

(3) Statement of disposition which will be made of migratory birds involved in the permit activity.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, special purpose permits shall be subject to the following conditions:

(1) Permittees shall maintain adequate records describing the conduct of the permitted activity, the numbers and species of migratory birds acquired and disposed of under the permit, and inventorying and identifying all migratory birds held on December 31 of each calendar year. Records shall be maintained at the address listed on the permit; shall be in, or reproducible in English; and shall be available for inspection by Service personnel during regular business hours. A permittee may be required by the conditions of the permit to file with the issuing office an annual report of operation. Annual reports, if required, shall be filed no later than January 31 of the calendar year following the year for which the report is required. Reports, if required, shall describe permitted activities, numbers and species of migratory birds acquired and disposed of, and shall inventory and describe all migratory birds possessed under the special purpose permit on December 31 of the reporting year.

(2) Permittees shall make such other reports as may be requested by the issuing officer.

(3) All live, captive-bred, migratory game birds possessed under authority of a valid special purpose permit shall be physically marked as defined in §21.13(b) of this part.

(4) No captive-bred migratory game bird may be sold or bartered unless marked in accordance with §21.13(b) of this part.

(5) No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any captive-bred migratory game bird unless such permittee submits a Service form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) days of such transaction.

(6) No permittee, who is authorized to sell or barter migratory game birds

pursuant to a permit issued under this section, may sell or barter such birds to any person unless that person is authorized to purchase and possess such migratory game birds under a permit issued pursuant to this part and part 13, or as permitted by regulations in this part.

(d) *Term of permit.* A special purpose permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38152, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998]

§21.28 [Reserved]

§21.29 Falconry standards and falconry permitting.

(a) *Background*—(1) *The legal basis for regulating falconry.* The Migratory Bird Treaty Act prohibits any person from taking, possessing, purchasing, bartering, selling, or offering to purchase, barter, or sell, among other things, raptors (birds of prey) listed in §10.13 of this subchapter unless the activities are allowed by Federal permit issued under this part and part 13 of this chapter, or as permitted by regulations in this part.

(i) This section covers all Falconiformes (vultures, kites, eagles, hawks, caracaras, and falcons) and all Strigiformes (owls) listed in §10.13 of this subchapter (“native” raptors), and applies to any person who possesses one or more wild-caught, captive-bred, or hybrid raptors protected under the MBTA to use in falconry.

(ii) The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) provides for the taking of golden eagles from the wild to use in falconry. It specifies that the only golden eagles that may be used for falconry are those that would be taken because of depredations on livestock or wildlife (16 U.S.C. 668a).

(2) *“Possession” and short-term handling of a falconry raptor.* We do not consider short-term handling, such as letting any other person hold or practice flying a raptor you possess under your permit, to be possession for the purposes of this section if you are

present and the person is under your supervision.

(3) *Regulatory year for governing falconry.* For determining possession and take of raptors for falconry, a year is any 12-month period for take defined by the State, tribe, or territory.

(b) *Federal approval of State, tribal, and territorial falconry programs—(1) General.* (i) A State (including the District of Columbia), tribe, or territory under the jurisdiction of the United States that wishes to allow falconry must establish laws and regulations (hereafter referred to as laws) that meet the standards established in this section. To allow the practice of falconry on tribal lands by tribal members or residents, a tribe may either certify that it has adopted Service-approved State laws if those laws are fully enforceable on tribal lands, or issue its own laws and request our approval.

(ii) The U.S. Fish and Wildlife Service (Service) Director must determine that a State, tribal, or territorial falconry permitting program meets the requirements and standards of this section. The Director must certify no later than January 1, 2014, that a State, tribe, and territory willing to allow falconry meets the federal standards. At that time, all Federal falconry permits and the Federal permitting program will end. Falconry will not be permitted in a State or territory or by a tribe after this date until that State, tribe, or territory develops a permitting program the Director certifies to be in compliance with these regulations. Also see paragraph (b)(12) of this section.

(iii) State, tribal, or territorial laws may be more restrictive than these Federal standards but may not be less restrictive. For instance, a State, tribe, or territory may choose not to allow possession of some species of raptors otherwise allowed in this section. State, tribal, and territorial laws must be consistent with the terms contained in any convention between the United States and any foreign country for the protection of raptors and the Migratory Bird Treaty Act.

(2) *State, tribal, or territorial submission for approval.* A State, tribe, or territory

that wishes to allow falconry must submit to the Director:

(i) The data required by paragraph (b)(1) of this section;

(ii) A copy of the State's, tribe's, or territory's Apprentice Falconer examination, which must at a minimum cover laws and regulations, raptor biology and raptor identification, trapping methods, facilities requirements, care of raptors held for falconry, and diseases and health problems of raptors, and training methods; and

(iii) Copies of the laws and regulations governing falconry of the State, tribe, or territory, and certification that the laws and regulations meet the requirements of this section.

(3) *Electronic reporting.* The State, tribe, or territory must work with us to ensure that the electronic 3-186A reporting system (<http://permits.fws.gov/186A>) for reporting take, transfers, and loss of falconry birds is fully operational for residents of that jurisdiction.

(4) *Federal approval and terms.* If we concur that the regulations and the examination meet the requirements of this section, we will publish a rule in the FEDERAL REGISTER adding the State, tribe, or territory to the list of those approved for allowing the practice of falconry. We will terminate Federal falconry permitting in any State certified under these regulations on January 1st of the calendar year following publication of the rule.

(i) An approved State, tribe, or territory must notify the Service Director of any substantive revisions of their laws governing falconry and certify that they meet the requirements of this section.

(ii) We must approve the falconry examination any time it is revised.

(5) *Review of a State, tribal, or territorial falconry program.* We may review the administration of an approved State's, tribe's, or territory's falconry program if complaints from the public or law enforcement investigations that indicate the need for a review, or revisions to the State's, tribe's, or territory's laws or falconry examination. The review may involve, but is not limited to:

(i) Inspecting falconers' facilities to ensure that facilities standards in this section are met;

(ii) Processing time of applications;

(iii) Reviewing approved applications for completeness;

(iv) Determining that permits issued are appropriate for the experience of the applicants;

(v) Determining the adequacy of the State's, tribe's, or territory's record-keeping for the needs of State, tribal, or territorial and Federal law enforcement;

(vi) Reviewing laws to determine if they meet the requirements of this section; and

(vii) Reviewing a revised falconry examination to determine if it meets the requirements of this section.

(6) *Suspension of a State's, tribe's, or territory's certification.*(i) We may propose to suspend, and may suspend the approval of a State, tribal, or territorial falconry program in accordance with the procedures in paragraph (b)(6)(ii) of this section if we determine that the State, tribe, or territory has deficiencies in one or more items in paragraph (b)(5) of this section.

(ii) When we propose to suspend approval of a State, tribal, or territorial falconry program, we will first provide written notice to the State, tribe, or territory. Any such notice will include the basis for our determination that suspension is warranted. We will identify the actions that would, if implemented by the State, tribe, or territory, allow us to cancel the proposed suspension of approval.

(iii) The State, tribe, or territory will have 2 years from the date of our notification to correct the deficiencies. The State, tribe, or territory must respond in writing within that time to the proposed suspension, specifying the reasons why the certification should not be suspended. We will give due consideration to any objections and evidence raised by the State, tribe, or territory.

