

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT:

Request that the Board adopt Board Order ER-19-10, proposed rules affecting Chapter NR 18, WI Administrative Code, related to the sport of falconry. The U.S. Fish and Wildlife Service will no longer issue a permit to individuals engaged in the sport of falconry. Permits will be issued by states with oversight provided by the Service. The proposed rule makes the needed revisions to current code to ensure compliance with federal rules governing the sport of falconry.

FOR: March 2013 Board meeting

PRESENTER'S NAME AND TITLE: Erin Crain, Director, Bureau of Endangered Resources

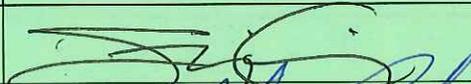
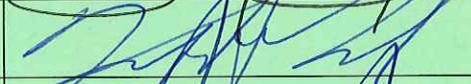
SUMMARY:

Proposed changes to Chapter NR 18, governing the sport of falconry in Wisconsin, address requirements from the U.S. Fish and Wildlife Service to meet falconry standards set forth in the Federal Register in 2008. The U.S. Fish and Wildlife Service will no longer issue a permit to individuals engaged in falconry, and it has formulated revisions as to how falconry is to be conducted. Permits will be issued by states with oversight provided by the Service. The proposed rule makes the revisions to current code to ensure compliance with federal rules by January 1, 2014 – the compliance date set forth in the Federal Register. The rule will impact current and future holders of falconry permits only by moving management of the permitting program to the state. Significant changes to rule, in addition to defining or clarifying different falconry terms, conditions, and requirements, includes increasing the number of wild raptors a General and Master Class falconer can possess; specifies 10 working days as a period for notifying a falconer of a finding of improper facilities or improper care of a raptor; clarifies that a licensed Wisconsin falconer has legal title to a raptor taken from the wild in Wisconsin, except for an endangered or threatened species; clarifies that falconers may assist wildlife rehabilitators with conditioning of raptors for release to the wild; and clarifies that General and Master Class falconers may use raptors for educational purposes without an additional permit as long as the same raptors are also used for falconry. Chapter NR 18 of the Wisconsin Administrative Code was last revised in 2001 when the NR Board approved a public hearing and then approved the proposed rule. The proposed rule changes will have a minimal (Level 3) economic impact on small businesses. While an Environmental Assessment (EA) was originally contemplated though not required, the Department considers the environmental impacts to be so minimal that preparation of an EA would result in an unnecessary expenditure of resources; therefore, no EA will be completed. A public hearing was held on February 12, 2013 with 16 members of the public present. There was no opposition to the proposed rule expressed; four minor changes to the rule were made as a result of hearing comments; these are summarized and presented (attached) to the Board.

RECOMMENDATION: That the Board adopt Board Order ER-19-10.

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

- (choose one)
- Statement of scope
- Fiscal estimate and economic impact analysis (EIA) form
- Response summary
- Attachments to background memo
- Governor approval of statement of scope
- Environmental assessment or impact statement
- Board order/rule

Approved by	Signature	Date
Erin Crain, Bureau Director		2/19/13
Kurt Thiede, Administrator		2/22/13
Cathy Stepp, Secretary		3/6/13

cc: Board Liaison - AD/8

Program attorney – LS/8

Department rule coordinator – LS/8

**ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, RENUMBERING AND AMEND, AMENDING, REPEALING
AND RECREATING, AND CREATING RULES**

The Wisconsin Natural Resources Board adopts an order to **repeal** NR 18.01 (9) and 18.10 (1) (b) 1.; to **renumber** NR 18.01 (1); to **renumber and amend** NR 18.15; to **amend** NR 18.01 (4), (5), (6), (10), (11), 18.02 (1), 18.03 (1), (3) and (Note), and (4), 18.04 (1) and (2) and (Note), 18.05, 18.06 (1) (intro.), (2) (intro.) and (Note), 18.07 (1) and (2) (a) 1. and 2. (b) 5., 18.08, 18.10 (1) (a), (b) (intro.), 2. and 3., (c) and (d), (2), and (3) (b), (c) and (d), 18.12 (2) (a), (c), (d), and (f), (3), (4), (9), (10), (11), (12) (b), (13), and (14), 18.14 (1) and (2), and 18.16 (2) (a) and (b), (3) (a) and (b) (intro.) and 3. a. to e., and (4); to **repeal and recreate** NR 18.01 (7), 18.03 (5), 18.12 (7) and (8), 18.13 (1), and 18.17 (2) (a) and (b); and to **create** 18.01 (1), (1g), (6m), (7m), (8m), (14) and (15), 18.02 (Note), 18.03 (6) and (Note), 18.04 (1) (Note), 18.05 (4), 18.10 (intro.), (1) (b) 1m., (e), (3) (e) and (Note), 18.12 (2) (Note), (3) (d), (4) (e) and (Note), (7m), (15), 18.13 (1m) and (2) (title), 18.15 (2) and (3), 18.16 (3) (b) 4. g. and h. and (4) (Note), and 18.17 (3) relating to the sport of Falconry.

ER-19-10

Analysis Prepared by Department of Natural Resources

Statutes interpreted: Section 29.319 Falconry Regulation

Statutory authority: Sections 29.319

Explanation of agency authority: The department holds authority under Wis. Stat. s. 29.319 to regulate falconry and the taking of raptors for falconry. The department is also authorized to establish rules for falconry, which is administrative code ch. NR 18. The department may provide permits to both Wisconsin residents and non-residents. The department is also authorized to charge a fee for these permits and to deposit these fees in the Endangered Resources Fund, Wis. Stat. s. 20.370 (1) (fs).

Related statute or rule: NR 18, governing the sport of falconry.

Statutory section

29.014 (1) Rule making for Ch. 29
29.039 Non game species
169.04 Possession of live wild animals.
169.05 Taking of wild animals.
169.0 Introduction, stocking, and release of wild animals.
169.07 Exhibition of live wild animals.
169.10 Sale and purchase of live wild animals.
227.11 (2) Rule making authority

Plain language analysis: The proposed rule defines and clarifies different falconry terms and conditions.

Summary of, and comparison with, existing or proposed federal regulations: The U.S. fish and wildlife service will no longer issue a permit to individuals engaged in the sport of falconry. Pursuant to 50 CFR 21.29(b), permits will be issued by states with oversight provided by the Service. The Service has formulated revisions as to how the sport of falconry is to be conducted and supervised by the states. The proposed rule makes the revisions to current code to ensure compliance with federal rules by January 1, 2014.

