



## STAFF SUMMARY FOR DECEMBER 7-8, 2016

- related to falconry (subsection 670(a)(4)).
- Revised inspection language to clarify that falconry facilities may be inspected only when the licensee is present (subsection 670(j)(3)(A)).
- Added language that attempts to avoid inspection by repeatedly being unavailable may result in license suspension. Licenses suspended under these circumstances may be reinstated upon completion of an inspection finding no violations of these regulations or any license conditions.
- Corrected errors in the ISOR: removed the word “expired” in subsection 670(e)(2)(C), and the words “and eagles” in subsection 670(e)(6)(C)1 that were added in error.

**Significant Public Comments**

Comments at the Oct 20, 2016 meeting as well as written comments indicate concern over the legality of warrantless searches (Exhibit 3). While the amended ISOR includes language related to inspections it does not address these written comments and therefore still poses a concern for these commenters.

**Recommendation**

**FGC staff:** Staff recommends adopting the amended ISOR which includes the changes to the necessity statements and addresses some constituent concerns regarding inspections.

**Committee:** The WRC recommended all originally proposed amendments but did not meet again to consider amended ISOR.

**DFW:** Adopt regulations as proposed in the amended ISOR.

**Exhibits**

1. [Amended ISOR 670](#)
2. [Addendum to Final Environmental Document](#)
3. [Comments following Oct 2016 FGC meeting](#)

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the proposed Addendum to the Final Environmental Document, and regulation regarding Section 670, Title 14, CCR, related to falconry regulations.

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
**AMENDED** INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 670  
Title 14, California Code of Regulations  
Re: Falconry

I. Date of Initial Statement of Reasons: July 26, 2016

**Date of the Amended Initial Statement of Reasons: November 9, 2016**

II. Dates and Locations of Scheduled Hearings:

- |                         |           |                  |
|-------------------------|-----------|------------------|
| (a) Notice Hearing:     | Date:     | August 25, 2016  |
|                         | Location: | Folsom, CA       |
| (b) Discussion Hearing: | Date:     | October 20, 2016 |
|                         | Location: | Eureka, CA       |
| (c) Adoption Hearing:   | Date:     | December 8, 2016 |
|                         | Location: | San Diego, CA    |

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Fish and Game Commission (Commission), falconers, and the public that the new California regulations would **require future amendments** ~~need updating~~. The proposed amendments include numerous changes to bring the regulations more in line with the current practice of falconry in California and federal guidelines. In addition, editorial changes were needed for clarity and consistency.

#### PROPOSED REGULATIONS

The changes currently proposed for inclusion are enumerated in the following table. The first column is the current subsection to be amended. The second column indicates the new subsection (renumbered) of the amendment, and the third column contains the general subject to be changed, edited, or made more specific (refer to the regulatory text for proposed language and context).

The amended ISOR adds statements of necessity to Section III (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary; other clarifying statements; and, minor editorial changes. These statements are entirely related to, and do not alter, the proposed regulatory text in Section 670.

In response to comments from the California Hawking Club, Department of Fish and Wildlife (Department), and other falconers, the Commission revised the proposed regulatory text in two areas. Subsection 670(a) was revised to reduce the number of documents required to be carried by falconers when hunting. Falconers will be required only to have in their immediate possession a valid original falconry license, a valid original hunting license, and any required stamps, the same as required for any other hunter. Subsection 670(a)(4), which initially specified additional documents related to falconry, has been deleted.

Subsection 670(j)(3)(A) has also been revised to clarify that falconry facilities may be inspected only when the licensee is present. Falconers had expressed concern that Department staff entering their facilities without the owner present would place unnecessary stress on the birds. The Commission also added language to make it clear that attempts to avoid inspection by repeatedly being unavailable may result in license suspension. Licenses suspended under these circumstances may be reinstated upon completion of an inspection finding no violations of these regulations or any license conditions.

The additions to the ISOR are indicated in bold, double underlined text in this Amended Initial Statement of Reasons; deletions are indicated by ~~strikeout text~~. (Some minor edits, adds or deletes, for improved clarity, spelling, punctuation, etc., that do not affect content, are not shown.)

Errors in the ISOR have also been corrected: in subsection 670(e)(2)(C), the word “expired” should not have been added and is therefore deleted; and in subsection 670(e)(6)(C)1, the words “and eagles” should not have been added and are therefore deleted.

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
670	670	<p>The following minor editorial changes are proposed for clarity and consistency in Title 14 throughout Section 670 where appropriate:</p> <ul style="list-style-type: none"> <li>• Change all subsection titles from ALL CAPITALS to Upper/lower case.</li> <li>• Delete internal subsection references found within the same subsection; replace with “as described (or specified) herein” where appropriate.</li> <li>• Change all Department website references to the current web address: wildlife.ca.gov.</li> <li>• Number or renumber subsections to separate different provisions for clarity.</li> <li>• Change all references to “regulatory year” to “license year”.</li> <li>• Change all references to “lapsed” licenses to “expired”.</li> <li>• Change all references to “level” to “class”.</li> <li>• Change all references to “consecutive” days to “calendar days” (e.g., 30 calendar days). This change does not conflict with federal falconry regulations, which read “consecutive calendar days”.</li> <li>• Replace most references to “he/she” with “licensee”, and “his/her” with “the licensee’s” (or similar as needed).</li> <li>• Change all references to federal regulations found in Title 50, CFR, Part 21, to “50 CFR 21” for consistency.</li> <li>• The USFWS amended their falconry regulations to allow California falconers to report directly to the Department. Accordingly, remove all references to the federal form 3-186A and electronic reporting, and replace with the Department’s reporting system.</li> </ul>
(a)	(a)(1)-(6)	<ul style="list-style-type: none"> <li>• <b><u>The current text of “General Provisions” is contained in a single paragraph and has been divided into 6 subsections for greater clarity.</u></b></li> </ul>
	(a)(2)	<ul style="list-style-type: none"> <li>• Add clause to recognize exceptions required under Fish and Game Code Section 12300, Application of code to California Indians; Limitations and condition.</li> <li>• Add the words “it shall be unlawful” to clarify that possession of a valid <b><u>falconry and hunting licenses and any required stamps is are</u></b> required while engaged in falconry activities, and <b><u>lack of a license violation of this requirement</u></b> is a citable offense.</li> </ul>
	(a)(4)	<ul style="list-style-type: none"> <li>• <b><u>Delete from this regulation the requirement to carry other documents that are only required in specific circumstances as described in the Fish and Game Code or other regulations. At the Commission’s request, add language that specifies the types of documentation falconers are</u></b> <ul style="list-style-type: none"> <li>○ <del>an original valid hunting license when hunting with a raptor;</del></li> <li>○ <del>permission to hunt on private property;</del></li> <li>○ <del>permission to fly or hunt with another falconer’s bird(s);</del></li> <li>○ <del>permission to fly a raptor for rehabilitation purposes; or</del></li> <li>○ <del>Department approved exemption from banding when transporting or flying an un-banded raptor.</del></li> </ul> </li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(a)(5)	<ul style="list-style-type: none"> <li>• Change the date of the Code of Federal Regulations to the most recent 07/02/2015.</li> <li>• Delete “The department shall make these and the federal regulations available at <a href="http://www.dfg.ca.gov/licensing/">www.dfg.ca.gov/licensing/</a>”. <b><u>This provision is duplicative since the Department is required by law to maintain adopted regulations and make them easily available to the public.</u></b></li> </ul>
	(a)(6)	<ul style="list-style-type: none"> <li>• Add a statement <b><u>clarifying that the public may</u></b> obtain and submit forms at the License and Revenue Branch, or on the Department’s online reporting system.</li> </ul>
(b)	(b)(7)	<ul style="list-style-type: none"> <li>• Amend the definition of “Falconry” by deleting the reference to “free flight.” The word “training” includes free flight and other activities when not in flight, <b><u>so including the term “free flight” is redundant.</u></b></li> </ul>
	(b)(8)	<ul style="list-style-type: none"> <li>• Amend the definition of “Hacking” which is a method of having the raptor “gain experience and conditioning”</li> </ul>
	(b)(10)	<ul style="list-style-type: none"> <li>• Amend the definition of “Imp” to “Imping” using “another” feather to repair a damaged feather on a bird.</li> </ul>
	(b)(12)	<ul style="list-style-type: none"> <li>• Add definition of “license year” for consistency with other regulations. This replaces the definition of “Regulatory year” in (b)(15).</li> </ul>
(b)(15)		<ul style="list-style-type: none"> <li>• Delete definition of “Regulatory year” and replace with License year (b)(12) for consistency with other regulations.</li> </ul>
(c)	(c)	<ul style="list-style-type: none"> <li>• When referring to California hunting laws and regulations, change “related to” to “authorizing” for clarity.</li> </ul>
(c)	(c)(1) (A) – (B)	<ul style="list-style-type: none"> <li>• Add clarity and improve instructions regarding procedures to follow in the event of inadvertent <b><u>(for example, out of season)</u></b> take of wildlife (other than threatened or endangered species);</li> <li>• <b><u>Add language requiring animals injured as a result of unauthorized take to be taken to a rehabilitation facility for consistency with federal regulations, 50 CFR 21.29(e)(6).</u></b></li> <li>• Add “let it lay” language, meaning that if inadvertent take of wildlife (other than threatened or endangered species) occurs to let the raptor feed on it, <b><u>but the falconer shall not take possession.</u></b></li> </ul>
	(c)(2)	<ul style="list-style-type: none"> <li>• Add the reporting of band or tag numbers (if any) of wildlife taken unintentionally. Important wildlife information is gained through band returns.</li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
(d)	(d)	<ul style="list-style-type: none"> <li>• Delete provisions requiring licensee to ensure that falconry activities do not result in the take or possession of a threatened or endangered wildlife species taken incidentally by a falconry raptor. <del>Threatened and endangered species may not be taken or possessed at any time.</del></li> <li>• Clarify that the take of threatened and endangered species, candidate species or fully protected species is not authorized by a falconry license.</li> <li>• <b><u>Change the reporting of take of listed species to the License and Revenue Branch rather than to the Department's regional offices to provide a single point of contact.</u></b></li> </ul>
(e)	(e)(1)(A)	<ul style="list-style-type: none"> <li>• Add 'nonresident, or non-US citizen' <b><u>to clarify who may apply for a new license.</u></b></li> </ul>
	(e)(1)(B)	<ul style="list-style-type: none"> <li>• Delete "resident or nonresident" and replace with "licensee" for clarity <b><u>as to who may renew. Add "...that has not been expired for more than 5 years," clarifying that a formerly licensed person who has left falconry, may become licensed again within 5 years without taking the examination, for consistency with Department practice.</u></b></li> </ul>
	(e)(1)(C)	<ul style="list-style-type: none"> <li>• Delete "resident" and replace with "licensee" clarifying that any licensee, and not only residents, may renew a license year-to-year prior to its expiration.</li> </ul>
	(e)(1)(D)	<ul style="list-style-type: none"> <li>• Delete "...and intends to establish permanent residency in California prior to becoming a resident," since residency is not a requirement for licensing in California (for example a non-US citizen unlicensed falconer may apply in order to practice falconry); there is no need for this provision.</li> </ul>
(e)(2)	(e)(2)(A)-(E)	<ul style="list-style-type: none"> <li>• <b><u>Re-numbered to separate the different provisions for clarity.</u></b></li> </ul>
	(e)(2)(A)	<ul style="list-style-type: none"> <li>• <b><u>Delete "lapsed license" since a license expired more than 5 years cannot be renewed and therefore a new license will be required.</u></b></li> <li>• <b><u>Add reference to the "nonrefundable application fee" to clarify that the fee is due with the application.</u></b></li> </ul>
	(e)(2)(B)	<ul style="list-style-type: none"> <li>• Add language to clarify that a license is renewable when not expired more than 5 years.</li> <li>• Add reference to the "nonrefundable <b><u>application fee</u></b>" <b><u>to clarify that the fee is due with the application.</u></b></li> </ul>
	(e)(2)(D)	<ul style="list-style-type: none"> <li>• <b><u>Delete the listing of possible violations for disqualification and add a more concise phrase to</u></b> clarify that the certification relates to any "pending or previous administrative proceedings" that could disqualify the applicant.</li> </ul>
	(e)(2)(E)	<ul style="list-style-type: none"> <li>• Clarify that the Department is "reviewing" the documents submitted by the applicant rather than "evaluating".</li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
(e)(2)(C)		<ul style="list-style-type: none"> <li>• <b><u>Delete because residency is not a requirement for obtaining a falconry license.</u></b></li> <li>• Move the applicable nonresident provisions to subsection (e)(5) Nonresidents of California and Non-US Citizens, keeping these related regulations together for clarity.</li> </ul>
(e)(3)	(e)(3)	<ul style="list-style-type: none"> <li>• <b><u>Re-number subsection to more clearly identify the different parts of the provision.</u></b></li> <li>• Add, “Any applicant not possessing a valid falconry license, or required to apply for a new...” for clarity on who needs to take the examination.</li> <li>• Clarify that the fee is charged for each examination in order to recover the Department’s reasonable costs.</li> </ul>
	(e)(3)(A) 2. and 3.	<ul style="list-style-type: none"> <li>• <b><u>Add a new subsection specifying when an applicant is not required to take the examination.</u></b></li> <li>• Add language to clarify that nonresident and non-US citizens who have a valid license are exempt from the examination.</li> <li>• Add language for an exception when the applicant is a member of a federally recognized tribe and has a valid falconry license issued from that member’s tribe, in accordance with FGC Section 12300.</li> </ul>
	(e)(3)(B)	<ul style="list-style-type: none"> <li>• Add language to clarify the necessity of an inspection of raptor facilities prior to a license being issued to a new falconer applicant.</li> </ul>
(e)(4)		<ul style="list-style-type: none"> <li>• <b><u>Delete and re-write to clarify the provisions concerning the expiration and renewal of a falconry license.</u></b></li> <li>• Clarify that a falconry license is not valid unless renewed annually with the required application form and payment of fees.</li> </ul>
	(e)(4)(A)-(C)	<ul style="list-style-type: none"> <li>• Clarify that the practice of falconry is not allowed <b><u>without a valid license in possession.</u></b> under an expired license, and what steps need to be taken if the licensee wishes to continue to practice falconry. Clarify that an expired license is not valid unless renewed.</li> <li>• Provide for renewal of licenses not expired more than 5 years.</li> <li>• Clarify that a license expired more than 5 years may not be renewed but that an application for a new license is required.</li> <li>• <b><u>5 years provides a clear timeframe during which renewal can occur and is consistent with existing Department practices.</u></b></li> </ul>
	(e)(5)(A)	<ul style="list-style-type: none"> <li>• Add, “The applicant is a member of a federally recognized tribe and has a valid falconry license issued from that member’s tribe” in accordance with FGC Section 12300.</li> </ul>
(e)(5)(A)	(e)(5)(B) 1.-3.	<ul style="list-style-type: none"> <li>• Delete “<b><u>fly raptors held for falconry</u></b>” and add “<b><u>practice falconry with raptors</u></b>” to clarify that practicing falconry covers more than just flying a raptor.</li> <li>• Clarify that the <b><u>original</u></b> authorization to fly another California licensee’s raptor must be signed and dated and in possession.</li> <li>• Clarify that the facilities of nonresident or non-U.S. citizen falconers may be temporary but must still meet the housing standards in California regulations, or nonresident or non-U.S. citizen falconers may house raptors held under their license with another California licensee.</li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(e)(5)(C)	<ul style="list-style-type: none"> <li>• Add provisions to clarify that a non-resident, or non-US citizen, or tribally licensed falconer, seeking a California license, must submit proof of a valid license and have the <b><u>licensee’s raptor facilities inspected prior to obtaining a California license to ensure raptors will be adequately housed.</u></b></li> </ul>
	(e)(5)(D)	<ul style="list-style-type: none"> <li>• Add provisions to clarify that a non-resident or non-US citizen, or tribal member falconer without a valid license must apply as a new applicant, pass the examination, and have their raptor facilities inspected to obtain a California license.</li> </ul>
(e)(6)	(e)(6)	<ul style="list-style-type: none"> <li>• Clarify that the Department has ‘sole discretion’ to establish the class for a falconer.</li> </ul>
	(e)(6)(A)3.	<ul style="list-style-type: none"> <li>• Clarify the necessity of maintaining a continuous sponsorship of an apprentice, and what period of time will be counted toward a total of 2 years sponsorship <b><u>should an apprentice lose his sponsor.</u></b></li> </ul>
	(e)(6)(A)4.	<ul style="list-style-type: none"> <li>• Add, “The Apprentice may take raptors less than 1 year old, except nestlings.” This language is the same as provided in 50 CFR 21.29(c)(2)(i)(E) limiting what can be permitted in California <b><u>and thus provides consistency with Federal regulations.</u></b></li> <li>• Add <b><u>clarification</u></b> that an apprentice must maintain proof of legal acquisition.</li> </ul>
	(e)(6)(A)6.	<ul style="list-style-type: none"> <li>• Clarify that it is the responsibility of the sponsor to certify that the minimum requirements have been met by the apprentice.</li> </ul>
	(e)(6)(B)2.	<ul style="list-style-type: none"> <li>• Delete the portion of the provision regarding “threatened and endangered species” <b><u>because this is repetitive of the provisions set forth in subsection 670(d) which clearly provide that a falconry license does not authorize the take of species listed as threatened or endangered, or wildlife designated as fully protected within the state of California.</u></b></li> <li>• <b><u>Delete “and eagles”</u></b> because the provisions set forth in subsection (e)(6)(C)2. clearly provide that only a Master Falconer may possess eagles.</li> <li>• Specify that the General class falconer must maintain proper documentation of legal acquisition of birds, whether from <del>California</del> <b><u>another state or country.</u></b></li> </ul>
	(e)(6)(C)1.	<ul style="list-style-type: none"> <li>• Delete the portion of the provision regarding “threatened and endangered species” <b><u>because this is repetitive of the provisions set forth in subsection 670(d) which clearly provide that a falconry license does not authorize the take of species listed as threatened or endangered, or wildlife designated as fully protected within the state of California.</u></b>, and is repetitive of the provisions set forth in <del>subsection (e)(6)(C)2.</del> which clearly provide that a Master Falconer may possess eagles.</li> <li>• Specify that the Master class falconer must maintain proper documentation of legal acquisition of birds, whether from <del>California</del> <b><u>another state or country.</u></b></li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(e)(6)(C)2. i - iv	<ul style="list-style-type: none"> <li>• Add language specifying that proof of legal acquisition of eagles is required.</li> <li>• Clarify that eagles shall not be <b><u>captured</u></b> from the wild and may only be obtained from a permitted source. Eagles in the wild are fully protected in California and therefore can only be obtained from a permitted source.</li> <li>• Add language to allow temporary transfer of eagles from a rehabilitation facility to a <b><u>Master Falconer</u></b> to assist in rehabilitation.</li> <li>• Add clarification for <b><u>original documentation verifying the Master Falconer’s prior experience with eagles in order to obtain Department authorization to possess eagles.</u></b></li> </ul>
(e)(7)	(e)(7)(B)	<ul style="list-style-type: none"> <li>• Clarify that the examination fee must be paid each time the applicant takes the examination.</li> </ul>
	(e)(7)(C)2.	<ul style="list-style-type: none"> <li>• Add language to clarify that a new inspection is not required if the facilities shared by multiple falconers have passed a previous inspection.</li> </ul>
	(e)(7)(E)	<ul style="list-style-type: none"> <li>• Clarify that the administrative processing fee is charged only when the falconer requests that the Department enter the Resident Falconer Raptor Capture, Recapture and Release Report form into the Department’s online reporting system.</li> </ul>
(e)(7)(F)-(G)		<ul style="list-style-type: none"> <li>• Delete subsections concerning the Raptor Capture Drawing, and consolidate in a new subsection (g)(8) <b><u>together with the drawing requirements</u></b> for clarity.</li> </ul>
	(e)(8)(D)	<ul style="list-style-type: none"> <li>• Clarify that notification <b><u>of denial by</u></b> the Department is required to be in writing.</li> </ul>
	(e)(9)	<ul style="list-style-type: none"> <li>• Add “the Fish and Game Code” to allow for suspension or revocation based on violations of Fish and Game Code sections pertaining to raptors.</li> <li>• At the request of the Commission, <b><u>add standards to guide the Department in determining what types of violations would result in immediate revocation. These standards include: a finding by the Department that the violation(s) pertains to conduct that threatens native wildlife, agricultural interests of this state, the welfare of the birds, or the safety of the public, or that the licensee has had a prior conviction or suspension.</u></b></li> <li>• Change “pursuant to” to “as described herein” for consistency.</li> </ul>
	(e)(10)	<ul style="list-style-type: none"> <li>• <b><u>Change “pursuant to” to “as described herein” for consistency.</u></b></li> </ul>
	(e)(11)	<ul style="list-style-type: none"> <li>• Add “30 calendar days” to clarify the last day for an appeal request.</li> </ul>
	(e)(12)	<ul style="list-style-type: none"> <li>• Delete “after the expiration of the license.” The purpose of record retention was to have a 5-year retention maximum, not until after the license has expired <b><u>which could be interpreted to mean many more years.</u></b></li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(e)(13)	<ul style="list-style-type: none"> <li>Change five “calendar” days to “business” days consistent with state offices being open.</li> </ul>
(f)(1)-(3)		<ul style="list-style-type: none"> <li><b><u>Subsection is deleted, re-numbered and re-written for clarity.</u></b></li> </ul>
	(f)(1)-(3)	<ul style="list-style-type: none"> <li>Change the reference from federal reporting forms to the Department’s online reporting system. The requirements for each submittal are the same and the Administrative Processing Fee will be charged in the same way.</li> <li>Add language to require that the inadvertent take of non-target wildlife be reported on the Hunting Take Report. <b>Clarify that the inadvertent take of non-target wildlife is required to be reported as set forth in subsections (c) and (d).</b></li> </ul>
(g)	(g)(1)	<ul style="list-style-type: none"> <li>Revise to lower case “resident”.</li> </ul>
	(g)(2)	<ul style="list-style-type: none"> <li>Revise to lower case “nonresident”.</li> <li>Delete text related to the requirements for a license since this has already been described.</li> </ul>
	(g)(3)	<ul style="list-style-type: none"> <li>Add a provision which specifies that non-U.S. citizens are not eligible to capture any California wild <b><u>raptor for consistency with federal regulations.</u></b></li> <li><b><u>Re-number the subsequent subsections</u></b></li> </ul>
(g)(7)(A)	(g)(8)(A)	<ul style="list-style-type: none"> <li>Clarify that there is no limit on capturing Northern Goshawk outside of the Tahoe Basin.</li> </ul>
(g)(7)(K)	(g)(9) 1 - 2	<ul style="list-style-type: none"> <li>Renumber subsection (g)(7)(K)1.-10. to (g)(9)(A)-(J) to separate the Special Raptor Capture Random Drawing requirements to its own subsection.</li> <li>Clarify that the random drawing is to distribute permits for those species with quotas as provided in (g)(8).</li> <li>Revise to lower case “resident” and “nonresident”.</li> </ul>
	(g)(9)(C)	<ul style="list-style-type: none"> <li>Clarify where licensee is to apply for drawing: <b><u>ALDS, or other locations.</u></b> and that a fee is required for each application.</li> </ul>
	(g)(9)(D)	<ul style="list-style-type: none"> <li>Change the “midnight” deadline to “11:59 pm” for clarity</li> <li>Change the application deadline to May 15, closer to the actual drawing date as a convenience to the participants.</li> <li><b><u>Delete ALDS since it duplicates the previous subsection.</u></b></li> <li>Delete “Incomplete, late ... shall not be included in the drawing” because the drawing will be held based on the electronic filing of the applications, which cannot be completed until the information is correctly submitted.</li> </ul>
	(g)(9)(E)	<ul style="list-style-type: none"> <li>Add a description of the random drawing and award method by computer <b><u>for clarity.</u></b></li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(g)(9)(F)	<ul style="list-style-type: none"> <li>• Change notification process to exclude mailed notification because both the entry and notice are only available online.</li> <li>• Delete notification to unsuccessful applicants because the entry and notification are only available online.</li> <li>• Change deadline for permit payment to June 30, the last day of the license year.</li> <li>• Delete date associated with permits <b>awarded</b> to alternates, if any are available, they will be awarded in the order <b>drawn</b> in the random drawing.</li> </ul>
	(g)(9)(H)	<ul style="list-style-type: none"> <li>• <b><u>Clarify that the capture can be reported online.</u></b></li> </ul>
	(g)(9)(I)	<ul style="list-style-type: none"> <li>• Clarify that when the permit holder is unsuccessful, the permit is to be returned to the License and Revenue Branch with 10 days of the expiration of the permit.</li> </ul>
(g)(8)	(g)(10)(A)	<ul style="list-style-type: none"> <li>• Clarify that any owner (not only a researcher) of a transmitter should be contacted.</li> </ul>
(g)(9)	(g)(11)	<ul style="list-style-type: none"> <li>• <b><u>Clarify that the injury shall be reported online.</u></b></li> </ul>
(g)(11)	(g)(13)	<ul style="list-style-type: none"> <li>• Clarify that the written permission of the private property owner is to be the original with signature.</li> </ul>
(h)(2)(A)	(h)(2)(A)	<ul style="list-style-type: none"> <li>• Clarify that a licensed falconer may temporarily possess and fly a raptor if they possess the appropriate class to do so.</li> </ul>
(h)(3)		<ul style="list-style-type: none"> <li>• Delete subsection (h)(3). The permanent disposition of wildlife, including birds, from a rehabilitation facility is set forth in Section 679, Possession of Wildlife and Wildlife Rehabilitation.</li> </ul>
(h)(4)	(h)(3)	<ul style="list-style-type: none"> <li>• Clarify that falconers are permitted to have temporary possession, while caring for an injured raptor.</li> </ul>
	(h)(3)(A)	<ul style="list-style-type: none"> <li>• Clarify that the terms of the transfer are at the discretion of the rehabilitator to ensure the necessary care of the raptor</li> <li>• Clarify that licensee must have legible documentation while assisting a rehabilitator (not only while flying the raptor).</li> </ul>
	(h)(3)(B)	<ul style="list-style-type: none"> <li>• Delete provision that a rehabilitator can permanently transfer a raptor to a licensee <b><u>as this is not permitted under subsection 671(f)(4) of these regulations.</u></b></li> <li>• Add that the Department can make a determination for extended care of the raptor by a licensee.</li> </ul>
(h)(5)	(h)(4)	<ul style="list-style-type: none"> <li>• Clarify that the importation of raptors by nonresidents or non-U.S. citizens may require additional federal permits.</li> </ul>
(h)(6)	(h)(5)(B)	<ul style="list-style-type: none"> <li>• Add "metal" to designate band type.</li> </ul>
	(h)(5)(C)	<ul style="list-style-type: none"> <li>• Delete authorization to allow any release of non-native raptors.</li> </ul>

