



Federal Register

**Wednesday,
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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 21 and 22

**Migratory Bird Permits; Changes in the
Regulations Governing Falconry; Notice of
Intent To Prepare an Environmental
Assessment for Falconry and Raptor
Propagation Activities; Proposed Rule and
Notice**

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Parts 21 and 22**

RIN 1018-AG11

Migratory Bird Permits; Changes in the Regulations Governing Falconry**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (we or us) proposes changes in the regulations governing the practice of falconry in the United States. We propose reorganization of the current regulations. We have added or changed some provisions in the current regulations. The changes are intended to make it easier to understand the requirements for the practice of falconry, including take of birds from the wild, and the procedures for obtaining a falconry permit. We also propose changes to simplify or clarify those regulations, or to change them as necessary to accompany the changes in the falconry regulations. This rule also adds a provision to approve falconry regulations adopted or established by Indian Tribes.

DATES: Send comments on this proposal by May 10, 2005.

ADDRESSES: You may submit comments, identified by RIN 1018-AG11, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Agency Web site: <http://migratorybirds.fws.gov>. Follow the links to submit a comment.

- E-mail address for comments: FalconryRegulations@fws.gov. Include RIN number 1018-AG11 in the subject line of the message.

- Fax: 703-358-2217.

- Mail: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP-4107, Arlington, Virginia 22203-1610.

- Hand Delivery: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203-1610.

Instructions: All submissions received must include Regulatory Information Number (RIN) 1018-AG11 at the beginning. All comments received, including any personal information provided, will be available for public inspection at the address given above for hand delivery of comments. For

detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703-358-1714, or Dr. George T. Allen, Wildlife Biologist, 703-358-1825.

SUPPLEMENTARY INFORMATION:**Background**

The Fish and Wildlife Service is the Federal agency with the primary responsibility for managing migratory birds. Our authority is based on the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). Raptors (birds of prey) are afforded Federal protection by the 1972 amendment to the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States—Mexico, as amended; the Convention between the United States and Japan for the Protection of Migratory Birds in Danger of Extinction and Their Environment, September 19, 1974; and the Convention Between the United States of America and the Union of Soviet Socialist Republics (Russia) Concerning the Conservation of Migratory Birds and Their Environment, November 26, 1976.

The taking and possession of raptors are strictly prohibited except as permitted under regulations implementing the MBTA. Activities with migratory birds are prohibited unless specifically authorized by regulation. Regulations governing the issuance of permits for migratory birds are authorized by the MBTA and subsequent regulations. They are in title 50, Code of Federal Regulations, parts 10, 13, 21, and 22. Raptors also may be protected by State and tribal regulations.

Regulations for falconry schools are not covered under this rule. We have concluded that falconry schools are most appropriately dealt with under regulations governing education with migratory birds.

Changes in the Regulations Governing Falconry

We have rewritten the regulations in plain language and have changed or added some provisions. We seek comment on these proposed regulations, particularly the following substantive changes.

1. A State or tribal falconry permit will suffice for the practice of falconry.

No Federal falconry permit will be required after a State or Tribe is in compliance with these regulations. A State/Federal double permitting system has been in place since implementation of Federal regulations governing falconry. Every State government, except those of Connecticut and Hawaii, has now implemented regulations governing falconry. The government of the District of Columbia has not implemented regulations governing falconry. States and the District of Columbia must operate within the bounds of the Federal regulations to allow falconry. We have concluded that with State and tribal permitting in place (if Tribes choose to do so), we can reduce the paperwork burden on permittees and the Service, and can eliminate the cost of a Federal permit for falconry permittees. All State and tribal falconry permitting must operate under these Federal requirements for the governance of falconry. These regulations also contain provision for "decertification" of State or tribal programs that do not sufficiently regulate falconry permitting or the practice of falconry. States or Tribes that fail to meet the standards herein will not be approved to allow the practice of falconry. No Tribe has sought to establish falconry regulations, but with this rule we intend to make it clear that they can do so.

2. Electronic reporting of acquisition, transfer, or loss of raptors held for falconry will be implemented. Electronic reporting will eliminate the need for permittees to submit paper reports for these actions. Under the Government Paperwork Elimination Act of 1998, Federal agencies are required to provide for the option of electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper. Implementation of electronic reporting for transactions under the falconry regulations will reduce permittee expenses and the time involved in reporting.

Note: The electronic reporting page, <http://permits.fws.gov/186A>, is not functional at this time.

3. Apprentice falconers will be allowed to possess Harris's hawks.

4. Apprentice falconers may possess non-imprinted captive-bred birds of the species they are allowed to possess.

5. Master falconers will be allowed to keep five raptors for use in falconry, though only three of the raptors may be taken from the wild. Under the current regulations, master falconers are allowed to keep three birds for falconry. Many individuals have sufficient time available to care for and train five

raptors for use in falconry. Allowing the possession of five raptors does not change the allowed take from the wild or the current limit on possession of birds taken from the wild.

6. The required examination for apprentice falconers and new residents may be developed and administered by each State or Tribe. After we approve a State's or Tribe's certification under these regulations, we will no longer have to approve revisions of the examination.

7. A new resident of the United States can qualify for a falconry permit appropriate for his or her experience. The applicant must correctly answer at least 80 percent of the questions on the supervised examination for apprentice falconers administered by the State or Tribe under which the applicant wishes to obtain a falconry permit. If the applicant passes the test, the State or Tribe may decide what level of falconry permit he or she is qualified to hold.

8. Facilities and equipment requirements are simplified and rewritten to make them easier to understand.

9. Possession of facilities for housing raptors will not be a prerequisite for obtaining a permit. However, a permittee must have facilities that pass inspection by the State or Tribe before he or she may obtain a raptor for use in falconry. This change will, for example, allow falconers who no longer can keep falconry birds to assist apprentice falconers in learning about the practice of falconry.

10. The 180-day-per-year limit on take of raptors from the wild is removed. Raptors may be taken for falconry during periods specified by the States or Tribes.

11. Hybrid raptors must be imprinted on humans or be surgically sterilized if they are to be used in falconry. When flown, a hybrid must have an attached radio transmitter that will allow the permittee to locate it if he or she needs to do so. Release of hybrids to the wild is illegal.

12. All falconers will be responsible for treatment and rehabilitation costs of falconry raptors injured in trapping efforts.

13. Banding of all goshawks taken from the wild will be required.

14. Temporary release of falconry raptors to the wild ("hacking") will be allowed. Some falconry raptors are better adapted to hunting after being hacked. Hacking has been allowed by the Fish and Wildlife Service for many years, but has not been considered in the falconry regulations.

15. General and master falconers may use suitable raptors in raptor

propagation if the propagator has a raptor propagation permit. The raptors do not need to be transferred from the falconer's falconry permit if they are used temporarily for propagation.

16. A falconer may transfer a wild raptor captured under a falconry permit to a propagation permit after the raptor has been used in falconry for at least 2 years. Previously, raptors taken for falconry could be transferred to another permit type immediately after capture.

17. General and master falconers may use suitable raptors they hold (except golden eagles) in conservation education programs without an additional permit. However, the raptors must be used in hunting; they may not be held under a falconry permit to be used primarily for conservation education purposes. Falconers can serve a role in educating the public about the roles raptors play in the environment and their legal protections.

18. The age for apprentice falconers is lowered from 14 to 12. We believe individuals age 12 and older may be able to learn falconry and handle falconry raptors capably.

19. General and master falconers may assist Federal- and State-permitted wildlife rehabilitators in conditioning of raptors for release to the wild. To do so, the falconer must be a subpermittee of the rehabilitator.

20. A visitor to the United States with a falconry permit from his or her country may practice falconry in the United States if the State in which he or she wishes to do so allows it. Federal regulations will allow qualified falconers to participate in falconry meets and other activities in the United States. Exchange of information about falconry should benefit the U.S. falconry community.

21. Requirements for capture and possession of golden eagles for use in falconry by master falconers with sufficient experience are added to these regulations. Previously, they were covered in 50 CFR 22.24. Also, in this proposed rule, the regulations in 50 CFR 22.24 are simplified to account for this change, which will facilitate permitting by the States and Tribes. Federal permitting of falconers for possession of golden eagles will no longer be required.

Because it will take time for States to change their falconry regulations to comply with these regulations, the final compliance date for these regulations is yet to be determined. We propose that it will be 5 years from January 1st of the year following the publication of the final rule implementing revised falconry regulations. We seek comments on this time frame and a final date for the changeover to the new regulations. Is

the 5 year period sufficient for all States to comply with the new regulations?

Each State or Tribe that wishes to allow the practice of falconry must certify to the Director of the Fish and Wildlife Service that it is in compliance with the new regulations. Any State certified to allow falconry under the Federal falconry regulations in §§ 21.28 and 21.29 in effect prior to the effective date of the final rule for this action (see 50 CFR part 21, revised October 1, 2004) may continue to allow falconry under those provisions until we publish notice of our approval of that specific State's certification in the **Federal Register**, or until 5 years from January 1st of the year following the publication of the final rule implementing revised falconry regulations.

