

NOTICE OF PROPOSED RULE
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION: Freshwater Fish and Wildlife
RULE NO.: 68A-9.005 **RULE TITLE:** Falconry

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to revise the falconry rules to ensure that the sport is continued in the state of Florida. The U.S. Fish and Wildlife Service (Service) and FWC currently share regulatory authority and permitting responsibilities related to falconry in Florida. The Service is relinquishing permitting responsibilities to states, Indian Tribes and U.S. territories with “certified” (by the Service) falconry regulations. Florida must have certified rules in place by January 1, 2014 in order for falconry to continue in the state.

SUMMARY: The proposed rule amendment would modify the section in order to meet Federal guidelines, and the needs of the state and our constituents. Some of the major modifications include: issuance of permit from FWC only; the addition of definitions; increase species for apprentice class (Merlin); criteria for lapsed or revoked permits; issuance to a new resident or visitor to the U.S.; housing at facilities not owned by permittee; care of raptors; restriction of the take of American kestrels to the fall season; no take of burrowing owls; take of raptors on rights of way; propagation; exhibition of raptors; release of raptors; establishment of electronic reporting system for change in inventory to replace the current paper reporting system. The permit would be at no cost. The federal permit which is set to expire is currently \$100.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: *The agency has determined that this rule will ____ or will not X have an impact on small business. A SERC has ____ or has not X been prepared by the agency.*

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

Permittees will no longer be required to pay \$100 for the federal permit and there will be no cost for the permit at the state level.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternatives must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: During the regular meeting of the Commission, February 13-14, 2013, 8:30 a.m. to 5:00 p.m., each day.

PLACE: SeaWorld Park, 7007 SeaWorld Drive, Orlando, FL 32821.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting the ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jason Marlow, Investigator II, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

Substantial rewording of Rule 68A-9.005 follows. See Florida Administrative Code for present text.

68A-9.005 Falconry

(1) No person may possess any raptor for falconry purposes without a permit from the executive director, or as otherwise provided herein. No falconry permit will be issued to any person failing to qualify on a written examination prior to initial application, nor to any person under the age of 14. Raptor housing facilities and falconry equipment will be inspected and approved by Florida Fish and Wildlife Commission (hereafter FWC) personnel prior to the issuance of an initial falconry permit. No raptor may be taken, possessed or transported in violation of this section.

(2) Definitions - For the purposes of this subchapter, the following definitions apply:

(a) "Aylmeri Jess" means a jess in which the anklet and jess are separate pieces. The anklet (around the leg of the bird) has a hole or grommet and the jess (the strap hanging from the anklet) is a separate piece with a button at one end that is threaded through the anklet.

(b) "Brancher" means a young raptor that has left the nest but is not yet capable of flight.

(c) "Captive-bred" means raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

(d) "Eyas" means a young raptor not yet capable of sustained flight such as a nestling or fledgling.

(e) "Falconry" means caring for, training, and transporting raptors for the pursuit of game and the hunting of game with raptors. Falconry includes the taking of raptors from the wild.

(f) "Giant Hood" means a ventilated box used to contain a falconry raptor for travel.

(g) "Hacking or Hack" means the temporary release of a raptor held for falconry to the wild so that it must survive on its own.

(h) "Haggard" means a wild adult raptor.

(i) "Hybrid" means the offspring of birds listed as two or more distinct species in 50 C.F.R. 10.13 or offspring of birds recognized by ornithological authorities as two or more distinct species listed in 50 C.F.R. 10.13.

(j) "Imprint" means a bird that is hand raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered.

(k) "Passage" means a first-year raptor capable of sustained flight that is no longer dependent upon parental care and/or feeding.

(l) "Raptor" means all birds of the orders Falconiformes, Accipitriformes, and Strigiformes, commonly called falcons, hawks, eagles, ospreys, kites, harriers, and owls.

(m) "Resident facility" means a facility approved by FWC for the housing of raptors.

(n) "Service" means the Fish and Wildlife Service, U.S. Department of Interior.

(o) "Sponsor" means a Master or General (with at least two years of experience at the general level) falconer with a valid permit.

