

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 571—Chapter 101
“Falconry Regulations”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39 and 481A.48
State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38 and 481A.48

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 24, 2024
1 to 2 p.m.

6200 Park Avenue, Second Floor
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Anna Buckardt
Iowa Department of Natural Resources
1436 255th Street
Boone, Iowa 50036
Email: anna.buckardt@dnr.iowa.gov

Purpose and Summary

Proposed Chapter 101 governs falconry by residents and nonresidents in the state of Iowa. This chapter regulates raptor take and possession for the use of falconry and sets forth permit types and fees, species permitted to be taken from the wild, facility and equipment requirements, the wild Peregrine falcon take process, and annual reporting requirements. This chapter has been reviewed and simplified consistent with Executive Order 10 (2023).

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Iowa and nonresident falconers will bear the costs.
 - Classes of persons that will benefit from the proposed rulemaking:
Iowa and nonresident falconers will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
This chapter regulates the take and possession of raptors for falconry by over 60 Iowa falconers.
 - Qualitative description of impact:
Raptors are protected by state and federal law, and this chapter allows the sustainable take of this group of birds for the purpose of the sport of falconry.
3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:

The agency's primary cost is for staff time to implement and enforce the rules. This includes Wildlife Bureau and licensing staff to administer, coordinate, and monitor falconry take and also effort from conservation officers to ensure safe and compliant holding facilities for raptors. However, no staff work exclusively on falconry-related matters.

- Anticipated effect on state revenues:

The Department does not anticipate a significant impact to state revenue given the small size of the falconry community. Falconry permits and fees do result in small financial gains of roughly \$4,500 each year. Falconers must also purchase appropriate hunting licenses in order to hunt with falcons, resulting in additional revenue.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The loss of falconry in Iowa would eliminate the revenues described previously. Additionally, falconers were instrumental in the recovery of Peregrine falcon populations in Iowa.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department could not identify less costly or less intrusive methods for achieving the purpose of this chapter. Other states have similar regulations and strive to manage falconry at a balance between recreational opportunities and negative interactions.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:
No alternative methods were identified to effectively manage Iowa's raptor take.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The following types of jobs are positively impacted by falconry in Iowa generally and should see no noticeable change due to this rulemaking: outdoor equipment retailers (clothing, animal carriers, binoculars, and other supporting equipment) and restaurants, hotels, and gas stations for falconers traveling around the state.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 101 and adopt the following **new** chapter in lieu thereof:

CHAPTER 101 FALCONRY REGULATIONS

571—101.1(481A) Falconry regulations. No person may take, transport, or possess any raptor without having first obtained a valid state/federal falconer's permit. Falconry permit holders shall comply with the department of natural resources' rules and with the current Code of Federal Regulations pertaining to falconry. Only the following raptors may be taken from the wild: American kestrel, Cooper's hawk, Ferruginous hawk, American goshawk, Eurasian goshawk, Great horned owl, Gyrfalcon, Harris's hawk, Merlin, Peregrine falcon, Prairie falcon, Red-tailed hawk, Rough-legged hawk, and Sharp-shinned hawk. Raptors taken from the wild shall not be sold, bartered or traded. All wild raptors legally trapped or taken by a resident or nonresident falconer must be marked with an Iowa band provided by the department.

101.1(1) A falconry permit allows for the purchase, capture, possession and use of designated legal raptors in hunting, subject to state regulations.

101.1(2) A falconry permit may be issued to any person 14 years of age or older who has successfully passed a written examination provided by the department and approved by the U.S. Department of the Interior covering basic biology, care and handling of raptors, laws, regulations or other appropriate subject matter, with a minimum score of 80 percent, and who has satisfied the minimum requirements for keeping raptors as determined by inspection of the applicant's facilities. In the event an individual fails the examination, this individual may reapply.

101.1(3) There shall be three classes of falconer permits as follows:

a. Apprentice falconer.

(1) An applicant shall have a sponsor who is a holder of a general or master falconry permit and who has at least two years of active experience as a general falconer. A qualifying sponsor must submit a signed letter to the department in which the sponsor agrees to assist and mentor the apprentice falconer for the duration of the apprenticeship. A sponsor may have no more than two apprentices at any one time.