<b>Current Subsection</b>	<b>New subsection</b>	<b>Reason for the Proposed Amendment Revision, Addition, or Deletion</b>
	(h)(5)(D)	<ul style="list-style-type: none"> <li>• Add language prohibiting the release of barred owl in California (reason is due to conflicts with native spotted owls).</li> <li>• Add License and Revenue Branch as point of contact, with Wildlife Branch as responsible for disposition of barred owls.</li> </ul>
(h)(7)	(h)(6)	<ul style="list-style-type: none"> <li>• Add “or fully protected” according to California designation.</li> </ul>
(h)(9)	(h)(8)	<ul style="list-style-type: none"> <li>• Add “of any other raptor species” to clarify that following provisions regarding carcasses are for raptors other than eagles.</li> </ul>
	(h)(8)(A)	<ul style="list-style-type: none"> <li>• Add License and Revenue Branch as point of contact, with Wildlife Branch as responsible for disposition of any bird carcass to be delivered to the Department.</li> <li>• Revise for clarification the delivery of frozen raptor carcasses to the Department.</li> </ul>
	(h)(8)(E)	<ul style="list-style-type: none"> <li>• Delete (D) and re-write as (E).</li> <li>• Revise provisions regarding taxidermy, that only the licensee may possess the mounted bird.</li> <li>• Upon expiration of the license or the death of the licensee, the mounted bird must be returned to the Department.</li> <li>• Add License and Revenue Branch as point of contact, with Wildlife Branch as responsible for disposition of the mount.</li> </ul>
(h)(10)(A)2.	(h)(9)(A)2.	<ul style="list-style-type: none"> <li>• Add License and Revenue Branch as a point of contact, and clarify that the disposition of a recaptured and unwanted bird will be determined by Wildlife Branch.</li> </ul>
(h)(12)	(h)(11)	<ul style="list-style-type: none"> <li>• Clarify the type of band as seamless “metal” bands.</li> <li>• Delete “licensed falconers” and add “persons or entities” to clarify that there are other types of permittees who can legally possess raptors.</li> </ul>
(h)(14)	(h)(13)(B)	<ul style="list-style-type: none"> <li>• Transfer of raptors to a federal Propagation Permit shall be reported on the falconer’s report to the Department.</li> </ul>
(i)(1)	(i)(1)	<ul style="list-style-type: none"> <li>• Clarify that a goshawk captured in the wild in California be banded with a permanent, nonreusable, numbered USFWS leg band.</li> <li>• Add language to clarify that peregrine, gyrfalcon or Harris’s hawk (not allowed for wild capture in California) that are legally acquired and imported into California also get a permanent, nonreusable, numbered USFWS leg band if they do not already have one.</li> </ul>
(i)(1)(A)	(i)(1)(A)	<ul style="list-style-type: none"> <li>• Revise to designate that License and Revenue Branch distribute “new or replacement permanent, nonreusable, numbered USFWS leg” bands, and shall report banding data to the USFWS.</li> </ul>
(i)(2)		<ul style="list-style-type: none"> <li>• Delete subsection regarding lost or removed bands here, and incorporate into other subsections.</li> </ul>
	(i)(2)	<ul style="list-style-type: none"> <li>• Add provision that captive bred raptors listed under MBTA need a seamless metal band. Added to comply with federal regulations.</li> </ul>
(i)(3)		<ul style="list-style-type: none"> <li>• Delete subsection regarding rebanding here, and incorporate into other subsections.</li> </ul>

Current Subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(i)(3)-(4)	<ul style="list-style-type: none"> <li>• Add language to include lost or removed bands and rebanding provisions. Revision was made to mirror the federal regulation that allows the falconer to remove and reband birds under certain circumstances.</li> </ul>
(j)(1)(C)	(j)(1)(C)	<ul style="list-style-type: none"> <li>• Revise to allow supervision of raptors by non-licensed falconers (e.g. spouse, family member, etc.) while the raptor is outside.</li> <li>• Specify a minimum age of 12 which is the same minimum age for an apprentice class.</li> </ul>
(j)(1)(E)	(j)(1)(E)	<ul style="list-style-type: none"> <li>• Clarify the requirement for an inspection of raptor facilities and associated fees for facilities moved to a new location.</li> </ul>
(j)(3)	(j)(3)	<ul style="list-style-type: none"> <li>• Clarify that new applicants, <b><u>including prior licensees whose</u></b> license has been expired more than 5 years, are required to have their facilities inspected.</li> </ul>
	(j)(3)(A)	<ul style="list-style-type: none"> <li>• At the Commission’s request, delete the word “premises” and add “facilities” clarifying that inspections are applicable to the raptor “facilities” as described in this subsection.</li> <li>• At the Commission’s <b><u>falconers’</u></b> request, add language that the Department <b><u>may enter the facilities only when the licensee is present. Add additional language making it clear that licensees refusing to allow inspection or attempting to avoid inspection by repeatedly being unavailable risk suspension of their license. Add language allowing the Department to reinstate a suspended license upon successful completion of an inspection with no violations of these regulations or other license conditions. These provisions are necessary to accommodate falconer requests that they be present, while facilitating timely inspections of falconry facilities.</u></b> Department will make a reasonable attempt to contact licensee prior to conducting the inspection. (Note: it is the responsibility of the licensee to assure that the department’s contact information is current.)</li> </ul>
(j)(3)(B)	(j)(3)(B)	<ul style="list-style-type: none"> <li>• Clarify that an original signature of the property owner on the permission letter is required if the raptor facilities are located on property not owned by the licensee.</li> </ul>

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections: 200, 202, 203, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1054, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150, and 10500, Fish and Game Code.

Reference: Sections: 395, 396, 713, 1050, 3007, 3031, 3503, 3503.5, 3511, 3513, and 3801.6 Fish and Game Code. Title 50, Code of Federal Regulations, Parts 21.29 and 21.30, and California Penal Code Section 597.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change: None.

(e) Public Discussions of Proposed Regulations Prior to Notice publication: None.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

During and since the previous update of the falconry regulations in 2013, the public and licensed falconers provided recommendations for amendments to the regulations. Those recommendations that were accepted are enumerated in the ISOR. Some alternatives were rejected for the following reasons (subsection citations are to the revised numbering of the amended text):

- ~~§670(a)(2): A valid original hunting license and falconry license are the only documents required to practice falconry. If other documents are required, they should be specified by the Department.~~  
Rejected: Other documentation that may be required is noted throughout the regulation, for example, permission to fly on private land, documentation that falconer is assisting in rehabilitation, permission to fly another falconer's bird, etc.
- §670(b)(12) Establish a three year license to replace the current single year license.  
Rejected: Hunting regulations are set by the license year, which is the 12 month period starting July 1 and ending the following June 30, and is the same as the falconry license term, or federal regulatory year. All licenses, tags, reporting requirements, and permits issued by the Department are established for a period of one year.
- §670(b)(13): Definition for "non-native raptor" should include hybrid raptors.  
Rejected: The Department does not consider hybrids as non-native in all cases.
- §670(d): Falconers cannot "ensure" that their raptors will not "take state or federally listed threatened, endangered, or candidate wildlife, or wildlife designated as fully protected within the State of California." The Department should provide some relief from this no-take provision.  
Rejected: The new California falconry regulations closely follow the requirements of the Federal Regulations with respect to the "no take" rule. The falconer is instructed in the Federal regulations to identify the location of protected species and avoid flying the raptor in that location. In the event that

~~unintended take occurs, both regulations provide that the falconer immediately report the take to appropriate federal and state authorities.~~

- **Rejected: The Federal Regulations include language about ensuring take of threatened or endangered species does not occur. However, to be clear, language was added to the proposed regulations that clarifies that take of threatened, endangered, candidate wildlife, or wildlife designated as fully protected is not authorized by a falconry license.**
- §670(e)(1)(D): Include ability for a non-US citizen to use “equivalent experience” in place of a current license when seeking a California license.  
Rejected: All that is required to obtain a California falconry license is passing the falconry examination which demonstrates basic knowledge, **and passing a facility inspection.** Other documentation may be used to demonstrate the class level of the licensee with discretionary approval of the Department.
- §670(e)(4): Include some exemption for practicing falconry with an expired license in case the Department is late processing.  
Rejected: The Department has not been tardy issuing licenses since administering the program.
- §670(e)(4): Add provision for Department to collect back fees if the individual continues to practice falconry without a license.  
Rejected: The penalties for illegally practicing falconry without a license (as with hunting, fishing, etc.) are sufficient.
- §670(e)(5): Change to read, “A nonresident licensed falconer or non-U.S. citizen licensed falconer may ‘transport their legally held raptors to’ temporarily practice falconry in California for up to 120 calendar days without being required to obtain a California falconry license.”  
Rejected: The insertion of “transport their legally held raptors to” will not change or clarify the current provision.
- §670(e)(6): Strike “at its sole discretion”. If a falconer meets the requirements and qualifications for the class described in these regulations the licensee should be granted a license for that class.  
Rejected: The Department now has oversight of the falconry program in California, and has the sole authority to determine if a falconer meets the specified requirements for any falconry class.
- §670(e)(6)(A)2: Consider additional oversight of apprentice program.  
Rejected: The current oversight of the apprentice program mirrors that of the federal regulations. No evidence that additional oversight is needed.
- §670(e)(6)(A)4: Change to read, “An Apprentice falconer may only capture from the wild or possess a passage red-tailed hawk or an American kestrel of any age.”  
Rejected: 50 CFR 21.29(c)(2)(i)(E) states that the apprentice “may take raptors less than 1 year old, except nestlings.” This same language is proposed as an addition to this subsection.
- §670(e)(6)(A)4.,(B)2. and (C)1.: In each subsection for Apprentice, General and Master class, it says, “Apprentice/General/Master falconer must maintain written proof of legal acquisition.” This is redundant. It is elsewhere stated that all falconers must report disposition of falconry raptors to the Department in a timely manner.