(3) Examination and classifications:

Written exams are given at each FWC regional office. The applicant must contact the regional office nearest his or her location to schedule a date and time to take the exam. At the time of exam, the applicant must submit the completed Application For Falconry Permit, FWCDLE 630IV (01/13), which is adopted and incorporated herein by reference. The applicant will be notified in writing of his or her exam results. An applicant who scores at least 80 percent on the exam and meets the requirements will be classified as follows:

(a) Apprentice

1. Permittee shall be at least 14 years old. A parent or legal guardian must sign the application of any applicant under 18 years of age and will be held legally responsible for the permittee's activities.

2. Permittee shall be sponsored by a holder of a valid General or Master falconry permit for the first two years in which an Apprentice falconry permit is held. A letter must be provided, at the time of application from a Master or General falconer with a valid Florida falconry permit who has at least two years of experience at the General falconry level, stating that he or she will assist you, as necessary, in:

a. Learning about the husbandry and training of raptors held for falconry, and

b. Learning about relevant wildlife laws and regulations, and

c. Deciding what species of raptor is appropriate for you to possess while an Apprentice.

3. A sponsor may not have more than three apprentices at any one time.

4. Permittee may take and possess one wild-caught red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), broad-winged hawk (*Buteo platypterus*), or Merlin (*Falco columbarius*).

5. Permittee may not obtain more than one raptor for replacement during any 12-month period.

6. Permittee may fly any captive bred raptor possessed by a General or Master falconer in the presence of the General or Master falconer.

(b) General

1. Permittee shall be at least 18 years old and must have practiced falconry with raptors at the apprentice level or equivalent for at least 2 years including maintaining, training, flying, and hunting raptors for at least 4 months in each year.

2. Permittee may possess no more than 3 raptors.

3. Permittee may not obtain more than two wild raptors for replacement birds during any 12-month period.

4. Permittee may take and possess any species of Falconiform, Accipitriform, or Strigiform except a bald eagle (*Haliaeetus leucocephalus*), a golden eagle (*Aquila chrysaetos*), a white-tailed eagle (*Haliaeetus albicilla*), or a Stellar's sea eagle (*Haliaeetus pelagicus*).

5. Permittee may possess captive-bred individuals or hybrids of the species he/she is allowed to possess.

(c) Master

1. Permittee shall have at least five years' experience in the practice of falconry at the general level or equivalent including maintaining, training, flying, and hunting raptors for at least 4 months in each year.

2. Permittee may take and possess any species of Falconiform, Accipitriform or Strigiform except for a bald eagle (*Haliaeetus leucocephalus*).

3. Permittee may possess no more than 5 wild raptors (no more than 3 of which may be golden eagles (*Aquila chrysaetos*)) and any number of captive-bred raptors but they must be used in the pursuit of game and hunting.

4. Permittee may possess any captive-bred individuals or hybrids of the species he/she is allowed to possess.

5. Permittee may not obtain more than two wild raptors for replacement birds during any 12-month period.

6. Permittee may possess a golden eagle (*Aquila chrysaetos*), white-tailed eagle (*Haliaeetus albicilla*), or a Stellar's sea eagle (*Haliaeetus pelagicus*) as authorized provided:

a. Permittee shall demonstrate no less than one (1) year of substantial practical experience (to consist of no less than 1000 hours) in the care, feeding, husbandry, handling and/or flying large raptors of the following species: eagle (all species), goshawk (*Accipiter gentilis*), ferruginous hawk (*Buteo regalis*), Eurasian eagle owl (*Bubo bubo*), great horned owl (*Bubo virginianus*).

b. For purposes of demonstrating compliance, applicants shall submit documentation of such experience to include:

(I) A description of the specific experience acquired, including the species of raptors handled.

(II) The dates and times the experience was obtained and the specific location(s) where acquired.

(III) Additional documentation may include records of prior permits for the keeping of large raptors, employment records, and any other competent documentation of the requisite experience.

(IV) References of no less than two (2) individuals, no more than one of which may be a relative of the applicant, having personal knowledge of the applicant's stated experience. One of these references must be a permitted falconer. These references must provide a concise history of the applicant's experience with large raptors, which can include, but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter must also assess the applicant's ability to care for eagles and fly them in falconry.

c. A permittee may possess up to 3 eagles, which count toward the 5 wild birds he/she is allowed to possess.

(4) Permit conditions:

(a) Permittee must have a valid and legible falconry permit in his or her immediate possession when away from the state-approved falconry facility, hereafter referred to as "resident facility," and conducting activities related to the possession of the permit. These activities include trapping, transporting, working with, hunting with, or flying the falconry raptors.

