

Staff Summary for April 16-17, 2025

8. Falconry**Today's Item**Information ☐Action ☒

Consider authorizing publication of notice of intent to amend falconry regulations.

Summary of Previous/Future Actions

- | | |
|--|--------------------------|
| • Wildlife Resources Committee vetting | January 15, 2025; WRC |
| • Today's notice hearing | April 16-17, 2025 |
| • Discussion hearing | June 18-19, 2025 |
| • Adoption hearing | August 13-14, 2025 |

Background

Falconry has been a sport for thousands of years of human history across all cultures. The Commission has regulations authorizing falconry, which are primarily contained in Section 670; under that regulation, the Department oversees the practice of falconry via issuance of licenses. Only licensed falconers are permitted to possess, house, trap, transport, and use raptors for the purpose of hunting or training.

In the current license year (2024) there are approximately 600 California licensed falconers enjoying and showcasing the sport. The number of raptors in possession varies but has sometimes exceeded 1,000 birds in recent license years.

The Department requested the draft proposed amendments for the purpose of conforming certain provisions of the Falconry regulations with recent court orders and to comply with federal falconry regulations.

Proposed Regulations Changes

The draft proposed amendments to sections 670 and 703 will revise the regulations in three ways:

- Conform regulations and the initial and renewal falconry license applications with the recent opinion issued by the 9th Circuit U.S. Court of Appeal concerning the "certification" by applicants for falconry permits (see Exhibit 1).
- Require falconers to take only California-administered falconry examinations (i.e., not falconry examinations administered by other states).
- Delete restrictions on commercial exhibiting of falconry raptors (e.g., films, education) to conform with a district court's November 10, 2022 stipulated judgment and order (see Exhibit 2).

Further details on the draft proposed amendments are available in the draft initial statement of reasons (ISOR) and draft proposed regulatory language (exhibits 4 and 5).

Today the Department will present an overview of the draft proposed regulation changes (Exhibit 8).

Staff Summary for April 16-17, 2025

Significant Public Comments (N/A)**Recommendation**

Commission staff: Authorize publication of notice of intent to amend sections 670 and 703, as recommended by the Department and discussed today.

Department: Authorize publication of notice of proposed changes to the regulations regarding falconry regulations.

Exhibits

1. [Opinion of the United States Court of Appeals, Ninth Circuit](#) (*Stavrianoudakis, et al. v. USFWS, et al.*, Case 22-16788), filed July 24, 2024
2. [Stipulated Judgment and Order of the United States District Court](#) (*Stavrianoudakis, et al. v. USFWS, et al.*, Case 1:18-cv-01505-JLT-BAM), filed November 14, 2022
3. [Department memo](#), received April 10, 2025
4. [Draft ISOR and informational digest](#), dated March 19, 2025
5. [Draft proposed regulatory language](#)
6. [Draft proposed Department forms](#)
7. [Draft economic and fiscal impact statement \(STD. 399\)](#)
8. [Department presentation](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 670 and 703 related to falconry, as discussed today.

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

PETER STAVRIANOUDAKIS;
KATHERINE
STAVRIANOUDAKIS; SCOTT
TIMMONS; ERIC ARIYOSHI;
AMERICAN FALCONRY
CONSERVANCY,

Plaintiffs-Appellants,

v.

UNITED STATES FISH AND
WILDLIFE SERVICE; CHARLTON
H. BONHAM, in his official capacity
as Director of California Department
of Fish and Wildlife; JIM KURTH, in
his official capacity as Deputy
Director Exercising the Authority of
the Director of California Department
of Fish and Wildlife; MARTHA
WILLIAMS,

Defendants-Appellees.

No. 22-16788

D.C. No.
1:18-cv-01505-
JLT-BAM

OPINION

Appeal from the United States District Court
for the Eastern District of California
Jennifer L. Thurston, District Judge, Presiding

Argued and Submitted November 13, 2023
San Francisco, California

Filed July 24, 2024

Before: Sidney R. Thomas, Danielle J. Forrest, and
Salvador Mendoza, Jr., Circuit Judges.

Opinion by Judge Forrest;
Partial Concurrence and Partial Dissent by Judge S.R.
Thomas

SUMMARY*

Article III Standing

In an action brought by individual falconers and the American Falcon Conservancy alleging that state and federal regulations impose unconstitutional conditions on their right to obtain a falconry license and that the unannounced, warrantless inspections that they must consent to violate the Fourth Amendment and the Administrative Procedures Act, the panel: (1) reversed the district court's dismissal for lack of standing of plaintiffs' unconstitutional-conditions claim against the California Department of Fish and Wildlife (CDFW); and (2) affirmed the district court's dismissal for lack of standing of their remaining claims against CDFW and the U.S. Fish and Wildlife Service (FWS).

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

The falconers challenged the requirement, included in both the state and federal regulations, that they submit to unannounced, warrantless inspections as a condition of obtaining a falconry license. As to their standing on their claim against the CDFW, the panel noted that under the well-settled doctrine of “unconstitutional conditions,” the government may not require a person to give up a constitutional right in exchange for a discretionary benefit. California conditions falconry licenses on applicants’ annual certification that they agree to unannounced warrantless inspections. The panel held that simply agreeing to submit to those inspections, in the absence of an actual inspection, amounted to the relinquishment of Fourth Amendment rights. Therefore, the falconers’ alleged injury in fact is the forced choice. In addition to injury, the two remaining standing requirements were also satisfied. The panel further held that because the falconers sufficiently alleged an injury in fact, constitutional ripeness was also satisfied. Accordingly, the panel reversed the district court’s dismissal of the Falconers’ unconstitutional-conditions claim against CDFW for lack of standing.

The panel held that the falconers’ unconstitutional-conditions claim asserted against FWS was unripe. Because FWS has delegated falconry licensing authority to California, a lengthy chain of events would have to take place before the falconers could show a remediable impact traceable to FWS. The panel concluded that the connection between the falconers’ asserted injury and FWS is too attenuated and hypothetical at this point to support federal question jurisdiction over the falconers’ unconstitutional-conditions claim against FWS.

The falconers also contended that the federal and California authorization of unannounced inspections

violates the Fourth Amendment both facially and as-applied because they authorize unreasonable warrantless searches of the falconers' private home, curtilage, and other property. The panel held that the falconers' direct challenge failed because they have not alleged that they were subjected to warrantless inspection under the challenged regulations. Because the falconers sought declaratory and injunctive relief, the panel considered whether they had Article III standing to seek prospective relief. The panel held that the falconers failed to allege any facts about the frequency or volume of unannounced inspections that California regulators undertake, but relied primarily on the existence of the regulation authorizing unannounced inspections. The panel concluded that the falconers had not sufficiently demonstrated injury in fact as to the unannounced-inspection claim. Because the falconers lacked standing to directly challenge the authorization of unannounced inspections, they also lacked standing to challenge this authorization under the Administrative Procedures Act.

The American Falcon Conservancy also asserted an unconstitutional-conditions claim and an unannounced-inspection claim on behalf of their members. Like the individual plaintiffs, the panel concluded that the American Falcon Conservancy met the associational standing requirements for its unconstitutional-conditions claim but not for its unannounced-inspection claim.

Concurring in part and dissenting in part, Judge S.R. Thomas agreed that the district court properly dismissed the falconers' claim that the regulations violated the Fourth Amendment because they had not been subjected to an inspection under the current regulations and could not establish that a future inspection was imminent. He disagreed that the falconers had standing to challenge the

state regulations under the unconstitutional-conditions doctrine, and would affirm the district court's dismissal of all of the falconers' remaining claims.

COUNSEL

Daniel T. Woislaw (argued), Pacific Legal Foundation, Arlington, Virginia; James M. Manley, Pacific Legal Foundation, Phoenix, Arizona; Lawrence G. Salzman, Pacific Legal Foundation, Sacramento, California; for Plaintiffs-Appellants.