Rejected. The Department is requiring written documentation of legal acquisition to be on-hand so the origin of all birds may be determined. When asked by law enforcement they must produce a paper record.

- §670(e)(6)(B): The possession limits of raptors should be reduced, an experienced falconer can handle two birds, three at most.

Rejected. Language in state regulations is consistent with federal regulations. There is no evidence that more raptors in possession equates to reduced care. The Department will retain existing language.

- §670(e)(6)(C)2.i.: Falconers wanted to add “. . . captured from the wild in California pursuant to Fish and Game Code 3511, but . . .”

Rejected. Section 3511(a)(1) FGC also states “No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected bird.” The insertion of the reference to FGC 3511 in the regulation would be repetitive and is presently cited in Authority and Reference.

- §670(e)(6)(C)2.ii.: Delete the portion of the provision regarding “eagles ... transferred from a rehabilitation facility” thus allowing Master falconer possession of a rehabilitated eagle.

Rejected: Possession of eagles with specified origins (not caught from the wild in California), from a permitted source, and with proof of legal acquisition, is clearly stated in subsections (e)(6)(C)2. i.-iii. A Master falconer may possess any eagle (except bald eagles) within those qualifications. Section 679 further provides for the permanent disposition from rehabilitation facilities of wildlife including birds.

- §670(e)(8)(B): Delete failure to comply with city and local ordinances as a reason for denial of a new or renewal license.

Rejected: Allowing denials, revocations or suspensions based on a violation of a city or county ordinance that constitutes a violation of the Fish and Game Code, regulations related to raptors in Title 14, or Penal Code Section 597, protects birds and the public by preventing persons who have not followed such ordinances from holding a Department-issued license.

- §670(e)(9): The falconers disagree with the penalties for violation and propose that they should be more in line with the hunting regulations section that deals with license suspension and revocation.

Rejected. The Department does not support a change to these provisions, which are uniquely tied to the falconry license and the possession of living raptors.

**However, new language was added to the regulations that clarify what types of violations may result in a suspension or revocation.**

- §670(g): Proposed that trapping raptors at any time of the year needs to be re-examined; that some species may breed when less than one year old, while still in their juvenile plumage; it is possible that someone might legally trap a juvenile hawk that in fact has a nest with eggs or young, unbeknownst to the trapper. In contrast, another commenter supported year-round take of raptors.

Rejected. The environmental review did not indicate there was an issue with take of wild raptors for use in falconry. Current regulations restrict age and number of young taken from a nest. Other restrictions are also instituted, such as limitations on the number of goshawks in the Tahoe Basin, limitations on the number of prairie falcons statewide, and seasonal restrictions for merlin. Therefore, the current language will be retained.

- §670(g)(7): Suggested that the Department add ferruginous hawk to the list of allowed species.  
Rejected. Due to species decline as described in the Final Environmental Document (FED) using best available population/trend data, the ferruginous hawk was taken off the list of allowed raptors. There is no new data to indicate a change from the conclusions of the FED.
- §670(g)(7)(A): Suggested removing the limit on Northern Goshawk in the Tahoe Basin.  
Rejected. Analysis in FED was based on best available population/trend data. There is no change in knowledge from when the FED was completed.
- §670(g)(7)(H): Suggested removing statewide limit on prairie falcon.  
Rejected. Analysis in FED was based on best available population/trend data. There is no change in knowledge from when the FED was completed.
- §670(g)(7)(K): Falconers suggested that the dates and terms of the Special Capture Drawing and Permit appear to exclude spring captures and should be changed.  
Rejected. A permit to obtain a raptor with quota is issued in July and will be valid for one year, including the following spring. However, new drawing dates move the drawing closer to the issuance of the special permit in June.
- §670(h)(3): Falconers want to be able to obtain healthy rehabilitated raptors from rehabilitation facilities.  
Rejected. This entire subsection is removed because it is inconsistent with other regulations in Title 14. Subsection 679(f)(4), Title 14, states: “ If any *[rehabilitated]* animal cannot be released, it shall be transferred to a zoological garden, museum, college, university, or other education/research institution or wildlife exhibitor.” The current provision does not include falconers.
- §670(h)(4): Notification of importation of a raptor into California is excessive.  
Rejected: These California provisions mirror those found in the federal regulations 50 CFR 21.29, 14 (ii)(A) through (E).
- §670(h)(9)(D): Falconers want to modify the limitations on possession of birds to say, “Possession of the mounted raptor will not count against the possession limit of the falconer.”  
Rejected. The clarification is unnecessary, the Department has not and will not count dead birds as a part of the possession limit described in regulation “for falconry purposes.” The possession of a carcass, parts, or a mounted bird is permitted by a falconer provided that the license is not expired. After expiration, or upon the death of the falconer, the mounted bird must be returned to the Department for disposition. No other person may possess the mount.
- §670(h)(13)(C): Apprentice falconers should be able to work as sub-permittee for abatement activities.  
Rejected: Although a change to federal abatement regulations is proposed with the USFWS, nothing has been approved.
- §670(i): Consider specialized banding of all falconry raptors.  
Rejected: Though the Department considers this a worthy consideration, this is outside of scope of this regulatory rulemaking.
- Address option of requiring a signed-off validation by agency staff (CDFW, U.S. Fish and Wildlife Service) as part of reporting take in the future, similar to the process for completing deer tags.

Rejected: Outside of scope of this regulatory rulemaking.

- Address the option for allowing depredating raptors (those captured under federal Migratory Bird Treaty Act depredation permits) to be placed with falconers.
- Rejected: Outside of scope of this regulatory rulemaking.

(b) No Change Alternative:

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Commission, falconers, and the public that the new California regulations would need updating and amending. The “No Change” alternative would not update the regulations and would not meet this expectation.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action have been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission does not anticipate significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations amend the existing rules for the sport of falconry, primarily for recreational purposes.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

~~The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing~~

~~businesses, or the expansion of businesses; and no benefits to the health and welfare of California residents, or to worker safety or to the state's environment. The proposed regulations affect a limited number of falconers in California and therefore are unlikely to create or eliminate jobs, or result in the expansion or elimination of existing businesses.~~

**The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses. The proposed regulations are not anticipated to directly affect the health and welfare of California residents. The proposed regulations are in accord with the broad aims of resource management but the cumulative effects are anticipated to be neutral to the environment. The proposed regulations affect a limited number of falconers in California (there are approximately 615 licensed falconers in California) and therefore are unlikely to impact the creation or elimination of jobs, or the expansion or elimination of existing businesses, the health and welfare of California residents, or the State's environment.**

(c) Cost Impacts on a Representative Private Person or Business:

The proposed amendments do not impose any additional fees or costs to private persons involved in the sport of falconry.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs Mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None

(h) Effect on Housing Costs: None

## VII. Economic Impact Assessment

**Approximately 615 people have falconry licenses in California. Because the proposed regulations affect a limited number of people, the proposed regulations are unlikely to impact the creation or elimination of jobs, or the expansion or elimination of existing businesses, the health and welfare of California residents, or the State's environment.**

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

**Approximately 615 people have falconry licenses in California. Because the proposed regulations affect a limited number of people in California,**  
The cumulative effects of the changes statewide are expected to be neutral with regard to the creation or elimination of jobs within the State.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

**The proposed regulations affect approximately 615 licensed falconers in California; therefore** the cumulative effects of the changes statewide are expected to be neutral with regard to the creation of new businesses or the elimination of existing businesses within the State.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

**The proposed regulations affect approximately 615 licensed falconers in California; therefore** the cumulative effects of the changes statewide are expected to be neutral with regard to expansion of businesses currently doing business within the State.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

**The proposed regulations affect approximately 615 licensed falconers in California; therefore** the cumulative effects of the changes statewide are expected to be neutral with regard to the health and welfare of California residents.

- (e) Benefits of the Regulation to Worker Safety:

The proposed regulations do not address and will not affect worker safety.

- (f) Benefits of the Regulation to the State's Environment:

The cumulative effects of the changes statewide are expected to be neutral with regard to the state's environment.

- (g) Other Benefits of the Regulation:

The Commission anticipates benefits to licensed falconers in the current practice of the sport in California through clarified regulations.

## Informative Digest/Policy Statement Overview

Amend Sections 670, Falconry, Title 14, California Code of Regulations (CCR).

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Commission, falconers, and the public that the new California regulations would require updating and amendment to bring the regulations more in line with the current practice of falconry in California.

Numerous minor edits, renumbering, and clarifying changes are proposed; the more substantive changes include:

- Revising language to be more consistent with regulatory language standards (e.g., using lower-case for all headers, renumbering subsections, appropriate references for websites, replacing “regulatory year” with “license year,” reference to expired licenses, references to federal regulations).
- Allowing falconers to complete reports using the Department’s online reporting system found on the Department website at [wildlife.ca.gov](http://wildlife.ca.gov). Accordingly, no reporting to the USFWS is required and all references to the federal form 3-186A are removed.
- Clarifying what documentation is required to be carried when engaged in falconry activities.
- Amending the definitions (e.g., falconry, hacking, imping) to more accurately represent the activity.
- Improving instructions to falconers for procedures to avoid take of unauthorized wildlife and instructions to follow in the event that inadvertent take does occur, including fully protected species, and adopting “let it lay” language for non-protected species (meaning that if take occurs to let the raptor feed on the prey) and reporting requirements.
- Clarifying that a falconry license does not authorize the take of threatened or endangered species, candidate species or fully protected species.
- Clarifying licensee application procedures for resident, nonresident, tribal, and non-US citizen falconers.
- Adding language specifying that a tribal member with a valid falconry license issued from that member’s tribe will be treated in the same manner as a nonresident licensed falconer.
- Clarifying that a tribal member that does not have a license must apply for a California license to practice falconry outside the jurisdiction of the tribe.
- Clarifying that the exam fee is charged for each multiple examination to recover the Department’s reasonable costs.
- Adding an exam exemption for new resident falconers with a valid out-of-state falconry license.
- Clarifying when inspections are needed.
- Clarifying what is allowed and not allowed under an expired license, and what steps must be taken if a licensee wishes to continue to practice falconry.

- ~~Adding terms for renewal, at the Department's discretion, of a license where the licensee has been unlawfully in active practice without annual renewal and the payment of fees.~~
- Revising suspension and revocation clause to be more specific to the types of violations that would result in immediate action.
- Regarding written authorization required for certain activities, adding specifications that the authorization must be signed and dated with original signature.
- Identifying License and Revenue Branch as the point of contact for certain determinations, with the actual determination being made by Wildlife Branch in some instances.
- Clarifying the necessity of maintaining a continuous sponsorship of an apprentice; what period of time will be counted toward a total of 2 years sponsorship; and sponsor responsibility to assure that minimum qualifications have been met.
- Clarifying that falconers must maintain proper documentation of legal acquisition of birds and records retention is for 5 years only.
- Clarifying that take of northern goshawk outside of the Tahoe Basin does not have a limit.
- Adding language that identifies no need for a new inspection if the facilities shared by multiple falconers have passed a previous inspection.
- Clarifying when the administrative fee applies.
- Revising specifications for applying for the raptor capture drawing and obtaining a permit, including revision of deadline dates and times.
- Allowing falconers to remove bands or reband raptors under certain circumstances, if needed.
- Adding specific language allowing family members to watch raptors outside, but only if a specific age.
- Deleting the existing provision in 670 that raptors may be permanently transferred to a falconer from rehabilitation facilities. Section 679 provides for the permanent disposition from rehabilitation facilities of wildlife including birds.
- Clarifying that falconers may temporarily possess raptors from rehabilitation facilities for the purpose of conditioning for release back in to the wild.
- Adding text to clarify that non-native raptors or barred owls may not be released into the wild.
- Revising text regarding process and limitations for mounting raptor carcasses.
- Clarifying that unannounced inspections are applicable to falconry facilities.
- Revising language so that the Department will make a reasonable attempt to contact the licensee prior to conducting inspections.

#### BENEFITS OF THE PROPOSED ACTION:

The Commission anticipates benefits to licensed falconers in the current practice of the sport in California through clarified regulations.

## EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the practice of falconry. No other State agency has the authority to promulgate such regulations. The Commission has searched the CCR for any regulations regarding falconry and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

## BENEFITS OF THE PROPOSED ACTION:

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of resource related recreational activities that serve in harmony with federal law respecting conservation of the living resources under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the management and maintenance of captive raptor populations to ensure their continued existence of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based regulations provides for the health and maintenance of sufficient populations raptors. The Commission additionally anticipates benefits to the captive breeding program as well as the management of the rehabilitation of raptors as needed. The proposed regulation changes are intended to provide increased health and maintenance to the State's falconry program from its recent transition for federal to states oversight. The Commission anticipates benefits to the environment by the sustainable management of California's resources.

**The amended ISOR adds statements of necessity to Section III (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary; other clarifying statements; and, minor editorial changes. These statements are entirely related to, and do not alter, the proposed regulatory text in Section 670.**

**In response to comments from the California Hawking Club, the Department, and other falconers, the Commission made revisions to the proposed regulatory text in two areas. Subsection 670(a) was revised to reduce the number of documents required to be carried by falconers when hunting. Falconers will be required only to have in their immediate possession a valid original falconry license, a valid original hunting license, and any required stamps, the same as required for any other hunter. Subsection 670(a)(4), which initially specified additional documents related to falconry, has been deleted.**

**Subsection 670(j)(3)(A) has also been revised to clarify that falconry facilities may be inspected only when the licensee is present. Falconers had expressed concern that Department staff entering their facilities without the owner present**

would place unnecessary stress on the birds. The Commission also added language to make it clear that attempts to avoid inspection by repeatedly being unavailable may result in license suspension. Licenses suspended under these circumstances may be reinstated upon completion of an inspection finding no violations of these regulations or any license conditions.

Errors in the ISOR have also been corrected: in subsection 670(e)(2)(C), the word “expired” should not have been added and is therefore deleted; and in subsection 670(e)(6)(C)1, the words “and eagles” should not have been added and are therefore deleted.

## Regulatory Text

Section 670 is hereby amended to read:

### **§ 670. Practice of Falconry.**

(a) ~~GENERAL PROVISIONS~~ General Provisions.

~~(1) Any person who wants to engage in falconry activities shall first apply for and be issued an annual falconry license from the department. While engaged in falconry, a resident, nonresident or non-U.S. citizen shall carry an original permit, and all additional documentation or legible copies thereof, that authorize him or her to practice falconry in California.~~

~~(2) Except as provided in Section 12300, Fish and Game Code, it shall be unlawful for any person to engage in falconry in California unless they have in their immediate possession a valid original falconry license, a valid original hunting license, and any required stamps.~~

~~(3) Falconry activities shall be as provided by the Fish and Game Code and regulations provided herein.~~

~~(4) While engaged in a falconry activity the licensee shall have in his/her possession and accessible the document(s) required for that activity as set forth herein: an original valid hunting license and required stamps, such as an upland game or state duck stamp along with a Federal migratory bird hunting and conservation stamp, when hunting with a raptor; permission to hunt on private property; permission to fly or hunt with another falconer's bird(s); permission to fly a raptor for rehabilitation purposes; a nuisance bird abatement permit; or, department approved exemption from banding when transporting or flying an un-banded raptor.~~

~~(5) Applicable regulations adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act (MBTA) and published in Title 50, Code of Federal Regulations, (CFR), Part 21 ~~(Revised 11/05/2012)~~ (Revised 07/02/2015), hereinafter referred to as 50 CFR 21, are hereby incorporated and made a part of these regulations. The department shall make these and the federal regulations available at [www.dfg.ca.gov/licensing/](http://www.dfg.ca.gov/licensing/).~~

~~(6) (5) Falconry applications and records as required by this section shall be kept on forms provided by the department and submitted to the department's License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834; or, submitted to the department's online reporting system website at [wildlife.ca.gov](http://wildlife.ca.gov).~~

(b) ~~FALCONRY DEFINITIONS~~ Definitions. For purposes of this section, the following definitions apply:

(1) "Abatement" is the use of trained raptors to reduce human/wildlife conflicts.

(2) "Captive-bred raptor" means the progeny of a mating of raptors in captivity, or progeny produced through artificial insemination.

(3) "Capture" means to trap or capture or attempt to trap or capture a raptor from the wild.

(4) "Eagles" includes golden eagle (*Aquila chrysaetos*), bald eagle (*Haliaeetus leucocephalus*), white-tailed eagle (*Haliaeetus albicilla*), and Steller's sea-eagle (*Haliaeetus pelagicus*).

(5) "Exotic raptor" is a raptor that has no subspecies occurring naturally in the wild in the United States and is not covered under the MBTA.

(6) "Eyas raptor" or "nestling" is a young raptor not yet capable of flight.

(7) "Falconry" means the possession, housing, trapping, transport, and use of raptors for the purpose of hunting or ~~free flight training~~.

(8) "Hacking" is the temporary or permanent release of a raptor held for falconry to the wild so that it may ~~survive on its own~~ gain experience and conditioning.

(9) "Hybrid raptor" means offspring of raptors of two or more distinct species listed in Title 50, CFR, Section 10.13.

(10) ~~"Imp"~~ "Imping" is to cut a broken or damaged feather and replace or repair it with ~~an undamaged another~~ feather.

(11) "Imprint" means a raptor that is hand-raised in isolation from the sight of other raptors from two weeks of age until it has fledged. An imprinted raptor is considered to be so for its entire lifetime.

(12) "License year" is the 12-month period starting July 1 and ending the following June 30, and is the same as the term "regulatory year" for determining possession and take of raptors for falconry as defined in 50 CFR 21.

~~(12)-(13)~~ "Non-native raptor" is any raptor that does not naturally occur in the state of California.

~~(13)-(14)~~ "Passage raptor" is a juvenile raptor less than one year old that is capable of flight.

~~(14)-(15)~~ "Raptor" means any bird of the Order Falconiformes, Accipitriformes or Strigiformes, or a hybrid thereof.

~~(15) "Regulatory year" is the 12-month period starting July 1 and ending the following June 30, and is the same as the falconry license term.~~

(16) "Wild raptor" means a raptor removed from the wild for falconry. It is considered a wild captured raptor, no matter its time in captivity or whether it is transferred to other licensees or permit types.

~~(c) TAKE OF GAME SPECIES OR NONGAME BIRDS OR MAMMALS~~ Take of Game Species or Nongame Birds or Mammals. Every person using falconry raptors to hunt or take resident small game including upland game species, migratory game birds, or nongame birds or mammals in California shall abide by the laws and regulations ~~related to authorizing~~ hunting of such species, including but not limited to licenses, seasons, bag limits, and hunting hours.

