

Falconry: Draft Rule



Florida Fish and Wildlife Conservation Commission
September 5, 2012
Division of Law Enforcement



This report summarizes draft rule amendments for the Florida Fish and Wildlife Conservation Commission's (FWC) rules pertaining to falconry, wildlife rehabilitation and taking of wildlife on roads and right-of-ways rule. The rules to be discussed are 68A-9.005, 68A-9.006 and 68A-4.008, Florida Administrative Code (F.A.C.), respectively.

Effective January 1, 2014, the U.S. Fish and Wildlife Service (Service) will relinquish regulatory authority over falconry to states, tribes and US territories whose falconry regulations have been certified by the Service. These proposed draft rule amendments address necessary changes to Florida's falconry rule so that it may be certified by the Service. These proposed amendments also address the interests of stakeholders and other interested parties as well as FWC staff.

Authors: Linda Harrison and Jason Marlow

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Background

- Florida's regulatory authority for falconry is currently shared with the U.S. Fish and Wildlife Service (Service)
- The Service is relinquishing permitting responsibilities
- State, tribal or territorial falconry regulations must be "certified" by the Service



The U.S. Fish & Wildlife Service (Service) and the FWC currently share regulatory authority and responsibilities related to falconry. On November 7, 2008 changes to the Service's regulations governing falconry in the United States went into effect. These changes eliminated the requirement for a federal permit, made it easier to understand the requirements to practice falconry, including the take of raptors from the wild, and the procedures for obtaining a falconry permit.

These changes also included a provision allowing the Service to approve/certify falconry regulations that States, Indian Tribes or U.S territories adopt. State, tribal or territorial laws and regulations must meet or exceed the standards in the federal regulations and be "certified" by January 1, 2014, at which time the federal permit program will be discontinued. It is noted that falconry will not be allowed in the state if the rule is not completed and / or "certified" by the above date. Currently, 144 falconers enjoy this privilege in the State.

In 2011, FWC began reviewing Florida's falconry regulations to identify inconsistencies with federal regulations. This collaborative effort involved staff from Division of Law Enforcement (DLE), Division of Habitat and Species Conservation (HSC), Stakeholders and the Service. Through this process, staff identified several areas where Florida's falconry regulations were inconsistent or less restrictive than federal rules. The following slide identifies those areas in Florida's regulations that require change.

Changes Required

- Eligibility requirements for permit
- Possession of golden eagles
- Banding requirements
- Reporting requirements
- Releasing/Transferring requirements
- Permitting for seasonal residents and visitors



The following areas in Florida's falconry regulations are inconsistent with federal regulations. These are the areas in Florida's regulations that must be changed or addressed and include:

- Eligibility requirements for Apprentice, General or Master class falconers
- Authorization to possess golden eagles
- Banding requirements
- Reporting requirements
- Releasing/Transferring requirements for raptors
- Permitting for seasonal residents and visitors

List continued on next slide

Changes Required, cont.,

- Educational display
- Rehabilitation of raptors
- Abatement
- Possession of prey items



The following areas in Florida's falconry regulations are inconsistent with federal regulations. These are the areas in Florida's regulations that must be changed and include: **(continued)**

- Educational display of raptors used for falconry purposes
- Rehabilitation of raptors
- Abatement
- Possession of prey items

These are areas which are not currently addressed in Florida's falconry regulations or which do not meet the standards of the federal regulations.

Additional Considerations

- Classification of falconers
 - *Age, species to be possessed, possession limits and source of acquisition*
- Reinstatement of lapsed permit
- Restoration of suspended or revoked permit
- Take and acquisition of raptors
- Transportation of raptors



Staff also identified areas in Florida's falconry regulations that are currently equal to or stricter than the federal regulations. Florida's falconry regulations must be as strict as or may be stricter than the federal regulations. Change is **not** required under these circumstances but consideration was given based on stakeholder request and input.

Areas identified for additional consideration included:

- Classification of falconers to include minimum age of eligibility, species of raptors that may be possessed by Apprentice, General or Master falconers, number of raptors that may be possessed by falconers and where they may be acquired
- Criteria for the reinstatement of a lapsed permit to include classification level to which a falconer will be reinstated and exam requirements
- Criteria for the restoration of a suspended or revoked permit to include classification level to which the falconer will be restored, inspection of housing facilities and exam requirements
- Take and acquisition of raptors
- Methods of transporting raptors

Additional Considerations, cont.,

- Housing and temporary care
 - *Alternative, outdoor, or relocation*
- Feathers & carcasses
 - *Retrieval, donation and disposition*
- Propagation
- Practice of falconry in vicinity of Threatened and Endangered species



Areas of additional consideration, cont.,:

