

01-127

State of Wisconsin  
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. ER-32-01

Legislative Council Rules Clearinghouse Number 01-127

Subject of Rules Falcons

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Transmittal to Presiding Officers April 2, 2002

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator  
DNR Bureau of Legal Services  
LS/5, 101 South Webster**

Telephone: 266-1959  
e-mail: [turnec@dnr.state.wi.us](mailto:turnec@dnr.state.wi.us)

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

## REPORT TO LEGISLATURE

NR 18, Wis. Adm. Code  
Falconry

Board Order No. ER-32-01  
Clearinghouse Rule No. 01-127

### Statement of Need

Currently there is no state permit fee for residents and nonresidents engaged in the sport of falconry, except that nonresidents must obtain a valid small game or general hunting license annually when hunting with a raptor. The duration of each resident falconry permit is 3 years. At the time of the last rule revision in 1997, no state statute existed to establish the fee. State statutes have been revised since 1997; s. 29.319, Stats., provides authority to the department to establish a permit fee by rule.

The proposed rule will set a fee of \$75 for a 3-year resident falconry permit, and a fee of \$100 for a one-year nonresident raptor trapping permit. The proposed rule also adds a group of hawks known as accipiters (northern goshawk, Cooper's hawk and sharp-shinned hawk) to the list of raptors allowed for use in educational programs. The term "nonresident" was also defined.

### Modifications as a Result of Public Hearing

No modifications were made as a result of hearing comments.

### Appearances at the Public Hearing and Their Position

In support:

Meg Robinson, DVM, President, Wis. Falconers Assoc., 206A West Main St., Waterford, WI 53185

In opposition – none

As interest may appear – none

### Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

### Final Regulatory Flexibility Analysis

The proposed rules regulate the sport of falconry. Businesses are not affected by this rule. Therefore, a final regulatory flexibility analysis is not required.

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

The Wisconsin Natural Resources Board proposes an order to amend NR 18.06(1)(intro.) and (2)(intro.) and 18.06(2)(e) and 18.17(2)(a) and to create NR 18.01(intro.) and (9m) and 18.03(3) relating to revisions of falconry rules.

ER-32-01

Analysis Prepared by the Department of Natural Resources

Statutory Authority: ss. 20.014, 29.039(2), 29.319, and 227.11(2)(a), Stats.  
Statutes Interpreted: ss. 23.09, 23.11, 29.011, 29.014, and 29.041, Stats.

**Revisions of Falconry Rules:** NR 18 governs the sport of falconry, affecting approximately 100 resident falconers and less than 10 nonresident falconers (4 in 2001). Currently there is no permit fee for resident and nonresident falconers. Nonresidents must also obtain a valid small game or general hunting license when hunting with a raptor. When NR 18 was last revised in 1997, the requirement of a small game or general hunting license was eliminated for resident falconers, and the requirement of an annual nonresident raptor trapping permit was added. The duration of each resident permit was set for 3 years. At the time of the rule revision, no state statute existed to establish the fee. State statutes have been revised since 1997, with s. 29.319, Stats., providing authority to the department to establish a permit fee by rule.

The proposed rule revisions set a fee of \$75 for a 3-year resident falconry permit, and a fee of \$100 for a nonresident raptor trapping permit. The proposed rule revisions also add a group of hawks known as accipiters (northern goshawk, Cooper's hawk and Sharp-shinned hawk) to the list of raptors allowed to be used for educational programs. "Nonresident" is added to the list of definitions.

SECTION 1. NR 18.01 (intro.) is created to read:

NR 18.01 In this chapter:

SECTION 2. NR 18.01 (9m) is created to read:

NR 18.01 (9m) "Nonresident" means a person other than a resident as defined in s. 29.001(69), Stats.

SECTION 3. NR 18.03(3) note is created to read:

**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. Federal duck stamps can be purchased through a local post office and at many local DNR offices.

SECTION 4. NR 18.06 (1)(intro.) and (2)(intro.) are amended to read:

NR 18.06 (1)(intro.) RESIDENT FALCONRY PERMIT. A person shall submit an application for a permit under this chapter on forms provided by the department accompanied by ~~any statutorily required fee~~ a fee of \$75 for a 3-year falconry permit.

(2)(intro.) NONRESIDENT RAPTOR TRAPPING PERMIT. A nonresident shall apply annually for a nonresident raptor trapping permit under this chapter on forms provided by the department accompanied by ~~any statutorily required fee~~ a fee of \$100.

