

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

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

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

II. Dates and Locations of Scheduled Hearings:

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

III. Description of Regulatory Action:

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

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

#### PROPOSED REGULATIONS

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

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

Current subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(a)(5)	<ul style="list-style-type: none"> <li>• Change the date of the Code of Federal Regulations to the most recent 07/02/2015.</li> <li>• Delete “The department shall make these and the federal regulations available at <a href="http://www.dfg.ca.gov/licensing/">www.dfg.ca.gov/licensing/</a>” since the public is directed to the new website in subsection (a)(6).</li> </ul>
	(a)(6)	<ul style="list-style-type: none"> <li>• Add a statement directing the public to obtain and submit forms to the License and Revenue Branch, or to the Department’s online reporting system.</li> </ul>
(b)	(b)(7)	<ul style="list-style-type: none"> <li>• Amend the definition of Falconry by deleting the reference to “free flight.” The word “training” includes free flight and other activities when not in flight.</li> </ul>
	(b)(8)	<ul style="list-style-type: none"> <li>• Amend the definition of “Hacking” which is a method of having the raptor “gain experience and conditioning”</li> </ul>
	(b)(10)	<ul style="list-style-type: none"> <li>• Amend the definition of “Imp” to “Imping” using “another” feather to repair a damaged feather on a bird.</li> </ul>
	(b)(12)	<ul style="list-style-type: none"> <li>• Add definition of “license year” for consistency with other regulations. This replaces the definition of “Regulatory year” in (b)(15).</li> </ul>
(b)(15)		<ul style="list-style-type: none"> <li>• Delete definition of “Regulatory year” and replace with License year (b)(12).</li> </ul>
(c)	(c)	<ul style="list-style-type: none"> <li>• When referring to California hunting laws and regulations, change “related to” to “authorizing” for clarity.</li> </ul>
(c)	(c)(1)	<ul style="list-style-type: none"> <li>• Add clarity and improve instructions regarding procedures to follow in the event of inadvertent take of species (other than threatened or endangered species);</li> <li>• Add “let it lay” language, meaning that if inadvertent take of species (other than threatened or endangered species) occurs to let the raptor feed on it.</li> <li>• Add language for animals injured as a result of unauthorized take to be taken to rehabilitation facility.</li> </ul>
	(c)(2)	<ul style="list-style-type: none"> <li>• Add the reporting of band or tag numbers (if any) of wildlife taken unintentionally. Important wildlife information is gained through band returns.</li> </ul>
(d)	(d)	<ul style="list-style-type: none"> <li>• Clarify that the unauthorized take of threatened and endangered species, candidate species or fully protected species is not covered by a falconry license.</li> <li>• Add “fully protected” species as listed in California.</li> <li>• Delete provisions requiring licensee to ensure that falconry activities do not result in the take or possession of a threatened or endangered wildlife species taken incidentally by a falconry raptor. Threatened and endangered species may not be taken or possessed at any time.</li> </ul>