- Housing and temporary care to include alternative methods of housing and materials to be used, outdoor weathering of raptors while under supervision without requiring an outdoor weathering enclosure, and relocation of raptor housing facilities
- Feathers & carcasses: to include possession and donation, or transfer of feathers and the purpose for which they can be possessed
- Propagation: to include the allowance of propagation with federal permit and the transfer of raptors to that permit
- Practice of falconry in vicinity of Threatened and Endangered (T/E) species

Public Workshops



Staff held 2 workshops in October 2011 to gather input

- **Topics discussed:**
 - Items identified as “change required”
 - Items identified for “additional consideration”



Staff held public workshops in October 2011 to gather public opinion on these issues. Workshops were held in Ocala and Tallahassee, with the Tallahassee workshop being a statewide video conference to FWC offices in Pensacola, Panama City, Lake City, Ocala, Lakeland, Ft. Myers, West Palm Beach and Miami. Twenty-eight people attended the public workshops, in which the majority of whom were falconers or those interested in becoming a falconer.

Public comment was also solicited by posting information on FWC’s website at <http://myfwc.com/about/rules-regulations/rule-changes/falconry/> and reaching out to stakeholder and special interests groups such as Florida Hawking Fraternity, Florida Association of Zoos and Aquariums, North American Falconers’ Association, Florida Falconers Association, Audubon Society, Florida Wildlife Rehabilitators Association, Humane Society of the United States, Defenders of Wildlife, and US Fish and Wildlife Service. Staff have received twenty-six (26) formal written comments on this subject. Comments consisted of suggestions, recommendations, and requests for rule language. We currently have received no request to not allow falconry in the State of Florida.

Proposed Draft Rule

68A-9.005 Falconry

- Defines falconry related terms
- Addresses eligibility requirements and permit conditions
 - Authorizes Apprentice to possess broad-winged hawk
 - Authorizes Apprentice to fly captive birds of General or Master falconers



These amendments to draft rule are based on standards in federal regulations, stakeholder concerns and recommendations and staff recommendations.

The proposed draft rule provides a “definitions” section in the falconry rule for clarification purposes. This section defines such terms as: Aylmeri jesses, Captive bred raptors, Eyas, Falconry, Giant hood, Hacking, Haggard, Hybrid, Imprint, Passage, Raptor, Service, and Sponsor.

This draft rule also addresses those areas identified as requiring change so that Florida’s falconry rule is in line with federal regulations. These changes include the following:

Eligibility requirements (for permit)/Permit Conditions

- Authorizes Apprentice falconers to possess broad-winged hawks along with the red tail and red shoulder hawks in which they are currently authorized to possess
- Authorizes Apprentice falconers to fly any captive bred raptors possessed by and in the presence of the General or Master falconer

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Eligibility/Permit conditions, cont.
 - Require parent or legal guardian to be legally responsible
 - Establishes experience requirements for possession of eagles
 - Authorizes Master falconers to possess Golden eagles
 - Provides for reinstatement of lapsed or revoked permits



Eligibility requirements (for permit)/Permit Conditions, cont.,

- Requires a parent or legal guardian to sign the falconry permit application and be held legally responsible for activities of applicants under 18 years of age
- Establishes experience requirements for authorization to possess eagles at 1 year to consist of not less than 1,000 hours
- Authorizes Master falconers with documented experience to possess Golden eagles
- Provides that lapsed or revoked permits may be reinstated when lapsed less than 5 years (at previous level), lapsed more than 5 years (at previous level once they pass exam), revoked (with successful completion of exam and facility inspection)

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Eligibility/Permit condition, cont.,
 - New residents or U.S. visitors must pass exam
 - Requires falconer to have permit in possession when conducting falconry related activities
 - Increases possession limits for General and Master falconers



Eligibility requirements (for permit)/Permit Conditions, cont.,

- Requires new residents and visitors requesting temporary falconry permits to successfully complete the falconry exam with a score of 80 % or better
- Requires falconers to have their falconry permit in their possession when conducting falconry related activities such as trapping, flying, or hunting
- Increases the possession limit for the of the number of raptors a General (from 2 to 3) or Master (from 3 to 5) falconer can possess. This is consistent with federal regulations

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Eligibility/Permit condition, cont.,
 - Requires raptors to be maintained, trained, flown and /or hunted before being eligible for an upgrade in classification
 - Authorizes possession of captive bred or hybrid raptors by General or Master falconers



Eligibility requirements (for permit)/Permit Conditions, cont.,

- Require specified periods for maintaining, training, flying, and hunting raptors as an eligibility criteria for falconers
- Require valid hunting license and other applicable licensing while hunting in Florida
- Authorizes General or Master falconers to possess captive bred or hybrids of the species of raptors they are authorized to possess

