathered through public input processes demonstrated majority support for adding a second split in the South Zone Canada goose season to extend the season over the Christmas and the New Year's holidays when people have time off and could take advantage of this additional hunting opportunity. This second split closed the Canada goose season for 15 days at the same time the South Zone duck season closed, then reopened the goose season in the South Zone for an additional 16 days.</p> <p>For 2021, public input favored the continued use of two splits. Additionally, the public indicated support for increasing the Canada Goose bag limit to 5 geese/day during the third period over the holidays in the South Canada Goose Zone. From a harvest perspective, 90% of all Canada goose harvest occurs before December 1, and harvest analysis indicates that 80% of the Canada geese harvested in December are comprised of Wisconsin's own local temperate breeding Canada geese, so the department is not averse to adjusting the bag limit in the month of December as very few hunters participate during this time, and it will have a very minimal impact on overall harvest.</p> <p>This rule proposes to maintain an earlier start date for the North Zone duck season that was implemented in 2020. This change was based on input collected from conservation organizations as well as the public via the waterfowl hunters survey, emails, phone calls, and public hearings in 2018 and 2019. This input showed hunters preferring a later opening date in the North Zone. This shift in public preference may have been influenced by the manner in which dates occurred within the annual calendar and the fact that the three autumns prior to 2018 were relatively mild. Wisconsin had the second coldest November on record during 2018 and an early winter in the North in both 2019 and 2020, which resulted in weeks of lost hunting opportunity. Input from conservation groups and the public in 2020 shifted back to a desire to start on the Saturday nearest September 24 from the previous date which was the Saturday nearest October 1st. Maintaining this earlier season start date has majority public support for 2021.</p> | |

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

The proposed reconfiguration of migratory game bird zones and related duck season frameworks is based on public input and feedback from conservation partners. Public input favored the creation of a new Open Water Zone to allow hunters the ability to take advantage of late season opportunities in waters greater than 500 feet from the mainland shore on Green Bay and Lake Michigan. The creation of this new zone would result in the elimination of the Mississippi Zone. The feedback and input supported a two week later start than the South Zone and no split. This is the first year of this zone and the department will likely learn a lot from our hunters when we approach the season setting process next year on how to best structure the season in the future.

Under the federal framework for duck hunting, the USFWS is allowing Wisconsin a 60-day restrictive scaup season. This allows no more than one scaup per day for 15 days and two scaup per day for 45 days however, this restriction can be specific to each duck hunting zone. The scaup bag limit was similar in 2020 and three per day during the 2019 season.

Additionally, the USFWS is allowing Wisconsin a 70-day consecutive rail, snipe, and common gallinule (moorhen) season. Similar to the 2020 season, the department is proposing to open the season on September 1 and continue for 70 consecutive days which occurs during a period when hunters are most likely to be able to harvest these species. This start date is consistent with the early teal, early goose, and mourning dove season start date.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

A notice for solicitation of comments on this analysis was posted on the department’s website in August 2021 for fourteen days. No comments on this analysis were received. No fiscal effects on small businesses, their associations, or local governments are anticipated.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

A notice for solicitation of comments on this analysis was posted on the department’s website in August 2021 for fourteen days. No comments on this analysis were received.

14. Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

No effects on small businesses, their associations, or local governments are anticipated. The department does not anticipate any fiscal impacts as a result of these rules. Following is the department’s preliminary analysis.

Economic Impact

Because the hunting season framework proposed in this rule will be very similar to those in place during previous seasons, no economic impacts are anticipated. We do not anticipate that these rules will result in changes in the activities of migratory bird hunters, their expenditures, and the related economic activity. 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.

Fiscal Impact

The department anticipates no fiscal impact resulting from these rules. The department currently annually conducts a number of activities related to migratory bird hunting such as managing department lands, selling licenses, providing law enforcement services, and surveys and related research. The department will continue to conduct the same activities under the season framework proposed in this rule and does not anticipate any new or reduced expenditures.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

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ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

By implementing this rule, Wisconsin’s migratory bird hunters will continue to enjoy excellent hunting opportunities. The expenditures of migratory bird hunters and the economic impacts resulting from their expenditures will continue to benefit the state’s economy.

16. Long Range Implications of Implementing the Rule

Implementing these rules will have little impact on the public except that they will continue to have good hunting opportunities into the future.

17. Compare With Approaches Being Used by Federal Government

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.