(1) A licensee shall ensure, to the extent possible, that falconry activities do not result in unauthorized take of wildlife.

(A) If an animal is injured as a result of unauthorized take, the licensee shall remove the animal from the raptor and transport the injured animal to the nearest wildlife rehabilitation center.

(B) If an animal is killed as a result of an unauthorized take, the licensee may allow a falconry bird to feed on the kill but the licensee shall not possess the animal and shall leave the kill at the site where taken.

(2) The take shall be reported to the department, with the band or tag number of the species taken (if any), as set forth in subsection (f).

~~(d) TAKE OF STATE OR FEDERAL THREATENED OR ENDANGERED SPECIES.~~ Take of State or Federal Threatened or Endangered Species. A licensee shall ensure

~~that falconry activities do not cause the take of state or federally threatened or endangered wildlife, for example, by avoiding flying a raptor in the vicinity of the listed species. Any threatened or endangered bird, mammal, reptile or amphibian taken by a raptor without intent shall be removed from the raptor as soon as practical, and left at the site where taken if dead, or taken to the nearest wildlife rehabilitation center if injured. The take~~ This license does not authorize take of state or federally listed threatened, endangered, or candidate wildlife, or wildlife designated as fully protected within the State of California. Any take shall be reported by the licensee to the nearest U.S. Fish and Wildlife Service (USFWS) Ecological Services Field Office and the nearest department regional office ([www.dfg.ca.gov/regions/](http://www.dfg.ca.gov/regions/)) department's License and Revenue Branch within 10 calendar days of the kill. The licensee shall report his or her name, falconry permit license number, date, species and sex (if known) of the animal taken, and exact location of the kill pursuant to subsections (19), (19)(i) and (19)(ii), Title 50, Section 21.29, subdivision (f), Code of Federal Regulations as provided in 50 CFR 21.

(e) LICENSING Licensing.

(1) FALCONRY LICENSES Falconry Licenses: A falconry license is issued in one of three falconry classes listed in subsection (e)(6) and may be issued to a:

- (A) California resident, nonresident, or non-US citizen, who is applying for his/her first a new license;
- (B) California resident or nonresident licensee who is applying to renew a lapsed license that has not been expired for more than 5 years;
- (C) California resident licensee who is applying to renew a license that has not lapsed expired; and,
- (D) Nonresident or non-U.S. citizen falconer who has a valid falconry license issued from another state or country and intends to establish permanent residency in California prior to becoming a resident.

(2) APPLICATION FOR LICENSE Application for License.

(A) The applicant for a new license, or lapsed license shall submit a completed New Falconry License Application with the nonrefundable fee, as specified in Section 703, to the address listed on the application.

(B) The applicant for a license renewal of a license that has not been expired for more than 5 years, shall submit a completed Falconry License Renewal Application with the nonrefundable fee, as specified in Section 703, to the address listed on the application.

(C) The department may issue new licenses and renew existing or lapsed expired licenses with the conditions it determines are necessary to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety.

(A) SIGNED CERTIFICATION (D) Signed Certification. Each application shall contain a certification worded as follows: "I certify that I have read and am familiar with both the California and U.S. Fish and Wildlife Service falconry regulation, CFR 50, Sections 21.29 through 21.30, and that the information I am submitting is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to cancellation of the application, suspension or revocation of a license, and/or administrative, civil, or criminal penalties. I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to Section subsection 670(j), Title 14, of the CCR California Code of Regulations. I certify that I

have read, understand, and agree to abide by, all conditions of this license, the applicable provisions of ~~FGG~~ the Fish and Game Code, and the regulations promulgated thereto. I certify that ~~I am not currently under any Fish and Wildlife license or permit revocation or suspension, and that there are no other legal or administrative proceedings pending that would~~ there are no pending or previous legal or administrative proceedings that could disqualify me from obtaining this license.” The application shall be submitted with the applicant’s original signature.

~~(B) EXPERIENCE~~ (E) Experience. The department shall consider an applicant's falconry experience acquired in California, as well as another state or country when ~~evaluating~~ reviewing an application for any class of license. The department shall determine which ~~level~~ class of falconry license is appropriate, consistent with the class requirements herein and the documentation submitted with the application demonstrating prior falconry experience.

~~(C) NONRESIDENT FALCONER ESTABLISHING PERMANENT RESIDENCY~~. A nonresident falconer ~~establishing permanent residency in California shall submit documentation of prior experience and any falconry license held from his/her previous state or country of origin along with the completed application. The department shall continue to recognize a new resident's falconry license issued from another state or country, until the license expires, or the department approves or denies the application, whichever comes first. If a new resident's license expires shortly before or shortly after he/she moves to California, he/she is allowed to practice falconry for up to 120 days without a California license according to (5)(C) below.~~

~~(3) EXAMINATION REQUIREMENT~~ Examination Requirement. Any person applying for his/her first Any applicant not possessing a valid falconry license, or required to apply for a new falconry license in California shall pass the falconry examination to demonstrate proficiency in falconry and raptor-related subject areas before being issued a license. An applicant shall correctly answer at least 80 percent of the questions to pass the examination. Any applicant who fails to pass the examination may take another examination no earlier than the next business day following the day of the failed examination. The applicant shall submit a nonrefundable Falconry Examination fee each time the applicant takes an examination.

(A) An applicant who meets one of the following criteria shall be exempt from taking the California falconry examination:

1. An applicant who provides documentation of successfully passing a federally approved examination in a state that has had its falconry regulations certified as specified in Title 50, CFR, Section 21.29 50 CFR 21, will not be required to take the examination in California if the applicant took the examination less than five years prior to submitting an application for a California falconry ~~permit~~ license.
2. The applicant is a nonresident or non-U.S. citizen falconer who has a valid falconry license issued from another state or country.
3. The applicant is a member of a federally recognized tribe and has a valid falconry license issued from that member's tribe.

(B) After successfully passing the falconry examination, the raptor housing facility, if any, of a new applicant shall pass an inspection and be certified by the department, pursuant to subsection (j), before a license may be issued.

~~(4) LAPSED LICENSES. If a license has lapsed for fewer than five years, the license may be renewed at the level held previously if the applicant provides proof of licensure at that level. If a license has lapsed for five years or more, the applicant shall successfully complete the California examination. Upon passing the examination, a license may be renewed at the level previously held if the applicant provides proof of licensure at that level.~~

(4) Expired License. A license for the practice of falconry expires and is not valid unless renewed annually with the required application form and payment of fees as specified in Section 703.

(A) It shall be unlawful for any person to practice falconry, including possession of falconry raptors, without a valid license in their possession.

(B) If a license has not been renewed for a period less than 5 years from the expiration date on the license, the license may be renewed at the class held previously if the applicant provides proof of licensure at that class.

(C) If a license has not been renewed for a period of more than 5 years from the expiration date on the license, it shall not be renewed. The applicant shall apply for a new falconry license and successfully complete the examination as set forth in subsection (e)(3). Upon passing the examination and the payment of the annual license fee a license may be issued at the class previously held if the applicant provides proof of prior licensure at that class.

(5) NONRESIDENTS OF CALIFORNIA AND NON-US CITIZENS Nonresidents of California and Non-US Citizens.

(A) A person who is a member of a federally recognized tribe and has a valid falconry license from that member's tribe shall be considered a nonresident licensed falconer for purposes of this subsection (e)(5).

~~(A)-(B)~~ A nonresident licensed falconer or non-U.S. citizen licensed falconer may temporarily practice falconry in California for up to 120 consecutive calendar days without being required to obtain a California falconry license.

~~(B)-1.~~ A nonresident licensed falconer or non-U.S. citizen licensed falconer may fly raptors held for falconry by practice falconry with raptors from a licensed California falconer, provided that signed and dated written permission authorization is given to the nonresident or non-U.S. citizen by the licensee. This The original written authorization must be carried with him/her while flying or transporting the licensee while in possession of the raptor.

~~(C)-2.~~ A nonresident licensed falconer or non-U.S. citizen currently licensed falconer shall provide and thereafter maintain facilities and equipment for raptors in his/her the licensee's possession while temporarily practicing falconry in California. Temporary facilities shall meet the standards in these regulations, including but not limited to provisions described in subsection (j), and pursuant to Title 50, CFR, Section 21.29 50 CFR 21.

3. A nonresident licensed falconer or non-U.S. citizen licensed falconer may house raptors in his/her the licensee's possession at another licensed falconer's facilities while temporarily practicing falconry in California.

(C) A nonresident licensed falconer or non-U.S. citizen licensed falconer applying for a falconry license in California shall submit proof of a valid falconry license held from the

licensee's tribe, state or country along with the completed New Falconry Application and Fee and pass a facility inspection pursuant to subsection (j).

(D) A nonresident or non-US citizen applicant applying for a falconry license in California but not possessing a valid original falconry license from the applicant's tribe, state, or country of origin shall submit the completed New Falconry License Application and Fee, and pass the examination and pass a facility inspection pursuant to (e)(3) herein.

(6) FALCONRY CLASSES Falconry Classes. There are three classes of licensed falconers in California: Apprentice falconer, General falconer, and Master falconer. The department at its sole discretion may issue a falconry license in one of these classes to an applicant who meets the requirements and qualifications for the class as described in these regulations.

(A) APPRENTICE FALCONER Apprentice Falconer.

1. ~~AGE~~ Age. An applicant for an Apprentice falconer license shall be at least 12 years of age at the date of application. If an applicant is less than 18 years of age, a parent or legal guardian shall co-sign the application and shall be legally responsible for activities of the Apprentice falconer.

2. ~~SPONSORSHIP~~ Sponsorship. A sponsor is required for at least the first two years in which an Apprentice falconry license is held, regardless of the age of the Apprentice falconer. A sponsor shall be a Master falconer or a General falconer who has at least two years of experience at the General Falconer ~~level~~ class. A sponsor shall certify in writing to the department that the sponsor will assist the Apprentice falconer, as necessary, in learning the husbandry and training of raptors held for falconry; learning the relevant wildlife laws and regulations; and determining what species of raptor is appropriate for the Apprentice falconer to possess; and will notify the department's License and Revenue Branch immediately if sponsorship terminates.

3. ~~TERMINATION OF SPONSORSHIP~~ Termination of Sponsorship. If sponsorship is terminated, an Apprentice falconer and ~~his/her~~ the Apprentice's sponsor shall immediately notify the department's License and Revenue Branch in writing. ~~For a license to remain valid, The license shall be valid only if the Apprentice falconer shall acquire~~ acquires a new sponsor within 30 calendar days from the date sponsorship is terminated, and ~~provide~~ provides written notification, along with the new sponsor's certification ~~described in subsection (e)(6)(A)2,~~ to the department once a new sponsor is secured. Failure to comply with sponsorship requirements ~~will~~ shall result in loss of qualifying time from the date sponsorship was terminated to the date of securing a new sponsor, and no subsequent license ~~will~~ shall be issued until the required two years requirements of sponsorship have been fulfilled.

4. ~~POSSESSION OF RAPTORS~~ Possession of Raptors. An Apprentice falconer may possess for falconry purposes no more than one wild or captive-bred red-tailed hawk (*Buteo jamaicensis*) or American kestrel (*Falco sparverius*) at any one time, regardless of the number of state, tribal, or territorial falconry licenses in possession and only as long as the raptor in possession is trained in the pursuit of game and used in hunting. An Apprentice falconer may only capture from the wild or possess a passage red-tailed hawk or an American kestrel. The Apprentice may take raptors less than 1 year old, except nestlings. Apprentice falconers are not required to capture a wild raptor themselves; the raptor can be transferred to ~~him/her~~ the Apprentice by another licensee.

An Apprentice falconer may not capture from the wild or possess an eyas raptor or a raptor that is imprinted on humans. An Apprentice falconer must maintain written proof of legal acquisition.

5. ~~INSPECTION OF FACILITIES~~ Inspection of Facilities. After successfully passing the falconry examination, the facility of an Apprentice applicant shall pass an inspection and be certified by the department, pursuant to subsection (j), before a license may be issued.

6. ~~ADVANCEMENT FROM APPRENTICE CLASS~~ Advancement From Apprentice Class. An Apprentice falconer shall submit a completed Apprentice Falconer's Annual Progress Report, as specified in Section 703, to the address listed on the report. The report shall demonstrate that the Apprentice falconer has practiced falconry with a raptor at the Apprentice ~~level~~ class for at least two years, including maintaining, training, flying, and hunting with the raptor for at least four months in each ~~regulatory license~~ year, and a summary of the species the Apprentice possessed, how long each was possessed, how often each was flown, and methods of capture and release. Within the report, the sponsor shall certify in writing to the department that the Apprentice falconer has met the requirements of these regulations. No falconry school program or education shall be substituted for the minimum period of two years of experience as an Apprentice falconer.

(B) ~~GENERAL FALCONER~~ General Falconer.

1. ~~AGE~~ Age. General falconers shall be at least 16 years of age. If an applicant is less than 18 years of age, a parent or legal guardian shall co-sign the application and shall be legally responsible for activities of the General falconer.

2. ~~POSSESSION OF RAPTORS~~ Possession of Raptors. A General falconer may possess for falconry purposes any wild raptor species listed in subsection ~~(g)(5)~~ (g)(6), and any captive-bred or hybrid of any species of Order Falconiformes, Accipitriformes, or Strigiformes, or any legally acquired raptor from another state or country. ~~federally or state listed threatened or endangered species, and eagles.~~ A General falconer must maintain written proof of legal acquisition. A General falconer shall possess no more than three raptors for use in falconry at any one time, regardless of the number of state, tribal, or territorial falconry licenses in possession; and only two of these raptors may be wild-caught. Only eyas or passage raptors may be wild-caught; except American kestrel (*Falco sparverius*) or great horned owl (*Bubo virginianus*) may be captured at any age.

3. ~~ADVANCEMENT FROM GENERAL CLASS~~ Advancement From General Class. A General falconer shall have practiced falconry with a raptor, including maintaining, training, flying, and hunting with the raptor, at the General ~~level~~ class for at least five years before advancing to Master falconer. No falconry school program or education shall be substituted for the minimum period of five years of experience as a General falconer.

(C) ~~MASTER FALCONER~~ Master Falconer.

1. ~~POSSESSION OF RAPTORS~~ Possession of Raptors. A Master falconer may possess for falconry purposes any wild raptor species listed in subsection ~~(g)(5)~~ (g)(6), and any captive-bred or hybrid of any species of Order Falconiformes, ~~the Order~~ Accipitriformes, or ~~the Order~~ Strigiformes, or any legally acquired raptor from another state or country. ~~federally or state listed threatened or endangered species, and eagles.~~ A Master falconer must maintain written proof of legal acquisition. A Master falconer

may possess any number of raptors except ~~he/she~~ the licensee shall possess no more than five wild-caught raptors for use in falconry at any one time, regardless of the number of state, tribal, or territorial falconry licenses in possession. Only eyas or passage raptors may be wild-caught; except American kestrel (*Falco sparverius*) or great horned owl (*Bubo virginianus*) may be captured at any age.

2. ~~POSSESSION OF EAGLES~~ Possession of Eagles. A Master falconer may possess up to three eagles with proof of legal acquisition at any one time, except no bald eagle ~~may~~ shall be possessed.

i. ~~Eagles may~~ shall not be captured from the wild in California, ~~but may~~

ii. ~~Eagles may only~~ be obtained from ~~captive breeders, imported from another state, or transferred from a rehabilitation facility if the eagle is not releasable~~ a permitted source.

iii. Eagles originating in California from a licensed California rehabilitation facility may be temporarily transferred to a Master Falconer for the purpose of rehabilitation in accordance with 50 CFR 21, and with subsection (h)(3) herein.

iv. ~~The department shall authorize in writing which species of eagles a Master falconer may possess pursuant to Title 50 CFR Section 21.29(c)(iv)~~ 50 CFR 21. The Master falconer shall submit a written request for this authorization and include a resume of ~~his/her~~ the licensee's experience in handling large raptors such as eagles, and two letters of recommendation to the department's License and Revenue Branch. The resume documenting experience shall include information about the type of large raptor species handled, such as eagles or large hawks, the type and duration of the activity in which experience was gained, and contact information for references who can verify the experience. The two letters of recommendation shall be from persons with experience handling and/or flying large raptors. Each letter shall be ~~a signed, original that describes~~ dated, signed in ink with an original signature and shall describe the author's experience with large raptors, ~~and may include but is not limited to~~ including but not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter shall also assess the licensee's ability to care for eagles and fly them in falconry. The department may deny a request for a Master falconer to possess an eagle if the applicant has less than the equivalent of two years of experience handling large raptors or, at the department's discretion, the department determines that based on a letter of recommendation the applicant is not capable of caring for the eagle or flying it in falconry.

(7) ~~FEES~~ Fees. The base fee for a falconry license is specified in Fish and Game Code Section 396. Falconry related fees are specified in Section 703 of these regulations for the following:

(A) ~~APPLICATION~~ Application. An applicant shall submit a nonrefundable Falconry Application Fee when applying for a new license or renewing a license.

(B) ~~EXAMINATION~~ Examination. An applicant shall submit a nonrefundable Falconry Examination Fee each time ~~he or she applies to take~~ the applicant takes an examination.

(C) ~~INSPECTION~~ Inspection. An applicant or licensee shall submit a nonrefundable Inspection Fee prior to the department inspecting ~~his/her~~ the licensee's facilities, raptors, if present, and equipment. The Inspection Fee provides for inspections of up to five enclosures.

1. If a facility has more than five enclosures, an additional inspection fee is required for every additional enclosure over five.

2. If the applicant or licensee is sharing an existing raptor facility with another licensed falconer, and possesses proof of a passed inspection, there is no requirement for an additional inspection.

~~(D) RE-INSPECTION~~ Re-inspection. An applicant shall submit an additional nonrefundable Inspection Fee when his or her facility has failed to pass a previous inspection.

~~(E) ADMINISTRATIVE PROCESSING~~ Administrative Processing. An applicant shall submit a nonrefundable Administrative Processing Fee for each ~~Federal Form 3-186A Resident Falconer Raptor Capture, Recapture and Release Report form~~ submitted to the department's License and Revenue Branch when not using the ~~USFWS's electronic department's online reporting system on-line at~~ <https://migbirdapps.fws.gov/Falconry/srv/index.htm>.

~~(F) SPECIAL RAPTOR CAPTURE DRAWING APPLICATION~~. An applicant shall submit a nonrefundable Special Raptor Capture Drawing Application Fee when applying to capture a species with a capture quota.

