

CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
SUMMARY OF PUBLIC COMMENTS
EXPLANATORY STATEMENT FOR FINAL REGULATIONS

Proposed amendments to sections 26-67e-1, 26-67e-2, 26-67e-3, 26-67e-4, 26-67e-5, 26-67e-6, 26-67e-7, 26-67e-8, 26-67e-9, 26-67e-11, 26-67e-12, 26-67e-13, 26-67e-14, 26-67e-15, 26-67e-16, 26-67e-17, and 26-67e-18 of the Regulations of Connecticut State Agencies.

Proposed Amendments to Falconry Regulations

STATEMENT OF PURPOSE: To amend and adopt regulations which govern the sport of falconry for clarity and consistency with federal regulations. Specifically, the proposed changes include clarifications and new definitions; remove obsolete requirements based on changes to CGS 26-55; prohibit application or sponsorship by individuals with migratory bird regulation violations; specify the conditions for the reinstatement of falconry permits; remove reciprocity language for non-resident falconry permit fees; align the dates of the bird replacement period with the permitting period; change the minimum age of a general class falconer to 16; clarify experience requirements for general and master class applicants; incorporate options to recognize the completion of falconry examinations in other states; clarify the housing requirements; clarify the allowances for the temporary custody of raptors; reference relevant laws to determine the list of species approved for use in falconry; prohibit the possession of eagles and species listed as endangered, threatened or of special concern; allow for the transfer of raptors between falconers and migratory bird wildlife rehabilitators; clarify banding and marking requirements; define allowances for possession, transfer and exchange of raptor feathers; clarify requirements for disposition of raptors that die in captivity; prohibit hacking; define acceptable training practices; outline the conditions for falconers who conduct public education programs; address the use of falconry birds in movies and other promotional events; address the conditions for falconers who conduct abatement activities; address the requirements if a falconer dies; and clarify reporting requirements.

These regulations are necessary to come into compliance with the new federal falconry regulations adopted on November 7, 2008 under 50 CFR 21.29 that are eliminating federal falconry permits. As a consequence of the change in Federal regulations and this amendment, the redundant Federal permit will be eliminated easing the burden on the regulated public with no additional burden on DEEP.

The Department held a public hearing to receive comments on the proposed amendment on June 4, 2013. The hearing record was continued until June 7, 2013 at 4:30 pm for submission of written comments. Following is the wording of the proposed amendment as presented at the public hearing, a summary of comments received and the Department's responses, and the recommended final wording for the amendment.

Organizations and Individual Persons in Support of the Amendments to the Regulations

Five organizations (Connecticut Falconers Association, North American Falconers' Association, Pace University Environmental Center, Coalition of Connecticut Sportsmen, and Connecticut Fly Fishermen's Association) and 40 individual falconers unanimously supported the proposed amendments to the falconry regulations. They acknowledged the amendments will clarify the requirements for the practice and administration of the falconry program, and allow falconers to maintain the raptors in optimal health, and ensure well being of both wild and captive-raised raptors used in falconry. A falconer noted that the proposed regulations allow falconers to practice their art according to environmentally sound practices, with an appropriate degree of state oversight.

Organizations and Individual Persons in Opposition of the Amendments to the Regulations

The Department did not receive any written or verbal testimony opposing amendments to the falconry regulations.

Proposed Amendments at Time of Public Hearing of June 4, 2013

Section 1. Section 26-67e-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-1. Definitions

(a) For the purposes of sections 26-67e-1 to 26-67e-18, inclusive of the Regulations of Connecticut State Agencies:

(1) "Bate" means an attempt to fly a raptor while tethered;

(2) "Cable band" means a non-reusable, numbered United States Fish and Wildlife Service band for uniquely identifying a raptor taken from the wild for falconry;

[(1)] (3) "Captive-bred raptor" means a raptor [that has been], including a hybrid, born and raised in captivity [for a period of more than fourteen days];

[(2)] (4) "Commissioner" means the Commissioner of Energy and Environmental Protection;

(5) "Custodial falconer" means the falconer of record with the United States Fish and Wildlife Service pursuant to section 26-67e-14 of the Regulations of Connecticut State Agencies as possessing a specific raptor for purposes of falconry;

[(3)] (6) "Department" means the Department of Energy and Environmental Protection;

[(4)] (7) "Falconer" means a person who engages in falconry [as defined in section 26-67d of the Connecticut General Statutes] and holds a valid Connecticut falconry permit;

[(5)] (8) "Falconry" means "falconry" as defined in section 26-67d of the Connecticut

General Statutes;

(9) "Hacking" means the temporary release of a falconry bird to the wild to survive on its own;

(10) "Harass" means any act that may injure wildlife by disrupting normal behavior;

(11) "Harm" means an act that results in death or injury;

[(6)] (12) "Hybrid [raptor]" means [a raptor that is] the offspring of two or more distinct species [that are genetically dissimilar and is unable to breed with native raptors];

[(7)] (13) "Imping" means the process of grafting [new] feathers onto the wing or tail of a bird to repair damage or to increase flying capacity;

(14) "Imprint" means a bird that is hand-raised in isolation from the sight of another raptor from two weeks of age until it has developed the plumage necessary for flight. An imprinted bird is considered to be so for its lifetime;

(15) "Jurisdiction of the United States" means the state of Connecticut, any other state, the District of Columbia, and any tribe or territory of the United States;

(16) "Microchip" means an identifying integrated circuit placed under the skin of a raptor that uses passive Radio Frequency Identification (RFID) technology and is ISO (International Organization for Standardization) compliant (134.2 kHz);

[(8)] (17) "Non-resident" means any person who [does not have a domiciliary residence in] is a resident of a jurisdiction of the United States other than Connecticut; [and,]

(18) "Raptor" means bird as defined in section 26-67d of the Connecticut General Statutes;

[9] (19) "Resident" [mean] means any person who [has a domiciliary residence in] is a Connecticut resident[.];

(20) "Seamless band" means a uniquely numbered, seamless, metal band issued by the United States Fish and Wildlife Service to be affixed to the leg of a captive-bred raptor;

(21) "Standard band" means a numbered, aluminum, lock-on or butt-end band issued by the United States Geological Survey Bird Banding Laboratory to be affixed to the leg of a raptor released to the wild; and,

(22) "Take" means to harass, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in any such conduct involving wildlife.

