6. *NON-TOXIC SHOT REQUIREMENTS – RULE BRIEFING AND PUBLIC HEARING*

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"GREEN SHEET"

Meeting: June 4, 2010

Agenda Item 6: Nontoxic Shot Requirements – **Rule Briefing and Public Hearing**

Prepared By: Mick Cope, Upland Game Section Manager, Wildlife Program

Presented By: Don Kraege, Waterfowl Section Manager, Wildlife Program

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Background:

Department staff will brief the Commission on amendments to WAC 232-12-068 Nontoxic shot requirements.

Lead shot has been prohibited for waterfowl, coot, and snipe hunting since 1991. In addition, WDFW has been converting certain potential problem areas to nontoxic shot zones since 2001. These restrictions have been based on qualitative field assessments to identify areas with a high potential for ingestion of lead shot by wildlife, from activities on the areas unrelated to hunting for waterfowl, coot, and snipe. For certain Department-owned lands where wildlife has a higher probability of consuming lead shot, the Department has prohibited the possession of lead shot for any reason.

At the April 2009 Commission meeting, the Department committed to continue adding potential problem areas to the list of nontoxic shot zones, as well as improving education about nontoxic shot and converting all pheasant release sites to nontoxic shot use by 2011. Based on this commitment, the Department is recommending that two sites be added to the list of areas where the public is required to possess only nontoxic shot. Both the Davis Creek (Koopman) and Chehalis Units of the South Puget Sound Wildlife Area have substantial wetlands that are feeding areas for waterfowl. Davis Creek (Koopman) is a relatively new acquisition in proximity to the Chehalis Unit of the South Puget Sound Wildlife Area, and both sites currently allow the use of lead shot except for waterfowl, coot, and snipe hunting. To avoid potential lead shot poisoning of wildlife, all users should be required to utilize nontoxic shot on these areas. This change would require all hunters, dog trainers, field trial participants, and target shooters to possess only nontoxic shot while on these areas. In addition to this proposed change, amendments are proposed to the list of nontoxic shot types to remain consistent with federally approved nontoxic shot types, by adding a new nontoxic shot type (tungsten-iron-polymer).

Policy Issue(s) you are bringing to the Commission for consideration:

- Expanded nontoxic shot requirements on areas owned by the Department to reduce risk of wildlife health issues associated with lead shot ingestion.
- Prohibition of lead shot possession on certain areas owned by the Department.

Public involvement process used and what you learned:

Notification was mailed to approximately 450 organizations and individuals informing them of the opportunity to provide comments on the proposed rules. Beginning in 2008, the Department conducted an extensive public involvement process to develop the 2009-11 three-year hunting season cycle recommendations, including nontoxic shot rule amendments. Several alternatives to

amend nontoxic shot rules were discussed at more than ten public meetings held throughout the state in August and September 2008. Nearly 5,000 people commented on all three-year package alternatives, which were presented at the public meetings and available online for approximately seven weeks. In early January 2009, an email was sent to over 50,000 hunters announcing that the proposed recommendations were online and would be available for comment. At the same time, a postcard was mailed to approximately 800 organizations and individuals informing them of the opportunity to provide comments on the proposed regulations. Advisory groups were utilized throughout the process to establish the 2009-11 three-year hunting season cycle recommendations.

Action requested (identify the specific Commission decisions you are seeking):

Take public comment. Rule action is planned for the August 2010 Commission Meeting

Draft motion language:

NA

Justification for Commission action:

NA

Communications plan:

- News release
- Website
- Hunting Pamphlet
- Washington State Register

WAC 232-12-068 Nontoxic shot requirements. (1) It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for waterfowl, coot, or snipe. Nontoxic shot includes the following approved types:

Approved Nontoxic Shot Type*	Percent Composition by Weight
bismuth-tin	97 bismuth, 3 tin
iron (steel)	iron and carbon
iron-tungsten	any proportion of tungsten, >=1 iron
iron-tungsten-nickel	>=1 iron, any proportion of tungsten, up to 40 nickel
tungsten-bronze	51.1 tungsten, 44.4 copper, 3.9 tin, 0.6 iron; and 60 tungsten, 35.1 copper, 3.9 tin, 1 iron
tungsten-iron-copper-nickel	40-76 tungsten, 10-37 iron, 9-16 copper, 5-7 nickel
tungsten-matrix	95.9 tungsten, 4.1 polymer
tungsten-polymer	95.5 tungsten, 4.5 nylon 6 or 11
tungsten-tin-iron	any proportions of tungsten and tin, >=1 iron
tungsten-tin-bismuth	any proportions of tungsten, tin, and bismuth
tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, 2.8 nickel
tungsten-iron-polymer	41.5-95.2 tungsten, 1.5-52.0 iron, and 3.5-8.0 fluoropolymer
*Coatings of copper, nickel, tin, zinc, zinc chloride, and zinc chrome on approved nontoxic shot types also are approved.	

The director may adopt additional nontoxic shot types consistent with federal regulations.

(2) It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot in the

following areas:

Well's Wildlife Area (Bridgeport Bar Unit)

Cowlitz Wildlife Area (all units)

Whatcom Wildlife Area (all units)

Shillapoo Wildlife Area (all units)

Skagit Wildlife Area (all units)

Snoqualmie Wildlife Area (all units)

Sunnyside-Snake River Wildlife Area (Headquarters, Byron and Windmill Ranch units)

Sinlahekin Wildlife Area (Driscoll Island, Hegdahl, and Kline Parcel units)

~~John's River~~Olympic Wildlife Area (Chinook and Chehalis Units)

South Puget Sound (Davis Creek (Koopman) Unit).

(3) It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading), other than nontoxic shot, when hunting for upland game birds (pheasants, quail, chukar, or gray partridge), mourning doves, band-tailed pigeons, or game animals in the following areas:

Chehalis River pheasant release site

Dungeness Recreation Area

Hunter Farms pheasant release site

Raymond Airport pheasant release site

Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge

All Whidbey Island pheasant release sites

(4) Beginning in 2011, it is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading), other than nontoxic shot, when hunting for upland game birds (pheasant, quail, chukar, and gray partridge), mourning doves, band-tailed pigeons, on areas where pheasants are released, to include:

Asotin Wildlife Area (Hartsock Unit)	Chelan Wildlife Area (Chelan Butte and Swakane units)	Columbia Basin Wildlife Area (Banks Lake, Gloyd Seeps, Lower Crab Creek, Quincy Lakes, Warden units)
Sinlahekin Wildlife Area (Chiliwist Unit)	Colockum Wildlife Area (Headquarters Unit)	Wenas Wildlife Area (Wenas Unit)
Klickitat Wildlife Area (Hill Road Unit)	Scatter Creek Wildlife Area	Sherman Creek Wildlife Area
Skookumchuck Wildlife Area	Steamboat Rock, Fishtrap, John Henley, Willow Bar, Rice Bar, Hartsock, Mill Creek, Wallula, Peninsula, Hollebeke/Lost Island, Buckshot, Big Flat, and Ringold Pheasant Release sites	Fort Lewis Belfair Woodland Creek and Lincoln Creek Pheasant Release sites