(2) Apprentice permit holders may only possess a Red-tailed hawk (*Buteo jamaicensis*) and shall not possess more than one individual or obtain more than one replacement bird during any 12-month period. Apprentice permit holders may not take nestling or fledgling birds.

(3) A sponsor has the right to withdraw sponsorship at any time by submitting a signed letter to the department requesting withdrawal of sponsorship. If an apprentice falconer fails to successfully complete the required two-year apprenticeship, the apprentice falconer's Red-tailed hawk shall be transferred to the sponsor of record. The sponsor will be required to properly care for the bird until it is transferred to another permitted falconer or hatched back into the wild.

(4) Upon completion of the apprenticeship requirements, the apprentice's sponsor must submit a signed letter of endorsement confirming that the apprentice has satisfied the terms and conditions of the apprenticeship as required by these rules and approved by the department.

b. General falconer. An applicant shall be at least 18 years old. An applicant shall have at least two years of field experience in the practice of falconry at the apprentice level or its equivalent; the keeping of raptors without actively hunting the bird(s) shall not be considered field experience. General permit holders shall not possess more than three raptors and may not take more than one raptor for a replacement bird from the wild during any 12-month period. Licensed general class falconers may purchase properly marked captive-bred raptors only from federally licensed raptor propagators.

c. Master falconer. An applicant shall have at least five years of field experience in the practice of falconry at the general level or its equivalent. The keeping of raptors without actively hunting the bird(s) shall not be considered field experience. A master falconer shall possess no more than five raptors at any one time and be permitted to take no more than two replacement birds from the wild in any 12-month period. Master class falconers may purchase properly marked captive-bred raptors only from federally licensed raptor propagators.

101.1(4) Falconry permits are \$61.50, are valid for a three-year period, and are nontransferable. Permits shall expire June 30 of the third year after issuance. Permits may be renewed without examination following the falconer's submission of an annual report of birds possessed during the

previous year and provided that the department is satisfied as to the competency of the applicant whose permit has expired.

101.1(5) A federal raptor propagation permit is required before any raptor propagator may take, possess, transport, sell, purchase, barter, or transfer any captive-bred raptor, raptor egg, or raptor semen for propagation or sale purposes.

This rule is intended to implement Iowa Code section 481A.48 and conforms to the federal regulations promulgated under the Migratory Bird Treaty Act.

571—101.2(481A) Facilities and equipment. Before any individual shall be issued a falconry permit, the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the department as meeting the following standards:

101.2(1) Facilities. The primary consideration for raptor housing facilities, whether indoors or outdoors, is protection from the environment, predators or undue disturbance. Depending upon climatic conditions, the applicant shall have either or both of the following facilities:

a. Indoor facilities. Indoor facilities (mews) shall be a minimum of 6 feet high, with a floor area at least 6 feet square for each bird. If more than one raptor is to be kept in the mews, the raptors shall be tethered or separated by partitions. 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 door that can be easily closed and secured. The floor of the mews shall permit easy cleaning. Falcons are to be kept on perches with a flat perching surface while accipiters, buteos and eagles are to be kept on perches that have a perching surface round in cross section and all perches should provide a good grasping surface satisfactory to the bird in possession.

b. Indoor facilities—exception. An exception may be allowed from the standard size requirements listed in 101.2(1)"a" to general and master class permittees only for housing the smaller species of raptors; however, the facilities shall be large enough to allow the bird to fully extend its wings without touching the walls of the mew.

c. Outdoor facilities. Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators. The enclosed area shall be large enough to ensure the birds cannot 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.

d. Transportation—temporary holding. A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance for a period not to exceed 30 days.

e. Maintenance and inspection. All facilities and equipment shall be kept at or above the preceding standards at all times and shall be available for inspection by representatives of the department at all reasonable hours.

101.2(2) Falconry permits are \$61.50, are valid for a three-year period, and are nontransferable. Permits shall expire June 30 of the third year after issuance. Permits may be renewed without examination following the falconer's submission of an annual report of birds possessed during the previous year and provided that the department is satisfied as to the competency of the applicant whose permit has expired.