(iv) If we continue to believe that suspension is warranted, we will provide written notice of suspension, including the rationale for suspension, and respond to any objections to the suspension.

(A) The suspension of approval of the State's, tribe's, or territory's falconry

program will be effective 180 days from the date of the Service's final notification of suspension.

(B) The State, tribe, or territory must then inform all falconry applicants and permittees of the impending cancellation of permitting.

(v) We will honor all falconry permits in that jurisdiction for 2 years from the date of our final notification of suspension of certification. At the end of the 2 years, you must transfer all raptors (including captive-bred raptors) held under permits from the State, tribal, or territorial falconry program to other falconry permittees in other States or territories, or to Federal raptor propagation or education permittees, institutions exempt from the Federal permit requirements, or permanently released to the wild (if it is allowed by the State, tribe, or territory and by this section), or euthanized. However, you may not permanently release hybrid raptors to the wild.

(7) *Appeal of a decision to suspend State, tribal, or territorial certification.* The State, tribe, or territory may appeal a decision to suspend certification to the Director within 180 days of the date of the Director's decision. The Director will then respond to the State, tribe, or territory within 180 days of receipt of the appeal. The State, tribe, or territory certification will remain effective until the Director makes a final decision on the appeal.

(8) *Recertification of compliance with this section if a State's, tribe's, or territory's falconry permitting authority has been suspended.* If a State, tribe, or territory has had its falconry permitting authority suspended but has corrected its problems, it must submit a request for approval of its permitting activities. We will then either recertify the program, or report in writing why we do not believe that earlier permitting problems have been rectified.

(9) *Authority to suspend or revoke a falconry permit issued by a State, tribe, or territory.* Suspension or revocation of a falconry permit is the responsibility of the State, tribe, or territory. However, compliance with all provisions of these regulations remains under the purview of the Fish and Wildlife Service.

§ 21.29

50 CFR Ch. I (10–1–10 Edition)

(10) *Standards in effect in your place of residence.*

If your legal residence is in	you may
(i) Mississippi, Montana, Oklahoma, Pennsylvania, Texas, or Utah,	practice falconry as permitted in these regulations if you have a permit from your State, tribe, or territory.
(ii) Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, Wisconsin, or Wyoming,	practice falconry under the Federal regulations in effect on November 7, 2008 (if falconry was allowed in your State at that time) until your State has certified that it meets the requirements in these regulations or until January 1, 2014.

(11) *Compliance date for the regulations in this section.* A State with existing Federally-approved falconry regulations wishing to continue to allow falconry after January 1, 2014 must certify to the Director of the Fish and Wildlife Service that it is in compliance with this section. This section will be applicable for a State upon publication in the FEDERAL REGISTER of our notice of approval of the State's certification. Any State certified to allow falconry under the Federal falconry regulations contained in §§21.28 and §21.29 in effect prior to November 7, 2008 may continue to allow falconry under those provisions until:

(i) We publish a notice of our approval of the State's certification in the FEDERAL REGISTER; or

(ii) January 1, 2014.

(12) *What will happen if a State with falconry regulations certified under earlier regulations does not come into compliance with this section by January 1, 2014?*

If a State does not come into compliance with this section by the compliance date, we will require that all raptors held for falconry in that State or (including captive-bred raptors) be transferred to falconers in other jurisdictions, transferred to captive propagation programs, permanently released to the wild (if that is allowed by the State and by this section), or euthanized. However, you may not permanently release hybrid raptors to the wild.

(c) *Practicing falconry—(1) Practicing falconry where you reside.*

If your legal residence is in	you may	because your place of residence
(i) the District of Columbia, Hawaii, or any tribal land, or in any U.S. territory,	not practice falconry	has not met the Federal falconry standards or does not allow the practice of falconry.
(ii) any State other than Hawaii, in the District of Columbia, on any tribal land, or in any U.S. territory,	practice falconry after you receive your State, tribal, or territorial falconry permit, if your State, tribe, or territory is in compliance with these regulations	has met the Federal standards and allows the practice of falconry.

(2) *Permits and inspections to practice falconry.* You must have a valid falconry permit from the State, tribe, or territory in which you reside (or the tribe on whose land you wish to practice falconry if you reside on tribal land or are a tribal member), to take, possess, or transport raptors for falconry, or to hunt with them. Depending on the game you hunt as a falconer and where you hunt, you also may need a Federal Migratory Bird Hunting and Conservation Stamp (a “Duck

Stamp”), and State, tribal, or territorial hunting permits or stamps to hunt with a raptor.

(i) Some State, tribal, territorial, or local governments may require you to have additional permits or licenses to practice falconry or to take a raptor from the wild.

(ii) You must comply with all regulations governing migratory bird permitting.

(iii) If you reside for more than 120 consecutive days in a State or territory or on tribal lands other than the location of your primary residence, your falconry facilities in the second location must meet the standards in paragraph (d) of this section and of the corresponding State, tribal, or territorial lands, and your facilities must be listed on your falconry permit.

(3) *Classes of permit to practice falconry.* We recognize Apprentice, General, and Master Falconer levels. Each State, tribe, or territory may have any number of permit levels, but the standards for them must be at least as restrictive as these Federal standards. Your State, tribe, or territory may have more restrictive laws or regulations governing falconry.

(i) Requirements and possession options for an Apprentice Falconer.

(A) You must be at least 12 years of age.

(B) If you are under 18 years of age, a parent or legal guardian must sign your application and is legally responsible for your activities.

(C) You must have a letter from a Master Falconer or a General Falconer with a valid State, tribal, or territorial falconry permit who is at least 18 years old and has at least 2 years experience at the General Falconer level, stating that he or she will assist you, as necessary, in:

(1) Learning about the husbandry and training of raptors held for falconry;

(2) Learning and about relevant wildlife laws and regulations, and

(3) Deciding what species of raptor is appropriate for you to possess while an Apprentice.

(D) Regardless of the number of State, tribal, or territorial falconry permits you have, you may possess no more than one raptor for use in falconry.

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

(F) You do not need to capture a wild raptor yourself; it can be transferred to you by another falconry permittee.

(G) You may not possess a raptor taken from the wild as a nestling.

(H) You may not possess a bird that is imprinted on humans.

(I) Your raptor facilities must pass inspection by your State, tribe, or territory before you may be granted a permit.

(ii) Requirements and possession options for a General Falconer.

(A) You must be at least 16 years of age.

(B) If you are 16 or 17 years of age, a parent or legal guardian must sign your application and must be legally responsible for your activities.

(C) You must submit a document from a General Falconer or Master Falconer (preferably your sponsor) to your State, tribal, or territorial wildlife agency stating that you have practiced falconry with raptor(s) at the Apprentice Falconer level or equivalent for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for least 4 months in each year. That practice may include capture and release of falconry raptors.

(D) You may not substitute any falconry school program or education to shorten the period of 2 years at the Apprentice level.

(E) You may take and possess any species of Falconiform or Strigiform except a golden eagle, a bald eagle, a white-tailed eagle, or a Steller's sea-eagle. You may use captive-bred individuals and hybrids of the species you are allowed to possess.