John D. Butterfield (argued), Deputy Assistant Attorney General; Nhu Q. Nguyen and Courtney S. Covington, Deputy Attorneys General; Russell B. Hildreth, Supervising Deputy Attorney General; Robert W. Byrne, Senior Assistant Attorney General; Rob Bonta, Attorney General of California; Office of the California Attorney General, Sacramento, California; Michael T. Gray (argued) and Daniel Halainen, United States Department of Justice, Environment & Natural Resources Division, Todd Kim Assistant Attorney General; United States Department of Justice, Washington, D.C.; Philip Kline, United States Department of the Interior, Washington, D.C.; Brodie M. Butland, Assistant United States Attorney, Office of the United States Attorney, Fresno, California; for Defendants-Appellees.

OPINION

FORREST, Circuit Judge:

The question presented is whether individual falconers and the American Falcon Conservancy (AFC) have standing to challenge the constitutionality of the California Department of Fish and Wildlife’s (CDFW) and United States Fish and Wildlife Service’s (FWS) regulations authorizing unannounced, warrantless inspections of falconers’ property and records and requiring falconers to agree to such inspections as a condition of obtaining a falconry license.

Plaintiffs assert that the challenged state and federal regulations impose unconstitutional conditions on their right to obtain a falconry license and that the unannounced, warrantless inspections that they must consent to violate the Fourth Amendment and the Administrative Procedures Act (APA). The district court dismissed Plaintiffs’ Fourth Amendment-based claims for lack of Article III standing, concluding that Plaintiffs failed to demonstrate injury in fact because they have not been subjected to a warrantless inspection under the challenged regulations and have not shown that future warrantless inspections are certainly impending. We reverse the district court’s dismissal of Plaintiffs’ unconstitutional-conditions claims brought against CDFW and affirm as to the dismissal of their remaining claims.

I. BACKGROUND

A. Falconry Regulation

“Falconry is caring for and training raptors for pursuit of wild game, and hunting wild game with raptors.” 50 C.F.R.

§ 21.6. Falconry is governed by the federal Migratory Bird Treaty Act and its implementing regulations, which impose a detailed regulatory scheme that governs the possession and trade of certain birds of prey. 16 U.S.C. § 704(a); 50 C.F.R. § 10.13 (listing regulated species); 50 C.F.R. § 21.82(a)–(f). Under this scheme, falconers must obtain a permit to lawfully engage in falconry. 50 C.F.R. § 21.82(c).

Two provisions of the federal regulatory scheme are at issue here. The first authorizes regulators to conduct unannounced inspections of “[f]alconry equipment and records . . . in the presence of the permittee during business hours on any day of the week by State, tribal, or territorial officials.” *Id.* § 21.82(d)(9). The second requires falconry permit applicants to submit “a signed and dated statement showing that [they] agree that the falconry facilities and raptors may be inspected without advance notice by State, tribal (if applicable), or territorial authorities at any reasonable time of day” so long as the permittee is present. *Id.* § 21.82(d)(2)(ii).

Originally, there were parallel federal and state permitting systems. States could either elect to prohibit falconry or to allow it under regulations that met minimum federal standards. *Id.* § 21.82(b)(1). Once the federal government certified that a state’s regulatory scheme satisfied federal standards, it “terminate[d] Federal falconry permitting” in that state. *Id.* § 21.82(b)(3). In 2008, FWS abandoned the parallel permitting system. Recognizing that “[e]very State government except that of Hawaii has now implemented regulations governing falconry,” FWS discontinued federal permitting starting in 2014. Migratory Bird Permits, 73 Fed. Reg. 59,448, 59,448 (Oct. 8, 2008). Since 2014, “a State, tribal, or territorial falconry permit” is all that is required to lawfully practice falconry. *Id.*; *see also*

Migratory Bird Permits; Delegating Falconry Permitting Authority to 17 States, 78 Fed. Reg. 72,830, 72,830–33 (Dec. 4, 2013) (delegating falconry permitting to California).

Also at issue in this case are California’s falconry regulations. California has adopted a licensing scheme that requires falconers to renew their licenses annually. Cal. Code Regs. tit. 14, § 670(a)(1). Consistent with federal requirements, California authorizes unannounced inspections: CDFW “may conduct unannounced visits to inspect facilities, equipment, or raptors possessed by the licensee, and may enter the facilities of any licensee when the licensee is present during a reasonable time of the day and on any day of the week” and “may also inspect, audit, or copy any permit, license, book, or other record required to be kept by the licensee under these regulations at any time.” Cal. Code Regs. tit. 14, § 670(j)(3)(A). To obtain a California falconry license, the applicant must certify in writing:

I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to subsection 670(j), Title 14, of the California Code of Regulations. I certify that I have read, understand, and agree to abide by, all conditions of this license, the applicable provisions of the Fish and Game Code, and the regulations promulgated thereto.

Id. § 670(e)(2)(D). The California regulations provide that CDFW “shall deny the issuance of a license or renewal of an existing license if the applicant or licensee fails to submit all

required items.” *Id.* § 670(e)(8)(D); *see also id.* § 679(e)(8)(B).

B. Plaintiffs’ Falconry Activities

Individual Plaintiffs Eric Ariyoshi, Scott Timmons, and Peter Stavrianoudakis (collectively, the Falconers) are California residents who have been licensed falconers for decades. Plaintiff Katherine Stavrianoudakis is not a falconer, but she is married to and lives with Peter Stavrianoudakis.

Ariyoshi’s falcon lives in an unrestricted mews¹ 30 feet from his home. Timmons’s three birds live in mews and other structures directly adjacent to his home. Peter Stavrianoudakis’s falcon lives primarily in his and his wife’s bedroom, although the bird occasionally is weathered in a protective enclosure approximately 20 feet from the home. The Falconers all comply with California’s falconry regulations and renew their licenses annually.

AFC is an organization “dedicated to protecting and preserving the practice of falconry, and protecting falconers’ rights.” AFC has approximately 100 members nationwide, all of whom are subject to federal and state falconry regulations. The Falconers are AFC members.

In their joint complaint, the individual Plaintiffs and AFC describe six unannounced inspections that state and federal law enforcement agents have conducted. Timmons alleges that in 1992, when he was in college, CDFW officers approached him at his mother’s property in Thousand Oaks, California to ask whether he possessed a particular red-tailed

¹ A “mews” is an “indoor” facility for housing raptors. Cal. Code Regs. tit. 14, § 670(j)(1)(B).

hawk. Timmons told them the hawk had flown away, which the officers already knew because they had the hawk in their possession. Peter Stavrianoudakis alleges that sometime around 1983, his home was searched, and he was arrested, all without a warrant, “by armed members of [CDFW] related to his lawful activities as a non-resident falconer in Nevada.”

AFC alleges that armed FWS agents conducted warrantless searches of the homes and property of two of its Washington-state members—Stephen Layman and Lydia Ash (Washington members)—in 2004 and 2009, respectively. AFC also alleges that armed CDFW agents conducted warrantless searches of the homes and property of two of its California members—Fred Seaman and Leonardo Velazquez (California members)—in 2016 and 2017, respectively.

C. District Court Proceedings

Plaintiffs’ first amended complaint alleged that federal and state falconry regulations violate the First, Fourth, and Fourteenth Amendments of the United States Constitution, as well as the APA. The district court dismissed with leave to amend the Fourth Amendment claims, and partially dismissed the APA claim, all for lack of standing.

Plaintiffs filed a second amended complaint, asserting four claims based on the Fourth Amendment. Count I alleges that California’s requirement that license applicants agree to unannounced inspections is a facial and as-applied violation of the Fourth Amendment (unconstitutional-conditions claim). Count II alleges that California’s regulation allowing unannounced inspections is a facial and as-applied violation of the Fourth Amendment because it authorizes warrantless searches of licensees’ homes, curtilage, papers, and effects

(unannounced-inspections claim). In Count III, Katherine Stavrianoudakis alleges that the unannounced-inspection regulations violate her Fourth Amendment rights as a co-habitant of a falconer. Finally, Count IX alleges that the federal unannounced-inspection regulations violate the APA.

