TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 35 CAPTIVE WILDLIFE USES
PART 8 FALCONRY

19.35.8.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.35.8.1 NMAC - Rp, 19 NMAC 35.1.1, 01/01/2012]

19.35.8.2 SCOPE: Members of the public interested in the participating in the sport of falconry. Seasons for protected species which may be taken through falconry are found in Chapter 31 Part 5 and Part 6, and the license fee is found in Chapter 30 Part 1.
[19.35.8.2 NMAC - Rp, 19 NMAC 35.1.2, 01/01/2012]

19.35.8.3 STATUTORY AUTHORITY: Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.
[19.35.8.3 NMAC - Rp, 19 NMAC 35.1.3, 01/01/2012]

19.35.8.4 DURATION: Permanent.
[19.35.8.4 NMAC - Rp, 19 NMAC 35.1.4, 01/01/2012]

19.35.8.5 EFFECTIVE DATE: January 1, 2012, unless a later date is cited at the end of a section.
[19.35.8.5 NMAC - Rp, 19 NMAC 35.1.5, 01/01/2012]

19.35.8.6 OBJECTIVE: Establish rules for the use of protected raptors used in falconry activities.
[19.35.8.6 NMAC - Rp, 19 NMAC 35.1.6, 01/01/2012]

19.35.8.7 DEFINITIONS:

A. “Band” shall mean a permanent, nonreusable, numbered federal raptor leg band supplied by the department or by the USFWS.

B. “Department” shall mean the New Mexico department of game and fish.

C. "Eyass" shall mean a young raptor not yet capable of flight.

D. “Falconry” shall mean the ownership, caring for, and training of raptors for the pursuit of wild game, and hunting wild game with raptors. Falconry includes the taking, or possession of captive bred or wild raptors to use in the sport; and includes the transfer, and transporting of raptors.

E. “Hack” or “hacking” shall mean the temporary release of a raptor held for falconry to the wild so that it may survive on its own.

F. “Hybrid” means offspring of any one species in Section 10.13 of Subchapter B of Title 50 of the Code of Federal Regulations and any other species, or of any two species in Section 10.13 of Subchapter B of this chapter, and any progeny of those birds.

G. “Imping” to graft or repair (a wing, tail, or feather) with a feather to improve a falcon's flying capacity.

H. “Imprint” shall mean a raptor that is hand-raised in isolation from two weeks of age until it has fledged, and has identified itself with humans rather than its own species. An imprinted raptor is considered to be so for its entire lifetime.

I. “Microchip” shall mean an ISO (international organization for standardization) compliant (134.2 khz) microchip purchased and supplied by the falconer permit holder.

J. “Passage bird” shall mean a raptor in its first year.

K. "Raptors" shall mean a migratory bird of the Order Accipitriformes, the Order Falconiformes or the Order Strigiformes listed in Section 10.13 of Title 50 of the Code of Federal Regulations, including the bald eagle (Haliaeetus leucocephalus), and the golden eagle (Aquila chrysaetos).

L. "Raptor-taking permits" shall mean permits to take raptors from the wild for falconry purposes.

M. "Temporary foreign visitor" shall mean a foreign national, not an alien residing permanently in the United States, who qualifies as a general or master class falconer.

N. "USFWS" shall mean the United States fish and wildlife service.

[19.35.8.7 NMAC - Rp, 19 NMAC 35.1.7, 01/01/2012]

19.35.8.8 FALCONER PERMITS:

A. Permit requirement to practice falconry in New Mexico: A New Mexico falconer permit, a New Mexico temporary foreign visitor falconer permit or, for nonresidents, a valid state permit or a nonresident temporary foreign visitor falconer permit from another state is required.

B. Duration of falconer permits: All falconer permits shall be issued for a period not to exceed five years and shall expire March 31. All falconer permits may be renewed if the permittee has not violated relevant state or federal laws or regulations.

[19.35.8.8 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

19.35.8.9 REQUIREMENTS FOR ISSUANCE OF FALCONER PERMITS: The director of the department may issue a falconer permit to an applicant who meets the following requirements.

