

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 21****RIN 1018-AH71****Migratory Bird Permits; Review of Falconry Education Permits****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Request for comments.

**SUMMARY:** We are soliciting public comments to help us develop options for regulating falconry education facilities. We have two pending applications for permits to conduct falconry and conservation educational programs with migratory birds pursuant to section 704 of the Migratory Bird Treaty Act of 1918, as amended. Some of the activities outlined in these applications constitute the practice of falconry by instructors and participants. Falconry is specifically regulated under certain Fish and Wildlife Service regulations, and only persons who qualify for falconry permits by meeting minimum requirements may possess raptors (birds of prey) for their use in hunting prey. The applicants' programs feature instructors who maintain falconry permits, but they seek to exempt their participants from meeting minimum requirements and obtaining falconry permits. We are requesting public comments on whether we should deny these permit requests, or whether we should amend the falconry regulations to create additional, and less restrictive, opportunities for the public to participate in falconry.

**DATES:** Written comments should be submitted by January 19, 2001, to the address below.

**ADDRESSES:** You may mail or deliver comments to the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203. You also may submit comments via the Internet to:

*falconry\_programs@fws.gov*. See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Jon Andrew, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service; (703) 358-1714.

**SUPPLEMENTARY INFORMATION:** Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message.

If you do not receive a confirmation that we have received your message, contact us directly at (703)358-1714.

**Background**

Falconry is the sport of hunting with trained raptors to take game animals, such as rabbits and squirrels, as defined in 50 CFR 21.3. In 1972, raptors came under the protection of the Migratory Bird Treaty Act, and in 1976 we promulgated regulations for a joint State/Federal falconry program. The regulations set rigorous requirements for entry into the sport, specified raptor housing and equipment standards, and set stringent reporting and marking requirements. Somewhat cautionary and restrictive, the regulations were promulgated at a time when there was considerable concern over the diminished status of many raptor populations. The falconry regulations reflected a sincere attempt to satisfy diverse and often conflicting interests while at the same time providing adequate protection for raptors. In 1989, we amended the regulations to establish simpler, less restrictive rules governing the use of most raptors because their populations were generally increasing, and the number of falconers was relatively small.

Currently, approximately 4,000 persons are permitted to practice falconry in the United States, and 400 persons are permitted to breed raptors in captivity. Persons who want to practice falconry must comply with the falconry regulations in 50 CFR 21.28-29, in addition to complying with State falconry and hunting laws. Persons who want to breed raptors must comply with the raptor propagation regulations in 50 CFR 21.30, in addition to complying with State wildlife propagation laws.

The falconry regulations require individuals to have knowledge, experience, equipment, and raptor housing before we may issue them a falconry permit. Permits are issued in three classes—Apprentice, General, and Master—depending on the applicant's age and experience. A person must have a Federal (and State) falconry permit before they may possess raptors, train them by various handling techniques, and use them in hunting. The regulations also prescribe the species and numbers of raptors that falconers may possess, which vary by the class of permit. We further allow permitted falconers to use the birds in their possession for conservation education and the demonstration of falconry to audiences.

**Special Purpose Permits**

Two applicants have requested permits issued under Special Purpose (50 CFR 21.27) to possess raptors to use in falconry and conservation educational programs. Because of the wide nature of permits that may be issued under Special Purpose, we determine these permit conditions individually. We have issued numerous Special Purpose permits for conservation education purposes, and the conditions for these permits are largely standardized due to the large numbers of this type. Most of these conservation education permits authorize the possession of raptors for use in programs where birds are displayed to an audience, and the audience participants are not allowed to handle the birds.

We have previously issued three Special Purpose permits for falconry and conservation education facilities, and two of these permits remain active. These active permits are issued to the British School of Falconry (BSF), Manchester, Vermont; and the Falconry and Raptor Education Foundation (FAREF), White Sulphur Springs, West Virginia. In general, we authorized these permittees to possess a specified number of raptors listed in 50 CFR 10.13. This authorization allowed the facilities to have more birds than they could possess under their instructors' individual falconry permits, which allows them to provide falconry opportunities to more participants.

The permits issued to BSF and FAREF require the birds to be captive-bred, and also require the facilities to comply with certain parts in the falconry regulations, including raptor housing, leg-banding for identification, and submission of raptor acquisition report forms. Although we require the instructors at the BSF and FAREF to maintain either General or Master class falconry permits, we do not require participants to obtain their own permits.

The BSF and FAREF programs allow participants without prior experience to handle the birds in various ways. Typically, the instructor first places a raptor on the gloved hand of each participant. The participant then grasps a leash attached to the bird's legs, and releases and recalls the bird using whistles and food rewards. Both facilities also provide raptor conservation educational programs to the public, which may include the limited handling of birds on the gloved hand of several audience members.