Current subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(d)	<ul style="list-style-type: none"> <li>Change reporting the take of listed species to License and Revenue Branch rather than to the Department's regional offices.</li> </ul>
(e)	(e)(1)(A)	<ul style="list-style-type: none"> <li>Add nonresident, or non-US citizen for clarity.</li> </ul>
	(e)(1)(B)	<ul style="list-style-type: none"> <li>Delete "resident or nonresident" and replace with "licensee" for clarity.</li> <li>Add "...that has not been expired for more than 5 years" for clarity</li> </ul>
	(e)(1)(C)	<ul style="list-style-type: none"> <li>Delete "resident" and replace with "licensee"</li> </ul>
	(e)(1)(D)	<ul style="list-style-type: none"> <li>Delete "...and intends to establish permanent residency in California prior to becoming a resident," since residency is not a requirement for licensing in California (for example a non-US citizen unlicensed falconer may apply in order to practice falconry); there is no need for this provision.</li> </ul>
	(e)(2)(A)	<ul style="list-style-type: none"> <li>Delete "lapsed license" since it cannot be renewed and must be a new license.</li> <li>Add reference to the "nonrefundable fee".</li> </ul>
	(e)(2)(B)	<ul style="list-style-type: none"> <li>Add language to clarify that an application is renewable when not expired more than 5 years.</li> <li>Add reference to the "nonrefundable fee."</li> </ul>
(e)(2)(A)	(e)(2)(D)	<ul style="list-style-type: none"> <li>Clarify that the certification relates to "pending or previous administrative proceedings" that could disqualify the applicant.</li> </ul>
(e)(2)(B)	(e)(2)(E)	<ul style="list-style-type: none"> <li>Clarify that the Department is "reviewing" the documents submitted by the applicant rather than "evaluating".</li> </ul>
(e)(2)(C)		<ul style="list-style-type: none"> <li>Move the applicable nonresident provisions to subsection (e)(5) Nonresidents of California and Non-US Citizens, keeping these related regulations together for clarity.</li> </ul>
(e)(3)	(e)(3)	<ul style="list-style-type: none"> <li>Add, "Any applicant not possessing a valid falconry license, or required to apply for a new..." for clarity on who needs to take the exam.</li> <li>Clarify that the exam fee is charged for each examination in order to recover the Department's reasonable costs.</li> </ul>
	(e)(3)(A) 2. and 3.	<ul style="list-style-type: none"> <li>Add language to clarify that nonresident and non-US citizens who have a valid license are exempt from the examination.</li> <li>Add language for an exception when the applicant is a member of a federally recognized tribe and has a valid falconry license issued from that member's tribe, in accordance with FGC Section 12300.</li> </ul>
	(e)(3)(B)	<ul style="list-style-type: none"> <li>Add language to clarify the necessity of an inspection of raptor facilities prior to a license being issued to a new falconer applicant.</li> </ul>
(e)(4)		<ul style="list-style-type: none"> <li>Clarify that a falconry license is not valid unless renewed annually with the required application form and payment of fees.</li> </ul>

Current subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(e)(4)(A)-(C)	<ul style="list-style-type: none"> <li>• Clarify that the practice of falconry is not allowed under an expired license, and what steps need to be taken if the licensee wishes to continue to practice falconry.</li> <li>• Clarify that an expired license is not valid unless renewed.</li> <li>• Provide for renewal of licenses not expired more than 5 years.</li> <li>• Clarify that a license expired more than 5 years may not be renewed but that an application for a new license is required.</li> </ul>
	(e)(5)(A)	<ul style="list-style-type: none"> <li>• Add, “The applicant is a member of a federally recognized tribe and has a valid falconry license issued from that member’s tribe” in accordance with FGC Section 12300.</li> </ul>
(e)(5)(A)	(e)(5)(B) 1.-3.	<ul style="list-style-type: none"> <li>• Delete “fly raptors” and add “practice falconry” to clarify that practicing falconry covers more than just flying a raptor.</li> <li>• Clarify that the authorization to fly a California licensee’s raptor must be signed and dated and in possession.</li> <li>• Clarify that the facilities of nonresident or non-U.S. citizen falconers are temporary but must still meet the housing standards in California regulations, or nonresident or non-U.S. citizen may house raptors held under their license with a California licensee.</li> </ul>
	(e)(5)(C)	<ul style="list-style-type: none"> <li>• Add provisions to clarify that a non-resident, or non-US citizen, or tribally licensed falconer, seeking a California license, must submit proof of valid license and have their raptor facilities inspected to obtain a California license.</li> </ul>
	(e)(5)(D)	<ul style="list-style-type: none"> <li>• Add provisions to clarify that a non-resident or non-US citizen, or tribal member falconer without a valid license must apply as a new applicant, pass the examination, and have their raptor facilities inspected to obtain a California license.</li> </ul>
(e)(6)	(e)(6)	<ul style="list-style-type: none"> <li>• Clarify that the Department has ‘sole discretion’ to establish the class for a falconer.</li> </ul>
	(e)(6)(A)3.	<ul style="list-style-type: none"> <li>• Clarify the necessity of maintaining a continuous sponsorship of an apprentice, and what period of time will be counted toward a total of 2 years sponsorship.</li> </ul>
	(e)(6)(A)4.	<ul style="list-style-type: none"> <li>• Add, “The Apprentice may take raptors less than 1 year old, except nestlings.” This language is the same as provided in 50 CFR 21.29(c)(2)(i)(E) limiting what can be permitted in California.</li> <li>• Add that an apprentice must maintain proof of legal acquisition.</li> </ul>
	(e)(6)(A)6.	<ul style="list-style-type: none"> <li>• Clarify that it is the responsibility of the sponsor to certify that the minimum requirements have been met by the apprentice.</li> </ul>