A. The applicant must qualify as a resident of New Mexico, as prescribed by Chapter 17-3-4 NMSA 1978 Compilation.

B. Falconer permits may not be transferred to other persons.

C. Age, experience, sponsorship:

(1) Apprentice permit:

(a) The applicant for an apprentice permit must be at least 12 years of age and must have the written consent of a parent or legal guardian to assume responsibility for the apprentice's activities if under 18 years of age.

(b) A sponsor who holds a New Mexico general permit with two years experience, or a master permit, is required until the apprentice advances to general falconer.

(c) The applicant for an apprentice permit shall name the sponsor in the application submitted and shall include a letter from the sponsor indicating his or her willingness to sponsor the apprentice.

(d) The applicant for an apprentice permit must successfully pass the state falconry examination before he or she will be granted an apprentice permit.

(2) General permit:

(a) The applicant for a general permit must be at least 16 years of age. If the applicant for a general permit is under 18 years of age, a parent or legal guardian must sign the general permit application to assume responsibility for the applicant's activities.

(b) The general permit applicant shall submit a letter from a general or master falconer (preferably the applicant's sponsor) that the applicant shall have had at least two years experience in the practice of falconry at the apprentice level or its equivalent, including maintaining, training, flying and hunting raptor(s) for at least four months in each year. That practice may include capture and release of falconry raptors.

(c) An applicant for a general falconer permit may not substitute any falconry school program or education to shorten the period of two years at the apprentice level.

(3) Master permit: The applicant for a master permit shall have had at least five years experience in the practice of falconry at the general class level or equivalent experience.

(4) Temporary foreign visitor permit:

(a) A temporary foreign visitor may not apply for a permit at the apprentice class level.

(b) The applicant shall present evidence by letters of recommendation and experience, written in the English language, by other falconers or officials who have personal knowledge of the applicant's falconry experience, including the species of raptors previously flown and the number of years practicing falconry.

(c) The applicant for a temporary foreign visitor permit must pass the state falconry examination.

(d) Based on the evidence provided, the department shall determine the class level for the applicant as general or master class.

(e) A temporary foreign visitor applicant must present proof of legal temporary status in the United States by the immigration and naturalization service.

(f) A temporary foreign visitor applicant must be sponsored by a New Mexico resident general or master class falconer. The applicant shall present a letter with the application from the resident sponsor which shall confirm that the applicant may house and care for the applicant's raptors at the sponsor's falconry facilities. A New Mexico temporary foreign visitor permittee's sponsor may fly, house and care for the permittee's raptors, when provided a 3-186A form and letter of authorization, if the permittee intends to return to New Mexico regularly to practice falconry. Proof of the length of stay may be provided by a copy of the applicant's foreign passport or other immigration and naturalization service documentation.

(g) A permanent resident alien who resides permanently in New Mexico may not apply for a temporary foreign visitor permit, but may apply for a resident falconer permit.

D. Examination:

(1) The applicant for an apprentice or temporary foreign visitor permit shall answer correctly at least 80 percent of the questions on the examination relating to basic biology, care and handling of raptors, laws and regulations, disease, literature and other appropriate subject matter.

(2) The examination shall be conducted under supervised conditions by a department employee or a permitted master falconer representing the department.

(3) An applicant who fails to pass an examination must wait three months to retake it.

E. Fees:

(1) The applicant shall submit payment with the original application.

(2) Prior to examination, the applicant shall submit a nonrefundable examination fee of $10.00. A person who fails to pass the examination shall not be required to pay additional examination fees when retaking the examination.

[19.35.8.9 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

19.35.8.10 CLASSES OF FALCONER PERMITS AND AUTHORIZED POSSESSION:

A. Apprentice permit:

(1) An apprentice falconer permittee may possess one American kestrel (Falco sparverius) or one red-tailed hawk (Buteo jamaicensis).

(2) An apprentice falconer may conduct abatement activities only as a subpermittee of a master falconer who holds an abatement permit.