The district court dismissed all the Fourth Amendment-based claims without leave to amend. The district court concluded that the individual Plaintiffs' alleged injury related to future inspections was too speculative because they "have never been subjected to the unannounced inspections pursuant to the challenged regulations." Likewise, the district court found that AFC lacked associational standing because it did not allege that its members face immediate or threatened injury from unannounced, warrantless inspections. The district court dismissed the Fourth Amendment allegation in the APA claim because, without standing to bring their substantive claims, Plaintiffs lack standing to bring an APA-based challenge to the same regulations. A stipulated judgment was entered as to the remaining claims, and this appeal followed.

II. DISCUSSION

"We review de novo an order granting a motion to dismiss for lack of standing under Federal Rule of Civil Procedure 12(b)(1) and construe all material allegations of fact in the complaint in favor of the plaintiff." *Southcentral Found. v. Alaska Native Tribal Health Consortium*, 983 F.3d 411, 416–17 (9th Cir. 2020). "The party invoking federal jurisdiction bears the burden of establishing" the elements of standing, and "each element must be supported in the same way as any other matter on which the plaintiff bears the

burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992).

A. Unconstitutional-Conditions Claim

The Falconers challenge the requirement, included in both the state and federal regulations, that they submit to unannounced, warrantless inspections as a condition of obtaining a falconry license. They claim that this requirement unconstitutionally conditions falconry licenses on waiver of “their Fourth Amendment rights to be free from unreasonable warrantless searches of their private homes, protected curtilage, and protected effects.” The district court dismissed this claim, concluding that the Falconers lack standing and the claim is unripe because the Falconers failed to allege that they had been subjected to or imminently faced an unannounced inspection. We reverse as to the Falconers’ claim against CDFW and affirm as to their claim against FWS.

1. CDFW

a. Standing

The Falconers must establish the three “irreducible” elements of Article III standing. *Lujan*, 504 U.S. at 560. First, that they “suffered an injury in fact that is concrete, particularized, and actual or imminent.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). Second, that their “injury was likely caused by the defendant[s].” *Id.* And third, that their “injury would likely be redressed by judicial relief.” *Id.*

We begin with injury. “Under the well-settled doctrine of ‘unconstitutional conditions,’ the government may not require a person to give up a constitutional right . . . in

exchange for a discretionary benefit” *Dolan v. City of Tigard*, 512 U.S. 374, 385 (1994). As the Supreme Court noted a century ago, the state may condition the benefits it bestows, but “the power of the state in that respect is not unlimited, and one of the limitations is that it may not impose conditions which require the relinquishment of constitutional rights.” *Frost v. Railroad Commission*, 271 U.S. 583, 593–94 (1925). This is so because “[i]f the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all.” *Id.*

We have recognized that the unconstitutional-conditions “doctrine is especially important in the Fourth Amendment context” because, “[u]nder modern Fourth Amendment jurisprudence, whether a search has occurred depends on whether a reasonable expectation of privacy has been violated.” *United States v. Scott*, 450 F.3d 863, 867 (9th Cir. 2006) (citing *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring)). “Pervasively imposing an intrusive search regime as the price of [a discretionary government benefit], just like imposing such a regime outright, can contribute to the downward ratchet of privacy expectations.” *Id.* Accordingly, the doctrine applies when the government attempts to “exact waivers of rights as a condition of benefits, even when those benefits are fully discretionary.” *Id.* at 866–67.²

² At issue in *Scott* was whether a pretrial detainee can be induced to categorically give up his Fourth Amendment right against unreasonable search and seizure as a condition of release. We answered no. Even if a detainee signs a release agreement conditioned on submitting to warrantless search, the Fourth Amendment is satisfied only if “the search in question (taking the fact of consent into account) was reasonable.” *Id.* at 868.

A plaintiff suffers a “constitutionally cognizable injury” whenever the government succeeds in pressuring the plaintiff into forfeiting a constitutional right in exchange for a benefit or the government withholds a benefit based on the plaintiff’s refusal to surrender a constitutional right. *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 606–07 (2013); *id.* at 607 (holding that the plaintiff suffered a “constitutionally cognizable injury” where he refused to waive his constitutional rights and was therefore denied a discretionary benefit); *cf. Dolan*, 512 U.S. at 379 (reversing lower court’s rejection of an unconstitutional-conditions claim where the “government had granted [the] petitioner’s permit application subject to conditions” requiring the petitioner to waive her Fifth Amendment rights). That is, “regardless of whether the government ultimately succeeds in pressuring someone into forfeiting a constitutional right, the unconstitutional conditions doctrine forbids burdening the Constitution’s enumerated rights by coercively withholding benefits from those who exercise them.” *Koontz*, 570 U.S. at 606.

Here, California conditions falconry licenses on applicants’ annual certification that they “understand, and agree to abide by, all conditions of this license, the applicable provisions of the Fish and Game Code, and the regulations promulgated thereto,” including unannounced, warrantless inspections. Cal. Code Regs. tit. 14, § 670(e)(2)(D); *id.* § 670(e)(4)(A). At face value, having to agree to such inspections of their “facilities, equipment, or raptors”—which include their homes, curtilage, and papers—as a condition of obtaining a falconry license constitutes a surrender of their Fourth Amendment right “to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const.

amend. IV; *see also* *Carpenter v. United States*, 585 U.S. 296, 304 (2018) (explaining that, although “[f]or much of our history, Fourth Amendment search doctrine was ‘tied to common-law trespass’ and focused on whether the Government ‘obtains information by physically intruding on a constitutionally protected area,’” it has also been “expanded . . . to protect certain expectations of privacy as well” (citations omitted)).³

The question presented here is whether simply agreeing to submit to those inspections, in the absence of an actual inspection—*see* Part II.B—amounts to the relinquishment of Fourth Amendment rights. We conclude that it does. By successfully applying for a falconry license, the Falconers certify that they will forego a claim to Fourth Amendment protections. An inspection may not occur or, if it does, it may not violate the Fourth Amendment because it is reasonable. But the idea that the Falconers surrender nothing unless and until an unlawful inspection occurs—that California extracts a blanket waiver that is, in fact, entirely superfluous—defies logic. Rather, we take the regulation to mean what it says, and agreeing to unannounced, warrantless inspections without any consideration of the reasonableness of such inspections implicates Fourth Amendment rights. *See*

³ The dissent’s citation to Judge Bennett’s concurrence in *Hotop v. City of San Jose*, 982 F.3d 710, 723 (9th Cir. 2020), for the proposition that allowing the Falconers’ claim to proceed “with no allegation of an actual impending search” will subject the government to “inappropriate judicial scrutiny” is puzzling. Dissent at 36. Judge Bennett’s point in *Hotop* was that the conduct at issue—requiring a regulated party to submit information to a government regulator on a required form—was not a search. *Hotop*, 982 F.3d at 720–21. Here, it cannot reasonably be disputed that CDFW entering the Falconers’ property to inspect their falconry facilities and records would be a search as traditionally understood. *See United States v. Jones*, 565 U.S. 400, 408 n.5 (2012).

Johnson v. Smith, No. 23-3091, 2024 U.S. App. LEXIS 14019, at *8–33 (10th Cir. June 10, 2024) (outlining Fourth Amendment precedent concerning regulatory inspections).

Therefore, the Falconers’ alleged injury in fact is the forced choice: retention of their Fourth Amendment rights or receipt of a falconry license, which is required to lawfully practice falconry. Cal. Code Regs. tit. 14, § 670(a)(1); *see Blackburn v. Snow*, 771 F.3d 556, 568 (1st Cir. 1985) (rejecting prison regulation requiring visitors to choose between submitting to a strip search or forgoing entry because “*it is the very choice to which the [plaintiff] was put that is constitutionally intolerable—and it was as intolerable the second and third times as the first*”). And the Falconers suffer this injury every time they renew their licenses, whether or not they are actually subjected to any unlawful inspections. *Koontz*, 570 U.S. at 606. The separate question of whether an unannounced, warrantless inspection by CDFW would violate the Fourth Amendment is not before us. *See Benjamin v. Stemple*, 915 F.3d 1066, 1068 (6th Cir. 2019) (“[The unconstitutional conditions] argument works, or at least begins to work, only if the required consent surrenders cognizable Fourth Amendment rights.”). Although undoubtedly the “government may sometimes condition benefits on waiver of Fourth Amendment rights,” whether the conditions imposed in this case offend the Fourth Amendment goes to the merits of the Falconers’ claim, not to whether they have sufficiently alleged injury for standing purposes. *Scott*, 450 F.3d at 867.