Current subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(e)(6)(B)2.	<ul style="list-style-type: none"> <li>• Specify that the General class falconer must maintain proper documentation of legal acquisition of birds, whether from California or elsewhere.</li> <li>• Delete the portion of the provision regarding “threatened and endangered species, and eagles”. This portion is repetitive of the provisions set forth in subsection (d) which clearly provide that take of threatened and endangered species is unlawful, and is repetitive of the provisions set forth in subsection (e)(6)(C)2. which clearly provide that Master Falconers may possess eagles.</li> </ul>
	(e)(6)(C)1.	<ul style="list-style-type: none"> <li>• Specify that the Master class falconer must maintain proper documentation of legal acquisition of birds, whether from California or elsewhere.</li> <li>• Delete the portion of the provision regarding “threatened and endangered species, and eagles”. This portion is repetitive of the provisions set forth in subsection (d) which clearly provide that take of threatened and endangered species is unlawful, and is repetitive of the provisions set forth in subsection (e)(6)(C)2. which clearly provide that Master Falconers may possess eagles.</li> </ul>
	(e)(6)(C)2.	<ul style="list-style-type: none"> <li>• Add language specifying that proof of legal acquisition of eagles is required.</li> <li>• Clarify that eagles shall not be taken from the wild and may only be obtained from a permitted source. Eagles in the wild are fully protected in California and therefore can only be obtained from a permitted source.</li> <li>• Add language to allow temporary transfer of eagles from a rehabilitation facility to a licensee to assist in rehabilitation.</li> <li>• Add clarification for documentation of the Master Falconer’s prior experience with eagles.</li> </ul>
(e)(7)	(e)(7)(B)	<ul style="list-style-type: none"> <li>• Clarify that the exam fee must be paid each time the applicant takes the examination.</li> </ul>
	(e)(7)(C)2.	<ul style="list-style-type: none"> <li>• Add language to clarify that a new inspection is not required if the facilities shared by multiple falconers have passed a previous inspection.</li> </ul>
	(e)(7)(E)	<ul style="list-style-type: none"> <li>• Clarify that the administrative processing fee is charged only when the falconer requests that the Department enter the Resident Falconer Raptor Capture, Recapture and Release Report form into the online reporting system.</li> </ul>
	(e)(7)(F)-(G)	<ul style="list-style-type: none"> <li>• Delete subsections concerning the Raptor Capture Drawing, and consolidate in a new subsection (g)(8) for clarity.</li> </ul>
	(e)(8)(D)	<ul style="list-style-type: none"> <li>• Clarify that notification to the Department is required to be in writing.</li> </ul>