We also seek careful consideration of our proposal to initiate proceedings to revoke falconry permitting in any State or by any Tribe if, after reviewing the State's or Tribe's falconry permitting, we determine that the State or Tribe has not issued permits or maintained records in accordance with the proposed regulations. We propose to allow the State or Tribe one year to correct the permitting problems. We further propose to revoke the State or Tribe's certification if, at the end of the year, the State or Tribe has not corrected its permitting problems. The Service is not able to inspect falconry facilities or administer the falconry test to permit applicants, and will not have sufficient personnel to be able to do so in the future. Therefore, we see no alternative to revoking falconry permitting for State or tribal permittees if a State or Tribe does not maintain a permitting program in accordance with these regulations. Our decision to decertify a State or Tribe may be appealed to the Director.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered heading; for example: "**§ 21.29 Falconry standards and falconry permitting.**") (5) Does the description of the rule in the

SUPPLEMENTARY INFORMATION section of the preamble help you to understand the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail comments to Exsec@ios.doi.gov.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is a significant regulatory action. The Office of Management and Budget makes the final determination of significance under E.O. 12866.

a. According to OMB, this proposed rule raises novel legal or policy issues. The proposed falconry provisions are in compliance with other laws, policies, and regulations.

b. This rule will not have an annual economic effect of \$100 million or more, or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis thus is not required. There are approximately 4,000 falconers in the United States, few of whom will have to modify their raptor housing facilities because of this rule.

c. This rule will not create inconsistencies with other agencies' actions. The rule deals solely with governance of falconry in the United States. No other Federal agency has any role in regulating falconry.

d. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. There are no entitlements, grants, user fees, or loan programs associated with the regulation of falconry.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104-121), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a

significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities because the changes we are proposing are intended primarily to clarify the requirements for falconry and the procedures for obtaining a falconry permit.

This determination is based on the fact that we are proposing limited changes to the current requirements for falconry facilities (housing). To legally practice falconry in the United States, an applicant will be required to obtain a State or tribal falconry permit. To do so, he or she must demonstrate knowledge of falconry and must have facilities for keeping falconry raptors that will protect them from weather extremes. The changes we propose will require minimal changes to the facilities of some falconers, but affect neither the information collected nor the fees required to obtain a permit. Consequently, we certify that because this proposed rule will not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). It will not have a significant impact on a substantial number of small entities.

a. This rule does not have an annual effect on the economy of \$100 million or more. If all falconry permittees had to rebuild their falconry facilities to comply with the proposed regulations, at an estimated \$2,000 each, the total cost to permittees would be \$8,000,000. This highest-cost estimate for compliance with this rule by permittees would be a one-time expenditure.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The practice of falconry does not significantly affect costs or prices in any sector of the economy.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Falconry is an

endeavor of private individuals. Neither regulation nor practice of falconry significantly affects business activities.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

a. This rule will not "significantly or uniquely" affect small governments. A small government agency plan is not required. Falconry is an endeavor of private individuals. Neither regulation nor practice of falconry affects small government activities in any significant way.

b. This rule will not produce a Federal mandate of \$100 million or greater in any year; *i.e.*, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. Though States may have to revise their falconry regulations to comply with the proposed revisions, nearly every State already has falconry regulations in place. Therefore, revisions of the State regulations should not be significant.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the States' ability to manage themselves or their funds. No significant economic impacts are expected to result from the regulation of falconry. However, this rule provides the opportunity for States to cooperate in management of falconry permits and to ease the permitting process for permit applicants.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of the Migratory Bird Permits Program and assigned clearance number 1018-0022, which expires 7/31/2007. This proposed regulation does not change or add to the approved information collection.

Information from the collection is used to document take of wild raptors for use in falconry and to document transfers of birds held for falconry between permittees. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f) and part 516 of the U.S. Department of the Interior Manual (516 DM). We prepared an environmental assessment (EA) in July 1988 to support establishment of regulations governing the use of most raptors in falconry. You can obtain a copy of the EA by contacting us at the address in the **ADDRESSES** section. This rule does not change the allowed take of raptors from the wild. The changes we propose are to delegate administration of falconry permitting and the practice of falconry to the States or Tribes, and are otherwise largely to reorganize the regulations, put them into easier-to-understand language, and combine related sections. We will prepare an updated environmental assessment on the take of raptors for use in falconry and the delegation of the permitting authority to the States and Tribes during the rulemaking process to determine whether these proposals are major Federal actions significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian Tribes and have determined that there are no potential effects. This rule will not interfere with the Tribes' ability to manage themselves or their funds or to regulate falconry on tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 addressing regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the practice of falconry in the United States, it is not a significant regulatory action

under Executive Order 12866, and will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Environmental Consequences of the Proposed Action

The changes we propose are primarily in the combining, reorganizing, and rewriting of the regulations. The environmental impacts of this action are limited.

Socioeconomic. We do not expect the proposed action to have discernible socioeconomic impacts.

Raptor populations. This rule does not significantly alter the take or raptors for falconry in the United States. This rule will have little change on the effects of falconry on raptor populations.

Endangered and Threatened Species. The regulations have new provisions governing falconry in habitats important to those threatened or endangered species likely to be impacted by falconry.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter" (16 U.S.C. 1536(a)(1)). It further states that the Secretary must "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat (16 U.S.C. 1536 (a)(2)). The Division of Threatened and Endangered Species concurred with our finding that the revised regulations will not affect listed species.

Author

The author of this rulemaking is Dr. George T. Allen, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, Virginia 22203–1610.

Public Participation

You may submit written comments on this proposal to the location identified in the **ADDRESSES** section, or you may submit electronic comments to the internet address or the e-mail address listed in the **ADDRESSES** section. We must receive your comments before the

date listed in the **DATES** section. Following review and consideration of comments, we will issue a final rule on the proposed regulation changes.

When submitting electronic comments, please include your name and return address in your message, identify it as comments on the falconry regulations change, and submit your comments as an ASCII file. Include RIN 1018–AG11 in the subject line of your message. Do not use special characters or any encryption.

When submitting written comments, please include your name and return address in your letter and identify it as comments on the falconry regulations change, RIN 1018–AG11. To facilitate compiling the Administrative Record for this action, you must submit written comments on 8½ inch by 11 inch paper.

All comments on the proposed rule will be available for public inspection during normal business hours at Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia 22203–1610. The complete file for this proposed rule is available, by appointment, during normal business hours at the same address. You may call 703–358–1825 to make an appointment to view the file.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. An individual respondent may request that we withhold his or her home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. We will not consider anonymous comments.

List of Subjects

50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 22

Exports, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we propose to amend parts 21 and 22 of subpart C, subchapter B, chapter I, title 50 of the Code of Federal Regulations, as follows.

PART 21—MIGRATORY BIRD PERMITS

1. Revise the authority citation for part 21 to read as follows:

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 704, 712(2)); Pub. L. 107–314, 116 Stat. 2458 (16 U.S.C. 703 note).

2. Amend § 21.2 by revising paragraph (b) to read as follows:

§ 21.2 Scope of regulations.

* * * * *
(b) This part, except for § 21.22 (banding or marking), § 21.29 (falconry), and § 21.31 (rehabilitation), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*), for which regulations are provided in part 22 of this subchapter.
* * * * *

3. Amend § 21.3 by revising the definition of “falconry” and adding a definition of “hybrid” in alphabetical order, to read as follows:

§ 21.3 Definitions.

* * * * *
Falconry is caring for and training raptors for pursuit of game, and the sport of hunting wild game with raptors.
Hybrid means offspring of birds listed in § 10.13 of subchapter B of this chapter as two or more distinct species, or offspring of birds recognized by ornithological authorities as two or more distinct species.
* * * * *

4. Amend § 21.21 by revising paragraph (a) to read as follows.

§ 21.21 Import and export permits.

(a) *Do I need a permit to import or export migratory birds?* In most cases, you will need a permit.
(1) Unless you import migratory game birds in accordance with the provisions of subparts G and J of 50 CFR part 20, you must have an import permit to import migratory birds or their parts, nests, or eggs.
(2) With the following exceptions, you must have an export permit before you export migratory birds or their parts, nests, or eggs. You also must meet the requirements in 50 CFR parts 17, 22, and 23, where applicable, to export migratory birds or their parts, nests, or eggs.

(i) You may export captive-reared migratory game birds to Canada or Mexico without a permit if the birds are marked in compliance with the provisions of § 21.13(b).

(ii) You may export lawfully taken migratory game birds in accordance with the provisions of subpart J of 50 CFR part 20.