In addition to injury, the two remaining standing elements are also satisfied, which the parties seemingly concede. CDFW enforces California’s falconry-license requirements, Cal. Code Regs. tit. 14, § 670, and the declaratory and injunctive relief that Falconers seek—

preventing enforcement of the challenged condition—would redress their claimed injuries, *see Epona, Ltd. Liab. Co. v. County of Ventura*, 876 F.3d 1214, 1220 (9th Cir. 2017).

b. Ripeness

Article III also requires that a plaintiff's claim be ripe for adjudication. *See Ass'n of Irrigated Residents v. EPA*, 10 F.4th 937, 944 (9th Cir. 2021) ("The ripeness doctrine, which aims to avoid premature and potentially unnecessary adjudication, 'is drawn both from Article III limitations on judicial power and from prudential reasons for refusing to exercise jurisdiction.'" (quoting *Nat'l Park Hosp. Ass'n v. Dep't of Interior*, 538 U.S. 803, 808 (2003))). There are two ripeness considerations: constitutional and prudential.

Constitutional ripeness overlaps with the injury-in-fact element of Article III standing, and "therefore the inquiry is largely the same: whether the issues presented are definite and concrete, not hypothetical or abstract." *Id.* (internal quotation marks and citation omitted). Because the Falconers sufficiently allege an injury in fact, constitutional ripeness is satisfied.

Prudential ripeness concerns "the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Id.* (quoting *Abbott Lab's v. Gardner*, 387 U.S. 136, 149 (1967)). "A claim is fit for decision if the issues raised are primarily legal, do not require further factual development, and the challenged action is final." *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1126 (9th Cir. 2009) (quoting *US W. Commc'ns v. MFS Intelenet, Inc.*, 193 F.3d 1112, 1118 (9th Cir. 1999)). In cases against a government agency, relevant considerations include "whether the administrative action is a definitive statement of an agency's position; whether the action has a

direct and immediate effect on the complaining parties; whether the action has the status of law; and whether the action requires immediate compliance with its terms.” *Id.* (quoting *Ass’n of Am. Med. Colls. v. United States*, 217 F.3d 770, 780 (9th Cir. 2000)).

Here, the challenged licensure condition is final and is imposed annually. While the record is “admittedly sparse,” as in *Stormans*, the challenged circumstances “are not hypothetical”—when the Falconers apply for a license renewal, they must include the certification that they agree to submit to warrantless, unannounced inspections. *Id.* Whether that condition violates the Fourth Amendment is a “primarily legal” inquiry. *Id.* Accordingly, this issue is fit for judicial review.

As to hardship, “a litigant must show that withholding review would result in direct and immediate hardship and would entail more than possible financial loss.” *Id.* (quoting *US W. Commc’ns*, 193 F.3d at 1118). Relevant considerations include “whether the ‘regulation requires an immediate and significant change in the plaintiffs’ conduct of their affairs with serious penalties attached to noncompliance.’” *Id.* (quoting *Ass’n of Am. Med. Colls.*, 217 F.3d at 783). The Falconers have shown hardship because, “unless [they] prevail in this litigation, they will suffer the very injury they assert”—waiving their Fourth Amendment rights as a condition of lawfully practicing falconry. *Id.*

For all these reasons, we reverse the district court’s dismissal of the Falconers’ unconstitutional-conditions claims against CDFW for lack of standing.

2. FWS

The Falconers’ unconstitutional-conditions claim asserted against FWS is unripe. As just discussed, “[f]or a case to be ripe, it must present issues that are definite and concrete, not hypothetical or abstract.” *Clark v. City of Seattle*, 899 F.3d 802, 809 (9th Cir. 2018) (citation omitted); *see also Thomas v. Anchorage Equal Rights Comm’n*, 220 F.3d 1134, 1139 (9th Cir. 2000) (en banc) (explaining that when “measuring whether the litigant has asserted an injury that is real and concrete rather than speculative and hypothetical, the ripeness inquiry merges almost completely with standing” (citation omitted)).

Here, because FWS has delegated falconry licensing authority to California, a lengthy chain of events would have to take place before the Falconers could show a remediable impact traceable to FWS. First, on remand, the district court would have to enjoin the challenged aspects of California’s licensing scheme as violative of the Falconers’ Fourth Amendment rights. Second, the injunction would have to trigger a federal review and, ultimately, revocation of California’s licensing scheme. *See* 50 C.F.R. § 21.82(b)(4)(vi), (5)(i) (authorizing FWS to review an approved State’s program to determine whether the laws meet the minimum federal requirements and to “suspend[] the approval of a State . . . falconry program” that it determines “has deficiencies”). Third, FWS would have to reintroduce a federal licensing scheme with the same unconstitutional conditions, notwithstanding the district court’s order that such conditions (as embodied in the

California scheme) are unconstitutional.⁴ Finally, the Falconers would have to apply for a federal falconry license, at which time they would once again be forced to choose between a license and their Fourth Amendment rights.

The Falconers suggest that because California's challenged licensure requirement is imposed at the direction of a federal regulation, 50 C.F.R. § 21.82(d)(2)(ii), the responsibility for the unconstitutional conditional essentially passes through to FWS. While this reasoning has some intuitive appeal, it fails to account for the fact that FWS ceded its parallel licensing authority and delegated full falconry licensing authority within California to California. *See* Migratory Bird Permits, 73 Fed. Reg. 59,448, 59,448 (Oct. 8, 2008) (“[A] State, tribal, or territorial falconry permit” is all that is required to lawfully practice falconry.); *Migratory Bird Permits; Delegating Falconry Permitting*

⁴ This step is particularly unlikely. Federal regulations provide that if FWS suspends a state's program, it “will honor all falconry permits in that jurisdiction for 2 years from the date of our final notification of suspension of certification.” 50 C.F.R. § 21.82(b)(5)(v). After two years, all raptors held under permits from the suspended state must be transferred into “other States or territories, or to Federal raptor propagation or education permittees, institutions exempt from the Federal permit requirements, or permanently released to the wild (if it is allowed by the State, tribe, or territory and by this section), or euthanized.” *Id.* It seems unlikely that FWS would deviate from this approach because during the rulemaking process ending parallel permitting, FWS received a comment requesting that FWS take over a suspended state program, rather than follow the process outlined above. In response, FWS said “[t]he elimination of the Federal permit was considered at the request of the States. We cannot afford to support permitting positions just for States that fail in their permitting programs.” *Migratory Bird Permits, Changes in the Regulations Governing Falconry*, 73 Fed. Reg. 59,448, 59,452 (Oct. 8, 2008).

Authority to 17 States, 78 Fed. Reg. 72,830, 72,830–33 (Dec. 4, 2013) (delegating falconry permitting to California).

It may be that if California falls out of full compliance with federal regulations by not requiring license applicants to “agree that the[ir] falconry facilities and raptors may be inspected without advance notice,” 50 C.F.R. § 21.82(d)(2)(ii), federal review would be triggered that could lead to revocation of California’s licensing authority, 50 C.F.R. § 21.82(b)(4)(vi), (5)(i). But it is not certain this is what would happen in the face of an adverse judicial decision and injunction. FWS may respond differently to a state that simply stops enforcing a federal requirement of its own volition compared to a state that has been enjoined by a federal court from enforcing a regulation as a constitutional matter.⁵

We conclude that the connection between the Falconers’ asserted injury and FWS is too attenuated and hypothetical at this point to support federal jurisdiction over Falconers’ unconstitutional-conditions claim asserted against FWS.