~~(G) SPECIAL RAPTOR CAPTURE PERMIT~~. A successful applicant shall submit the appropriate nonrefundable Special Raptor Capture Permit fee to receive the permit.

~~(8) DENIAL~~ Denial. The department may deny the issuance of a new license or a renewal of an existing or ~~lapsed~~ expired license if:

(A) The applicant or licensee has failed to comply with regulations adopted pursuant to the Fish and Game Code related to raptors, Fish and Game Code Section 1054, or Penal Code Section 597; or

(B) The applicant or licensee has failed to comply with any provision of any statute, regulation, rule or ordinance existing in any other state or in any city, county, or other local governing entity in any other state, that is related to the care and licensing of raptors, so long as the failure to comply would constitute a violation of the Fish and Game Code, regulations related to raptors in Title 14, or Penal Code Section 597;

(C) The applicant or licensee has failed to comply with any provision of any federal statute, regulation, or rule that is related to the care and licensing of raptors, including but not limited to ~~Title 50, CFR Sections 21.29 and 21.30~~ 50 CFR 21.

(D) The department shall deny the issuance of a license or renewal of an existing license if the applicant or licensee fails to submit all required items or perform any task necessary to obtain a license. Before denying an application for this reason, the department shall notify the applicant in writing that the application is deficient. The applicant may supplement an application by providing the missing required information or materials. If sent by U.S. mail or other carrier, these materials shall be postmarked no later than 30 calendar days after the date of the proof of service accompanying the department's notification. If the 30 calendar day deadline falls on a weekend or holiday the submission of additional information or materials will be accepted until the close of business on the first state business day following the deadline to submit additional information or materials. The department may extend this deadline for good cause. If denied, the applicant or licensee may submit a new application at any time.

~~(9) SUSPENSION AND REVOCATION~~ Suspension and Revocation. Any license issued pursuant to these regulations may be suspended or revoked at any time by the

department for failure to comply with the Fish and Game Code or regulations adopted pursuant to the Fish and Game Code related to raptors, Fish and Game Code Section 1054, or Penal Code Section 597. If the licensee has been convicted in a court of competent jurisdiction of violating one of these provisions, the suspension or revocation shall take effect immediately if the violation pertains to conduct that threatens native wildlife, agricultural interests of this state, the welfare of the birds, or the safety of the public, or if the licensee has been previously convicted of violating the provisions described above or has had his or her license previously suspended or revoked. If the licensee has not been convicted, the suspension or revocation shall take effect when the time to request an appeal ~~pursuant to subsection (e)(11)~~ as described herein has expired. A timely request for an appeal will stay the department's suspension or revocation if the licensee was not convicted as described above.

~~(10) PROOF OF SERVICE~~ Proof of Service. All notices sent from the department to ~~an a falconry applicant or licensee pursuant to subsections (e)(8) or (e)(9)~~ as described herein shall include a proof of service that consists of a declaration of mailing, under penalty of perjury, indicating the date of mailing the department's notification, denial, or other correspondence.

~~(11) APPEAL~~ Appeal. Any applicant or licensee who is denied a license, an amendment to an existing license or has a license suspended or revoked by the department pursuant to these regulations may appeal that denial, amendment, suspension, or revocation by filing a written request for an appeal with the commission. If sent by U.S. mail or other carrier, a request for an appeal shall be postmarked no later than 30 calendar days after the date of the proof of service accompanying the department's notice of denial, suspension, or revocation. If submitted electronically or by facsimile, it shall be received no later than 30 calendar days after the date of the proof of service. The commission shall not accept a request for an appeal that is submitted after the 30 calendar day deadline to request an appeal. If the 30 calendar day deadline falls on a weekend or holiday the request for appeal will be accepted until the close of business on the first state business day following the 30 calendar day deadline to submit a request for appeal.

~~(12) RECORD KEEPING~~ Record Keeping. A licensee shall retain copies of all falconry-related records (hard copy or electronic) including but not limited to the applicant's falconry license, raptor transfer records, capture and release and disposition records, import or export documentation, sponsorship information, annual reports submitted to the department, and all health records of raptors possessed pursuant to the falconry license (Falconry Records) for at least five years ~~after the expiration of the license~~.

~~(13) NAME OR ADDRESS CHANGE~~ Name or Address Change. The licensee shall notify the department's License and Revenue Branch, in writing, of any change of name or mailing address within 30 calendar days of the change. Facility address changes must be reported within five ~~calendar~~ business days of the change.

~~(f) REPORTING REQUIREMENTS~~ Reporting Requirements.

~~(1) Licensees shall comply with USFWS's electronic reporting requirements on Federal Form 3-186A for all raptors possessed. Federal Form 3-186A can be accessed at the USFWS's electronic reporting system on line at~~

~~<https://migbirdapps.fws.gov/Falconry/srv/index.htm>. If a licensee is unable to use the Form 3-186A electronic reporting system, he/she may submit a paper Form 3-186A by~~

mail, fax, or email to the department's License and Revenue Branch, or he/she may report over the telephone to the License and Revenue Branch. The information from the paper form or during a call will be entered into the USFWS's electronic reporting system by department staff, and the department shall charge an Administrative Processing Fee, as specified in Section 703, for each form completed.

~~(2) A licensee shall submit to the department's License and Revenue Branch a report using the Resident Falconer Raptor Capture, Recapture and Release Report, as specified in Section 703, within 10 calendar days of capture of a raptor from the wild or the release of a raptor back to the wild. The submission shall include information about the county of capture/release, date of capture/release, a description of the capture/release site, a description of the capture method, species information, and Latitude/Longitude coordinates of capture/release site. Capture, recapture and release in California may also be entered and reported electronically if the department offers an electronic reporting system. Licensee shall also report the capture and release by entering the required information on Form 3-186A in the USFWS's electronic reporting system within 10 calendar days of the capture.~~

(1) Licensees are required to report all raptor acquisition and disposition information using the Resident Falconer Raptor Capture, Recapture and Release Report within 10 calendar days to the department's online reporting system.

(A) For raptors acquired from the wild or released back to the wild, submission shall include information about the county of capture/release, date of capture/release, a description of the capture/release site, a description of the capture method, species information, and Latitude/Longitude coordinates of capture/release site.

(B) If a licensee is unable to use the department's online reporting system, the licensee may submit relevant forms by mail, fax, or email to the department's License and Revenue Branch, or the licensee may report over the telephone to the License and Revenue Branch. The information will be entered into the department's online reporting system by department staff, and the department shall charge a nonrefundable Administrative Processing Fee, as specified in Section 703, for each form entered.

~~(3)~~ (2) Upon applying for license renewal or within 10 calendar days after expiration of the license, whichever comes first, a licensee shall submit to the department, an annual report using the Falconry Hunting Take Report, as specified in Section 703, summarizing the number and type of prey species taken while hunting, counties hunted, and birds used in hunting during the most recent license year, as well as any inadvertent take of non-target wildlife.

~~(4)~~ (3) Upon applying for license renewal or within 10 calendar days after expiration of the license, whichever comes first, an Apprentice falconer shall submit to the department's License and Revenue Branch an annual report using the Apprentice Falconer's Annual Progress Report, as specified in Section 703. The report shall be signed and dated by both the Apprentice falconer and sponsor. The report will be used by the department to determine qualifying experience for future licenses.

~~(g) CAPTURING RAPTORS FROM THE WILD~~ Capturing Raptors From the Wild.

(1) A Resident-resident licensed falconer may not capture more than two raptors from the wild during the regulatory license year and only as authorized for each falconry class license.

(2) A ~~Nonresident~~ nonresident licensed falconer ~~with a license to practice falconry in a state certified according to Title 50, CFR, Section 21.29(b)(10)~~ may request to capture within California one wild raptor of the species specified in subsection ~~(g)(7), (g)(8)~~, excluding species with capture quotas, and shall submit to the department's License and Revenue Branch a complete Nonresident Falconer Application for Raptor Capture Permit, as specified in Section 703. The permit issued shall be valid beginning on July 1 and ending on June 30 of the following year, or if issued after the beginning of the permit year, for the remainder of that permit year. Whether successful or unsuccessful in capturing a raptor, the nonresident licensed falconer shall submit a complete Nonresident Falconer Raptor Capture Permit and Report, as specified in Section 703. Nonresidents shall only capture raptors from the wild in accordance with the conditions of the permit. Nonresidents that request to capture species with capture quotas must submit an application for the random drawing, as specified in subsection ~~(g)(7)(K), (g)(9)~~. (3) Non-U.S. citizens are not eligible to capture any California wild raptor.

~~(3)-(4)~~ Raptors may be captured by trap or net methods that do not injure them. The licensee shall identify all set traps with the name and address of the licensee and shall check such traps at least once every 12 hours, except that all snare type traps shall be attended at all times when they are deployed.

~~(4)-(5)~~ A licensee shall be present during the capture of a raptor from the wild; however another General or Master licensed falconer may capture the raptor for the licensee. A licensee's presence during capture includes attendance of snare traps, or attendance while checking non-snare traps at least once every 12 hours. If a licensee has a long-term or permanent physical impairment that prevents ~~him/her~~ the licensee from attending the capture of a raptor for use in falconry, then another licensee may capture a bird for the licensee without ~~him/her~~ the licensee being present. The licensee is responsible for reporting the capture. The raptor will count as one of the two raptors the licensee is allowed to capture in that regulatory license year.

~~(5)-(6)~~ The following raptor species may be captured from the wild in California: Northern goshawk (*Accipiter gentilis*), Cooper's hawk (*Accipiter cooperii*), sharp-shinned hawk (*Accipiter striatus*), red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), merlin (*Falco columbarius*), American kestrel (*Falco sparverius*), prairie falcon (*Falco mexicanus*), barred owl (*Strix varia*), and great horned owl (*Bubo virginianus*).

~~(6)-(7)~~ No more than two nestlings of the species allowed for capture from the wild may be captured by the same General or Master licensee during the regulatory license year. In no case may all nestlings be captured and removed from any nest. At least one nestling shall be left in a nest at all times.

~~(7)-(8)~~ The following restrictions apply to the total, cumulative capture of wild raptors among all licensees. These restrictions are in addition to the limitation of two wild raptors per licensee during the regulatory license year.

(A) ~~NORTHERN GOSHAWK~~ Northern Goshawk.

No more than one northern goshawk may be captured within the Lake Tahoe Basin during the regulatory license year. There are no restrictions on the cumulative number or location of Northern goshawk captured in the balance of the state during the license year.

1. The Lake Tahoe Basin area is defined as those portions of Placer, El Dorado, and Alpine counties within a line: beginning at the north end of Lake Tahoe, at the

California-Nevada state line approximately four miles north of Stateline Point in the near vicinity of Mt. Baldy; westerly along the Tahoe Divide between the Lake Tahoe and Truckee River drainages to the intersection of the north line of Section 36, T17N, R17E, MDM; west along said north section line to the section corner common to section 25, 26, 35, and 36, T17N, R17E, MDM; south approximately one mile along the common section line; southwesterly to the intersection of the Tahoe Divide and Highway 267 in the near vicinity of Brockway Summit; southwesterly in the near vicinity of the Tahoe Divide to Mt. Pluto; south to Mt. Watson; westerly approximately two miles to Painted Rock; southerly approximately two miles along the Tahoe Divide to the intersection of Highway 89; southwesterly along the Tahoe Divide to Ward Peak; southerly approximately 30 miles along the Tahoe Divide to a point on the Echo Lakes Road; southeasterly along said road to Old Highway 50; southeasterly along Old Highway 50 to the intersection of the Echo Summit Tract Road; southerly along said road to Highway 50; easterly along Highway 50 to the intersection of the South Echo Summit Tract Road; southerly along said road to the Tahoe Divide; southerly along the Tahoe Divide past the Alpine county line to Red Lake Peak; northerly along the Tahoe Divide past Monument Peak to the California-Nevada state line; north on the state line to the point of beginning. NOTE: the area described above includes the entire basin of Lake Tahoe within California.

(B) ~~COOPER'S HAWK~~ Cooper's Hawk. No restrictions on cumulative number or location of Cooper's hawks captured statewide during the regulatory license year.

(C) ~~SHARP SHINNED HAWK~~ Sharp-shinned Hawk. No restrictions on cumulative number or location of sharp-shinned hawks captured statewide during the regulatory license year.

(D) ~~RED TAILED HAWK~~ Red-tailed Hawk. No restrictions on cumulative number or location of red-tailed hawks captured statewide during the regulatory license year.

(E) ~~RED SHOULDERED HAWK~~ Red-shouldered Hawk. No restrictions on cumulative number or location of red-shouldered hawks captured statewide during the regulatory license year.

(F) ~~MERLIN~~ Merlin. No restrictions on cumulative number or location of merlins captured statewide during the regulatory license year. Merlins may be captured only from August 15 through February 28 every year.

(G) ~~AMERICAN KESTREL~~ American Kestrel. No restrictions on cumulative number or location of American kestrels captured statewide during the regulatory license year.

(H) ~~PRAIRIE FALCON~~ Prairie Falcon. No more than 14 prairie falcons may be captured per regulatory license year.

(I) ~~BARRED OWL~~ Barred Owl. No restrictions on cumulative number or location of barred owls captured statewide during the regulatory license year.

(J) ~~GREAT HORNED OWL~~ Great Horned Owl. No restrictions on cumulative number or location of great horned owls captured statewide during the regulatory license year.

(K) ~~RANDOM DRAWING~~.

(9) Special Raptor Capture Permit Drawing. A random drawing shall be held by the department to ~~determine distribution of~~ distribute Special Raptor Capture Permits to capture species with quotas, which include one Northern goshawk in the Tahoe Basin and prairie falcons from the wild as specified in subsection (g)(7) (g)(8). An applicant may be a resident and/or nonresident and must possess a valid General or Master

falconry license at the time of application to enter the drawing. Non-U.S. citizens are not eligible to enter the drawing.

~~1. (A) A Resident~~ A resident applicant shall not submit more than two drawing applications each regulatory license year.

~~2. (B) A Nonresident~~ A nonresident applicant shall not submit more than one drawing application each regulatory license year.

~~3. (C) Applicants shall submit to the department's License and Revenue Branch~~ Licensees may apply through the department's Automated License Data System at license agents, department license sales offices, or on the department's website, using a Special Raptor Capture Drawing Application, as specified in Section 703. Each application submitted must specify the falconer's name, contact information, GO ID number, the species he/she the applicant is applying for to capture from the wild, and include the The applicant shall submit a nonrefundable Drawing Application Fee, as specified in Section 703 for each drawing application submitted.

~~4. (D) Applications must be received by midnight 11:59pm, Pacific Standard Time, on Jan. 31-May 15 each year. through the department's Automated License Data System. Incomplete, late and ineligible applications, and applications submitted without the fee, shall not be included in the drawing.~~

~~5. (E) Permits are awarded according to an applicant's choice and computer-generated random number (lowest to highest) drawing.~~ Successful applicants and a list of alternates for each species and/or area shall be determined by random drawing within 10 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department's control, the department shall conduct the drawing at the earliest date possible.

~~6. (F) Successful and alternate applicants will be mailed notification as soon as practical notified. Unsuccessful applicants shall not be notified by mail. Upon receipt of the notification, the~~ The successful applicant shall submit the Raptor Capture Permit Fee, as specified in Section 703, to the department's License and Revenue Branch by 5:00 p.m. on June 1-June 30 each year to claim the permit. If the deadline to submit the fee falls on a weekend or holiday, payment will be accepted until 5:00 p.m. on the first state business day following the deadline to submit payment. Unclaimed permits shall be awarded to alternates for that species and/or area after June 1 on an individual basis, in the order drawn.

~~7. (G) A Special Raptor Capture Permit shall only be issued to a successful applicant who holds a General or Master falconry license that is valid for the same license year that the permit shall be is valid. Only the permit holder is entitled to capture a raptor, and the permit shall be in immediate possession of the permit holder during the capture. Permits are not transferable and are valid only for the species, area and period as specified on the permit.~~

~~8. (H) A permit holder who successfully captures a Northern goshawk or prairie falcon shall immediately complete the capture portion of the permit and shall return the permit to the department's License and Revenue Branch or enter it on the department's online reporting system within 10 calendar days of the capture. The submission shall include information about the county of capture, date of capture, a description of the capture site, a description of the capture method, species information, and Latitude/Longitude coordinates of capture site. The capture may also be entered and reported electronically~~

~~if the department offers an electronic reporting system. The permit holder shall also report the capture by entering the required information on Form 3-186A in the USFWS's electronic reporting system within five calendar days of the capture.~~

~~9-(I) A permit holder who is unsuccessful in capturing a Northern goshawk or prairie falcon shall indicate "unsuccessful" on the report card portion of the permit and ~~return it~~ shall return the permit to the department's License and Revenue Branch within 10 calendar days of the ~~close of the season~~ expiration of the permit.~~

~~10-(J) The permit holder shall surrender his/her the permit to an employee of the department for any act by the permit holder that violates any raptor related provision of the Fish and Game Code, or any regulation of the commission adopted pursuant thereto, and any act on the part of the permit holder that endangers the person or property of others. The decision of the department shall be final.~~

~~(8) BANDED OR MARKED RAPTORS~~ (10) Banded or Marked Raptors. If a licensee captures a raptor that has a band, research marker, or transmitter attached to it, the licensee shall promptly report the band number and all other relevant information to the Federal Bird Banding Laboratory at 1-800-327-2263.

(A) If the raptor has a transmitter attached to it, the licensee may possess the raptor for up to 30 calendar days, during which time the licensee shall make a reasonable attempt to contact the ~~researcher~~ owner of the transmitter. If the ~~researcher~~ owner wants to replace the transmitter or its batteries, or have the transmitter removed and the bird released, the ~~researcher~~ or his or her owner or the owner's designee may make such change or allow the licensee to do so before the raptor is released. Temporary possession of the raptor will not count against the licensee's possession limit for falconry raptors. If the ~~researcher~~ owner cannot be contacted or does not want the transmitter to remain on the raptor, the licensee may keep the raptor if it was lawfully captured.

(B) If the raptor belongs to a falconer, subsection ~~(h)~~(10) (h)(12) shall apply.