Sec. 2. Section 26-67e-2 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-2. General Requirements

(a) No person shall engage in falconry or possess a raptor identified in section 26-67e-13 of the Regulations of Connecticut State Agencies for the purpose of falconry in the state of Connecticut without a valid falconry permit issued pursuant to section 26-67e of the Connecticut General Statutes [and a federal permit issued pursuant to 50 CFR 21.28 and 21.29].

(b) [No person shall possess, import, or transport any raptor for falconry purposes in the state of Connecticut without a permit issued pursuant to section 26-55 of the Connecticut General Statutes.] No person in violation of 50 CFR 13, 20, 21 or 22 shall engage in falconry or possess a raptor identified in section 26-67e-13 of the Regulations of Connecticut State Agencies for the purpose of falconry in the state of Connecticut.

(c) No person shall be issued a falconry permit if [they have] such person has been convicted of violating the falconry laws [and] or regulations of any [state or the federal government] jurisdiction of the United States or convicted of violating any federal migratory bird laws or regulations within a [5-year] five year period preceding the date upon which a permit application is received by the commissioner.

(d) No falconer shall take any raptor from the wild in Connecticut pursuant to section 26-92 of the Connecticut General Statutes except that a falconer may capture by use of a bow net, mistnet, dho-ghazza net or bal-chatri trap a legally possessed captive-bred or hybrid raptor that has escaped, provided the raptor has been banded with a seamless band pursuant to [subsection (b) of] section 26-67e-15**(b)** of the Regulations of Connecticut State Agencies [and], the raptor is wearing an item of falconry equipment, and the raptor is returned to the custodial falconer or surrendered to the commissioner.

(e) [No person who holds a falconry permit shall propagate any raptor.] A falconry permit does not authorize the propagation of any raptor.

Sec. 3. Section 26-67e-3 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-3. Application for a permit; renewal of a permit

(a) Any resident [of Connecticut who would like to apply] applying for [or renew] a falconry permit shall:

- (1) Submit a complete application [for the appropriate falconry class permit as described in section 26-67e-6 of the Regulations of Connecticut State Agencies,] on a form [provided] prescribed by the commissioner;
- (2) submit the fee specified in section 26-67e-5(a) of the Regulations of Connecticut State Agencies;
- (3) submit proof of having successfully completed the examination requirements specified

in section 26-67e-8 of the Regulations of Connecticut State Agencies for the appropriate falconry class permit;

(4) submit to the commissioner written documentation from the zoning enforcement officer of the municipality in which the raptor housing facility is located which verifies that the possession of a raptor and construction of a raptor housing facility, or use of an existing structure to house a raptor complies with all applicable local zoning requirements;

(5) certify, on a form [provided] prescribed by the commissioner, compliance with the facility and equipment requirements specified in sections 26-67e- 9 and 26-67e-10 of the Regulations of Connecticut State Agencies and consent to periodic inspections, without prior notice and at any reasonable time of day, of all facilities, equipment and raptors used for falconry;

(6) submit proof of having a valid Connecticut firearms hunting license; and,

(7) certify on a form [provided] prescribed by the commissioner, that they have not been convicted of violating the falconry laws [and] or regulations of any [state or the federal government] jurisdiction of the United States or convicted of violating any federal migratory bird laws or regulations within a [5] five year period preceding the date upon which a permit application is received by the commissioner.

(b) Any non-resident [who would like to apply] applying for [or renew] a falconry permit shall:

(1) Submit a complete application [for a non-resident falconry permit] on a form [provided] prescribed by the commissioner;

(2) submit the fee specified in section 26-67e-5(b) of the Regulations of Connecticut State Agencies;

(3) submit proof of having a valid falconry license or a valid falconry permit [from the state] issued by the jurisdiction of the United States in which they [reside, and a valid federal falconry permit] are a resident;

(4) certify, on a form [provided] prescribed by the commissioner, compliance with all federal [and resident state] laws and regulations governing falconry, and compliance with all laws and regulations governing falconry of the jurisdiction of the United States in which such applicant is a resident;

(5) submit proof of having a valid Connecticut firearms hunting license; and,

(6) certify, on a form [provided] prescribed by the commissioner, that [they have] the applicant has not been convicted of violating the falconry laws [and] or regulations of any [state or the federal government] jurisdiction of the United States or any federal migratory bird laws or regulations within a [5] five year period preceding the date upon which a permit application is received by the commissioner.

(c) Any resident or non-resident [who would like to renew] renewing a falconry permit shall submit a permit application in accordance with the requirements of subsection (a) or (b) of this section at least thirty days before the expiration date of the permit.

(d) If a permit has not been renewed and less than five years has passed since the expiration date, the permit may be reinstated at the level held previously if the permit holder has proof of certification at that level.

(e) If a permit has not been renewed and more than five years has passed since the expiration date, the permit may be reinstated at the level held previously upon reexamination in accordance with the requirements specified in section 26-67e-8 of the Regulations of Connecticut State Agencies.

