

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) – Wildlife Division 635  
Agency and Division Administrative Rules Chapter Number

Casaria Tuttle 3406 Cherry Ave. NE, Salem, OR 97303 (503)947-6033  
Rules Coordinator Address Telephone

**RULE CAPTION**

Amend Rules to Allow Capture of Peregrine Falcons for Use in Falconry  
**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

February 8, 2008 8:00 AM 3406 Cherry Ave. NE, Salem, OR 97303 Oregon Fish and Wildlife Commission  
Hearing Date Time Location Hearings Officer

Hearing Date Time Location Hearings Officer  
*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.  
**ADOPT:**

**AMEND:** OAR Chapter 635, Division 055

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth. : ORS 496.012, 496.112, 496.138, 496.146, 496.162, 498.002

Other Auth.:

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146, 496.162, 498.002

**RULE SUMMARY**

Amend rules to allow the capture of Peregrine Falcons to be used in the practice of Falconry.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

February 8, 2008  
**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)



Signature

Printed name Liz Bueffel

12/14/07

Date

\*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) – Wildlife Division

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of: In the Matter of:

Amendment of Rules: Division 055	)	Statutory Authority,
Relating to Falconry	)	Statutes Implemented,
	)	Statement of Need,
	)	Principal Documents Relied Upon,
	)	Statement of Fiscal Impact

Amend Rules to allow Capture of Peregrine Falcons for Use in Falconry

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Statutory Authority: ORS 496.012, 496.112, 496.138, 496.146, 496.162, 498.002

Other Authority:

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146, 496.162, 498.002

Need for the Rule(s): The American peregrine falcon was removed from the list of endangered species (OAR 635-100-0125) allowing legal take of this species for falconry. This rule authorizes the legal limited take of nestling peregrine falcons for use by master falconers with particular conditions.

Documents Relied Upon, and where they are available: *Biological Status Assessment for the American and Arctic Peregrine falcon in Oregon*, ODFW April 2007. *Final Environmental Assessment, Take of Raptors from the Wild under the Falconry Regulations and the Raptor Propagation Regulations*, US Fish and Wildlife Service, June 2007.

The above document is available for public inspection at the Department of Fish and Wildlife, Wildlife Division, Third Floor, 3406 Cherry Ave N, Salem, OR 97303, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact, including Statement of Cost of Compliance: See attached

How were small businesses involved in the development of this rule? N/A

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The draft administrative rules were developed without a rule advisory committee. However department staff consulted the Oregon Falconry Association and Audubon Society of Portland Correspondence from and testimony by interested and affected persons is accepted into record and is part of the rulemaking process

Copies of the draft administrative rules may be obtained from the Department of Fish and Wildlife. 30406 Cherry Ave NE, Salem, OR 97303.

  
Signature

Printed name Liz Bueffel

  
Date

**Fiscal and Economic Impact Statement for the February 8, 2008  
Hearing in the Matter of Rules Relating to the Capture of  
Peregrine Falcons for Use in Falconry**

Fiscal and economic impact: Rule changes are being proposed to allow the capture of wild peregrine falcons for use in the sport of falconry. These changes are due to the recent delisting of the peregrine falcon from the Oregon list of threatened and endangered species. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agencies that might be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of Transportation (ODOT). No significant changes from the current levels of ODFW's operations or expenditures are expected as a result of the adoption of these rules. To the extent that collectors gather these birds from highway structures, ODOT might be affected.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public could be affected by the adoption of these rules: Currently, there are about 40 individuals who carry falconry capture permits. Those who meet the definition of "master falconer" according to the Oregon Administrative Rules will be entitled to capture young peregrine falcons for use in falconry. Falconers are undertaking the activity as a recreational pursuit, instead of as a business pursuit. Therefore, there is no fiscal impact to the capture of these birds. There would be non-monetary benefit to those falconers from this chance to capture a new species.

It is being proposed that between 5 and 8 falcons be taken in Oregon each year. This is in accordance with federal guidelines that the take be less than 5% of the productivity of the peregrine falcon population. According to existing population surveys, the take of 5 to 8 peregrine falcons will be well below this 5% figure, therefore not posing a threat to the recovering wild population of these birds or the non-monetary benefit the public derives from them.

Most businesses affected by these rules are believed to be "small business."

The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.