~~(9) INJURY DUE TO TRAPPING~~ (11) Injury Due to Trapping. If a raptor is injured due to trapping, the raptor may be put on the licensee's falconry license and it will count as part of the possession limit. If the licensee adds the raptor on the falconry license, ~~he/she~~ the licensee shall report the capture to the department's License and Revenue Branch online reporting system within 10 calendar days after capture, and shall have the raptor immediately treated by a veterinarian or a permitted California wildlife rehabilitator. Alternately, the injured raptor may be immediately given directly to a veterinarian or a permitted California wildlife rehabilitator. In either case, the licensee is responsible for the costs of care and rehabilitation of the raptor.

~~(10) UNINTENTIONAL CAPTURE~~ (12) Unintentional Capture. A licensee shall immediately release any bird unintentionally captured that ~~he/she~~ the licensee is not authorized to possess.

~~(11) PUBLIC AND PRIVATE LANDS~~ (13) Public and Private Lands. A licensee is not authorized to capture raptors or practice falconry on public lands where it is prohibited, on private property without written permission from the landowner or tenant, or on tribal government lands without written permission. The licensee shall carry the original signed written permission while practicing falconry.

~~(h) POSSESSION, TRANSFER, AND DISPOSITION OF RAPTORS~~ Possession, Transfer, and Disposition of Raptors.

~~(1) PERMANENT TRANSFER OF RAPTOR~~ Permanent Transfer of Raptor. A licensee may acquire a raptor through a transfer and shall report the transfer by entering the required information on ~~Form 3-186A in the USFWS's electronic~~ the department's online reporting system within 10 calendar days of the transfer. The number of raptors acquired through a transfer is not restricted, as long as the licensee abides by the requirements of ~~his/her~~ the licensee's class, and does not exceed ~~his/her~~ the licensee's possession limit.

(A) If a licensee transfers a raptor removed from the wild to another licensee in the same year in which it is captured, the raptor will count as one of the raptors the licensee is allowed to capture from the wild that year. It will not count as a capture by the recipient.

(B) A surviving spouse, executor, administrator, or other legal representative of a deceased licensee may transfer any bird held by the licensee to another authorized licensee within 90 calendar days of the death of the licensee. After 90 calendar days, disposition of a raptor held under the license is ~~is~~ shall be at the discretion of the department.

~~(2) TEMPORARY TRANSFER OR CARE OF RAPTOR~~ Temporary Transfer or Care of Raptor. Any licensee who temporarily transfers possession of ~~his/her~~ the licensee's raptor to another licensee, or allows an unlicensed person to temporarily care for a raptor, shall provide written notification of such transfer to the department's License and Revenue Branch within 10 calendar days after the bird is transferred. The notification shall include contact information including name, address, phone number, and email address of the temporary caregiver.

(A) Temporary possession of a raptor by a licensee shall not exceed 120 ~~consecutive~~ calendar days. Temporary possession may exceed 120 calendar days only if a request is made to the department's License and Revenue Branch and written authorization is given. Temporary care of a raptor by an unlicensed person shall not exceed ~~a 45 consecutive calendar day period~~ 45 calendar days. A raptor cared for by an unlicensed person shall remain housed at the licensee's facility. The unlicensed person is not authorized to fly the raptor. ~~The licensed person~~ A licensed falconer in temporary possession of a raptor may fly the raptor if ~~he/she~~ the falconer possesses the appropriate level/class license.

~~(3) POSSESSION OF RAPTORS FROM REHABILITATION FACILITIES~~. A licensee may possess a raptor of any age that he/she is allowed to possess ~~acquired from a permitted wildlife rehabilitation facility~~. Transfer of a nonreleasable wild raptor from a permitted California wildlife rehabilitation facility is at the discretion of the rehabilitator and will count as one of the raptors a licensee is allowed to capture from the wild during the regulatory year. A licensee acquiring a raptor from a permitted California wildlife rehabilitation facility shall report the transfer by entering the required information on ~~Form 3-186A in the USFWS's electronic reporting system within 10 calendar days of the transfer~~.

~~(4) ASSISTING IN RAPTOR REHABILITATION~~ (3) Assisting In Raptor Rehabilitation. A General or Master falconer may assist a permitted California wildlife rehabilitator to condition a raptor for its release back into the wild. A rehabilitation raptor ~~possessed in~~ the care of the licensee for this purpose shall not be added to the licensee's falconry license, but shall remain under the permit of the rehabilitator.

(A) The rehabilitator shall provide the licensee with a letter of temporary transfer that identifies the raptor and explains that the falconer is assisting in its rehabilitation. The terms of the temporary transfer are at the discretion of the rehabilitator to assure the necessary care of the raptor. The licensee shall have in possession the letter or legible ~~copies possession while flying the raptor for rehabilitation.~~ while assisting in the rehabilitation of the raptor.

(B) The licensee shall return any such raptor that cannot be released to the wild to the rehabilitator within 180 calendar days unless ~~the rehabilitator transfers the raptor to the licensee otherwise authorized by the department's License and Revenue Branch.~~ The department's Wildlife Branch will make the possession determination.

~~(5) IMPORTATION OF RAPTORS BY NONRESIDENTS OR NON-U.S. CITIZEN~~

(4) Importation of Raptors by Nonresidents or Non-U.S. Citizen. A nonresident or non-U.S. citizen may temporarily import lawfully possessed raptors into California for up to 120 calendar days. The department's License and Revenue Branch shall be notified within 10 calendar days prior to importing the raptor. A nonresident or non-U.S. citizen shall submit to the department's License and Revenue Branch official written authority to export raptors from the originating state or country, along with a health certificate for the raptor, prior to importing a raptor. A non-U.S. citizen may import his/her a falconry raptor that ~~he/she the licensee~~ possesses legally, provided that importation of that species into the United States is not prohibited, and ~~he/she the licensee~~ has met all permitting requirements of his/her the licensee's country of residence. Import of raptors, including exotic raptors, may be subject to other state and federal laws and may require additional federal permits.

~~(6) RELEASE OF RAPTORS~~ (5) Release of Raptors. A licensee may release a native, wild caught raptor to the wild in California only to a location near the site that raptor was originally captured, and in appropriate habitat for that species of raptor. If the licensee cannot access the site of original capture, then licensee shall release ~~in it~~ in appropriate habitat for that species of raptor.

(A) Prior to release, the licensee shall ensure the immediate area around the release site is free from other raptors.

(B) The licensee shall remove any falconry band on the raptor being released; however seamless metal bands shall remain attached.

(C) A licensee may not intentionally and permanently, release a non-native raptor, hybrid, or native captive-bred raptor to the wild in California, ~~unless authorized by the department.~~

(D) A licensee shall not release any barred owl to the wild in California. A licensee shall contact the department's License and Revenue Branch to determine disposition of a barred owl in possession. The department's Wildlife Branch will determine disposition.

~~(7) HACKING~~ (6) Hacking. A wild raptor may be hacked for conditioning or as a method for release back into the wild. Any hybrid, captive-bred, or exotic raptor a licensee has in possession may be hacked for conditioning, and shall have two attached functioning radio transmitters during hacking except native captive bred raptors shall have a minimum of one functioning transmitter. A licensee may not hack any raptor near a known nesting area of a state or federally threatened or endangered, or fully protected animal species or in any other location where a raptor may take or harm a state or

federally listed threatened or endangered, or fully protected animal species. Only a General or Master falconer may hack falconry raptors.

~~(8) DEATH, ESCAPE OR THEFT~~ (7) Death, Escape or Theft. A licensee whose raptor dies, escapes, or is stolen, shall report the loss of the raptor by entering the required information on ~~Form 3-186A in the USFWS's electronic~~ the department's online reporting system within 10 calendar days of the loss. A licensee may attempt to recover a raptor lost to the wild for up to 30 calendar days before reporting the loss. The licensee shall also report a theft of a raptor to an appropriate local law enforcement agency within 10 calendar days of the loss.

~~(9) DISPOSITION OF RAPTOR CARCASS~~ (8) Disposition of Raptor Carcass. If a raptor dies and was banded or had an implanted microchip, the band or microchip shall be left in place. If a licensee keeps the carcass or parts thereof, ~~he/she~~ the licensee shall retain all records of the raptor. A licensee must send the entire body of a golden eagle carcass held for falconry, including all feathers, talons, and other parts, to the National Eagle Repository. Within 10 calendar days the carcass of any other raptor species shall be either:

~~(A) Delivered to the department. A carcass may only be delivered to the department if the carcass is frozen and if the licensee obtains permission from the department prior to delivery; or if the licensee obtains authorization from the department's License and Revenue Branch prior to delivery. The department's Wildlife Branch will make the determination where the carcass will go. A carcass may only be delivered to the department if the carcass is frozen; or~~

(B) Donated to any person authorized to possess the raptor or parts thereof; or

(C) Kept by the licensee for use in imping; or

~~(D) Delivered to a taxidermist for mounting and possession by the falconer; or~~

~~(E) (D) Burned, buried, or otherwise destroyed.; or~~

(E) Delivered to a taxidermist for mounting and possession by the licensed falconer only.

1. Within 30 days of the expiration of a license, the licensee shall return the mounted raptor to the department.

2. Within 30 days of the death of the licensee, the estate shall return the mounted raptor to the department.

3. In either event, the licensee or the estate shall contact the department's License and Revenue Branch. The department's Wildlife Branch will determine the disposition of the mounted raptor.

~~(10) RECAPTURE~~ (9) Recapture. A licensee may recapture a raptor wearing falconry equipment or a captive-bred or exotic raptor at any time whether or not the licensee is authorized to possess the species. A recaptured raptor will not count against the possession limit of the licensee, nor will its capture from the wild count against the licensee's limit on number of raptors captured from the wild. The licensee shall report recaptured raptors ~~to the department's License and Revenue Branch~~ by submitting a complete Resident Falconer Raptor Capture, Recapture and Release Report ~~and by entering the required information on Form 3-186A in the USFWS's electronic~~ to the department's online reporting system within five calendar days.

(A) A recaptured falconry raptor shall be returned to the person who lawfully possessed it. If that person cannot possess the raptor or does not wish to possess it, the licensee

who recaptured the raptor may keep it if that species is allowed under his/her the licensee's existing license. If kept, the raptor will count towards the licensee's possession limit.

1. A licensee who retains a recaptured raptor shall report the acquisition to the department's ~~License and Revenue Branch by submitting a complete Resident Falconer Raptor Capture, Recapture and Release Report and by entering the required information on Form 3-186A in the USFWS's electronic online reporting system~~ within five calendar days.

2. If neither party wishes to keep the raptor, disposition of the raptor will be at the discretion of the department. The licensee in possession shall contact the department's License and Revenue Branch. The department's Wildlife Branch will determine the disposition of the recaptured raptor.

~~(11) USE OF FEATHERS~~ (10) Use of Feathers. A licensee may possess feathers of each species of raptor authorized to be possessed for as long as the licensee has a valid falconry license. For eagle feathers, a licensee must follow federal standards as noted in ~~Title 50, CFR, Section 21.29~~ 50 CFR 21. A licensee may receive raptor feathers from another person in the United States as long as that person is authorized to possess the feathers. Feathers from a falconry raptor may be donated to any person with a valid permit to possess them, or to anyone exempt from a permit requirement for feather possession. Any feathers of falconry raptors possessed by a falconer whose license has expired or been suspended or revoked shall be donated to any person exempt from the permit requirement or authorized by permit to acquire and possess the feathers within 30 calendar days of the license expiration, suspension or revocation. If the feathers are not donated, they shall be burned, buried, or otherwise destroyed.

~~(12) PURCHASE, BUY, SELL, TRADE, OR BARTER~~ (11) Purchase, Buy, Sell, Trade, or Barter. No person ~~may~~ shall purchase, buy, sell, trade or barter wild raptors or any parts thereof including but not limited to feathers. A licensee may purchase, buy, sell, trade or barter captive-bred, hybrid or exotic raptors marked with seamless metal bands to other ~~licensed falconers~~ persons or entities who are authorized to possess them.

~~(13) USE OF HYBRID, NON-NATIVE, AND EXOTIC RAPTORS~~ (12) Use of Hybrid, Non-native, and Exotic Raptors. When flown free, hybrid, non-native, or exotic raptors shall have attached at least two functioning radio transmitters to allow the raptor to be located.

~~(14) OTHER USES OF FALCONRY RAPTORS~~ (13) Other Uses of Falconry Raptors. A licensee may use falconry raptors for education, exhibiting, propagation, or abatement. A licensee may transfer a wild-caught raptor to a raptor propagation permit, but the raptor shall have been used in falconry for at least two years, or at least one year for a sharp-shinned hawk, merlin, Cooper's hawk or American kestrel. A wild caught raptor may be transferred to another permit type other than falconry only if it has been injured and can no longer be used in falconry. In this case, the licensee shall provide a copy of a certification from a veterinarian to the department's License and Revenue Branch stating that the raptor is not useable in falconry.

~~(A) EDUCATION AND EXHIBITING~~ Education and Exhibiting. A licensee may use raptors in his or her possession for training purposes, education, field meets, and media (filming, photography, advertisements, etc.), as noted in ~~Title 50, CFR, Section 21.29~~ 50 CFR 21, if the licensee possesses the appropriate valid federal permits, as long as the

raptor is primarily used for falconry and the activity is related to the practice of falconry or biology, ecology or conservation of raptors and other migratory birds. Any fees charged, compensation, or pay received during the use of falconry raptors for these purposes may not exceed the amount required to recover costs. An Apprentice falconer may use ~~his/her~~ the licensee's falconry raptor for education purposes only under the supervision of a General or Master falconer.

~~(B) PROPAGATION~~ Propagation. A licensee may conduct propagation activities with raptors possessed under a falconry permit if the licensee possesses a valid federal Raptor Propagation Permit and the person overseeing propagation has any other necessary state and federal authorization or permits. The raptor shall be transferred from a falconry license to a federal Raptor Propagation Permit if it is used in captive propagation for eight months or more in a regulatory license year. The transfer shall be reported by ~~entering the required information on Form 3-186A in the USFWS's and by entering the required information on Form 3-186A in the USFWS's electronic~~ submitting a complete Resident Falconer Raptor Capture, Recapture and Release Report to the department's online the department's online reporting system. Transfer of a raptor from a falconry license to a federal Raptor Propagation Permit is not required if the raptor is used for propagation purposes fewer than eight months in a regulatory license year.

~~(C) ABATEMENT~~ Abatement. A Master falconer may conduct abatement activities with raptors possessed under a falconry license and receive payment if the licensee possesses a valid federal Special Purpose Abatement Permit. A General falconer may conduct abatement activities only as a sub-permittee of the holder of a valid federal Special Purpose Abatement Permit.

~~(i) BANDING AND TAGGING~~ Banding and Tagging.

~~(1) A goshawk, peregrine, gyrfalcon or Harris's hawk captured from the wild or acquired from another licensee or a permitted California wildlife rehabilitator shall be banded with a permanent, nonreusable, numbered USFWS leg band if the raptor is not already banded. Captive bred raptors that are listed under the MBTA shall be banded with seamless metal bands. A peregrine, gyrfalcon or Harris's hawk legally acquired from another state, or from another licensee, shall be banded with a permanent, nonreusable, numbered USFWS leg band if the raptor is not already banded.~~

~~(A) A licensee shall obtain a permanent, nonreusable, numbered USFWS leg band from the department's License and Revenue Branch or regional office prior to capturing a raptor from the wild. The License and Revenue Branch shall report banding data to the USFWS.~~

~~(B) A licensee may purchase and implant an ISO (International Organization for Standardization)-compliant (134.2 kHz) microchip in addition to the band. The licensee shall report the band number and or the microchip information on Form 3-186A in the USFWS's electronic reporting system. to the department's online reporting system when reporting acquisition of the bird.~~

~~(2) Lost or Removed Bands. A band may be intentionally removed from a raptor only by a department employee or a person authorized by the department's License and Revenue Branch or regional office. A licensee shall report the loss or removal of any band to the department's License and Revenue Branch and enter the required information on Form 3-186A in the USFWS's electronic reporting system within five calendar days of the loss or removal.~~

(2) Captive bred raptors that are listed under the MBTA shall be banded with seamless metal bands.

~~(3) Rebanding. A licensee shall reband a raptor if the original band is lost or removed. The licensee shall enter the required information on Form 3-186A in the USFWS's electronic reporting system within 10 calendar days of rebanding.~~

(3) If a band is lost or must be removed from a raptor in a licensee's possession, the licensee shall report the loss of the band to the department's online reporting system within five (5) days, and the licensee shall request a replacement permanent, nonreusable, numbered USFWS leg band from the department's License and Revenue Branch.

(4) After receiving a replacement band from the department's License and Revenue Branch, the licensee shall reband a raptor if the original band is lost or removed. The License and Revenue Branch shall report rebanding data to the USFWS.

~~(4) Prohibition on Defacing Band. (5) The alteration, counterfeiting or defacing of a band is prohibited except that licensees may remove the rear tab or may smooth any imperfect surface provided the integrity of the band and numbering are not affected.~~

~~(5) Health Considerations. (6) The department may approve an exemption from the banding requirement if a licensee provides documentation that health or injury problems to a raptor are caused by a band. If an exemption is approved, the licensee shall keep the written exemption and shall carry a copy when transporting or flying the raptor. If a wild Northern goshawk is exempted from the banding requirement, an ISO-compliant microchip supplied by the USFWS shall be used instead.~~

~~(j) FACILITIES, EQUIPMENT, AND INSPECTIONS~~ Facilities, Equipment, and Inspections.

~~(1) HOUSING STANDARDS AND SPECIFICATIONS~~ Housing Standards and Specifications. Raptor housing facilities shall meet the standards in ~~Title 50, CFR, Section 21.29(d)~~ 50 CFR 21 at all times. Raptor housing facilities shall be inspected and certified by the department prior to issuance of a falconry license. Thereafter, a licensee shall maintain approved permanent facilities for housing raptors.

(A) Raptor housing facilities shall protect raptors housed in them from predators, the environment, domestic animals, and escape, and shall provide a healthy, clean, and safe environment.

(B) Indoor ("mews") or outdoor ("weathering area") raptor facilities may be used to house raptors.

(C) Falconry raptors may be kept outside in the open at any location, ~~only if they are in the immediate~~ when in the presence of a licensed falconer and may be temporarily under watch by a person 12 years or older designated by the licensee.

(D) Permanent falconry facilities may be either on property owned by a licensee, on property owned by another person where a licensee resides, or elsewhere with property owner approval.

(E) A licensee shall report to the department's License and Revenue Branch, in writing within five calendar days if the licensee moves ~~his/her~~ the licensee's permanent falconry facilities to another location by submitting a completed Raptor Facilities and Falconry Equipment Inspection Report, as specified in Section 703, and the inspection fee. The department will conduct a facility inspection, as specified in Section 703, and the licensee shall pay the inspection fees.