Current subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(e)(9)	<ul style="list-style-type: none"> <li>• Add “the Fish and Game Code” to allow for suspension or revocation based on violations of FGC sections pertaining to raptors.</li> <li>• At the request of the Commission, add examples regarding what types of violations would result in immediate revocation including: <ul style="list-style-type: none"> <li>○ if the violations pertain to conduct that threatens native wildlife,</li> <li>○ agricultural interests of this state,</li> <li>○ the welfare of the birds,</li> <li>○ the safety of the public, and</li> <li>○ prior conviction or suspension.</li> </ul> </li> <li>• Change “pursuant to” to “as described herein” for consistency.</li> </ul>
	(e)(11)	<ul style="list-style-type: none"> <li>• Add “30 calendar days” to clarify the last day for an appeal.</li> </ul>
	(e)(12)	<ul style="list-style-type: none"> <li>• Delete “after the expiration of the license.” The purpose of record retention was to have a 5-year retention maximum, not until after the license has expired.</li> </ul>
	(e)(13)	<ul style="list-style-type: none"> <li>• Change five “calendar” days to “business” days consistent with state offices being open.</li> </ul>
(f)	(f)(1)-(3)	<ul style="list-style-type: none"> <li>• Change the reference from federal reporting forms to the Department’s online reporting system. The requirements for each submittal are the same and the Administrative Processing Fee will be charged in the same way.</li> <li>• Add language to require that the inadvertent take of non-target wildlife be reported on the Hunting Take Report.</li> <li>• Clarify that the inadvertent take of non-target wildlife is required to be reported as set forth in subsections (c) and (d).</li> </ul>
(g)	(g)(1)	<ul style="list-style-type: none"> <li>• Revise to lower case “resident”.</li> </ul>
	(g)(2)	<ul style="list-style-type: none"> <li>• Revise to lower case “nonresident”.</li> <li>• Delete text related to the requirements for a license since this has already been described.</li> </ul>
	(g)(3)	<ul style="list-style-type: none"> <li>• Add a provision which specifies that non-U.S. citizens are not eligible to capture any California wild raptor.</li> </ul>
(g)(7)(A)	(g)(8)(A)	<ul style="list-style-type: none"> <li>• Clarify that there is no limit on capturing Northern Goshawk outside of the Tahoe Basin.</li> </ul>
(g)(7)(K)	(g)(9)	<ul style="list-style-type: none"> <li>• Renumber subsection (g)(7)(K)1.-10. to (g)(9)(A)-(J) to separate the Special Raptor Capture Random Drawing requirements to its own subsection.</li> <li>• Clarify that the random drawing is to distribute permits for those species with quotas as provided in (g)(8).</li> <li>• Revise to lower case “resident” and “nonresident”.</li> </ul>
	(g)(9)(C)	<ul style="list-style-type: none"> <li>• Clarify where licensee is to apply for drawing, and that a fee is required for each application.</li> </ul>

Current subsection	New subsection	Reason for the Proposed Amendment Revision, Addition, or Deletion
	(g)(9)(D)	<ul style="list-style-type: none"> <li>• Change the “midnight” deadline to “11:59 pm” for clarity</li> <li>• Change the application deadline to May 15, closer to the actual draw date as a convenience to the participants.</li> <li>• Delete “Incomplete, late ... shall not be included in the Drawing,” because the drawing will be held based on the electronic filing of the applicants, which cannot be completed until the information is correctly submitted.</li> </ul>
	(g)(9)(E)	<ul style="list-style-type: none"> <li>• Add a description of the random draw and award method by computer.</li> </ul>
	(g)(9)(F)	<ul style="list-style-type: none"> <li>• Change notification process to exclude mailed notification because both the entry and notice are only available online.</li> <li>• Delete notification to unsuccessful applicants because the entry and notification are only available online.</li> <li>• Change deadline for permit payment to June 30, the last day of the license year.</li> <li>• Delete date associated with permit awards to alternates, if any are available, they will be awarded in the order selected in the random drawing.</li> </ul>
	(g)(9)(I)	<ul style="list-style-type: none"> <li>• Clarify that when the permit holder is unsuccessful, the permit is to be returned to the License and Revenue Branch with 10 days of the expiration of the permit.</li> </ul>
(g)(8)	(g)(10)(A)	<ul style="list-style-type: none"> <li>• Clarify that any owner (not only a researcher) of a transmitter should be contacted.</li> </ul>
(g)(11)	(g)(13)	<ul style="list-style-type: none"> <li>• Clarify that the written permission of the private property owner is to be the original with signature.</li> </ul>
(h)(2)(A)	(h)(2)(A)	<ul style="list-style-type: none"> <li>• Clarify that a licensed falconer may temporarily possess and fly a raptor if they possess the appropriate class to do so.</li> </ul>
(h)(3)		<ul style="list-style-type: none"> <li>• Delete subsection (h)(3). The permanent disposition of wildlife, including birds, from a rehabilitation facility is set forth in Section 679, Possession of Wildlife and Wildlife Rehabilitation.</li> </ul>
(h)(4)	(h)(3)	<ul style="list-style-type: none"> <li>• Clarify that falconers are permitted to have temporary possession, while caring for an injured raptor.</li> </ul>
	(h)(3)(A)	<ul style="list-style-type: none"> <li>• Clarify that the terms of the transfer are at the discretion of the rehabilitator to ensure necessary care of the raptor</li> <li>• Clarify that licensee must have legible documentation of assisting a rehabilitator while flying the raptor.</li> </ul>
	(h)(3)(B)	<ul style="list-style-type: none"> <li>• Delete provision that a rehabilitator can permanently transfer a raptor to licensee.</li> <li>• Add that the Department can make a determination for extended care of the raptor by a licensee.</li> </ul>
(h)(5)	(h)(4)	<ul style="list-style-type: none"> <li>• Clarify that the importation of raptors by nonresidents or non-U.S. citizens may require additional federal permits.</li> </ul>

