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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Law Enforcement
Contact Person:	Lisa Crawford
Address:	TWRA, PO Box 40747, Nashville, TN 37204-0747
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Stan Powell
Address:	TWRA, PO Box 40747, Nashville, TN 37204-0747
Phone:	615-781-6594
Email:	Stan.Powell@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	TWRA, Region 2 Ray Bell Office Building		
Address 2:	Ellington Agricultural Center, 5105 Edmondson Pike		
City:	Nashville		
Zip:	37211		
Hearing Date :	April 15, 2011		
Hearing Time:	9:00 a.m., local time	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1660-01-02	Rules and Regulations for Birds
Rule Number	Rule Title
1660-01-02-.03	Falconry

Rulemaking Hearing Rules
of
Tennessee Wildlife Resources Agency
Wildlife Resources

Chapter 1660-01-02
Rules and Regulations for Birds

1660-01-02-.03, Falconry, is amended by deleting the current language in its entirety and substituting the following language so that, as amended, the rule shall read as follows:

- (1) Definitions:
 - (a) "Raptor" - means a live migratory bird of the family Accipitriformes or the great horned owl (*Bubo virginianus*) of the family Strigidae.
 - (b) "Take" - means to trap or capture, or attempt to trap or capture a raptor for the purpose of falconry.
 - (c) "Falconry" - means the sport of taking quarry by means of a trained raptor.
 - (d) "Service" - means the U.S. Fish and Wildlife Service, U.S. Department of Interior.
 - (e) "State" - means the Tennessee Wildlife Resources Agency.
 - (f) "Bred in captivity" or "captive-bred" - refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.
 - (g) "Captivity" - means a live raptor held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designated to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, and protection from predators, and artificially supplied foods.
- (2) Examination - Before any Apprentice Falconry Permit is issued, the applicant shall be required to answer correctly at least 80 percent of the questions on a supervised examination approved by the Service relating to the basic biology, care, and handling of raptors, literature, laws, regulations, and other appropriate subject matter.
- (3) Permit requirement - A valid state falconry permit from Tennessee or another state meeting federal falconry standards is required before any person may take, possess, or transport a raptor for falconry purposes. Falconers from other states must obtain a Tennessee permit within 60 days of Tennessee residency in order to continue the practice of falconry in Tennessee.
- (4) An applicant who wishes to practice falconry must submit an application, with appropriate permit fee, for a State Falconry Permit to the Executive Director of the Agency.
- (5) Permit conditions - Every permit issued shall be subject to the following:
 - (a) A permittee may not take, transport, or possess a bald eagle for falconry purposes.
 - (b) A permittee may trade or transfer a raptor to another permittee if no money or other consideration is involved, except as authorized under state and federal propagation permits. A permittee may trade or transfer a raptor to another permittee in an interstate transaction if prior written approval of the state which issued the permit is obtained, stating that federal and their state legal requirements are being met.
 - (c) A permittee may not take, possess, or transport a raptor in violation of restrictions, conditions, and requirements of the Federal or State Falconry Permit Regulations.

- (d) Any change in ownership including, but not limited to, take from the wild, transfer, death, and or escape, shall be reported to the Service electronically at <http://permits.fws.gov/186A> within five (5) working days. A copy of such will be provided to the State within the same amount of time.
- (6) Permits will expire on June 30 of the third year from date of issuance.
- (7) Classes of permits - Three classes of falconry permits shall be issued, including:
 - (a) Apprentice class - Conditions of this class include:
 - 1. An apprentice permittee shall be at least fourteen (14) years old;
 - 2. A sponsor who is a holder of a General or Master Falconry Permit is required for the first two years in which an apprentice permit is held, regardless of the age of the permittee. A sponsor may not have more than three (3) apprentices at one time;
 - 3. An apprentice permittee shall not possess more than one raptor and may not obtain more than one raptor as a replacement bird during any twelve-month period; and
 - 4. An apprentice permittee may only possess a wild American Kestrel (*Falco sparverius*) or a Red-tailed Hawk (*Buteo jamaicensis*) captured by the apprentice, or a captive-bred raptor from a legal source.
 - (b) General Class - Conditions of this class include:
 - 1. A general permittee shall be at least eighteen (18) years old;
 - 2. A general permittee shall have at least two years experience in the practice of falconry at the apprentice level or its equivalent;
 - 3. A general permittee may not possess more than three raptors and may not obtain more than two raptors from the wild as replacement birds during any twelve-month period; and;
 - 4. A general permittee may not take, transport, or possess any species listed as Threatened or Endangered by the Service, except as provided by the State and Federal Falconry Regulations.
 - (c) Master Class - Conditions of this class include:
 - 1. An applicant must have at least five years experience in the practice of falconry at the General class level or its equivalent;
 - 2. A master permittee may not possess more than five raptors, and may not obtain more than two raptors taken from the wild for replacement birds during any twelve-month period;
 - 3. A master permittee may not take, transport or possess any species listed as Endangered by the Service except as provided by the State and Federal Falconry Regulations.
 - 4. Except as provided by the State and Federal Falconry Regulations, a master permittee may not take, transport, or possess as part of his five-bird limitation, more than one raptor listed as Threatened by the Service and/or State, or listed as In Need of Management by the State, and then only in accordance with Federal Regulations, 50 CFR 17, 21, and 22, and/or current State Proclamation "Proclaiming the Taking of Raptors for the Purpose of Falconry."