None of the provisions of this rule conflict with the federal framework.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. Because of the federal guidelines, Wisconsin’s regulations are similar to those in neighboring states

| | |
|---|--------------------------|
| 19. Contact Name | 20. Contact Phone Number |
| Scott Karel, Wildlife Regulation Policy Specialist, | 608-267-2452 |

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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

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

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 10.01 (1) (c) (Note); to **amend** NR 10.01 (1) (b), (c), (e), (f) 1., (g) 1. c. and e., 2. b. and d., and 3. b. and d., (v), and (4) (c); **repeal and recreate** NR 10.32; and to and to **create** NR 10.01 (1) (d) relating to establishing the 2021 migratory bird season framework and regulations.

WM-20-20

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Chapter 29 of the Wisconsin Statutes addresses the department’s authority with respect to wild animals and plants. Section 29.014, Stats., confers broad rule-making authority to the department to “establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting.

Additional rule-making authority is found in s. 29.192, Stats., which enables the department to regulate the harvest of Canada geese.

2. Statutory Authority: In promulgating these rules, statutes being interpreted or establishing agency authority include ss. 29.014 and 29.192, Stats.

3. Explanation of Agency Authority: 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 make changes related to hunting regulations. Additionally, s. 29.192, Stats. allows the department to regulate and limit the number of hunters and the maximum harvest of Canada geese in any area.

4. Related Statutes or Rules: There are currently no active related rules.

5. Plain Language Analysis:

SECTION 1 decreases the daily bag limit for scaup from 3 to 1 scaup for 15 days and 2 scaup for 45 days in specific zones. It also increases the daily bag limit for hen mallards from one to two, moves the North Migratory Zone duck season one week earlier by opening on the Saturday nearest September 24. All of these were also part of the 2020 migratory season framework. New for 2021 is a daily bag limit of 5 Canada geese per day during the “Holiday Hunt” that is offered from December 20 – January 4 in the South Zone.

SECTION 2 deletes a note clarifying that moorhen is synonymous with gallinule.

SECTIONS 3 AND 4 change the season for rail, snipe, and common gallinule (moorhen) to September 1 and will run for 70 consecutive days to match federal requirements as it was in the 2020 season. These sections also utilize the second split (15-day season closure) in the South Zone Canada goose season to extend the season to January 4. These changes are a carryover from the 2020 season. It also changes a

reference to the Mississippi River Migratory Zone in the trapping season dates for the Beaver Zone D.

SECTION 5 removes the Mississippi River Migratory Zone, expands the boundaries of the South Migratory Zone to include the former Mississippi River Migratory Zone, and creates a new Open Water Migratory Zone.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulations process. As part of the Federal rule process, the USFWS proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve adaptive waterfowl management strategies identified in the North American Waterfowl Management Plan (NAWMP). NAWMP primary goals are: **Goal 1** – achieve abundant and resilient waterfowl populations to support hunting on other uses without imperiling habitat, **Goal 2** – achieve wetlands and related habitats sufficient to sustain waterfowl populations at desired levels, while providing places to recreate and ecological services that benefit society and **Goal 3** – grow numbers of waterfowl hunters, other conservationists, and citizens who enjoy and actively support waterfowl and wetlands conservation.

The proposed modifications included in this rule order are consistent with the parameters and guidelines which are annually established by the USFWS in 50 CFR 20.

7. Comparison with Similar Rules in Adjacent States: Since migratory bird species are managed under federal law, each region of the country is organized in a specific geographic flyway which represents distinct migratory game bird populations. 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 USFWS. The USFWS 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 USFWS.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

Per federal regulations, states within the Mississippi Flyway may utilize two season splits during the regular Canada goose season. Traditionally, the department elected to utilize only a single season split. That changed in 2020, when data gathered through public input processes demonstrated majority support for adding a second split in the South Zone Canada goose season to extend the season over the Christmas and the New Year's holidays when people have time off and could take advantage of this additional hunting opportunity. This second split closed the Canada goose season for 15 days at the same time the South Zone duck season closed, then reopened the goose season in the South Zone for an additional 16 days.

For 2021, public input favored the continued use of two splits. Additionally, the public indicated support for increasing the Canada Goose bag limit to 5 geese/day during the third period over the holidays in the South Canada Goose Zone. From a harvest perspective, 90% of all Canada goose harvest occurs before December 1, and harvest analysis indicates that 80% of the Canada geese harvested in December are comprised of Wisconsin's own local temperate breeding Canada geese, so the department is not averse to adjusting the bag limit in the month of December as very few hunters participate during this time, and it will have a very minimal impact on overall harvest.