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

<b>Current subsection</b>	<b>New subsection</b>	<b>Reason for the Proposed Amendment Revision, Addition, or Deletion</b>
	(i)(2)	<ul style="list-style-type: none"> <li>• Add provision that captive bred raptors listed under MBTA need a seamless metal band. Added to comply with federal regulations.</li> </ul>
(i)(3)		<ul style="list-style-type: none"> <li>• Delete subsection regarding rebanding here, and incorporate into other subsections.</li> </ul>
	(i)(3)-(4)	<ul style="list-style-type: none"> <li>• Add language to include lost or removed bands and rebanding provisions. Revision was made to mirror the federal regulation that allows the falconer to remove and reband birds under certain circumstances.</li> </ul>
(j)(1)(C)	(j)(1)(C)	<ul style="list-style-type: none"> <li>• Revise to allow supervision of raptors by non-licensed falconers (e.g. spouse, family member, etc.) while the raptor is outside.</li> <li>• Specify a minimum age of 12 which is the same minimum age for an apprentice class.</li> </ul>
(j)(1)(E)	(j)(1)(E)	<ul style="list-style-type: none"> <li>• Clarify the requirement for an inspection of raptor facilities and associated fees for facilities moved to a new location.</li> </ul>
(j)(3)	(j)(3)	<ul style="list-style-type: none"> <li>• Clarify that new applicants and applicants renewing a license that has been expired more than 5 years, are required to have their facilities inspected.</li> </ul>
	(j)(3)(A)	<ul style="list-style-type: none"> <li>• At the Commission’s request, delete the word “premises” and add “facilities” clarifying that inspections are applicable to the raptor “facilities” as described in this subsection.</li> <li>• At the Commission’s request, add language that the Department will make a reasonable attempt to contact licensee prior to conducting the inspection. (Note: it is the responsibility of the licensee to assure that the department’s contact information is current.)</li> </ul>
(j)(3)(B)	(j)(3)(B)	<ul style="list-style-type: none"> <li>• Clarify that an original signature of the property owner on the permission letter is required if the raptor facilities are located on property not owned by the licensee.</li> </ul>