(iii) You may transport a bird or birds you legally hold for falconry under § 21.29 without a permit to and from another country for use in falconry. Unless you have the necessary permit(s) to export a bird from the United States, you must bring any bird or birds you take out of the country for falconry back to the United States when you return. You may need one or more additional permits to take a bird from the United States or to return home with it (see 50 CFR part 14 (importation, exportation, and transportation of wildlife), 50 CFR part 15 (Wild Bird Conservation Act), 50 CFR part 17 (endangered and threatened species), 50 CFR part 21 (migratory bird permits), and 50 CFR part 23 (endangered species convention)).
* * * * *

§ 21.28 [Removed and Reserved]

- 5. Remove and reserve § 21.28.
- 6. Revise § 21.29 to read as follows:

§ 21.29 Falconry standards and falconry permitting.

(a) *Background.*
(1) *What is the legal basis for regulating falconry?* The Migratory Bird Treaty Act prohibits any person from taking (capturing from the wild), purchasing, bartering, selling, or offering to purchase, barter, or sell, or undertaking any other uses of raptors (birds of prey) listed in § 10.13 of this subchapter unless the uses are allowed by Federal regulation and the person has a permit to conduct the activity. This section covers all Falconiformes (kites, eagles, hawks, caracaras, and falcons) and all Strigiformes (owls) listed in § 10.13 of this subchapter (“native” raptors), and apply to any person who holds one or more native raptors for use in falconry.

(2) *What does “possession” of a falconry bird mean?* “Possession” means that you, as a licensed falconer, have control over all aspects of a raptor that you are permitted to keep for falconry. You must keep the bird in falconry facilities that you control or use, feed and otherwise maintain the bird in good health, and know where the bird is at all times. We do not consider very short-term possession by a permitted individual, such as letting an apprentice falconer hold or practice flying a bird you hold under your permit, to be possession for the purposes of this section, as long as you are present and the apprentice is under your supervision, and provided that the possession lasts no more than 4 hours.

(3) *What is the regulatory year for governing falconry?* For determining possession and take of raptors for falconry, a year runs from January 1 through December 31.

(4) *What must a State or Tribe do to allow its citizens to practice falconry?* A State or Tribe that wishes to allow falconry must certify to the Director that the State’s or Tribe’s laws or regulations governing falconry meet the requirements of this section, and must provide us with a copy of the State’s or Tribe’s apprentice falconer examination. To allow the practice of falconry on tribal lands, a Tribe may either adopt the State’s regulations or issue its own and notify us of its action. If we concur that the regulations and the examination are in compliance with this section, we will approve the practice of falconry in that State or on the lands of the Tribe, publish notice of our approval in the **Federal Register**, and add the State or Tribe to the list of those with approved falconry standards.

(i) A State or a Tribe may make and enforce laws or regulations consistent with the standards in any convention between the United States and any foreign country for the protection of raptors or with the Migratory Bird Treaty Act, which also protects raptors. State or tribal standards may be more restrictive than these Federal standards.

(ii) A State or Tribe may choose not to allow possession of some species of raptors for falconry that we allow in this section.

(iii) A State or Tribe must provide us with a copy of its falconry examination any time the examination is revised.

(5) *Can we review a State’s or Tribe’s permitting process?* Yes, at our discretion, we may review the falconry permitting, facilities inspections, and records of any State or Tribe that allows falconry. We may choose to review a State’s falconry permitting for reasons such as, but not limited to, complaints from the public or law enforcement actions that suggest the need for a review.

(6) *Can we suspend a State’s or Tribe’s certification?* Yes, if, after reviewing a State’s or Tribe’s falconry permitting, we determine that the State or Tribe has not issued permits or maintained records in accordance with this section, we will notify the State or Tribe and allow one year for correction of permitting problems.

(i) If a State or Tribe’s permitting activities are not in compliance with this section, the State or Tribe must demonstrate the following to our satisfaction.

(A) That its inspections ensure that falconers' facilities meet the standards in this section.

(B) That permits are issued within 60 days of receipt of their receipt and that they are complete and accurate.

(C) That each permit issued is appropriate for the experience of the applicant.

(D) That the State's or Tribe's recordkeeping is satisfactory for the needs of State and Federal law enforcement.

(ii) If the permitting problems are not corrected in one year, we will suspend certification of the State's or Tribe's falconry permitting, and will disallow the practice of falconry in the State or by the Tribe. The Director will send a letter to the State or Tribe confirming this action.

(7) *What will happen if we suspend a State's or Tribe's certification?* If we suspend a State's or Tribe's certification, we will require that all raptors (including captive-bred birds) held for falconry in that State or by tribal permittees be transferred to other falconry permittees or to captive propagation programs, released to the wild (if it is allowed by the State or Tribe and by this section), or euthanized. However, hybrid raptors may not be released to the wild.

(8) *Can a State or Tribe appeal our decision to suspend its certification?* Yes, the decision may be appealed by the State or Tribe to the Director within 60 days of the date of the Director's decision to suspend certification. The Director will then respond to the State or Tribe within 60 days of receipt of the appeal. The State or Tribe's certification will remain in place until the Director makes a final decision on the appeal.

(9) *Can a State or Tribe recertify compliance with this section if its falconry permitting authority has been suspended?* Yes, if we conclude that the State or Tribe's permitting have been restored to compliance with this section. The State or Tribe must submit a request for approval of its permitting activities, and we will then concur with the State or Tribe's determination or report why we do not believe that the State or Tribe has rectified its earlier permitting problems.

(10) *What is the compliance date for the regulations in this section?* A State with existing approved falconry regulations that wishes to continue to allow falconry after [5 years from January 1st of the year following the publication of the final rule implementing revised falconry regulations] must certify to the Director of the Fish and Wildlife Service that it is in compliance with this section. This

section will be applicable for a State upon publication in the **Federal Register** of our notice of approval of the State's certification. Any State certified to allow falconry under the Federal falconry regulations contained in §§ 21.28 and 21.29 in effect on February 9, 2005 (see 50 CFR part 21, revised October 1, 2004), may continue to allow falconry under those provisions until:

(i) We publish notice of our approval of the State's certification in the **Federal Register**; or

(ii) [Five years from January 1st of the year following the year of publication of the final rule implementing revised falconry regulations.]

(11) *What will happen if a State with falconry regulations certified under earlier regulations does not come into compliance with this section by the compliance date?* If a State does not come into compliance with this section by the compliance date, we will require that all raptors held for falconry in that State or (including captive-bred raptors) be transferred to falconers in other States, transferred to captive propagation programs, released to the wild (if that is allowed by the State and by this section), or euthanized. However, hybrid raptors may not be released to the wild.

(12) *What standards are in effect in my State?*

If your legal residence is in	you may
(i) [—States in compliance with these revised regulations—], (ii) Alaska, Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, or Wyoming,	practice falconry as permitted in this section. practice falconry under the Federal regulations in effect on October 1, 2004 (50 CFR part 21, revised October 1, 2004), if it was allowed in your State at that time, until your State has certified that it meets the requirements in this section or until [approximately January 1, 2011].

(b) *Practicing falconry.* (1) *Can I practice falconry where I reside?*

If your legal residence is in	you may	because your place of residence
(i) Connecticut, the District of Columbia, or Hawaii, (ii) any State other than Connecticut or Hawaii,	not practice falconry, practice falconry after you receive your State falconry permit,	has not met the Federal falconry standards or does not allow the practice of falconry. has met the Federal standards and allows the practice of falconry.

(2) *What permit and inspections do I need to practice falconry?* You must have a valid falconry permit from the State in which you reside or the Tribe on whose land you wish to practice falconry, to take, possess, or transport raptors for falconry, or to hunt with them. Your raptor care facilities (see

paragraph (c) of this section) must pass inspection by your State or Tribe before you may possess a raptor under a falconry permit. You must have a Federal raptor propagation permit to purchase, barter, or sell, or offer to purchase, barter, or sell, captive-bred raptors for falconry. Depending on the

game you hunt as a falconer and where you hunt, you also may need a Federal Migratory Bird Hunting and Conservation Stamp (a "Duck Stamp"), and State or tribal hunting permits or stamps.

(i) With your falconry permit, you may practice falconry in any other State

and on any tribal lands where you are allowed to do so. Some State, tribal, or local governments may require you to have additional permits or licenses to practice falconry or to take a raptor from the wild.

(ii) You must comply with all regulations governing migratory bird permitting in parts 10, 13, and 21, and (for eagle falconry) 22 of this subchapter.

(iii) If you live for more than 45 consecutive days in a State or on tribal lands other than the State or tribal lands in which you maintain your primary residence, your falconry facilities in the second location must be inspected by the State or Tribe. The facilities in the second location must meet the standards in paragraph (c) of this section, and must be listed on your falconry permit.

(3) *For what class of permit do I qualify?* We recognize apprentice, general, and master falconer levels. Each State or Tribe may have any number of permit levels, but the standards for them must be at least as restrictive as these Federal standards. Your State or Tribe may have more restrictive laws or regulations governing falconry.

(i) *What are the requirements and possession options for an apprentice falconer?* (A) You must be at least 12 years of age.

(B) If you are under 18 years of age, a parent or legal guardian must sign your application and is legally responsible for your activities.

