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PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on [August 5, 2011] by the
Date prior to or same as filing date

Oregon Department of Fish & Wildlife (ODFW) Wildlife Division

Agency and Division

Administrative Rules Chapter Number

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to become effective [Upon Filing].
Date upon filing or later

Rulemaking Notice was published in the [July, 2011] Oregon Bulletin.**
Month and Year

RULE CAPTION

Amend Rules Relating to Falconry Licenses, Permits and Requirements

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

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

ADOPT: 635-055-0001

AMEND: 635-055-0010, 635-055-0015, 635-055-0020, 635-055-0025, 635-055-0030, 635-055-0035,
635-055-0037, 635-055-0040, 635-055-0050, 635-055-0055, 635-055-0060, 635-055-0075

REPEAL: 635-055-0065

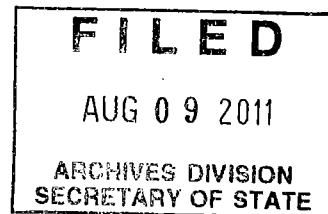
RENUMBER:

AMEND & RENUMBER: 635-055-0000 to 635-055-0002

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 relating to falconry licenses, permits and requirements to be in compliance with new federal regulations.

Debbie Colbert

August 9, 2011

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings 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, when filings are accepted until 5:00 pm on the preceding workday.
ARC 930-2005

DFW 109-2011

DIVISION 55

FALCONRY LICENSES, PERMITS AND REQUIREMENTS

635-055-0001

General Provisions

Any person licensed for falconry in the State of Oregon must comply with both federal and state falconry regulations. This means that a licensed Oregon falconer must comply with 50 CFR §21.3 and §21.29 (as in effect on August 5, 2011) except where state regulations are more restrictive than federal regulations. The following sections of this division specify those more-restrictive state regulations.

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

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

635-055-0002

Definition of Terms

For the purpose of these rules, the following definitions apply:

- (1) "Captive bred" means any raptor, including eggs, hatched in captivity resulting from parents that mated in captivity, or are the progeny of artificial insemination.
- (2) "Falconry" means the sport of taking quarry by means of a trained raptor.
- (3) "Indigenous raptor", for purposes of falconry, means golden eagle (*Aquila chrysaetos*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), northern goshawk (*Accipiter gentilis*), red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), merlin (*Falco columbarius*), prairie falcon (*Falco mexicanus*), peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), and great horned owl (*Bubo virginianus*).
- (4) "Management or operational activities" means activities on nest-site structures (bridges or buildings) that are operational or maintenance actions to the structure deemed necessary by the structure owners or managers. These activities do not include nest entries for the purposes of banding birds for scientific purposes.
- (5) "Passage" means first year migrant raptors capable of flight.
- (6) "Post-fledgling" means a young first-year bird capable of flight which has recently flown from its nest.
- (7) "Take" for the purposes of these rules, means to trap, capture, or attempt to trap or capture a raptor from the wild for the purpose of falconry.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0010

License Required to Practice Falconry

- (1) Before a falconer may participate in hunting any wildlife, he/she shall possess a valid Oregon falconry license, a hunting license, and any permit or stamp that is required.
- (2) Nonresident falconers hunting in Oregon shall have a valid falconry license from a state having a federally approved falconry program, a nonresident hunting license, and any permit or stamp that is required.

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

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

635-055-0015**Cost and Expiration Date of Falconry License**

- (1) The fee for a falconry license shall be \$125.00 (plus a \$2.00 license agent fee).
- (2) The falconry license is valid for three years. The three year period shall extend from July 1 of the year of issue to June 30 of the third year.

EXAMPLE: A license issued on November 1, 2011 will expire on June 30, 2014.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0020**Falconry Licenses, Qualifications for Classes of Licenses, and Permitted Raptors**

(1) All licensed Oregon falconers shall be residents of Oregon. A resident shall have a permanent residence and falconry facilities in Oregon; however, there is no time minimum before a person can claim residency for falconry purposes. Any person falconry hunting in Oregon with a resident hunting license must satisfy the residency requirements as detailed in OAR 635-052, 635-053, 635-054 and 635-065.

(2) All falconers shall demonstrate knowledge of the care of raptors, practice of falconry, and wildlife laws and regulations pertaining to hunting and falconry by receiving a score of 80 percent or higher on a written examination approved by the U.S. Fish and Wildlife Service or by showing documented falconry experience from another state having a federally approved falconry program before receiving their first Oregon Falconry License. Any applicant who fails to pass an examination may take another examination no earlier than 30 days from the date of the prior examination.