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Broadens housing requirements
 - Compatible birds may be housed together without tethering
 - Incompatible birds must be tethered or separated by partition
 - “Resident facility” may be on the property of another



Housing requirements

- Authorizes compatible birds to be housed together without tethering and requires incompatible birds to be tethered or separated by a partition
- Authorizes the “resident facility” (the approved facility for housing raptors) to be on property not owned by the permittee

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Housing requirements, cont.
 - Allows materials such as vertical bars, wooden or plastic lattice, heavy duty netting for windows
 - Eyas may be kept in any suitable container until capable of flight
 - Provides for temporary care of raptor another



Housing requirements, cont.,

- Provides for a variety of materials to be used including vertical bars, wooden or plastic lattice, or heavy duty netting
- Authorizes the housing of eyases (young raptor not capable of flight) in any suitable container until they are capable of flight
- Authorizes temporary care of the raptor by someone other than the permittee for specified time periods.

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Reporting and Recordkeeping
 - Must immediately report accidental take of endangered or threatened species by raptor
 - Must report raptors with research band/transmitter



Reporting and Recordkeeping requirements

- Require immediate reporting of any federal or state-listed endangered or threatened species accidentally taken by a falconry bird to the U.S. Fish and Wildlife Service and FWC. Reporting also includes the location of the accidental take
- Requires reporting of raptors that are trapped with research band/transmitter to the Federal Bird Banding Laboratory by calling (800)327-2263 for scientific purposes

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Reporting and Recordkeeping, cont.
 - Notify FWC within 5 days of relocating “resident facility”
 - Report lost or stolen bands
 - Report any change in inventory within 10 days



Reporting and Recordkeeping requirements , cont.,

- Require notification to FWC within 5 days of relocating “resident facility” (FWC approved raptor housing facility)

- Lost or stolen bands must be reported to U.S. Fish and Wildlife Service within 5 days.

Federal regulations require the peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), and Harris’s hawk (*Parabuteo unicinctus*) that are possessed for falconry purposes to be banded with a permanent non-reusable band provided by the U.S. Fish and Wildlife Service. Captive bred raptors must be marked with a seamless metal band. Should the bands are lost or stolen they must be reported to the U.S. Fish and Wildlife Service.

- Any change in inventory must be reported within 10 days (includes acquisition, transfer, release, rebanding, microchipping, escape, death or theft). This is consistent with federal regulations.

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Reporting and Recordkeeping, cont.
 - Maintain acquisition records as long as the raptor is possessed
 - Retain records of transfer, loss or death for 5 year



Reporting and Recordkeeping requirements , cont.,

- Acquisition records must be maintained as long as the raptor is possessed
- Records of transfer, loss, or death must be maintained for 5 years after the transfer, loss, or death of a raptor. This is consistent with federal regulations.

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Addresses release and /or transferring of raptors
 - Authorizes placement of raptor within 90 days of death of permittee
 - Prohibits permanent release of non-native or hybrid raptors
 - Authorization required to release captive bred raptors



Releasing/Transferring raptors

- Authorizes surviving spouse, executor, administrator or other legal representative of a deceased permittee to transfer raptors within 90 days of the permittee's death
- Prohibit permanent release of non-native or hybrid raptors
- Authorization required to release captive bred raptors. Federal regulations require permission from the State, Indian Tribe, or territory before a captive bred bird that is native to that State, tribe or territory may be released. If permitted to do so the falconer must hack the bird (allow it to adjust) to the wild at an appropriate time of year and in an appropriate location. In this instance the band must be removed and the release be reported in the federal electronic database or by submitting paper form 3-186A to the State, tribal or territorial agency that governs falconry. Florida regulations do not currently address the release of captive bred raptors.
- Authorizes acquisition of raptors from a rehabilitator

Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Addresses release and /or transferring of raptors
 - Authorizes the purchasing, selling or bartering of captive bred raptors
 - Authorizes the use of wild raptors in captive propagation



Releasing/Transferring raptors, cont.,

- Authorize purchase, barter, sale (or offer of same) of captive bred raptors
- Authorize the use of wild raptors in captive propagation or transfer to a raptor propagation permit after specified period. Federal regulations authorize the possession of captive bred raptors. These regulations also provide that a raptor possessed for falconry may be used in captive propagation with appropriate permit(s). Florida's falconry regulations currently do not address the use of falconry raptors for captive breeding.

