

## Agenda Item Summary

### BACKGROUND

In Oregon, falconry regulations were first adopted in 1977; and have been revised and updated in 1990, 2002, February 2008 and most recently in December 2008. All activities regarding possession of raptors are also governed by federal regulations under the Migratory Bird Treaty Act. The “take” of peregrine falcons for falconry has been permitted by the U.S. Fish and Wildlife Service (USFWS) since 2004 . Threatened and endangered species are precluded from “take” from the wild: the American peregrine falcon was removed from protection under the Oregon Endangered Species Act (ORS 496.171 et seq.) in April 2007. The Commission first authorized peregrine falcon “take” for falconry in February 2008.

The department is proposing take of peregrine falcons for permitted master falconers for the 2010 season; provisions for the suspension and/or revocation of falconry licenses and permits; and other house-keeping issues. The department recommendations are based mainly upon discussions with the Oregon Falconers Association (OFA) and the Audubon Society of Portland (ASP). The department continues to work with Oregon State University, ASP, OFA, USFWS and the Peregrine Working Group for Oregon on the continued monitoring of peregrine falcon nest sites and productivity of young in the wild.

### PUBLIC INVOLVEMENT

The department has met and worked with the OFA and the ASP to address issues and concerns relating to the "take" of peregrine falcons for falconry purposes.

### ISSUE 1

#### ADOPTION OF PROPOSED RULES

### ANALYSIS

These proposed rules will allow the limited taking of nestling (eyas) peregrine falcons removed by an authorized person during nest site management-related activities on bridges and other man-made structures. These nestlings may be made available to permitted master falconers (no more than one nestling each). The rules also allow master falconer permit-holders to take a post-fledgling first-year peregrine falcon (taken away from a nest site location) through August 31<sup>st</sup> each season.

The total number of nestlings taken in Oregon in any year must not exceed five percent of the state's annual productivity, as required by the USFWS (Environmental Assessment, March 2004 and Final Environmental Assessment and Management Plan, August 2008; FR 36253, July 22, 2009).

The USFWS (Monitoring Plan for the American Peregrine Falcon (2003)), designated 2009 as a national comprehensive survey year for breeding peregrine falcons. In Oregon, the department has worked closely with OSU, the Audubon Society, OFA, USFWS, and the Peregrine Working Group for Oregon to undertake and complete a survey of peregrine falcon nest sites across the state, recording nest site occupancy and productivity of young. This survey effort covered 128 nest sites out of a total of 153 known nest sites and involved 80 biologists and volunteers. This survey is the most complete monitoring effort since 2006 and provides the best picture of peregrine recovery in the state.

The authorized maximum take of young peregrine falcons proposed for 2010 is based on this survey, the experience gained from the first two seasons and upon consultation with OFA and the Audubon Society. As a result the department recommends a maximum total of seven peregrines be allowed to be taken in 2010. In accordance with these amended rules and the department's permit conditions and guidelines, nestling peregrine falcon "take" will be allowed only by persons authorized by the department during nest-site management activities on man-made structures (e.g. bridges and buildings). Any nestlings taken during nest-site management activities may be made available to master falconers who possess an unfilled peregrine capture permit for the current capture season.

The proposed rule also makes permanent a temporary rule (May 2009) which authorizes the take of post-fledgling first-year peregrine falcons (away from the nest) by master falconers only - through August 31 of each season. This "take" was authorized by USFWS in their "Final Environmental Assessment and Management Plan" dated August 2008.

As a consequence of an incident in May 2009 concerning the alleged unlawful taking of peregrine falcon nestlings, five falconers were charged and are awaiting court action. Language is incorporated in these rules to clarify the department's authority to suspend and/or revoke licenses and permits of a falconer during the course of any legal proceedings and in the event of any wildlife conviction.

## OPTIONS

1. Adopt the rules as proposed
2. Adopt the rules in some amended form
3. Not adopt any rules on this subject

## STAFF RECOMMENDATION

1. Option 1

DRAFT MOTION

I move to amend OAR 635 Division 055 as presented by staff.

Upon filing.

EFFECTIVE DATE