

Virginia Department of Game and Inland Fisheries

WILDLIFE DIVERSITY (NONGAME) REGULATIONS

**FINAL STAFF RECOMMENDATIONS
FOR BOARD PROPOSALS**

2010



FALCONRY

4 VAC 15-250. GAME: FALCONRY

4 VAC 15-250-10. Definitions.

4 VAC 15-250-20. Permit conditions.

4 VAC 15-250-30. Classes of permits.

4 VAC 15-250-40. Transportation and temporary holding.

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4 VAC 15-250-60. Taking of raptors.

4 VAC 15-250-70. Possession of raptors.

4 VAC 15-250-80. Season for raptor hunting.

4 VAC 15-250-90. Sunday hunting.

4 VAC 15-250-100. Out of season, wrong species or sex, kills by raptors.

4 VAC 15-250-110. Reports by permit holders; inspections.

SUMMARY:

The proposal is to update Virginia's falconry regulations to improve consistency with new federal falconry regulations and to provide expanded opportunities to take falcons from the wild. Staff's final recommendation is to not adopt the proposal as advertised, but to adopt it as modified.

FINAL RECOMMENDED LANGUAGE OF AMENDMENT:

1 **4 VAC 15-250-10. Definitions. Falconry; adoption of federal standards, regulations, and**
2 **definitions.**

3 [As used in this chapter:

4 1. "Raptor" means any ~~live migratory~~ bird of the order Falconiformes or the order Strigiformes,
5 ~~other than a bald eagle (Haliaeetus leucocephalus)~~ including hybrids thereof.]

6 2. "Permittee" means any holder of a valid falconry permit issued by Virginia or any other state
7 ~~or federal agency authorized to issue such permits or licenses.~~

8 3. "Take" means to trap, capture or attempt to trap or capture a raptor for the purposes of
9 falconry.

10 The board hereby adopts the Federal definitions, regulations and standards pertaining to falconry
11 as contained in 50 CFR § 21.3 (definitions; effective July 8, 1983, and as amended June 17,
12 1999; Aug. 10, 2006; Feb. 28, 2007; Aug. 20, 2007; Oct. 8, 2008; and Jan. 7, 2010) and 50 CFR
13 § 21.29 (falconry standards and falconry permitting; effective October 8, 2008, and as amended
14 Dec. 8, 2009; Jan. 7, 2010; and Jan. 21, 2010). Pursuant to § 29.1-103.12 of the Code of
15 Virginia, the director of the department is hereby delegated authority to propose adoption of
16 modifications and amendments to these Federal definitions, regulations, and standards in
17 accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

18 **4 VAC 15-250-20. Permit conditions.**

19 A. An applicant for a permit to practice falconry pursuant to § 29.1-419 of the Code of Virginia
20 shall submit to the department a completed application form, provided by the department and
21 approved by the United States Fish and Wildlife Service, including all required information
22 indicated on such form.

23 B. A permit shall not be issued before applicant has answered correctly at least 80% of the
24 questions on a supervised examination provided by the department and approved by the United
25 States Fish and Wildlife Service.

26 C. A permit shall not be issued or renewed unless applicant has adequate facilities and
27 equipment, which shall have been inspected and certified by a representative of the department
28 as meeting federal standards set forth in 50 CFR 21.249 [~~et seq~~].

29 D. A person who is a nonresident of the Commonwealth may engage in falconry in Virginia
30 provided he possesses a valid Virginia nonresident hunting license and satisfactory evidence that
31 such person legally possesses the raptor and a valid falconry permit issued by ~~the~~his [or her]
32 state, tribe, or territory of residence. Such practitioners must nonetheless comply with all
33 applicable hunting and falconry regulations and conditions of Virginia's Falconry Permit.

34 **~~4 VAC 15-250-30. Classes of permits.~~**

35 ~~A. Apprentice class.~~

36 ~~—1. Permittee shall be at least 14 years old.~~

37 ~~—2. A sponsor who is a holder of a general or master falconry permit is required for the first two~~
38 ~~years in which an apprentice permit is held, regardless of the age of the permittee. A sponsor~~
39 ~~may not have more than three apprentices at any one time.~~

40 ~~—3. Permittee shall not possess more than one raptor and may not obtain more than one raptor~~
41 ~~for replacement during any 12-month period.~~

42 ~~—4. Permittee shall possess only the following raptors, which must be taken from the wild: an~~
43 ~~American Kestrel; a red-tailed hawk; or a red-shouldered hawk.~~

44 ~~B. General class.~~

45 ~~—1. Permittee shall be at least 18 years old.~~

46 ~~—2. Permittee shall have at least two years experience in the practice of falconry at the~~
47 ~~apprentice level or its equivalent.~~

48 ~~—3. Permittee may not possess more than two raptors and may not obtain more than two raptors~~
49 ~~for replacement birds during any 12-month period.~~

50 —4. Permittee may not take, transport, or possess any golden eagle or any species listed as
51 threatened or endangered in federal regulations published pursuant to the Endangered Species
52 Act of 1973, as amended. Permittee may not take, transport, or possess any species listed as
53 threatened or endangered under 4VAC15-20-130 unless authorized via a falconry permit issued
54 by the department.