(C) You must have a letter from a general falconer with a valid State or tribal falconry permit and at least 5 years experience at the general falconer level, or from a master falconer, stating that he or she will assist you, as necessary, in learning about the husbandry and training of raptors held for falconry and about relevant wildlife laws and regulations, and in deciding what species of raptor is appropriate for you to hold while an apprentice.

(D) Regardless of the number of State or tribal permits you have, you may possess no more than one raptor for use in falconry.

(E) You may possess a wild-caught Harris's hawk (*Parabuteo unicinctus*), red-shouldered hawk (*Buteo lineatus*), red-tailed hawk (*Buteo jamaicensis*), or American kestrel (*Falco sparverius*). If you are a resident of Alaska, you may possess a wild-caught northern goshawk (*Accipiter gentilis*).

(F) You do not need to capture the raptor from the wild yourself.

(G) You may not possess a raptor taken from the wild as a nestling.

(H) You may possess a captive-bred raptor of any species of Falconiform that your State or Tribe allows you to take and possess for falconry. Any such captive-bred bird must have been raised by its parents until it was fully capable of flight. You may not possess any bird for falconry that is imprinted on humans.

(ii) *What are the requirements and possession options for a general falconer?* (A) You must be at least 18 years of age.

(B) You must have practiced falconry with your own raptor(s) at the apprentice falconer level for at least 2 years, including maintaining, flying, and hunting the raptor(s) for a total of at least 6 months each year. That practice may include capture and release of falconry birds.

(C) You may take and possess any species of Falconiform or Strigiform that the State in which you reside or a Tribe on whose land you practice falconry allows you to take and possess for falconry, except a golden eagle.

(D) Regardless of the number of State or tribal permits you have, you may possess no more than two raptors, whether they are wild-caught or captive-bred.

(iii) *What are the requirements and possession options for a master falconer?* (A) You must have practiced falconry with your own raptor(s) at the general falconer level for at least 5 years.

(B) You may take and possess any species of Falconiform or Strigiform that the State in which you reside or the Tribe on whose land you practice falconry allows you to take and possess for falconry, except a golden eagle. You may take and possess a golden eagle for falconry if you meet the additional requirements listed in paragraph (b)(3)(iv) of this section.

(C) Regardless of the number of State or tribal permits you have, you may possess no more than five raptors. No more than three of them may have come from the wild.

(iv) *What are the additional requirements for obtaining permission to keep a golden eagle for falconry?*

(A) You must be a master falconer.

(B) Your State or tribal agency that regulates falconry must document the following before approving your request to possess a golden eagle for use in falconry:

(1) Your experience in handling large raptors, including information about the species you have handled and the type and duration of the activity in which you gained the experience.

(2) At least two letters of reference from people with experience handling

and/or flying eagles. Each must contain a concise history of the author's experience with eagles. Eagle handling experience can include, but is not limited to, the handling of zoological specimens, rehabilitating eagles, or scientific studies involving eagles. Each letter must also assess your ability to care for the eagles and fly them in falconry.

(3) A description of the facilities in which you will house your golden eagle(s).

(C) Golden eagles you hold will count against your possession limit of five birds.

(D) You must band any golden eagle you acquire from the wild for falconry with a permanent, nonreusable, numbered Fish and Wildlife Service band that your State or tribal agency that regulates falconry will provide. You must report the band number when you report your acquisition of the bird to the State or the Tribe.

(E) Only a golden eagle captured in a depredation area certified by USDA Wildlife Services or a State animal damage control agency may be used in falconry. You may not use a golden eagle captured under any other circumstance or a captive-bred golden eagle in falconry.

(F) If you are authorized to possess a golden eagle for use in falconry, you are solely authorized to trap a subadult golden eagle in any depredation area certified by USDA Wildlife Services or a State animal damage control agency during the time the depredation area is in effect. You must immediately release any adult you capture.

(1) You must determine the locations of the depredation areas delineated by Wildlife Services or the State. We will not notify you about them.

(2) Before you begin any trapping activities, you must inform our regional Law Enforcement office of your trapping plans, your proposed trapping equipment and methods, and your proposed handling and disposition of the birds. You must extend the same notification to the Wildlife Services manager for the depredation area. You must notify both offices directly or in writing or via facsimile at least 3 business days before you start trapping, and you must receive confirmation of receipt of the message from our regional Law Enforcement office. Fish and Wildlife Service or USDA personnel then can be present during trapping activities if they wish. You also must meet all requirements of the State in which you plan to trap or the Tribe on whose lands you plan to trap.

If you plan to trap a golden eagle in	you must notify
(i) California, Idaho, Nevada, Oregon, or Washington	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, 911 NE 11th Avenue, Portland, Oregon 97232-4181, 503-231-6125, facsimile 503-231-6197.
(ii) Arizona, New Mexico, Oklahoma, or Texas	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, P.O. Box 329, Albuquerque, New Mexico 87103, 505-248-7889, facsimile 505-248-7899.
(iii) Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, or Wisconsin.	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, P.O. Box 45, Federal Building, Fort Snelling, Minnesota 55111-0045, 612-713-5320, facsimile 612-713-5283.
(iv) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, or Tennessee.	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, P.O. Box 49226, Atlanta, Georgia 30359, 404-679-7057, facsimile 404-679-7065.
(v) Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, or West Virginia.	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, P.O. Box 659, Hadley, Massachusetts 01035-0659, 413-253-8274, facsimile 413-253-8459.
(vi) Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, or Wyoming.	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, P.O. Box 25486, Denver Federal Center (60130), Denver, Colorado 80225-0486, 303-236-7540, facsimile 303-236-7901.
(vii) Alaska	U.S. Fish and Wildlife Service Special Agent in Charge—Law Enforcement, 1011 East Tudor Road, Suite 155, Anchorage, Alaska 99503-6199, 907-786-3311, facsimile 907-786-3313.

(3) You must have permission from the landowner to trap an eagle.

(4) At the end of each trapping session, you must report in writing to your State or tribal agency that regulates falconry the time and date of the beginning and ending of each session, the number of golden eagles trapped, approximate age, sex, and state of health of each eagle, whether any bird was injured during trapping, and the disposition of each eagle. You must file your reports within 5 days of the end of each trapping session. Facsimile or electronic mail reports are acceptable.

(5) You must send any captured eagle that is injured or in poor health to a permitted wildlife rehabilitator or veterinarian with experience handling raptors.

(4) *When must I take a test to qualify for a falconry permit?* Before you are issued an apprentice permit you must correctly answer at least 80 percent of the questions on an examination administered by the State or the Tribe under which you wish to obtain a falconry permit. The examination must cover care and handling of falconry raptors, Federal, State, and tribal (if applicable) laws and regulations relevant to falconry, and other appropriate subject matter. Contact your State or tribal agency that regulates falconry for information about permits and taking the test.

(5) *If my falconry permit has lapsed, can it be reinstated?* Yes, if your State or Tribe allows it.

(i) If your permit has lapsed less than 5 years, it may be reinstated at the level you held previously if you have proof of your certification at that level.

(ii) If your permit has lapsed 5 years or longer, you must correctly answer at

least 80 percent of the questions on an examination administered by the State or the Tribe under which you wish to obtain a falconry permit. If you pass the exam, your permit may be reinstated at the level you previously held.

(iii) If your permit has lapsed less than 2 years, you must provide a statement to your State or tribal agency that regulates falconry that your falconry facilities meet the standards in paragraph (c)(1) of this section before you may keep birds for use in falconry.

(iv) If your permit has lapsed 2 years or more, your facilities must pass State or tribal inspection before you may keep birds for use in falconry.

(6) *May I obtain a falconry permit at an appropriate level if I have experience in falconry but I am a new resident in the United States?* If your State or Tribe allows it, you may qualify for the falconry permit appropriate for your experience. To demonstrate your knowledge of United States falconry laws and regulations, you must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the State or Tribe under which you wish to obtain a falconry permit. If you pass the test, the State or Tribe will decide for which level of falconry permit you are qualified. To do so, the State or Tribe should base its decision on your documentation of your experience. Your falconry facilities must meet the standards in paragraph (c)(1) of this section before you may keep birds for use in falconry.

(7) *Do I need to band a raptor used in falconry?* Some birds used in falconry must be banded.

(i) You must band a Harris's hawk, goshawk, peregrine falcon, gyrfalcon, or

golden eagle that you take from the wild with a permanent, nonreusable, numbered Fish and Wildlife Service leg band that your State or tribal agency will supply. You must report the band number when you report your acquisition of the bird. Contact your State or tribal agency for information on obtaining and disposing of bands. Within 5 days from the day on which you take the bird from the wild, you must report take of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A>. You should request an appropriate band from your State or tribal agency in advance of any effort to capture a bird.

(ii) A raptor bred in captivity must be banded with a seamless metal band (see § 21.30). If you must remove the band or if it is lost, within 5 days from the day you remove the band you must report the loss of the band and request a replacement U.S. Fish and Wildlife Service nonreusable band from your State or Tribe. You can submit the required information electronically immediately upon rebanding the bird at <http://permits.fws.gov/186A>. You must replace a band that is removed or lost.