(3) Standards for falconry classes:

Apprentice	
Age	Must be 14 years or older (if 14-17 years old, parent or guardian must cosign application for activities)
Sponsor	Must be sponsored by a "Master Falconer," or by a "General Falconer" with at least three years experience. The sponsor shall supervise and guide the Apprentice Falconer on care, capture, and training of raptors and shall submit a written recommendation to the Department when the Apprentice is qualified to become a General Falconer.
Possession limit	1
Species allowed	Kestrel or Red-tailed hawk less than one year old, except nestlings.
Source	Wild-caught
Take from Wild	May not obtain more than 1 raptor for replacement during any 12-month period (i.e. no more than 2 birds annually.)
Duration before upgrade to General	At least 2 years (in which 4 months of each year must be actively practicing falconry)
General	
Age	Must be 18 years or older
Sponsor endorsement	Submit a document from the Apprentices' sponsor (General Falconer or Master Falconer) stating that the applicant has practiced falconry with raptor(s) at the Apprentice Falconer level or equivalent for at least 2 years, including maintaining, training, flying, and hunting with raptor(s) for at least 4 months in each year. That practice must include

	capture and release of falconry raptors; or by showing documented falconry experience at the General level from another state having a federally approved falconry program.
Possession limit	3 (including captive bred)
Species allowed	All species listed in OAR 635-055-0030; except gyrfalcons, peregrines or golden eagles.
Source	Wild or captive bred
Take from Wild	Up to 2 raptors annually; including no more than two raptors for replacement during any 12-month period.
Duration before upgrade to Master	At least 5 years
Master	
Possession limit	3 wild raptors, 3 of which may be Golden Eagles. Unlimited captive bred raptors if used for falconry.
Species allowed	All species listed in OAR 635-055-0030, including golden eagles
Source	Wild or captive bred
Take from Wild	Up to 2 raptors annually; including no more than 2 raptors for replacement during any 12-month period.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0025

Inspections, Facilities and Equipment

(1) An applicant's facilities shall be inspected and certified by the Department or a designated representative possessing knowledge of falconry facilities before a falconry license is issued. An inspection fee of \$15.00 shall be assessed for an inspection of facilities and shall accompany an inspection request form from the falconer. A facilities inspection is required for all new falconry applicants, falconers from another state who have moved to Oregon and Oregon falconers with newly constructed facilities. The raptor housing facilities shall provide protection from adverse weather, predators, and disturbance. All facilities and equipment shall be maintained at or above the level approved and are subject to inspection by the Department or Oregon State Police at any time. Inspection of facilities may take place without warrant or notice but, unless prompted by emergency or other extenuating circumstances, shall be limited to regular and usual business hours, including weekends.

(2) Temporary holding facilities may be used to transport or hold a raptor for not more than 30 consecutive days unless authorized by the Department (not to exceed 120 days). Temporary facilities shall contain a perch, be adequately ventilated, be sanitary and provide protection from adverse weather, predatory animals, domestic animals, extreme temperatures, wind and excessive disturbance.

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

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

635-055-0030

Limitations on Species Captured and/or Held

(1) Any adult raptor inadvertently taken must be immediately released.

(2) Only the following raptor species and number of each may be taken in the state during the capture season unless otherwise specified:

(a) Red-tailed hawk, American kestrel, Cooper's hawk, sharp-shinned hawk and great horned owl — unlimited and statewide except that great horned owls may be taken as nestlings only.

(b) Goshawk -- unlimited and statewide except that no nestling goshawks may be taken in the area north of the Umpqua River and west of Interstate 5. Passage goshawks may be taken statewide.

(c) Prairie falcon -- unlimited and statewide except that Wasco, Gilliam, Umatilla, Morrow, Sherman, Jackson and Josephine counties are closed to take of prairie falcons.

(d) Merlin -- unlimited and statewide except no nestling merlins may be taken.

(e) Gyrfalcon -- only 3 gyrfalcons may be captured during a capture season. Gyrfalcons may be captured statewide. Gyrfalcon capture permits are issued to Master Falconers only and an individual falconer may not capture more than one gyrfalcon per capture season. All gyrfalcon capture permit holders will be notified when the quota has been reached. No take of gyrfalcons is authorized for non-resident falconers.

(3) Golden eagle -- unlimited, capture authorized for counties east of the crest of the Cascade Mountain range only. Golden eagle capture permits are issued to Master Falconers only. Golden eagles may be captured, imported and/or used for falconry only in accordance with Federal falconry standards as detailed in 50 CFR§22.24.