55 C. Master class.

56 —1. Permittee shall have at least five years experience in the practice of falconry at the general
57 class level or its equivalent.

58 —2. Permittee may not possess more than three raptors and may not obtain more than two raptors
59 taken from the wild for replacement birds during any 12-month period.

60 —3. Permittee may not take, transport or possess any golden eagle for falconry purposes, nor any
61 species listed as threatened or endangered in federal regulations published pursuant to the
62 Endangered Species Act of 1973, as amended, unless authorized in writing by the department
63 and the United States Fish and Wildlife Service. Permittee may not take, transport or possess any
64 species listed as threatened or endangered under 4VAC15-20-130 unless authorized via a
65 falconry permit issued by the department.

66 **4 VAC 15-250-40. Transportation and temporary holding.**

67 A raptor may be transported or held in temporary facilities which shall be provided with an
68 adequate perch and protected from extreme temperatures and excessive disturbance, for a period
69 not to exceed 30 days.

70 **4 VAC 15-250-50. Marking.**

71 —A. All peregrine falcons (*Falco peregrinus*), gyr falcons (*Falco resticulus*), and Harris hawks
72 (*Parabuteo unicinctus*), except a captive bred raptor lawfully marked by a numbered, seamless
73 band issued by the U.S. Fish and Wildlife Service, must be banded with a permanent,
74 nonreusable, numbered band supplied by the U.S. Fish and Wildlife Service.

75 —B. It shall be unlawful for any person to alter, counterfeit or deface a raptor marker furnished
76 by the United States Fish and Wildlife Service, except that falconry permittees may remove the
77 rear tab on markers furnished, and may smooth any imperfect surface provided the integrity of
78 the marker and numbering are not affected.

79 —C. A permittee may replace the numbered seamless band on a captive bred bird with a standard
80 adjustable yellow marker furnished by the Fish and Wildlife Service; however, once the seamless
81 marker is removed, the bird may no longer be purchased, sold, or bartered.

82 **4 VAC 15-250-60. Taking of raptors by nonresidents.**

83 —A. Young birds not yet capable of flight (eyases) may be taken only by a general or master
84 falconer, and not more than two such birds may be taken by the same permittee during any one
85 calendar year. The open season for taking such birds is May 1 through June 30 of each year only.

86 —B. In addition, there shall be an open season for taking first year passage birds, also called
87 passengers (hawks caught wild before first moult), from September 15 through January 11 of
88 each year only; except, that marked raptors may be retrapped at any time.

89 —C. Only American Kestrels and great horned owls may be taken under a falconry permit when
90 over one year old, except that any raptor other than an endangered or threatened species taken
91 under a depredation (or special purpose) permit may be used for falconry by general and master
92 falconers.

93 —D. A nonresident raptor trapping permit may be issued to a nonresident general or master
94 falconer applicants for the purpose of taking a raptor in Virginia, provided that his resident state
95 is a state listed in Paragraph (k), of 50 CFR 21.29, as a participating state, and his [or her]
96 resident state, tribe, or territory issues nonresident falconry permits or licenses, or otherwise
97 provides for the taking of raptors by nonresidents. A Nonresident applicants shall submit a copy
98 of a his [or her] valid resident state falconry permit and a copy of a his [or her] valid import
99 permit from their his [or her] resident state, tribe, or territory. Nonresident permits shall be
100 issued only in the general or master class.

101 —E. A permittee may purchase, sell, or barter any lawfully possessed raptor which was bred in
102 captivity under authority of a raptor propagation permit issued under Part 21.30, Chapter I of
103 Title 50, CFR, and banded with a numbered seamless marker issued or authorized by the Fish
104 and Wildlife Service.

105 **4 VAC 15-250-70. Possession of raptors.**

106 —A. A person who possesses a lawfully acquired raptor before the enactment of this chapter and
107 who fails to meet the permit requirements shall be allowed to retain the raptors. All such birds
108 shall be identified with markers supplied by the United States Fish and Wildlife Service and
109 cannot be replaced if death, loss, release, or escape occurs.