Comparison with rules in adjacent states: All states must comply with federal rules pertaining to the sport of falconry by January 1, 2014.

Summary of factual data and analytical methodologies: A total of 100 resident falconers and approximately 10 or fewer non-resident falconers will be affected by the proposed rule.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: This rule update applies only to falconers. The proposal does not impose any additional compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The department has determined that this rule will not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or overall economic competitiveness of the state. No fiscal impacts are expected for the public utility rate payers or local government units. This determination was made after conducting an economic impact analysis and soliciting comments beginning on March 6, 2012 for 14 days. The department requested comments from the Wisconsin Falconry Association (WFA). Comments from WFA, approving the economic impact analysis were received in a letter from WFA dated May 11, 2012.

Effect on small business, including how the rule will be enforced: None

Agency contact person: Sumner Matteson, 101 S. Webster St., P.O. Box 7921, Madison, WI 53707-7921. (608) 266-1571, email: sumner.matteson@wisconsin.gov.

Place where comments may be submitted and deadline for submission: same as above, submissions sent to Sumner Matteson by February 13, 2013.

SECTION 1. NR 18.01 (1) is renumbered NR 18.01 (1r).

SECTION 2. NR 18.01 (1) and (1g) are created to read:

NR 18.01 (1) "Band" means a numbered, non-reusable USFWS leg band supplied by the department.

(1g) "Bureau" means the department of natural resources bureau of endangered resources.

SECTION 3. NR 18.01 (4), (5), and (6) are amended to read:

NR 18.01 (4) "Falconry" means ~~the sport of taking or attempting to take quarry by means of a trained raptor~~ caring for and training raptors for the pursuit of wild game, and hunting wild game with raptors. Falconry includes the taking of raptors from the wild to use in the sport, caring for, training, and transporting raptors held for falconry.

(5) "Falconry permit" means a state or tribal permit to allow a resident permittee to take, possess and transport raptors for the purpose of practicing falconry.

(6) "Fish & wildlife service" means and "USFWS" mean U. S. department of interior – fish & wildlife service.

SECTION 4. NR 18.01 (6m) is created to read:

NR 18.01 (6m) "Foreign" means any source of wildlife originating from outside the United States.

SECTION 5. NR 18.01 (7) is repealed and recreated to read:

NR 18.01 (7) "Hacking" means the temporary release to the wild, not to exceed 30 days, of a raptor held for falconry so that it must survive on its own.

SECTION 6. NR 18.01 (7m) and (8m) are created to read:

NR 18.01 (7m) "Hybrid" means offspring of any two species whether or not listed in the federal regulations at 50 CFR 10.13, and any progeny of those birds.

(8m) "Imprint" means a bird that is hand-raised in isolation from the sight of other raptors from 2 weeks of age until it has fledged. An imprinted bird is considered to be so for its entire lifetime.

SECTION 7. NR 18.01 (9) is repealed.

SECTION 8. NR 18.01 (10) and (11) are amended to read:

NR 18.01 (10) "Raptor" means a live, migratory bird of the ~~orders~~ Orders Accipitriformes, Falconiformes or the order Strigiformes, other than a including the bald eagle (*Haliaeetus leucocephalus*) or and golden eagle (*Aquila chrysaetos*).

(11) "Replacement raptor" means a raptor obtained to replace one ~~which~~ that has died in captivity, has escaped, or is released to the wild.

SECTION 9. NR 18.01 (14) and (15) are created to read:

NR 18.01 (14) "Tribe" means any Wisconsin band of Native Americans recognized by the federal government, and which is authorized by the USFWS to issue a falconry permit to its members.

(15) "Visitor" means anyone from another country.

SECTION 10. NR 18.02 (1) is amended to read:

NR 18.02 (1) The raptors covered by this chapter include those raptor species whose range extends into any part of Mexico ~~or~~, the United States, or Canada. All individual birds of such species whether or not raised in captivity, and including any subspecies, even if the range of such subspecies does not include parts of the above countries, are covered by these regulations.

SECTION 11. NR 18.02 (Note) is created to read:

NR 18.02 (Note) Sections ATCP 10.06 and 10.07 establish requirements related to importation of animals into Wisconsin. These provisions establish the responsibility of a person importing a raptor to obtain: a) a certificate of veterinary inspection and b) a Wisconsin Department of Agriculture, Trade and Consumer Protection import permit. The importer must have copies of the health certificate and import permit before transporting the raptor to Wisconsin.

SECTION 12. NR 18.03 (1), (3) and (Note), and (4) are amended to read:

NR 18.03 (1) No person may take, possess or transport, import, export, sell, purchase, barter, offer for sale, or purchase any migratory raptor species, or the parts, nests, or eggs of raptor species, for falconry purposes or to practice falconry in Wisconsin unless a valid falconry permit has been issued pursuant to this chapter or issued by another state or tribe provided that the state or tribe is listed in the federal regulations as a state or tribe meeting federal falconry standards. Tribal permits are only valid when issued to the tribe's own members. Falconers hunting on state property need to follow state property rules, and it is the falconer's responsibility to be aware of the state property rules before commencing falconry activities.

(3) No person may engage in any falconry activity unless the person has in his or her possession possesses a falconry permit or a nonresident raptor trapping permit issued under this chapter.

(Note) A state of Wisconsin turkey, pheasant or duck stamp is no longer required to engage in the sport of falconry. A federal duck stamp, however, is required to hunt migratory waterfowl. Federal duck stamps can be purchased through a local post office and at many local DNR offices.

(4) No person may transfer a falconry permit or a falconry band, markers or allow the use thereof by any other person, nor may any person while engaged in falconry, use or carry any permit or marker band issued to another.

SECTION 13. NR 18.03 (5) is repealed (excluding (Note)) and recreated to read:

NR 18.03 (5) A visitor to the U. S. possessing a falconry permit or license from their country may practice falconry in Wisconsin and shall abide by nonresident falconer permit and license requirements.

SECTION 14. NR 18.03 (6) and (Note) are created to read:

NR 18.03 (6) If a falconer takes a raptor from the wild and keeps it overnight, the falconer must report it the bureau Falconry Coordinator within 10 days using the 3-186A form.