101.2(3) A federal raptor propagation permit is required before any raptor propagator may take, possess, transport, sell, purchase, barter, or transfer any captive-bred raptor, raptor egg, or raptor semen for propagation or sale purposes.

101.2(4) Equipment. The following items shall be in the possession of the applicant before the applicant can obtain a permit.

a. Jesses. At least one pair of Alymeri or similar-type jesses constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free (traditional one-piece jesses may be used on raptors when the raptors are not being flown).

b. Leashes and swivels. At least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design.

c. Bath container. At least one suitable container for each raptor, two to six inches deep and wider than the length of the raptor.

d. Outdoor perches. At least one weathering area perch of an acceptable design for each raptor.

e. Weighing device. A working scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than two-tenths of an ounce, or five grams.

This rule is intended to implement Iowa Code section 481A.48 and conforms to the federal regulations promulgated under the “Migratory Bird Treaty Act.”

571—101.3(481A) Taking and possession provision. The taking of American kestrel, Cooper’s hawk, Ferruginous hawk, American goshawk, Eurasian goshawk, Great horned owl, Gyrfalcon, Harris’s hawk, Merlin, Prairie falcon, Red-tailed hawk, Rough-legged hawk, and Sharp-shinned hawk from the wild by resident falconers shall be limited to the following conditions:

101.3(1) Young birds not yet capable of flight may be taken at any time following hatch by a general class or master class falconer. The falconer may take no more than two nestlings, and at least one nestling shall be left in any nest from which a nestling is taken. The taking of nestlings and branchers is permitted only between April 1 and July 31. Removal of eggs from nests is prohibited.

101.3(2) First year (passage) birds shall be taken only from August 1 through March 31.

101.3(3) Only American kestrels (*Falco sparverius*) and Great horned owls (*Bubo virginianus*) may be taken when over one year old; however, the permissible period for taking shall be no different than that prescribed for passage birds of all other legal species.

101.3(4) No permittee shall employ any method of taking raptors that is injurious to the bird.

101.3(5) Any species except endangered or threatened species or exotic birds, the import of which has been banned by the international convention, federal regulation or the department, may be possessed and used for falconry provided the license holder can provide evidence that the bird was legally acquired. No one may import a raptor into Iowa or export a raptor out of Iowa for a period greater than 30 days without having first obtained written permission of the department.

101.3(6) Recapture. Banded raptors that are lost to the wild through accident may be retrapped provided that the department has been advised of the loss and is notified of the attempt to recapture. If the banded raptor is recaptured, the department shall be notified of the recovery within 48 hours.

101.3(7) Previously banded birds. Any raptor captured with a federal leg band or any research band already attached shall be immediately released at the site of capture, and the band number and location of trapping site shall be reported to the department within 48 hours.

101.3(8) Nonresident raptor trapping. A permit may be issued upon application by a nonresident for the purpose of taking a raptor in Iowa, provided that the applicant’s resident state provides for the taking of raptors by nonresidents. Nonresidents shall submit a photocopy of a valid state or federal falconry permit. Only general and master class nonresident raptor trapping permits shall be issued.

a. Trapping provisions. Trapping of raptors in Iowa by permitted nonresident falconers shall be limited to the legal species listed in these rules.

b. Marking requirements. Raptors legally trapped by nonresidents must be marked with an Iowa band provided by the department. No raptor shall be transported from Iowa without first having had the Iowa band attached. Permittees may, with written permission from the department, provide their own band issued by their state of residency. Permittees who provide their own band shall place the band on the raptor immediately upon capture and must notify the department within five days of the capture and of the corresponding band number.

c. Fees. Fees for nonresident raptor trapping applications shall be reciprocal to the fee charged by the applicant’s resident state. If the applicant’s resident state does not provide for a nonresident raptor trapping fee, then the Iowa nonresident raptor trapping application fee shall be \$100.

d. Restrictions. Nonresident falconers may apply for one raptor trapping permit per trapping season. All nonresident raptor trapping permits shall be valid for a period not to exceed 60 consecutive

days, beginning on the date of issuance. No nestlings or raptor eggs may be taken. First year (passage) birds may be taken only from September 1 through January 31. The nonresident raptor trapping permit shall be valid for only one raptor of the species designated on the permit. The raptor trapping permit shall be carried by the permittee while in the act of trapping and the transportation of any subsequently trapped raptor.