[Statutory Authority: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210, 77.12.150, 77.12.240. 09-09-083 (Order 09-53), § 232-12-068, filed 4/15/09, effective 5/16/09. Statutory Authority: RCW 77.12.047, 77.12.020. 08-01-052 (Order 07-292), § 232-12-068, filed 12/13/07, effective 1/13/08. Statutory Authority: RCW 77.12.047. 06-16-133 (Order 06-181), § 232-12-068, filed 8/2/06, effective 9/2/06; 05-17-098 (Order 05-174), § 232-12-068, filed 8/15/05, effective 9/15/05; 03-16-030 (Order 03-165), § 232-12-068, filed 7/29/03, effective 8/29/03; 03-13-047 (Order 03-129), § 232-12-068, filed 6/12/03, effective

7/13/03. Statutory Authority: RCW 77.12.040. 01-17-092 (Order 01-157), § 232-12-068, filed 8/20/01, effective 9/20/01. Statutory Authority: RCW 77.12.040, 77.12.020, 77.32.070, 77.32.530. 01-10-048 (Order 01-69), § 232-12-068, filed 4/26/01, effective 5/27/01. Statutory Authority: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780. 00-11-137 (Order 00-50), § 232-12-068, filed 5/23/00, effective 6/23/00. Statutory Authority: RCW 77.12.040. 99-17-034 (Order 99-118), § 232-12-068, filed 8/11/99, effective 9/11/99; 98-17-044 (Order 98-152), § 232-12-068, filed 8/13/98, effective 9/13/98; 97-18-026 (Order 97-164), § 232-12-068, filed 8/25/97, effective 9/25/97. Statutory Authority: RCW 77.12.040 and 77.12.010. 96-18-009 (Order 96-127), § 232-12-068, filed 8/22/96, effective 9/22/96. Statutory Authority: RCW 77.12.040. 95-18-072 (Order 95-126) § 232-12-068, filed 9/1/95, effective 10/2/95.]

WAC 232-12-068 Nontoxic Shot Requirements

RECOMMENDED ADJUSTMENTS

The following adjustments are proposed since the Code Reviser (CR 102) filing and are already included in your notebook.

Page 1

- List of nontoxic shot types amended to include tungsten-iron-polymer shot, recently approved by U. S. Fish and Wildlife Service.

PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

☒ **Preproposal Statement of Inquiry was filed as WSR** 10-04-126 on 2/3/2010**; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____**; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR** _____
☐ **Continuance of WSR** _____

Title of rule and other identifying information: (Describe Subject)
Hunting Rules and Falconry Management – See Attachment A

Hearing location(s):
Red Lion Inn at the Park
303 W North River Drive
Spokane, Washington 99201

Date: June 4-5, 2010 Time: 8:00 a.m.

Submit written comments to:
Name: Wildlife Program Commission Meeting Public Comments
Address: 600 Capitol Way North, Olympia WA 98501-1091

e-mail Wildthing@dfw.wa.gov
fax (360) 902-2162 by (date) May 14, 2010

Assistance for persons with disabilities: Contact

Susan Yeager by May 25, 2010

TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: August 6-7, 2010
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
See Attachment A

Reasons supporting proposal:
See Attachment A

Statutory authority for adoption: 77.12.047, 77.12.210

Statute being implemented: 77.12.047, 77.12.210

Is rule necessary because of a:

Federal Law?		
Federal Court Decision?	☒ Yes	☐ No
State Court Decision?	☐ Yes	☒ No
If yes, CITATION:	☐ Yes	☒ No

CFR Title 50, Part 21, Subpart C, Section 21.29; Migratory Bird Treaty Act

DATE
April 20, 2010

NAME (type or print)
Lori Preuss

SIGNATURE
Lori Preuss

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 21, 2010
TIME: 9:47 AM

WSR 10-09-104

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None.

Name of proponent: (person or organization)
Washington Department of Fish and Wildlife

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Dave Brittell	Natural Resources Building, Olympia	(306) 902-2504
Implementation....	Dave Brittell	Natural Resources Building, Olympia	(360) 902-2504
Enforcement.....	Bruce Bjork	Natural Resources Building, Olympia	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No. Explain why no statement was prepared.

Previous rule making for falconry has had no impact on small businesses. This is primarily a non-profit recreational activity for 230 falconers. For the small number of commercial raptor propagators, there will be reduced state regulation involvement with them, because the WDFW will be eliminating the requirement for a state falconry permit. Currently there is a redundant legal requirement for both state and federal propagation permits. When the new state regulations are adopted, propagation permits and propagation administration in Washington will be the sole responsibility of the U.S. Fish and Wildlife Service.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No: Please explain: These rules are not related to hydraulics regulations.

ATTACHMENT A

WAC 232-12-069 Non-toxic shot requirements.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The Department is recommending two sites be added to the list of sites where the public is required to possess only non-toxic shot – Davis Creek (Koopman) Unit and Chehalis Unit of the South Puget Sound Wildlife Area. While waterfowl hunters are already required to use non-toxic shot, this change will require all users, including upland bird hunters, dog trainers, field trial participants, and target shooters, to use non-toxic shot.

Reasons supporting proposal:
Both the Davis Creek (Koopman) and Chehalis Units of the South Puget Sound Wildlife Area have substantial wetlands that act as feeding areas for waterfowl. To avoid potential lead shot ingestion and to protect waterfowl resources, users should be required to utilize non-toxic shot.

WAC 232-30 Falconry regulations.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
Revise existing and create new state falconry regulations to conform with new federal falconry regulations. Update and amend existing state regulations to reflect changes in conservation needs, add simplicity, and eliminate irrelevant language and inconsistencies. Staff time to administer falconry will be reduced by new rules. The new regulations will be easier for falconers to read and understand.

A new chapter is created to consolidate amended existing and new regulations into a better organized series of grouped sections and subsections.

Reasons supporting proposal:
Falconry and management of birds of prey are jointly regulated by the U.S. Fish and Wildlife Service (USFWS) and the Washington Department of Fish and Wildlife (WDFW). A state may promulgate its own falconry regulations; however, they must be consistent with federal regulations' minimum standards. State regulations may be more restrictive than federal regulations. In order for the WDFW to continue falconry as a legally permitted activity and in order to be certified as a state in which falconry is permitted by the USFWS, the WDFW falconry regulations must be revised to be consistent and in compliance with federal regulations.

WAC 232-16-690 Bayview Game Reserve

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The purpose of the proposal is to repeal the Bayview Game Reserve rule, eliminating a reserve that is not functioning as designed.

Reasons supporting proposal:
The Bayview Game Reserve was established on the east shore of Padilla Bay (Skagit County) in 1983 to benefit brant geese. Since that time, brant have shifted their use patterns and utilize the reserve only infrequently. Repeal of the Bayview Game Reserve rule would allow for increased public duck hunting access to shoreline in the Padilla Bay area.

AMENDATORY SECTION (Amending Order 09-53, filed 4/15/09, effective 5/16/09)

WAC 232-12-068 Nontoxic shot requirements. (1) It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for waterfowl, coot, or snipe. Nontoxic shot includes the following approved types:

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tungsten-iron-copper-nickel	40-76 tungsten, 37 iron, 9-16 copper, 5-7 nickel
tungsten-matrix	95.9 tungsten, 4.1 polymer
tungsten-polymer	95.5 tungsten, 4.5 nylon 6 or 11
tungsten-tin-iron	any proportions of tungsten and tin, >=1 iron
tungsten-tin-bismuth	any proportions of tungsten, tin, and bismuth
tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, 2.8 nickel
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The director may adopt additional nontoxic shot types consistent with federal regulations.

