

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

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Rules Coordinator Address Telephone

RULE CAPTION

Amend rules related to the 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.

December 10, 2009 1:00 PM 3406 Cherry Ave N
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:

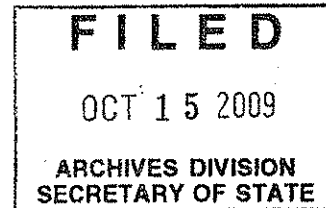
RENUMBER:

AMEND & RENUMBER:

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

Other Auth.:

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



RULE SUMMARY

Amend rules related to the capture of Peregrine Falcons to be used in the practice of Falconry and capture permits. Specific rule changes include: the capture of post-fledge peregrine falcons from the wild for the purpose of falconry, establish an allocation of available peregrine falcon take for use in the sport of falconry, establish that capture permit application fees are nonrefundable and establish in rule criteria in which permits may be revoked.

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.

December 10, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Michelle Tate
Signature

Michelle Tate
Printed name

October 15, 2009
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

Secretary of State
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
Agency and Division

635
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 related to the 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

Other Authority:

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

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 amendment is needed to improve the capture permit process and to set particular conditions of the legal take of peregrine falcons for use by master falconers for this capture season. The rule amendments also propose to address application fees and who may apply for permits.

Documents Relied Upon, and where they are available:

Biological Status Assessment for the American and Arctic Peregrine falcon in Oregon, ODFW 2009. *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

Michelle Tate
Printed name

10/15/09
Date

Fiscal and Economic Impact Statement for the December 11, 2009 Hearing on Falconry Rules

Fiscal and economic impact: Rule changes are being proposed to update the maximum number of peregrine falcons allowed to be taken for falconry purposes based upon the latest statewide population estimates. Rule changes will also allow nestlings or post-fledge birds to be taken within the annual allocation. Permit-holders authorized to take a nestling or fledgling for falconry must notify the Oregon Department of Fish and Wildlife (ODFW) in advance of taking the birds. Persons failing to do so will have their peregrine falconry capture permits revoked and may have their falconry licenses revoked also. Additionally, rules will make the \$15 application fee for all falconry capture permits nonrefundable to eliminate the need to refund permit prices to persons not winning a take permit in the lottery draw.

Proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

- A. The only state agency that might be affected by adoption of these rules is the Oregon Department of Fish and Wildlife (ODFW). There are no additional costs to ODFW associated with these rule changes. ODFW will charge \$15 for peregrine falcon take permits which will be nonrefundable regardless of whether the holder wins the lottery for permits.
- 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 may be affected by the adoption of these rules. Persons who choose to take falcons without following these rules would lose their peregrine falcon capture permits and possibly the opportunity to participate in the sport. Also, those master falconers who apply for a peregrine falcon capture permit and are not selected will not have their application fee refunded.

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.