B. Unannounced-Inspections Claim

The Falconers also directly contend that the federal and California authorization of unannounced-inspections, 50 C.F.R. § 21.82(d)(9); Cal. Code Regs. tit. 14, § 670(j)(3)(A), violate the Fourth Amendment both facially and as-applied

⁵ See generally Aditya Bamzai, The Path of Administrative Law Remedies, 98 Notre Dame L. Rev. 2037, 2062–64 (2023) (discussing agencies’ acquiescence to non-binding court decisions); Nicholas Parillo, The Endgame of Administrative Law and the Judicial Contempt Power, 131 Harv. L. Rev. 685, 691 n.15 (2018) (same); see also generally Benjamin M. Barczewski, Cong. Rsch. Serv., R47882, Agency Nonacquiescence: An Overview of Constitutional and Practical Considerations (2023).

because they authorize “unreasonable warrantless searches of Falconers’ private homes, protected curtilage, and other property.” Again, the Falconers seek declaratory and injunctive relief. The district court also dismissed this claim on the basis that the Falconers failed to show sufficient injury to satisfy Article III standing. We agree.

The Falconers’ direct challenge fails because they have not alleged that they were subjected to warrantless inspection under the challenged regulations. *See Hotop v. City of San Jose*, 982 F.3d 710, 716 n.4 (9th Cir. 2020) (concluding that plaintiffs’ allegations “support[ed] only a facial challenge to the regulations” because the complaint did not allege that the regulations had been unlawfully applied to the plaintiffs in the past); *cf. Potter v. City of Lacey*, 46 F.4th 787, 801 (9th Cir. 2022) (Bennett, J., dissenting) (“Potter also argues that the RV Parking Ordinance violates the Fourth Amendment. Because police never seized Potter’s RV, he can raise only a facial Fourth Amendment challenge to the ordinance.”). At best, Timmons and Peter Stavrianoudakis alleged that they were subjected to warrantless inspections decades ago under a different regulatory scheme.⁶ Thus, we address only the Falconers’ facial challenge. *See City of Los Angeles v. Patel*, 576 U.S.

⁶ Timmons and Peter Stavrianoudakis allege that they were unconstitutionally searched by CDFW agents in 1992 and 1983, respectively. Those searches occurred many years before the federal government issued the current regulations, Migratory Bird Permits, Changes in the Regulations Governing Falconry, 73 Fed. Reg. 59,448, 59,448 (Oct. 8, 2008), and delegated falconry permitting to California, Migratory Bird Permits; Delegating Falconry Permitting Authority to 17 States, 78 Fed. Reg. 72,830, 72,830–33 (Dec. 4, 2013). Accordingly, to the extent these Plaintiffs bring an as-applied challenge based on searches that occurred under an outdated regulatory scheme, those searches have no bearing on the standing analysis.

409, 415 (2015) (holding that “facial challenges under the Fourth Amendment are not categorically barred or especially disfavored”).

The Falconers rely on *Meland v. Weber*, which held that when a party “is the actual object of the government’s regulation, then ‘there is ordinarily little question that the action or inaction has caused him injury.’” 2 F.4th 838, 845 (9th Cir. 2021) (quoting *Lujan*, 504 U.S. at 561–62); *see also Illinois v. Krull*, 480 U.S. 340, 354 (1987). They contend that because the unannounced-inspection requirement applies only to licensed falconers, they are the objects of this regulation. But plaintiffs have standing “as the objects of regulation” only when the challenged regulation imposes a “clear burden” on them. *Cal. Sea Urchin Comm’n v. Bean*, 883 F.3d 1173, 1181 (9th Cir. 2018), *as amended* (Apr. 18, 2018). A clear burden is established when, for example, the challenged regulation “is directed at [plaintiffs] in particular” and “requires them to make significant changes in their everyday business practices,” *Abbott Lab’ys*, 387 U.S. at 154, or when a law creates a “coercive effect” that “require[s] (or at least encourage[s])” plaintiffs to act in a manner that could amount to unconstitutional discrimination, *Meland*, 2 F.4th at 846–47.

Here, the Falconers failed to identify any comparable, concrete effects—such as self-censorship or any kind of behavioral change—prompted by the unannounced-inspections provisions that would amount to a clear burden. Rather, they essentially claim that they feel threatened by the possibility of a future inspection. No authority establishes that mere discomfort constitutes constitutional injury.

We also are not persuaded that the object-of-regulation analysis is the correct paradigm. Instead, because the

Falconers seek declaratory and injunctive relief, we consider whether they have “Article III standing to seek prospective relief.” *Villa v. Maricopa County*, 865 F.3d 1224, 1229 (9th Cir. 2017). In this context, a plaintiff “must allege either continuing, present adverse effects due to . . . exposure to Defendants’ past illegal conduct, or a sufficient likelihood that [plaintiff] will again be wronged in a similar way.” *Id.* (internal quotation marks and citations omitted). The Falconers’ allegations do not address the present-adverse-effect criterion in any way. Standing therefore depends on whether they have alleged a “sufficient likelihood” of a future wrong.

The Falconers acknowledge that they have not been inspected (at least not in several decades), but they contend that the “pattern or practice of unreasonable warrantless searches” authorized by the unannounced-inspection provisions create a likelihood of future individualized injury. This is insufficient to “show that the threat of future injury is ‘actual and imminent, not conjectural or hypothetical.’” *Bolden-Hardge v. Off. of the Cal. State Controller*, 63 F.4th 1215, 1220 (9th Cir. 2023) (quoting *Summers v. Earth Island Inst.*, 555 U.S. 488, 493 (2009)).

The Falconers argue that it is impossible for them to identify with any certainty when *unannounced* inspections will occur. That may be, but the Falconers failed to allege *any* facts about the frequency or volume of unannounced inspections that California regulators undertake, which would inform the “likelihood” that the Falconers face a risk of such inspection. *Cf. Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164–65 (2014) (holding that injury was imminent because plaintiffs demonstrated that enforcement actions took place 20 to 80 times each year and thus “are not a rare occurrence”). Rather, the Falconers rely primarily on

the existence of the regulation authorizing unannounced inspections. While the regulation is of course material, mere speculation that regulators will exercise their inspection authority is insufficient to establish standing for a claim seeking prospective relief. *See, e.g., Cal. Tow Truck Ass’n v. City & County of San Francisco*, 693 F.3d 847, 866 (9th Cir. 2012) (“[T]he mere existence of a statute, which may or may not ever be applied to plaintiffs, is not sufficient to create a case or controversy within the meaning of Article III.” (quoting *San Diego County Gun Rights Comm. v. Reno*, 98 F.3d 1121, 1126 (9th Cir. 1996))).

In sum, the Falconers have not sufficiently demonstrated injury in fact as to their unannounced-inspection claim.⁷ Based on the allegations presented, “[n]o violation of the laws is on the horizon and no enforcement action or prosecution is either threatened or imminent. . . . [A]t this stage the dispute is purely hypothetical and the injury is speculative. Whether viewed through the lens of standing or ripeness, resolution of the [Fourth] Amendment issues is premature.” *Thomas*, 220 F.3d at 1137. Because the Falconers lack standing to directly challenge the authorization of unannounced inspections, they also lack standing to challenge this authorization under the APA.

⁷ Katherine Stavrianoudakis is positioned differently than the other individual Plaintiffs because she is not a falconer. She alleges that the unannounced-inspection provisions violate her Fourth Amendment rights because she shares a home with a licensed falconer. The district court dismissed her claim because she did not show that she was subjected to an unannounced inspection. On appeal, the parties did not specifically address her standing arguments. We conclude that Katherine Stavrianoudakis does not have standing for the same reasons that the Falconers do not have standing.