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Snoqualmie Wildlife Area (all units)
Sunnyside-Snake River Wildlife Area (Headquarters, Byron and

Windmill Ranch units)

Sinlahekin Wildlife Area (Driscoll Island, Hegdahl, and Kline Parcel units)

((~~John's River~~)) Olympic Wildlife Area (Chinook and Chehalis units)

South Puget Sound Wildlife Area (Davis Creek (Koopman) Unit).

(3) It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading), other than nontoxic shot, when hunting for upland game birds (pheasants, quail, chukar, or gray partridge), mourning doves, band-tailed pigeons, or game animals in the following areas:

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Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge

All Whidbey Island pheasant release sites

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Sinlahekin Wildlife Area (Chiliwist Unit)	Colockum Wildlife Area (Headquarters Unit)	Wenas Wildlife Area (Wenas Unit)
Klickitat Wildlife Area (Hill Road Unit)	Scatter Creek Wildlife Area	Sherman Creek Wildlife Area
Skookumchuck Wildlife Area	Steamboat Rock, Fishtrap, John Henley, Willow Bar, Rice Bar, Hartsock, Mill Creek, Wallula, Peninsula, Hollebeke/Lost Island, Buckshot, Big Flat, and Ringold Pheasant Release sites	Fort Lewis Belfair Woodland Creek and Lincoln Creek Pheasant Release sites

Chapter 232-30 WAC

FALCONRY REGULATIONS

NEW SECTION

WAC 232-30-100 Falconry and captive propagation of raptors permitted. (1) The director may issue permits for the taking and possession of a raptor for the purpose of falconry, captive live propagation, and for the possession, transfer, use and disposition of adult birds, except for those species restricted by the state or that appear on the federal endangered species list. However, progeny of a federally threatened or endangered raptor held legally before November 10, 1978, may be retained for falconry use under these regulations.

(2) It is unlawful to take or possess a raptor or raptor eggs without a permit from the director and/or the U.S. Fish and Wildlife Service. It is unlawful to violate the conditions of a permit issued under this rule.

NEW SECTION

WAC 232-30-110 Revocation, modifications or suspension of falconry permits. A permit issued hereunder may be revoked, modified, or suspended by the director for cause. Cause shall include, but is not limited to, the failure to provide adequate falconry facilities and equipment or the failure to provide adequate care, feed, or maintenance for a raptor or for inhumane treatment of a raptor.

NEW SECTION

WAC 232-30-120 Falconry definitions. "Abatement" is the use of trained raptors to abate depredation problems caused by migratory birds and other wildlife.

"Captive-bred raptor" means the progeny of a mating of raptors in captivity.

"Falconry" means the possession and use of raptors for the purpose of hunting or free flight training.

"Hacking" is the release, sometimes temporary, of a raptor held for falconry to the wild so that it must survive on its own.

"Hybrid" means offspring of birds of two or more distinct species listed in the U.S. Fish and Wildlife 50 C.F.R. § 10.13 or offspring of birds recognized by ornithological authorities as two or more distinct species listed in the U.S. Fish and Wildlife 50 C.F.R. § 10.13.

"Imp" is to cut a broken or damaged feather and replace it with an undamaged feather.

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

"Raptor" means a migratory bird of the Order Falconiformes or the Order Strigiformes listed in the U.S. Fish and Wildlife 50 C.F.R. § 10.13, including the bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*).

"Take" means to trap or capture or attempt to trap or capture a raptor from the wild.

NEW SECTION

WAC 232-30-130 Permits to practice falconry. (1) Applicants for a Washington falconry permit must complete and submit an application form from the department. An applicant must meet state residency requirements for Washington.

(2) The temporary possession and short-term handling of a raptor, such as letting any other person hold or practice flying a raptor possessed under a Washington falconry permit, is not possession for the purposes of this section if the handler is under the permitted falconer's supervision. Falconry observers are not required to possess a falconry permit or a hunting license.

(3) For determining possession and take of raptors for falconry, a regulatory year is the calendar year starting January 1st and ending the following December 31st.

(4) A resident of Washington must have a valid Washington falconry permit to take, possess raptors for falconry, or to engage in the practice of falconry. In order to release a falconry raptor to pursue or hunt, depending on the type of game hunted, a resident falconer will need resident state and tribal hunting licenses, permits, stamps, and a Federal Migratory Bird Hunting and Conservation Stamp (a "Duck Stamp").

(5) Falconry permits shall be valid from the date issued until the date of expiration on the permit. The permit will be valid for

a maximum period of two years to expire on December 31st. For determining possession and take of raptors for falconry, a year is the calendar year starting January 1st and ending the following December 31st.

(6) A falconer must have permit(s) or legible copies of them in immediate possession if he/she is not at the location of his/her falconry facilities and are trapping, transporting, displaying, or engaging in falconry.

NEW SECTION

WAC 232-30-140 Reporting falconry activities. (1) Throughout this chapter, reporting of falconry activities is a requirement of regulations. All raptor acquisitions, captures, purchases, gifting, sales, transfers, releases, escapes, loss by death, and all other changes in raptor status are to be reported to the department and the U.S. Fish and Wildlife Service. Reporting will be done by filing a U.S. Fish and Wildlife Service Form 3-186A with both agencies.

(2) The form may be submitted directly to the U.S. Fish and Wildlife Service to a national computer electronic reporting system on-line via the web site http://permits.fws.gov/186A. The department accesses information from that data base to satisfy the state reporting requirement. For those who do not wish to submit electronic reports, the department will accept paper forms with a charge for an administrative processing fee per paper form and will enter the falconry transaction into the U.S. Fish and Wildlife Service data base.

(3) A falconer is required to keep copies of all electronic data base submissions or paper forms documenting take, transfer, loss, rebanding, or microchipping of each falconry raptor until five years after a falconry raptor transaction.

NEW SECTION

WAC 232-30-151 Apprentice falconer classes of permit and permitted raptors. (1) An applicant for an apprentice falconry permit must be at least twelve years of age. If under eighteen years of age, a parent or legal guardian must sign the application and will be legally responsible for the apprentice falconer's activities.

(2) An applicant must correctly answer at least eighty percent of the questions on an examination administered by the department, or provide proof of having previously held a valid apprentice

falconry permit. The examination will cover care and handling of falconry raptors, state and federal regulations relevant to falconry, and other appropriate subject matter.

(3) An applicant must submit a letter to the department from a general falconer or a master falconer, who is at least eighteen years of age with at least two years experience at the general falconer level, stating that he/she has agreed to be a sponsor to assist the applicant in learning about the husbandry and training of raptors held for falconry, relevant wildlife laws and regulations, and in deciding what permitted raptor species is appropriate to possess while an apprentice falconer.

(4) The applicant must submit an original, signed certification incorporated into the department application form, and is worded as follows: *I certify that I have read and am familiar with Washington and U.S. Fish and Wildlife Service falconry regulations, and the federal Migratory Bird Treaty Act, 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 cancellation of the application and/or criminal penalties.*

(5) An apprentice falconer may not intentionally capture a raptor species that this permit classification does not allow to possess for falconry. Any raptor captured, that an apprentice falconer is not permitted to take must be released immediately.