(b) A permit is valid when issued and expires December 31 of the third calendar year after it is issued unless a different effective period is specified.

(c) Permittee must notify the FWC, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, FL 32399-1600, in writing within five business days if the location of permittee's raptor resident facility is changed.

(5) Reinstatement of a lapsed, suspended or revoked falconry permit and issuance of a permit to a new resident or visitor to the United States:

(a) A falconry permit which has lapsed for fewer than 5 years may be reinstated at the level held previously with proof of certification at that level.

(b) A falconry permit which has lapsed for 5 years or longer may be reinstated at the level held previously with proof of certification at that level and successful completion of the falconry exam with a score of at least 80 percent.

(c) The resident facility and equipment must be inspected and approved by FWC personnel prior to the re-

issuance of a permit that has lapsed longer than 2 years and before the permittee may possess a falconry bird.

(d) Any person whose falconry permit has been suspended or revoked, regardless of suspension or revocation period, may be reinstated at the level held previously with proof of certification at that level and successful completion of the falconry exam with a score of at least 80 percent, so long as they otherwise qualify for the permit. The resident facility and equipment must be inspected and approved by FWC personnel prior to the re-issuance of a permit.

(e) New residents seeking a permanent falconry permit or foreign visitors to the United States seeking a temporary Florida falconry permit must successfully complete the falconry exam with a score of at least 80 percent or better to demonstrate knowledge of Florida's falconry laws and regulations. It will be at the discretion of the FWC to determine the classification level to which the permittee will be classified based on documentation on the permittee's past experience and any previously held falconry permits.

(6) Facilities and equipment:

(a) Before a falconry permit is issued the applicant's resident facility shall be inspected and certified by FWC personnel as meeting one or multiple of the following standards:

1. Outdoor (weathering) facilities shall be fenced and covered with netting, wire or roof. The enclosed area shall be large enough to ensure the bird can not strike the fence when flying from a perch. Adequate perches and protection from excessive sun, wind and inclement weather shall be provided for each bird.

2. Indoor facilities or mews shall be large enough to allow easy access for caring for the raptors housed in a facility. Multiple raptors may be housed together. Raptors that are compatible with each other may be housed together unteathered. Raptors that are not compatible with each other must be teathered or seperated by a partition. There shall be a suitable perch for each raptor and the mew must be large enough to permit flight of unteathered raptors, or if teathered to fully extend it's wings or bate (attempt to fly while teathered) without damaging it's feathers or contacting other raptors in the mew. There shall be at least one window protected by vertical bars spaced narrower than the width of the bird's body, wooden or plastic lattice, or heavy duty netting, and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained.

3. Permittee may keep a falconry raptor or raptors inside a place of residence if the raptor is provided a suitable perch or perches. Permittee is not required to modify windows or other openings of the structure. Raptors kept in the home must be teathered unless being moved into or out of the location in which they are kept. Raptors kept in these conditions must have access to outdoor facility of acceptable design which provides a suitable perch, water and protection from predators both wild and domestic, or raptors must be weathered outdoors under direct supervision to provide for protection from predators both wild and domestic.

4. An eyas may be kept in any suitable container or enclosure until it is capable of flight.

(b) Resident facilities on property not owned by the permittee:

1. Resident facilities must meet the standards in this rule; and

2. Permittee must submit to FWC a signed and dated statement showing that the permittee and the property owner agree that the falconry facilities, equipment, and raptors may be inspected without advance notice by FWC personnel at any reasonable time of day.

(c) Equipment; minimum standards – The applicant shall possess:

1. Jesses – one pair of Aylmeri jesses or similar type, constructed of pliable, high-quality leather or suitable synthetic material.

2. Leashes and swivels – one flexible, weather-resistant leash and one strong swivel of acceptable falconry design. Snap-type swivels, such as harness snaps, are not considered adequate.

3. Bath container – one suitable container two to six inches deep and wider than the length of the raptor.

4. Outdoor perches – one weathering area of acceptable design for each raptor.

5. Weighing device – a scale graduated to increments of not more than 1/2 ounce.

(7) Temporary holding facilities:

A raptor may be transported or held in temporary facilities for a period not to exceed 60 days. Such facilities shall be provided with an adequate perch and protected from extremes in temperatures, excessive disturbance and wild or domestic predators.

