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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Parts 21 and 22****[FWS–R9–MB–2009–0002; 91200–1231–9BPP]****RIN 1018–AW44****Migratory Bird Permits; Changes in the Regulations Governing Falconry****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

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**SUMMARY:** We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on October 8, 2008, to revise our regulations governing falconry in the United States. With this action, we make several changes to those regulations to correct inconsistencies and oversights and make the regulations clearer.**DATES:** This regulations change will be effective on February 8, 2010.**FOR FURTHER INFORMATION CONTACT:** Dr. George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703–358–1825.**SUPPLEMENTARY INFORMATION:****Background**

On October 8, 2008, we published a final rule in the **Federal Register** (73 FR 59448) to revise our regulations governing falconry in the United States. We eliminated the requirement for a Federal permit to practice falconry, and made other changes to make it easier to understand the requirements for the practice of falconry, including take of raptors from the wild, and the procedures for obtaining a falconry permit. The rule also added a provision allowing us to approve falconry regulations that Indian Tribes, States, or U.S. territories adopt. The rule became effective November 7, 2008, and changed the Code of Federal Regulations (CFR) at 50 CFR parts 21 and 22.

After publication of the rule, we received questions from the public

about some aspects of the final rule. On July 22, 2009, we proposed revisions to the falconry rule in the **Federal Register** (75 FR 36158) to clarify or correct some provisions in the rule.

### Comments on the Proposed Rule

We received 13 comments on the proposed rule. Several of the comments were about provisions in the falconry regulations for which we did not propose changes, and therefore are not summarized here.

*Comment.* “With one exception the changes are well thought out and will improve the regulations. The exception is your plan to now cite for the first time the Birds of Conservation Concern 2008 as restricting the take of raptors for falconry. I am not in favor of citing or using this document to place further restrictions on the take of raptors for falconry. The Federal lists of endangered and threatened wildlife, including raptors, currently place appropriate restrictions on the take of raptors by falconers. Your agency’s environmental assessments have repeatedly shown that the take of raptors for falconry has no measurable environmental impact on wild raptor populations. Past Federal Falconry Regulations have not cited the Birds of Conservation Concern 2008. Therefore, citing the Birds of Conservation Concern 2008 in the new Federal Falconry Regulations does not seem necessary or justified from a biological standpoint.

Furthermore, the thrust of the new Federal Falconry Regulations is to turn the regulation of falconry over to the States. States do monitor non-game wildlife and have and will in the future place restriction of the take of raptors for falconry when there is a biological reason to do so. It seems reasonable to let the States address the take of Federally non-threatened and non-endangered raptors for falconry without a new layer of Federal restrictions. Adding the Birds of Conservation Concern 2008 to the new Federal Falconry Regulations will have the effect of adding a new layer of restrictions that are simply not needed or justified.”

*Response.* We have removed the reference to the Birds of Conservation Concern (BCC) list, and have specified the raptor species that may not be taken from the wild by Apprentices. The listing may appear to add a new restriction to the falconry rules, but it does not. With the exceptions of eagles and threatened or endangered species, the species that Apprentices may take from the wild are already based on the status of raptors in the 2002 BCC list, although the regulations did not

explicitly cite the BCC list. This regulations change is made to make the list better match the status of raptor species found in the United States. We may change the regulations at a later date if any raptor species is added to, or removed from, the BCC list of species of national concern.

*Comment.* “The prohibition of a threatened or endangered species is unnecessary. This blocks possession of a bird which could come from many sources, including rehabilitation where a bird could be flown for a season to be trained to survive in the wild. Since the States are effectively applying this limitation, this is unnecessary language. At the least the prohibition should be for take of these species, not for possession.”

*Response.* We believe that this comment is about the prohibition on possession of threatened or endangered species by Apprentice falconers. The list of species available to Apprentices was expanded considerably when we revised the falconry regulations. However, because they are learning care of raptors and the practice of falconry, we do not believe it is advisable for Apprentices to possess threatened or endangered species. Apprentices are precluded from possessing only six species of threatened or endangered Falconiformes or Strigiformes—only one of which is suitable for falconry.