(6) Regardless of the number of state, tribal, or territorial falconry permits an apprentice falconer may have, no more than one raptor may be possessed for use in falconry.

(7) An apprentice falconer may take a red-tailed hawk (*Buteo jamaicensis*) or a kestrel (*Falco sparverius*) from the wild in Washington. An apprentice may possess a red-tailed hawk (*Buteo jamaicensis*), kestrel (*Falco sparverius*), or a Harris' hawk (*Parabuteo unicinctus*) for falconry.

(8) An apprentice falconer may use captive-bred individuals of the species permitted to possess.

(9) A wild raptor may be transferred to an apprentice.

(10) An apprentice falconer may not possess a nestling raptor taken from the wild and may not possess a bird that is imprinted on humans.

(11) An apprentice falconer may take a free flying permitted raptor species less than one year of age from the wild during any period.

(12) Exotic, nonnative North American species of raptors that are not listed in the federal Migratory Bird Treaty Act are not covered under these regulations; however, apprentice falconers may not practice falconry or hunt with exotic raptors. Possession, import, and export of exotics may be subject to other state and federal regulations.

(13) Raptor facilities must pass inspection by the department or its designee before an apprentice falconer applicant is granted a permit.

NEW SECTION

WAC 232-30-152 General falconer classes of permit and permitted raptors. (1) An applicant for a general falconry permit must be at least sixteen years of age. If sixteen or seventeen years of age, a parent or legal guardian must sign the application and will be legally responsible for the general falconer's activities until the age eighteen years.

(2) An applicant must submit a document from a general falconer or master falconer (preferably an apprentice's sponsor to the department stating that the applicant has practiced falconry at the apprentice falconer level or equivalent for at least two years, including maintaining, training, flying, or hunting the raptor(s) for at least four months in each year. That practice may include capture and release of falconry raptor(s). The applicant may provide proof of a previously held valid general falconry permit. Falconry school program or education is not acceptable to shorten the period of two years at the apprentice falconer level.

(3) A general falconer may not intentionally capture a raptor species that this permit classification does not allow to possess for falconry. Any raptor captured, that a general falconer is not permitted to take must be released immediately.

(4) A general falconer, may take raptors less than one year of age from the wild during any period. However, an American kestrel or owl of any age may be taken from the wild during any period.

(5) Regardless of the number of state, tribal, or territorial falconry permits a general falconer may have, no more than three raptors may be possessed for use in falconry.

(6) A general falconer may take the following species of raptors from the wild in Washington: Red-tailed hawk (*Buteo jamaicensis*), kestrel (*Falco sparverius*), merlin (*Falco columbarius*), prairie falcon (*Falco mexicanus*), gyrfalcon (*Falco rusticolus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), goshawk (*Accipiter gentilis*), great horned owl (*Bubo virginianus*), barred owl (*Strix varia*).

(7) A general falconer may possess any species of Falconiform or Strigiform lawfully taken from out-of-state, except a golden eagle (*Aguila chrysaetos*), a bald eagle (*Haliaeetus leucocephalus*), a white-tailed eagle (*Haliaeetus albicilla*), or a Steller's sea-eagle (*Haliaeetus pelagicus*). A general falconer may use captive-bred individuals or hybrids of the species you are allowed to possess.

(8) Exotic, nonnative North American species of raptors that are not listed in the federal Migratory Bird Treaty Act are not covered under these regulations; however, general falconers may practice falconry or hunt with exotic raptors unless otherwise prohibited. Possession, import, and export of exotics may be subject to other state and federal regulations.

NEW SECTION

WAC 232-30-153 Master falconer classes of permit. (1) An applicant for a master falconry permit must attest and/or provide evidence of having practiced falconry with his/her own raptor(s) at the general falconer level for at least five years, or provide proof of previously holding a valid master falconry permit.

(2) A master falconer may not intentionally capture a raptor species that this permit classification does not allow to possess for falconry. Any raptor captured, that a master falconer is not permitted to take, must be released immediately.

(3) A master falconer, may take raptors less than one year of age from the wild during any period. However, an American kestrel or owl of any age may be taken from the wild during any period.

(4) Regardless of the number of state, tribal, or territorial falconry permits a master falconer may have, no more than five raptors may be possessed for use in falconry, including golden eagles (*Aguila chrysaetos*). A master falconer may possess any number of captive-bred raptors; however, the master falconer must train them in the pursuit of wild game and use them in hunting.

(5) A master falconer may take the following species of raptors from the wild in Washington: Red-tailed hawk (*Buteo jamaicensis*), kestrel (*Falco sparverius*), merlin (*Falco columbarius*), prairie falcon (*Falco mexicanus*), peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), goshawk (*Accipiter gentilis*), great horned owl (*Bubo virginianus*), barred owl (*Strix varia*).

(6) Nestling, post fledgling, or passage peregrine falcons may be taken by a master falconer who possesses, at the time of capture, a permit from the department authorizing such capture in accordance with federal regulations and implementation guidance set forth by the U.S. Fish and Wildlife Service regarding the falconry take in the United States. The number and age class of peregrine falcons to be captured in Washington will be determined by the director in accordance with federal regulations or implementation guidance, may vary annually in response to population and productivity data, and as a participant in actions of the Pacific Flyway Council. The director will establish permit issuance procedures, capture monitoring requirements, and open areas for the capture of nestling peregrine falcons.

(7) A master falconer may possess any species of Falconiform or Strigiform lawfully taken from out-of-state, except a bald eagle (*Haliaeetus leucocephalus*).

(8) A master falconer who meets the requirements in this section may possess up to three eagles of the following species for use in falconry: Golden eagle (*Aguila chrysaetos*), white-tailed eagle (*Haliaeetus albicilla*), or Steller's sea-eagle (*Haliaeetus pelagicus*). A master falconer may possess any captive-bred individuals, or hybrids of any species.

(9) The department must have the following documented by a master falconer before approving a request to possess an eagle to

use in falconry:

(a) Experience in handling large raptors, such as eagles, ferruginous hawks (*Buteo regalis*), goshawks (*Accipiter gentilis*), great horned owls (*Bubo virginianus*), red-tailed hawks (*Buteo jamaicensis*), or others. Include information about which species have been handled, the type, and duration of the activity in which experience was gained.

(b) At least two letters of reference from people with experience handling and/or flying large raptors. Each must contain a concise history of the author's experience with large raptors, which can include, but is not limited to, falconry, propagation, abatement, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter must also assess the master falconer's capability to care for eagles and fly them in falconry.

(10) A golden eagle, white-tailed eagle, or Steller's sea-eagle in possession will count as one of the five raptors a master falconer is allowed to possess for use in falconry.

(11) Exotic, nonnative North American species of raptors that are not listed in the federal Migratory Bird Treaty Act are not covered under these regulations; however, master falconers may practice falconry or hunt with exotic raptors unless otherwise prohibited. Possession, import, and export of exotics may be subject to other state and federal regulations.

NEW SECTION

WAC 232-30-160 Reinstatement of an expired falconry permit. (1) If a permit has expired for less than five years, it will be reinstated at the level held previously.

(2) If a permit has expired for five years or more, the permittee must correctly answer at least eighty percent of the questions on the Washington falconry examination. If the falconer passes the test, his/her permit may be reinstated at the previously held level. The reinstated falconer's facilities must pass inspection by the department or its delegate prior to possession of a falconry raptor.