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

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

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

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

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

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

#### IV. Description of Reasonable Alternatives to Regulatory Action:

##### (a) Alternatives to Regulation Change:

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

- §670(a)(2): A valid original hunting license and falconry license are the only documents required to practice falconry. If other documents are required, they should be specified by the Department.  
Rejected: Other documentation that may be required is noted throughout the regulation, for example, permission to fly on private land, documentation that falconer is assisting in rehabilitation, permission to fly another falconer's bird, etc.
- §670(b)(12) Establish a three year license to replace the current single year license.  
Rejected: Hunting regulations are set by the license year, which is the 12 month period starting July 1 and ending the following June 30, and is the same as the falconry license term, or federal regulatory year. All licenses, tags, reporting requirements, and permits issued by the Department are established for a period of one year.
- §670(b)(13): Definition for "non-native raptor" should include hybrid raptors.  
Rejected: The Department does not consider hybrids as non-native in all cases.
- §670(d): Falconers cannot "ensure" that their raptors will not "take state or federally listed threatened, endangered, or candidate wildlife, or wildlife designated as fully protected within the State of California." The Department should provide some relief from this no-take provision.  
Rejected: The new California falconry regulations closely follow the requirements of the Federal Regulations with respect to the "no-take" rule. The falconer is instructed in the Federal regulations to identify the location of protected species and avoid flying the raptor in that location. In the event that unintended take occurs, both regulations provide that the falconer immediately report the take to appropriate federal and state authorities.
- §670(e)(1)(D): Include ability for a non-US citizen to use "equivalent experience" in place of a current license when seeking a California license.  
Rejected: All that is required to obtain a California falconry license is passing the falconry examination which demonstrates basic knowledge. Other documentation may be used to demonstrate the class level of the licensee with discretionary approval of the Department.
- §670(e)(4): Include some exemption for practicing falconry with an expired license in case the Department is late processing.  
Rejected: The Department has not been tardy issuing licenses since administering the program.

- §670(e)(4): Add provision for Department to collect back fees if the individual continues to practice falconry without a license.  
Rejected: The penalties for illegally practicing falconry without a license (as with hunting, fishing, etc.) are sufficient.
- §670(e)(5): Change to read, “A nonresident licensed falconer or non-U.S. citizen licensed falconer may ‘transport their legally held raptors to’ temporarily practice falconry in California for up to 120 calendar days without being required to obtain a California falconry license.”  
Rejected: The insertion of “transport their legally held raptors to” will not change or clarify the current provision.
- §670(e)(6): Strike “at its sole discretion”. If a falconer meets the requirements and qualifications for the class described in these regulations the licensee should be granted a license for that class.  
Rejected: The Department now has oversight of the falconry program in California, and has the sole authority to determine if a falconer meets the specified requirements for any falconry class.
- §670(e)(6)(A)2: Consider additional oversight of apprentice program.  
Rejected: The current oversight of the apprentice program mirrors that of the federal regulations. No evidence that additional oversight is needed.
- §670(e)(6)(A)4: Change to read, “An Apprentice falconer may only capture from the wild or possess a passage red-tailed hawk or an American kestrel of any age.”  
Rejected: 50 CFR 21.29(c)(2)(i)(E) states that the apprentice “may take raptors less than 1 year old, except nestlings.” This same language is proposed as an addition to this subsection.
- §670(e)(6)(A)(4),(B)(2) and (C)(1): In each subsection for Apprentice, General and Master class, it says, “Apprentice/General/Master falconer must maintain written proof of legal acquisition.” This is redundant. It is elsewhere stated that all falconers must report disposition of falconry raptors to the Department in a timely manner.  
Rejected. The Department is requiring written documentation of legal acquisition to be on-hand so the origin of all birds may be determined. When asked by law enforcement they must produce a paper record.
- §670(e)(6)(B): The possession limits of raptors should be reduced, an experienced falconer can handle two birds, three at most.  
Rejected. Language in state regulations is consistent with federal regulations. There is no evidence that more raptors in possession equates to reduced care. The Department will retain existing language.
- §670(e)(6)(C)2.i.: Falconers wanted to add “. . . captured from the wild in California pursuant to Fish and Game Code 3511, but . . .”  
Rejected. Section 3511(a)(1) FGC also states “No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected bird.” The insertion of the reference to FGC 3511 in the regulation would be repetitive and is presently cited in Authority and Reference.