(F) Regardless of the number of State, tribal, or territorial falconry permits you have, you may possess no more than 3 raptors.

(iii) Requirements and possession options for a Master Falconer.

(A) You must have practiced falconry with your own raptor(s) at the General Falconer level for at least 5 years.

(B) You may take and possess any species of Falconiform or Strigiform except a bald eagle. However, you may take and possess a golden eagle, a white-tailed eagle, or a Steller's sea eagle only if you meet the qualifications set forth under paragraph (c)(3)(iv).

(C) You may possess any captive-bred individuals or hybrids of species your State, tribe, or territory allows you to possess for use in falconry.

(D) Regardless of the number of State, tribal, or territorial falconry permits you have, you may possess no more than 5 wild raptors, including golden eagles.

(E) You may possess any number of captive-bred raptors. However, you must train them in the pursuit of wild game and use them in hunting.

(iv) If you meet the requirements in paragraph (c) of this section for falconry you may possess up to 3 eagles of the following species: golden eagle, white-tailed eagle, or Steller's sea eagle.

(A) Your State, tribal, or territorial agency that regulates falconry must document the following before approving your request to possess an eagle to use in falconry:

(1) Your experience in handling large raptors, including information about the species you have handled and the type and duration of the activity in which you gained the experience.

(2) At least two letters of reference from people with experience handling and/or flying large raptors such as eagles, ferruginous hawks, goshawks (*Accipiter gentilis*), or great horned owls (*Bubo virginianus*). Each must contain a concise history of the author's experience with large raptors, which can include, but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter must also assess your ability to care for eagles and fly them in falconry.

(B) A golden eagle, white-tailed eagle, or Steller's sea-eagle you hold will count as one of the raptors you are allowed to possess for use in falconry.

(4) *Taking a test to qualify for a falconry permit.* Before you are issued an Apprentice permit you must correctly answer at least 80 percent of the questions on an examination administered by the State, tribe, or territory under which you wish to obtain a falconry permit. The examination must cover care and handling of falconry raptors, Federal, State or territorial, and tribal (if applicable) laws and regulations relevant to falconry, and other appro-

priate subject matter. Contact your State, tribal, or territorial agency that regulates falconry for information about permits and taking the test.

(5) *Reinstatement of a lapsed falconry permit if your State, tribe, or territory allows it.* (i) If your permit has lapsed for fewer than 5 years, it may be reinstated at the level you held previously if you have proof of your certification at that level.

(ii) If your permit has lapsed for 5 years or longer, you must correctly answer at least 80 percent of the questions on an examination administered by the State, tribe, or territory in which you wish to obtain a falconry permit. If you pass the exam, your permit may be reinstated at the level you previously held. Your facilities must pass State, tribal, or territorial inspection before you may possess a falconry bird.

(6) *Permit to practice falconry at an appropriate level if you have experience in falconry but are a new resident in the United States.* You may qualify for the falconry permit appropriate for your experience. To demonstrate your knowledge of U.S. falconry laws and regulations, you must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the State, tribe, or territory under which you wish to obtain a falconry permit. If you pass the test, the State, tribe, or territory will decide for which level of falconry permit you are qualified, consistent with the class requirements in paragraph (c)(3) of this section. To do so, the State, tribe, or territory should base its decision on your documentation of your experience. Your falconry facilities must meet the standards in paragraph (d)(1) of this section before you may keep a raptor to use in falconry.

(7) *Banding or tagging raptors used in falconry.* (i) If you take a goshawk, Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) from the wild or acquire one from another falconer or a rehabilitator, and if the raptor is not already banded, you must band it with a permanent, nonreusable, numbered U.S. Fish and Wildlife Service leg band that your State, tribal, or

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

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

(iii) If the band must be removed or is lost from a raptor in your possession, you must report the loss of the band within 5 days, and you must then do at least one of the following:

(A) Request a U.S. Fish and Wildlife Service nonreusable band from your State, tribal, or territorial agency that regulates falconry. You must submit the required information within 10 days of rebanding the raptor at <http://permits.fws.gov/186A> or by submitting a

paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(B) Purchase and implant an ISO-compliant (134.2 kHz) microchip in the bird and report the microchip information at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A form to your State, tribal, or territorial agency that governs falconry.

(iv) You must not alter, deface, or counterfeit a band. You may remove the rear tab on a band on a raptor you take from the wild, and you may smooth any imperfect surface if you do not affect the integrity of the band or the numbering on it.

(v) If you document health or injury problems for a raptor you possess that are caused by the band, the State, tribe, or territory may provide an exemption to the requirement for that raptor. In that case, you must keep a copy of the exemption paperwork with you when transporting or flying the raptor. If your bird is a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon, you must replace the band with an ISO-compliant microchip that we will supply to your State, tribe, or territory. We will not provide a microchip for a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon unless you have demonstrated that a band causes an injury or a health problem for the bird.

(vi) You may not band a raptor removed from the wild with a seamless numbered band.

(8) *Carrying your permit(s) when conducting falconry activities.* You must have your permit(s) or legible copies of them in your immediate possession if you are not at the location of your falconry facilities and you are trapping, transporting, working with, or flying your falconry raptor(s).

(9) *Transporting a falconry raptor or raptors to other States or territories.* If you have a valid falconry permit, you may possess and transport for falconry purposes a lawfully possessed raptor through other States or territories. However, any State, tribe, or territory may further regulate such transport.

(d) *Facilities and care requirements—(1) Facilities you must have and maintain.* You must keep all raptors you hold

under your falconry permit in humane and healthful conditions.

(i) Whether they are indoors (a “mews”) or outdoors (a “weathering area”), your raptor facilities must protect raptors in them from the environment, predators, and domestic animals. You are responsible for the maintenance and security (protection from predators) of raptors you possess under your permit.

(ii) You must have raptor housing facilities approved by your State, tribe, or territory before you may obtain a bird to use in falconry. Your State, tribe, or territory may require that you have both indoor and outdoor facilities. A representative of your agency that regulates falconry, or its designee, must certify that your facilities and equipment meet the following standards:

(A) For housing raptors indoors or outdoors, the facility must protect raptors from predators and domestic animals.

(1) The facility must have a suitable perch for each raptor, at least one opening for sunlight, and must provide a healthy environment for raptors inside.

(2) You may house untethered raptors together if they are compatible with each other.

(3) Each raptor must have an area large enough to allow it to fly if it is untethered or, if tethered, to fully extend its wings or bate (attempt to fly while tethered) without damaging its feathers or contacting other raptors.

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

(B) An indoor facility must be large enough to allow easy access for the care and feeding of raptors kept there.

(1) If raptors you house in this indoor facility are not tethered, all walls that are not solid must be protected on the inside. Suitable materials may include vertical bars spaced narrower than the width of the body of the smallest raptor you house in the enclosure. However, heavy-duty netting or other such materials may be used to cover the walls or roof of the enclosure.

(2) Acceptable indoor facilities include shelf perch enclosures where raptors are tethered side by side. Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and maintain healthy feathers.

(C) You may keep a falconry raptor or raptors inside your place of residence if you provide a suitable perch or perches. If you house your raptor(s) inside your home, you do not need to modify windows or other openings of the structure. Raptors kept in your home must be tethered when they are not being moved into or out of the location in which they are kept.