NEW SECTION

WAC 232-30-171 New Washington residents from outside the United States. (1) A new Washington resident from outside the United States may qualify for a falconry permit appropriate for his/her experience. The falconer must demonstrate knowledge of

state and federal falconry laws and regulations by correctly answering at least eighty percent of the questions on the Washington falconry examination. If the new falconer passes the test, the department will decide for which level of falconry permit he/she is qualified, consistent with the class requirements for a falconry permit in these regulations.

(2) In addition to passing the examination, the department will base its decision for permit issuance on documentation of the falconer's experience and any other pertinent material and supportive documents provided by the falconer or a third party. The falconer's facilities must meet the standards in these regulations and be inspected prior to receiving a Washington falconry permit.

NEW SECTION

WAC 232-30-172 Nonresident falconers in Washington. (1) Nonresident falconers may be authorized to practice falconry in Washington. The nonresident falconer must present legal proof to the department demonstrating their possession of a valid permit to possess raptors and practice falconry in their home state, tribe, or country. The nonresident may possess, transport through the state, fly, practice falconry, or hunt with legal raptors held under the authority of such permit in Washington.

A falconer from another country may need federal permits to bring a raptor into the United States to be legally possessed in Washington.

(2) Falconry raptors may be imported into the state if a health certificate is in the possession of the importer. When flown free, any raptor brought into Washington temporarily must have two attached radio transmitters.

(3) In order to release a falconry raptor to pursue game, or hunt, depending on the type of game hunted, a nonresident falconry permit holder is required to purchase appropriate nonresident state hunting licenses, permits, tags, Washington Bird Stamp, migratory bird validation, and a federal Migratory Bird Hunting and Conservation Stamp.

(4) Nonresident falconers may be authorized to capture one legal raptor per year in Washington with the requirement to purchase a nonresident raptor capture permit. A premium Class 1 nonresident raptor capture permit may authorize a nonresident falconer to capture a peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or goshawk (*Accipiter gentilis*). A basic Class 2 nonresident raptor capture permit may authorize a nonresident falconer to capture any other raptor authorized for capture in Washington.

(5) The taking of a legal raptor by a nonresident must comply with Washington regulations for the appropriate class of falconer.

The nonresident raptor capture permit shall be valid for one year.

NEW SECTION

WAC 232-30-173 Falconers moving to Washington. (1) If a falconer with a valid falconry permit issued by another state, territory, or tribe moves to Washington with the intent to establish residency, he must notify the department to apply for a falconry permit after ninety days of residency in Washington.

(2) Prior to being issued a Washington falconry permit, the falconer may continue to hold all birds which were legally held prior to his move. The department will issue an appropriate class of permit based on the out-of-state permit and experience the applicant has possessed.

(3) Until the falconer has established official residency and a Washington permit has been issued, or until the permit expiration date occurs, the department will continue to recognize a valid permit issued from another state.

NEW SECTION

WAC 232-30-174 Falconers moving out of Washington. The department will continue to recognize as valid, a Washington falconer's permit for a falconer who has moved out-of-state until he/she has established official residency in the new state.

NEW SECTION

WAC 232-30-175 A resident Washington falconer may take a falconry raptor out-of-state or to another state or country. If the raptor dies or is lost, the falconer must report the loss to the department immediately upon return to Washington.

NEW SECTION

WAC 232-30-210 Take from the wild. (1) A falconer is responsible for reporting take of a raptor from the wild no later than ten days after the capture of the bird.

(2) A falconer may take no more than two raptors from the wild each year to use in falconry during any period of the year.

(3) The number of wild-caught or captive-bred raptors transferred is not restricted, but a falconer may not exceed the possession limit of his/her class of falconry.

(4) A falconer may recapture a falconry bird that he/she lost at any time. The recapture will not be considered a new take of a wild bird.

(5) If a falconer transfers a raptor taken from the wild to another permittee in the same year in which it is captured, the raptor will count as one of the raptors the falconer is 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.

NEW SECTION

WAC 232-30-215 Capture of marked raptors. (1) A raptor wearing falconry equipment or a captive-bred bird at any time may be captured even if the falconer capturing it is not authorized to possess the species. The falconer must report the capture of a bird wearing equipment or a captive-bred bird that is not his/her own to the department no more than five working days after the capture.

(2) The recaptured falconry bird must be returned to the person who lost it, if that person is authorized to possess it. If that person cannot possess the bird or does not wish to possess it, it may be kept by the falconer who captured it without it counting as a wild take, but he/she must be authorized to possess it.

(3) Disposition of a bird whose legal possession cannot be determined will be at the discretion of the department. While the falconer who captured the raptor may hold a raptor for return to the person who lost it, the raptor will not count against his/her possession limit.

(4) With the exception of a banded peregrine falcon, a falconer may take any raptor authorized for his/her possession from the wild if the raptor is banded with a Federal Bird Banding Laboratory aluminum band.

(5) If a falconer captures a peregrine falcon with a research band, such as a colored band with alphanumeric codes, or a research marker attached to it, it must be immediately released. If the falcon has a transmitter attached to it, the capturing falconer is authorized to possess the bird up to thirty days to allow time to contact the researcher to determine if he/she wants to replace the

transmitter or its batteries. If the researcher wants to do so, or to have the transmitter removed, the researcher or his or her designee may make the change or allow the capturing falconer to do so before the bird is released. If the researcher does not want to keep the transmitter on the falcon, the raptor may be kept if it was captured in circumstances in which capture of wild peregrines is allowed.

(6) If a falconer captures any other species of raptor that has any band, research marker, or transmitter attached to it, the band numbers and all other relevant information must be promptly reported to the Federal Bird Banding Laboratory at 1-800-327-2263. If the raptor has a transmitter attached to it, the capturing falconer is authorized to possess the bird up to thirty days to allow time to contact the researcher to determine if he/she wants to replace the transmitter or its batteries. If the researcher wants to do so, or to have the transmitter removed, the researcher or his or her designee may make the change or allow the capturing falconer to do so before the bird is released. If the researcher does not want to keep the transmitter on the raptor, the raptor may be kept if it was captured in circumstances in which capture of that species of wild raptor is allowed.

NEW SECTION

WAC 232-30-220 Designation as a wild raptor. Raptors removed from the wild for falconry are always considered "wild" taken raptors. No matter how long the raptor is held in captivity or whether it is transferred to another permittee or permit type, its status is always a "wild" taken raptor. It is considered to be taken from the wild only by the person who originally captured it for the purposes of the number of wild raptors a falconer may take in a year. For the purposes of the number of wild raptors a falconer may take in a year, this raptor will not count against that number for the subsequent falconers to whom it is legally transferred.

NEW SECTION

WAC 232-30-222 Take of nestling at nest site. (1) It is unlawful to remove an immature raptor from a nest unless one or more live immature raptors remain in the nest after such removal.

(2) A person other than a permitted falconer may climb to a raptor nest and remove a nestling for the falconer, but only with the falconer present at the nest site.

(3) The falconer permittee taking a raptor must be present at the capture site. The permittee is considered the person who removes the bird from the wild even if a proxy climber, or other person, captures the bird for you. The permittee is responsible for reporting take of the bird from the wild.