This rule proposes to maintain an earlier start date for the North Zone duck season that was implemented in 2020. This change was based on input collected from conservation organizations as well as the public via the waterfowl hunters survey, emails, phone calls, and public hearings in 2018 and 2019. This input showed hunters preferring a later opening date in the North zone. This shift in public preference may have been influenced by the manner in which dates occurred within the annual calendar and the fact that the three autumns prior to 2018 were relatively mild. Wisconsin had the second coldest November on record during 2018 and an early winter in the North at in both 2019 and 2020, which resulted in weeks of lost hunting opportunity. Input from conservation groups and the public in 2020 shifted back to a desire to start on the Saturday nearest September 24 from the previous date which was the Saturday nearest October 1st. Maintaining this earlier season start date has majority public support for 2021.

The proposed reconfiguration of migratory game bird zones and related duck season frameworks is based on public input and feedback from conservation partners. Public input favored the creation of a new Open Water Zone to allow hunters the ability to take advantage of late season opportunities in waters greater than 500 feet from the mainland shore on Green Bay and Lake Michigan. The creation of this new zone would result in the elimination of the Mississippi Zone. The feedback and input supported a two week later start than the South Zone and no split. This is the first year of this zone and the department will likely learn a lot from our hunters when we approach the season setting process next year on how to best structure the season in the future.

Under the federal framework for duck hunting, the USFWS is allowing Wisconsin a 60-day restrictive scaup season. This allows no more than one scaup per day for 15 days and two scaup per day for 45 days however, this restriction can be specific to each duck hunting zone. The scaup bag limit was similar in 2020 and three per day during the 2019 season.

Additionally, the USFWS is allowing Wisconsin a 70-day consecutive rail, snipe, and common gallinule (moorhen) season. Similar to the 2020 season, the department is proposing to open the season on September 1 and continue for 70 consecutive days which occurs during a period when hunters are most likely to be able to harvest these species. This start date is consistent with the early teal, early goose, and mourning dove season start date.

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

10. Effect on Small Business (initial regulatory flexibility analysis): These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24(3m), Stats.

11. Agency Contact Person: Scott Karel, 101 S. Webster St., PO BOX 7921, Madison, WI 53707-7921. scott.karel@wisconsin.gov (608) 267-2452

12. Place where comments are to be submitted and deadline for submission:

Written comments may also be submitted here: DNRAAdministrativeRulesComments@Wisconsin.gov

Hearing dates and the comment submission deadline are to be determined.

SECTION 1. NR 10.01 (1) (b) and (c) are amended to read:

| Kind of Animal | Locality | Open season (all dates inclusive) | Daily Bag Limit | Possession Limit |
|--------------------------------------|---------------|-----------------------------------|--|--|
| <i>(b) All species of wild ducks</i> | Entire state. | As established by zone. | <p><u>Sept. 25 – Oct. 10:</u> 6 ducks to include not more than 4 mallards of which only <u>1</u> may be a hen mallard, 2 black ducks, 1 pintail, 2 canvasbacks, 2 redheads, 3<u>1</u> scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.</p> | Three times the daily bag limit except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag limit. |
| | | | <p><u>Oct. 10-21: 6 ducks to include not more than 4 mallards of which only 2 may be a hen mallard, 2 black ducks, 1 pintail, 2 canvasbacks, 2 redheads, 2 scaup (no more than 1 may be from the Southern or Open Water Zones) and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.</u></p> | |

| | | | | |
|--|---|---|---|--|
| | | | <p><u>Oct. 22-30: 6 ducks to include not more than 4 mallards of which only 2 may be a hen mallard, 2 black ducks, 1 pintail, 2 canvasbacks, 2 redheads, 2 scaup (no more than 1 may be from the Open Water Zone) and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.</u></p> | |
| | | | <p><u>Oct. 31- Dec.14: 6 ducks to include not more than 4 mallards of which only 2 may be a hen mallard, 2 black ducks, 1 pintail, 2 canvasbacks, 2 redheads, 2 scaup and 3 wood ducks. In addition, 5 mergansers to include not more than 2 hooded mergansers.</u></p> | |
| | <p>(1) Northern zone as established in s. NR 10.32.</p> | <p>Beginning on the Saturday nearest October 1 <u>September 24</u> and continuing for 60 consecutive days.</p> | | |

| | | | | |
|--|--|---|--|--|
| | (2) Southern zone as established in s. NR 10.32. | Beginning on the Saturday nearest October 1 and continuing for 9 days, followed by a 5-day closure, and then reopens for 51 consecutive days. | | |
| | (3) Mississippi River <u>Open Water</u> zone as established in s. NR 10.32. | Beginning on the Saturday nearest October 16 and continuing for 60 consecutive days. | | |

| | | | | |
|------------------------------------|---------------|--|----|--|
| (c) Coots, and moorhens | Entire State. | Concurrent with the open season for ducks established in par. (b). | 15 | 45 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit. |
|------------------------------------|---------------|--|----|--|

SECTION 2. NR 10.01 (1) (c) (Note) is repealed.