(iii) If the band must be removed or is lost from a bird in your possession, you must promptly report the loss of the band and request a U.S. Fish and Wildlife Service nonreusable band from your State or tribal agency that regulates falconry. You must submit the required information immediately upon rebanding the bird at <http://permits.fws.gov/186A>. You must replace a band that is removed or lost.

(iv) You must not alter, deface, or counterfeit a band. You may remove the rear tab on a band on a bird you take

from the wild, and you may smooth any imperfect surface if you do not affect the integrity of the band or the numbering on it.

(v) If you can document health or injury problems for a bird you hold that are caused by the band, the State may provide an exemption to the banding requirement for that bird. In such a case, you must keep the band with you when flying the raptor.

(8) *Must I carry my permits when conducting falconry activities?* You must have your permit(s) or legible copies of them in your immediate possession when you are trapping, transporting, working with, or flying your falconry bird(s).

(c) *Facilities and care requirements.* (1) *What facilities must I have and maintain?* The primary consideration for raptor ing facilities, whether indoors or outdoors, is protection from the environment, predators, domestic animals, and undue disturbance. You must have raptor housing facilities approved by your State or Tribe before you may obtain a bird for use in falconry. Your State or Tribe may require that you have both indoor and outdoor facilities. A representative of your State or tribal agency that regulates falconry, or its designee, must certify that your facilities and equipment meet the following standards. For keeping birds in either type facility, you must keep your facilities clean and must ensure the following.

(i) The facility must protect birds in it from predators and domestic animals.

(ii) The facility must have a suitable perch with a rough or uneven surface for each bird, at least one opening for sunlight, and an easy-to-clean and well-drained floor.

(iii) You may house untethered raptors together if they are compatible. If they are not, each bird must be tethered or separated from others by solid partitions.

(iv) Each bird must have an area large enough to allow it to fly if it is untethered or, if it is tethered, to fully extend its wings or bate (attempt to fly while tethered) without damaging its feathers or contacting other raptors.

(v) An indoor facility must be large enough to allow easy access for the care and feeding of raptors kept there. If birds you keep in this indoor facility are not tethered, all areas not covered by solid walls must be protected on the inside by vertical bars spaced narrower than the width of the body of the smallest bird(s) you keep in the enclosure.

(vi) 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.

(A) The facility must have a roof or a covering to protect birds held in it from predators and weather.

(B) If a bird you hold suffers feather damage or injury in your outdoor facility, you must modify the facility to preclude further feather damage or injury to the bird.

(2) *Do my falconry facilities have to be on property I own?* No, they may be on property owned by another person where you reside, or at a different location. But, they must meet the facilities standards in paragraph (c)(1) of this section and those of the State or Tribe from which you have a falconry permit.

(i) You are responsible for the maintenance and security of birds you hold under your permit.

(ii) You must report the address of your facilities to your State or tribal agency that regulates falconry.

(iii) You must submit to your State or tribal agency that regulates falconry a signed and dated statement showing that the property owner understands that the falconry facilities, equipment, and birds may be inspected without advance notice by tribal (if applicable), State, or Federal authorities at any reasonable time of day.

(iv) You must inform your State or tribal agency within 5 days if you change the location of your facilities.

(3) *What equipment must I have and maintain?* You must have suitable equipment, including jesses or the materials and equipment to make them, leash and swivel, bath container, and scales or balances that are graduated to appropriate levels for weighing the raptor(s) you hold.

(4) *What facilities must I have for a raptor when I am transporting it, using it for hunting, or I am away from my home with it?* You must be sure that the bird has a perch with a rough or uneven surface and is protected from extreme temperatures, wind, and excessive disturbance. If a bird you hold suffers feather damage or injury while you are transporting it, you must modify or change your transport methods immediately to preclude further feather damage or injury to the bird.

(5) *May I temporarily house a raptor outside of my permanent facilities when I am not transporting it or using it for hunting?* You may keep a bird in temporary facilities for no more than 45 consecutive calendar days if the bird has a perch with a rough or uneven surface and is protected from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(6) *May another person care for my falconry birds for me?* Yes, another person who can legally possess raptors can care for a raptor or raptors for you for up to 45 consecutive calendar days.

The other person must have a signed and dated statement from you authorizing the temporary possession, plus a copy of FWS form 3-186A that shows that you are the possessor of the bird. The statement must include information about the time period for which he or she will keep the bird(s), and about what he or she is allowed to do with the bird or birds (including exercising them for falconry, which may be done if the other person has a falconry permit at the appropriate level). The bird(s) will remain on your falconry permit. If the person who temporarily holds a bird or birds for you is a falconer, the bird(s) that he or she holds for you will not be counted against his or her possession limit on birds held for falconry.

(7) *If I live part of the year in another State and have my falconry bird(s) with me, do I need an additional State permit?* The State or Tribe in which you live part-time may require that you obtain its falconry permit. You must contact the State or tribal agency that regulates falconry to determine whether you need a permit.

(8) *If I live part of the year in another State and have my falconry bird(s) with me, do my falconry facilities have to meet the standards listed in this paragraph (c)?* Yes, if you live for more than 45 consecutive days in a State other than the one in which you maintain your primary residence, your falconry facilities in the second State must meet the standards in this section. They must be inspected by the State or Tribe and must be listed on your falconry permit.

(9) *Are falconry facilities, birds, equipment, and records subject to inspection?* (i) Yes, falconry bird(s), facilities, equipment, and records may be inspected at any reasonable hour by tribal (if applicable), State, or Federal officials.

(ii) You must submit to your State or tribal agency that regulates falconry a signed and dated statement showing that the owner of the property on which your falconry facilities are located (which could be you or another person) understands that the falconry facilities, equipment, and birds may be inspected without advance notice by State or Federal authorities at any reasonable time of day.

(iii) You must have your falconry facilities inspected and approved any time you change their location.

(d) *Taking, possessing, and transporting raptors for falconry.* (1) *What species of birds may I take from the wild to use for falconry?* You may take any species of Falconiform or Strigiform that you are allowed to possess and that the State or Tribe regulating the land on which you wish to take a bird allows you to take.

(i) You may not capture a species that your classification as a falconer does not allow you to possess for falconry.

(ii) On some tribal lands and in some States there may be tribal, State, or Federal restrictions on the take or use of these species, and you may need a tribal or State permit or permits to capture a bird.

(iii) Tribal or State regulations on take may be more restrictive than those in this section.

(iv) Total take of nestling American peregrine falcons (*Falco peregrinus anatum*) is limited to 5 percent of the production of nestlings in each state in Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. Take must be based on the most recent data from States in which take is allowed, and must be in accordance with the provisions in the Service's Implementation Plan for Management of Take of Nestling American peregrine falcons. Allowing take up to the 5 percent limit is at the discretion of each State in which take is allowed.

(v) If you are a master falconer with sufficient experience and your State allows you to possess a golden eagle, you may take a subadult golden eagle from the wild only in a depredation area certified by USDA Wildlife Services or a State animal damage control agency during the time the depredation area is in effect. You must immediately release any adult you capture.

(2) *How and when may I take raptors from the wild for use in falconry?* You may take no more than two birds from the wild each year (1 January–31 December) for use in falconry. Birds taken from the wild for use in falconry are to be kept specifically for that purpose. A falconry bird is considered to be taken from the wild only by the person who originally captures it; the bird is not considered to be taken from the wild by any subsequent permittee to whom it is legally transferred.

(i) If you transfer a bird you take from the wild to another permittee in the same year in which you capture it, the bird will still count as one of the birds you are allowed to take from the wild that year; it will not count as a capture by the recipient.

(ii) We do not restrict the number of wild-caught or captive-bred birds

transferred to you, but you may not exceed your possession limit.

(iii) If you are a general or master falconer, you may remove nestlings from a nest or aerie in accordance with tribal (if applicable), State, and Federal restrictions.

(iv) For flighted birds, you must use a capture method that will not harm the bird.

(v) You may not take birds at any time or in any manner that violates any law in the State in which you are trapping or of the Tribe on whose land you are trapping.

(vi) If you are present at the capture site, but another person actually captures the bird for you, you are considered the person who removed the bird from the wild, and you are responsible for filing a 3–186A form reporting take of the bird from the wild. This would occur, for example, if another person climbed a tree or rappelled down a cliff and took a nestling for you and gave it to you at the tree or cliff.

(vii) If you are not present at the immediate location where the bird is taken from the wild, the person who removes the bird from the wild must have a permit to do so, and must report take of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> within 5 days of the capture of the bird. If that person then transfers the bird to you, you must both file 3–186A forms reporting the transaction within 5 days of the transfer. The bird will count as one of the two birds the person who took it from the wild is allowed to capture in any calendar year. The bird will not count as a bird you took from the wild. The person who takes the bird from the wild must report the take even if he or she promptly transfers the bird to another falconry permittee.