(8) Care of Falconry Raptors:

(a) A permittee must keep all raptors held under his or her falconry permit in humane and healthful conditions. All facilities and equipment shall be kept in a serviceable, safe and sanitary manner. Clean water shall be provided for bathing and drinking. Tethering areas shall be free of obstructions that might entangle the raptor, and must provide protection from wild or domestic predators.

(b) Falconry raptors may be temporarily teathered outside in the open during daylight hours only if they are under watch by the permittee or another person.

(c) Care of falconry raptors by someone other than the permittee:

1. A falconer may care for raptor(s) that are registered under another falconer's permit for up to 120 consecutive calendar days at either his/her resident facility if the facility is appropriate to possess the species, or at the resident facility of the other falconer. If the falconer providing temporary care to the raptor(s) is of the appropriate classification level, he/she may fly the raptor(s) in whatever way authorized by the permittee, including hunting. This authorization may be extended with FWC Division of Law Enforcement approval.

2. The falconer providing temporary care must have a signed and dated statement from the other falconer including information about the time period he/she is allowed to keep the raptor and must have a copy of the original Migratory Bird Acquisition And Disposition Report, 3-186A form that shows the other falconer as the possessor of the raptor(s).

3. A person who does not hold a falconry permit may care for falconry raptor(s) at the permittee's resident facilities for 45 consecutive days. The person caring for the falconry raptor(s) may not fly them for any reason. This authorization may be extended with FWC, Division of Law Enforcement approval in extenuating circumstances.

(d) A General or Master falconer may assist a permitted migratory bird rehabilitator to condition raptors in preparation for their release to the wild. The raptors may be maintained at the falconer's resident facility.

1. The rehabilitator must provide written documentation that identifies the raptor(s) and explains that the falconer is assisting in the raptor's rehabilitation.

2. The raptors will remain under the migratory bird rehabilitator's permit.

3. The raptors will be released to the wild or returned to the rehabilitator within the 180 time frame the rehabilitator is authorized to possess the bird. Any release will be coordinated with the rehabilitator.

(9) Inspections:

(a) A FWC representative shall inspect the applicant's facility for keeping the raptor prior to the issuance of a falconry permit and shall report the conditions observed. Periodic inspections shall be made thereafter, and the inspector shall make written reports thereof to the executive director. Refusal to permit inspection of facilities may result in denial of issuance or revocation of the raptor permit.

(b) In the event an inspection report indicates mistreatment or lack of adequate facilities to properly care for any raptor and if, following notice, the permittee fails to correct the deficiency within 48 hours, the executive director may revoke the falconry permit and confiscate any raptors in possession.

(10) Marking:

(a) A falconer may not possess a peregrine falcon (*Falco peregrinus*), a gyrfalcon (*Falco rusticolus*), a goshawk (*Accipiter gentilis*), or a Harris's hawk (*Parabuteo unicinctus*) for falconry purposes unless the bird is banded with a seamless numbered band, or a permanent nonreusable band provided by the Service. The permittee may also implant an ISO (International Organization for Standardization) – compliant (134.2 kHz) microchip at his or her expense.

(b) A raptor bred in captivity must be marked with a seamless metal band. The permittee may also implant an ISO-compliant (134.2 kHz) microchip at his or her expense.

(c) The alteration, counterfeiting or defacing of a band is prohibited, except that a permittee may remove the rear tab on a band and may smooth any imperfect surface provided that the integrity of the marker and its number are not altered.

(d) For bands that cause problems or exceptions to the above requirements, a request for variance from rule may be made in writing to FWC Division of Law Enforcement, 620 South Meridian Street, Tallahassee, FL 32399-1600.

(11) Capturing, releasing, and transporting raptors:

(a) Capturing:

1. A permittee may not intentionally capture a raptor species that he/she is not allowed to possess depending on the classification level. Captured birds not allowed by classification level must be released immediately.

2. Raptors removed from the wild are always considered wild raptors.

3. Up to two young birds not yet capable of flight (eyases) or capable of flight but still associated with the nest (branchers) may only be taken by a general or master falconer. The season is year round. When taking an eyas, the permittee must leave at least one young bird in the nest or aerie.