(Note) Paper copies of the 3-186A form can be obtained by contacting the Falconry Coordinator at the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921 or online at <http://permits.fws.gov/186A>.

SECTION 15. NR 18.04 (1) and (2) and (Note) are amended to read:

NR 18.04 (1) ESTABLISHED SEASONS. In addition to the seasons established by ch. NR 10, falconry permit holders may hunt upland game birds and animals described in s. NR 10.01 (2) and (3) September 1 through March 31, except cottontail rabbit, fox squirrel and gray squirrel may be hunted year-round. Hunting of hen pheasants is allowed statewide by the method of falconry.

(2) LET LAY RULE. A falconry permit holder whose raptor accidentally kills any protected animal during the closed season or a protected animal ~~or sex~~ during the open hunting season, as specified in sub. (1), shall leave the dead animal where it lies. The raptor may feed upon the dead animal prior to leaving the kill site.

(Note) Daily kill and possession limits, hunting hours, and other small game rules established for hunting by chs. NR 10, 11, and 15 and ch. 29 Stats., apply.

SECTION 16. NR 18.04 (1) (Note) is created to read:

NR 18.04 (1) (Note) Falconers are not limited to properties specified under s. NR 10.01 (2) (c) (2). Normal daily bag and possession limits established by s. NR 10.01 (2) apply, except that the daily bag limit for hen pheasants taken by falconry is one.

SECTION 17. NR 18.05 is amended to read:

NR 18.05 **Examination** (1) Prior to submitting an application for a permit under this chapter, each new applicant or person whose prior permit has expired or been revoked for a period of more than ~~2~~ 5 years shall be required to answer correctly at least 80% of the questions on a supervised examination described in sub. (2). If a falconer's permit has expired or been revoked for fewer than 5 years, it may be reinstated if the falconer has proof of certification for his or her most recent level, pursuant to NR 18.10.

(2) The examination shall be prepared by the ~~fish and wildlife service~~ department or tribe in consultation with the Wisconsin Falconers Association, and administered by a representative of the department or tribe. The examination shall consist of questions relating to the basic biology, care, and handling of raptors, and literature, laws and regulations governing the sport of falconry.

(3) ~~Applicants failing~~ An applicant who fails to answer correctly answer at least 80% of the questions on the examination described in sub. (2) may not be issued a permit but may repeat the exam after 30 days. ~~Should a second failure occur, a one-year waiting period is required before the examination sequence may be repeated~~ the applicant fail the test a second time, the applicant shall wait at least one year prior to taking the test again.

SECTION 18. NR 18.05 (4) is created to read:

NR 18.05 (4) If an applicant is a new resident of the United States, the applicant may be granted a

permit to practice falconry at an appropriate level based on his or her experience. To demonstrate knowledge of falconry, the applicant shall correctly answer 80% of the questions on a supervised examination. If successful, the applicant may be assigned by the department or tribe the permit class consistent with the requirements set forth in NR18.10.

SECTION 19. NR 18.06 (1) (intro.), (2) (intro.), and (Note) are amended to read:

NR 18.06 (1) RESIDENT FALCONRY PERMIT. (intro.) A person shall submit an application for a permit under this chapter on forms provided by the department accompanied by a fee of \$75 for a 3-year falconry permit. ~~Applicants~~ An applicant may not submit more than one application for a permit under this chapter nor apply for a permit if they have failed to answer correctly ~~answer~~ at least 80% of the questions on a falconry examination as described in s. NR 18.05 (2) and as required in s. NR 18.05 (1). ~~Applicants~~ An applicant shall provide the following information:

(2) NONRESIDENT RAPTOR TRAPPING PERMIT. (intro.) A nonresident may apply annually for a nonresident raptor trapping permit under this chapter on forms provided by the department accompanied by a fee of \$100. ~~Applicants~~ An applicant may not submit more than one application for a permit under this chapter. ~~Applicants~~ Each applicant shall provide the following information:

Note: Application forms may be obtained at: Bureau of Endangered Resources (BER), Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, WI 53707. The Resident Falconry Permit application and the Nonresident Raptor Trapping Permit application can be accessed online at the bureau's falconry website: <http://dnr.wi.gov/topic/EndangeredResources/permits.html>. Possession of facilities for housing raptors is not a prerequisite for obtaining a resident falconry permit under s. NR 18.07. A resident permittee, however, must pass a facilities inspection by the department or tribe prior to obtaining a raptor for use in falconry.

SECTION 20. NR 18.07 (1) and (2) (a) 1. and 2. and (b) 5. are amended to read:

NR 18.07 (1) INSPECTION. Upon receipt of an application for a resident falconry permit, the department shall, within 30 days, inspect the applicant's facilities and equipment and determine that ~~they~~ the applicant complies with this section before a permit may be issued. Falconry birds, facilities, equipment, and records may be inspected by state or tribal officials only in the presence of the permittee during business hours on any day of the week.

(2) (a) 1. Indoor facilities (mews) shall be large enough to allow easy access for caring for the raptors housed in ~~the facility them~~. If more than one raptor is to be kept in ~~the mews~~ a mew, the raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's head, and a secure door that can be easily closed. The floor

of ~~the mews~~ a mew shall permit easy cleaning ~~and shall~~, be well drained, and have at least one perch. ~~Adequate perches shall be provided.~~

2. Outdoor facilities (weathering ~~area areas~~) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and from attack by predators. The enclosed weathering area shall be large enough to ~~insure~~ ensure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather, and at least one adequate perch shall be provided for each bird. ~~Adequate perches shall be provided.~~

(b) 5. "Weighing device." A reliable scale or balance suitable for weighing the ~~raptor(s)~~ raptors held and graduated to increments of not more than 1/2-ounce (15 grams) shall be provided by the permittee.

SECTION 21. NR 18.08 is amended to read:

NR 18.08 **Unsatisfactory conditions.** ~~The department, upon~~ Within 5 working days of a written finding of improper treatment or care of a raptor or of the failure to provide proper facilities or equipment for a raptor, the department shall notify the permittee of the finding in writing and request the correction of the treatment, care, facilities or equipment, as detailed in the notice, ~~within 5 working days of the notice.~~ Upon the failure of the permittee to make the corrections described in the notice, If the permittee fails to make the corrections, the raptors shall may be seized by the department and the permit shall may be revoked. ~~The~~ If the permit is revoked, the permittee is ineligible to receive another permit until the department is satisfied the facilities, equipment, and care comply with this chapter, and that the health and safety of any raptors in the facilities are ensured.