(viii) On any day in which you capture a falconry bird, you may temporarily keep a bird you capture while attempting to capture another. At the end of the day, you may keep no more than you are authorized to take or possess (one bird for an apprentice falconer; two birds for a general or master falconer, unless you have already captured one during the year).

(ix) You must band any Harris's hawk, goshawk, peregrine falcon, gyrfalcon, or golden eagle that you keep with a permanent, nonreusable, numbered Fish and Wildlife Service leg band that your State or tribal agency will supply.

(x) You must report take of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> within 5 days of the capture of the bird.

(xi) You must release any bird you do not keep at the site at which you captured it.

(3) *What are the restrictions on taking raptors from the wild for falconry?*

(i) You may take no more than two birds from the wild per year.

(ii) If you are an apprentice falconer, you may take only a first-year red-shouldered hawk (*Buteo lineatus*), red-tailed hawk (*Buteo jamaicensis*), or American kestrel (*Falco sparverius*) from the wild. If you reside in Alaska, you may take a first-year northern goshawk (*Accipiter gentilis*).

(iii) If you are a general or master falconer, you may take birds less than 1 year of age from the wild during any period or periods specified by the State or Tribe.

(iv) At any time, you may retrap a banded falconry bird you have lost within 1 year of its escape. If you have not replaced the bird, it will not count as one taken from the wild.

(v) You may recapture a bird wearing falconry equipment at any time. You must report your capture of the bird to your State or tribal agency that regulates falconry no more than 5 working days after the capture. Disposition of the bird will be at the discretion of the State or Tribe.

(vi) You may take any raptor that you are authorized to possess from the wild if the bird is banded with a Federal Bird Banding Laboratory aluminum band—except that you may not take a banded peregrine falcon from the wild.

(A) If a raptor you capture (including a peregrine falcon) is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird, you must report your capture of the bird to your State or tribal agency that regulates falconry no more than 5 working days after the capture. You must return the bird to the person who lost it, if possible, but if no one claims the bird within 45 days of the date on which you capture the bird, you may keep it to use in falconry. While you are holding a bird for return to the person who lost it, the bird will not count against your possession limit or your limit on take of birds from the wild if you have reported holding the bird to your State or tribal falconry permit office.

(B) Unless it is a falconry bird (identified by a band, bells, jesses, or falconry telemetry gear), you must immediately release a peregrine falcon you capture that has a band of any kind, a research marking, or a transmitter attached to it.

(C) If a raptor you capture has any other band, research marking, or transmitter attached to it, you must

promptly report the band numbers and all other relevant information to the Federal Bird Banding Laboratory at 1-800-327-2263.

(1) You may contact the researcher and determine if he or she wishes to replace a transmitter attached to a bird you capture. If so, you are authorized to hold the bird up to 30 days until the researcher or his or her designee does so, or until you can replace it yourself. Disposition of the bird will be at the discretion of the researcher and your State or tribal agency that regulates falconry.

(2) If you hold such a bird temporarily, it will not count against your possession limit for falconry birds.

(vii) You must leave at least one young in any nest or aerie from which you take a nestling.

(viii) If you are an apprentice falconer, you may not take a nestling from the wild.

(ix) If you are a master falconer with a permit to do so, you may take, transport, or possess a golden eagle, subject to the requirements listed at paragraphs (b)(3)(i)(E) and (F) of this section and 50 CFR 22.24. Any golden eagle you possess counts as a bird to be included under your possession limit.

(x) If you are a general or master falconer, you may take no more than one bird of a threatened species from the wild each year if the regulations in part 17 of this subchapter allow it and if you obtain an endangered species permit to do so before you take the bird.

(4) *May I take a species that was recently removed from the List of Endangered and Threatened Wildlife (50 CFR 17.11) to use in falconry? We must first publish a management plan for the species. If take is allowed in the management plan, you may do so in accordance with the provisions for take in the plan.*

(5) *What must I do with a bird that is injured in my trapping efforts? You have two options for dealing with a bird injured in trapping. In either case, you are responsible for the costs of care and rehabilitation of the bird.*

(i) You may put the bird on your falconry permit. You must report take of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> within 5 days of the capture of the bird. You

must then have the bird treated by a veterinarian or a permitted wildlife rehabilitator. The bird will count against your possession limit.

(ii) You may give the bird directly to a veterinarian, or a permitted wildlife rehabilitator, or an appropriate wildlife agency employee. If you do so, it will not count against your allowed take or the number of birds you may possess. However, you must report the capture of the bird to your State or tribal agency that regulates falconry.

(6) *May I acquire a bird for falconry from a permitted rehabilitator? Yes, you may acquire a bird suitable for falconry of a species that you are permitted to possess directly from a rehabilitator. Transfer to a falconer is at the discretion of the rehabilitator. If you acquire such a bird from a rehabilitator, within 5 days of the transaction you must report it by entering the required information in the electronic database at <http://permits.fws.gov/186A>. If you acquire such a bird, it will count as one of the birds you are allowed to take from the wild that year.*

(7) *What must I do if I acquire, transfer, release, lose, or reband a raptor? (i) If you acquire a raptor, within 5 days of the transaction you must report it by entering the required information in the electronic database at <http://permits.fws.gov/186A>.*

(ii) If you transfer a raptor you hold, reband one, or if one that you hold dies, within 5 days from the transfer, rebanding, or loss, you must report the action by entering the required information in the electronic database at <http://permits.fws.gov/186A>.

(A) If a raptor you hold is stolen, you must report the loss or theft to your State or tribal agency that regulates falconry and to your Fish and Wildlife Service Regional Law Enforcement office (see paragraph (b)(3)(iv)(F)(2) of this section) within 5 days of the loss. You must report the loss or theft in the manner required by your State or Tribe.

(B) If you lose a raptor to the wild or have one stolen, and if the bird is not recovered within 30 days of its loss, you must report the loss at <http://permits.fws.gov/186A>.

(C) If a bird you hold for falconry dies, you must report the loss at <http://permits.fws.gov/186A> within 5 days of the death of the bird.

(iii) You must keep copies of all electronic database submissions documenting take, transfer, loss, or rebanding of falconry birds until 5 years after your permit expires.

(8) *May I possess captive-bred or hybrid raptors for falconry?*

(i) Yes, if your Tribe or State allows it, you may use captive-bred individuals of the species you are allowed to possess, captive-bred individuals of other species listed in part 10 of this subchapter, and hybrids of the species listed in § 10.13 of subchapter B of this chapter.

(ii) Hybrid birds must be imprinted by humans or be surgically sterilized if they are to be used in falconry. When flown free, a hybrid bird must have at least one attached radio transmitter that will allow you to locate the bird.

(9) *May I retain birds I possessed before the enactment of the Federal falconry regulations in 1976? Yes, but you must identify them with approved bands. However, if you possess more than the number of birds allowed under your permit type, you may not replace a bird that you lose or release, or that dies, until you possess fewer than the maximum number of birds allowed under your class of falconry permit. Thereafter you may possess no more than the maximum allowed by your permit.*

(10) *May I retain birds of species that may no longer be taken from the wild for use in falconry? Yes, if you hold such a bird on the applicability date of this section in your State.*

(i) Any such bird that dies, is lost, escapes, or that you release may be replaced only with a bird allowed for use in falconry.

(ii) You may not possess more birds than your permit allows.

(11) *May I transport a bird that I possess for falconry to another State? Yes, you may need permission from the State to which you wish to take the bird or from the State under which you hold your falconry permit to transport the bird(s) to the other State.*

(12) *What must I do if I wish to release a bird in my possession to the wild? You must follow State and Federal regulations before releasing a falconry bird to the wild.*

If the species you wish to release is	and the bird is	you may
(i) not native to the State or is a hybrid of any kind,	wild-caught or captive-bred,	not release the bird to the wild. You may transfer it to another falconry permittee.

If the species you wish to release is	and the bird is	you may
(ii) native to the State,	captive-bred,	not release the bird to the wild except under special circumstances. If the Tribe or State requires it, you must have permission from the Tribe or State to release the bird. If you are permitted to do so, it must be properly "hacked back" (allowed to adjust) to the wild at an appropriate time of year and an appropriate location. You must remove its falconry band (if it has one) and report release of the bird by entering the required information in the electronic database at http://permits.fws.gov/186A .
(iii) native to the State,	wild-caught,	release the bird only at an appropriate time of year and an appropriate location. You must remove its falconry band and report release of the bird by entering the required information in the electronic database at http://permits.fws.gov/186A .

(e) *Additional information.* (1) *Are birds removed from the wild for falconry always considered "wild" birds?* Yes, no matter how long such a bird is held in captivity or whether it is transferred to another permittee or permit type, it is always considered a "wild" bird. However, it is considered to be taken from the wild only by the person who actually captured it.

(2) *Is "hacking" of falconry birds permitted?* Yes, general or master falconers may hack (temporarily release to the wild) a falconry bird or birds for 60 calendar days or fewer.

(i) You may need permission from your State or tribal wildlife agency to hack a bird you hold for falconry. Check with your State or tribal agency that regulates falconry to determine if hacking is allowed.