- (8) Facilities and equipment - Before any falconry permit is issued, the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the Tennessee Wildlife Resources Agency as meeting the following standards:
- (a) Facilities - The primary consideration for raptor housing facilities whether indoors (mews) or outdoors (weathering area) is protection from the environment, predators, or undue disturbance. Applicants shall have the following facilities, depending upon climate conditions and sensitivity of the species, only one of the following facilities may be required.
1. Indoor facilities (mews) shall be large enough to allow easy access for caring for raptors housed in the facility. If more than one raptor is to be housed in the facility, the raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow each bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.
 2. Outdoor facilities (weathering area) shall be fenced and covered with netting or wire or roofed to protect the birds from disturbances and attack by predators, except that perches more than 62 feet high need not be covered or roofed. The enclosures shall be wide enough to insure that the birds' wings shall not strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.
- (b) Equipment – An applicant must possess the following before obtaining a permit:
1. Jesses - At least one pair of Aylmeri jesses of pliable leather or suitable synthetic material to be used when any raptor is flown free. Traditional type one-piece jesses may be used on raptors when not being flown;
 2. Leashes and swivels - At least one flexible, weather resistant leash and one strong swivel of acceptable falconry design;
 3. Bath container - At least one container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;
 4. Outdoor perches - At least one weathering area perch of an acceptable design shall be provided for each raptor; and,
 5. Weighing device - A reliable scale or balance suitable for weighing the raptor(s) and graduated in increments of not more than 2 ounce (15 grams) shall be provided.
- (c) Maintenance - All facilities and equipment shall be kept at or above the preceding standards at all times.
- (d) Transportation - A raptor may be transported or held in temporary facilities, which shall be provided with an adequate perch and protection from extreme temperatures and excessive disturbance, for a period not to exceed thirty (30) days.
- (9) Marking - All raptors held within this state, except those held for scientific, rehabilitation, or zoological purposes, shall have a numbered, seamless, non-reusable marker supplied by the Service and available via the State. In the instance of raptors acquired after the effective date of these regulations, markers shall be attached immediately upon acquisition. Alteration, counterfeiting, or defacing of a marker is prohibited, except that permittees may remove the rear tab on markers and may smooth any imperfect surface, provided that the marker and the number are not affected. Loss or removal of any band must be reported to both the Service and the State

within five (5) business days of the loss. The band must be replaced within thirty (30) days by a like band issued by the Service and available through the State.

- (10) Taking restriction - Raptors may be taken only in accordance with the appropriate proclamations promulgated by the Tennessee Wildlife Resources Commission.
- (11) Other restrictions:
 - (a) Any person who possesses a lawfully acquired raptor before the effective date of these regulations and who fails to meet the permit requirements shall be allowed to retain the raptors. All such birds shall be identified with markers supplied by the Service and cannot be replaced if death, loss, release, or escape occurs.
 - (b) Any person who possesses raptors before the effective date of these regulations in excess of the number allowed under his class permit shall be allowed to retain the extra raptors. All such raptors shall be identified with markers supplied by the Service, and no additional raptors be obtained, until the number in possession is at least one less than the total number authorized by the class of permit held by the permittee.
 - (c) A falconry permit holder shall obtain written permission from the State before any species not indigenous to this state is intentionally released to the wild. The marker of any intentionally released bird shall be removed and surrendered to the Tennessee Wildlife Resources Agency upon release. A standard Federal bird band shall be attached to such birds by the state or authorized Federal bird bander whenever possible.
 - (d) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee for maintenance and care for a period not to exceed thirty (30) days. The raptor must be accompanied at all times by a properly completed form provided by the State/Service designating the person caring for the raptor as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.
 - (e) Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by permittees only for imping.
- (12) Interstate transport - Non-transfer, interstate import and export conditions follow:
 - (a) Non-residents of this state who are permit holders from states which are recognized as falconry states by the Service may transport into this state raptors for personal falconry use (e.g. meets) provided the laws and regulations concerning hunting and falconry are observed, including the purchase of an appropriate Tennessee non-resident hunting license prior to pursuit of wild prey by falconry in Tennessee.
 - (b) Residents of this state who are falconry permittees may transport their raptors into other states that are recognized by the Service as falconry states for personal falconry use, provided all applicable hunting and falconry laws and regulations are observed.

Authority: T.C.A. §70-1-206.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 2-25-11

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 2-25-11

Notary Public Signature: Lisa Crawford

My commission expires on: 8-23-11

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Filed with the Department of State on: 02/25/11

Tre Hargett

Tre Hargett
Secretary of State

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