SECTION 22. NR 18.10 (intro.) is created to read:

NR 18.10 **Classes of permits.** (intro.) Possession of facilities for housing raptors is not a prerequisite for obtaining a permit, except for the apprentice class applicant, whose facilities shall be inspected before an apprentice permit is granted. Regardless of falconry class, the applicant shall have facilities that pass state or tribal inspection before obtaining a raptor for use in falconry. The applicant may not intentionally capture a raptor species that the classification as a falconer does not allow the applicant to possess for falconry. If the applicant captures a bird that is not allowed to be possessed, the bird shall be released immediately. The requirements for each falconry class permit are as follows:

SECTION 23. NR 18.10 (1) (a) and (b) (intro.) are amended to read:

NR 18.10 (1) (a) An apprentice class permittee shall be at least 14 years old and sponsored by a person possessing a general or master falconry permit in Wisconsin, Iowa, Illinois, Michigan, or

Minnesota. If the apprentice is under 18 years of age, a parent or legal guardian shall agree to be responsible for the apprentice's activities.

(b) (intro.) A sponsor who is a holder of a general or master falconry permit is required for permittees under the age of 18, and for all permittees the first two years in which an apprentice permit is held, regardless of the age of the permittee. A person may not act as a sponsor for more than 3 apprentices at any one time. The sponsor of an apprentice shall do all of the following:

SECTION 24. NR 18.10 (1) (b) 1. is repealed.

SECTION 25. NR 18.10 (1) (b) 1m. is created to read:

NR 18.10 (1) (b) 1m. Write a letter supporting the application of the apprentice.

SECTION 26. NR 18.10 (1) (b) 2. and 3., (c), and (d) are amended to read:

NR 18.10 (1) (b) 2. ~~Shall submit~~ Submit an annual progress report in narrative form to the department by July 31 of each year; ~~and~~ .

3. ~~Shall notify~~ Notify the department at any time when the progress or performance of an apprentice is unsatisfactory.

(c) The apprentice class permittee may not possess ~~more than one raptor~~ wild American kestrel (*Falco sparverius*) or red-tailed hawk (*Buteo jamaicensis*) and may not obtain more than one wild raptor for replacement during any 12-month period, August 1 to July 31. An apprentice permittee may only possess either an American kestrel (*Falco sparverius*) or a red-tailed hawk (*Buteo jamaicensis*).

(d) An apprentice class permittee may not possess an eyas or a raptor that is imprinted on humans.

SECTION 27. NR 18.10 (1) (e) is created to read:

NR 18.10 (1) (e) The apprentice class permittee may not possess a raptor taken from the wild as a nestling.

SECTION 28. NR 18.10 (2) and (3) (b), (c), and (d) are amended to read:

NR 18.10 (2) GENERAL CLASS. (a) A general class permittee shall be at least 18 years old and shall have at least 2 years experience in the practice of falconry at the apprentice level and receive a written recommendation from the sponsor or produce documentation, acceptable to the department, of qualified experience exceeding 2 years including maintaining, training, flying, and hunting with a raptor for at least 4 months in each year.

(b) A general class permittee may not possess more than ~~2~~ 3 wild or captive-bred raptors and may not obtain more than 2 raptors from the wild during any 12-month period, August 1 to July 31.

(c) A general class permittee may ~~not take, transport or possess any golden eagle or merlin (*Falco columbarius*)~~ take and possess any species of Accipitriform, Falconiform, or Strigiform except a golden eagle, a bald eagle, a white-tailed eagle (*Haliaeetus albicilla*), or a Steller's sea eagle (*Haliaeetus pelagicus*). A general class permittee may use captive-bred individuals and hybrids of the species the permittee is allowed to possess. A general class permittee may not possess any endangered or threatened species listed in s. NR 27.03 unless it is ~~captive-reared~~ captive-reared and ~~banded~~ marked with a ~~marker~~ band provided by the fish and wildlife service.

(3) (b) A master class permittee may not possess more than ~~3~~ 5 wild raptors, and may not obtain more than 2 raptors from the wild during any 12-month period, August 1 to July 31. A master class permittee, however, may possess any number of captive-bred raptors as long as the master class permittee trains them in the pursuit of wild game and uses them in hunting.

(c) A master class permittee may ~~not take, transport or possess any golden eagle for falconry purposes unless authorized in writing under 50 CFR 22.24~~ take and possess any species of Accipitriform, Falconiform, or Strigiform, except a bald eagle. A permittee may not take, transport or possess any endangered or threatened species listed in s. NR 27.03, except ~~captive-reared~~ captive-reared species ~~banded with markers and passage (first-year migrant) peregrine falcons (*Falco peregrinus*)~~ marked with a band provided by the fish and wildlife service.

(d) A master class permittee may not take, transport or possess as part of his or her ~~3-bird~~ the permittee's 5-bird limitation, more than one raptor listed as a federally threatened species as prescribed by 50 CFR 21.29 (e) (3) (v).

SECTION 29. NR 18.10 (3) (e) and (Note) are created to read:

NR 18.10 (3) (e) A master class permittee may take and possess a golden eagle, a white-tailed eagle, or a Steller's sea eagle only if the permittee meets the following requirements:

1. Experience is required in handling large raptors, including the species handled and the type and duration of the experience.

2. Two letters of reference are needed containing a concise history detailing the author's experience with large raptors, which can include handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter shall also assess the master class permittee's ability to care for eagles and to fly them in falconry. An eagle possessed by a falconer counts against the individual limit of 5 raptors. The permittee shall mark the eagle with a band provided by the fish and wildlife service, and if desired implant an ISO-compliant (International Organization for

Standardization) (134.2 kHz) microchip. The permittee shall report the band and microchip within 10 days at <http://permits.fws.gov/186A>, or submit a paper 3-186A form to the bureau or permittee's tribe.

(Note) Paper copies of the 3-186A form can be obtained by contacting the Falconry Coordinator at the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921 or online at <http://permits.fws.gov/186A>.

SECTION 30. NR 18.12 (2) (a), (c), (d) and (f) are amended to read:

NR 18.12 (2) (a) Trapping permits may not be issued to nonresidents ~~other than persons~~ meeting the qualifications of the ~~general or master class~~ permittees in s. NR 18.10 (2) ~~and (3)~~.