(ii) Any bird you are hacking counts against your possession limit and must be a species you are authorized to possess.

(iii) Any hybrids you are hacking must be surgically sterilized or imprinted, or both, and must have an attached functioning radio transmitter during hacking.

(iv) If you lose a bird you are hacking, you must report the loss to your State or tribal agency that regulates falconry within 5 days. If you do not recover the bird within 30 days after it is lost, you must report the loss of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A>.

(v) You may not hack a falconry bird in the vicinity of a nesting area of a threatened or endangered bird species or in any other location where the raptor is likely to harm a federally listed threatened or endangered species. You must contact your tribal or State wildlife agency before hacking a falconry bird to ensure that this does not occur.

(3) *May I use other falconry training or conditioning techniques?* Yes, you may use other acceptable falconry practices, such as the use of creance (tethered) flying, lures, balloons, or kites

in training or conditioning falconry birds.

(4) *May I sell or trade raptors if I have a falconry permit?* If allowed by your Tribe or State, you may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands that indicate that the birds were captive-bred. You may not do so with wild raptors. You may transfer banded captive-bred birds to other permittees who are authorized to hold them. You may possess only the raptor species and number allowed under your class of permit.

(5) *May I transfer wild-caught raptors captured for falconry to another type of permit?* Yes, you may transfer raptors that cannot be released to the wild because of age or injury to another permit type if the recipient of the bird (which could be you) holds the necessary permits for the other activity.

(i) You may transfer a wild-caught falconry bird to a raptor propagation permit after the bird has been used in falconry for at least 2 years. When you transfer the bird, you must provide a copy of the 3-186A form documenting acquisition of the bird to the Federal migratory bird permits office that administers the propagation permit.

(ii) You may transfer a wild-caught bird to a propagation permit in less than 2 years only if the bird has been injured and a veterinarian or permitted wildlife rehabilitator has determined that the bird can no longer be flown for falconry.

(A) When you transfer the bird, you must provide a copy of the 3-186A form documenting acquisition of the bird to the Federal migratory bird permits office that administers the propagation permit.

(B) When you transfer the bird, you must provide a copy of the certification from the veterinarian or rehabilitator that the bird is not useable in falconry to the Federal migratory bird permits office that administers the propagation permit.

(iii) If you transfer the bird to another falconry permittee, you must report the transfer within 5 days by entering the

required information in the electronic database at <http://permits.fws.gov/186A>.

(6) *May I transfer captive-bred falconry raptors to another type of permit?* Yes, if the holder of the other permit type is authorized to possess the bird(s). Within 5 days you must report the transfer by entering the required information in the electronic database at <http://permits.fws.gov/186A>.

(7) *May I use birds that I hold under my falconry permit in captive propagation?* Yes, if birds you hold for falconry are suitable for the purpose, you also may use them for captive propagation if you or the person overseeing the propagation has the necessary permit(s) (see § 21.30), except that you may not use a golden eagle in captive propagation. You do not need to transfer a bird from your falconry permit if you use it for fewer than 6 months in captive propagation, but you must do so if the bird is permanently transferred for propagation. The bird must then be banded as required in § 21.30.

(8) *May I use my falconry bird(s) for conservation education programs?* Yes, if you are a general or master falconer, have not been convicted of a violation of tribal, State, or Federal falconry regulations in the last 5 years, and if a bird you hold for falconry, other than a golden eagle, is suitable for the purpose, you may use it in conservation education programs.

(i) You must use the bird primarily for falconry.

(ii) You may not use a golden eagle for conservation education.

(iii) You may charge a fee for presentation of a conservation education program.

(iv) In conservation education programs, you must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds. Presentations that are not specific to falconry and conservation education are not permitted.

(A) You may not use falconry birds for entertainment; advertisements; promotion or endorsement of any

products, merchandise, goods, services, meeting, or fair; or as a representation of any business, company, corporation, or other organization.

(B) You may not use falconry birds to make movies, commercials, or in other such commercial ventures.

(v) You do not need a Federal permit to conduct conservation education activities using a falconry bird held under a tribal or State falconry permit.

(vi) You are responsible for all liability associated with conservation education activities you undertake.

(9) *May I assist in rehabilitation of raptors to prepare them for release?* Yes, if you are a general or master falconer, you may assist a Federal- and State-permitted wildlife rehabilitator in conditioning of raptors in preparation for their release to the wild.

(i) You must be at least 18 years old, and you must be a subpermittee of the wildlife rehabilitator (see § 21.31).

(ii) You must abide by all conditions on the rehabilitator's permit.

(iii) You do not have to add any raptor you hold for this purpose to your falconry permit; it will remain under the permit of the rehabilitator.

(iv) You must return any such bird that cannot be released to the rehabilitator for placement.

(v) You may use any acceptable falconry practice, including the use of creance (tethered) flying, lures, balloons, or kites in training or conditioning birds for release.

(10) *What should I do with feathers that my bird or birds molt?* (i) For imping (replacing a damaged feather with a molted feather), you may possess flight feathers for each species of bird you hold or previously held for as long as you have a valid falconry permit. However, if you previously held a golden eagle but no longer have one, you may not keep the feathers. You may receive feathers for imping from other permitted falconers, wildlife rehabilitators, or propagators in the United States. However, you may not buy, sell, or barter such feathers.

(ii) You must burn, bury, or otherwise destroy feathers that are not suitable for imping unless they are from a golden eagle.

(iii) You must send all feathers (including body feathers) from any falconry golden eagle that are in good condition, and that you do not need for imping, to the National Eagle Repository at the following address. To ensure that the Repository knows you have a permit for the bird, send a copy of your State or tribal permit authorizing you to possess a golden eagle with any shipment of feathers to the following address: U.S. Fish and Wildlife Service,

National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022. The telephone number at the Repository is 303-287-2110.

(iv) If your permit expires or is revoked, you may donate the feathers of any species of falconry raptor except a golden eagle to any institution exempt under § 21.12(b) or authorized to receive feathers under authority of a permit to possess them, or to an authorized propagator for use in propagation activities. If you do not donate the feathers, you must burn, bury, or otherwise destroy them.

(11) *What should I do with the carcass of a falconry bird that dies?* (i) You must send the entire body of a golden eagle you held for falconry, including all feathers, talons, and other parts, to the Repository at the address listed in paragraph (e)(10) of this section.

(ii) You may donate the body or feathers of any other species of falconry raptor to any institution exempt under § 21.12(b) or authorized to receive feathers under authority of a permit to possess a body or feathers, or to an authorized propagator for use in propagation activities. If you do not wish to donate the bird body or feathers to an institution or propagator, you must burn, bury, or otherwise destroy it or them within 5 days of the death of the bird. Carcasses of euthanized birds could pose a risk of secondary poisoning of eagles and other scavengers, and you must take appropriate precautions to avoid such poisonings.

(iii) You must report the loss of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A>.

(12) *May a visitor to the United States practice falconry here?*

(i) Yes, if the Tribe or State allows it, a visitor to the United States may qualify for a temporary falconry permit appropriate for his or her experience.

(A) The permit may be valid for up to 1 year.

(B) To demonstrate knowledge of United States falconry laws and regulations, the visitor must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the Tribe or State from which he or she wishes to obtain a temporary falconry permit. If the visitor passes the test, the Tribe or State will decide for what level of temporary permit the person is qualified. To do so, the Tribe or State should base its decision on the individual's documentation of his or her experience.

(C) A holder of a temporary falconry permit may hold birds for falconry if he or she has approved facilities and if the Tribe or State allows him or her to do so.

(D) A holder of a temporary falconry permit may fly birds held for falconry by a resident permitted falconer.

(E) A holder of a temporary falconry permit may not take a bird from the wild for use in falconry.

(ii) For 45 days or fewer, a visitor may use any bird for falconry that he or she holds legally for that purpose in his or her country of residence, provided that import of that species to the United States is not prohibited, and provided that he or she has met all permitting requirements of his or her country of residence. A visitor must comply with the provisions in this section, those of the Tribe or State where he or she wishes to conduct falconry, and all States through which he or she will travel with the bird. The visitor will need one or more additional permits to bring a bird into the United States or to return home with it (see 50 CFR part 14 (importation, exportation, and transportation of wildlife), part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), part 21 (migratory bird import and export permits) and part 23 (endangered species convention)). Unless the visitor to the United States has the necessary permit(s) to bring a bird into the United States and leave it here, he or she must take a bird or birds brought into the country for falconry out of the country when he or she leaves. When flown free, any bird brought to this country temporarily must have an attached radio transmitter that will allow the falconer to locate it. A hybrid raptor brought into this country temporarily for falconry must be imprinted on humans or be surgically sterilized. There also may be tribal or State restrictions on nonresidents practicing falconry or importing a bird or birds held for falconry.