(D) An outdoor facility must be totally enclosed, and may be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material.

(1) The facility must be covered and have at least a covered perch to protect a raptor held in it from predators and weather.

(2) The facility must be large enough to insure that the birds cannot strike the enclosure when flying from the perch.

(3) New types of housing facilities and/or husbandry practices may be used if they satisfy the requirements above and are approved by the State, tribal, or territorial authority regulating falconry.

(iii) You may keep falconry raptors outside in the open if they are under watch, such as by you or a family member at any location or, for example, by a designated individual in a weathering yard at a falconry meet.

(iv) You must inform your State, tribal, or territorial agency within 5 business days if you change the location of your facilities.

(2) *Falconry facilities on property you do not own*—(i) Your falconry facilities may be on property owned by another person where you reside, or at a different location. Regardless of location, the facilities must meet the standards in paragraph (d)(1) of this section and those of the State, tribe, or territory from which you have a falconry permit.

(ii) You must submit to your State, tribal, or territorial agency that regulates falconry a signed and dated statement showing that you agree that the

falconry facilities and raptors may be inspected without advance notice by State, tribal (if applicable), or territorial authorities at any reasonable time of day, but you must be present. If your facilities are not on property that you own, you must submit a signed and dated statement showing that the property owner agrees that the falconry facilities and raptors may be inspected by State, tribal (if applicable), or territorial authorities at any reasonable time of day in the presence of the property owner; except that the authorities may not enter the facilities or disturb the raptors unless you are present.

(3) *Equipment you must have and maintain.* You must have jesses or the materials and equipment to make them, leash and swivel, bath container, and appropriate scales or balances for weighing raptor(s) you possess.

(4) *Facilities you must have for a raptor when you are transporting it, using it for hunting, or are away from your home with it.* You must be sure that the bird has a suitable perch and is protected from extreme temperatures, wind, and excessive disturbance. A "giant hood" or similar container is acceptable for transporting or housing a raptor when you are away from the permanent facility where it is housed.

(5) *Temporarily housing a raptor outside of your permanent facilities when you are not transporting it or using it for hunting.* You may house a raptor in temporary facilities for no more than 120 consecutive calendar days if the bird has a suitable perch and is protected from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(6) *Care of falconry raptors by another falconry permittee.* Another falconry permittee may care for a raptor or raptors for you at your facilities or at that person's facilities for up to 120 consecutive calendar days. The other person must have a signed and dated statement from you authorizing the temporary possession, plus a copy of FWS form 3-186A that shows that you are the possessor of each of the raptors. The statement must include information about the time period for which he or she will keep the raptor(s), and

about what he or she is allowed to do with it or them.

(i) Your raptor(s) will remain on your falconry permit, and will not be counted against the possession limit of the person caring for your raptors.

(ii) If the person caring for your raptor(s) holds the appropriate level falconry permit, he or she may fly your raptor(s) in whatever way you authorize, including hunting.

(iii) This care of your raptors may be extended indefinitely in extenuating circumstances, such as illness, military service, or for a family emergency. The State, tribe, or territory may consider such instances on a case-by-case basis.

(7) *Care of falconry raptors by someone who does not have a falconry permit.* Another person may care for falconry birds you possess at your facilities for up to 45 consecutive calendar days.

(i) The raptor(s) will remain on your falconry permit.

(ii) The raptors must remain in your facilities.

(iii) This care may be extended indefinitely in extenuating circumstances, such as illness, military service, or for a family emergency.

(iv) The person(s) caring for your raptors may not fly them for any reason.

(8) *Residence part of the year in another jurisdiction.* (i) The State, tribe, or territory in which you live part-time may require that you obtain its falconry permit. You must contact the State, tribal, or territorial agency that regulates falconry to determine whether you need a permit.

(ii) If you live for more than 120 consecutive days in a State or territory or on tribal lands other than where you maintain your primary residence, your falconry facilities in the second State must meet the standards in this section.

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

(e) *Taking, possessing, and transporting raptors for falconry—(1) Raptor species you may take from the wild to use for falconry.* (i) You may not intentionally capture a raptor species that your classification as a falconer does not allow

§21.29

50 CFR Ch. I (10–1–10 Edition)

you to possess for falconry. If you capture a bird you are not allowed to possess, you must release it immediately.

(ii) On some tribal lands and in some States there may be State, tribal, or Federal restrictions on the take or use of these species, and you may need a tribal or State permit or permits to capture a bird.

(iii) State, tribal, or territorial regulations on take may be more restrictive than those in this section.

(iv) Take of any species must be in compliance with these regulations.

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

(2) *How and when you may take raptors from the wild to use in falconry.* You may take no more than two raptors from the wild each year to use in falconry.

(i) If you transfer a bird you take from the wild to another permittee in the same year in which you capture it, the bird will count as one of the raptors you are allowed to take from the wild that year; it will not count as a capture by the recipient, though it will always be considered a wild bird.

(ii) If you are a General or Master Falconer, you may remove nestlings from a nest or aerie in accordance with tribal (if applicable), State, territorial, and Federal restrictions.

(iii) You may not take raptors at any time or in any manner that violates any law of the State, tribe, or territory on whose land you are trapping.

(iv) If you are responsible for reporting take of a raptor from the wild, you can report by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry. You must do this at your first opportunity to do so, but no later

than 10 days after the capture of the bird.

(v) If you are present at the capture site, even if another person captures the bird for you, you are considered the person who removes the bird from the wild. You are responsible for filing a 3-186A form reporting take of the bird from the wild. This would occur, for example, if another person climbs a tree or rappels down a cliff and takes a nestling for you and gives it to you at the tree or cliff.

(vi) If you are not at the immediate location where the bird is taken from the wild, the person who removes the bird from the wild must be a General or Master Falconer, and must report take of the bird. If that person then transfers the bird to you, you must both file 3-186A forms reporting the transaction at your first opportunity to do so, but no later than 10 days after the transfer. The bird will count as one of the two raptors the person who took it from the wild is allowed to capture in any year. The bird will not count as a bird you took from the wild. The person who takes the bird from the wild must report the take even if he or she promptly transfers the bird to you.

(vii) If you have a long-term or permanent physical impairment that prevents you from attending the capture of a species you can use for falconry, a General or Master Falconer may capture a bird for you. You are then responsible for filing a 3-186A form reporting take of the bird from the wild, and the bird will count against the take of wild raptors that you are allowed in any year.

(viii) You must promptly release any bird you capture unintentionally.

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

U.S. Fish and Wildlife Serv., Interior

§ 21.29

peregrine falcon (*Falco peregrinus*), flammulated owl (*Otus flammeolus*), elf owl (*Micrathene whitneyi*), and short-eared owl (*Asio flammeus*).

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

(ii) If you are a General or Master Falconer, you may take only raptors less than 1 year of age from the wild during any period or periods specified by the State, tribe, or territory. However, you may take an American kestrel or great horned owl of any age from the wild during any period or periods specified by the State, tribe, or territory.

(iii) If you are a Master Falconer authorized to possess golden eagles for use in falconry, you may capture a golden eagle in a livestock or wildlife

depredation area during the time the depredation area and associated depredation permit or depredation control order are in effect.

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

(B) You may take a nestling from its nest in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area has determined that the adult eagle is preying on livestock or wildlife.