SECTION 3. NR 10.01 (1) (d) is created to read:

| | | | | |
|---------------------------------|---------------|-------------------|----|--|
| (d) Common Gallinule (Moorhen). | Entire State. | Sept. 1 – Nov. 9. | 15 | 45 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit. |
|---------------------------------|---------------|-------------------|----|--|

SECTION 4. NR 10.01 (1) (e), (f) 1., (g) 1. c. and e., 2. b. and d., and 3. b. and d., (v) and (4) (c) are amended to read:

| Kind of Animal | Locality | Open season (all dates inclusive) | Daily Bag Limit | Possession Limit |
|--|---------------|---|-----------------|--|
| (e) Sora and Virginia rails ₂ | Entire State. | Concurrent with the open season for ducks established in par. (b). Sept. 1 – Nov. 9. | 25 | 75 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit. |
| (f) 1. Snipe ₂ | Entire State. | Concurrent with the open season for ducks established in par. (b). Sept. 1 – Nov. 9. | 8 | 24 except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit. |

| | | | | |
|---|---|--|--|--|
| (g) 1. Canada geese and its subspecies. | c. Southern zone as established in s. NR 10.32. | Begins on September 16 continuing until the 5–day closure in the southern duck zone hunting season in par. (b) and then reopens continuing until the closure of the southern duck zone hunting season in par. (b) and then reopens on Dec. 16 <u>20</u> continuing for a season total of 92 days. | 3 <u>Canada goose daily bag limit for the period of Sept. 16 – Dec. 5.</u> <u>5</u> <u>Canada goose daily bag limit for the period of Dec. 20 – Jan. 4.</u> | 9 from Sept. 16– Dec. 5, and 15 from Dec. 20.– Jan. 4. <u>except opening day when it is the same as the daily bag limit and the second day, when it is twice the daily bag limit.</u> |
|---|---|--|--|--|

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|----------------------------------|---|--|---|--|
| | e. Mississippi River sub zone. | Begins on the Saturday nearest October 1 and continues for 7-9 days, followed by a 7-5 -day closure, and then reopens for a season total of 92 days. | 3 | 9 except opening day when it is the same as the daily bag limit and the second day when it is twice the daily bag limit. |
| 2. Snow or blue and Ross' geese. | b. Southern zone as established in s. NR 10.32. | Begins on September 16 continuing until the 5-day closure in the southern duck zone hunting season in par. (b) and then reopens continuing until the closure of the southern duck zone hunting season in par. (b) and then reopens on Dec. 16 <u>20</u> continuing for a season total of 92 days. | | |
| | d. Mississippi river sub zone. | Begins on the Saturday nearest October 1 and continues for 7-9 days, followed by a 7-5 -day closure, and then reopens for a season total of 92 days. | | |
| 3. All other geese. | b. Southern zone as established in s. NR 10.32. | Begins on September 16 continuing until the 5-day closure in the southern duck zone hunting season in par. (b) and then reopens continuing until the closure of the southern duck zone hunting season in par. (b) and then reopens on Dec. 16 | | |

| | | | | |
|--|-------------------------------|---|--|--|
| | | 20 continuing for a season total of 92 days. | | |
| | d. Mississippi River subzone. | Begins on the Saturday nearest October 1 and continues for 7-9 days, followed by a 7-5-day closure, and then reopens for a season total of 92 days. | | |

