

Agenda Item Summary

BACKGROUND

Falconry is an ancient sport and is a traditional form of hunting with a history dating back over 4,000 years. Originating in Asia and the Middle East, falconry concerns the training of birds of prey in the pursuit and hunting of wild birds and small mammals in their natural state and habitat. Over its history falconry has reached a high level of refinement as an economic asset, as a sport, and as an art. Historically, falconry has had a significant following as a sporting and cultural activity enjoyed by the nobility and those who wished to emulate their lifestyle. Falconry, therefore, became a highly visible social activity for several centuries but interest and practice declined with the advanced urbanization of the Industrial Revolution. In the early twentieth century, there was a resurgence of interest in falconry in some European countries. Since World War II, falconry has dramatically increased in popularity in the United States. Farsighted conservation-minded American falconers encouraged and helped formulate federal and state regulations by which all falconers must abide. In November 2010 the United Nations Educational Scientific and Cultural Organization (UNESCO), Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage added falconry to its "List of the Intangible Cultural Heritage of Humanity."

In Oregon, falconry regulations were first adopted in 1977. General revisions and amendments were made in 1990 and 2002. Amendments specifically addressing peregrine falcon "take" (take means to trap, or capture a raptor from the wild for falconry and is defined in OAR 635-055-0002) have been made regularly from 2008 through 2011. All activities regarding possession of raptors, licenses and permits are also governed by federal regulation under the Migratory Bird Treaty Act (1918, as amended) (16 U.S.C. 703-712).

The U.S. Fish and Wildlife Service (USFWS) established regulations governing falconry in February 2005, which were further amended in January 2010 (FR Vol. 75, No. 4, 927-931), and again in December 2010 (FR Vol. 75, No.247). In August 2011, the Commission adopted new Oregon administrative rules in compliance with federal regulations whereby 50 CFR §21.29 (as in effect on August 5, 2011, except where state regulations are more restrictive than federal regulations) was incorporated by reference. The purpose of these rule amendments is to maintain the requirements of federal regulations and accountability while allowing flexibility in our administrative rules concerning the take of peregrine falcons for falconry. These proposed rules also add a new species to the list of species already authorized for falconry by federal regulations but not currently authorized in Oregon. The proposed rules also include a few minor administrative corrections.

The Commission has authorized the taking of peregrine falcons since 2008 following the removal of the America peregrine falcon from protection as a threatened species under the Oregon Endangered Species Act (ORS 496.171 et seq.). These rule amendments are in response to requests from Oregon Falconers' Association, other falconers, and in consultation with the Audubon Society of Portland. Although the department is proposing that some conditions and requirements relating to peregrine falcon take be removed from these administrative rules, the requirements for monitoring and reporting will instead be included in the "terms and conditions" appearing on individual raptor capture take permits issued by the department. These requirements will be binding on the permit holder.

At present, authorized master falconers may individually take one wild nestling or post-fledgling peregrine falcon each year, and a maximum of 7 birds are authorized to be taken per year. In Oregon only one bird (2010) has been lawfully taken in the past four years; two were illegally taken in 2009.

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) (plan)), which implemented a 13-year (2003-2015) nationwide plan to monitor nesting peregrine falcons, requires a national comprehensive survey once every three years for monitoring breeding populations. The 2012 Oregon survey, which was part of the national effort, is the most recent systematic intensive survey available. The survey revealed 175 nest sites in the state (seven new sites since the 2009 survey) and a sample of 126 nest sites were monitored to protocol standards. Of the state sample sites, nesting success was 68% with 1.29 young produced per occupied site, and 1.96 young per successful breeding area. The last national survey under the plan is anticipated in 2015 subject to funding being available. Although we do not have a total number of young produced in 2012, numbers of breeding pairs have increased since the maximum take numbers were previously established in 2009. We propose increasing the maximum number of birds that may be taken annually from 7 to 10. We believe this number falls well within the maximum allowed by USFWS, and has support from falconry and conservation representatives.