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- **Addresses take of raptors**
 - Season dates lengthened
 - Take of adult kestrels, endangered or threatened species authorized
 - Limits take of kestrels to the fall season with an imperiled species permit
 - Prohibits the take of Burrowing owls



Take of raptors

- Lengthens season dates for the taking of eyas and passage birds
- Authorizes taking of Kestrels over 1 year old
- Authorizes take of Endangered/Threatened species by General or Master falconer
- Limits take of American and southeastern kestrel to fall trapping season. Southeastern kestrel must have imperiled species permit
- Prohibits the take of Burrowing owl for falconry purposes

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Authorizes commercialization of captive bred raptors
- Provides for the retention and transfer of feathers
- Authorizes the mounting of a raptor that has been banded or microchipped prior to death



Other changes include

- Provides for the retention and transfer of feathers among permittees for imping purposes or to Native Americans or other qualified permittees.
- Authorizes mounting of banded/microchipped raptors. Federal regulations provide that a falconer may keep the body of any falconry raptor that dies (except a Golden eagle) so that the feathers may be available for imping or to have the body mounted by a taxidermist. Florida's falconry regulations provide that feathers that are molted or from deceased captive birds may be retained or exchanged by permittees only for imping purposes. Florida's current falconry regulations do not address the mounting of deceased raptors.

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Proposed Draft Rule, cont.,

68A-9.005 Falconry

- Provides that a non-resident with a valid falconry permit may possess raptors in Florida
- Includes “let it lay” language to address unintentionally taken prey
- Requires a license to exhibit or sell raptors



Other changes, cont.,

- Non-resident with valid falconry permit may possess raptors in Florida
- Includes “let it lay” language by allowing the raptor to feed on prey that was unintentionally taken or taken out of season while prohibiting the falconer from taking such prey into possession
- Requires license to exhibit or sell raptors
- Authorizes the practice of Abatement with proper permits from USFWS. Abatement is when falconry birds are used to chase or fly in an area where there is excess birds or prey that is causing concerns such as: damage to crops, damage to buildings or structures, health concerns, and concerns for airports and aircraft (potential crashes). Additional noted methods of abatement practices are scarecrows, decoys and poisons with falconry being the more common or effective.

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Proposed Draft Rule, cont.

69A-9.006 Wildlife Rehabilitation Permit

- Authorize the transfer of raptors to permitted falconers for rehabilitation or falconry purposes

68A-4.008 Taking Wildlife on Roads and Right-of-Ways Prohibited

- Authorize the taking (trapping) of raptors from roads and right-of-ways



In addition to the amendments to the falconry rule, staff recommends amendments to rules 68A-9.006 and 68A-4.008, F.A.C., as follows:

Rule 69A-9.006 Wildlife Rehabilitation Permit:

- Authorize the transfer of raptors to permitted falconers for rehabilitation purposes

Rule 68A-4.008 Taking Wildlife on Roads and Right-of-Ways Prohibited:

- Authorize the taking (trapping) of raptors from roads and right-of-ways. Trapping of raptors along the side of road ways or right-of-ways is a common practice among falconers. Falconers frequently travel roads in search of raptors. The openness of the road side or right-of-ways provides an ideal trapping environment. Currently rule 68A-4.008, Florida Administrative Code, prohibits the taking or attempting to take wildlife (except for the collection of amphibians or reptiles without the use of a gun) on or upon the right-of-way of any federal, state or county maintained road whether paved or otherwise. This change would be required to allow falconers to trap raptors for falconry purposes along right-of-ways.

Staff Recommendations

Approve draft rule amendments to:

- 68A-9.005 Falconry
- 68A-9.006 Wildlife Rehabilitation Permit
- 68A-4.008 Taking Wildlife on Roads and Right-of-Ways Prohibited

and

**if directed, return in February 2013 for
Final Public Hearing**



Staff recommends approving the draft rule amendments to provide for the following:

Rule 68A-9.005 Falconry:

- With amendments as presented

Rule 69A-9.006 Wildlife Rehabilitation Permit:

- To authorize the transfer of raptors to permitted falconers for rehabilitation purposes

Rule 68A-4.008 Taking Wildlife on Roads and Right-of-Ways Prohibited:

- To authorize the taking (trapping) of raptors from roads and right-of-ways

If the draft rules amendments are approved, staff recommends proceeding to a Final Public Hearing at the February 2013 Commission meeting.

Questions?



The following slides are considered back-up material and are not anticipated to be part of the actual presentation



Florida's Permittees

- 144 falconry permittees
 - 24 Apprentice
 - 57 General
 - 63 Master
- 8 Non-resident raptor take permittees (2011)
 - Target species: Merlin



There are 144 active/valid falconry permittees in Florida. These 144 permit holders are classed as follows: 24 - Apprentice, 57 - General and 63 - Master falconers.

The FWC also issues Non-resident raptor take permits which authorize a non-resident to take (trap) raptors in Florida. In 2011 FWC issued 8 of these permits with the targeted species being the Merlin.