(c) The nonresident raptor trapping permittee shall immediately upon capture mark a raptor trapped under a nonresident raptor trapping permit with a federal ~~marker, band~~. No raptor may be transported within or from Wisconsin without the ~~marker band~~ attached.

(d) The nonresident raptor trapping permittee shall notify the ~~department's bureau of endangered resources~~ within 5 days of any take and provide information on the take on forms provided by the ~~department's bureau of endangered resources~~.

(f) Nonresidents may not take, possess or transport a ~~merlin-eyes~~ or any federal or Wisconsin endangered and threatened species.

SECTION 31. NR 18.12 (2) (Note) is created to read:

NR 18.12 (2) (Note) The Nonresident Raptor Trapping Permit application can be accessed online at the bureau's falconry website: <http://dnr.wi.gov/topic/EndangeredResources/permits.html>. Paper copies of the Nonresident Raptor Trapping Permit can also be obtained by contacting the Falconry Coordinator at the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921 or online at <http://dnr.wi.gov/topic/EndangeredResources/permits.html>.

SECTION 32. NR 18.12 (3) is amended to read:

NR 18.12 (3) ~~SEASON FOR TAKING RAPTORS FROM THE WILD.~~ (a) Season. A general or master falconer may take eyasses annually during the ~~period periods~~ of March ~~26 through 1~~ to April 5 and May ~~15 through 7~~ to July 15. Except as provided in sub. (2) (f), no more than 2 eyasses may be taken by the same general or master falconer permittee during the specified season.

(b) First-year Passage raptors. First-year (passage or immature) raptors may not be taken ~~other than during the period of September 16 through December 31~~ from August 21 to January 31.

(c) Federal Band. ~~In no case may the total of all periods of raptor taking exceed 180 days during a calendar year, except that a~~ A raptor which that has a federal ~~marker band~~ attached may be ~~retrapped re-trapped~~ at any time.

SECTION 33. NR 18.12 (3) (d) is created to read:

NR 18.12 (3) (d) *Northern goshawk*. No person may possess a northern goshawk (*Accipiter gentilis*) taken from the wild or acquired from a rehabilitator unless it is marked as required by this subsection.

1. The goshawk shall be banded immediately upon possession.
2. When banding a northern goshawk, a permanent, non-reusable, numbered fish and wildlife service leg band supplied by the bureau or permittee's tribe shall be used. The falconer also may purchase and implant an ISO (International Organization for Standardization)-compliant (134.2 kHz) microchip in the bird.
3. The band number and microchip information shall be reported within 10 days from the day the falconer takes the goshawk from the wild or from a rehabilitator by entering the required information (including band number and/or microchip information) in the electronic database at <http://permits.fws.gov/186A>, or by submitting a paper 3-186A form to the bureau or to the permittee's tribe.

Note: Paper copies of the 3-186A form can be obtained by contacting the Falconry Coordinator at the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921.

4. No person may take a northern goshawk on U.S. department of agriculture national forest land unless a written description of the location of the take, satisfactory to the forest supervisor or designee, is provided to the forest supervisor or designee prior to any take.

Note: The national forests, consistent with the Multiple Use-Sustained Yield Act of 1960 (16 USC 528) and the Federal Land Policy Management Act of 1976 (16 USC 1701-1784), are managed for wildlife purposes. Data regarding the populations and take of the northern goshawk on the national forest is relevant to goshawk management. The Forest Service may implement protection measures for the northern goshawk that may include the closing of areas of land within the national forest to the take of goshawks. Information on the location of national forest land may be obtained from:

SECTION 34. NR 18.12 (4) is amended to read:

NR 18.12 (4) MARKING. (a) ~~Raptors~~ A raptor held under a permit shall be marked with a ~~numbered band provided by the fish and wildlife service~~ non-reusable band provided by the bureau.

(b) A permittee shall attach the ~~marker band~~ band to the raptor ~~immediately upon acquisition~~ within 48 hours of acquisition. The permittee may also purchase and implant an ISO-compliant (134.2 kHz) microchip in the bird. The permittee shall report the band or microchip at <http://permits.fws.gov/186A> or by submitting a paper 3-186A form or an electronic report to the bureau at

<http://dnr.wi.gov/topic/EndangeredResources/permits.html>, or to the permittee's tribe, within 10 days after acquisition.

(c) No person may alter, counterfeit or deface a ~~marker~~ federal band or ISO-compliant microchip. A permittee may, however, remove the rear tab on ~~markers~~ federal bands or ISO-compliant microchips and may smooth any imperfect surface provided the integrity of the ~~marker~~ federal band or microchip and numbering are not affected.

(d) ~~Permittees trapping~~ A permittee who traps a previously marked raptors raptor shall immediately report the trapping to the ~~department's bureau of endangered resources, and include~~ information on the species, location (county, township, section, quarter section, quarter-quarter section), and band identification.

SECTION 35. NR 18.12 (4) (e) and (Note) are created to read:

NR 18.12 (4) (e) If a band is removed or is lost from a raptor in possession, the permittee shall report the loss of the band within 10 days, and shall do one of the following: either request a fish and wildlife service non-reusable band from the bureau or permittee's tribe, or purchase and implant an ISO-compliant (134.2 kHz) microchip in the bird and report the band or microchip at <http://permits.fws.gov/186A>, or by submitting a paper 3-186A form to the bureau or permittee's tribe within 10 days of band or microchip acquisition.

(Note) Paper copies of the 3-186A form can be obtained by contacting the Falconry Coordinator at the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921 or online at <http://dnr.wi.gov/topic/EndangeredResources/permits.html>.

SECTION 36. NR 18.12 (7) is repealed and recreated to read:

NR 18.12 (7) ADULT RAPTORS. Except as otherwise authorized, a permittee may not take from the wild or possess any raptor taken from the wild if the raptor is over one year old when taken. This subsection does not apply to American kestrel or great horned owl (*Bubo virginianus*).

SECTION 37. NR 18.12 (7m) is created to read:

NR 18.12 (7m) RAPTORS TAKEN UNDER OTHER PERMITS. Raptors other than state and federally endangered or threatened species that have been taken under a depredation permit or scientific collector's permit may be used for falconry by general and master class permittees.

SECTION 38. NR 18.12 (8) is repealed and recreated to read:

NR 18.12 (8) RAPTORS TAKEN IN WISCONSIN. A licensed falconer who legally takes a raptor from the wild has legal title to the raptor, subject to s. 169.02, Stats.