(f) If a falconer moves to Connecticut with a falconry bird, the falconer shall immediately notify the commissioner. The falconer may hold a falconry bird for up to 90 days. If, after 90 days, a Connecticut falconry permit has not been issued, the raptor shall be transferred to person or organization authorized to possess that species.

Sec. 4. Section 26-67e-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-4. Permit duration and revocation

(a) The duration of a falconry permit shall be[:

(1) Three] three years, beginning on July 1 and ending on June 30 [for any person who is a resident of Connecticut; or,

(2) one year, beginning on July 1 and ending on June 30 for any person who is a nonresident].

(b) The commissioner may at any time revoke, in accordance with the provisions of the Uniform Administrative Procedures Act, a falconry permit for [violating] violations by the permittee of the terms of [a] the permit or any statute or regulation governing falconry in the state of Connecticut.

Sec. 5. Section 26-67e-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-5. Permit fees

(a) The fee for [an] a resident apprentice, general or master class permit shall be:

(1) [\$175.00] \$220.00 for the initial permit or [if the] for a permit that has lapsed or has been revoked; and,

(2) [\$150.00] \$190.00 for the renewal of a current permit.

(b) The fee for a non-resident permit shall be [the same as for a Connecticut resident permit for a resident of a state which allows the same privilege to residents of this state. If no such privilege exists, the fee for a non-resident permit shall be \$14.00 annually] \$28.00.

(c) The permit fees specified in subsections (a) and (b) of this section are not refundable.

Sec. 6. Section 26-67e-6 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-6. Classes of permits

(a) There shall be four classes of falconry permits: [Apprentice;] Resident apprentice, general[;], and master; and[,] nonresident.

(b) Apprentice class.

(1) The commissioner may issue an apprentice class permit to any [person] resident who meets the requirements specified in section 26-67e-3(a) of the Regulations of Connecticut State Agencies[;] if the applicant:

(A) is at least 14 years old;

(B) has written approval of a parent or legal guardian, if less than 18 years of age, and the parent or legal guardian accepts legal responsibility for the falconer's activities; [and,]

(C) has a sponsor who meets the requirements of section 26-67e-7 of the Regulations of Connecticut State Agencies;

(D) provides the commissioner with a letter from the sponsor stating that assistance will be provided to the applicant for learning about the husbandry and training of a raptor held for falconry and about relevant wildlife laws and regulations;

(E) certifies on a form prescribed by the commissioner, that the applicant has read and is familiar with the regulations in 50 CFR 13 and other applicable definitions in 50 CFR 10, Subpart B; and,

(F) certifies that the information provided in the application is complete and accurate;

(2) an apprentice [class] falconer [shall] may possess [only] no more than one raptor at a time;

(3) an apprentice [class] falconer shall only possess the species of red-tailed hawk ([*Buteo jamaicensis*] *Buteo jamaicensis*)[, which shall be trapped from the wild in another state under the supervision of the sponsor];

(4) an apprentice falconer may not possess a raptor that is imprinted on humans, taken from

the wild as a nestling or taken from the wild in adult plumage;

[(4)] (5) an apprentice [class] falconer shall not obtain [from the wild] more than [one] two wild red-tailed [hawk] hawks [(Buteo jamaicensis) for replacement] during any twelve-month period beginning on [January] July 1 and ending on [December 31] June 30;

[(5)] (6) an apprentice [class] falconer shall maintain a written log describing the instruction provided by [his or her] their sponsor, and make such log available for inspection by the commissioner or the commissioner's duly designated agents. Instruction [should] shall include [all phases of falconry relating to basic biology,] care and handling of [raptors] a raptor, live-trapping techniques, teaching [raptors] a raptor to hunt, and all applicable laws and regulations governing falconry; and,

[(6)] (7) an apprentice [class] falconer shall not fly or hunt [their] a red-tailed hawk [alone] without the presence of the sponsor until the sponsor provides written notification to the apprentice stating that the apprentice is competent to handle the bird without direct supervision. Such written notification shall be carried while in the field with a bird.

(c) General class.

(1) The commissioner may issue a general class permit to any [person] resident who meets the requirements in section 26-67e-3(a) of the Regulations of Connecticut State Agencies[;] if the applicant:

(A) is at least [18] 16 years old;

(B) has written approval of a parent or legal guardian, if less than 18 years of age, and the parent or legal guardian accepts legal responsibility for the falconer's activities;

(C) submits a summary of each species held and how long each bird was held;

(D) submits proof of a minimum of two years experience in the practice of falconry at the apprentice class level[.];

(E) has practiced falconry with [their] the applicant's own raptor [during] for at least two hunting seasons that total at least four months each; and,

(F) submits written certification from the applicant's sponsor verifying that the applicant [satisfies the experience requirement] practiced falconry at the apprentice falconer level for at least two years including maintaining, training, flying and hunting a raptor at least four months in each year;

(2) a general [class] falconer [shall] may possess [in aggregate only two] up to three raptors at any time;

(3) a general [class] falconer may possess raptors from any category specified under section

26-67e-13 of the Regulations of Connecticut State Agencies; [and,]

(4) a general [class] falconer shall not obtain [from any category specified in 26-67e-13 of the Regulations of Connecticut State Agencies] more than two wild raptors [for replacement birds] during any twelve-month period beginning on [January] July 1 and ending on [December 31.] June 30; and,

(5) notwithstanding section 26-67e-6(c)(2) of the Regulations of Connecticut State Agencies, a general falconer may possess the raptors of another custodial falconer for purposes of providing temporary care for such raptors pursuant to section 26-67e-12 of the Regulations of Connecticut State Agencies.

(d) Master class.