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

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

(E) Before you begin any trapping activities, you must inform our regional Law Enforcement office of your capture plans. You must notify the offices in person, in writing, or via facsimile or email at least 3 business days before you start trapping. You may send an email to [with your trapping plans to lawenforcement@fws.gov](mailto:lawenforcement@fws.gov), or

If you plan to trap a golden eagle in	you must notify
(1) California, Idaho, Nevada, Oregon, or Washington,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement 911 NE 11th Avenue Portland, Oregon 97232-4181 503-231-6125 facsimile 503-231-6197
(2) Arizona, New Mexico, Oklahoma, or Texas,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 329 Albuquerque, New Mexico 87103 505-248-7889 facsimile 505-248-7899

If you plan to trap a golden eagle in	you must notify
(3) Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, or Wisconsin,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 45 Federal Building Fort Snelling, Minnesota 55111-0045 612-713-5320 facsimile 612-713-5283
(4) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, or Tennessee,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 49226 Atlanta, Georgia 30359 404-679-7057 facsimile 404-679-7065
(5) Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, or West Virginia,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 659 Hadley, Massachusetts 01035-0659 413-253-8274 facsimile 413-253-8459
(6) Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, or Wyoming,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 25486 Denver Federal Center (60130) Denver, Colorado 80225-0486 303-236-7540 facsimile 303-236-7901
(7) Alaska,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement 1011 East Tudor Road Suite 155 Anchorage, Alaska 99503-6199 907-786-3311 facsimile 907-786-3313

(F) You also must meet all requirements of the State or territory in which you plan to trap, or the tribe on whose lands you plan to trap.

(G) You must have permission from the landowner to capture an eagle; or if you wish to capture one on public land, the responsible agency must allow it.

(iv) You may recapture a falconry bird you have lost at any time. We do not consider recapture of a wild bird to be taking a bird from the wild.

(v) You may recapture a raptor wearing falconry equipment or a captive-bred bird at any time - even if you are not allowed to possess the species. The bird will not count against your possession limit, nor will its take from the wild count against your limit. You must report your recapture of the bird to your State, tribal, or territorial

agency that regulates falconry no more than 5 working days after the recapture. You must return a recaptured falconry bird to the person who lost it, if that person may legally possess it. Disposition of a bird whose legal possession cannot be determined will be at the discretion of the State, tribe, or territory.

(vi) You may take any raptor that you are authorized to possess from the wild if the bird is banded with a Federal Bird Banding Laboratory aluminum band except that you may not take a banded peregrine falcon from the wild.

(A) If a raptor (including a peregrine falcon) you capture is marked with a seamless metal band, a transmitter, or

any other item identifying it as a falconry bird, you must report your capture of the bird to your State, tribal, or territorial agency that regulates falconry no more than 5 working days after the capture. You must return a recaptured falconry bird to the person who lost it. If that person cannot possess the bird or does not wish to possess it, you may keep it. Otherwise, disposition of a bird whose legal possession cannot be determined will be at the discretion of the State, tribe, or territory. While you keep a bird for return to the person who lost it, the bird will not count against your possession limit or your limit on take of raptors from the wild if you have reported possessing the bird to your State, tribal, or territorial falconry permit office.

(B) If you capture a peregrine falcon that has a research band (such as a colored band with alphanumeric codes) or a research marking attached to it, you must immediately release the bird, except that if the falcon has a transmitter attached to it, you are authorized to possess the bird up to 30 days if you wish to contact the researcher to determine if he or she wishes to replace the transmitter or its batteries. If the researcher wishes to do so, or to have the transmitter removed, the researcher or his or her designee can make the change or allow you to do so before you release the bird. If the researcher does not wish to keep the transmitter on the falcon, you may keep the bird if you captured it in circumstances in which capture of wild peregrines is allowed.

(C) If a raptor you capture has any other band, research marking, or transmitter attached to it, you must promptly report the band numbers and all other relevant information to the Federal Bird Banding Laboratory at 1-800-327-2263.

(1) You may contact the researcher and determine if he or she wishes to replace a transmitter attached to a bird you capture. If so, you are authorized to possess the bird up to 30 days until the researcher or his or her designee does so, or until you can replace it yourself. Disposition of the bird will be at the discretion of the researcher and your State, tribal, or territorial agency that regulates falconry.

(2) If you possess such a bird temporarily, it will not count against your possession limit for falconry raptors.

(vii) You must leave at least one young from any nest or aerie from which you take a nestling.

(viii) If you are an Apprentice Falconer, you may not take a nestling from the wild.

(ix) If you are a Master Falconer with a permit to do so, you may take, transport, or possess up to three eagles, including golden eagles, white-tailed eagles, or Steller's sea-eagles, subject to the requirements in paragraph (c)(3)(iv) of this section and §22.24 of this part. A golden eagle, white-tailed eagle, or Steller's sea-eagle you possess counts as a bird to be included under your possession limit.

(x) If you are a General or Master Falconer, you may take no more than one bird of a threatened species from the wild each year if the regulations in part 17 of this subchapter allow it and if you obtain a Federal endangered species permit to do so before you take the bird. You also may need a State, tribal, or territorial endangered species permit to take a listed species.

(4) *Take of a species or subspecies that was recently removed from the Federal List of Endangered and Threatened Wildlife to use in falconry.* We must first publish a management plan for the species. If take is allowed in the management plan, you may do so in accordance with the provisions for take in the plan.

(5) *Raptors injured due to falconer trapping efforts.* You have two options for dealing with a bird injured by your trapping efforts. In either case, you are responsible for the costs of care and rehabilitation of the bird.

(i) You may put the bird on your falconry permit. You must report take of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry at your first opportunity to do so, but no more than 10 days after capture of the bird. You must then have the bird treated by a veterinarian or a permitted wildlife rehabilitator. The bird will count against your possession limit.

(ii) You may give the bird directly to a veterinarian, or a permitted wildlife rehabilitator, or an appropriate wildlife agency employee. If you do so, it will not count against your allowed take or the number of raptors you may possess.

(6) *Acquisition, transfer, loss, or rebanding of a raptor.* (i) If you acquire a raptor; transfer, reband, or microchip a raptor; if a raptor you possess is stolen; if you lose a raptor to the wild and you do not recover it within 30 days; or if a bird you possess for falconry dies; you must report the change within 10 days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(ii) If a raptor you possess is stolen, you must report the theft to your State, tribal, or territorial agency that regulates falconry and to your Fish and Wildlife Service Regional Law Enforcement office (see paragraph (e)(3)(iii)(C) of this section) within 10 days of the theft of the bird.

(iii) You must keep copies of all electronic database submissions documenting take, transfer, loss, rebanding or microchipping of each falconry raptor until 5 years after you have transferred or lost the bird, or it has died.

(7) *Acquiring a bird for falconry from a permitted rehabilitator.* You may acquire a raptor of any age of a species that you are permitted to possess directly from a rehabilitator. Transfer to you is at the discretion of the rehabilitator.

(i) If you acquire a bird from a rehabilitator, within 10 days of the transaction you must report it by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(ii) If you acquire a bird from a rehabilitator, it will count as one of the raptors you are allowed to take from the wild that year.