SECTION 5. NR 18.06(2)(e) is amended to read:

NR 18.06(2)(e) A photocopy of his or her current, valid state or federal falconry permit and valid import license from the state of residence, which shall be listed as a cooperating state in 50 CFR 21.29(k), and which authorizes the taking of raptors for use in falconry.

SECTION 6. NR 18.17(2)(a) is amended to read:

NR 18.17 (2)(a) The permittee may use only buteos, accipiters, except as prohibited by s. NR 18.03(5), falcons and great horned owls.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 27, 2002.

The rules shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Darrell Bazzell, Secretary

(SEAL)

Fiscal Estimate — 2001 Session

- Original       Updated  
 Corrected       Supplemental

|             |                                     |
|-------------|-------------------------------------|
| LRB Number  | Amendment Number if Applicable      |
| Bill Number | Administrative Rule Number<br>NR 18 |

Subject  
Revision of NR 18 - Falconry Rules

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.  
 Yes     No

Decrease Costs

Local:  No Local Government Costs

1.  Increase Costs  
     Permissive     Mandatory  
2.  Decrease Costs  
     Permissive     Mandatory

3.  Increase Revenues  
     Permissive     Mandatory  
4.  Decrease Revenues  
     Permissive     Mandatory

5. Types of Local Governmental Units Affected:  
 Towns     Villages     Cities  
 Counties     Others  
 School Districts       WTCS Districts

Fund Sources Affected

- GPR     FED     PRO     PRS     SEG     SEG-S

Affected Chapter 20 Appropriations

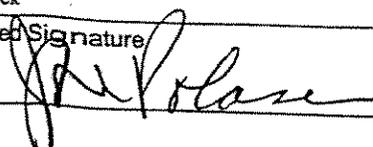
Assumptions Used in Arriving at Fiscal Estimate

Bill Summary: The proposed rule revision will require implementation of a state permit system and permit fee. The proposed rule sets a fee of \$75 for a 3-year resident falconry license and \$100 for a 1-year nonresident falconry trapping license. Currently, there is no resident falconry fee and no nonresident trapping permit fee; nonresidents currently must purchase a valid small game or general hunting license when hunting with a raptor.

Fiscal Estimate: Based on an estimated 110 resident falconers and an estimated 5 nonresident falconers annually, the annual revenue from the new permit system is expected to amount to \$3,250, which will be deposited into the Fish and Wildlife account of the conservation fund. Since a permit system is currently in place for resident and nonresident falconers, there is no major workload increase anticipated that is associated with processing applications.

Long-Range Fiscal Implications

None.

|   |                           |   |
|---|---------------------------|---|
| Prepared By:<br>Joe Polasek   | Telephone No.<br>266-2794 | Agency<br>Department of Natural Resources |
| Authorized Signature<br> | Telephone No.<br>266-2794 | Date (mm/dd/ccyy)<br>9-19-01              |

**Fiscal Estimate Worksheet — 2001 Session**  
 Detailed Estimate of Annual Fiscal Effect

- Original       Updated  
 Corrected       Supplemental

|             |                                     |
|-------------|-------------------------------------|
| LRB Number  | Amendment Number if Applicable      |
| Bill Number | Administrative Rule Number<br>NR 18 |

Subject  
 Revision of NR 18 - Falconry Rules

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
 None

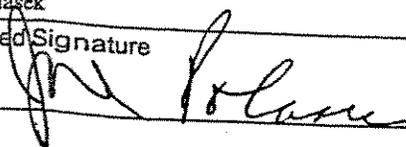
| Annualized Costs:   | Annualized Fiscal Impact on State Funds from: |                   |
|---|---|-------------------|
| A. State Costs by Category  | Increased Costs                               | Decreased Costs   |
| State Operations — Salaries and Fringes   | \$  | \$ -              |
| (FTE Position Changes)  | ( FTE )                                       | ( FTE )           |
| State Operations — Other Costs  |   | -                 |
| Local Assistance  |   | -                 |
| Aids to Individuals or Organizations  |   | -                 |
| <b>Total State Costs by Category</b>  | \$  | \$ -              |
| B. State Costs by Source of Funds   | Increased Costs                               | Decreased Costs   |
| GPR   | \$  | \$ -              |
| FED   |   | -                 |
| PRO/PRS   |   | -                 |
| SEG/SEG-S   |   | -                 |
| State Revenues <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small> | Increased Revenue                             | Decreased Revenue |
| GPR Taxes   | \$  | \$ -              |
| GPR Earned  |   | -                 |
| FED   |   | -                 |
| PRO/PRS   |   | -                 |
| SEG/SEG-S   | 3,250   | -                 |
| <b>Total State Revenues</b>   | \$ 3,250                                      | \$ -              |