(2) ~~EQUIPMENT~~ Equipment. A licensee shall have jesses or other materials and equipment to make them, leash, swivel, bath container, and appropriate scales or balances for weighing raptors ~~he/she the licensee~~ possess.

(3) ~~INSPECTIONS~~ Inspections. Inspections of indoor or outdoor facilities, equipment, and raptors shall be conducted by the department. Inspections are required for a new license applicant, applicants renewing a lapsed license which has been expired more than 5 years, and licensees that move facility housing to a new address, and these persons. Applicants and licensees shall initiate the inspection by submitting a complete Raptor Facilities and Falconry Equipment Inspection Report and fees, as specified in Section 703. Equipment and facilities that meet the federal standards shall be certified by the department using the Raptor Facilities and Falconry Equipment Inspection Report. Equipment and facilities that do not meet the minimum standards and specifications shall not be certified by the department.

(A) The department may conduct unannounced visits to inspect facilities, equipment, or raptors possessed by the licensee, and may enter the ~~premises~~ facilities of any **licensed falconer licensee when the licensee is present** during a reasonable time of the day and on any day of the week. **The department will make a reasonable attempt to contact the licensee prior to conducting the inspection.** The department may also inspect, audit, or copy any permit, license, book, or other record required to be kept by the licensee under these regulations at any time. **The department may deny the issuance of, or immediately suspend, the license of a licensee who refuses to be available to participate in a facility inspection or who refuses to allow inspection of a facility, license, book, or other record required to be kept by the licensee. A refusal to allow inspection may be inferred if, after reasonable attempts by the department, the licensee is unavailable for inspection. The department may reinstate a license suspended pursuant to this subdivision if the licensee allows the department to inspect the facility, license, book, or other record, and no violations of these regulations or any license conditions are observed during that inspection.**

(B) If a licensee's facilities are not on property owned by the licensee, ~~he/she the licensee~~ shall submit to the department's License and Revenue Branch a signed and dated statement with original signature from the property owner indicating the property owner agrees that the falconry facilities and raptors may be inspected by the department without advance notice.

Note: Authority: Fish and Game Code Sections: 200, 202, 203, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1054, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150, 10500. Reference: Fish and Game Code Sections: 395, 396, 713, 1050, 3007, 3031, 3503, 3503.5, 3511, 3513, 3801.6. Title 50, Code of Federal Regulations, Parts 21.29 and 21.30, and California Penal Code Section 597.

**ADDENDUM**

**to the**

**FINAL ENVIRONMENTAL DOCUMENT FOR**

**PROPOSED REGULATIONS GOVERNING**

**FALCONRY CLEAN-UP**

**prepared by the**

**STATE OF CALIFORNIA**

**THE NATURAL RESOURCES AGENCY**

**CALIFORNIA FISH AND GAME COMMISSION**

**as the**

**LEAD AGENCY UNDER THE CALIFORNIA**

**ENVIRONMENTAL QUALITY ACT for the**

**REGULATORY ACTION TO**

**AMEND SECTION 670**

**OF TITLE 14, CALIFORNIA CODE OF REGULATIONS**

**November 8, 2016**

## I.

### **INTRODUCTION**

The California Fish and Game Commission ("Commission") has prepared this Addendum to comply with the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 *et seq.*). The Commission is the lead agency under CEQA with respect to the proposed project that involves changes to existing regulations that govern the public use of lands under the jurisdiction of the California Department of Fish and Wildlife ("CDFW").

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Fish and Game Commission (Commission), falconers, and the public that the new California regulations would require future amendments which need updating. The proposed amendments include numerous changes to bring the regulations more in line with the current practice of falconry in California and federal guidelines. In addition, editorial changes were needed for clarity and consistency.

This Addendum notes there are no issues under CEQA associated with the proposed amendments to these sections. It is prepared because the Commission has determined that some changes or additions are necessary to Title 14, California Code of Regulations. This Addendum is appropriate because the changes currently proposed contains language to be changed, edited, or made more specific (refer to the regulatory text for proposed language and context).

## II.

### **BACKGROUND AND OVERVIEW OF THE COMMISSION'S OBLIGATIONS AS THE LEAD AGENCY UNDER CEQA FOR MODIFICATIONS TO THE PREVIOUSLY APPROVED REGULATIONS**

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Commission, falconers, and the public that the new California regulations would require updating and amendment to bring the regulations more in line with the current practice of falconry in California.

Numerous minor edits, renumbering, and clarifying changes are proposed and include:

- Revising language to be more consistent with regulatory language standards (e.g., using lower-case for all headers, renumbering subsections, appropriate references for websites, replacing “regulatory year” with “license year,” reference to expired licenses, references to federal regulations).
- Allowing falconers to complete reports using the Department’s online reporting system found on the Department website at [wildlife.ca.gov](http://wildlife.ca.gov). Accordingly, no reporting to the USFWS is required and all references to the federal form 3-186A are removed.
- Clarifying what documentation is required to be carried when engaged in falconry activities.
- Amending the definitions (e.g., falconry, hacking, imping) to more accurately represent the activity.
- Improving instructions to falconers for procedures to avoid take of unauthorized wildlife and instructions to follow in the event that inadvertent take does occur, including fully protected species, and adopting “let it lay” language for non-protected species (meaning that if take occurs to let the raptor feed on the prey) and reporting requirements.
- Clarifying that a falconry license does not authorize the take of threatened or endangered species, candidate species or fully protected species.
- Clarifying licensee application procedures for resident, nonresident, tribal, and non-US citizen falconers.
- Adding language specifying that a tribal member with a valid falconry license issued from that member’s tribe will be treated in the same manner as a nonresident licensed falconer.
- Clarifying that a tribal member that does not have a license must apply for a California license to practice falconry outside the jurisdiction of the tribe.
- Clarifying that the exam fee is charged for each multiple examination to recover the Department’s reasonable costs.
- Adding an exam exemption for new resident falconers with a valid out-of-state falconry license.
- Clarifying when inspections are needed.
- Clarifying what is allowed and not allowed under an expired license, and what steps must be taken if a licensee wishes to continue to practice falconry.
- Revising suspension and revocation clause to be more specific to the types of violations that would result in immediate action.

- Regarding written authorization required for certain activities, adding specifications that the authorization must be signed and dated with original signature.
- Identifying License and Revenue Branch as the point of contact for certain determinations, with the actual determination being made by Wildlife Branch in some instances.
- Clarifying the necessity of maintaining a continuous sponsorship of an apprentice; what period of time will be counted toward a total of 2 years sponsorship; and sponsor responsibility to assure that minimum qualifications have been met.
- Clarifying that falconers must maintain proper documentation of legal acquisition of birds and records retention is for 5 years only.
- Clarifying that take of northern goshawk outside of the Tahoe Basin does not have a limit.
- Adding language that identifies no need for a new inspection if the facilities shared by multiple falconers have passed a previous inspection.
- Clarifying when the administrative fee applies.
- Revising specifications for applying for the raptor capture drawing and obtaining a permit, including revision of deadline dates and times.
- Allowing falconers to remove bands or reband raptors under certain circumstances, if needed.
- Adding specific language allowing family members to watch raptors outside, but only if a specific age.
- Deleting the existing provision in 670 that raptors may be permanently transferred to a falconer from rehabilitation facilities. Section 679 provides for the permanent disposition from rehabilitation facilities of wildlife including birds.
- Clarifying that falconers may temporarily possess raptors from rehabilitation facilities for the purpose of conditioning for release back in to the wild.
- Adding text to clarify that non-native raptors or barred owls may not be released into the wild.
- Revising text regarding process and limitations for mounting raptor carcasses.
- Clarifying that unannounced inspections are applicable to falconry facilities.
- Revising language so that the Department will make a reasonable attempt to contact the licensee prior to conducting inspections.

In general, the required revisions to the text did not trigger the need to prepare subsequent or supplemental analysis under CEQA, only where changes to the project, changes in circumstances, or new information

reveal:

- A new potentially significant environmental impact not previously disclosed in the prior analysis; or
- A substantial increase in severity of a previously-identified potentially significant impact.
- (*Id.*, § 15162, subd. (a)(1)-(3).)

Stated another way, a subsequent EIR or environmental document or a supplement to such prior analysis, is not required under CEQA where substantial evidence in light of the whole record supports the Commission's determination that none of the conditions highlighted above are present. The Commission, as explained below, determines that no such conditions are present with respect to the proposed modifications to the existing regulations governing the state's falconry program managed by CDFW. The Commission, as a result, may properly prepare and rely on this Addendum to fulfill its obligations under CEQA with respect to the proposed project. (*Id.*, § 15164.)

### III.

#### **CONSIDERATION OF PROJECT CHANGES, CHANGED CIRCUMSTANCES AND POTENTIALLY SIGNIFICANT NEW INFORMATION**

As noted above, in 2013, the Commission concluded that the adoption and implementation of that set of regulations would not result in any potentially significant environmental impacts. A major focus of the current regulation package is administrative changes to the Department's Falconry Program which will have no effect.

In light of the preceding analysis and other substantial evidence in the administrative record of proceedings, the Commission does not believe that the proposed changes dated August 2016 governing the falconry program in California will result in previously undisclosed, new significant environmental impacts or a substantial increase in the severity of previously disclosed impacts.

The Commission has concluded that the adoption and implementation of that set of regulations would not result in any potentially significant environmental impacts. A major focus of the current regulation package is administrative changes to the Department's Falconry Program which will have no effect. The proposed substantive amendments will not allow for increased participation in falconry, alter the timing of the participation, or allowed locations. As such, the proposed substantive amendments will also have no effect beyond what was contemplated in the initial environmental document.

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**From:** Pea Ce  
**Sent:** Tuesday, November 22, 2016 4:07 PM  
**To:** FGC  
**Cc:** Pea Ce  
**Subject:** Falconry Comments To Fish and Game Commissioners  
**Attachments:** Stronger Falconry Regs-NOT Weaker-Dec2016.pdf

Please forward the attached comment letter to the CA Fish and Game Commissioners, to be included in their binder for their December meeting.

If you can acknowledge receipt of this comment letter, it would be greatly appreciated.

Thanks,

Randall Cleveland

for the PEACE team



**P**ROTECTING **E**ARTH & **A**NIMALS **W**ITH **C**OMPASSION & **E**DUICATION

P.O. Box 846 • Newcastle, CA 95658 • pea-ce@live.com

November 20, 2016

Fish and Game Commission  
1416 Ninth St., Ste 1320  
Sacramento, CA 95814

Subj: Proposed Falconry changes—"Section 670, Title 14, CCR"-(Dec 8, 2016 Discussion)

As stated in our October letter, we urge the Fish and Game Commission (FGC) to keep the Falconry regulations as strict as possible—vote no to relax any falconry regulations. Every point we made in that October letter still applies, especially with "Unannounced inspections."

A related issue is raptor banding. Allowing falconers to have un-banded raptors, at any time, but especially when transporting or flying, is an invitation to abusive noncompliance. It is stated in the ISOR on page 16 that a suggested amendment to 670(i)—"specialized banding of all falconry raptors"—was rejected because "...this is outside of [the] scope of this regulatory rulemaking." We disagree: It's very much part and parcel of the inspection process and, as stated in the ISOR, "Though the Department considers this a worthy consideration," all raptor banding should be a requirement.

The ISOR implies that because CA has approximately 615 licensed falconers, and describes it a "limited number," (relative to what?) that seems to suggest that the amended regulations will have no negative impacts and require no mitigation measures. However, unless the number of licensed falconers is capped at 615, that number does not justify any loosening of the falconry regulations. Is falconry becoming more popular? How many non-licensed falconers exist? Unless they're caught in the act of violating the licensing regs, that is an unknown number. How many out-of-state falconers come into the state?

The ISOR states there will be no cumulative effects of the changes statewide with regard to the health and welfare of California residents. This is simply not true. As long as there are opportunities to steal eggs and nestlings, the ability of citizens to enjoy healthy nature outings, to see and photograph wildlife, and to continue to do more of the same non-impact activities, is negatively impacted. As long as falconers' raptors can catch and kill prey, there are that many fewer species for citizens to enjoy seeing on their hikes and outings. Loosening and making regulations less stringent certainly does impact the health and welfare of all Californians who enjoy the outdoors both for health and for wildlife viewing.

Regulations cannot be based on just those who are licensed, the majority of which are probably law-abiding citizens. Because noncompliance has negative impacts on many levels, and because in all hunting and fishing activities governed by the FGC or the CA Dept of Fish and Wildlife, there will always be a certain number of law breakers. Without strict regulations, game wardens will have a tough time issuing citations. Prosecutors will either decline to prosecute or lose their cases, and violations will continue.

Please do away with the use of the word, "may." Instead use the unequivocal word, "shall." The real possibility of wild raptor population declines could have wide-ranging environmental and economic impacts in the form of eco-system imbalances, lost revenues from reduced bird-watching tours, and other wildlife viewing revenue generating activities.

In Subsection 670(j)(3)(A)'s revised language, the use of the word "reasonable" is a perfect example of how the inspections can be avoided without consequences via arbitrary interpretation. It will result in many hours of wasted warden time and travel to begin with. If a license is finally suspended for refusal to allow facility inspection, all the licensee has to do is appeal the suspension. The excuses and claims as to why the attempts to inspect were unreasonable are too numerous to list here, but most likely, based on current lack of prosecution, prevalent throughout most of the state, the license will have to be reinstated. Then, maybe worse, future attempts to inspect will be even more futile, because by then the wardens will face claims of harassment in attempting to do their jobs. The current regulation provides protection for the raptors, which is what it was meant to do. It must not be amended. Additionally, deterrent-sized fines and penalties to cover all warden hours spent—including travel—and intent to not comply, must be imposed on the licensee.

Since owls hunt at night, no owls should ever be allowed in falconry. In the dark, falconers will not know what species has been taken by the owl, what type of problems the owl may encounter, and may not be able to even identify prey to identify whether it's a listed species or not, until it's too late.

It's time the FGC dealt with the cruelty of putting prey-bait animals in a trap, tossing the trap from a vehicle and dragging it until the raptor sees it, or leaving it in one spot—out in the open where many of the prey animals are totally panicked. It's just as bad to have the raptor on top of the trap with the prey trapped and frantically trying to escape. It is more traumatizing as the raptor reacts more violently once he/she knows she's caught in the lines. This pure, abject cruelty should never be condoned in order to capture a raptor to use for falconry. There are other inhumane practices that falconers use to catch raptors, but none of them treat the prey animal humanely.

Before approving the proposed regulations, please consider abolishing falconry altogether. It's nothing more than a misuse of magnificent wildlife species for entertainment and bragging rights. The only exceptions to allow falconry might be for rehabilitation of birds of prey who are expected to recover from whatever ails or injures them, and then be released back into the wild, or for permitted depredation.

Thank you,

/S/

Randall Cleveland  
For the PEACE Team

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**From:** Mjasper  
**Sent:** Monday, November 21, 2016 11:50 PM  
**To:** FGC  
**Subject:** Falconry Amendments comment  
**Attachments:** PIC+SC-Falconry Revisions-Dec 2016.pdf

Greetings,

Please accept the attached as our comment to the Fish and Game Commission regarding the proposed amendments to the falconry regulations. Please reply to acknowledge receipt.

Thank you,  
Marilyn Jasper



PUBLIC INTEREST COALITION  
P.O. BOX 671, LOOMIS, CA 95650



[Sent via email]  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

November 21, 2016

Ladies and Gentlemen:

RE: Proposed Falconry Regulation-Amended ISOR (Section 670, Title 14, CCR)

Thank you for considering our views. We have major concerns with a few of the proposed amendments to the Falconry regulations.

An overarching concern is what appears to be an unacceptable rationale for proposing amendments to some of the falconry regulations. The statement is made that the changes are “to bring the regulations more in line with the current practice of falconry in California and federal guidelines.” Changes to meet federal guidelines are obviously acceptable. However, neither regulation adoptions nor amendments should be predicated on “current practice.” The only acceptable criteria for regulation should be wildlife impacts and benefits. Because “current practice” criteria could include activities that are detrimental to raptors and other wildlife, and/or be otherwise noncompliant, it behooves regulatory agencies to pursue what is best for the resource—not what’s best for human activities or “...in line with current practices....” Yet that unacceptable stated position appears to be the motivation for a few of the falconry regulation proposed changes.

One of our biggest objections is to the proposed amendment to Subsection 670(j). The proposed wording and logic in the amended ISOR is an invitation to abuse and noncompliance with even the basic falconry regulations. We strongly urge that no changes be made that would prohibit unannounced inspections of licensed falconry facilities or premises. To disallow CA Dept of Fish and Wildlife (CDFW) wildlife officers (game wardens) to conduct unannounced inspections would seriously erode code enforcement capacities in overseeing an activity that rightfully requires multiple documents, permits, stamps, banding, licenses, etc., for both the privilege to capture and privately confine wildlife—which normally would be protected and held in public trust by state/CDFW for the benefit of all—and then to use that State’s wildlife resource further to hunt game and non-game. Because CDFW’s mandate is to protect public trust resources through education, management, conservation, and regulations, it follows that “enforcement” plays a most critically important and vital role—especially with falconry. The proposed amendment to 670(j) compromises and reduces the work of wildlife officers to “paper tigers,” and worse, puts wildlife at risk.

We assume that most people are law abiding. However, it doesn’t matter if 99.9% of all falconers abide by all regulations. Regulations, as most laws, are created because abuses have occurred and/or have a reasonable, foreseeable propensity to occur. A revision or deletion of “unannounced inspections” will allow licensees to avoid rightful scrutiny. To a potential scofflaw, a required “announcement,” via a wildlife officer’s having to make an appointment to inspect the facility or premise, only when he or she is present, eviscerates enforcement capacity of the State’s regulations and compromises game warden effectiveness. Advance notice merely gives time to temporarily correct, or hide, non-compliant issues (lawful types and number of captive raptors, their health and welfare, facility set up, sanitation, banding, etc.).