PUBLIC INVOLVEMENT

The department has met and worked with representatives from Oregon Falconers Association, Oregon Hunters' Association and Audubon Society of Portland to address rule amendments and concerns relating to the "take" of peregrine falcons for falconry purposes for 2014 and subsequent years.

ISSUE 1

AMEND CURRENT ADMINISTRATIVE RULE CONDITIONS FOR TAKE OF PEREGRINE FALCONS FOR FALCONRY

ANALYSIS

These proposed rules will simplify the current state administrative rules relating to the take of peregrine falcons for falconry. Instead, each raptor capture permit issued by the department will spell-out such terms and conditions the department considers appropriate and necessary to fulfill state and federal regulations as well as safeguarding the conservation of nesting peregrine falcons. The purpose of these amendments is to maintain the requirements of federal regulations and accountability while allowing flexibility in our administrative rules concerning the take of peregrine falcons. The proposed rule removes the distinction of take from natural or man-made structures. Take will be allowed from anywhere in the state providing it is otherwise lawful. The department's falconry licenses or take permits do not in any way confer any right of entry to any land ownership.

The proposed amendments also include administrative changes concerning to the agency mailing address and other administrative corrections.

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

OPTION 1

ISSUE 2

AMEND MAXIMUM NUMBER OF YOUNG PEREGRINES ALLOWED TO BE TAKEN

ANALYSIS

Current administrative rules allow the taking of seven (7) nestling or post-fledgling peregrine falcons each year. Only one bird has actually been taken since 2010. Although we do not have a precise measure of the current number of nesting peregrine falcons in Oregon or the number of young produced, the information available from surveys in 2012 suggest that the numbers of breeding pairs has continued to increase as have the numbers of young produced each year. It is proposed and agreed with Oregon Falconers Association and Audubon Society of Portland that the maximum number of nestlings and/or post-fledglings that will be allowed to be captured will be 10 annually. This may exceed demand currently but will allow the department discretion to adjust maximum numbers in this next and subsequent season. This number of 10 birds falls below the number authorized by U.S. Fish and Wildlife Service for Oregon within the Pacific Flyway. As previously peregrine falcon capture permits will be awarded to qualified Oregon residents who are selected by lottery draw held each year. One permit will be reserved for a qualified non-resident also selected by lottery draw. If no qualified non-resident applies or accepts a peregrine capture permit, that permit will be allocated to the

next qualified resident, in the sequence drawn in the lottery. Monitoring peregrine nests by falconers prior to take will still be required so as to fulfill federal requirements.

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**

OPTION 1

ISSUE 3

CONSIDER ADDITIONAL SPECIES FOR TAKE

ANALYSIS

At present, 11 falcon species may be taken from the wild for use by falconers (OAR 635-055-0030). The federal regulations allow for additional species to be taken and used for falconry. Oregon Falconers Association has requested two additional species: red-shouldered hawk (*Buteo lineatus*) and ferruginous hawk (*Buteo regalis*) to be available for take. The department has considered this request. The department is concerned with the conservation of the ferruginous hawk and believes we need more information on the status of the species before allowing regulated take. The ferruginous hawk, which is considered by the department as a *sensitive-critical* species, is vulnerable to human disturbance and the impact and development pressures in central and eastern Oregon where it occurs. The department proposes to work with conservation and falconry partners and the energy industry to establish a fuller picture of the status of ferruginous hawks in Oregon and neighboring states.

The red-shouldered hawk has expanded northwards from California into Oregon in recent decades, particularly in the Willamette Valley westwards to the coast. The red-shouldered hawk is authorized for take in California for all classes of falconer. ODFW recommends allowing up to three (3) birds be authorized for take as passage or migrant birds - away from the nest. It is proposed therefore that the red-shouldered hawk will be added to 635-055-0030 (5) and be available to general and master falconers.

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. Adopt rules as proposed

DRAFT MOTION

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

EFFECTIVE DATE

Upon filing