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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 13-005

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]**

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

a. Throughout the proposed rule, proper spacing should be used in citations. For example, “NR 18.01(1)(s)” should read “NR 18.01 (1) (s)”. [See the example following s. 1.03 (a), Manual.]

b. In the introductory clause, the enumeration of provisions treated should be in the order described in s. 1.02 (1) (b), Manual, and should be revised in accordance with the changes recommended in these comments.

c. In SECTION 2, new subsections should be inserted under the alphabetic numbering system identified in s. 1.03 (5) (b), Manual.

d. Throughout the proposed rule, the arrangement of rule text should conform to s. 1.04, Manual. In particular, SECTIONS 3 and 4, 10 and 11, and 25 to 29 should conform to s. 1.04 (2) (a) 4., Manual. Additionally, treatment of Notes should be indicated as specified in s. 1.09 (2), Manual.

e. Throughout the proposed rule, use of strikethroughs and underscores to indicate material to be removed or inserted should conform to s. 1.06, Manual. The department should pay particular attention to the order of strikethroughs and underscores, amendment of individual words, treatment of existing punctuation, and appropriately thorough use of strikethroughs and underscores to fully indicate material to be deleted or inserted.

f. In SECTION 6, the department may wish to specify the particular subsection it intends the note to follow.

g. In s. NR 18.04 (1), is it appropriate for the inserted material to appear in a paragraph related to hunting seasons? The inserted material appears to relate to a method of hunting, not a season.

h. In s. NR 18.04 (2), what is the “exception” referenced by the inserted material? Would it be more accurate to describe the open seasons “as specified in sub. (1)” since sub. (1) modifies the open seasons?

i. In SECTION 11, the inserted material appears to include substantive requirements and may be more suitable for inclusion in the rule text. [See s. 1.09 (1), Manual.]

j. In SECTION 14, the department treats the introductory clauses of s. NR 18.06 (1) and (2); the relating clause to the SECTION should be amended accordingly.

k. In SECTION 17, the department should consider a different form for the substantive material contained in the SECTION. Introductory material should be used only when dividing a rule into subunits that consist of a series of items. [s. 1.03 (3), Manual.]

l. In SECTION 24, the rule subunits should be rephrased to form complete sentences when combined with s. NR 18.10 (3) (e) (intro.). [s. 1.03 (3), Manual.]

m. Throughout the proposed rule, the department should use and write titles as specified in s. 1.05, Manual. In particular, the department should review titles for proper format, as well as the consistent use of titles in similar rule subdivisions. For example, s. NR 18.12 (3) (b) should include a title, since s. 18.12 (3) (a), (c), and (d) each have titles, and SECTIONS 34 and 35 create rule subdivisions with incorrect title formats.

n. In s. NR 18.12 (7), to what other laws does the department refer? Additionally, in the same subsection, the use of the inserted phrase “provided that” is confusing and should be clarified.

o. In SECTION 27, would it be more appropriate for the Note to follow s. NR 18.12 (4) (e)? (Compare the treatment of SECTION 27 to the placement of a similar note in SECTION 24.)

p. In s. NR 18.12 (3) (d), the proposed rule should refer to itself as a paragraph, not as a subsection. [s. 1.03 (1), Manual.]

q. In s. NR 18.16 (3) (b) 3., the list should conform to the style described in s. 1.03 (4), Manual.

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

a. In several instances throughout the rule, the department refers to submission of form 3-186A to “your state or tribal agency that governs falconry”. This reference appears to be taken from general boilerplate text and should be revised with more specific information.

b. The department should insert information on form access in s. NR 18.12 (2) as well as form and Internet access in s. NR 18.16 (3).

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

a. In SECTION 7, is the use of the word “migratory” necessary, given the use of “migratory” in the definition of “raptor”? Additionally, “need to” should be replaced by “shall” in the last sentence of s. NR 18.03 (1). In s. NR 18.03 (3), the department should avoid conflict between plural and singular references. Could the appropriate portion of s. NR 18.03 (3) be rewritten, “unless the person possesses a falconry permit...”?

b. In SECTION 13, “they” should be replaced by “he or she” or a gender neutral term such as “the applicant”.

c. In s. NR 18.12 (3) (d), it should be made clear whether each of its subdivisions are requirements or simply permissible actions. Specifically, s. NR 18.12 (3) (d) 1., 2. and 4. appear to create a requirement while subd. 3. appears to create an allowable action by a person subject to this rule.

d. Throughout the proposed rule, use of parentheses surrounding the letter “s” following a word to indicate that the word used indicates a singular or a plural meaning should be avoided. Identifying only the singular meaning of a word is sufficient in most cases. The rule should be reviewed in its entirety for consistent use of the singular and plural forms. For example, s. NR 18.06 (1) (intro.) replaces “Applicants” with “an applicant” in the second sentence but not the third. Similarly, s. NR 18.07 (1) (a) 1. and 2. are inconsistent in the use of plural and singular forms, both between the sections and with respect to the parentheticals for “mews” and “weather area” within each subdivision.

e. Throughout the proposed rule, the department should consistently use the terms “band” and “marker”. Generally, the department appears to favor the phrase “marked with a band”, however several instances of “marker” remain. (See, for example, SECTION 25.)

f. In SECTION 28, the use of the phrase “shall be removed” is awkward and should be clarified.

g. In s. NR 18.12 (14), it appears a word (possibly, “and”) is missing after “captivity”.

h. In s. NR 18.13 (1m), par. (c) should be removed from the list and placed elsewhere in the rule because, unlike pars. (a), (b) and (d), it is not a requirement for persons caring for falconry birds of another.

i. In SECTION 37, the department should substitute “USFWS” for “service” in the phrase “service authorized”, because the term USFWS is defined in the chapter definitions.