Claims that Constitutional rights are being violated are erroneous and lack merit. Because falconers give signed consent to allow unannounced inspections, any reference to the 4<sup>th</sup> Amendment is a moot point and spurious. When consent is given, unannounced inspections of falconry facilities or premises are not violations of the 4<sup>th</sup> Amendment rights. The inspection

requirement and consent is clearly stated—at least twice—both in the regulations and in the application. The applicant signs to certify that he/she has read and is familiar with state and federal regulations, and furthermore states that “*I understand that my facilities, equipment, or raptors are subject to **unannounced inspection pursuant to Section 670(j), Title 14, of the CCR....***” [(670)(e)(2)(A)] On the actual application, directly above the Applicant’s Signature line, the same language is repeated.<sup>1</sup>

In their work, game wardens are given more “leeway” with regard to the 4<sup>th</sup> Amendment or an “expectation of privacy.” *Bechart v. Department of Fish and game*, 158 Cal.App3d 1104, is a very limited case dealing with private property entrance and an “Open Fields Doctrine.” However, the judgment included these words, “**The entries by the wardens are for the purpose of regulating and managing a state-owned resource.... The Legislature has given Fish and Game supervision over property belonging to the sovereign.**”<sup>2</sup> Even though the circumstances may be slightly different, as mentioned at the October 2016 FGC meeting in Eureka, in *Maikhio vs. California*, the authority of wildlife officers to inspect was upheld.

Unannounced facility or premise inspections are a most important and efficient method to ensure the health of captive wildlife held in the public trust, to ascertain and evaluate the licensee’s competence or capacity to care for raptors held in his/her facility, and to determine compliance with the multiple regulations and agreements. We strongly disagree that the licensee must be present. The facility is used to confine property of the State, of the people. As such, the facility needs to be inspected without notice. It’s the facility that’s being inspected—not the licensee. Currently, subsection 670(j) provides not only primary protection for captive raptors, but also possibly the ONLY protection. As such, it should not be deleted or weakened via the proposed specious amendment.

It is reasonable and foreseeable to conclude that having to announce, make appointments, or have the licensee present for facility inspections will result in temporary clean ups and/or concealment of noncompliant conditions in order to maintain licenses, permits, etc. When finally conducted, the licensee may return to errant ways as soon as the inspection is completed.

Supposed clarifying language, “...to make it clear that attempts to avoid inspection by repeatedly being unavailable may result in license suspension,” and that such suspended licenses “...may be reinstated upon completion of an inspection finding no violations....” seems shockingly naïve and may exacerbate illegal activities. To the scofflaws who will not allow facility inspections, ignoring the regulations and/or operating clandestinely will become their modus operandi.

Some objection to unannounced inspections appears to be focused on raptor-confinement facilities that are inside residential structures. However, in addition to having agreed to unannounced inspections, the location of the facility to be inspected is the sole choice and/or decision of the licensee, who has full knowledge that unannounced inspections will be conducted. He/She could just as easily create a facility that is a separate structure, if residential entrance by a wildlife officer is not appreciated or welcomed. If the facility is inside a residence, the inspection will have to take place there anyway. Protection of raptors and compliance with regulations should be the primary goal—not licensee convenience or angst.

Falconiformes and Strigiformes or birds of prey (“falcon” or “raptor”) are one of the only, if not *the* only, wildlife specie that a citizen, when properly educated, licensed, and permitted, may not only capture, hold in captivity, use to hunt and take other game animals, but also take eggs and/or chicks directly from nests in the wild (taking eggs is considered so detrimental that it is not allowed

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<sup>1</sup> 2013-2014 New Falconry License Application, page 1: I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to Section 670(j), Title 14, of the CCR. I certify that I have read, understand, and agree to abide by, all conditions of this license, the applicable provisions of the FGC, and the regulations promulgated thereto.

<sup>2</sup> <http://login.findlaw.com/scripts/callaw?dest=ca/calapp3d/158/1104.htm>

in some states in the U.S.). In general, citizens who capture and possess wildlife species, steal live chicks or eggs from nests in the wild, are committing a crime. Thus, falconry, as a privileged activity that enjoys both a personal use and a take of the state's wildlife resources, must be heavily regulated. As such, there must be no wiggle room for noncompliance, and wildlife officers must have no code ambiguity when enforcing regulations.

It is also stated that the amendment to Subsection 670(a) was to reduce the number of documents required to be carried by falconers when hunting. However, written permission to hunt on private property is a requirement for hunting. A lone hunter or falconer may be able to stay on public property, but raptors in training flights cannot be bound by legal property lines or boundaries. Also, requiring *possession* of written permission when flying or hunting with another falconer's birds, should be a deterrent and reduce hunting with illegally possessed raptors; it should also save wildlife officers' time in having to run down valid permission documents. We urge rejection of these revised amendments.

The same is true for flying a raptor for rehabilitation purposes: Documentation must be produced at the time the game warden makes the request. These documents are akin to a Driver's License and should be carried on the person conducting the rehab activity. Because falconers are granted privileges to keep captive wildlife, take nestlings and eggs, and kill other game and non-game animals, requiring documentation in the field can hardly be considered a burden to the falconer. We urge no change in those existing regulations [670(a)(4)].

As an aside, it is reasonable for federal, state, and local agencies to meet or communicate with falconers or any wildlife consumptive groups that are regulated by wildlife laws, especially if the intention is to improve the regulations and meet the FGC or CDFW's missions. However, the public relies on regulatory agencies to stay true and committed to their public trust missions to protect and preserve natural resources. To be fair, time spent meeting with consumptives should be equally matched by meeting with non-consumptives—to hear all sides. Otherwise, the language in the ISOR, creates a perception that the FGC and agency(ies) are listening only to those with self-serving recreational or take interests.<sup>3</sup>

We urge also that language be added to strengthen the likelihood of convictions for falconry regulation noncompliance and to impose stronger penalties, immediate license revocation(s), and universal enforcement (as opposed to “selective enforcement”) upon conviction.

We incorporate by reference our letter to the Fish and Game Commission related to this Falconry Regulation Revisions matter, dated October 5, 2016.

Thank you for considering our views,



Marilyn Jasper, Chair  
Sierra Club Placer Group, Conservation Comm  
Public Interest Coalition

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<sup>3</sup> CA FGC meeting documents, Falconry ISOR, pg 12, Subsection (j)(3)(A): “At the Commission’s falconers’ request, add language....”

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**From:** Lance Leong  
**Sent:** Wednesday, November 16, 2016 10:15 AM  
**To:** FGC  
**Subject:** Comments on Amendments to FGC regulations

To whom it may concern:

I am an apprentice falconer and have been following the proposed amendments to Section 670 Title 14, CCR Re: Falconry Regulations. My comments are in response to the proposed change in subsection (j)(3)(A), regarding administrative inspections. It is my belief that 670(j)(3)(A) should be removed in its entirety because:

- 1) they constitute an unreasonable search, in violation of U.S. and CA constitutions,
- 2) no authority is granted in law for the CA DFG to conduct administrative searches in the context of falconry,
- 3) existing case law does not support warrantless administrative searches in the context of falconry, and
- 4) proposed wording eliminates the primary concern of DFG law enforcement officials

Authority to conduct administrative searches does not exist in the law. FGC Section 1006 grants authority to search dwellings where animals are held for sale or storage. This applies to animals that are being held for sale or consumption. It does not apply to raptors. Additionally, many falconers own captive-bred, hybrid, or exotic raptors. Existing case law supports that these birds are the private property of their owners and should not fall under the purview of the DFG.

Case law supports administrative searches in a few narrow situations: when there is a threat to public safety/health, or to highly-regulated industries. Falconry poses no public safety/health threat. It also is not a highly-regulated industry, as falconry laws prohibit falconers from making a profit from falconry activities (exception is those with abatement or educational permits). In prior FGC meetings, two specific cases were mentioned by FGC members, *Betchart v. Fish and Game*, and *People v. Maikhio*. In *Betchart*, it was determined that warrantless searches are allowed on open spaces, and it was explicitly opined that it did not extend to dwellings. In *Maikhio*, the DFG warden had reasonable suspicion that *Maikhio* was in possession of an illegal lobster and therefore had authority to conduct a warrantless search. None of these cases establishes precedent to conduct warrantless searches on the dwelling where a raptor is kept.

In prior FGC meetings, Chief David Bess argued that unannounced inspections were needed to enable DFG wardens to catch violations through the element of surprise. This argument is no longer valid as the proposed wording requires notification of the licensed falconer and that the falconer be present. Since DFG would no longer have the advantage of surprise, it follows that searches be founded on the existence of reasonable suspicion.

In closing, the Fourth Amendment of the U.S. Constitution protects the people from unreasonable searches. Invading the privacy of some innocent people in the hopes of catching the rare criminal is unreasonable. It is my hope that you weigh my arguments and remove 670(j)(3)(A) from the FG code.

Sincerely,

Lance Leong

San Jose, CA 95117

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**From:** Doug Alton  
**Sent:** Tuesday, November 15, 2016 11:50 PM  
**To:** FGC  
**Subject:** section 670. Title 14 Falconry

Please ask the commission to read this before the next meeting

I oppose the proposed inspection language regarding falconry in California:

"The department may conduct unannounced visits to inspect facilities, equipment, or raptors possessed by the licensee, and may enter the facilities of any licensee when the licensee is present during a reasonable time of the day and on any day of the week."

Should simply add the words "**WITH A WARRANT**" This would bring it in line with state and federal laws, codes and requirements under legislated laws, court decisions, and the US and State Constitutions.

Thank you  
Doug Alton

Madera Ca. 93638

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**From:** Fred Seaman  
**Sent:** Tuesday, November 15, 2016 3:06 PM  
**To:** FGC  
**Subject:** Re: Falconry regulations and "unannounced inspection" by 4 SWAT dressed CDFW officers - part 8

I oppose the proposed inspection language regarding falconry in California:

(A) The department may conduct unannounced visits to inspect facilities, equipment, or raptors possessed by the licensee, and may enter the facilities of any licensee when the licensee is present during a reasonable time of the day and on any day of the week. The department may also inspect, audit, or copy any permit, license, book, or other record required to be kept by the licensee under these regulations at any time. The department may deny the issuance of, or immediately suspend, the license of a licensee who refuses to be available to participate in a facility inspection or who refuses to allow inspection of a facility, license, book, or other record required to be kept by the licensee. A refusal to allow inspection may be inferred if, after reasonable attempts by the department, the licensee is unavailable for inspection. The department may reinstate a license suspended pursuant to this subdivision if the licensee allows the department to inspect the facility, license, book, or other record, and no violations of these regulations or any license conditions are observed during that inspection.

The regulation is in conflict with the United States Constitution as well as as California's Constitution. I have included them for your review:

Amendment IV of the United States Constitution.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

SEC. 13 of the California Constitution

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

If these regulations are passed and the Department of Fish and Wildlife executes them they will violate:

Title 18, U.S.C., Section 242 - Deprivation of Rights Under Color of Law

This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, Judges, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

Punishment varies from a fine or imprisonment of up to one year, or both, and if bodily injury results or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined or imprisoned up to ten years or both, and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CIVIL CODE - CIV

DIVISION 1. PERSONS [38 - 86] ( Heading of Division 1 amended by Stats. 1988, Ch. 160, Sec. 12. )

PART 2. PERSONAL RIGHTS [43 - 53.7] ( Part 2 enacted 1872. )

52.1.

(a) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or

attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (a).

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.77 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

(l) The rights, penalties, remedies, forums, and procedures of this section shall not be waived by contract except as provided in Section 51.7.

As Commission Members of the Fish and Game Commission you have taken the oath to uphold the Constitution of the United States as well as the Constitution of California. If the proposed regulations are passed as written you will be breaking that oath to the citizens of California and the United States. I implore you to do the right, legal and constitutional thing by removing the unannounced inspection language.

Thank you for you consideration,

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Fred Seaman  
Chief Executive Officer  
Airstrike Bird Control

[www.airstrikebc.com](http://www.airstrikebc.com)

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**From:** chi ma  
**Sent:** Sunday, November 13, 2016 2:23 PM  
**To:** FGC  
**Subject:** Inspection language

Dear Commission,

I oppose the proposed inspection language regarding falconry in California:

(A) The department may conduct unannounced visits to inspect facilities, equipment, or raptors possessed by the licensee, and may enter the facilities of any licensee when the licensee is present during a reasonable time of the day and on any day of the week. The department may also inspect, audit, or copy any permit, license, book, or other record required to be kept by the licensee under these regulations at any time. The department may deny the issuance of, or immediately suspend, the license of a licensee who refuses to be available to participate in a facility inspection or who refuses to allow inspection of a facility, license, book, or other record required to be kept by the licensee. A refusal to allow inspection may be inferred if, after reasonable attempts by the department, the licensee is unavailable for inspection. The department may reinstate a license suspended pursuant to this subdivision if the licensee allows the department to inspect the facility, license, book, or other record, and no violations of these regulations or any license conditions are observed during that inspection.

The regulation is in conflict with the United States Constitution as well as as California's Constitution. Furthermore it is in violation of California Civil code 52.1. I have included them for your review:

**Amendment IV of the United States Constitution.**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**SEC. 13 of the California Constitution**

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

If these regulations are passed and the Department of Fish and Wildlife executes them they will violate:

**Title 18, U.S.C., Section 242 - Deprivation of Rights Under Color of Law**

This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, Judges, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

Punishment varies from a fine or imprisonment of up to one year, or both, and if bodily injury results or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined or imprisoned up to ten years or both, and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

## **CIVIL CODE - CIV**

### **DIVISION 1. PERSONS [38 - 86]**

*( Heading of Division 1 amended by Stats. 1988, Ch. 160, Sec. 12. )*

### **PART 2. PERSONAL RIGHTS [43 - 53.7]**

*( Part 2 enacted 1872. )*

**52.1.**  
(a) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (a).

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.77 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

(l) The rights, penalties, remedies, forums, and procedures of this section shall not be waived by contract except as provided in Section 51.7.

As Commission Members of the Fish and Game Commission you have taken the oath to uphold the Constitution of the United States as well as the Constitution of California. If the proposed regulations are passed as written you will be breaking that oath to the citizens of California and the United States. I implore you to do the right, legal and constitutional thing by removing the unannounced inspection language.

Thank you for you consideration,

Chi Ma  
General Falconer.

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**From:** Fred Seaman  
**Sent:** Saturday, November 12, 2016 11:23 AM  
**To:** FGC  
**Subject:** 670 Falconry regulations revisions  
**Attachments:** Karl Kerster letter.jpg

Dear Fish and Game Commission members,

You know from previous correspondence that I was abused by the Law Enforcement Division of the California Department of Fish and Wildlife.

We falconers have been given many forms of misinformation from the CDFW LED. One such piece of misinformation was that the "unannounced inspections" were ordered by the License and Revenue Branch. However, upon conferring with LRB, there were no such inspection orders issued. This misinformation was provided by the Captain in charge of Lieutenant Michael Milots. Lt. Milots is documented as arguing the CHC negotiators and accusing "all breeders are stealing Gyr falcons from the wild and selling them to the Arabs".

It appears that every round of revisions makes the language "worse" from the position of the licensee. The current proposed language contains an explicit extortion clause "The department may deny the issuance of, or immediately suspend, the license of a licensee who refuses to be available to participate in a facility inspection or who refuses to allow inspection of a facility, license, book, or other record required to be kept by the licensee."

Why is it so important to make a provision for something that has never happened. I interpret this as "comply with our illegal regulations or we will revoke your license".

While I don't have explicit confirmation that the illegal searches and 4th amendment rights violations and any attempts to turn illegally gained "evidence" into an "investigation" is over. I do, with that clause included believe that the department will refuse to renew my license next June.

Regarding "unannounced inspections". The entire clause as well as the action taken against me is a violation of your own self policing code.

## California Fish and Game Code Section 857

(a) Notwithstanding any other provision of law, the status of a person as an employee, agent, or licensee of the department does not confer upon that person a special right or privilege to knowingly enter private land without either the consent of the owner or a search warrant, an inspection warrant.

(b)(1) Subdivision (a) does not apply to employees, agents, or licensees of the department in the event of an emergency. For purposes of this section, "emergency" means a sudden, unexpected occurrence, involving a

clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, wildlife, wildlife resources, or wildlife habitat.

(2) Subdivision (a) does not apply to a sworn peace officer authorized pursuant to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for law enforcement purposes, to other departmental personnel accompanying a sworn peace officer. Subdivision (a) shall not be construed to define or alter any authority conferred on those peace officers by any other law or court decision.

(3) Subdivision (a) does not apply to, or interfere with, the authority of employees or licensees to enter and inspect land in conformance with Section 4604 of the Public Resources Code.

This section is not intended to expand or constrain the authority, if any, of employees, agents, or licensees of the department to enter private land to conduct inspections pursuant to Section 7702 of this code or Section 8670.5, 8670.7, or 8670.10 of the Government Code.

(c) If the department conducts a survey or evaluation of private land that results in the preparation of a document or report, the department shall, upon request and without undue delay, provide either a copy of the report or a written explanation of the department's legal authority for denying the request. The department may charge a fee for each copy, not to exceed the direct costs of duplication.

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Fred Seaman  
Chief Executive Officer  
Airstrike Bird Control

[www.airstrikebc.com](http://www.airstrikebc.com)

## Email received prior to Amended ISOR

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**From:** 1  
**Sent:** Monday, November 07, 2016 12:40 PM  
**To:** FGC  
**Subject:** Falconry regulations should align with the 4th Amendment

I oppose the proposed inspection language regarding falconry in California.

(A) The department may conduct unannounced visits to inspect facilities, equipment, or raptors possessed by the licensee, and may enter the facilities of any licensed falconer during a reasonable time of the day and on any day of the week. The department will make a reasonable attempt to contact the licensee prior to conducting the inspection. The department may also inspect, audit, or copy any permit, license, book, or record required to be kept by the licensee under these regulations at any time.

An initial inspection is performed of an apprentice falconer's facilities, which consists of a checklist of equipment that the apprentice should possess, as well as guidelines for the mews. I have no problem with this.

However, after that, there is no reason to inspect facilities unannounced unless there is reasonable, documentable suspicion of a violation of falconry regulations.

The regulation is in conflict with the United States Constitution as well as as California's Constitution:

Amendment IV of the United States Constitution.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

SEC. 13 of the California Constitution

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

If these regulations are passed and the Department of Fish and Wildlife executes them they will violate:

Title 18, U.S.C., Section 242 - Deprivation of Rights Under Color of Law

This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

As Commission Members of the Fish and Game Commission you have taken the oath to uphold the Constitution of the United States as well as the Constitution of California. If the proposed regulations are passed as written you will be breaking that oath to the citizens of California and the United States. Please remove the unannounced inspection language.

Thank you for your consideration,

Andrea Chen  
Falconer licensed since 1993