571—101.4(481A) Wild Peregrine falcons. A wild Peregrine falcon permit allows for the capture, possession and use of a wild Peregrine falcon in hunting, subject to 571—Chapter 101. In addition to the following provisions, the holder of a wild Peregrine falcon permit shall comply with 571—101.1(481A), 571—101.2(481A), and 571—101.5(481A) through 571—101.7(481A) as well as other applicable law.

101.4(1) The taking of Peregrine falcons from the wild shall be conducted only by resident general or master falconers with at least five consecutive years of field experience in the years immediately preceding the filing of an application as described in 101.4(4) and subject to the following conditions:

a. Nestling birds shall not be taken. Young birds not yet capable of flight shall not be taken. Removal of eggs from nests is prohibited.

b. Only wild Peregrine falcons less than one year old shall be taken, and only between September 20 and October 20.

c. No permittee shall employ any method of take that is injurious to the bird.

d. No more than one wild Peregrine falcon per person may be possessed at any given time.

101.4(2) Recapture. Banded Peregrine falcons that are lost to the wild through accident may be retrapped at any time provided that the department has been advised of the loss and is notified of the attempt to recapture. If the banded raptor is recaptured, the department shall be notified of the recovery within 48 hours.

101.4(3) Previously banded Peregrines. Any wild Peregrine falcon captured with a federal leg band or any research band already attached shall be immediately released at the site of capture, and the band number and location of trapping site shall be reported to the department within 48 hours.

101.4(4) Lottery. Applications for wild Peregrine falcon permits shall be received by the department no later than July 31 of each year. Permit drawing from the names of qualifying applicants will be held at the August commission meeting.

571—101.5(481A) Annual reports. Each holder of a falconer's permit shall submit an annual report to the department by July 31 of each year. This report shall list all raptors in possession on the preceding thirtieth day of June and any raptor held during the year by species, sex (if known), age (if known), date acquired and where or from whom acquired, and whether the raptor escaped, died, was recaptured, or was released during this time period and the date on which the event occurred.

571—101.6(481A) Other provisions.

101.6(1) Any raptor captured with a research radio transmitter attached must be reported to the department within five days, and the raptor shall be released immediately.

101.6(2) No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits federal Form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing regional fish and wildlife service office within five days of such transaction. A falconry permittee shall notify the department in writing of the death, replacement, loss, release or temporary transfer or other such change in the status of the permittee's raptors within five days of such occurrence. Written authorization shall be obtained from the department before a replacement raptor may be secured. Each dead raptor shall be surrendered to the department or disposed of at the department's direction. Primary, secondary, and tail feathers may be retained and exchanged from these birds to imp or repair broken feathers.

101.6(3) Raptor exportation and importation permits may be issued to resident and nonresident falconers licensed to practice falconry in other states. Such permits shall be issued only when the export or import term will exceed 30 days. In the case of exportation or importation terms of less than 30 days, the permittee shall have in possession a photocopy of raptor possession documentation (Form 3-186A) and a photocopy of a valid state or federal falconry permit. Persons wishing to participate in hunting will be required to possess appropriate hunting licenses or permits.

101.6(4) A falconry permit holder shall obtain written authorization from the department before any raptor not indigenous to the state is intentionally released to the wild, at which time the band from the released raptor shall be removed and surrendered to the department. The band from an intentionally released raptor which is indigenous to the state shall also be removed and surrendered to the department. A standard federal bird band shall be attached to such raptors by the state or a service-authorized federal bird bander whenever possible. A falconer shall not permanently release a captive-bred raptor to the wild.

101.6(5) A raptor possessed under a state or federal falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors and only if the raptor is accompanied at all times by the properly completed Form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

101.6(6) A general or master falconer may charge a fee for presentation of a raptor education program to the public. The fee cannot exceed the amount required to cover the falconer's expenses.

101.6(7) When a hybrid or exotic falconry bird is flown free, it must be fitted with two working radio telemetry transmitters.

571—101.7(481A) Compliance. Permits will be revoked for any individual failing to comply with the provisions of these rules.

These rules are intended to implement Iowa Code sections 481A.39 and 481A.42.