C. AFC's Claims

AFC also asserts an unconstitutional-conditions claim and an unannounced-inspection claim on behalf of its members. AFC alleges that the inspection regulations injure its members, not the organization itself. *See Columbia Basin Apartment Ass'n v. City of Pasco*, 268 F.3d 791, 798 (9th Cir. 2001) (“[A]n organization may have standing to assert the claims of its members even where it has suffered no direct injury from a challenged activity.”). To establish associational standing and bring suit on behalf of its members, AFC must establish that: “(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Cent. Sierra Env’t Res. Ctr. v. Stanislaus Nat’l Forest*, 30 F.4th 929, 937 (9th Cir. 2022) (quoting *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977)). Like the individual Plaintiffs, we conclude that AFC has met these requirements for its unconstitutional-conditions claim but not for its unannounced-inspection claim.

Regarding the unconstitutional-conditions claim asserted against CDFW, the first requirement is satisfied because the Falconers are AFC members and they have individual standing to bring the unconstitutional-conditions claim. The second requirement is also met because AFC’s interest in ensuring that its members are not subject to unconstitutional conditions in obtaining falconry licenses is germane to AFC’s purpose of promoting “the broadest liberties possible” for falconers. And the third requirement is fulfilled because AFC requests only declaratory and

injunctive relief, which “do not require individualized proof.” *Columbia Basin Apartment Ass’n*, 268 F.3d at 799.

But as with the Falconers’ claims, we affirm the district court’s dismissal of AFC’s unconstitutional-conditions claim as asserted against FWS and its unannounced-inspection claim. For the reasons discussed regarding the Falconers, AFC’s unconstitutional-conditions claim against FWS is not ripe. As to AFC’s unannounced-inspection claim, the first requirement of organizational standing is not met. The Falconers failed to establish sufficient injury to have standing to bring this claim. AFC points to four of its members who are not parties here and who have experienced unannounced inspections. Specifically, AFC alleges that FWS conducted warrantless inspections of the homes and property of the Washington members in 2004 and 2009, and that CDFW conducted warrantless inspections of the homes and property of the California members in 2016 and 2017. The question is whether these inspections caused an injury that establishes standing for those members and, in turn, AFC. They did not.

Even assuming that the alleged prior warrantless inspections demonstrate that AFC’s non-party members suffered injury, such injury supports only a damages claim to remedy a past violation. *Bolden-Hardge*, 63 F.4th at 1221. Because AFC seeks prospective relief—and “at least one member” of an organization must have “standing to present, in his or her own right, *the claim (or the type of claim)* pleaded by the association”—more must be shown as relates to the California and Washington members. *United Food & Com. Workers Union Loc. 751 v. Brown Grp.*, 517 U.S. 544, 555 (1996) (emphasis added).

As previously discussed, “standing to seek prospective relief” exists where plaintiffs are suffering either “continuing, present adverse effects” from the defendants’ past illegal conduct or “a sufficient likelihood” that they will be similarly wronged again in the future. *Villa*, 865 F.3d at 1229 (citations omitted). Just like the Falconers, AFC’s allegations do not address the first criterion in any way. And as to the second criterion, the operative complaint merely sets out the general allegation that “[w]arrantless searches of American Falconry Conservancy members’ private homes and other property by Defendants is widespread and on-going,” without any specificity about the likelihood that the Washington and California AFC members will be inspected without a warrant again. It is also worth noting that each AFC member identified was subjected only to one past inspection that occurred several years ago. These allegations do not establish “that the threat of future injury is ‘actual and imminent,’” as opposed to “‘conjectural or hypothetical.’” *Bolden-Hardge*, 63 F.4th at 1220 (quoting *Summers*, 555 U.S. at 493). AFC therefore lacks standing to bring its unannounced-inspection claim based on its identified Washington and California members because, although “[p]ast wrongs may serve as evidence of a ‘real and immediate threat of repeated injury,’ . . . they are insufficient on their own to support standing for prospective relief.” *Id.* (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 102–03 (1983)).

**AFFIRMED IN PART; REVERSED IN PART;
REMANDED.⁸**

⁸ Each party shall bear its own costs.

S.R. THOMAS, Circuit Judge, concurring in part and dissenting in part:

The question in this case is whether Plaintiff-Falconers have standing to challenge state and federal falconry regulations as violative of their Fourth Amendment rights. I agree that the district court properly dismissed Falconers' claim that the regulations violate the Fourth Amendment because they have not been subjected to an inspection under the current regulations and cannot establish that a future inspection is imminent. I respectfully disagree that Falconers have standing to challenge the state regulations under the unconstitutional-conditions doctrine instead. Because I would affirm the district court's dismissal of all of Falconers' remaining claims, I respectfully dissent in part.

I

The Fourth Amendment guarantees “the right of the people . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. “[R]easonableness” is the “ultimate measure of . . . constitutionality” and is judged by balancing the intrusion on the individual’s reasonable expectation of privacy against the “promotion of legitimate government interests.” *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 652 (1995). In assessing whether a search was “reasonable,” the fact that an individual consented to the search, and the conditions under which such consent was obtained, may be relevant. *See United States v. Scott*, 450 F.3d 863, 867–68 (9th Cir. 2006); *Schneckloth v. Bustamonte*, 412 U.S. 218, 228 (1973) (“the Fourth [] Amendment[] require[s] that consent not be coerced”). However, the fact that an individual has consented to a search as a condition of obtaining some benefit “does not by itself make an otherwise unreasonable search reasonable.” *Scott*, 450 F.3d at 871.

While most Fourth Amendment challenges concern the reasonableness of a particular search, the Supreme Court has clarified “facial challenges under the Fourth Amendment are not categorically barred.” *City of L.A., Calif. v. Patel*, 576 U.S. 409, 415 (2015). To mount a facial challenge, however, a plaintiff must still satisfy the requirements for Article III standing by pleading a concrete injury-in-fact in the same manner required for an as-applied challenge. *See Clapper v. Amnesty Intern. USA*, 568 U.S. 398, 409–14 (2013). Where the plaintiff has already been subjected to a search or seizure, the past intrusion can satisfy the constitutional injury requirement. *See, e.g., Patel*, 576 U.S. at 413–14; *Garcia v. City of L.A.*, 11 F.4th 1113, 1117 (9th Cir. 2021). Where no search or seizure has yet occurred, a plaintiff only has standing if they can establish that one is “certainly impending.” *Clapper*, 568 U.S. at 409; *see also Columbia Basin Apartment Ass’n. v. City of Pasco*, 268 F.3d 791, 797 (9th Cir. 2021).

Like all justiciability doctrines, the injury-in-fact requirement is designed to ensure that we “adjudicate live cases or controversies consistent with the powers granted the judiciary in Article III.” *Thomas v. Anchorage Equal Rights Com’n.*, 220 F.3d 1134, 1138 (9th Cir. 2000). “By requiring the plaintiff to show an injury in fact, Article III standing screens out plaintiffs who might have only a general legal, moral, ideological, or policy objection to a particular government action.” *Food & Drug Admin. v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 381 (2024).

As the majority opinion recounts, Falconers’ operative complaint advances two alternative theories of Fourth Amendment injury. First, Falconers allege they are injured by the “ongoing threat” of future unreasonable searches. The majority properly affirmed dismissal of claims based on

this theory because Falconers cannot demonstrate a “sufficient likelihood” that they will be subjected to a future search. *City of L.A. v. Lyons*, 461 U.S. 95, 111 (1983). Alternatively, Falconers allege they are injured by the act of giving consent to future inspection because they are forced to “waive” their the Fourth Amendment rights as a condition of licensure. In my view, this alternative “unconstitutional-conditions” theory fares no better because the act of giving consent, without more, is not a cognizable injury under our precedents.