(1) The commissioner may issue a master class permit to any [person] resident who meets the requirements in section 26-67e-3(a) of the Regulations of Connecticut State Agencies[;] if the applicant:

(A) submits proof of having at least five years experience in the practice of falconry at the general class level;

(B) has practiced falconry with the applicant's own raptor for at least five hunting seasons that total at least four months each season; and,

(C) submits written recommendations from three master falconers stating that the applicant meets the qualifications of a master class falconer;

(2) a master [class] falconer [shall] may possess [in aggregate only three] up to five raptors at any time;

(3) a master [class] falconer may possess raptors from any category specified in section 26-67e-13 of the Regulations of Connecticut State Agencies; [and,]

(4) a master [class] falconer shall not obtain [from any category specified in section 26-67e-13 of the Regulations of Connecticut State Agencies] more than two wild raptors [for replacement birds] during any twelve-month period beginning on [January] July 1 and ending on [December 31.] June 30; and,

(5) notwithstanding section 26-67e-6(d)(2) of the Regulations of Connecticut State Agencies, a master falconer may possess the raptors of another custodial falconer for purposes of providing temporary care to such raptors pursuant to section 26-67e-12 of the Regulations of Connecticut State Agencies.

(e) Non-resident class.

(1) The commissioner may issue a non-resident class permit to any [person] non-resident

who meets the requirements of section 26-67e-3(b) of the Regulations of Connecticut State Agencies.

(2) A non-resident falconer shall only possess, while in Connecticut, the [approved] raptor species specified in section 26-67e-13 of the Regulations of Connecticut State Agencies and which are identified on [their] the falconry license or permit issued by the jurisdiction of the United States in which the non-resident falconer is a resident.

Sec. 7. Section 26-67e-7 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-7. Sponsorship requirements

(a) Any person who would like to sponsor [an] a resident apprentice [class] falconer shall certify [in writing], on a form [provided] prescribed by the commissioner, that such person:

(1) Has a valid master falconry [permit] or [a valid] general falconry permit with a minimum of three years experience as a general falconer; and,

(2) has not been convicted of violating the falconry laws and regulations of any [state or the federal government] jurisdiction of the United States or any federal migratory bird statutes or regulations within a [3] three year period preceding the start of the sponsorship.

(b) The sponsor shall:

(1) Act as a source of advice and information for the resident apprentice;

(2) provide a minimum of twenty hours of field instruction annually;

(3) provide training in the relevant wildlife statutes and regulations and oversee the care, maintenance, and training of the resident apprentice's raptor;

[(3)] (4) reside within 400 miles of the resident apprentice's residence;

[(4)] (5) [not have] sponsor no more than three apprentices at any one time;

[(5)] (6) notify the commissioner, in writing, within [10] ten days after the sponsorship has been discontinued with an explanation of the reasons for discontinuing the sponsorship; and,

[(6)] (7) maintain a written log of the instruction provided to each resident apprentice [class] falconer.

(c) [An] A resident apprentice [class] falconer may submit, at any time, a written request to the [department] commissioner to change sponsors. Said request shall describe the reasons or circumstances for changing sponsors and the name and address of the new sponsor. [Upon

authorization from the department,] The commissioner, in the commissioner's sole discretion, may authorize [an] a resident apprentice [class] falconer [may] to resume falconry activities with a new sponsor.

Sec. 8. Section 26-67e-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-8. Examination

(a) Any resident [who would like to apply] applying for [an] a resident apprentice class falconry permit shall successfully complete[, prior to submitting a permit application,] a written examination administered by the commissioner, or [his designee] the commissioner's duly designated agent, prior to submitting a permit application, or show proof of successfully completing a written falconry examination in another jurisdiction of the United States within the previous five years.

(b) Any resident [who would like to apply] applying for a general or master class falconry permit shall successfully complete [prior to submitting a permit application,] a written and practical field examination administered by the commissioner, or the commissioner's duly designated agent, prior to submitting a permit application, or show proof of successfully completing such written and practical field examinations in another jurisdiction of the United States within the previous ten years. [The commissioner or his designee shall administer the written examination. The commissioner or his designee and a master falconer selected by the commissioner shall administer the practical field examination.]

(c) To successfully complete [the] a written examination provided for in subsections (a) and (b) of this section, a person shall answer correctly at least 80 percent of the questions relative to the biology, care and handling of raptors and laws and regulations governing falconry.

(d) Any person failing an examination shall not retake the examination for at least 60 days following the date of the previous examination.

Sec. 9. Section 26-67e-9 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-9. Housing facilities

(a) No resident of Connecticut shall be issued a falconry permit unless the commissioner or [his designee] the commissioner's duly designated agent has inspected and certified that the raptor housing facilities comply with [all] the requirements of subsections (b) to [(i)](h), inclusive, of this section. For the purposes of this section, a "mews" is an indoor area of a facility for housing a raptor.

(b) All raptors shall be kept under humane and healthful conditions as defined in this section. Raptor housing facilities shall include a mews (indoor facility) and a weathering area that provides protection from the environment, predators, domestic animals and undue disturbance.

Each raptor shall have a pan of clean water available at all times except during short periods when weather conditions, the perch type used, or other factor makes access to a water pan unsafe for the raptor. The mews and weathering area may be one enclosure or two separate enclosures.