*Comment.* “This proposed change remains unclear regarding ‘organizations’ [sic] use of falconry raptors. NAFA and other associations as well as State falconry associations appear to be negatively impacted by this proposed language. An interpretation of this regulation could mean that falconry associations may not use a depiction of a falconry raptor in a pamphlet, brochure, video, or other medium promoting its organization \* \* \*. We respectfully request this be clarified to permit falconry organizations the use of depictions of falconry raptors for purposes directly related to falconry and the promotion of falconry associations and organizations.

“While I appreciate enabling the use of a falconry bird for demonstrating and advertising falconry equipment, this is still more constrictive than necessary, and certainly more restrictive than other countries who are also party to our treaties. This would still block use of a falconry bird to photograph for education, such as illustrating a medical condition. It would block the photography of a bird and the videotaping of the bird to demonstrate training, flying, or hunting. And much of the sport is about enjoyment—of our birds, our relationship, and the

activities. Just filming them for our own enjoyment or even profit. As long as these birds held under a falconry permit are used primarily for falconry, there is nothing wrong with allowing them to be used for many other purposes. I applaud the efforts to allow their use for education, abatement, breeding, and even rehabilitation (such as parenting orphaned raptors). However this section can be interpreted to make anything from falconry catalogs to training videos illegal. It appears aimed to ensure no falconer uses their bird in a Harry Potter movie, but the potential problems in that space are so incredibly minor compared to the risk this introduces to activities at the core of falconry. I support erasing the entire section which is ill conceived and poorly formed.”

*Response.* We agree with some of the concerns expressed by commenters, and we have changed the provisions in this paragraph. For example, it is acceptable to use a falconry bird in a publication about the care or health of raptors. However, we continue to disallow the use of falconry raptors in purely commercial endeavors.

*Comment.* “[I]mprint’ definition—I certainly do not try to isolate an ‘imprint’ falconry bird from other raptors during the period as described in proposed definition. In order to raise a successful imprint, one that is not adversely affected by ‘new’ objects & circumstance, many feel that it is important to expose the bird to as much of the world as one might encounter after training, while out hunting, and while in the mew or weathering, & while traveling. Being able to raise & train as a falconer deems necessary is important to the continued success of the raptor’s integration into a different aspect of the taking of prey—that means exposure to other raptors (to be seen & to see). This is a normal part of a raptor’s world and part of a falconry bird’s learning process. This definition is simply not the truth and may be construed to mean that when one trains an imprint, they must isolate the bird and part of that is not to allow the bird to see other raptors. I understand the need for discussing imprints however in truth all birds are imprints. This is not what I believe the regulations are speaking to. Encarta dictionary uses a definition for imprint as ‘zoology intransitive verb to learn an attraction to members of the same species or substitutes very early in life.’ Clearly the terminology as correctly used in the course of falconry is that an imprint is denoted as a hand raised raptor meaning raising by or assisted by human contact \* \* \* [T]he restriction and definition provided is invalid and unnecessary

and that the reason for hand raising is for the young raptor to have an attraction for or to bond with others, the falconer especially.”

*Response.* We believe that the point of this comment is that falconry birds need not be isolated from other raptors to imprint on humans. We changed the definition accordingly.

### Revisions to the Falconry Regulations

We make the following significant changes to the proposed rule in paragraphs (d)(1)(ii)(A)(4), (e)(3), and (f)(9)(ii). In addition to these changes, we implement numerous small clarifications or changes to make the information or requirements in the regulations consistent.

(1) We clarify the definition of the term “imprint” in 50 CFR 21.3 by changing the definition to mean a bird that is hand-raised from 2 weeks of age until it has fledged, and has identified itself with humans rather than its own species.