SECTION 39. NR 18.12 (9), (10), (11), (12) (b), (13), and (14) are amended to read:

NR 18.12 (9) RAPTORS FROM OUTSIDE WISCONSIN. Raptors obtained outside the state by Wisconsin residents may not be possessed or transported within Wisconsin unless the person possesses legal authority from the state in which the raptor was acquired and a Wisconsin falconry permit. A Wisconsin falconry permittee may possess a wild raptor legally obtained outside the state or a properly identified captive-bred raptor obtained from a resident of another state.

(10) ESCAPE OR DEATH OF RAPTORS. A permittee shall report the loss or death of any raptor within 5 days to the ~~department's bureau of endangered resources~~. Carcasses ~~are to~~ shall be disposed of as directed by the fish and wildlife service.

(11) EXCHANGE OF RAPTORS. No person may give or transfer a raptor to a holder of a Wisconsin permit unless the exchange is reported to the ~~department's bureau of endangered resources~~ by the permittee originally holding the raptor within 5 10 days of the gift or transfer. If a permittee transfers a raptor taken from the wild to another permittee in the same year in which it is captured, the bird shall count as one of the raptors allowed to be taken from the wild that year by the transferor. The transferred raptor will not count as a capture by the recipient, though it shall always be considered a wild bird.

(12) (b) ~~Each~~ Each trap shall bear a legible label containing the name, address and state falconry permit number of the permittee or non-resident raptor training permit number.

(13) TRAINING OF RAPTORS. Persons may not train raptors by using or killing game birds out of season; however, ~~game birds obtained from licensed game farms may be used for this purpose when the permittee is in possession of a valid game farm receipt~~ legally obtained captive-bred game birds may be used for this purpose. Game birds ~~may not be~~ possessed by a permittee ~~unless~~ shall be treated in a humane manner and confined under sanitary conditions with proper care.

(14) CAPTIVE-REARED RAPTORS. ~~Raptors~~ A raptor hatched and reared in captivity, ~~may be used for falconry purposes and banded with a seamless metal band provided by the fish and wildlife service, may be used for falconry provided each raptor is banded with a numbered marker provided by the fish and wildlife service.~~ The raptor may also have an implanted ISO-compliant (134.2 kHz) microchip. A falconer using a species that is state or federally endangered shall have an endangered species permit to cover all activities including possession, regardless of whether the species is wild or captive-bred. A falconry permit does not serve as a substitute.

SECTION 40. NR 18.12 (15) is created to read:

NR 18.12 (15) CAPTURE AND POSSESSION OF GOLDEN EAGLES. A master falconer may capture a golden eagle as allowed under 50 CFR part 22.

SECTION 41. NR 18.13 (1) is repealed and recreated to read:

NR 18.13 (1) CARE OF FALCONRY RAPTORS BY ANOTHER FALCONRY PERMITTEE. Another falconry permittee may care for a raptor or raptors at their facilities or at the original permittee's facilities for up to 120 consecutive days if the bird has a suitable perch and is protected from predators, domestic animals, extreme temperatures, wind, and excessive disturbance. The person providing care shall have a signed and dated statement from the permittee authorizing the temporary possession, and a copy of the FWS 3-186A form that shows the possession of each of the raptors. The statement shall include information about the time period for which the raptor may be kept and activities authorized by the original permittee. A copy of the statement shall be sent to the bureau within 10 days of the possession of a raptor. In all such care situations all of the following shall apply:

- (a) A permittee's raptor shall remain on the permittee's falconry permit, and will not be counted against the possession limit of the person caring for another permittee's raptor.
- (b) If the person caring for a raptor holds the appropriate level falconry permit, the person may fly the raptor as authorized by the permittee, including for hunting purposes.
- (c) The care of a raptor may be extended indefinitely by the department in extenuating circumstances, such as illness, military service, or for a family emergency.

SECTION 42. NR 18.13 (1m) is created to read:

NR 18.13 (1m) CARE OF FALCONRY RAPTORS BY A NON-PERMITTEE. Another person may care for falconry birds at the permittee's facilities for up to 45 consecutive calendar days, provided that:

- (a) The raptor or raptors shall remain on the permittee's falconry permit.
- (b) The raptor or raptors shall remain in the permittee's facilities.
- (c) The person providing care for a raptor or raptors under this subsection may not fly the raptor or raptors for any purpose.

SECTION 43. NR 18.13 (2) (title) is created to read:

NR 18.13 (2) (title) CARE OF FALCONRY RAPTORS BY A LICENSED WILDLIFE REHABILITATOR.

SECTION 44. NR 18.14 (1) and (2) are amended to read:

NR 18.14 (1) TEMPORARY HOLDING. A raptor may be transported or held in temporary facilities for a period not to exceed ~~30~~ 120 days. Such facilities shall provide an adequate perch and protection from extreme temperatures and excessive disturbance.

(2) OUT-OF-STATE USE. A resident permittee may transport raptors ~~permitted by this chapter from Wisconsin~~ possessed as authorized under this chapter to another state for meets, trials, hunting and other falconry activities provided the permittee obtains a ~~all permit permits or license licenses as may be~~ required by ~~another~~ the other state.

SECTION 45. NR 18.15 is renumbered NR. 18.15 (1) and amended to read:

NR 18.15 (1) RELEASE TO THE WILD. A falconry permit holder shall obtain written authorization from the ~~department's bureau of endangered resources~~ before ~~a~~ any raptor of any species not indigenous to Wisconsin is intentionally released to the wild in Wisconsin, at which time the ~~marker band~~ marker band from the ~~released~~ bird shall be removed. The ~~marker band~~ marker band from an intentionally released wild raptor ~~which~~ that is indigenous to Wisconsin shall also be removed. A seamless band on a captive-reared raptor shall remain on the bird if it is released. A standard federal ~~marker band~~ marker band shall be attached to the birds by ~~the a state or service-authorized~~ USFWS-authorized federal bird-bander bird-bander whenever possible.

SECTION 46. NR 18.15 (2) and (3) are created to read:

NR 18.15 (2) HYBRIDS. Hybrid raptors shall be imprinted on humans or be surgically sterilized if they are to be used in falconry. When flown, a hybrid shall have two attached radio telemetry transmitters that may allow the permittee to locate the bird if the permittee needs to do so. Permanent release of hybrids to the wild is prohibited.