(4) Peregrine falcons maybe taken statewide. Peregrine falcon capture permits are issued to Master Falconers only. The Commission will establish allowable take of peregrine falcons, not to exceed five percent of the estimated annual productivity of young peregrine falcons in Oregon, as required by U.S. Fish and Wildlife Service in its Environmental Assessment for the Take of Nestling Peregrine Falcons (Federal Register March 10, 2004, Volume 69, Number 47, page 11455).

(5) The possession of legally acquired non-indigenous raptors listed as a migratory bird in 50 CFR§10.13 is allowed. Only indigenous raptor species, raptors listed in 50 CFR§10.13 and raptors classified as non-controlled or controlled in the Oregon Wildlife Integrity Rules (OAR 635-056) are allowed. The possession for falconry purposes of hybrid raptors of species listed in 50 CFR§10 are allowed.

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

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

635-055-0035

Capture and Transportation of Raptors

A raptor capture permit is required prior to capturing or attempting to capture any raptor. A non-resident falconer from a state having a federally approved falconry program may obtain a capture permit for species listed in 635-055-0020(3) with the exception of gyrfalcons. All non-resident applications must include a copy of the applicant's current state falconry license. All applicants for golden eagle capture must include a copy of the federal authorization to take and possess golden eagles. Only 20 non-resident capture permits will be issued in total each capture season. All non-resident capture permits, except for capture permits for peregrine falcons, will be issued on a first come first served basis.

(1) A nonrefundable application fee of \$15.00 (plus a \$2.00 license agent fee) will be charged for each capture permit allowing the capture of one raptor per permit.

(2) Except for take of peregrine falcons, the Department will issue capture permits in the order applications are received. The permit process will begin January 1st of each year, and applicants must hold a valid Oregon falconry license or a falconry license from a state having a federally approved falconry program. The category of species shall be listed on the permit (e.g. "golden eagle", "gyrfalcon", "peregrine falcon", or "other raptor") and the falconer is authorized to take only one raptor from the category specified. A falconer may apply for a capture permit in more than one category. The falconer whose name appears on the permit must do the capturing except for peregrine falcon nestlings; the permit is not transferable.

(3) Upon taking the raptor authorized, the permit holder shall immediately validate the permit by recording the date, species, sex, county, and capture method and signing his/her name in the space provided. At the time of capture, the permit holder shall affix the permanent plastic band, issued with the permit, to one leg of the bird. Within five business days of capture, the permit holder shall take the bird to a Department office to have the permit certified.

(4) Lost, raptors at hack, or captive bred raptors may be re-trapped at anytime without a capture permit. All other raptors captured shall be immediately released.

(5) Exportation of wild caught raptors -- No raptor taken from the wild in Oregon shall be transferred to another person residing outside the state except those Oregon wild caught raptors held for six months or longer may be transferred to another person residing outside the state.

(6) An Oregon licensed falconer is allowed to retain legally captured raptors in their possession if they move from Oregon.

(7) Falconers are responsible for treatment and rehabilitation costs of raptors taken for falconry and injured during trapping efforts.

(8) The Department will not issue a falconry capture permit to any person who:

(a) Is awaiting prosecution for, or has been convicted of, any violation of the animal cruelty or animal abuse laws;

(b) Is awaiting prosecution for, or has been convicted of, a wildlife violation involving the illegal take of wildlife;

(c) Is awaiting prosecution for, or has been convicted of, aiding in the illegal take of wildlife; or

(d) Has had his or her hunting or fishing license suspended for a wildlife violation.

(9) A person who is denied a falconry capture permit pursuant to subsection (8) may appeal the decision through a contested case hearing.

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

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

635-055-0037

Peregrine Falcon Capture Permit

(1) Capture permit applications for peregrine falcons may be submitted to the Department beginning January 1st but must be received no later than March 1st of each year. The Department will issue peregrine falcon capture permits by way of a lottery draw pursuant to OAR 635-055-0037.

(2) The Department will not accept a permit application from any person who:

(a) Is awaiting prosecution for, or has been convicted of, any violation of the animal cruelty or animal abuse laws;

(b) Is awaiting prosecution for, or has been convicted of, a wildlife violation involving the illegal take of wildlife;

(c) Is awaiting prosecution for, or has been convicted of, aiding in the illegal take of wildlife; or

(d) Has had his or her hunting or fishing license suspended for a wildlife violation.