(c) The requirements for separate mews shall be:

(1) For a single raptor: An enclosure having minimum dimensions of [8' x 8' x 7' (L x W x H) at a minimum] eight feet by eight feet by seven feet, and allows the bird room to fly if it is untethered;

(2) for two or three raptors: An enclosure having minimum dimensions of [8' x 8' x 7' (L x W x H) at a minimum] eight feet by eight feet by seven feet, provided that each raptor shall be able to fly if untethered and, if tethered, to fully extend its wings or bate without damaging its feathers or touching the roof, any walls or any other [raptors] raptor;

(3) [the raptors] a raptor shall be tethered or separated by solid partitions if the species or individuals cannot be safely housed together;

(4) at least one window, protected on the inside by vertical bars that are spaced narrower than the width of the raptor's body;

(5) a roof which covers at least one half the size of the enclosure;

(6) at least three walls constructed of solid materials such as wood, metal, corrugated plastic or similar material;

(7) the fourth wall may be constructed of nonsolid material such as chain-link fencing, welded wire, heavy-duty plastic mesh, heavy-duty netting, or vertical bars having a mesh opening or spacing between the vertical bars that prevents the escape or entrapment of the raptor. A mesh opening of [2] two inches by [2] two inches or spacing between vertical bars of [2] two inches shall not be exceeded;

(8) vestibule area with two secure doors that can be easily closed and locked at all times;

(9) a floor consisting of pea gravel, sand, grass, artificial turf, rubber mats, or other artificial substrates that provide proper drainage and are easily cleaned; and,

(10) two or more perches per raptor if the raptor is not tethered and one perch per raptor if the raptor is tethered, with at least one perch available under the solid section of the roof.

(d) The requirements for a separate weathering area shall be:

(1) For a single raptor: An enclosure having minimum dimensions of [8' x 8' x 7' (L x W x H) at a minimum] eight feet by eight feet by seven feet;

(2) for two or three raptors: An enclosure having minimum dimensions of [8' x 8' x 7' (L x

W x H) at a minimum] eight feet by eight feet by seven feet provided that each raptor, when tethered, shall be able to fully extend its wings or bate without damaging its feathers or touching the roof, any walls or any other [raptors] raptor;

(3) a roof that consists of a solid area at least one third (1/3) the size of the entire cage;

(4) entirely enclosed with at least two of the side walls consisting of nonsolid materials such as chain-link fencing, welded wire, heavy-duty plastic mesh, heavy-duty netting, or vertical bars;

(5) the mesh opening or spacing between the vertical bars shall prevent the escape or entrapment of [all] a captive [raptors] raptor;

(6) the maximum mesh opening shall be [2] two inches by [2] two inches and the maximum spacing between vertical bars shall be [2] two inches; and,

(7) two or more perches per raptor if the raptor is not tethered and one perch per raptor if it is tethered, with at least one perch available under the solid section of the roof.

(e) The requirements for a combined mews and weathering area shall be:

(1) For a single raptor: An enclosure having minimum dimensions of [10' x 10' x 7' (L x W x H) at a minimum] ten feet by ten feet by seven feet and allows the bird room to fly if it is untethered;

(2) for two or three raptors: An enclosure having minimum dimensions of [10' x 10' x 7' (L x W x H) at a minimum] ten feet by ten feet by seven feet provided that each raptor shall be able to fly if untethered and, if tethered, to fully extend its wings or bate without damaging its feathers or touching the roof, any walls or any other [raptors] raptor;

(3) [the raptors] a raptor shall be tethered or separated by solid partitions if the species or individuals cannot be safely housed together;

(4) [at least one window, protected on the inside by vertical bars that are spaced narrower than the width of the raptor's body];

(5)] a roof which covers at least one half the size of the enclosure;

[(6)] ~~(5)~~ at least [three] one wall and one third (1/3) of the two adjacent walls constructed of solid materials such as wood, metal, corrugated plastic or similar material;

[(7)] ~~(6)~~ at least one half (1/2) of one wall constructed of nonsolid material such as chain-link fencing, welded wire, heavy-duty plastic mesh, heavy-duty netting, or vertical bars having a mesh opening or spacing between the vertical bars that prevents the escape or entrapment of the raptor. A mesh opening of [2] two inches by [2] two inches or spacing between vertical bars of [2] two inches shall not be exceeded;

[(8)] (7) vestibule area with two secure doors that can be easily closed and locked at all times;

[(9)] (8) a floor consisting of pea gravel, sand, grass, artificial turf, rubber mats, or other artificial substrates that provide proper drainage and are easily cleaned; and,

[(10)] (9) two or more perches per raptor if the raptor is not tethered and one perch per raptor if it is tethered, with at least one perch available under the solid section of the roof.

(f) Perches located in the mews and weathering areas shall be of natural materials with all sharp protrusions removed or the perches shall be covered with sisal or manila strand rope, artificial turf or indoor/outdoor carpeting. Natural perches and coverings shall be replaced when worn.

(g) A falconer relocating the raptor housing facility and [the raptors] a raptor to a new location shall notify the [department] commissioner 30 days in advance before the facility is relocated.

(h) [Any major structural changes to the mews or weathering area shall be reported, in writing, with accompanying photographs, to the commissioner no later than 30 days after completion of the changes.

(i) The mews and weathering area shall be kept clean and maintained in good working order at all times.

Sec. 10. Section 26-67e-11 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-11. Transportation and temporary holding requirements

(a) Transportation. A raptor shall be transported within an enclosure that provides protection from extreme temperatures, wind and excessive disturbance, and equipped with one perch as described in section 26-67e-9(f) of the Regulations of Connecticut State Agencies. The enclosure shall be at least [3] three inches taller than the height of the bird while perched, shall allow for easy entry and removal to minimize stress, and have adequate ventilation. The raptor shall be kept in this temporary enclosure for a period not more than 30 days.

(b) Temporary Holding. A raptor may be temporarily held at an offsite location in an enclosure constructed of wood or sturdy plastic for a period not more than 30 consecutive days. The enclosure shall have minimum dimensions of [5' x 4' x 4' (L x W x H) at a minimum] five feet by four feet by four feet; have at least [1] one perch as described in section [26-67e-9(e)] 26-67e-9(f) of the Regulations of Connecticut State Agencies; adequate ventilation; and protect the raptor from extreme temperatures, excessive disturbance, wind, domestic animals and predators.