(13) *May I take birds that I hold for falconry to another country for use in falconry activities?* Yes, this section does not restrict your transport of a bird or birds you legally hold for falconry to another country for use in falconry. Therefore, you may take any falconry bird you hold, except a golden eagle, to another country temporarily for use in falconry. However, you may need one or more additional permits to take a bird from the United States or to return home with it (see 50 CFR part 14 (importation, exportation, and transportation of wildlife), part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), part 21

(migratory bird permits), and part 23 (endangered species convention)). Unless you have the necessary permit(s) to permanently export a bird from the United States, you must bring any bird or birds you take out of the country for falconry back to the United States when you return. If you travel abroad with a falconry bird, you must comply with all domestic and foreign laws.

(14) *Does a falconry permit authorize me to capture, fly, or release a falconry bird at any location?* You do not need special or written permission for these activities on public lands if they are otherwise authorized there. However, you must comply with all applicable State or tribal laws regarding falconry activities, including hunting. Your falconry permit does not authorize you

to capture or release birds or practice falconry on public lands if it is not allowed, or on private property, without permission from the custodian or landowner.

(15) *May I practice falconry in the vicinity of a federally listed threatened or endangered animal species?* Yes, however, in practicing falconry you must ensure that your activities do not cause the take of federally listed threatened or endangered wildlife. Take means “to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct” (ESA section 3(19)). Within this definition, “harass” means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering, and “harm”

means an act that actually kills or injures wildlife (50 CFR 17.3). To obtain information about threatened or endangered species that may occur in your State or on tribal lands where you wish to practice falconry, contact your State or tribal agency that regulates falconry.

(16) *Can I trap a bird for use in falconry in areas used by the northern aplomado falcon?* Yes, however, capture of a northern aplomado falcon (*Falco femoralis septentrionalis*) is a violation of the Endangered Species Act, and is not authorized. To avoid trapping northern aplomado falcons, you must comply with the following conditions when trapping a bird for use in falconry in the following counties.

If you trap in	You may trap a bird for falconry in the following counties if you comply with the conditions below.
Arizona	Cochise, Graham, Pima, Pinal, or Santa Cruz.
New Mexico	Doña Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Sierra, or Socorro.
Texas	Aransas, Brewster, Brooks, Calhoun, Cameron, Culberson, Duval, Ector, El Paso, Hidalgo, Hudspeth, Jackson, Jeff Davis, Kenedy, Kinney, Kleberg, Matagorda, Maverick, Midland, Nueces, Pecos, Presidio, Reeves, Refugio, San Patricio, Starr, Terrell, Val Verde, Victoria, Webb, Willacy, or Zapata.

(i) If you are an apprentice falconer, you must be accompanied by a general or master falconer when trapping.

(ii) You may not begin trapping if you observe a northern aplomado falcon in the vicinity of your intended trapping effort.

(iii) You must suspend trapping if a northern aplomado falcon arrives in the vicinity of your trapping effort.

(f) *Applying for a falconry permit.* (1) *How do I apply for a permit to possess raptors and practice falconry?* If you live in a State or belong to a Tribe that allows the practice of falconry, your application for a falconry permit must include the following:

(i) The completed application form from your State or tribal agency that regulates falconry permits.

(ii) Proof that you have passed the falconry test administered by the Tribe or State where you maintain your legal residence.

(iii) For an apprentice permit, a letter from a general or master falconer stating that he or she has agreed to assist you in learning about the husbandry and training of birds held for falconry and about relevant wildlife laws and regulations, and in deciding what species of raptor is appropriate for you to hold while an apprentice.

(iv) For an apprentice falconry or general falconry permit, a parent or legal guardian must co-sign your application if you are under 18.

(v) For a general falconer permit, information documenting your experience maintaining falconry birds, including a summary of what species you held as an apprentice falconer and how long you possessed each bird.

(vi) For a general falconer permit, a letter certifying that you have used your falconry bird(s) for hunting and that you are qualified for general falconer status.

(vii) For a general falconer permit, the number of raptors you possess (if any) and the species, age (if known), sex (if known), date of acquisition, and source (captured from wild, from whom purchased, from whom transferred) of each bird.

(viii) An original, signed certification stating the following (this certification can be incorporated into tribal and State application forms):

I certify that I have read and am familiar with the regulations in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, and that the information I have submitted is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

(2) *Are there additional requirements I must meet before I may possess a bird for use in falconry?* Yes, before you may possess a bird to use in falconry, you must provide proof that your facilities

have been inspected and meet the standards in this section.

(3) *Do I follow the same procedures to renew my falconry permit if I have not moved?* If you have not moved since you received your falconry permit, you must follow the procedures in paragraphs (f)(1) and (2) of this section, except that you will not need to take the test again, certify that you are familiar with 50 CFR part 13, or have your facilities inspected. However, your Tribe or State may require one or more of these actions.

(4) *What procedures do I follow to update my falconry permit if I move?* If you move, you must notify your tribal or State permitting office within 5 days (see § 13.23(c) of this subchapter). If you move to a new State, within 5 days you must inform both your former State or Tribe and your new State of residence (if not on lands of the same Tribe under which you hold your falconry permit) of your address change. If you have new falconry facilities, you must provide information, pictures, and diagrams of them, and they may have to be inspected in accordance with tribal or State requirements.

(g) *Are these regulations in compliance with information collection requirements?* Yes, the information collection required for falconry applications and for falconry bird disposition on FWS Form 3–186A is approved by the Office of Management

and Budget under control number 1018-0022. The information is necessary to determine take of raptors from the wild for falconry.

(h) *What information on falconry permitting are the Tribes and States required to maintain?* Each State or Tribe that permits falconry must maintain the following information in a database that will enable enforcement of this section. The State or tribal database must be compatible with the database that we maintain for our purposes, and new additions to the State or tribal database must be forwarded to us monthly.

(1) The current address of each person with a falconry permit.

(2) The classification of each person with a falconry permit—apprentice falconer, general falconer, or master falconer.

(3) The address of the falconry facilities of each person with a falconry permit.

(4) The Federal falconry identifier number assigned to each person with a falconry permit.

(5) Whether each permittee is authorized to possess a golden eagle.

(6) Information on the status of each person's permit: whether it is active, suspended, or revoked.

(i) *Is there a time requirement for a Tribe or State to enter information on falconry permits into the State or tribal database on falconers?* Yes, information on each permit granted, including changes in status from apprentice falconer to general falconer or general falconer to master falconer, and moves of falconers or their facilities must be entered into the tribal or State database within 5 days of the granting of the permit.

7. Amend § 21.31 by revising paragraph (e)(4)(ii) to read as follows:

§ 21.31 Rehabilitation permits.

* * * * *

(e) * * *

(4) * * *

(ii) Following recovery of the bird you must release each recuperated bird to suitable habitat as soon as seasonal conditions allow, except that you may, at your discretion, transfer a rehabilitated wild raptor to a holder of a State falconry permit if the permit holder is authorized to hold the species for use in falconry. The falconer must complete a Form 3-186A reporting the transfer.

(A) You may not retain migratory birds longer than 180 days without additional authorization from your Regional Migratory Bird Permit Office. If the appropriate season for release is outside the 180-day timeframe, you must seek authorization from your Fish and Wildlife Service Regional Migratory Bird Permit Office to hold the bird until the appropriate season.

(B) Before releasing a threatened or endangered migratory bird, you must coordinate with your Fish and Wildlife Service Regional Migratory Bird Permit Office.

* * * * *

PART 22—EAGLE PERMITS

8. The authority citation for part 22 continues to read as follows:

Authority: 16 U.S.C. 668a; 16 U.S.C. 703-712; 16 U.S.C. 1531-1544.

9. Revise § 22.24 to read as follows.

§ 22.24 Permits for falconry purposes.

(a) *May golden eagles be used in falconry?* Yes, if your State or Tribe allows it, you may possess a golden

eagle (*Aquila chrysaetos*) for use in falconry if you are a master falconer with documentation of the required experience, and if you meet the requirements and provide the materials documenting your ability to handle golden eagles as outlined in 50 CFR 21.29(b)(3)(ii).

(b) *Is a separate Federal permit for use of a golden eagle in falconry required?* No, if you meet the conditions outlined in 50 CFR 21.29(b)(3)(iii)(D), and your State or Tribe allows you to possess a golden eagle for use in falconry, then we consider a permit from your State or Tribe authorizing you to possess a golden eagle or golden eagles for use in falconry sufficient for the purposes of the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d).

(c) *May golden eagles trapped by a government employee be transferred to a falconer?* Yes, if you (the falconer) have the necessary permit(s) from your State or Tribe, a government employee who has trapped a subadult golden eagle under Federal, State, or tribal permit authority may transfer the bird to you if he or she cannot release the eagle in an appropriate location. A subadult golden eagle may only be taken from a certified depredation area. We will not notify you about depredation areas or personnel conducting eagle trapping. You must contact USDA Wildlife Services or the State agency that declares such areas to determine if a depredation area has been declared.

Dated: December 9, 2004.

Craig Manson,
Assistant Secretary for Fish and Wildlife and Parks.

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