(4) If a falconer is not at the immediate location where a raptor is taken from the wild for him/her, 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 another falconer, the originating falconer must report the transaction no later than ten days after the take of the raptor. The raptor will count as one of the two wild raptors that a falconer is allowed to capture in any year. The bird will not count as a bird taken from the wild by the recipient. The falconer who takes the raptor from the wild must report the take even if he/she promptly transfers it to another falconer.

(5) If a falconer has a long-term or permanent physical impairment or disability that prevents him/her from attending the capture of a raptor, a general or master falconer may capture a bird for that falconer. The disabled falconer is responsible for reporting take of the bird from the wild, and the bird will count against the take of wild raptors he/she is allowed to take in any year. It will not count against the annual wild take for the falconer who captured the bird for the disabled falconer.

NEW SECTION

WAC 232-30-224 Raptors injured due to falconer trapping efforts. (1) There are two options for dealing with a raptor injured by your trapping efforts. In either case, the falconer involved with the capture is responsible for the costs of care and rehabilitation of the raptor.

(2) The raptor may be possessed by the falconer and reported within ten days after capture of the raptor. The bird will count against his/her possession limit.

(3) The raptor may be given directly to a veterinarian, a permitted wildlife rehabilitator, or an appropriate department representative or delegate. It will not count against the allowed take or the number of raptors of the falconer.

NEW SECTION

WAC 232-30-230 Acquisition, transfer, release, loss, or rebanding of a raptor. (1) If a raptor is acquired, transferred, rebanded, receives a microchip, released, or lost, it must be reported within ten days.

(2) If a raptor possessed by a falconer is stolen, it must be reported to the department and to the U.S. Fish and Wildlife Service Regional Law Enforcement office within ten days of the theft of the bird.

NEW SECTION

WAC 232-30-232 Acquiring a bird for falconry from a permitted rehabilitator. A raptor of any age and of a species that can be lawfully taken, may be acquired by a falconer directly from a rehabilitator or designee of WDFW. Transfer to the falconer is at the discretion of the department in consultation with the rehabilitator. It must be reported within ten days.

NEW SECTION

WAC 232-30-240 Flying a hybrid raptor in falconry. When flown free, a hybrid raptor must have at least two attached radio transmitters.

NEW SECTION

WAC 232-30-242 Releasing a falconry bird to the wild permanently. (1) A species not native to Washington, or a hybrid of any kind, may not be permanently released to the wild intentionally.

(2) If the species a falconer wants to release is native to Washington and is captive-bred, it may not be released to the wild intentionally without permission from the department. The raptor may be hacked to the wild at an appropriate time of year and an appropriate location. The falconry band, if banded, must be removed, and the falconer shall report the release.

(3) If the species a falconer wants to release is native to Washington and was taken from the wild, it may be released at an

appropriate time of year and an appropriate location. The falconry band, if banded, must be removed and the falconer shall report the release.

NEW SECTION

WAC 232-30-244 Transfer, selling, or trading raptors under a falconry permit. (1) A falconer may purchase, sell, or barter, or offer to sell, purchase, or barter captive-bred or hybrid raptors marked with seamless bands to other falconry permittees who are authorized to possess them.

(2) Wild raptors may not be purchased, sold, traded, or bartered. Exchanging birds with other falconers is not considered to be barter.

(3) A raptor may be transferred to another permit type if the recipient of the bird, which could be the same transferring falconer, possesses the necessary permits for the other activity.

(4) A wild-caught falconry raptor may be transferred to a raptor propagation permit after the raptor has been used in falconry for at least two years, with the exception of one year is allowed for a sharp-shinned hawk, a Cooper's hawk, a merlin, or an American kestrel. Report this transfer within ten days.

(5) A wild-caught falconry raptor may be transferred to another permit type in less than two years with the exception of one 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. Report this transaction within ten days and provide a copy of the certification from the veterinarian or rehabilitator that the bird is not useable in falconry to the department and the U.S. Fish and Wildlife Service.

(6) A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any bird held by the permittee to another authorized permittee within ninety days of the death of the falconry permittee. After ninety days, disposition of a bird held under the permit is at the discretion of the department.

NEW SECTION

WAC 232-30-250 Provisions for accidental take by falconers. (1) When a raptor being used in falconry accidentally takes any species of wildlife (quarry) for which the hunting season is not currently open, the falconer must release the quarry if it is not

seriously injured. If the quarry has been seriously injured or killed, the falconer may not retain or possess the quarry, but the raptor may feed upon the quarry before leaving the site of the kill.

(2) If the accidentally killed quarry is a species identified on the Washington candidate species list (for endangered, threatened, or sensitive status) or specifically identified by the director, or is a federally or state protected species, the falconer shall, before leaving the site of the kill, record upon a form provided by the department, or upon a facsimile, the falconer's name, falconry permit number, date, species and sex (if known) of the quarry, and exact location of the kill. The falconer shall submit the information to the department falconry permit coordinator by April 1st following the close of the current hunting season. A falconer must also report take of any federally listed species to the U.S. Fish and Wildlife Service.

(3) Accidental kill by any falconer in any license year shall not exceed a total of five individuals of any combination of species designated under subsection (2) of this section. Following an accidental kill by any falconer of any species designated under subsection (2) of this section, the falconer shall cease hunting for the day.

(4) Falconers must ensure that their activities do not cause the take of federally or state listed threatened or endangered wildlife, for example, by avoiding flying a raptor in the vicinity of the listed species. Notwithstanding any other section of this rule, take of species designated as endangered, threatened, or sensitive in Washington under WAC 232-12-011 or 232-12-014 is not permitted except by permit from the director.

(5) Violation of this section is an infraction, punishable under RCW 77.15.160.

NEW SECTION

WAC 232-30-260 Closed areas for raptor trapping and practicing falconry. (1) A falconry permit does not authorize you to capture or release raptors or practice falconry on public lands where it is prohibited, on private property without permission from the landowner or custodian, or on tribal lands without permission. Falconry birds may drift from the control of the falconer. It is the responsibility of the falconer to receive permission to enter to retrieve a falconry bird from public land where falconry is prohibited, private land, or tribal lands.

(2) Trapping raptors for falconry is not allowed in the following wildlife area units located in the western half of the Skagit Wildlife Area: Debay and Johnson Slough Unit, Fir Island Farms Reserve Unit, and Headquarters (Skagit) Unit.

NEW SECTION

WAC 232-30-310 Banding or microchip tagging raptors used in falconry. (1) If a falconer takes a goshawk, Harris's hawk, peregrine falcon, or gyrfalcon from the wild or acquires one from a rehabilitator, it must be banded with a permanent, nonreusable, numbered U.S. Fish and Wildlife Service leg band that the department will supply. If desired by the falconer, he/she may purchase and implant an ISO (International Organization for Standardization) compliant (134.2 kHz) microchip in the bird in lieu of a band. Report the action and the band number and/or microchip information within ten days.

(2) A raptor bred in captivity must be banded with a seamless metal band or have an implanted ISO-compliant (134.2 kHz) microchip. If a seamless band is removed, or if it is lost, report it and request a replacement U.S. Fish and Wildlife Service nonreusable band from the U.S. Fish and Wildlife Service. Report the action and the band number and the microchip information within ten days.

(3) If banding a nestling and the raptor is not developed enough to be banded, the band does not need to be applied until the bird has developed sufficiently. During the interim, the band must accompany the bird at all times until the band is placed on the bird.