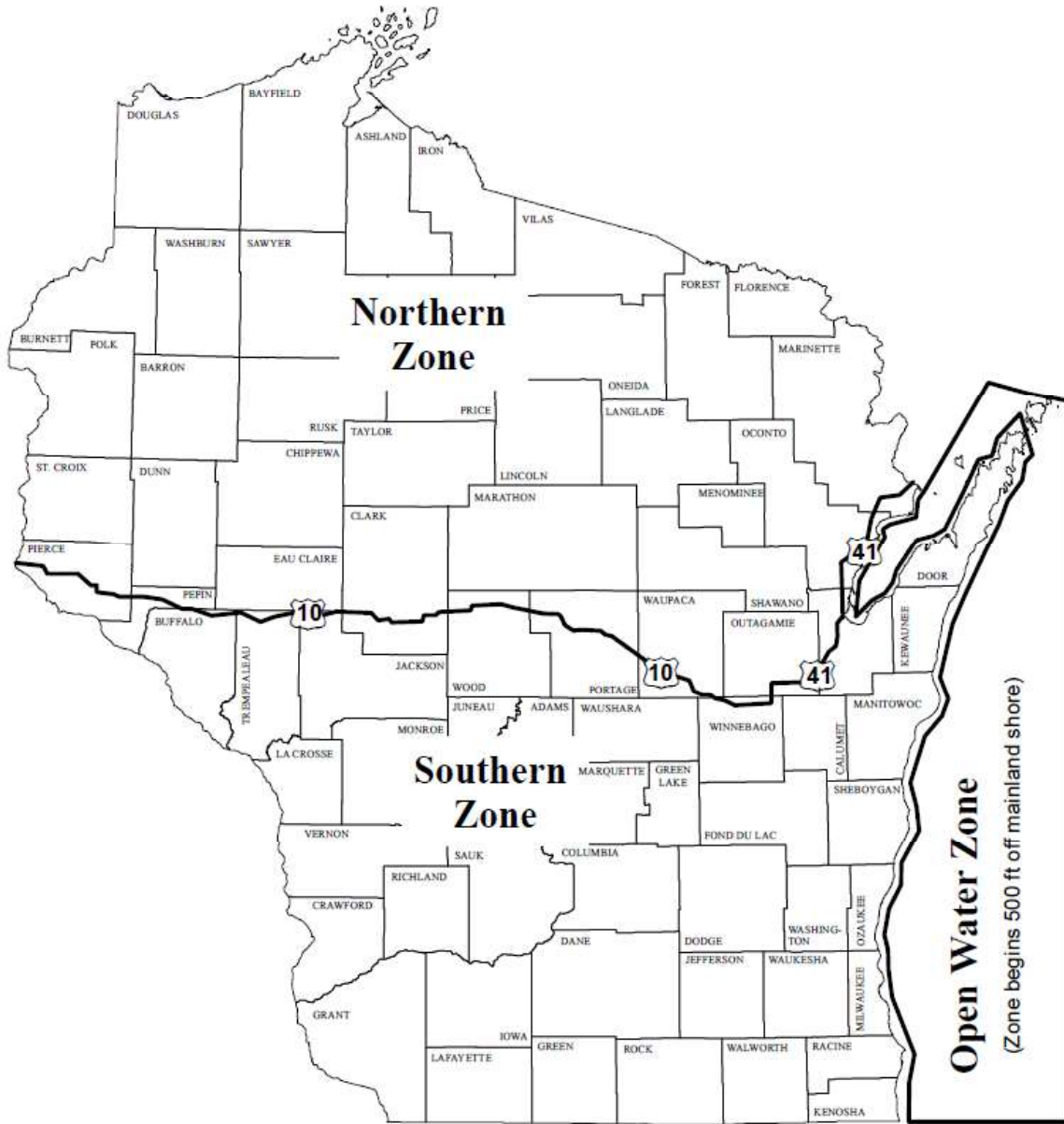
(v) Special youth waterfowl hunt event. Persons under the age of 16 may hunt all species of wild duck, mergansers, geese, coots, ~~and moorhens~~ common gallinules, Sora and Virginia rails, and snipe statewide for 2 consecutive days starting on the Saturday before the beginning of the open season established for the north duck zone by par. (b). 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), ~~(d), (e), (f),~~ and (g), except that the daily bag limit for the zone or subzone being hunted as listed in par. (g) 1. a. to h., 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 and be in compliance with ss. 29.592 and 29.593, Stats. One adult may not accompany more than 2 hunters and pursuant to s. 29.592, Stats., not more than one of the 2

hunters may be age 10 or 11, or be a person who does not possess a certificate of accomplishment under s. 29.591, Stats., or its equivalent from another state, country or province.

(4) FURBEARING ANIMALS. See Table (4)

| Kind of Animal and Locality | Open season (all dates inclusive) | Limit |
|--|--|---|
| <p><i>(c) Beaver Trapping</i></p> <p>1. Zone A as described in s. NR 10.35.</p> <p>2. Zone B as described in s. NR 10.35</p> <p>3. Zone C as described in s. NR 10.35</p> <p>4. Zone D as described in s. NR 10.35</p> | <p>Beginning on the Saturday nearest November 4 and continuing through April 30.</p> <p>Beginning on Saturday nearest November 4 and continuing through April 30.</p> <p>Beginning on the Saturday nearest November 4 and continuing through March 31.</p> <p>Beginning on the day following the close of the open season for ducks as established under sub. (1) (b) 1. <u>2.</u> and continuing through March 15.</p> | <p>None</p> <p>None</p> <p>None</p> <p>None</p> |

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



SECTION 6. EFFECTIVE DATE. This rule takes 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 _____

Preston D. Cole, Secretary

(SEAL)