(2) After publishing the final rule in October 2008, we received inquiries about the prohibition in 50 CFR 21.29(c)(3)(i)(E) on possession of captive-bred raptors by Apprentice falconers. We neglected to clearly prohibit possession of wild raptors of threatened or endangered species in this subsection of our final rule. We continue to disallow take and possession of eagles and of threatened and endangered species by Apprentice falconers, as well as take of raptor species of conservation concern, though Apprentice falconers may possess lawfully acquired BCC species. We revise paragraph (c)(3)(i)(E) to clarify this issue for the public and to clarify that an Apprentice falconer may have a hybrid raptor of most species.

(3) In our October 2008 final rule, we stated in § 21.29(c)(3)(ii)(C) that, to advance to the level of General Falconer, an Apprentice Falconer must “have practiced falconry with wild raptor(s) at the Apprentice Falconer level or equivalent for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for at least 4 months in each year.” However, because apprentices need not use wild raptors to advance to the General Falconer level, we remove the word “wild” from this requirement. Likewise, we correct § 21.29(g)(5)(ii), to make the requirements listed match those in § 21.29(c)(3)(ii)(C). Finally, for the same reason, we remove the word “wild” from § 21.29(d)(1)(ii)(A).

(4) We revise paragraph (c)(7)(i) to require banding by replacing the words “in lieu of a” with the words “in addition to the” in the second sentence.

The four species named in that paragraph must be banded with a nonreusable band that we will provide to the State, tribe, or territory.

(5) In our October 2008 final rule, we stated in § 21.29(d)(1)(ii)(A)(4) that for housing falconry raptors that “[e]ach raptor must have a pan of clean water available.” In cold weather conditions and with some perch types, this requirement is impractical, and potentially harmful. We change the requirement to clarify that, if practical, a water pan should be made available for a falconry bird.

(6) In an oversight, our October 2008 final rule stated at § 21.29(e)(3)(ii) that General or Master falconers “may take raptors less than 1 year of age from the wild during any period or periods specified by the State, tribe, or territory.” We clarify § 21.29(e)(3)(i) to disallow take of nestlings by Apprentice falconers.

(7) We correct language in § 21.29(e)(iii) to clarify take of golden eagles by Master falconers.

(8) After our October 2008 final rule was published, we were asked about the use of falconry birds in demonstrating or advertising falconry-related items such as hoods and telemetry equipment. We add a sentence to § 21.29(f)(9)(ii) clarifying that filming, photography, or illustration of falconry birds to demonstrate or advertise falconry equipment or educational materials, for scientific purposes, and for the purposes of nonprofit falconry organizations is allowed.

(9) We revise the language in paragraph 22.24(b) to make it clear that a federal permit is required to take golden eagles under a Federal depredation permit or under a depredation control order.

(10) Finally, we also correct paragraph designations for several subparagraphs by indicating that the designations should have published in italics to conform with style requirements of the Office of the Federal Register, which requires that paragraph designations in the CFR follow this order: (a), (1), (i), (A), (1), and (i).

### Required Determinations

#### *Regulatory Planning and Review*

The Office of Management and Budget (OMB) has determined that this proposed rule is not significant under Executive Order 12866. OMB bases its determination upon the following four criteria:

a. Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the

environment, or other units of the government.

b. Whether the rule will create inconsistencies with other Federal agencies’ actions.

c. Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

d. Whether the rule raises novel legal or policy issues.

#### *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 (that is, 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 and correct small problems with the published regulations.

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 economic 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. There are no costs to permittees or any other part of the economy associated with these regulation changes.

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. Neither regulation nor practice of falconry affects small government activities.

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 E.O. 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 E.O. 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 E.O. 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 this rule under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of the Migratory Bird Permits Program and assigned OMB control number 1018–0022, which expires November 30, 2010. This regulation change does not add to the approved information collection. Information from the collection is used to document take of raptors from the wild for use in falconry and to document transfers of raptors 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 evaluated the environmental impacts of the significant changes to these regulations, and determined that the clarifications and corrections in this rule do not have any environmental impacts. Within the spirit and intent of the Council on Environmental Quality’s regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, we determined that these regulatory changes do not have a significant effect on the human environment.