(3) An apprentice falconer may present a conservation education program when accompanied by a master or general permit holder. A conservation education program shall provide information on raptor biology, ecological roles and conservation needs, and the permit holder may charge a fee to cover costs.

B. General permit:

(1) A general falconer permittee may possess not more than three raptors (including hybrids). The permittee may possess any wild-caught or captive-bred raptor except for eagle species and any other species restricted by the department.

(2) A general falconer may conduct abatement activities only as a subpermittee of a master falconer who holds an abatement permit.

(3) A general falconer may use a bird held under a falconer permit for conservation education programs presented in a public venue. A conservation education program shall provide information on raptor biology, ecological roles and conservation needs and the permit holder may charge a fee to cover costs.

(4) A general falconer with two or more years of experience at the general falconer level may sponsor up to two apprentice falconers.

C. Master permit:

(1) The master falconer permit shall authorize the permittee to possess not more than five wild-caught raptors and unlimited captive-bred raptors (including hybrids) if used for falconry, not to include any species listed as endangered in Title 50, Code of Federal Regulations, Part 17, except captive-bred endangered species per Title 50 Code of Federal Regulations, Part 17.

(2) The five wild-caught raptors authorized may include no more than a total of three golden eagles, white-tailed eagles, or Steller's sea eagle, and may include not more than three raptors listed as threatened in Title 50, Code of Federal Regulations, and then only in accordance with the provisions of Part 17.

(3) To possess a golden eagle, white-tailed eagle, or Stellar's sea eagle, a master falconer shall submit to the department a written request to possess individuals of the listed species. The written request must contain a description of the applicant's experience in handling large raptors, including information about the species handled and the type and duration of the activity in which the applicant has engaged. The written request required by this subsection must be accompanied by at least two letters of reference from people with experience handling or flying large raptors such as eagles, ferruginous hawks (Buteo regalis), goshawks (Accipiter gentilis), or great horned owls. Each letter of reference must contain a concise history of the applicants experience with large raptors, and must attest to the applicant's ability to care for eagles and fly them in falconry. A master falconer may take up to two golden eagles within a calendar year where it is permitted under a depredation permit.

(4) A master falconer may conduct abatement activities with raptors possessed under his or her falconry permit, provided the raptors are captive-bred and the permittee has obtained a federal abatement permit for that purpose. No person other than the master falconer to whom an abatement permit has been issued and their subpermittee falconers may use a raptor possessed under a falconry permit to conduct abatement activities.

(5) A master falconer may receive payment, and may pay a general or apprentice falconer for providing abatement services under a federal permit for that purpose.

(6) A master falconer may use a raptor held under a falconer permit for conservation education programs presented in a public venue. A conservation education program shall provide information on raptors' biology, ecological roles and conservation needs, and the permit holder may charge a fee to cover costs.

(7) A master falconer may sponsor up to three apprentices.

D. Temporary foreign visitor permit:

(1) The temporary foreign visitor falconer permit shall authorize the permittee to possess no more than three captive-bred raptors or hybrids if the permittee is determined to be a general class falconer or five captive-bred raptors or hybrids if the permittee is determined to be a master class falconer.

(2) A temporary foreign visitor falconer may conduct abatement activities only as a subpermittee of a master falconer who holds an abatement permit.

(3) A temporary foreign visitor falconer may not act as a sponsor for an apprentice falconer.

E. Nonresident reciprocity:

(1) The department shall grant reciprocity and accept a permit issued to a nonresident falconer temporarily in New Mexico.

(2) The department shall accept a permit issued to a non-resident falconer permanently moving to New Mexico for the period required to establish residency and to meet all other requirements to qualify for a New Mexico resident falconer permit.

[19.35.8.10 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

19.35.8.11 DIRECTORS AUTHORITY AND TAKING OF RAPTORS: The director of the department may develop a policy to permit raptor take.

A. A raptor may be taken by a resident falconer who holds a valid falconer permit.

(1) The holder of a valid falconer permit, may, at any time of the year, recapture by means of traps or nets any escaped raptor that was legally possessed.