4. First year (passage) birds may be taken only during the period of August 15 through February 15.

5. A raptor wearing falconry equipment or otherwise identifiable as a falconry bird may be retrapped at any time.

a. The raptor does not count against the permittee's possession or take limit while in temporary custody.

b. The raptor must be returned to the owner if the owner is known and may lawfully possess it. If the owner

cannot be determined or cannot possess the raptor, the falconer must contact FWC to determine disposition of the raptor.

c. A falconer can retrap a bird he or she has lost at any time.

d. A banded peregrine falcon (*Falco peregrinus*) may not be taken from the wild.

e. A captured raptor marked with a research band or marking, or a transmitter must be reported to the Federal Bird Banding Laboratory at (800) 327-2263.

6. Only a great horned owl (*Bubo virginianus*) or an American kestrel (*F.s. sparverius*) may be taken when over one year old.

7. The (*F.s. sparverius*) subspecies of the American kestrel for falconry may be taken during the period of September 15 through January 15.

8. Take of the southeastern American kestrel (*F.s. paulus*) for falconry will require an imperiled species intentional take permit, unless take is permitted by the Service pursuant to Rule 68A-27.007(1) F.A.C.

9. Pursuant to federal and state requirements for threatened species, a General or Master falconer may take no more than one raptor of a federally threatened species and one raptor of state threatened species from the wild each year. The falconer must obtain a federal and/or state endangered species permit before taking the raptor.

10. A raptor injured due to trapping efforts may be kept under the falconer's permit as authorized by his or her classification level, and must be immediately treated by a veterinarian or given to a permitted wildlife rehabilitator.

11. A permittee is not authorized to capture, release, or hunt on public lands if it is prohibited on those lands or on private property without permission from the landowner or custodian. The take of falconry birds from public right of ways is permitted pursuant to rule 68A-4.008 (1) F.A.C.

12. A resident of a state other than Florida who holds a valid falconry permit in their state of residence may take raptors in Florida, and possess and transport raptors so taken, under authority of a permit issued by the executive director. A request for raptor take permits from nonresidents shall include a copy of the applicant's falconry permit; a list of the species, number, and age of raptors proposed to be taken; a list of all other raptors held under the applicant's falconry permit; and a description of the general area where raptors are proposed to be taken. Permit issuance will be based on consideration of the population status of the species requested; whether or not the species requested is listed by FWC or the Service as threatened, endangered, or of special concern; the number of raptors to be taken; and the permit class of the applicant. Applicants for nonresident raptor take permits shall adhere to the restrictions on take and possession limits for Florida residents as provided in this rule section, and shall submit to FWC, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, FL 32399-1600, a list of all raptors taken and the location(s) where they were captured within 10 days of take.

13. The take of peregrine falcons (*Falco peregrinus*) is prohibited except as authorized by permit from the executive director and consistent with the most recent U.S. Fish and Wildlife Service Final Environmental Assessment and Management Plan for Peregrine Falcons, August 2008 (incorporated herein by reference). The FWC shall randomly select applications and issue permits annually. Priority for receiving a permit shall be given to Florida residents. Only one application may be submitted per applicant each year.

14. Applicants for permits to take imperiled species must follow guidelines outlined in Rule 68A-27.007(2)(a) F.A.C.

15. The take of burrowing owls (*Athene cunicularia*) for falconry is prohibited.

(b) Releasing:

1. No permittee may release a species that is not native to Florida into the wild. The raptor must be transferred to another qualified falconry permittee or another person or entity licensed or permitted to possess the species.

2. Hybrid raptors may not be permanently released into the wild. When flown free, a hybrid raptor must have at least two attached radio transmitters to increase the likelihood of recovery.

3. A captive-bred raptor may only be released if the species is native to Florida and if the permittee is given permission by the Executive Director. The permittee must make the request in writing to: FWC, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, FL 32399-1600. If permitted to release the raptor, the permittee must hack the bird to the wild at an appropriate time of year at an appropriate location. This release must be reported to the Service and FWC within 10 business days.

4. A General or Master falconer is allowed to hack a falconry bird as a method of training.

(c) Transporting: When a permittee is transporting a raptor for hunting, he/she must ensure that the bird has a suitable perch and is protected from extreme temperatures, wind, and excessive disturbance. A "giant hood" or similar container is acceptable for transporting or housing a raptor when away from the resident facilities.

(12) Transferring raptors:

(a) A permittee may transfer a wild raptor to another falconry permittee in the State without special authorization. A permittee may trade or transfer a wild raptor to another permittee in an interstate transaction if

allowed by the recipient's State, but no money or other consideration may be involved in the transaction.

(b) A permittee may purchase, barter, or offer to sell, purchase, or barter a captive-bred raptor marked with a seamless band to another permittee who is authorized to possess it.