The permit issued to the BSF expires on December 31, 2000. The permit issued to the Falconry and Raptor

Education Foundation expired on December 31, 1999, but because they submitted a renewal application at least 30 days prior to the expiration date, their permit is still active. Additionally, we have received a new application from New England Falconry, Shutesbury, Massachusetts, for a similar, but expanded, Special Purpose permit.

The new applicant requests a permit to possess captive-bred Harris hawks, prairie falcons, and peregrine falcons for the purpose of educating the public about falconry, raptors, conservation and the environment, through the experience of falconry. The applicant requests to provide a variety of educational programs, including programs similar to those provided by the BSF and FAREF, which allow the handling of birds. In addition, the applicant requests authority to provide hunting programs, wherein the participant would hold a lofting pole (T-shaped pole with perch on top), and the instructor would place the raptor on the pole. The bird, although trained to respond to handlers, would be physically unrestrained, and could fly at prey flushed by dogs. If a kill is made, the instructor would remove the bird from the prey, and return it to the lofting pole held by the participant. Previously, we had expressly prohibited the BSF from conducting similar hunting programs after determining that the participants were clearly practicing falconry as defined in 50 CFR 21.3.

#### **Determination of the Scope of Falconry**

Because we have received public comments regarding these permits, we reviewed the falconry regulations and the definitions provided in 50 CFR 10.12 and 21.3. We have determined

that participants at the BSF and FAREF are practicing falconry as defined and regulated under 50 CFR 21.28–29 and therefore must fully comply with these regulations. In arriving at this determination, we concluded that the falconry regulations clearly encompass all activities relating to the sport of falconry, including the housing, handling, and training of raptors, in addition to their use in hunting.

We now need to determine whether to continue to allow the operation of falconry educational facilities, and, if so, with what requirements. In order to allow their continuation, we must either impose a handling restriction for participants on these Special Purpose permits (similar to most other educational permits), or expand the falconry regulations by amendment.

#### **Public Comments Solicited**

Interested persons are invited to submit comments on continuing to allow the operation of falconry education facilities in the United States. We request suggestions, materials, recommendations, and arguments. We invite comments from the public; permitted falconry facilities; falconry organizations; environmental organizations; corporations; local, State, Tribal and Federal agencies; and any other interested party. Please ensure that any comments submitted in response to this request for comments pertain to issues presented in this notice.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will

honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

Comments are particularly sought concerning the following issues:

(1) Whether we should amend the falconry regulations to allow the operation of falconry education facilities to include active participant handling of raptors.

(2) Whether participants at hands-on falconry education facilities should be required to obtain individual permits, and what type(s) of permit classes should be created for participants, with requirements such as age, examinations, and experience.

(3) What type(s) of permitting requirements should be created for these facilities, and the requirements for obtaining these permits, such as instructor qualification, raptor equipment and housing, and commercial status of the facilities (profit vs. nonprofit).

(4) What program restrictions should be placed on falconry education facilities, such as limiting participants to raptor handling by release and recall only, or whether participants should participate in hunting activities, and how.

(5) What program requirements should be placed on falconry education facilities, such as requiring a specified core curriculum, or requiring that conservation education be included.

(6) Which raptor species should be used, and/or whether species used at falconry education facilities should be limited to nonindigenous species, which do not require MBTA permits.

(7) What benefits are obtained by participants in falconry education facilities, including whether participants have easier access to explore the sport of falconry, and whether participants have used their experience to better qualify for an Apprentice class permit.

(8) Whether participants gain enough knowledge to properly handle raptors without harming the birds or themselves.

(9) Whether more people will apply for falconry permits after attending falconry education facilities, and whether suppliers of captive-bred raptors (regulated under 50 CFR 21.30) could provide for an increased demand for birds, or whether impacts to wild stock may result.

(10) Whether the falconry education facilities generally contribute to

awareness of the resource by teaching more people about the conservation of raptors.

(11) How the economies of local communities would be impacted by the co-location of a falconry education facility.

(12) How raptor propagators may be affected economically from changes in sales of captive-bred birds.

(13) How State wildlife agencies would be affected, including whether administrative workloads would increase, whether amended regulations would conflict with State laws, and whether States would have greater or reduced flexibility in administering the joint permitting system.

We welcome comments on the issues described above and encourage the submission of new options or any suggestions.

#### **Paperwork Reduction Act**

This request for comments does not contain new or revised information collection for which Office of

Management and Budget approval is required under the Paperwork Reduction Act. Information collection associated with migratory bird permit programs is covered by an existing OMB approval No. 1018-0022, which expires on 02/28/2001. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

**Authorship:** The primary author of this notice is Diane Pence, Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01585.

**Authority:** The authority for this notice is the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703-712).

Dated: November 9, 2000.

**Marshall P. Jones, Jr.,**

*Acting Director, Fish and Wildlife Service.*

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