(2) The holder of a New Mexico general or master falconer permit may, take an eyass or passage raptor as permitted herein.

(3) Any raptor taken shall be reported to the department within 10 days. The notification shall be filed through the USFWS 3186-A electronic reporting system unless otherwise required or approved by the department.

(4) No falconer shall possess a species raptor not authorized by his or her permit

(5) No falconer shall exceed the number of raptors authorized by his or her permit..

B. Withholding of raptor-taking permits: The taking of any species whose wild populations in New Mexico that are significantly or adversely affected by such take may be withheld through the director's raptor take policy.

C. Raptor-taking seasons:

(1) Eyasses may be taken from April 1 through January 15 of the subsequent year, and only by holders of general or master falconer permits. No more than two eyasses may be taken by a permittee during the raptor-taking season.

(2) Passage raptors may be taken from April 1 through January 15 of the subsequent year.

D. Age restrictions of raptors to be taken:

(1) No raptor older than one year of age may be taken other than the American kestrel (Falco sparverius) or the great horned owl (Bubo virginianus).

(2) A holder of a general or master falconer permit may acquire a raptor older than one year of age if it was taken from the wild for the purpose of controlling depredation or for its rehabilitation and if the permittee may legally possess it.

E. Limits on taking of raptors:

(1) A falconer may take no more than two raptors from the wild during any calendar year.

(2) A general or master falconer may take one raptor of a federally-listed threatened species of raptor during any calendar year, if he or she has an endangered species permit issued by the USFWS.

F. Valid area: Raptors shall be taken only in areas specified by the department in the director's raptor take policy.

G. Eligibility for and species authorized for nonresident raptor-taking permits; reports:

(1) A raptor-taking permit may be issued only to a person who holds a valid falconer permit from a state that allows a nonresident take of raptors.

(2) Nonresidents may take only those species as defined in the director's raptor take policy and each raptor take permit shall be issued only for those species authorized for resident falconers of equivalent class.

(3) A raptor taken by a nonresident must be reported on the USFWS 3186-A electronic reporting system within 10 days of capture.

H. Means of taking: Raptors shall not be taken with steel-jawed traps, chains, jump traps, or pole traps, but may be taken as authorized by the director.

[19.35.8.11 NMAC - Rp, 19 NMAC 35.1.8, 01/01/2012]

19.35.8.12 FACILITIES AND EQUIPMENT:

A. Inspection of facilities. An inspection is required for all new applicants and at the time of renewal if the permitted falconer is an apprentice falconer, or if the facilities have been moved. If a department officer or a master falconer representing the department has inspected the applicant's falconry facilities and equipment and found that they meet or exceed the standards below, the inspecting department officer or master falconer must submit a signed certification of the facility, the equipment and the inspection to the Santa Fe office of the department before the permit is issued or renewed.

B. Indoor facilities must be large enough to allow easy access for care of raptors. Each raptor must have an area large enough to allow it to fly if it is untethered or if tethered, to fully extend its wings or bate (attempt to fly while tethered) without damaging its feathers or contacting other raptors.

(1) If more than one raptor is to be kept in a single facility, the raptors must be separated by partitions or tethered, or raptors may be housed untethered together if they are compatible with each other.

(2) If raptors housed in this indoor facility are not tethered, all walls that are not solid must be protected on the inside. Suitable materials may include vertical bars spaced narrower than the width of the body of the smallest raptor to be housed in the enclosure. However, heavy-duty netting or other such materials may be used to cover the walls or roof of the enclosure.

(3) Each raptor must have a pan of clean water available unless weather conditions, perch type, or some other factor makes access to water unsafe for the raptor. There shall be at least one window for sunlight, and must provide a healthy environment for raptors inside, and a secure door that can be easily closed. The floor shall permit easy cleaning and shall be well drained. Acceptable indoor facilities include shelf perch enclosures where raptors are tethered side by side.

(4) Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and maintain healthy feathers. Falconry raptors may be kept inside a residence, raptors must be tethered and each raptor must have a suitable perch. The residence windows or other openings do not need to be modified.