(3) HACKING. Hacking as defined in s. NR 18.01 (7), shall be permitted. All hybrid raptors shall have two attached functioning radio telemetry transmitters during hacking.

SECTION 47. NR 18.16 (2) (a) and (b) and (3) (a) and (b) (intro.) and 3. a. to e. are amended to read:

NR 18.16 (2) (a) In state transfer. A permittee may transfer a raptor to another permittee if the transaction occurs entirely within the state and no money or other consideration is involved, except that properly marked ~~captive-bred and raised captive-bred~~ captive-bred raptors, ~~identified as captive by the fish and wildlife service,~~ may be sold to another permittee.

(b) Out-of-state Transfer. A permittee may transfer a raptor taken from the wild to another permittee in an interstate transaction if prior written approval of the state agency that ~~which~~ issued the falconry permit is obtained and no money or other consideration is involved, except that properly marked ~~captive-bred and raised captive-bred~~ captive-bred raptors ~~identified as captive by the fish and wildlife service,~~ may be sold to another permittee.

(3) (a) No later than August 31 of each year, a permittee shall submit to the ~~department~~ bureau a falconry report for the preceding August 1 to July 31 year.

(b) (intro.) The report shall either be on a paper forms provided by the ~~department~~ bureau or reported electronically via the bureau's falconry webpage. The report ~~and~~ shall contain all of the following information:

- 3. a. Species; .
- b. Age; .
- c. Sex;
- d. Marker Band number; .
- e. Details of acquisition including date, previous owner by name and address; ~~and~~.

SECTION 48. NR 18.16 (3) (b) 4. g. and h. are created to read:

NR 18.16 (3) (b) 4. g. Date raptor taken and date active nest checked for presence of an eyas.

h. Location by either: township, range, section, quarter section and quarter-quarter section of nest tree from which an eyas is taken or checked for the presence of an eyas; or by latitude/longitude using a hand-held GPS locator.

SECTION 49. NR.18.16 (4) is amended to read:

NR 18.16 (4) CHANGE OF ADDRESS. (a) A permittee shall report a change of mailing address to the ~~department's~~ bureau of ~~endangered resources~~ within 7 10 days of the change.

(b) A permittee shall report a change of location of falconry facilities to the ~~department's~~ bureau of ~~endangered resources~~ within 7 10 days of the change.

SECTION 50. NR 18.16 (4) (Note) is created to read:

NR 18.16 (4) (Note) The Annual Report form can be accessed online at the bureau's falconry website: <http://dnr.wi.gov/topic/EndangeredResources/permits.html>. Paper copies of the Annual Report form can also be obtained by contacting the Falconry Coordinator at the Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707-7921.

SECTION 51. NR 18.17 (2) (a) and (b) are repealed and recreated to read:

NR 17.17 (2) (a) General and master falconers may use raptors they hold in conservation education programs without an additional permit. The raptors shall continue to be used in hunting, and may not be held under a falconry permit to be used primarily for conservation education purposes.

(b)The permittee shall keep records including date, location, size and description of audience and birds used. A summary of these records shall be included in the permittees annual report as described in s. NR 18.16 (3).

SECTION 52. NR 18.17 (3) is created to read:

NR 18.17 (3) General and master falconers may do all of the following:

(a) Use raptors in raptor propagation if the propagator has a raptor propagation permit. Raptors may be temporarily transferred to another permittee for use in spring propagation.

(b) Assist federal and state-permitted wildlife rehabilitators in conditioning of raptors for release to the wild. To do so, the falconer shall be a subpermittee of the rehabilitator.

(c) Transfer a wild raptor captured under a falconry permit to a propagation permit after the raptor has been used in falconry for at least 2 years.

SECTION 53. EFFECTIVE DATE. The rule contained herein 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 54. BOARD ADOPTION. The foregoing 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 _____
Cathy Stepp, Secretary

(SEAL)

**ADMINISTRATIVE RULES
 FISCAL ESTIMATE AND
 ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Admin Code NR 18, Falconry

Subject

Revisions to the Falconry Permitting Rules

Fund Sources Affected

Chapter 20 , Stats. Appropriations Affected

GPR FED PRO PRS SEG SEG-S

20.370 1 (fs)

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy
 Local Government Units

Specific Businesses/Sectors
 Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

The U.S. Fish and Wildlife Service will no longer issue a permit to individuals engaged in the sport of falconry. Permits will be issued by states with oversight provided by the Service. The Service has formulated revisions as to how the sport of falconry is to be conducted and supervised by the states. The proposed rule makes the revisions to current code to ensure compliance with federal rules by January 1, 2014.

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)

The total impact of this rule is indeterminate. The proposed rule does not change existing code regarding permit fees for approximately 100 resident falconers and fewer than 10 nonresident falconers. The resident falconer pays \$75 for a 3-year falconry permit, and a nonresident falconer pays \$100 annually for a nonresident raptor trapping permit. The updated rule does specify that permit holders with hybrid raptors must have two telemetry radio transmitters attached to the hybrid raptors. Currently, there are seven hybrid permit holders in the state. The radio telemetry transmitter costs \$185.00/unit (two needed per rule) and a radio telemetry receiver costs \$670.00. It is estimated this provision could cost each of the seven permit holders \$1,040 for the telemetry radio purchases. The updated rule also mentions an ISO-compliant microchip; this is mentioned as optional in the rule. It is estimated that a microchip and the related scanner could cost approximately \$220.00. The number of falconers who may use this option is not known, but it is estimated to be no more than a dozen. It is estimated that there will be a slight increase in time spent by permit holders to meet reporting requirements, but it is not possible to estimate an exact cost related to the potential workload increase.

This rule update applies only to falconers. The proposal does not impose any additional compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The department has determined that this rule will not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or overall economic competitiveness of the state. No fiscal impacts are expected for the public utility rate payers or local government units.