(c) Permittee may acquire a raptor of any age of a species that he or she is allowed to possess directly from a rehabilitator. Transfer to that permittee is at the discretion of the rehabilitator. A raptor acquired from a rehabilitator will count as one of the raptors the permittee is allowed to take from the wild that year.

(d) Transfer of falconry birds for propagation purposes

1. A wild falconry bird may be transferred to a raptor propagation permit after the bird has been used in falconry for at least 2 years and 1 year for a sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), merlin (*Falco columbarius*), or American kestrel (*F.s. sparverius*) or less than one year if the bird has been injured and has been determined by a veterinarian or rehabilitator that it can no longer be flown in falconry. The transfer must be reported to the Service pursuant to subsection (13)(a) of this rule. Both parties must report the transfer / acquisition. If the bird is transferred due to injury, a copy of the certification of injury from a veterinarian or a rehabilitator must also be provided.

2. Captive-bred falconry raptors may be transferred to another permit that is authorized to possess that species of bird. The transfer must be reported to the Service within 10 days via form 3-186A.

3. Raptors held for falconry purposes may be used in captive propagation with a Raptor Propagation Permit from the Service. The falconry raptor does not need to be transferred to the propagation permit if it is used for fewer than 8 months in a year in captive propagation. If the bird is permanently transferred to propagation, then the bird must also be transferred to that permit and banded as in 50 C.F.R. part 21.30.

(13) Reporting and Record Keeping

(a) Any acquisition, transfer, release, rebanding, microchipping, escape, death or theft must be reported by the permittee within 10 days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or under special circumstances by submitting the Service's Migratory Bird Acquisition And Disposition Report, 3-186A (rev. 9/2010), which is adopted and incorporated herein by reference. The paper form may be submitted to FWC, Division of Law Enforcement 620 South Meridian St, Tallahassee, FL 32399-1600. FWC will promptly enter the data on the paper form into the Service's 3-186A system.

(b) A lost or removed band must be reported to the Service within 5 days, and upon rebanding the raptor, the required information must be reported to the Service immediately pursuant to subsection (13)(a) of this rule.

(c) Capture of a raptor wearing falconry equipment or otherwise marked must be reported to FWC within 5 days.

(d) Record of acquisition must be retained by the falconer. The records shall be legibly written or reproducible in English and shall be maintained for five years from the date of expiration of the permit. Records of transfer, loss, or death must be retained for 5 years after the transfer loss or death.

(14) Miscellaneous rules for Falconry

(a) Feathers and disposition of carcasses of falconry birds that die:

1. Feathers may not be bought, sold or bartered. Feathers that are molted or feathers from deceased falconry raptors except Golden eagles (*Aquila chrysaetos*) may be retained and exchanged by permittees only for imping purposes. Feathers may be donated to Native Americans or other qualified permittees or institutions.

2. Carcasses of Golden eagles (*Aquila chrysaetos*) and all parts thereof, must be sent to U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022.

3. Carcasses of any other species of falconry raptor or feathers may be kept or donated to any person or institution authorized by the Service to acquire and possess such parts or feathers or exempt from such authorization. If the falconry raptor was banded or had a microchip implanted prior to its death the body may be mounted for use in conservation education programs. The band must stay with the body and if implanted with a microchip the microchip must remain in place.

4. Feathers or carcasses not retained or donated must be burned, buried or otherwise destroyed within 10 days.

(b) A nonresident falconer may possess and transport a raptor or raptors used for falconry purposes in Florida with no additional authorization, provided that he or she carries a falconry permit that is valid for his or her state of residence.

(c) A resident or non-resident falconer must possess a valid Florida Hunting License and all other applicable licensing appropriate to the desired hunting activity while hunting in Florida.

(d) Regardless of differences in laws between states, a permittee must adhere to the laws listed in this rule when practicing falconry in Florida.

(e) Falconers must also comply with the Service's regulations regarding the use and possession of raptors that are not mentioned in this rule.

(f) In practicing falconry, a permittee must ensure that his or her activities do not cause the take of Federally or State listed Threatened or Endangered species.

(g) Prey killed by a falconry bird without intent by the permittee including an animal taken outside of the regular hunting season may be fed on by the falconry raptor but the animal may not be taken into the possession of the falconer. Federally or State listed Threatened or Endangered species accidentally taken by a falconry raptor must be reported immediately to the Service and FWC, including the location of the accidental take.