110 —B. A person who possesses raptors before the enactment of this chapter, in excess of the
111 number allowed under his class permit, shall be allowed to retain the extra raptors. All such birds
112 shall be identified with markers supplied by the United States Fish and Wildlife Service and no
113 replacement can occur, nor may an additional raptor be obtained, until the number in possession
114 is at least one less than the total number authorized by the class of permit held by the permittee.

115 —C. A falconry permit holder shall obtain written authorization from the department before any
116 species not indigenous to Virginia is intentionally released to the wild, at which time the marker
117 from the released bird shall be removed and surrendered to the department. The marker from an
118 intentionally released bird which is indigenous shall also be removed and surrendered to the
119 department. A standard federal bird band shall be attached to such birds by a state or United
120 States Fish and Wildlife Service authorized federal bird bander whenever possible.

121 ~~—D. A raptor possessed under authority of a falconry permit may be temporarily held by a~~
122 ~~person other than the permittee for maintenance and care for a period not to exceed 30 days. The~~
123 ~~raptor must be accompanied at all times by a properly executed U.S. Fish and Wildlife Service~~
124 ~~authorization (currently USFWS form 3-186A) designating the person caring for the raptor as the~~
125 ~~possessor of record and by a signed, dated statement from the permittee authorizing temporary~~
126 ~~possession.~~

127 ~~—E. Feathers that are molted or those feathers from birds held in captivity that die, may be~~
128 ~~retained and exchanged by permittees only for imping purposes.~~

129 **4 VAC 15-250-80. Season for ~~raptor hunting~~ with raptors.**

130 It shall be lawful to hunt nonmigratory game birds and game animals with raptors from October
131 1 through March 31, both dates inclusive.

132 **4 VAC 15-250-90. Sunday hunting.**

133 It shall be lawful to hunt nonmigratory game birds and game animals with raptors on Sunday.

134 ~~4 VAC 15-250-100. Out of season, wrong species or sex, kills by raptors.~~

135 ~~A permittee whose raptor accidentally kills quarry that is out of season or of the wrong species or~~
136 ~~sex, or otherwise protected, must leave the dead quarry where it lies; except, that the raptor may~~
137 ~~feed upon the quarry prior to leaving the site of the kill.~~

138 ~~4 VAC 15-250-110. Reports by permit holders; i [Inspections.]~~

139 ~~No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise~~
140 ~~dispose of any raptor unless such permittee submits a properly executed U.S. Fish and Wildlife~~
141 ~~Service authorization (currently USFWS form 3-186A) to the issuing office within five calendar~~
142 ~~days of any transaction. Falcons, hawks and owls held under permit [Falconry facilities,~~
143 ~~equipment, and raptors shall be open to inspection by representatives of the department at all~~
144 ~~times.]~~

RATIONALE:

In January 2010, the U.S. Fish and Wildlife Service (USFWS) adopted new regulations for the practice of falconry. These regulations expand the types of raptors used and the length of the raptor trapping season, and reduce restrictions on apprentice and general class falconers. The federal regulations have increased the opportunity for falconers to practice their craft. Virginia falconry regulations are now inconsistent with new federal regulations and are more restrictive, which creates fewer opportunities for Virginia falconers to practice falconry.

The Virginia falconry regulations have not been reviewed in over twenty years, and many of the regulations (e.g., length of trapping season, species that can be held by apprentices) limit the opportunity for falconers to practice falconry. Further, the recent changes in the federal

regulations create numerous discrepancies between Virginia and federal regulations. These discrepancies could lead to confusion on the part of falconers in Virginia concerning what are legal practices.

In August 2010, DGIF staffs met with representatives from the Virginia Falconers Association (VFA) to review and discuss this proposal. Based on feedback from VFA members, and with concurrence from staffs, the updated staff recommendations include further alignment with federal regulations. In one instance, though, staffs are recommending a definition of “raptor” that is narrower than the federal regulations, at the request of the VFA. Specifically, there are hybrid and exotic raptors currently used in falconry that are not covered under the federal regulations, which staffs think is a shortcoming in those regulations. Feedback from the U.S. Fish and Wildlife Service indicate that a specific lack of authority prohibits that agency from regulating birds not included in the International Migratory Bird Treaty (e.g., hybrids, non-migratory raptors). To address this acknowledged gap in the federal regulation, the final staff recommendations include this more specific definition, ensuring that Virginia falconers are able to use birds for falconry.

Copies of the current federal regulations of definitions, standards, and permitting related to falconry are provided with this final recommendation.