

## Agenda Item Summary

### BACKGROUND

In Oregon, falconry regulations were first adopted in 1977; and have been revised and updated in 1990, 2002, 2008 and most recently in December 2009. 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.

With the proposed administrative rule amendment, the department is seeking the Commission's approval to allow take of peregrine falcons for permitted master falconers for the 2011 season. The department recommendations are based upon discussions with the Oregon Falconers Association (OFA), the Oregon Hawking Club (OHC), Oregon Hunters Association (OHA), the Audubon Society of Portland (ASP) and other unaffiliated people with an interest in falconry.

Due in part to concern following an incident in May 2009 concerning the unlawful taking of peregrine falcon nestlings, the take of nestling peregrines in 2010 was restricted to bridges and man-made structures only. In 2010, the nesting success of bridge-nesting birds in the Portland metropolitan area was low and no birds were taken for falconry from bridges. One bird was taken in the post-fledgling period in 2010. The proposal for 2011 allows for some take of nestling peregrine falcons from natural nests with safeguards and enhanced coordination between the permit holders and ODFW staff. Permit-holders may accept a young peregrine falcon taken by persons authorized by the department from man-made structures (e.g. bridges). This will however only occur in circumstances where peregrine nestlings need to be removed from a nest during management or operational activities to nest-site structures. As in previous years, permit holders also have the option of taking (providing their permit is unfilled) a post-fledgling bird after the young first-year bird has flown from the nest, up to August 31<sup>st</sup>.

### PUBLIC INVOLVEMENT

The department has met and worked with representatives from OFA, OHC, OHA and ASP to address issues and concerns relating to the "take" of peregrine falcons for falconry purposes for 2011.

### ISSUE 1

#### ADOPTION OF PROPOSED RULES

### ANALYSIS

These proposed rules will allow the limited taking of nestling (eyas) peregrine falcons removed by permitted master falconers from natural nest sites. They also allow permit-holders to accept a young peregrine falcon taken by

\* (Federal Register: March 10, 2004 (Volume 69, Number 47); and Final Revised Environmental Assessment, Management Plan and Implementation Guidance for the Take of American Peregrine Falcons in the Contiguous United States and Alaska for Use in Falconry (2004)) and updated in 2008.

authorized persons from man-made structures such as bridges. This will only occur in circumstances where nestlings need to be removed from a nest during management or operational activities to nest-site structures. The rules already 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 USFWS (Environmental Assessment, March 2004 and Final Environmental Assessment and Management Plan, August 2008; FR 36253, July 22, 2009) requires that the total number of nestlings taken in Oregon in any year must not exceed five percent of the state's annual productivity. The USFWS (Monitoring Plan for the American Peregrine Falcon (2003)), requires a national comprehensive survey once every three years for monitoring peregrine falcon breeding populations. The 2009 Oregon survey, which was part of the national effort, is the most recent systematic intensive survey available and provides the best picture of peregrine recovery in the state. Systematic monitoring of peregrine falcons in Oregon was not undertaken in 2010 but data was collected opportunistically by state and federal biologists and volunteers. In 2009, the Oregon survey covered 130 nest sites out of a total of 154 known nest sites; 168 young peregrines were recorded fledged with 1.81 young recorded per occupied breeding area with known outcome or 2.21 young per successful pair.

As in 2010, the authorized maximum take of young peregrine falcons proposed for 2011 in Oregon is based on this survey; the experience gained from the first three seasons where take of young peregrine falcons has been authorized; and upon consultation with the OFA, OHC, OHA and ASP. The department recommends a maximum total of seven peregrines be allowed to be taken in 2011 which is acknowledged to be conservative. Six permits for Oregon resident master falconers and one permit for a nonresident (a falconer possessing a master falconer license from a state with a federally approved falconry program) will be issued. In accordance with the amended rules and the department's permit conditions and guidelines, four nestling peregrine falcons will be authorized to be taken from natural nest sites by permitted master falconers. The four permits will be the first permits selected by lottery draw. The remaining two resident permits and one nonresident permit holder may accept a young peregrine falcon taken by persons authorized by the department from man-made structures (e.g. bridges or buildings). This will only occur in circumstances where nestlings need to be removed from a nest during management or operational activities to nest-site structures. In such limited circumstances that nestlings are made available to permitted master falconers, no more than one nestling will be allowed for each falconer.

The current administrative rule already authorizes master falconer permit-holders take of post-fledgling first-year peregrine falcons (away from the nest) through August 31 of each season, providing their permit remains unfilled. This "take" was authorized by USFWS in their "Final Environmental Assessment and Management Plan" dated August 2008.

The proposed rule requires monitoring nest sites and coordination with the department and land managing agencies. Prior to any nest entry, permit-holders are required to monitor each potential nest site considered for take to

assess presence or occupancy of nesting peregrine falcons and determine the approximate ages of young birds in each nest. The permit-holder must identify the site location (by providing a clearly marked map with sufficient labels and information to determine location; a Public Land Survey System which includes Township, Range, Section, Quarter Section, and Quarter; or a coordinate pair (latitude/longitude, or UTM/Meters) derived from a GPS unit indicating brand and model); the number of young in the nest and approximate ages of the nestlings on a form provided by the department. This information must be reported in writing to the ODFW Falconry Program at least seven (7) days prior to attempting any nest entry. Permit-holders are also required to contact in writing or by phone the appropriate ODFW biologist in the District in which the nest(s) are located at least seven (7) days prior to proposed nest entry. Where nests are located on federal land, permit holders must also contact U.S. Forest Service or Bureau of Land Management biologists before entering nest sites. State and federal biologists may accompany permit-holders during take activities. If a permit holder violates any part of this administrative rule, the department will invalidate his or her peregrine capture permit.

The department also considered the following options: 1) maintaining the rule unchanged (allowing no take from natural nest-site locations); 2) allowing three permits from natural sites and four from bridges or buildings which would be modified by a certain date to allow take from natural sites if none become available from bridges, and; 3) allow all take from natural sites with conditions.

## 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 635-055, as presented by staff.

## EFFECTIVE DATE

Upon filing.