(8) *Flying a hybrid raptor in falconry.* When flown free, a hybrid raptor must have attached at least two functioning

radio transmitters to help you to locate the bird.

(9) *Releasing a falconry bird to the wild.* You must follow all applicable State or territorial and Federal laws and regulations before releasing a falconry bird to the wild.

(i) If the raptor you wish to release is not native to the State or territory, or is a hybrid of any kind, you may not permanently release the bird to the wild. You may transfer it to another falconry permittee.

(ii) If the species you wish to release is native to the State or territory and is captive-bred, you may not release the bird to the wild unless you have permission from the State, tribe, or territory to release the bird. If you are permitted to do so, you must hack the bird (allow it to adjust) to the wild at an appropriate time of year and an appropriate location. You must remove its falconry band (if it has one) and report release of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(iii) If the species you wish to release is native to the State and was taken from the wild, you may release the bird only at an appropriate time of year and an appropriate location. You must remove its falconry band and report release of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(10) *Restrictions on transfers of falconry raptors from other falconers.* We do not restrict the number of wild-caught or captive-bred raptors transferred to you, but you may not exceed your possession limit.

(f) *Additional information on the practice of falconry—(1) Raptors removed from the wild for falconry are always considered “wild” raptors.* No matter how long such a bird is held in captivity or whether it is transferred to another permittee or permit type, it is always considered a “wild” bird. However, it is considered to be taken from the wild only by the person who originally captured it. We do not consider the raptor

to be taken from the wild by any subsequent permittee to whom it is legally transferred.

(2) *“Hacking” of falconry raptors.* Hacking (temporary release to the wild) is an approved method for falconers to condition raptors for falconry. If you are a General Falconer or a Master Falconer, you may hack a falconry raptor or raptors.

(i) You may need permission from your State, tribal, or territorial wildlife agency to hack a bird you possess for falconry. Check with your State, tribal, or territorial agency that regulates falconry to determine if hacking is allowed.

(ii) Any bird you are hacking counts against your possession limit and must be a species you are authorized to possess.

(iii) Any hybrid you hack must have two attached functioning radio transmitters during hacking.

(iv) You may not hack a falconry bird near a nesting area of a Federally threatened or endangered bird species or in any other location where the raptor is likely to harm a Federally listed threatened or endangered animal species that might be disturbed or taken by your falconry bird. You should contact your State or territorial wildlife agency before hacking a falconry bird to ensure that this does not occur. You can contact the State Fish and Wildlife Service office in your State or territory for information on Federally-listed species.

(3) *Use of other falconry training or conditioning techniques.* You may use other acceptable falconry practices, such as, but not limited to, the use of creance (tethered) flying, lures, balloons, or kites in training or conditioning falconry raptors. You also may fly falconry birds at bird species not protected under the Migratory Bird Treaty Act or at pen-raised animals.

(4) *Selling or trading raptors under a falconry permit.* (i) If allowed by your State, tribe or territory, you may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands to other permittees who are authorized to possess them.

(ii) You may not purchase, sell, trade, or barter wild raptors. You may only transfer them.

(5) *Transfer of wild-caught raptors captured for falconry to another type of permit.* Under some circumstances you may transfer a raptor to another permit type if the recipient of the bird (which could be you) possesses the necessary permits for the other activity.

(i) If your State, tribe, or territory allows you to do so, you may transfer a wild-caught falconry bird to a raptor propagation permit after the bird has been used in falconry for at least 2 years (1 year for a sharp-shinned hawk, a Cooper’s hawk, a merlin, or an American kestrel). When you transfer the bird, you must provide a copy of the 3-186A form documenting acquisition of the bird by the propagator to the Federal migratory bird permit office that administers the propagation permit.

(ii) You may transfer a wild-caught bird to another permit type in less than 2 years (1 year for a sharp-shinned hawk, a Cooper’s hawk, a merlin, or an American kestrel) if the bird has been injured and a veterinarian or permitted wildlife rehabilitator has determined that the bird can no longer be flown for falconry.

(A) Within 10 days of transferring the bird, you must provide a copy of the 3-186A form documenting acquisition of the bird to the Federal migratory bird permit office that administers the other permit type.

(B) When you transfer the bird, you must provide a copy of the certification from the veterinarian or rehabilitator that the bird is not useable in falconry to the Federal migratory bird permits office that administers the other permit type.

(6) *Transfer of captive-bred falconry raptors to another type of permit.* You may transfer captive-bred falconry raptors if the holder of the other permit type is authorized to possess the bird(s). Within 10 days you must report the transfer by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a standard paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(7) *Use of raptors held under a falconry permit in captive propagation.* You may

use raptors you possess for falconry in captive propagation if you or the person overseeing the propagation has the necessary permit(s) (see § 21.30). You do not need to transfer a bird from your falconry permit if you use it for fewer than 8 months in a year in captive propagation, but you must do so if you permanently transfer the bird for propagation. The bird must then be banded as required in § 21.30.

(8) *Use of falconry raptors in conservation education programs.* If you are a General or Master Falconer, you may use a bird you possess in conservation education programs presented in public venues.

(i) You do not need a Federal education permit to conduct conservation education activities using a falconry raptor held under a State, tribal, or territorial falconry permit.

(ii) You may present conservation programs as an Apprentice Falconer if you are under the supervision of a General or Master Falconer when you do so.

(iii) You must use the bird primarily for falconry.

(iv) You may charge a fee for presentation of a conservation education program. The fee may not exceed the amount required to recoup your costs.

(v) In conservation education programs, you must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation. You may not give presentations that do not address falconry and conservation education.

(vi) You are responsible for all liability associated with conservation education activities you undertake (see 50 CFR 13.50).

(9) *Other educational uses of falconry raptors.* You may allow photography, filming, or other such uses of falconry raptors to make movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds, though you may not be paid for doing so.

(i) You may not use falconry raptors to make movies, commercials, or in

other commercial ventures that are not related to falconry.

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

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

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

(10) *Assisting in rehabilitation of raptors to prepare them for release.* If your State, tribe, or territory allows you to do so, and if you are a General or Master Falconer, you may assist a permitted migratory bird rehabilitator to condition raptors in preparation for their release to the wild. You may keep a bird you are helping to rehabilitate in your facilities.

(i) The rehabilitator must provide you with a letter or form that identifies the bird and explains that you are assisting in its rehabilitation.

(ii) You do not need to meet the rehabilitator facility standards. You need only meet the facility standards in this section; your facilities are not subject to inspection for compliance with the standards in § 21.31.

(iii) You do not have to add any raptor you possess for this purpose to your falconry permit; it will remain under the permit of the rehabilitator.

(iv) You must return any such bird that cannot be permanently released to the wild to the rehabilitator for placement within the 180-day timeframe in which the rehabilitator is authorized to possess the bird, unless the issuing office authorizes you to retain the bird for longer than 180 days.

(v) Upon coordination with the rehabilitator, you must release all releaseable raptors to the wild or return them to the rehabilitator for release within the 180-day timeframe in

which the rehabilitator is authorized to possess the birds, unless the issuing office authorizes you to retain and condition a bird for longer than 180 days, or unless the rehabilitator transfers the bird to you to hold under your falconry permit.