(4) If the band must be removed or is lost from a raptor in possession, report the loss of the band within five days, and request a replacement U.S. Fish and Wildlife Service nonreusable band from the department. Report the rebanding immediately.

(5) It is unlawful to alter, deface, or counterfeit a band. A falconer may smooth any imperfect surface on the rear tab of a band on a raptor taken from the wild if that action does not affect the integrity of the band or the numbering on it.

(6) If health or injury problems are documented for a raptor in possession that is caused by the band, the department will provide an exemption to the requirement for that raptor. In that case, you the falconer shall keep and possess a copy of the exemption paperwork with him/her when transporting or flying the raptor. If the raptor is a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon, the band must be replaced with an ISO-compliant microchip purchased by the falconer.

(7) A raptor removed from the wild shall not be banded with a seamless numbered band.

NEW SECTION

WAC 232-30-410 Inspections. (1) Falconry, abatement, and propagation raptors, facilities, records, and equipment may be inspected in the presence of a falconry permittee during business

hours, or reasonable time of the day, and on any day of the week by state, federal, or other authorized officials.

(2) All falconers must submit to the department a signed and dated statement showing that you agree that the falconry facilities and raptors may be inspected without advance notice. If your facilities are not on property owned by the falconer, the falconer must submit a signed and dated statement showing that the property owner agrees that the falconry facilities may also be inspected in the presence of the property owner. Inspecting authorities may not enter the facilities or disturb the raptors unless the falconer is present.

NEW SECTION

WAC 232-30-420 Facilities are required for possession of falconry or abatement raptors. (1) Resident and nonresident falconers in Washington are required to provide, and maintain approved facilities for housing raptors used in recreational falconry and abatement.

(2) Raptor facilities shall be approved by the department before a new falconry permittee obtains a raptor or a nonresident imports a raptor into Washington. A nonresident falconer shall submit to the department in advance of importing raptor into the state a description of temporary facilities.

(3) The U.S. Fish and Wildlife Service may establish standards and specifications for raptor propagation facilities.

(4) All raptors held under falconry or abatement permits shall be maintained in humane and healthful conditions.

NEW SECTION

WAC 232-30-430 Falconry facilities on property not owned by falconry permittee. Falconry facilities may be on property owned by another person where a falconer resides, or at a different location.

NEW SECTION

WAC 232-30-440 Facilities and care requirements and guidelines. (1) For housing wild raptors indoors or outdoors, the facility must protect raptors from predators, the environment, and domestic animals. The facility must have a suitable perch for each raptor, at least one opening for sunlight, and must provide a healthy environment for raptors. Untethered raptors may be housed together if they are compatible with each other. 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 attempt to fly while tethered without damaging its feathers or contacting other raptors. Each raptor must have a pan of clean water available.

(2) An indoor facility must be large enough to allow for the care and feeding of raptors kept there. Acceptable indoor facilities include perch enclosures where raptors are tethered side by side. If raptors in an 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

(3) Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and maintain healthy feathers. A falconry raptor or raptors may be kept inside a residence if a suitable perch or perches are provided. If inside a home, windows or other aspects of the structure do not need modification. Raptors kept in a home must be tethered when they are not being moved into or out of the location in which they are kept, exercised, worked with, or trained.

(4) An outdoor facility may be made of wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material. The facility must have at least a covered perch to protect a raptor held in it.

(5) New and different types of housing facilities and/or husbandry practices may be used if they satisfy the basic requirements above.

(6) Falconry raptors may be kept outside in the open if they are under watch, at any location or by a designated individual, for in a weathering yard.

(7) The department must be informed within five business days if the address of falconry facilities change.

NEW SECTION

WAC 232-30-450 Required equipment. A falconer must have appropriate jesses or the materials and equipment to make them, leash and swivel, bath container, and appropriate scales or

balances for weighing raptor(s) in possession.

NEW SECTION

WAC 232-30-460 Facilities for a raptor when in transport, using it for hunting, or are away from facilities, and temporary housing. (1) A raptor must have a suitable perch and is protected from extreme temperatures, wind, and excessive disturbance. A "giant hood" or similar container is an example of an acceptable means for transporting and/or housing a raptor when away from a falconry facility.

(2) A raptor may be temporarily housed outside of your permanent facilities when you are not transporting it or using it for hunting for no more than one hundred twenty consecutive calendar days if the raptor has suitable facilities as described in WAC 232-30-440.

NEW SECTION

WAC 232-30-470 Care of falconry raptors by another person. (1) Another falconry permittee may care for a raptor or raptors for a falconry permittee at the permittee's facilities or at the caregiver's facilities for up to one hundred twenty consecutive calendar days. The caregiver falconer must have a signed and dated statement from the permittee that authorizes the temporary possession of the raptor, plus a copy of FWS Form 3-186A that shows that the permittee is the possessor of the raptor(s). The statement must include information about the time period for which the caregiver will keep the raptor(s), and about what the caregiver is allowed to do with the raptor(s). The raptor(s) will remain on the permittees falconry permit, and will not be counted against the possession limit of the caregiver falconer. If the person caring for the raptor(s) holds the appropriate level falconry permit, he/she may fly the raptor(s) including hunting.

(2) Another person who does not have a falconry permit may care for falconry bird(s) possessed at the permittees facilities for up to forty-five consecutive calendar days. The raptor(s) will remain on the permittees falconry permit. The raptor(s) must remain in the authorized facilities. The person(s) caring for their raptor(s) may not fly them for any reason.

(3) The care of your raptor(s) may be extended by written request to the department in extenuating circumstances, such as illness, military service, or for a family emergency.

NEW SECTION

WAC 232-30-510 Captive propagation of raptors. (1) A Washington falconry permit is required for anyone in the state to possess raptor propagation with permitted native North American raptors. The director will cease to issue a specific raptor propagation permit for captive breeding and rearing of raptors at such time as this regulation becomes effective. Thereafter, the U.S. Fish and Wildlife Service will have the sole responsibility for issuing raptor propagation permits in Washington.

(2) The department may promulgate state regulations for the management of captive raptor propagation in addition to federal regulations for raptor propagation.

(3) Raptors possessed under a falconry permit may be used for captive propagation purposes if the propagator acquired state and U.S. Fish and Wildlife Service falconry permits. It is not necessary to transfer a raptor from a state falconry permit to a U.S. Fish and Wildlife Service propagation permit if the raptor is used for fewer than eight months in a year for captive propagation. The raptor must be transferred by reporting that action, if the raptor is permanently transferred for use in propagation. The raptor bird must then be banded as required by state and federal regulations. With the exception of progeny from wild-caught raptors taken in Washington, the offspring of captive raptors are considered as captive-bred.

(4) Raptors you held under falconry and propagation permits shall be maintained in humane and healthful conditions.

(5) Wild-caught raptors taken in Washington may be used for propagation purposes, progeny shall not be offered for sale or trade.

NEW SECTION

WAC 232-30-520 Hacking of falconry raptors. (1) Hacking is an approved method for falconers and propagators to condition raptors for falconry, rehabilitation, or in preparation for sale of a captive-bred raptor. A general falconer or a master falconer may hack falconry raptors.

(2) Any raptor a falconer intends to hack with intent to continue to possess for recreational falconry counts against the permitted possession limit of a falconer.