**Net Annualized Fiscal Impact**

|                        | State    | Local |
|------------------------|----------|-------|
| Net Change in Costs    | \$       | \$    |
| Net Change in Revenues | \$ 3,250 | \$    |

Prepared By: Joe Polasek

|                           |   |
|---------------------------|---|
| Telephone No.<br>266-2794 | Agency<br>Department of Natural Resources |
| Telephone No.<br>266-2794 | Date (mm/dd/ccyy)<br>9-19-01              |

Authorized Signature: 



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**WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE**

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

**CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 01-127**

AN ORDER to amend NR 18.06 (1) (intro.) and (2) (intro.) and 18.17 (2) (a); and to create NR 18.01 (9m), relating to revisions of falconry rules.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

11-12-01 RECEIVED BY LEGISLATIVE COUNCIL.

12-07-01 REPORT SENT TO AGENCY.

RS:MO:jal;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES  NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
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*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 01-127

#### Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

#### 2. Form, Style and Placement in Administrative Code

a. The extent of the applicability of definitions in s. NR 18.01 should be clearly stated, e.g., by a phrase such as "In this chapter:" preceding the definitions. [See s. 1.01 (7), Manual.]

b. In s. NR 18.01 (9m), the defined term should be "Nonresident."

c. Section NR 18.03 (5) states that no person may take a northern goshawk on U.S. Department of Agriculture national forest land unless certain information is provided to the forest supervisor or designee prior to any take. The proposed rule amends s. NR 18.17 (2) (a) to include accipiters among the raptors that a permittee may use for educational programs, and the analysis of the proposed rule states that accipiters are a group of hawks that include the northern goshawk. Therefore, language such as "except as prohibited by s. NR 18.03 (5)," should be inserted after "accipiters" in proposed s. NR 18.17 (2) (a).

#### 4. Adequacy of References to Related Statutes, Rules and Forms

a. Section NR 18.01 (9m) contains a citation to the wrong subsection of s. 29.001, Stats. Change "29.001 (09), Stats." to "29.001 (69), Stats."

b. Section NR 18.06 (2) describes information required from applicants applying for a nonresident raptor trapping permit. It appears that one piece of information required under statute is missing from s. NR 18.06 (2). Section 29.319 (1) (b) 2., Stats., requires "an approval,

issued by the state, province or country of which [the resident] is a resident, that authorizes *the taking of raptors* for use in falconry." [Emphasis added.] It appears that authorization for "the taking of raptors" is the out-of-state equivalent to the raptor trapping permit issued by Wisconsin, in which case this statutory requirement is distinct from the requirements under s. NR 18.06 (2) (e) and should be added to the information required from applicants under s. NR 18.06 (2).

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

In the second sentence of the analysis, because the two clauses of the second sentence are not sufficiently related, a period should be inserted after "falconers." Delete ", except that" and begin a new sentence with "Nonresidents must also obtain a valid small game or general hunting license . . . ."

*Clear*

April 4, 2002

TO: Members of the Senate Environmental Resources  
Committee

Senator Robert Wirch            Senator Robert Cowles  
Senator Dave Hansen            Senator Dale Schultz

FROM: Senator Jim Baumgart, Chair

Re: Clearinghouse Rule referred to Committee

\*\*\*\*\*

The following rule was referred to the committee

**CLEARINGHOUSE RULE 01-127**

Relating to revisions of falconry rules.  
Submitted by Department of Natural Resources  
Referred to Committee on 4-03-02

Enclosed is a copy of the rule. If you have any concerns or questions about the rule or want a public hearing on the rule, please advise immediately.

cc: John Stolzenberg, Legislative Council Staff Person



State Senator  
**James R. Baumgart**

State Capitol: P. O. Box 7882, Madison, WI 53707-7882 • Telephone (608) 266-2056  
Toll-free: 1-888-295-8750 • E-Mail: sen.baumgart@legis.state.wi.us

April 4, 2002

TO: Members of the Senate Environmental Resources  
Committee

Senator Robert Wirch                      Senator Robert Cowles  
Senator Dave Hansen                      Senator Dale Schultz

FROM: **Senator Jim Baumgart, Chair**

Re: Clearinghouse Rule referred to Committee

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cc: John Stolzenberg, Legislative Council Staff Person