II

The unconstitutional-conditions doctrine prohibits “the government from coercing people into giving [] up [constitutional rights]” by withholding benefits “from those who exercise them.” *Koontz v. Johns Water Mgmt. Dist.*, 570 U.S. 595, 604 (2013). The doctrine originates in the *Lochner* Era, where it was used to strike down restrictions on commercial activity imposed as a “condition” of doing business. See, e.g. *Frost & Frost Trucking Co. v. RR Comm’n*, 271 U.S. 583, 591–92 (1926); *W. Union Telegraph Co. v. State of Kansas ex rel. Coleman*, 216 U.S. 1, 35 (1910); see also Kathleen M. Sullivan, Unconstitutional Conditions, 102 Harv. L. Rev. 1413, 1416 (1989). The conflict in those cases arose after the government brought an enforcement against a business entity for failing to abide by the restriction. *Frost*, 271 U.S. at 590; *W. Union Telegraph*, 216 U.S. at 7. Later, the unconstitutional-conditions doctrine was extended to government policies requiring individuals to forgo—or retaliating against individuals for engaging in—protected expression as a condition of receiving some benefit. See, e.g., *Bd. of Cnty. Com’rs, Wabunsee Cnty., Kan. v. Umbehr*, 518 U.S. 668, 674–75 (1996); *Speiser v. Randall*, 357 U.S. 513, 529 (1958). The

plaintiffs in those cases were injured by the government's termination of employment or denial of some benefit based on the plaintiffs' "engaging in [protected] speech." *Speiser*, 357 U.S. at 518; *see also Umbehr*, 518 at 617.

Today, the unconstitutional-conditions doctrine is most often litigated in the in the land use context, where it restricts local governments from "forc[ing]" a landowner to forego "her right under the Fifth Amendment to just compensation" in exchange for a land use permit. *Dolan v. City of Tigard*, 512 U.S. 374, 385–86 (1994). In land use cases, the injury that gives rise to constitutional standing is either the uncompensated appropriation of property rights, *Nollan v. California Coastal Com'n*, 483 U.S. 825, 831 (1987), or the "impermissible denial" of authorization to fully develop the landowner's property. *Koontz*, 570 at 607. These injuries occur at the time of the permitting decision, which effects a concrete change in the scope of the owner's property right.

In the Fourth Amendment context, we have recognized that the unconstitutional-conditions doctrine may be relevant in assessing whether a warrantless search or seizure was "reasonable." In *Scott*, for example, we considered whether defendant Scott's consent to the warrantless search of his home "as a condition to [pre-trial] release" made the state's subsequent search of his home reasonable. 459 F.3d at 865. We explained that the unconstitutional-conditions doctrine prevents the government from making "end-runs" around constitutional protections by "attaching strings" to "conditional benefits." *Id.* at 866. We concluded that "Scott's assent to his release conditions does not by itself make an otherwise unreasonable search reasonable" and affirmed the district court's order granting Scott's motion to suppress the fruits of the search. *Id.* at 871, 875. *Scott* did

not address the validity of Nevada’s pretrial release regime under which Scott’s consent was obtained in the first place.

The application of the unconstitutional-conditions doctrine to cases like this, where no search has occurred and the only alleged injury is the signing of a form, is far from “settled.” Indeed no federal court has held that the act of giving consent itself constitutes injury absent an actual or imminently impending search. The majority’s assertion that Falconers are injured “every time they renew their licenses,” is unsupported by precedent.

The recognition of this new type of injury has the unfortunate effect of opening a loophole in our standing jurisprudence. By allowing Falconers to mount an “unconstitutional-conditions” challenge to a law that they do not have standing to challenge directly, the majority opinion undercuts the restriction of prospective relief to those cases where the plaintiff “has suffered or is threatened with a concrete and particularized legal harm[.]” *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 680 (9th Cir. 2023) (en banc).

III

Even if the imposition of an inspection requirement could by itself violate the unconstitutional-conditions doctrine, Falconers have not demonstrated that CDFW’s regime actually burdens a protected right. That is because the Fourth Amendment protects only individual’s right to be free from “*unreasonable* searches and seizures”—not the absolute right to deny all access to one’s home. U.S. Const. amend. IV (emphasis added). Because Falconers have not pleaded any facts to demonstrate that they will be forced to endure “unreasonable” inspections, they have not

demonstrated that they had to “give up” any constitutional right. *Dolan*, 512 U.S. at 385.

Where the unconstitutional conditions doctrine applies, it bars the forced surrender of rights protected of the Constitution. *Koontz*, 570 U.S. at 606. Neither Falconers nor the majority explain precisely which constitutional protections Falconers have been forced to forgo. Falconers’ brief, for example, refers to the “right to demand a warrant,” but that is not an accurate description of what the Fourth Amendment protects. *See United States v. Kincade*, 379 F.3d 813, 822–24 (9th Cir. 2004) (discussing exceptions to the warrant requirement). Falconers do not, for instance, have the right to demand a warrant prior to a valid administrative search, or a search justified by non-law enforcement “special needs.” *Id.* at 823. Further, our precedent clearly establishes that the act of giving consent does *not* constitute a waiver of an individuals’ right to invoke the Fourth Amendment in the future. *See Scott*, 450 F.3d at 868 (discussing and rejecting “the waiver theory” of “Fourth Amendment rights”).

The majority asserts that the substance of Fourth Amendment law is not relevant to standing because it goes to “the merits” of Falconers’ claim. This statement reflects the familiar principle that “jurisdictional inquiry” is different from “merits inquiry.” *Inland Empire Waterkeeper v. Corona Clay Co.*, 17 F.4th 825, 834 (9th Cir. 2021); *see also Rakas v. Illinois*, 439 U.S. 128, 138 (1978) (distinguishing between “standing to invoke the exclusionary rule” and the “substantive question” of whether the exclusionary rule applies.). However, this principle does not render the substance of Fourth Amendment law *irrelevant* to our standing analysis, especially in the context of the an unconstitutional-conditions claim, where the specification of

a burdened right is an essential element Falconer’s theory of Article III injury. If the signing of a form without more never amounts to a violation of the Fourth Amendment, that legal conclusion is certainly relevant to the jurisdictional inquiry. We should not credit Falconers’ assertion that they “forego a claim to Fourth Amendment protections” by virtue of agreeing to future inspections when our Fourth Amendment case law clearly holds otherwise. *See Scott*, 450 F.3d at 868.

Finally, in addition to the legal infirmities addressed above, there are prudential reasons to doubt Falconers’ demand for “robust constitutional scrutiny” of “warrantless search conditions . . . on government benefits, licenses, and privileges.” By delinking Article III injury analysis from the substance of Fourth Amendment law, Falconers’ unconstitutional conditions theory effectively softens the standing requirements that guard against meritless challenges to manifold reasonable regulations.

The government regularly requires citizens to consent to search and seizure as a condition of receiving some benefit or participating in some activity. We have repeatedly confirmed the reasonableness of various types of routine “suspicionless search[.]” under longstanding exceptions to the warrant requirement. *Kincade*, 379 F.3d at 823. Familiar examples of include physical pat-downs conducted by TSA agents as a condition of flying, *see e.g., Gilmore v. Gonzales*, 435 F.3d 1125, 1138 (9th Cir. 2006); *United States v. Marquez*, 410 F.3d 612, 616 (9th Cir. 2005); sobriety tests conducted by police officers as a condition of driving on public roads, *see, e.g., Demarest v. City of Vallejo, Cal.*, 44 F.4th 1209, 1212–20 (9th Cir. 2022); *Birchfield v. North Dakota*, 579 U.S. 438, 478 (2016); building inspections conducted by city officials as a condition of receiving a

rental or business license, *see, e.g., Killgore v. City of S. El Monte*, 3 F.4th 1186, 1190 (9th Cir. 2021); *Rush v. Obledo*, 756 F.2d 713, 720 (9th Cir. 1985); and searches conducted by probation and parole officers as a condition of supervised release, *see e.g., United States v. Betts*, 511 F.3d 872, 877 (9th Cir. 2007).

Under the majority’s logic, a plaintiff would have standing to challenge the laws and regulations authorizing all of these practices at the moment they agree to the condition, either expressly by signing a form, or impliedly by participating in the regulated activity. This expansion in constitutional standing under the Fourth Amendment will lead to dramatic expansion in meritless facial challenges to all kinds of regulations adopted to protect public health, welfare, and safety. Allowing these kinds of Fourth Amendment claims to proceed with no allegation of an actual impending search “will subject government at every level to inappropriate judicial scrutiny of its actions” *Hotop v. City of San Jose*, 982 F.3d 710, 723 (9th Cir. 2020) (Bennett, J., concurring).