Sec. 11. Section 26-67e-12 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-12. Temporary custody of raptors

(a) A falconer may, for not more than [30] 120 consecutive days, place a raptor under the temporary care of another [person who] falconer provided that the temporary care provider:

- (1) [Is authorized to do so by the United States Fish and Wildlife Service; and,
- (2) holds] Holds a valid falconry permit issued by the commissioner pursuant to section [26-55] 26-67e of the Connecticut General Statutes; or holds a valid falconry permit issued by another [state.] jurisdiction of the United States;

[(b) A falconer who places a raptor under the temporary care of another person shall provide the temporary care provider with:

(1) A] (2) receives a copy of the completed United States Fish and Wildlife Service Form 3-186A (Migratory Bird Acquisition/Disposition Report) that shows possession of the raptor; and,

[(2)] (3) has written authorization [which is] signed and dated by the falconer, [designating another person to temporarily possess] authorizing the temporary possession of the raptor. The written authorization shall include the specific time period of the temporary custody and the activities the temporary care provider may engage in with a bird under care. The following conditions apply to temporary custody:

(A) the raptor shall remain on the permit of the original falconer and shall not count against the possession limit of the temporary care provider;

(B) if the temporary care provider holds the appropriate level falconry permit, the temporary care provider may fly or hunt the raptor if the custodial falconer authorizes them to do so; and,

(C) the commissioner, at the commissioner's sole discretion, may authorize the care of the raptor to exceed 120 consecutive calendar days in extenuating circumstances such as illness, military service or a family emergency.

(b) Another person without a falconry permit may care for a falconry bird at the facility of a falconer for up to 45 consecutive calendar days provided:

- (1) A raptor shall remain on the original falconry permit;
- (2) a raptor shall remain in the falconer's facility; and,
- (3) the person caring for a raptor shall not fly them for any reason.

Sec. 12. Section 26-67e-13 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-13. Approved raptor species

(a) The following species of raptors may be used for falconry in Connecticut:

(1) [Raptors taken from the wild:

Red-tailed Hawk (*Buteo jamaicensis*);
Merlin (*Falco columbarius*);
Prairie Falcon (*Falco mexicanus*);
Harris's Hawk (*Parabuteo unicinctus*)]

Any wild raptor of the subfamilies Falconinae or Accipitrinae that is legal to possess for falconry as defined under 50 CFR 21.29(e);

(2) any captive-bred raptor species of the subfamilies Falconinae or Accipitrinae that is that is not a hybrid and is legal to possess for falconry as defined under 50 CFR 21.29(e), provided at least one functioning radio transmitter is attached to the bird while it is flown free, and the bird is not released to the wild; and,

(3) any species of hybrid [raptors] raptor of the subfamilies Falconinae or Accipitrinae that is legal to possess for falconry as defined under 50 CFR 21.29(e) provided [that the hybrid is sterile or unable to breed with wild native raptors] at least two functioning radio transmitters are attached to the bird while it is flown free, and the bird is not released to the wild.

(b) No species of raptor identified in subsection (a) of this section, that is listed as threatened, endangered, or of special concern pursuant to section 26-306 of the Connecticut General Statutes, or any species listed as threatened or endangered by the federal government [shall], and no raptor of the genus *Aquila* (true eagles) or the genus *Haliaeetus* (sea-eagles), or hybrid thereof, may be used for falconry in Connecticut.

(c) A general or master falconer may acquire a raptor from a migratory bird wildlife rehabilitator, and such bird will be counted as a wild caught bird. Transfer to the falconer is at the discretion of the rehabilitator, and subject to approval by the commissioner, at the commissioner's sole discretion, prior to the transfer.

Sec. 13. Section 26-67e-14 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-14. Notification [requirement] requirements

(a) [A falconer shall submit to the commissioner a United States Fish & Wildlife Service form 3-186A (Migratory Bird Acquisition/Disposition Report) not more than five calendar days after the acquisition, recovery, transfer, loss, including death, escape, euthanization or intentional release of a raptor.

(b)] A falconer shall submit a written request to and receive approval from the commissioner before release of a raptor into the wild [in accordance with section 26-55 of the Connecticut

General Statutes].

(b) A person holding a falconry permit pursuant to section 26-67e-6 of the Regulations of Connecticut State Agencies shall, within five days, complete and submit a Migratory Bird Acquisition and Disposition Report in the manner required by the United States Fish and Wildlife Service and shall notify the commissioner in writing of the following transactions or events:

- (1) The acquisition of a raptor taken from the wild or received by transfer or purchase from another person;
- (2) the recovery of a lost raptor;
- (3) the transfer of a raptor to another person;
- (4) the loss of a raptor previously held through release, escape, theft or death;
- (5) the banding or rebanding of any raptor;
- (6) the loss, removal and mutilation of banding from any raptor; and,
- (7) the implanting of a microchip.

(c) The loss of a raptor through theft shall be reported, in writing, to the commissioner and to the United States Fish and Wildlife Service Northeast Regional Law Enforcement Office within five days of the theft.

(d) Copies of all electronic submissions made pursuant to subsection (b) of this section shall be retained for a period of at least five years from the date of transfer or loss of the raptor.

(e) The capture of any raptor affixed with any band, research marker or transmitter shall be immediately reported to the United States Geological Survey Bird Banding Laboratory.

(f) Structural changes to the mews or weathering area shall be reported to the commissioner in writing along with accompanying photographs, no later than 30 days after completion of the changes.