(11) *Using a falconry bird in abatement activities.* (i) If you are a Master Falconer, you may conduct abatement activities with a bird or birds you possess for falconry, if you have a Special Purpose Abatement permit. If you are a General Falconer, you may conduct abatement activities only as a subpermittee of the holder of the abatement permit.

(ii) You may receive payment for providing abatement services if you have a Special Purpose Abatement permit.

(12) *Feathers that a falconry bird or birds molts.* (i) For imping (replacing a damaged feather with a molted feather), you may possess flight feathers for each species of raptor you possess or previously held for as long as you have a valid falconry permit. You may receive feathers for imping from other permitted falconers, wildlife rehabilitators, or propagators in the United States, and you may give feathers to them. You may not buy, sell, or barter such feathers.

(ii) You may donate feathers from a falconry bird, except golden eagle feathers, to any person or institution with a valid permit to have them, or to anyone exempt from the permit requirement under §21.12.

(iii) Except for primary or secondary flight feathers or retrices from a golden eagle, you are not required to gather feathers that are molted or otherwise lost by a falconry bird. You may leave the feathers where they fall, store them for imping, or destroy them. However, you must collect molted flight feathers and retrices from a golden eagle. If you choose not to keep them for imping, you must send them to the National Eagle Repository.

(iv) We request that you send all feathers (including body feathers) that you collect from any falconry golden eagle and that you do not need for imping, to the National Eagle Repository at the following address: U.S. Fish and Wildlife Service, National Eagle

Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022. The telephone number at the Repository is 303-287-2110.

(v) If your permit expires or is revoked, you must donate the feathers of any species of falconry raptor except a golden eagle to any person or any institution exempt from the permit requirement under §21.12 or authorized by permit to acquire and possess the feathers. If you do not donate the feathers, you must burn, bury, or otherwise destroy them.

(13) *Disposition of carcasses of falconry birds that die.* (i) You must send the entire body of a golden eagle you held for falconry, including all feathers, talons, and other parts, to the National Eagle Repository.

(ii) You may donate the body or feathers of any other species of falconry raptor to any person or institution exempt under §21.12 or authorized by permit to acquire and possess such parts or feathers.

(iii) If the bird was banded or microchipped prior to its death, you may keep the body of any falconry raptor except that of a golden eagle. You may keep the body so that the feathers are available for imping, or you may have the body mounted by a taxidermist. You may use the mount in giving conservation education programs. If the bird was banded, you must leave the band on the body. If the bird has an implanted microchip, you must leave the microchip in place.

(iv) If you do not wish to donate the bird body or feathers or keep it yourself, you must burn, bury, or otherwise destroy it or them within 10 days of the death of the bird or after final examination by a veterinarian to determine cause of death. Carcasses of euthanized raptors could pose a risk of secondary poisoning of eagles and other scavengers. You must take appropriate precautions to avoid such poisonings.

(v) If you do not donate the bird body or feathers or have the body mounted by a taxidermist, you may possess the flight feathers for as long as you have a valid falconry permit. However, you may not buy, sell, or barter the feathers. You must keep the paperwork documenting your acquisition of the bird.

§ 21.29

50 CFR Ch. I (10–1–10 Edition)

(14) *Visitors practicing falconry in the United States.* (i) A visitor to the United States may qualify for a temporary falconry permit appropriate for his or her experience.

(A) The permit may be valid for any period specified by the State, tribe, or territory.

(B) To demonstrate knowledge of U.S. falconry laws and regulations, the visitor must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the tribe, State, or territory from which he or she wishes to obtain a temporary falconry permit. If the visitor passes the test, the tribe, State, or territory will decide for what level of temporary permit the person is qualified. The decision should be based on the individual's documentation of his or her experience.

(C) If you hold a temporary falconry permit, you may possess raptors for falconry if you have approved falconry facilities.

(D) A holder of a temporary falconry permit may fly raptors held for falconry by a permitted falconer.

(E) A holder of a temporary falconry permit may not take a bird from the wild to use in falconry.

(ii) For the duration of a permit from a State, tribe, or territory, a visitor may use any bird for falconry that he or she possess legally in his or her country of residence for that purpose, provided that import of that species to the United States is not prohibited, and provided that he or she has met all permitting requirements of his or her country of residence.

(A) A visitor must comply with the provisions in this section, those of the State, tribe or territory where he or she wishes to conduct falconry, and all States through which he or she will travel with the bird.

(B) The visitor may transport registered raptors. He or she may need one or more additional permits to bring a raptor into the United States or to return home with it (*see* 50 CFR part 14 (importation, exportation, and transportation of wildlife), part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), part 21 (migratory bird import and export per-

mits), and part 23 (endangered species convention)).

(C) Unless the visitor has the necessary permit(s) to bring a raptor into the United States and leave it here, he or she must take raptors brought into the country for falconry out of the country when he or she leaves. If a raptor brought into the United States dies or is lost while in this country, the visitor must document the loss before leaving the United States by reporting the loss to the State, tribal, or territorial agency that governs falconry where the bird was lost.

(D) When flown free, any bird brought to this country temporarily must have two attached radio transmitters that will allow the falconer to locate it.

(E) There also may be tribal or State restrictions on nonresidents practicing falconry or importing a raptor or raptors held for falconry.

(15) *Taking falconry raptors to another country to use in falconry activities.* A permit issued under this section authorizes you to export and then import raptors you legally possess for falconry to another country to use in falconry without an additional migratory bird import/export permit issued under § 21.21.

(i) You must meet any requirements in 50 CFR 14 subpart B.

(ii) You may need one or more additional permits to take a bird from the United States or to return home with it (*see* 50 CFR part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), and part 23 (endangered species convention)).

(iii) Unless you have the necessary permit(s) to permanently export a raptor from the United States, you must bring any raptor you take out of the country for falconry back to the United States when you return. Each raptor must be covered by a CITES certificate of ownership issued under part 23 of this chapter. You must have full documentation of the lawful origin of each raptor (a copy of a propagation report with band number or a 3-186A report), and each must be identifiable with a seamless band or a permanent, nonreusable, numbered Fish and Wildlife Service leg band issued by the

U.S. Fish and Wildlife Serv., Interior

§21.29

Service or an implanted microchip for identification.

(iv) If the raptor dies or is lost, you are not required to bring it back but must report the loss immediately upon your return to the United States in the manner required by the falconry regulations of your State, and any conditions on your CITES certificate.

(16) *Permission to capture, fly, or release a falconry bird at any location.* You do not need special or written permission for any of these activities on public lands if it is authorized. However, you must comply with all applicable Federal, State, tribal, or territorial laws regarding falconry activities, including hunting. Your falconry permit does not authorize you to capture or release raptors or practice falconry on public lands if it is prohibited on those lands, or on private property, without permission from the landowner or custodian.

(17) *Practicing falconry in the vicinity of a Federally listed threatened or endangered animal species.* In practicing falconry you must ensure that your activities do not cause the take of Federally listed threatened or endangered wildlife. "Take" under the Endangered

Species Act means "to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct" (Endangered Species Act §3(18)). Within this definition, "harass" means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering, and harm" means an act that actually kills or injures wildlife (50 CFR 17.3). To obtain information about threatened or endangered species that may occur in your State or on tribal lands where you wish to practice falconry, contact your State, tribal, or territorial agency that regulates falconry. You can contact your State Fish and Wildlife Service office for information on Federally-listed species.