(3) A \$15.00 application fee (plus a \$2.00 license agent fee) must be submitted with the application. Application fees are nonrefundable, whether or not an applicant is successful in the drawing.

(4) Peregrine capture permit applications (including fees) must be submitted to the Department's Salem headquarters office no later than March 1 each year.

(a) If hand delivered, an application must be received at Department headquarters office (3406 Cherry Ave, NE, Salem, OR, 97303) by 5:00 p.m. on March 1

(b) If sent via postal mail, an application must be postmarked no later than March 1.

(5) If an applicant violates any of the following restrictions, the Department will remove his or her application from the drawing.

(a) An applicant may submit only one peregrine capture permit application per capture season.
(b) An applicant must submit a completed application containing name, license number, address, and phone number.

(6) The Department will conduct the lottery to award peregrine falcon capture permits by drawing names of eligible entrants at random. To participate in the lottery, a person must:

(a) If an Oregon resident possess a current Master Falconers license as per OAR 635-055-0002;
or

(b) If a nonresident possess a Master Falconers license from a state having a federally approved falconry program.

(7)(a) During each year's lottery, the Department will draw six Oregon resident applications and two alternates, plus one non-resident application and a non-resident alternate.

(b) The Department will notify successful applicants and alternates by mail. If the applicant does not reply in writing (mail, fax, or email) within 10 calendar days, the applicant will be disqualified and the Department will offer the permit to the next alternate. If neither alternate replies in the required time, the permit will not be issued.

(8) If a permit holder violates any of the following rules, the Department will invalidate his or her peregrine capture permit. Taking of a peregrine falcon without a valid permit is a violation of these rules and is therefore an unlawful taking.

(a) The first four (4) resident peregrine capture permit applications drawn in the lottery (indicating on the application form a wish to take a nestling peregrine falcon) will be authorized to take a nestling from a natural nest site, or to take a post fledgling bird (pursuant to 635-055-0035 (5)(b)). Resident permit holders who are authorized to take a nestling from a natural site must provide the Department Falconry Program in writing with a clearly marked hardcopy map with sufficient labels and information to determine location (Public Land Survey System data which includes Township, Range, Section, Quarter Section, and Quarter or a coordinate pair [latitude/longitude, or UTM/Meters] derived from a GPS unit indicating datum, brand and model) of the nest sites they have selected for potential nestling take. Such information must be received by the Department within two weeks after receipt of a raptor capture permit. Resident master falconer permit-holders may instead accept a nestling peregrine falcon taken by persons (authorized by the Department) from man-made structures (but only where nestlings need to be removed from a nest during management or operational activities on the structures). In the event that nestlings become available from structures, resident permits will be given preference over nonresidents in the lottery.

(b) The remaining two (2) successful resident applicants may accept a young peregrine falcon taken by persons (authorized by the Department) from man-made structures (but only where nestlings need to be removed from a nest during management or operational activities on the structures). Alternatively, the permit holder may take a post-fledgling bird (pursuant to 635-055-0035 (5) (b)).

(c) Of the number of permits available for issuance annually, the Department will make one such permit available to nonresidents. The nonresident permit holder may accept a nestling peregrine falcon taken by persons (authorized by the Department) from man-made structures (but only where nestlings need to be removed from a nest during management or operational activities on the structures). Alternatively, the permit holder may take a post-fledgling bird (pursuant to 635-055-0035 (5) (b)).

(9) Each permit will include conditions crafted by the Department on a case by case basis to address the capture proposal. Such conditions may include, but are not limited to, requirements to protect the safety of falconers and other humans during capture of peregrine falcons, and will specify where the permit holder may capture peregrine falcons. The following general conditions apply to all peregrine falcon capture permits:

(a) Young falcons may be removed from their eyries (nests) between May 15th and June 30th but only when between 15 and 24 days of age. At least one nestling must be left in each eyrie prior to fledging.

(A) Prior to entering any nest, a permit holder must monitor each potential nest site to assess the presence and occupancy of nesting peregrine falcons and determine the chronology of nestlings in the selected nest(s) by following a protocol provided by the Department. Using a form provided by the Department, the permit holder must notify the Department of the site location (by providing a clearly marked map with sufficient labels and information to determine location using either Public Land Survey System data which includes Township, Range, Section, Quarter Section, and Quarter or a coordinate pair [latitude/longitude, or UTM/Meters] derived from a GPS unit indicating datum, brand and model); the names of the property owners; the number of young in the nest and approximate ages of the nestlings; and nest monitoring documentation collected to date at the specific nest site proposed for entry. The permit holder must provide this information to the Department Falconry Program at least seven (7) days prior to attempting any nest entry.