(g) Any species listed as endangered, threatened, or of special concern pursuant to section 26-310 of the Connecticut General Statutes taken during the practice of falconry shall be immediately reported, in writing, to the commissioner and, if a federally listed species, to the nearest New England Ecological Services Field Office of the United States Fish and Wildlife Service.

(h) Each person holding a permit pursuant to section 26-67e-6 of the Regulations of Connecticut State Agencies shall submit an annual report to the commissioner by July 31, or within 30 days

of the termination of the permit, on forms prescribed by the commissioner. The report shall include the following information for the previous 12-month period:

(1) The number, species, band number, and microchip information of a raptor possessed;

(2) the number, species, date, and location of all kills of any animal for which there is no season or is out of season;

(3) the number, species, date, and location of all kills of any animal for which there is an open season; and,

(4) the number and species of replacement a raptor.

Sec. 14. Section 26-67e-15 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-15. Banding requirements; microchips

(a) A falconer[, upon capturing a raptor from the wild, shall immediately band their bird with a permanent, non-reusable band provided by the commissioner or the United States Fish and Wildlife Service] shall not possess a wild raptor unless the bird is banded with a cable band, or the falconer holds an exemption pursuant to subsection (g) of this section.

(b) A falconer shall not [obtain or have in their possession] possess a captive-bred [or hybrid] raptor unless the bird is banded with a seamless [numbered] band, a cable band pursuant to subsection (d) of this section, or the falconer holds an exemption pursuant to subsection (g) of this section.

(c) A falconer may implant a microchip in a falconry bird.

(d) When any band becomes mutilated, illegible or lost, or otherwise has been removed, the falconer shall [submit to the commissioner a United States Fish and Wildlife Service Form 3-186A and] request a replacement band from the commissioner within five calendar days [. The mutilated or illegible band shall be returned to the commissioner at the time the new band is attached to the raptor] from the day the band is removed or known to be lost. Any band removed or lost shall be replaced with a cable band.

[(d) The] (e) Prior to releasing a wild raptor, the falconer shall present the raptor to the commissioner or [a United States Fish & Wildlife Service] an authorized federal [bird bander shall remove from the raptor prior to its release] agent for removal of the band affixed in accordance with subsection (a) of this section and [shall attach] attachment of a standard [federal bird] band to [such birds] the bird.

(e) Upon death of any raptor held under a falconry permit, the falconer shall submit to the commissioner a United States Fish and Wildlife Service Form 3-186A and return the band taken from the raptor within five calendar days. The carcass shall be disposed of within five calendar

days by burying or incineration, unless other arrangements are made with the commissioner.]

(f) A falconer shall not alter, deface, or counterfeit a band. A falconer may remove the rear tab or smooth any imperfect surface on a cable band provided the band is not materially affected.

(g) If a falconer documents injuries to a raptor caused by a band, the commissioner, at the commissioner's sole discretion, may provide a written exemption to the banding requirement for that raptor. If an exemption is granted, the falconer shall have in their possession the written exemption when transporting or flying the raptor. If an exemption from banding is granted for a wild goshawk (*Accipiter gentilis*), Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*) or gyrfalcon (*Falco rusticolus*), a microchip shall be implanted.

Sec. 15. Section 26-67e-16 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-16. Record keeping and reporting

(a) A falconer shall maintain complete and accurate records for each raptor that [identifies] identify:

- (1) [The] the species, sex, age, and lineage [of each raptor];
- (2) the date of acquisition;
- (3) the date of the death, loss, release, or transfer to another person of each raptor and an explanation of the reasons therefore; and,
- (4) if applicable, the name, address, and permit number of [the person(s)] persons who previously possessed the raptor, and date of transfer.

(b) The records required in subsection (a) of this section shall be maintained in chronological order, retained for a minimum of five years after the date of death, loss, or transfer of any raptor possessed by a falconer and shall be available for inspection at any reasonable time upon request of the commissioner or [his designee] the commissioner's duly designated agent. [The United States Fish and Wildlife Service Form 3-186A may be used. A supplemental report shall also be prepared and attached to the Form 3-186A to address the lineage of each bird and to explain the loss, release or transfer or death of each raptor.

(c) A falconer shall submit to the commissioner an annual activity report by July 1 on a form provided by the commissioner that identifies:

- (1) The number, species, and band number of raptors used;
- (2) the number, species, date, and location of all kills of any animal for which there is no season or is out of season;

(3) the number, species, date, and location of all kills of any animal for which there is an open season; and,

(4) the number and species of replacement raptors.]

Sec. 16. Section 26-67e-17 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-17. Hunting requirements

(a) [Any falconer while engaging in hunting shall have in their possession a valid Connecticut firearms hunting license.

(b) Hunting or training of a falconry [birds] bird shall only take place on:

(1) State-owned or managed lands identified by the commissioner as open to hunting; or,

(2) private land, provided that the falconer has obtained verbal permission from the landowner.

[(c)] (b) A falconer shall abide by all current Connecticut hunting laws and season dates pursuant to the requirements of Chapter 490 of the Connecticut General Statutes and any regulations promulgated there under, while pursuing wildlife using a raptor and shall have in their possession:

(1) A Connecticut firearms hunting license;

(2) [A] a federal and Connecticut migratory waterfowl stamp when hunting waterfowl;

[(2)] (3) a harvest information permit when hunting migratory birds;

[(3)] (4) a pheasant [tags] stamp when hunting pheasants [during the open season]; and,

[(4)] (5) a valid Connecticut falconry permit.

[(d)] (c) The commissioner may declare an area closed to hunting with [raptors] a raptor at any time, in accordance with the provisions of section 26-68 of the Connecticut General Statutes.