Under the guidance in Appendix 1 of the Department of the Interior Manual at 516 DM 8, we conclude that the regulatory changes are categorically excluded because they “have no or minor potential environmental impact” (516 DM 8.5(A)(1)). No more comprehensive NEPA analysis of the regulations change is required.

#### *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 this rule will not interfere with tribes’ ability to manage themselves or their funds or to regulate falconry on Tribal lands.

#### *Energy Supply, Distribution, or Use*

E.O. 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 E.O. 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 negligible.

Socioeconomic. The proposed action will have no socioeconomic impacts.

Raptor populations. This rule will not change the effects of falconry on raptor populations.

Endangered and Threatened Species. This proposed rule has language additions or changes that clarify protections for endangered and threatened species. The rule does not itself make any changes to those protections.

#### *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)). These regulatory corrections and clarifications will not affect threatened or endangered species or their habitats in the United States.

#### **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 amend part 21 of subpart C, subchapter B, chapter I, title 50 of the Code of Federal Regulations, as follows:

#### **PART 21—MIGRATORY BIRD PERMITS**

1. The authority citation for part 21 continues to read as follows:

**Authority:** Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Public Law 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106-108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

### § 21.3 [Amended]

2. Amend § 21.3 in the definition of the term “Imprint” by removing the first sentence and adding in its place the sentence “*Imprint*, for the purposes of falconry, means a bird that is hand-raised, from 2 weeks of age until it has fledged, and has identified itself with humans rather than its own species.”

### § 21.29 [Amended]

3. Amend § 21.29 as follows:

- Redesignate paragraphs (c)(3)(i)(C)(1), (2), and (3) as paragraphs (c)(3)(i)(C)(1), (2), and (3);
- Revise paragraph (c)(3)(i)(E) to read as set forth below;
- Amend paragraph (c)(3)(ii)(C) by removing the word “wild” from the first sentence;
- Amend paragraph (c)(3)(iii)(C) by adding the words “for use in falconry” at the end of the paragraph;
- Redesignate paragraphs (c)(3)(iv)(A)(1) and (2) as paragraphs (c)(3)(iv)(A)(1) and (2);
- Amend newly redesignated paragraph (c)(3)(iv)(A)(2) by removing the words “(*Buteo regalis*)” from the first sentence;
- Amend paragraph (c)(3)(iv)(B) by adding the words “for use in falconry” at the end of the paragraph;
- Revise paragraphs (c)(7)(i) and (ii) to read as set forth below;
- Amend paragraph (c)(7)(iii)(A) by removing the words “immediately upon” and adding in their place the words “within 10 days of”;
- Amend paragraph (d)(1)(ii)(A) by removing the word “wild”;
- Redesignate paragraphs (d)(1)(ii)(A)(1), (2), (3), and (4) as paragraphs (d)(1)(ii)(A)(1), (2), (3), and (4);
- Revise newly redesignated paragraph (d)(1)(ii)(A)(4) to read as set forth below;
- Redesignate paragraphs (d)(1)(ii)(B)(1) and (2) as paragraphs (d)(1)(ii)(B)(1) and (2) and paragraphs (d)(1)(ii)(D)(1), (2), and (3) as paragraphs (d)(1)(ii)(D)(1), (2), and (3);
- Revise paragraph (d)(2)(ii) to read as set forth below;
- Amend paragraph (d)(4) by, in the last sentence, removing the words “your home” and adding in their place the words “the permanent facility where it is housed”;
- Revise paragraphs (d)(9), (e)(1)(v), and (e)(3)(i) to read as set forth below;
- Amend paragraph (e)(3)(ii) by adding the word “only” between the

words “take” and “raptors” in the first sentence;