(h) A permittee may participate in the take of a bird for which a depredation order is in place, but may not be paid for doing so.

(i) Master and General class falconers may conduct abatement activities with raptors possessed for falconry purposes in accordance with a valid Abatement Permit issued by the Service.

(j) If a permittee dies, a surviving spouse, executor, administrator, or other legal representative may transfer any bird held by that permittee to another authorized permittee within 90 days of the death of the falconer. After 90 days, the disposition of a bird held under the permit is at the discretion of the FWC.

(k) A permitted falconer who wish to sell captive bred raptors or exhibit wildlife must obtain a valid Exhibition and Sale License.

PROPOSED EFFECTIVE DATE: July 1, 2013.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-21-82, 7-1-84, Formerly 39-9.05, Amended 4-14-92, 7-1-94, Formerly 39-9.005, Amended 1-19-10, 07-01-13.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.R.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Jason Marlow, Investigator II, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2012.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.R.: January 8, 2013.

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

FISH AND WILDLIFE CONSERVATION COMMISSION

DIVISION: Freshwater Fish and Wildlife

RULE NO: 68A-9.005

RULE TITLE: Falconry

The purpose of the proposed rule amendment is to revise the falconry rule to ensure that the sport is continued in the state of Florida. The U.S. Fish and Wildlife Service (Service) and FWC currently share regulatory authority and permitting responsibilities related to falconry in Florida. The Service is relinquishing permitting responsibilities to states, Indian Tribes and U.S. territories with “certified” (by the Service) falconry regulations. Florida must have certified rules in place by January 1, 2014 in order for falconry to continue in the state.

The proposed rule amendment would modify the current falconry rule section in order to meet Federal guidelines and address all necessary areas of the practice in order to be certified by the Service. The federal rule that covers this area is as follows: 50 C.F.R. 21 “Migratory Bird Permits”.

**SMALL BUSINESS IMPACT ASSESSMENT
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE TITLE: Falconry **RULE NOS:** 68A-9.005

The proposed rule has no impact to small businesses as per 120.54(3)(b) F.S. The alteration of the rule combines federal regulation and state regulation and eliminates the dual permitting process and the current \$100 federal permit fee.

**STATEMENT OF ESTIMATED REGULATORY COSTS
FISH AND WILDLIFE CONSERVATION COMMISSION**

RULE CHAPTER TITLE: Miscellaneous Permits.

RULE NO: 68A-9.005

RULE TITLE: Falconry.

No change or impact anticipated due to rulemaking efforts to any of the below questions or concerns.

1. A GOOD FAITH ESTIMATE OF NUMBER AND TYPE OF INDIVIDUALS AND ENTITIES LIKELY TO BE REQUIRED TO COMPLY WITH THE RULE:

2. A GOOD FAITH ESTIMATE OF THE COST TO FWC AND OTHER GOVERNMENTAL AGENCIES OF IMPLEMENTING AND ENFORCING THE RULE:

3. ANTICIPATED EFFECT ON STATE AND LOCAL REVENUES:

4. AN ESTIMATE OF TRANSACTIONAL COSTS LIKELY TO BE INCURRED BY INDIVIDUALS AND PUBLIC AND PRIVATE ENTITIES THAT ARE REQUIRED TO COMPLY WITH THE RULE:

5. ANALYSIS OF IMPACT ON SMALL BUSINESS AS DEFINED BY SECTION 288.703, F.S.:

6. ANALYSIS OF IMPACT ON SMALL COUNTIES AND CITIES AS DEFINED BY SECTION 120.52, F.S.:

7. REASONS FOR ACCEPTING (OR REJECTING) A PROPOSAL FOR A LOWER COST REGULATORY ALTERNATIVE:

**SUMMARY OF PUBLIC HEARINGS FOR PROPOSED RULES
FISH AND WILDLIFE CONSERVATION COMMISSION**

DIVISION: Freshwater Fish and Wildlife

RULE TITLES: Falconry **RULE NOS.:** 68A-9.005

A hearing on the proposed rule was held at the Commission's regularly scheduled meeting February 13-14, 2013 at Sea World Parks & Entertainment, Inc., Orlando, FL. In addition to agency personnel, this hearing was attended by the public. Public comment was received and considered at the Commission's meeting. A record of any comments relating to this rule is preserved in the Commission's minutes.