C. Outdoor facilities: If the applicant also provides outdoor facilities, they shall meet the following standards:

(1) An outdoor facility must be totally enclosed, and may be made of heavy gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material.

(2) The facility must be covered and have at least a covered perch to protect a raptor held in it from predators and weather. The facility must be large enough to insure that the raptors cannot strike the enclosure when flying from the perch.

(3) New types of housing facilities or husbandry practices may be used if they satisfy the requirements above.

D. Equipment: The following items shall be in the applicant's possession before issuance of a falconer permit.

(1) Jesses. At least one pair of Aylmeri or Aylmeri type jesses, constructed of pliable, high-quality leather or suitable synthetic material, for use when the raptor is flown free.

(2) Leash and swivel. At least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design.

(3) Bath. At least one water container, two to six inches deep, and wider than the length of the raptor, for each raptor.

(4) Outdoor perch. At least one weathering area perch for each raptor, of acceptable design for the species of raptor.

(5) Weighing device. A reliable scale or balance suitable for weighing the species of raptor(s).

(6) Feathers: A permittee may retain molted feathers and feathers from raptors that die in captivity but may use them only for imping, or may donate feathers, except golden eagles feathers, to any person or institution with a valid permit to have them.

E. Facilities for temporary holding or transportation of raptors: Any temporary facility for transporting or holding a raptor shall have an appropriate perch and be protected from extreme temperatures and excessive disturbance. No raptor shall be held in such a temporary facility for more than 120 days unless authorized by the department for extenuating circumstances.

F. Bands and transmitters:

(1) Species requiring a band: A nonreusable numbered band must be attached to every wild goshawk, gyrfalcon (Falco rusticolus), Harris's hawk , and peregrine falcon (Falco peregrinus) held for falconry. Bands for additional species may be required by the department.

(2) It shall be illegal to alter, counterfeit or deface a band. However, a falconer permittee may remove the rear tab from the nonreusable bands and may smooth any imperfect surface, if doing so does not affect the integrity of the band or its number.

(3) Return of band: The permittee shall remove and return the band to the department from any raptor that dies or is released with the exception of released captive bred raptors.

(4) Transmitters: When flown for falconry, a hybrid raptor must have two attached radio transmitters that will allow the permittee to locate it in the event of loss or failure of a single transmitter.

G. Maintenance; revocation and renewal of permits:

(1) Facilities and equipment: Each falconer permittee must, maintain his or her falconry facilities and equipment at or above the standards met to qualify for the permit. An officer of the department may inspect the falconer's facilities and equipment at any reasonable hour only in the presence of the falconer permittee; except under exigent circumstances.

(2) Revocation and renewal: Falconer permits may be revoked or renewals denied for failure to maintain facilities or equipment or for violation of the provisions of this regulation or of Chapter 17-2-14 NMSA 1978 Compilation.

H. Reports:

(1) Department report: Upon request from the department, a permittee must report on operations conducted under the authority of his or her permit. A report from an apprentice falconer must be co-signed by the sponsor.

(2) Federal report: A permittee who takes, purchases, receives or otherwise acquires, sells, barters, transfers or otherwise disposes of a raptor shall be reported to the department within 10 days. The notification shall be filed through the USFWS 3186-A electronic reporting in accordance with appropriate state and federal regulations. [19.35.8.12 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

19.35.8.13 IMPORTATION, TRANSPORT AND TEMPORARY HOLDING:

A. Importation: A copy of a valid falconer permit shall suffice as an importation permit for raptors brought into the state.

(1) A permitted falconer may import any raptor from another state, provided that the permittee does not exceed the number and species of raptors that can be held under his or her permit.

(2) The holder of a New Mexico temporary foreign visitor falconer permit may only import captive-bred raptor(s) from another state, provided the falconer does not exceed the number and species of raptors that he or she may possess.

B. Temporary importation: an importation permit is not required by nonresident falconers temporarily importing and possessing a raptor while in transit or for the purpose of falconry.