r. Remove paragraphs (e)(3)(iii) and (e)(3)(iii)(A) and (B); redesignate paragraphs (e)(3)(iii)(C), (D), and (E) as paragraphs (e)(3)(iii)(E), (F), and (G); and add new paragraphs (e)(3)(iii) and (e)(3)(iii)(A) through (D) to read as set forth below;

s. Redesignate paragraphs (e)(3)(vi)(C)(1) and (2) as paragraphs (e)(3)(vi)(C)(1) and (2);

t. Amend the heading of paragraph (e)(6) by removing the word “release”;

u. Amend paragraph (e)(8) by removing the words “at least two attached” and adding in their place the words “attached at least two functioning”;

v. Amend paragraph (e)(9)(i) by removing the word “species” and adding in its place the word “raptor” and by adding the word “permanently” between the words “not” and “release”;

w. Remove paragraph (e)(9)(iv);

x. Amend paragraph (f)(5)(ii)(A) by removing the words “When you transfer the bird” and adding in their place the words “Within 10 days of transferring the bird”;

y. Amend paragraph (f)(9)(ii) by revising the text and adding paragraphs (A) and (B) to read as set forth below; and

z. Amend paragraph (g)(5)(ii) by removing the words “taken from the wild” and “an average of 6 months per year, with.”

### § 21.29 Falconry standards and falconry permitting.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) \* \* \*

(E) You may possess a raptor of any Falconiform or Strigiform species, including wild, captive-bred, or hybrid individuals, except a federally listed threatened or endangered species, a bald eagle (*Haliaeetus leucocephalus*), a white-tailed eagle (*Haliaeetus albicilla*), a Steller’s sea-eagle (*Haliaeetus pelagicus*), or a golden eagle (*Aquila chrysaetos*).

\* \* \* \* \*

(7) \* \* \*

(i) If you take a goshawk, Harris’s hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) from the wild or acquire one from another falconer or a rehabilitator, and if the raptor is not already banded, you must band it with a permanent, nonreusable, numbered U.S. Fish and Wildlife Service leg band that your State, tribal, or territorial agency will supply. If you wish, you

may purchase and implant an ISO (International Organization for Standardization)-compliant (134.2 kHz) microchip in addition to the band. You must report the band number when you report your acquisition of the bird. Contact your State, tribal, or territorial agency for information on obtaining and disposing of bands. Within 10 days from the day on which you take the raptor from the wild, you must report take of the bird by entering the required information (including the band number) in the electronic database at <http://permits.fws.gov/186A> or, if required by your permitting agency, by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry. You may request an appropriate band from your State, tribal, or territorial agency in advance of any effort to capture a raptor. Your State, tribe, or territory may require that you band other species taken from the wild.

(ii) A raptor bred in captivity must be banded with a seamless metal band (*see* § 21.30). If you must remove a seamless band or if it is lost, within 10 days from the day you remove or note the loss of the band, you must report it and request a replacement U.S. Fish and Wildlife Service nonreusable band from your State, tribe, or territory. You must submit the required information electronically immediately upon rebanding the raptor at <http://permits.fws.gov/186A> or, if required by your permitting agency, by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry. You must replace a seamless band that is removed or lost. You may implant an ISO-compliant (134.2 kHz) microchip in a falconry raptor in addition to the seamless band.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) \* \* \*

(4) Each falconry bird must have access to a pan of clean water unless weather conditions, the perch type used, or some other factor makes access to a water pan unsafe for the raptor.

\* \* \* \* \*

(2) \* \* \*

(ii) You must submit to your State, tribal, or territorial agency that regulates falconry a signed and dated statement showing that you agree that the falconry facilities and raptors may be inspected without advance notice by State, tribal (if applicable), or territorial authorities at any reasonable time of day, but you must be present. If your facilities are not on property that you own, you must submit a signed and dated statement

showing that the property owner agrees that the falconry facilities and raptors may be inspected by State, tribal (if applicable), or territorial authorities at any reasonable time of day in the presence of the property owner; except that the authorities may not enter the facilities or disturb the raptors unless you are present.