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

(4) You may not hack a falconry bird near a nesting area of a state or federally threatened or endangered animal species or in any other location where the raptor is likely to harm a state or federally listed threatened or endangered animal species that might be disturbed or taken by a falconry raptor.

NEW SECTION

WAC 232-30-530 Abatement activities with captive raptors. (1) There is no specific Washington state abatement permit. The U.S. Fish and Wildlife Service has the sole responsibility for issuing special purpose abatement permits in Washington. An abatement operator, or subpermittees thereof, must possess a valid falconry permit from Washington, another state, tribe, or country. A falconry permit is not required for a person who is not engaged in flying a raptor, such as caring for, handling, or otherwise assisting the operator.

(2) An abatement operator, or subpermittees thereof, and raptor handlers, using captive bred origin raptors, may receive payment for providing abatement services if they are listed in a U.S. Fish and Wildlife Service Abatement Permit. Abatement activities shall comply with any federal depredation order/permit and take permits. The abatement operator may be required to possess a Washington permit issued by the director for the take of wildlife (RCW 77.12.240 and 77.36.030). It is the responsibility of the abatement operator to possess all other relevant state and local permits.

(3) A master falconer, may independently conduct abatement activities. A general falconer, may conduct abatement activities only as a subpermittee of the holder of the federal abatement permit. A raptor handler who is not engaged in active flying of the raptor is not required to possess a falconry permit.

(4) Wildlife taken under abatement and depredation permits may be stored and/or used as food for raptors.

NEW SECTION

WAC 232-30-540 Use of falconry raptors in education programs. (1) A general or master falconer may use a raptor in education programs presented in public venues. A permitted falconer does not need a state scientific collection permit or a federal special purpose possession for education permit for public display to conduct education activities using a falconry raptor held under a state, tribal, or territorial falconry permit.

(2) An apprentice falconer may present education programs if under the supervision of a general or master falconer.

(3) A raptor used by a falconer for education must be one primarily used for falconry. A fee for presentation of an education program may be charged. The fee may not exceed the

amount required to recoup your costs.

(4) In presenting conservation education programs, a falconer must provide information about the biology, ecological roles, and needs of raptors or other migratory birds, although not all of these topics must be addressed in every presentation.

NEW SECTION

WAC 232-30-550 Other uses of falconry raptors. (1) Falconry raptors may be used in photography, filming, or other such uses 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, although a falconer may not be paid for doing so.

(2) A falconer may not use falconry raptors to make movies, commercials, or in other commercial ventures that are not related to falconry.

(3) Falconry raptors may not be used 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) A falconry raptor may be used to promote or endorse a nonprofit falconry organization or association.

(b) A falconry raptor may be used 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.

NEW SECTION

WAC 232-30-560 Falconers assisting in rehabilitation of raptors to prepare them for release. (1) A general or master falconer may assist a state and federally permitted migratory bird rehabilitator or the department to treat and condition raptors in preparation for their release to the wild. The rehabilitator must provide you with a letter, note, or form that identifies the bird and explains that you are assisting in its rehabilitation. A falconer may keep a bird undergoing rehabilitation at an approved raptor facility. The facility does not need to meet rehabilitation facility standards. A falconer may assist the department by trapping raptors for rehabilitation or wildlife control for release or rehabilitation.

(2) A raptor possessed for rehabilitation does not need to be added to a falconry permit. It will remain under the rehabilitator's permit.

(3) Any raptor bird that cannot be permanently released to the wild must be returned to the rehabilitator or the department within the one hundred eighty-day time frame in which the rehabilitator is authorized to possess the bird, unless the department authorizes the raptor's detention for longer than one hundred eighty days, or unless the rehabilitator or department transfers the raptor to the falconer to possess or hold under his/her falconry permit.

(4) Before releasing a threatened or endangered migratory bird, you must comply with any requirements for the release from the department and the U.S. Fish and Wildlife Service.

NEW SECTION

WAC 232-30-570 Feathers molted by falconry raptors. (1) A falconer may possess feathers for each species of raptor authorized to possess for as long as the falconer has a valid falconry permit. Falconers may receive feathers of any species authorized to possess from other permitted falconers, wildlife rehabilitators, propagators, or other authorized entities in the United States. Feathers may be exchanged with those entities. Raptor feathers and all feathers of other state and federally protected birds shall not be bought, sold, bartered, or otherwise used for commercial purposes.

(2) A falconer may donate feathers from a falconry bird, except golden eagle feathers, to any person or institution with a valid permit to possess them, or to anyone exempt from a permit requirement for feather possession.

(3) Except for primary or secondary flight feathers or retrices from a golden eagle, as a falconer 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, or destroy them.

(4) A falconer must collect molted flight feathers and retrices from a golden eagle. If the falconer chooses not to keep them for imping, golden eagle feathers must be sent to the National Eagle Repository.

(5) Send all other feathers (including body feathers) collected from any falconry golden eagle, and that are not needed for imping, to the National Eagle Repository.

(6) Any feathers in possession of a falconer whose permit is expired, suspended, or revoked must donate the feathers of any species of falconry raptors, except a golden eagle, to any person or any institution exempt from the permit requirement or authorized by permit to acquire and possess the feathers. If the feathers are not donated, they must be burned, buried, or otherwise destroyed.

NEW SECTION

WAC 232-30-580 Disposition of carcasses of falconry birds that die. (1) The entire body of a golden eagle, including all feathers, talons, and other parts, must be sent to the National Eagle Repository.

(2) The body or feathers of any other species of raptor may be donated to any person or institution exempt or authorized by permit to acquire and possess such parts or feathers.

(3) The body of any raptor, except that of a golden eagle, may be kept so that the feathers are available for imping, or that the body may be mounted by a taxidermist. The mount may be displayed in giving education programs. If the bird was banded, the band must be left on the leg. If the bird has an implanted microchip, the microchip must be left in place.

(4) If the raptor body or feathers are not donated or kept with the falconer, it must be burned, buried, or otherwise destroyed within ten days of the death of the bird or after final necropsy by a veterinarian. Carcasses of euthanized raptors could pose a risk of secondary poisoning scavaging wildlife. A falconer must take appropriate precautions to avoid such poisonings.

(5) If the raptor body and its parts are retained by the falconer, the body and its parts may be possessed for as long as the falconer has a valid falconry permit. Raptor bodies including all parts, and other state and federally protected birds, shall not be bought, sold, bartered, or otherwise used for commercial purposes.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-12-064	Live wildlife.
WAC 232-12-066	Revocation, modification, or suspension of a permit to hold wild animals, wild birds, or game fish in captivity.
WAC 232-12-101	Falconry and captive propagation of raptors permitted.
WAC 232-12-104	Falconry definitions.
WAC 232-12-106	Provisions for accidental take by falconers.
WAC 232-12-107	Falconry permit license required.
WAC 232-12-114	Permit required for capture of raptors.
WAC 232-12-117	Marking and identification of raptors required.
WAC 232-12-121	Reporting requirements for capture, importation, exportation, transfer, or other disposal of raptors.
WAC 232-12-124	Methods of capture and prohibitions in taking raptors.
WAC 232-12-127	Revocation, modifications or suspension of falconry permits.
WAC 232-12-129	Captive propagation of raptors--Sale, records, reports and inspection.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-16-690 Bayview Game Reserve.