C. Relocation importation: a permitted falconer shall notify the department prior to relocating to New Mexico with a legally possessed raptor. Within 10 days of the arrival, notification shall be filed through USFWS 3-186A electronic reporting system unless otherwise required or approved by the department. The permittee shall document that the raptor was legally obtained, with such certificates, permits to take, federal form 3-186A submitted by the raptor propagator, etc.

D. Transportation of raptors:

(1) A New Mexico falconer may transport within New Mexico a raptor held under his or her permit and raptor(s) held for another falconer while in temporary care.

(2) A permittee may remove the raptor from New Mexico for meets, trials, and hunting in other states and return the raptor to New Mexico without obtaining New Mexico importation permit, provided the falconer permittee obtains any permit or license required for this activity by the state into which the raptor is taken.

(3) A nonresident falconer does not need an importation permit to bring a falconry raptor(s) into New Mexico for hunting or attending a falconry meet as provided in Chapter 17-3-32.1 NMSA 1978 Compilation.

E. Temporary holding of raptors: Raptors possessed under authority of a New Mexico falconry permit may be temporarily held or flown by another person (caretaker) at a location different than the falconer's.

(1) The permittee shall provide such caretaker with a signed statement authorizing the temporary transfer of the raptor to the caretaker and the temporary holding facility, as well as a copy of the federal 3186A form showing the permittee legally acquired the raptor.

(2) If the period of care will exceed 120 days, the permittee shall send written notification of such extended temporary care to the department no later than five days prior to the temporary care.

(3) The care of a permittee's raptor may be extended indefinitely by the department in extenuating circumstances such as illness, military service, or family emergency. Notification shall include the name and location of the caretaker, the reason for the extended temporary care, whether the raptor(s) may be exercised and flown, and approximately how many days the caretaker will be responsible for the raptor(s).

[19.35.8.13 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

19.35.8.14 RELEASE OF RAPTORS: A permittee who wishes to release a raptor must notify the department 10 days before the intended release date.

A. The department will respond to the request within the 10 day period, and the raptor may be released back into the wild in accordance with approval and instruction from the department.

B. The department may require a period of hacking the raptor back to the wild at an appropriate time of year and an appropriate location.

C. The intentional permanent release of hybrid raptors is prohibited.

[19.35.8.14 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

19.35.8.15 RAPTOR PROPAGATION: A federal permit is required for raptor propagation and activities associated with it are permitted in accordance with Title 50, Code of Federal Regulations, Section 21.30. No additional state permit is required.

A. A falconry raptor may be temporarily used for propagation without notice of transfer by individuals permitted to conduct raptor propagation.

B. A permittee may transfer a wild-caught falconry raptor to a raptor propagation permit after the raptor has been used in falconry for at least two years (one year for a sharp-shinned hawk (Accipiter striatus), a Cooper's hawk (Accipiter cooperii), a merlin (Falco columbarius), or an American kestrel).

C. When transferred to a propagation permit the acquisition of the raptor by the propagator shall be reported to the department within 10 days. The notification shall be filed through the USFWS 3186-A electronic reporting in accordance with appropriate state and federal regulations.

D. Raptors possessed for propagation, including all progeny produced pursuant to the permitted activity, must be identified with a band issued by the department. A falconer may purchase and implant an ISO microchip in addition to the band.

[19.35.8.15 NMAC - Rp, 19 NMAC 35.1.9, 01/01/2012]

HISTORY OF 19.35.8 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DGF 76-5, Regulation No. 575, Regulation of Falconry Activities, 5/25/76.
DGF 76-5, Amendment No. 1, Order No. 9-76, Amending Regulation No. 575, 12/6/76.
DGF 76-5, Amendment No. 2, Order No. 2-79, Amending Regulation No. 575, 2/23/79.
Regulation 639, Regulation of Falconry Activities, 9/11/85.
Regulation 688, Regulation of Falconry Activities, 8/6/91.

History of Repealed Material:

19 NMAC 35.1, Falconry, filed 12/15/1995 - Repealed effective 12/31/2011