\* \* \* \* \*

(9) Falconry equipment and records may be inspected in the presence of the permittee during business hours on any day of the week by State, tribal, or territorial officials.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(v) If you are a Master Falconer and your State, tribe, or territory allows you to possess golden eagles, in any year you may take up to two golden eagles from the wild and only in a livestock depredation area during the time the depredation area and associated depredation permit or depredation control order are in effect. A livestock depredation area is declared by USDA Wildlife Services and permitted under § 22.23, or upon the request of a State governor and authorized by the Service Director pursuant to §§ 22.31 and 22.32.

\* \* \* \* \*

(3) \* \* \*

(i) If you are an Apprentice Falconer, you may take raptors less than 1 year old, except nestlings, from the wild during any period or periods specified by the State, tribe, or territory. You may take any raptor species from the wild except a federally listed threatened or endangered species or the following species: Bald eagle (*Haliaeetus leucocephalus*), white-tailed eagle (*Haliaeetus albicilla*), Steller's sea-eagle (*Haliaeetus pelagicus*), golden eagle (*Aquila chrysaetos*), American swallow-tailed kite (*Elanoides forficatus*), Swainson's hawk (*Buteo swainsoni*), peregrine falcon (*Falco peregrinus*), flammulated owl (*Otus flammeolus*), elf owl (*Micrathene whitneyi*), and short-eared owl (*Asio flammeus*).

\* \* \* \* \*

(iii) If you are a Master Falconer authorized to possess golden eagles for use in falconry, you may capture a golden eagle in a livestock or wildlife depredation area during the time the depredation area and associated depredation permit or depredation control order are in effect.

(A) You may capture an immature or subadult golden eagle.

(B) You may take a nestling from its nest in a livestock depredation area if a biologist representing the agency responsible for declaring the

depredation area has determined that the adult eagle is preying on livestock or wildlife.

(C) You may take a nesting adult golden eagle only if a biologist representing the agency responsible for declaring the depredation area has determined that the adult eagle is preying on livestock or wildlife and that any nestling of the adult will be taken by a falconer authorized to possess it or by the biologist and transferred to an individual authorized to possess it.

(D) You must determine the locations of the livestock or wildlife depredation areas declared by USDA Wildlife Services, or published in the **Federal Register** by the Service in response to a State governor's request. We will not notify you about them.

\* \* \* \* \*

(f) \* \* \*

(9) \* \* \*

(ii) You may not use falconry raptors for commercial entertainment; for advertisements; as a representation of any business, company, corporation, or other organization; or for promotion or endorsement of any products, merchandise, goods, services, meetings, or fairs, with the following exceptions:

(A) You may use a falconry raptor to promote or endorse a nonprofit falconry organization or association.

(B) You may use a falconry raptor to promote or endorse products or endeavors related to falconry, including, but not limited to items such as hoods, telemetry equipment, giant hoods, perches, materials for raptor facilities, falconry training and education materials, and scientific research and publication.

\* \* \* \* \*

**PART 22—EAGLE PERMITS**

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

**Authority:** 16 U.S.C. 668–668d; 16 U.S.C. 703–712; 16 U.S.C. 1531–1544.

5. Revise § 22.24(b) as follows:

**§ 22.24 Permits for falconry purposes.**

\* \* \* \* \*

(b) *Transfer of golden eagles trapped by government employees to other permittees.* If you have the necessary permit(s) from your State, tribe, or territory, a government employee who has trapped a golden eagle under a Federal depredation permit or under a depredation control order may transfer the bird to you if he or she cannot release the eagle in an appropriate location. A golden eagle may only be taken from a livestock or wildlife depredation area declared by USDA

Wildlife Services and permitted under § 22.23, or from a livestock depredation area authorized in accordance with Subpart D, Depredation Control Orders on Golden Eagles.

**Thomas L. Strickland,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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