- §670(e)(6)(C)2.ii.: Delete the portion of the provision regarding “eagles ... transferred from a rehabilitation facility” thus allowing Master falconer possession of a rehabilitated eagle.  
Rejected: Possession of eagles with specified origins (not caught from the wild in California), from a permitted source, and with proof of legal acquisition, is clearly stated in subsections (e)(6)(C)2. i.-iii. A Master falconer may possess any eagle (except bald eagles) within those qualifications. Section 679 further provides for the permanent disposition from rehabilitation facilities of wildlife including birds.
- §670(e)(8)(B): Delete failure to comply with city and local ordinances as a reason for denial of a new or renewal license.  
Rejected: Allowing denials, revocations or suspensions based on a violation of a city or county ordinance that constitutes a violation of the Fish and Game Code, regulations related to raptors in Title 14, or Penal Code Section 597, protects birds and the public by preventing persons who have not followed such ordinances from holding a Department-issued license.
- §670(e)(9): The falconers disagree with the penalties for violation and propose that they should be more in line with the hunting regulations section that deals with license suspension and revocation.  
Rejected. The Department does not support a change to these provisions, which are uniquely tied to the falconry license and the possession of living raptors.
- §670(g): Proposed that trapping raptors at any time of the year needs to be re-examined; that some species may breed when less than one year old, while still in their juvenile plumage; it is possible that someone might legally trap a juvenile hawk that in fact has a nest with eggs or young, unbeknownst to the trapper. In contrast, another commenter supported year-round take of raptors.  
Rejected. The environmental review did not indicate there was an issue with take of wild raptors for use in falconry. Current regulations restrict age and number of young taken from a nest. Other restrictions are also instituted, such as limitations on the number of goshawks in the Tahoe Basin, limitations on the number of prairie falcons statewide, and seasonal restrictions for merlin. Therefore, the current language will be retained.
- §670(g)(7): Suggested that the Department add ferruginous hawk to the list of allowed species.  
Rejected. Due to species decline as described in the Final Environmental Document (FED) using best available population/trend data, the ferruginous hawk was taken off the list of allowed raptors. There is no new data to indicate a change from the conclusions of the FED.
- §670(g)(7)(A): Suggested removing the limit on Northern Goshawk in the Tahoe Basin.  
Rejected. Analysis in FED was based on best available population/trend data. There is no change in knowledge from when the FED was completed.
- §670(g)(7)(H): Suggested removing statewide limit on prairie falcon.  
Rejected. Analysis in FED was based on best available population/trend data. There is no change in knowledge from when the FED was completed.

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

(b) No Change Alternative:

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At

that time it was understood by the Commission, falconers, and the public that the new California regulations would need updating and amending. The “No Change” alternative would not update the regulations and would not meet this expectation.

(c) Consideration of Alternatives:

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

V. Mitigation Measures Required by Regulatory Action:

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

VI. Impact of Regulatory Action:

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

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

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

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

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses. Hunting is an outdoor activity that can provide several benefits for individuals who partake in it and for the environment benefitting the health and welfare of California residents. The proposed regulations affect a limited number of falconers in California and therefore are unlikely to create or eliminate jobs, or result in the expansion or elimination of existing businesses.

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

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None
- (h) Effect on Housing Costs: None

## VII. Economic Impact Assessment

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

The cumulative effects of the changes statewide are expected to be neutral with regard to the creation or elimination of jobs within the State.

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

The cumulative effects of the changes statewide are expected to be neutral with regard to the creation of new businesses or the elimination of existing businesses within the State.

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

The cumulative effects of the changes statewide are expected to be neutral with regard to expansion of businesses currently doing business within the State.

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

The cumulative effects of the changes statewide are expected to be neutral with regard to the health and welfare of California residents.

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

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

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

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

- (g) Other Benefits of the Regulation:

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

## Informative Digest/Policy Statement Overview

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

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

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

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

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

#### BENEFITS OF THE PROPOSED ACTION:

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of resource related recreational activities that serve in harmony with federal law respecting conservation of the living resources under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the

management and maintenance of captive raptor populations to ensure their continued existence of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based regulations provides for the health and maintenance of sufficient populations raptors. The Commission additionally anticipates benefits to the captive breeding program as well as the management of the rehabilitation of raptors as needed. The proposed regulation changes are intended to provide increased health and maintenance to the State's falconry program from its recent transition for federal to states oversight. The Commission anticipates benefits to the environment by the sustainable management of California's resources.

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

#### EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

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