[(e)] (d) Any falconer whose raptor kills an animal for which there is no season or that is out of season shall leave the dead quarry where it lies, except that the raptor may feed upon the quarry prior to leaving the site of the kill. The falconer shall ensure that activities do not cause the take of wildlife listed as endangered or threatened pursuant to the federal Endangered Species (Public Law 93-205), or a species listed as endangered, threatened or of special concern pursuant to section 26-310 of the Connecticut General Statutes.

(e) A falconer shall have a copy of their Connecticut falconry permit in immediate possession

while trapping, transporting, working with, or flying a falconry raptor at any location other than their falconry facilities.

Sec. 17. Section 26-67e-18 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 26-67e-18. Other requirements

(a) [Any person in possession of a lawfully acquired raptor prior to the effective date of Connecticut's falconry regulations who receives a notice of violation from the commissioner regarding any provision of Connecticut's falconry regulation shall have 60 days to achieve compliance. If compliance is not achieved within 60 days, the raptor shall be transferred to another person or organization having a valid federal falconry permit and a valid falconry permit from Connecticut or another state, or the raptor shall be released to the wild in accordance with section 26-67e-14 of the Regulations of Connecticut State Agencies

(b) Any person who is issued a falconry permit may retain [and], transfer or exchange feathers with falconers, migratory bird wildlife rehabilitators or propagators for imping purposes [only providing the feathers have molted or come from birds held in captivity that have died] provided:

(1) The feathers are from a raptor currently or previously held for falconry;

(2) the feathers have come from the transfer or exchange of feathers pursuant to this section;

(3) the feathers are not bought, sold or bartered; and,

(4) the feathers are transferred to an authorized person or institution upon expiration or revocation of a falconry permit.

(b) The feathers of any bird used in falconry or the body of any bird used in falconry that has died may be transferred, upon written authorization of the commissioner, or the commissioner's duly designated agent, to a person or institution, for use in education programs provided the band or microchip is not removed. If the bird is not transferred pursuant to this subsection the remaining carcass shall be burned, or buried within ten days of the death of the bird.

(c) A falconer who injures a wild bird during trapping is responsible for the cost of care and rehabilitation of the bird and shall seek immediate medical attention for said bird, and report it pursuant to section 26-67e(14) of the Regulations of Connecticut State Agencies. If the bird is unable to fly, it can be transferred to an authorized migratory bird wildlife rehabilitator for care.

(d) Hacking is prohibited.

(e) A falconer may use other acceptable falconry practices, including, but not limited to, the use of creance (tethered) flying, lures, balloons, or kites in training or conditioning a falconry raptor. A falconer may fly a falconry bird at non-native bird species such as house sparrows and

European starlings, or on pen-raised animals.

(f) A falconer may use a falconry bird for public presentations regarding conservation education or the sport of falconry, provided:

(1) The bird is used primarily for falconry;

(2) the falconer provides information about the biology, ecological roles, or conservation needs of a raptor and other migratory birds; and,

(3) the falconer is responsible for all liability associated with conservation education activities undertaken.

(g) An apprentice falconer may only present conservation programs under the supervision of a general or master falconer.

(h) A falconer may, without compensation, allow photography, filming or other such uses of a falconry raptor to make movies or other forms of information on the practice of falconry, or the biology, ecological roles or conservation needs of a raptor and other migratory birds. At no time may a falconer use a falconry raptor for commercial entertainment; 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.

(i) A general or master falconer may assist an authorized migratory bird wildlife rehabilitator to condition a raptor in preparation for release to the wild, provided:

(1) The rehabilitator provides a letter or form that identifies the raptor and permits the falconer to assist in the rehabilitation and care of the raptor to the commissioner prior to the transfer of any raptor;

(2) the falconer's facility meets the standards as defined in section 26-67e-9 of the Regulations of Connecticut State Agencies to house a rehabilitation raptor; and,

(3) within 180 days, any raptor held by the falconer for conditioning shall be released, returned to the rehabilitator, or transferred to the falconer's falconry permit.

(j) A master falconer may conduct abatement activities with a raptor possessed for falconry if he or she has a Federal Abatement permit.

(1) The falconer may be paid for abatement services only if he or she has a Connecticut Nuisance Wildlife Control Operator's License issued pursuant to section 26-47 of the Connecticut General Statutes; and

(2) a general falconer may conduct abatement only as a subpermittee of the holder of a Federal Abatement permit.

(k) Upon written notice to the commissioner, a surviving spouse, executor, administrator, or other legal representative of a deceased falconer may transfer any bird formerly held by the deceased falconer to another authorized falconer, within 90 days of the death of the falconry permittee. After the expiration of 90 days from the date of the death of a falconer, disposition of a bird held by the deceased falconer is at the sole discretion of the commissioner.

No specific comments were received pursuant to sections 26-67e-1, 26-67e-2, 26-67e-3, 26-67e-4, 26-67e-5, 26-67e-6, 26-67e-7, 26-67e-8, 26-67e-9, 26-67e-11, 26-67e-12, 26-67e-13, 26-67e-14, 26-67e-15, 26-67e-16, 26-67e-17, and 26-67e-18 of the Regulations of Connecticut State Agencies.

Recommended wording: As proposed

Hearing Officer's Recommendations

The hearing officer has reviewed all comments received at the January 3, 2013 public hearing and all written comments received as of 4:30 p.m. on June 7, 2013. The Department received a total of 45 individualized written and/or verbal public comments regarding the proposed amendments. All issues of concern have been addressed in this document to my satisfaction. Based on review of the information and the aforementioned responses, the hearing officer recommends that the Commissioner of Energy and Environmental Protection proceed with the proposed amendment to the regulations governing falconry.