(B) Permit-holders must also contact in writing or by phone the appropriate Department biologist in the District or Watershed in which the nest(s) are located at least seven (7) days prior to proposed nest entry. Where nests are located on federal land, permit holders must in addition contact U.S. Forest Service or Bureau of Land Management biologists before entering nest sites. State and federal biologists may accompany permit-holders during take activities.

(C) The permit holder must be present when the nestling is being removed from the eyrie.

(b) A post-fledgling peregrine falcon may be taken (trapped) by a permitted master falconer during the time period between when the falcon first flies from its nest through August 31st.

(A) Trapping may be attempted only at locations approved by the Department.

(B) The permit holder must be present at all times whenever a trap is in operation while attempting to take a post-fledgling peregrine falcon.

(C) A permit holder must notify the Department's Falconry Program at the Salem headquarters office prior to the proposed dates of any peregrine falcon capture attempts. Proposed capture locations must be disclosed to the Department program staff prior to attempting to capture a post-fledgling peregrine falcon.

(c) Each permit holder who takes a peregrine falcon from the wild must report the sex and precise capture location to the Department and the U.S. Fish and Wildlife Service within 5 days following capture by providing a clearly marked map with sufficient labels and information to determine location using Public Land Survey System data which includes Township, Range, Section, Quarter Section, and Quarter or a coordinate pair (latitude/longitude, or UTM/Meters) derived from a GPS unit indicating datum, brand and model. If the falconer later determines that the sex of any peregrine falcon taken was reported incorrectly, then the falconer must submit a corrected report as soon as possible after discovering the error.

(d) Permit holders must band each peregrine falcon taken with a band provided by the Department.

(e) After a captured falcon reaches 30 days of age, the permit holder must pluck breast feathers from the falcon and submit them to the Department along with a written record of the precise location of where the bird was taken from in the wild.

(10) Upon taking the raptor authorized, the permit holder must immediately validate the permit by recording the date, species, sex, county, and capture method and signing his or her name in the space provided. At the time of capture, the permit holder must affix the permanent plastic

band, issued with the permit, to one leg of the bird. Within five business days of capture, the permit holder must take the bird to a Department office to have the permit certified.

(11) Peregrine falcon capture permits are not transferable.

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

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

635-055-0040

Banding and Identification of Raptors

(1) All raptor species listed in 50 CFR §21.29 (c)(7) captured from the wild and held in captivity shall bear an identifying band approved by the Department. Goshawks, Harris' hawks (*Parabuteo unicinctus*), Gyrfalcons and peregrine falcons shall be banded with a permanent numbered U.S. Fish and Wildlife Service leg band.

(2) All captive bred raptors must be banded with a seamless band or other federally authorized band in accordance with 50 CFR §21.29(c)(7)(ii) and §21.30.

(3) Raptor bands shall not be altered, removed, or replaced without permission of the Department. The band shall not be defaced or counterfeited.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0050

Capture Season

Young raptors of the year may be taken (unless otherwise limited in the permit) May through February (the "capture season"). EXCEPTION: Great horned owl nestlings may be taken February through June.

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

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

635-055-0055

Release of Any Raptor

Falconry birds may be released from a motor-propelled vehicle for the purpose of performing bird abatement, training raptors, or hunting with raptors.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0060

Reports

(1) Annual Report -- All licensed falconers shall submit an annual report not later than January 15 each year disclosing the number of raptors possessed, and any changes in personal contact information including address, phone number and email updates. For master and general falconers, the report must also indicate whether the falconer is willing to sponsor an apprentice falconer, plus the names of any apprentices the falconer currently sponsors. Failure to submit an annual report by January 15 may lead to suspension of the falconry license and the ability to hold raptors.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

635-055-0075

Disposition of Accidentally Killed Wildlife

If a falconer's raptor kills any native prey species unintentionally (including a game animal taken outside of a regular hunting season) the falconer:

- (1) May allow his or her raptor to feed on the animal, but may not take the animal into possession;
- (2) Must report take of any federally listed threatened or endangered species to the U. S. Fish and Wildlife Service State Office or appropriate U. S. Fish and Wildlife Service field office nearest to the location in which the take occurred; and
- (3) Must report to the Department's program staff within five days the take of any species taken outside of regular hunting season and any migratory birds, state threatened or endangered or regulated birds. The report must include name of the species taken, date, number taken and approximate location. The information may be submitted by phone, mail, fax, email, or in person.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

Amended August 2011