(18) *Trapping a bird for use in falconry in areas used by the northern aplomado falcon.* Capture of a northern aplomado falcon (*Falco femoralis septentrionalis*) is not authorized because it is a violation of the Endangered Species Act. To avoid trapping northern aplomado falcons, you must comply with the following conditions when trapping a bird for use in falconry in the following counties.

If you trap in	You may trap a bird for falconry in the following counties if you comply with the conditions below.
(i) Arizona,	Cochise, Graham, Pima, Pinal, or Santa Cruz.
(ii) New Mexico,	Doa Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Sierra, or Socorro.
(iii) Texas,	Aransas, Brewster, Brooks, Calhoun, Cameron, Culberson, Duval, Ector, El Paso, Hidalgo, Hudspeth, Jackson, Jeff Davis, Kenedy, Kinney, Kleberg, Matagorda, Maverick, Midland, Nueces, Pecos, Presidio, Reeves, Refugio, San Patricio, Starr, Terrell, Val Verde, Victoria, Webb, Willacy, or Zapata.

(iv) If you are an Apprentice Falconer, you must be accompanied by a General or Master Falconer when trapping in one of these counties.

(v) You may not begin trapping if you observe a northern aplomado falcon in the vicinity of your intended trapping effort.

(vi) You must suspend trapping if a northern aplomado falcon arrives in the vicinity of your trapping effort.

(19) *Prey item killed by a falconry bird without your intent, including an animal taken outside of a regular hunting season.*

(i) You may allow your falconry bird to feed on the animal, but you may not take the animal into your possession.

(ii) You must report take of any federally listed threatened or endangered species to our Ecological Services Field Office for the location in which the take occurred.

(20) *Take of bird species for which a depredation order is in place.* With a falconry bird, you may take any species listed in parts 21.43, 44, 45, or 46 of this subchapter at any time in accordance with the conditions of the applicable depredation order, as long as you are not paid for doing so.

(21) *Transfer of falconry raptors if a permittee dies.* A surviving spouse, executor, administrator, or other legal representative of a deceased falconry

§21.29

50 CFR Ch. I (10–1–10 Edition)

permittee may transfer any bird held by the permittee to another authorized permittee within 90 days of the death of the falconry permittee. After 90 days, disposition of a bird held under the permit is at the discretion of the authority that issued it.

(g) *Applying for a falconry permit.* If you apply for a falconry permit, you must include the following information plus any other information required by your State, tribe, or territory.

(1) The completed application form from your State, tribal, or territorial agency that regulates falconry permits.

(2) Proof that you have passed the falconry test administered by the State, tribe, or territory where you maintain your legal residence, or proof that you have previously held a falconry permit at the level you seek.

(3) For an Apprentice permit, you must provide the following:

(i) A letter from a General or Master Falconer stating that he or she has agreed to assist you in learning about the husbandry and training of raptors held for falconry and about relevant wildlife laws and regulations, and in deciding what species of raptor is appropriate for you to possess while an Apprentice.

(ii) An original, signed certification that you are particularly familiar with §10.13 of this subchapter, the list of migratory bird species to which the Migratory Bird Treaty Act applies; part 13 of this subchapter, general permit regulations; part 21 of this subchapter, migratory bird permits; and part 22 of this subchapter, eagle permits. The certification can be incorporated into tribal and State application forms, and must be worded as follows:

I certify that I have read and am familiar with the regulations in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, and that the information I have submitted is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.

(4) For an Apprentice or General Falconry permit, a parent or legal guardian must co-sign your application if you are under 18.

(5) For a General Falconer permit:

(i) Information documenting your experience maintaining falconry raptors, including a summary of what species you held as an Apprentice Falconer and how long you possessed each bird, and

(ii) A letter from a General Falconer or Master Falconer (preferably your sponsor) attesting that you have practiced falconry with raptor(s) at the Apprentice Falconer level for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for at least 4 months in each year.

(6) For a Master Falconer permit, you must attest that you have practiced falconry at the General Falconer level for at least 5 years.

(h) *Updating a falconry permit after a move.* If you move to a new State or outside the jurisdiction of your tribe or territory and take falconry birds with you, within 30 days you must inform both your former State, tribe, or territory and the permitting authority for your new place of residence of your address change. To obtain a new falconry permit, you must follow the permit application procedures of the authority under which you wish to acquire a new permit. You may keep falconry birds you hold while you apply for a new falconry permit. However, the State, tribe, or territory into which you move may place restrictions on your possession of falconry birds until you meet the residency requirements there.

(i) *Restoration of revoked permits.* Upon request of the person whose permit has been revoked, the State, tribe, or territory may restore the person's falconry permit at the end of the revocation period.

(j) *Information collection requirements.* The information collection required for falconry applications and for falconry bird disposition on FWS Form 3-186A is approved by the Office of Management and Budget under control number 1018-0022. The information is necessary to determine take of raptors from the wild for falconry.

(k) *Database required of States, tribes, and territories.* Each State, tribe, or territory that permits falconry must maintain information in a database. The information will enable enforcement of this section.

(1) The State, tribal, or territorial database must be compatible with the

database that we maintain. The State, tribal, or territorial database must contain the following information:

(i) The current address of each person with a falconry permit.

(ii) The classification of each person with a falconry permit - Apprentice Falconer, General Falconer, or Master Falconer.

(iii) The address of the falconry facilities of each person with a falconry permit.

(iv) The Federal falconry identifier number assigned via the 3-186A system to each person with a falconry permit.

(v) Whether each permittee is authorized to possess eagles.

(vi) Information on the status of each person's permit: whether it is active, suspended, or revoked.

(2) Information on each permit granted, including changes in status from Apprentice Falconer to General Falconer or General Falconer to Master Falconer, and moves of falconers or their facilities must be entered into the State's, tribe's, or territory's database within 30 days of the granting of the permit or a falconer's change in status. New additions to the State, tribal, or territorial database must be forwarded to us monthly.

[73 FR 59465, Oct. 8, 2008, as amended at 74 FR 64640, Dec. 8, 2009; 75 FR 931, Jan. 7, 2010; 75 FR 3395, Jan. 21, 2010]

§21.30 Raptor propagation permits.

(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, import, purchase, barter, or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes.

(b) *Application procedures.* Submit application for raptor propagation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

(1) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

(2) A statement indicating whether the applicant has been issued a State permit authorizing raptor propagation (include name of State, permit number, and expiration date);

(3) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

(4) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source, and raptor marker number;

(5) A description of each raptor the applicant possesses for purposes other than raptor propagation to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker number, and purpose for which it is possessed;

(6) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the birds;

(7) A statement indicating whether the applicant requests authority to take raptors or raptor eggs from the wild.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in §13.21(b) of this chapter, the following factors:

(1) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be held under the permit.

(2) Whether propagation is authorized by the State in which the propagation will occur, and if authorized, whether the applicant has any required State propagation permit.

(3) Whether the applicant is at least 18 years old with a minimum of 2 years experience handling raptors, and if the applicant requests authority to propagate endangered or threatened species, whether the applicant is at least 23 years old with a minimum of 7 years experience handling raptors.