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

Allows the State of Wisconsin to take over control of regulating the sport of falconry.
Long Range Implications of Implementing the Rule
Will provide a consistent framework for regulating the sport of falconry.
Compare With Approaches Being Used by Federal Government
The U.S. Fish and Wildlife Service formerly provided permits to individuals engaged in the sport of falconry. Permits now will be issued by states with oversight provided by USFWS.
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
All states need to comply with USFWS revisions to the sport of falconry by January 1, 2014.
Name and Phone Number of Contact Person
Sumner Matteson (608) 266-1571

Summary of Public Comments on the Proposed Rule, Revisions to Chapter NR 18, Wisconsin Administrative Code, Governing the Sport of Falconry

A public hearing (attended by 16 members of the public) was held on February 12, 2013, at the DNR Fitchburg Service Center to solicit comments on proposed revisions to Chapter NR 18, Wisconsin's administrative falconry code. Representing the Department was Hearing Examiner and Attorney Michael Kowalkowski, Bureau of Endangered Resources (BER) Director Erin Crain, BER Avian Ecologist Sumner Matteson, and BER Falconry Coordinator Stacy Rowe. Mr. Matteson gave a powerpoint presentation on exactly what the proposed revisions entailed. The tone of the hearing was highly supportive and complimentary of the DNR role in shaping falconry rule revisions that comprised the proposed rule.

Sixteen members of public turned in hearing appearance slips and eight of those made oral statements, all of which were in support of the proposed rule. Seven of the remaining 8 members of the public indicated support of the proposed rule revision on their hearing appearance slips. There was no opinion indicated on the final hearing appearance slip. Recommendations from each of the eight individuals making oral statements covered the following points:

- 1) Under section NR 18.15 (2), it was recommended that the following sentence from the proposed rule revision be modified: "Release of hybrids to the wild is illegal." The new suggested wording: "Permanent release of hybrids to the wild is prohibited."
- 2) It was suggested that the time period for submitting the falconry reporting form, 3-186A, be uniform throughout the proposed rule revision (varies from 3 to 5 to 10 days) and adhere to the same time period recommended by the U.S. Fish and Wildlife Service: 10 days.
- 3) Under section NR 18.12 (4) (b), it was recommended that the following sentence from the proposed rule revision be modified: "A permittee shall attach the marker to the raptor immediately upon acquisition." The new suggested wording: "A permittee shall attach the band to the raptor within 48 hours of acquisition."
- 4) Under section NR 18.10 (2) (b), it was recommended that the following sentence from the proposed rule revision be modified: "A general class permittee may not possess more than 3 wild raptors and may not obtain more than 2 raptors from the wild during any 12-month period, August 1 to July 31. The new suggested wording: "A general class permittee may not possess more than 3 wild or captive-bred raptors and may not obtain more than 2 raptors from the wild during any 12-month period, August 1 to July 31."

The department agrees with the above recommended changes to the proposed rule revision, and staff has made the necessary changes to the proposed rule.

One public participant expressed concern that he would not possess more than one peregrine falcon for falconry use because the bird was still listed as endangered or threatened. Under the proposed rule revision, a Master falconer can possess a captive-bred peregrine, and if he or she possesses a Wisconsin endangered species permit, he or she may take, transport, or possess a passage (first-year migrant) peregrine falcon. So it remains a distinct possibility that a Master falconer can possess more than one peregrine falcon.

Another public participant suggested that the \$75 annual fee for a state resident falconry permit was too low given the time needed to work on the state's falconry program. Department staff responded that the matter of an increased fee would be thoroughly reviewed, and if the finding demonstrated that the falconry fee should be increased, the issue would be addressed in a future rule revision.

Department staff received 3 pieces of correspondence—each highly supportive of the proposed rule revision.

The Legislative Council Rules Clearinghouse had 17 comments and/or suggested changes that addressed “Form, Style and Placement in Administrative Code.” The Clearinghouse made two comments/suggested changes addressing “Adequacy of References to Related Statutes, Rules and Forms.” The Clearinghouse made 9 comments and/or suggested changes related to “Clarity, Grammar, Punctuation and Use of Plain Language.” Department staff carefully reviewed all of the comments and suggested changes described by the Clearinghouse and diligently made needed corrections and revisions; these have been incorporated into the present proposed rule revision contained in the Green Sheet package.

DATE: February 18, 2012

TO: Natural Resources Board

FROM: Cathy Stepp
Secretary, Department of Natural Resources

SUBJECT: Request Board Adoption of Order ER-19-10, Revisions to Ch. NR 18, Related to Falconry

Background

Proposed changes to Chapter NR 18, governing the sport of falconry in Wisconsin, address requirements from the U.S. Fish and Wildlife Service to meet falconry standards set forth in the Federal Register in 2008. The Service will no longer issue a permit to individuals engaged in falconry, and it has formulated revisions as to how falconry is to be conducted. Permits will be issued by states with oversight provided by the Service. The proposed rule makes the revisions to current code to ensure compliance with federal rules by January 1, 2014 – the compliance date set forth in the Federal Register.

Rule Summary

The proposed rule, in addition to defining or clarifying different falconry terms, conditions, and requirements, increases the number of wild raptors a General Class falconer can possess from 2 to 3, and from 3 to 5 for the Master Class falconer; specifies 5 working days as a period for notifying a falconer of a finding of improper facilities or improper care of a raptor; clarifies that a licensed Wisconsin falconer has legal title to a raptor taken from the wild in Wisconsin, except for an endangered or threatened species; clarifies that falconers may assist wildlife rehabilitators with conditioning of raptors for release to the wild; and clarifies that General and Master Class falconers may use raptors for educational purposes without an additional permit as long as the same raptors are also used for falconry.

Public Participation

One public hearing was held in Fitchburg on February 12, 2013, to address the proposed rule changes to NR 18. Sixteen members of the public attended; no opposition to the proposed rule was voiced. Several Master falconers present and the president of the Wisconsin Falconers Association personally thanked Department employees Stacy Rowe and Sumner Matteson for their work on revisions to NR 18 and their involvement with the state's falconry program.

Rule Development

Chapter NR 18 of the Wisconsin Administrative Code was last revised in 2001. The NR Board approved a public hearing and then approved the proposed rule.

Small Business and Initial Regulatory Flexibility Analysis

A small business analysis is not necessary since the proposed rule does not alter the actions of small businesses.

Environmental Assessment

This rule revision is considered to be a Type III Action under s. NR 150.03 (6) (a) 3. b, and therefore does not require preparation of an environmental assessment. While an Environmental Assessment (EA) was originally contemplated (though not required per a February 12, 2012 memo to the NRB), the Department considered the environmental impacts to be so minimal that preparation of an EA would have resulted in an unnecessary expenditure of resources; therefore, no EA was completed.