In sum, Falconers’ unconstitutional-conditions theory reflects an impermissible attempt to circumvent the Article III injury requirement in the context of the Fourth Amendment. I would affirm the district court dismissal of the Plaintiffs’ claims in their entirety. Thus, I respectfully dissent, in part.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

PETER STAVRIANOUDAKIS; et al.,

Plaintiffs,

v.

UNITED STATES FISH & WILDLIFE SERVICE;
et al.,

Defendants.

No. 1:18-cv-01505-JLT-BAM

**STIPULATED JUDGMENT AND
ORDER**

The Court, having reviewed the parties' Stipulation for Compromise Settlement and Release of Claims, and upon the agreement of all parties to this action, therefore, the Court enters the following judgment and order:

1. Defendant U.S. Fish and Wildlife Service has delegated enforcement of falconry regulations in California, including those contained in 50 C.F.R. § 21.82, to the California Department of Fish and Wildlife.
2. Regarding the claims in Plaintiffs' Second Amended Complaint (ECF 64) asserted under the First Amendment of the Constitution, neither the Federal Defendants nor the State Defendant admit that such claims have any merit. This Court has held that Plaintiffs do not

1 have standing to assert their First Amendment claims against the Federal Defendants, and
2 that Plaintiffs are likely to succeed on the merits of their First Amendment claims against
3 the State Defendant (ECF 95). Accordingly, the State Defendant consents to the Court's
4 Judgment and Order enjoining the State Defendant his officers, agents, servants, employees,
5 and all persons in active concert or participation with him from enforcing the regulations
6 listed below regarding the regulation of falconry, unless and until such time as the State
7 Defendant may amend or revise any of such regulations in a manner consistent with the
8 Court's January 14, 2022, Order:

9 A. This Court has held that the provisions of 50 C.F.R. § 21.82(f)(9)(i), 14
10 C.C.R. § 670(a)(4), and (h)(13)(A) challenged here likely violate the First Amendment
11 to the United States Constitution. The State Defendant is enjoined from relying on those
12 regulations to prohibit licensed falconers from photographing or filming their birds for
13 "movies, commercials, or in other commercial ventures that are not related to falconry."

14 B. This Court has held that the provisions of 50 C.F.R. § 21.82(f)(9)(ii) and 14
15 C.C.R. § 670(a)(4) and (h)(13)(A) challenged here likely violate the First Amendment
16 to the United States Constitution. The State Defendant is enjoined from relying on those
17 regulations to prohibit licensed falconers from photographing or filming their birds for
18 "commercial entertainment; for advertisements; as a representation of any business,
19 company, corporation, or other organization; or for promotion or endorsement of any
20 products, merchandise, goods, services, meetings, or fairs."

21 C. This Court has held that the provisions of 50 C.F.R. § 21.82(f)(8)(v) and 14
22 C.C.R. § 670(a)(4) and (h)(13)(A) challenged here likely violate the First Amendment
23 to the United States Constitution. The State Defendant is enjoined from relying on those
24 regulations to require licensed falconers to discuss "information about the biology,
25 ecological roles, and conservation needs of raptors and other migratory birds" when
26 conducting conservation education activities or otherwise dictating the content of these
27 presentations.

28 ///

1 D. This Court has held that the provisions of 50 C.F.R. § 21.82(f)(8)(iv) and 14
2 C.C.R. § 670(a)(4) and (h)(13)(A) challenged here likely violate the First Amendment
3 to the United States Constitution. The State Defendant is enjoined from relying on those
4 regulations to prohibit licensed falconers from being paid to speak with their birds.

5 3. The California Department of Fish and Wildlife will provide notice to the public on the
6 Department's website of what regulations will no longer be enforced and shall note that
7 such changes are required by this judgment and will amend any instruction or compliance
8 forms the Department issues to falconers to reflect the terms of this judgment. The
9 Department shall maintain said notice on its website until the regulatory provisions not to
10 be enforced are either repealed or amended, by the State Defendants, after which time the
11 Department may remove the notice from its website.

12 4. This stipulated judgment addresses the Plaintiffs' First Amendment challenges to the
13 regulations referenced in paragraph 2 without adjudicating the constitutionality under the
14 First Amendment to the United States Constitution of those specific regulations challenged
15 in Plaintiffs' Second Amended Complaint and does not address or impact the
16 constitutionality of any other statute or regulation.

17 5. This Court's previous Order, (ECF 95) dismissed without leave to amend Counts I–III of
18 the Second Amended Complaint against all Defendants; Counts IV–VII as to the Federal
19 Defendants; Count IX as to the State Defendant; and Count IX as to the Federal Defendants
20 with respect to the unannounced inspection provisions of the challenged regulations, but
21 not the challenged speech regulations.

22 6. Count IX against the Federal Defendants and Counts IV–VIII against the State Defendant
23 are resolved by this stipulated judgment and order. Count VIII was based on California state
24 regulations and was not asserted against the Federal Defendants. See ECF 64 at 27–28.

25 7. Count IX against the Federal Defendants is dismissed without prejudice in its entirety.

26 8. This Order resolves all claims in this case and there is no just reason for delay. The Court
27 directs entry of final judgment pursuant to the terms of this stipulated judgment and order.
28

1 IT IS SO ORDERED.

2 Dated: November 10, 2022


UNITED STATES DISTRICT JUDGE

Memorandum

Date: April 7, 2025

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons for April 16, 2025, Fish and Game Commission Meeting: Amend Sections 670 and 703, Falconry Regulations and Forms**

The Department of Fish and Wildlife (Department) is transmitting the attached Initial Statement of Reasons and supporting documents to amend Sections 670 and 703, Falconry Regulations and Forms, Title 14, CCR, for Notice approval by the Commission on April 16, 2025.

The purpose of the proposed amendments to the regulations is to make certain provisions of the Falconry regulations conform with court orders deleting certain Certification statements, abide by federal Falconry regulations concerning examinations, and to clarify falconers' ability to exhibit their raptors.

If you have any questions regarding this matter, please contact David Kiene, Office of General Counsel. The notice for this rulemaking should identify the Department point of contact as David Kiene, with the email address at regulations@wildlife.ca.gov.

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Branch Chief
Wildlife Branch

Matt Meshriy, Upland/Small Game Biologist
Wildlife Branch

David Kiene, Attorney IV
Office of General Counsel

Xao Yang, Staff Services Manager
License and Revenue Branch

Robert Pelzman, Assistant Chief
Law Enforcement Division

Megan Cisneros, Lieutenant (Spec)
Law Enforcement Division

Ona Alminas, Env. Program Manager

Melissa Miller-Henson, Executive Director
Fish and Game Commission
April 7, 2025
Page 2

Regulations Unit

Mike Randall, Regulations Analyst
Regulations Unit

David Thesell, Deputy Executive Director
Fish and Wildlife Commission

Ari Cornman, Wildlife Advisor
Fish and Game Commission

Jennifer Bacon, CESA Analyst
Fish and Wildlife Commission

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action
Amend Sections 670 and 703
Title 14, California Code of Regulations
Re: Falconry Regulations and Forms

I. Date of Initial Statement of Reasons: March 19, 2025

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: April 16, 2025

Location: Sacramento, CA

(b) Discussion Hearing:

Date: May 14, 2025

Location: Webinar/Teleconference

(c) Adoption Hearing:

Date: June 19, 2025

Location: Sacramento, CA

III. Description of Regulatory Action

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

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The Department of Fish and Wildlife (Department) has requested the proposed amendments for the purpose of conforming certain provisions of the Falconry regulations with recent court orders and federal Falconry regulations. It is necessary that the Fish and Game Commission:

- Conform the regulations and the initial and renewal Falconry license applications with the recent opinion issued by the 9th Circuit U.S. Court of Appeal concerning the “Certification” by applicants for Falconry permits.
- Require falconers to take only California-administered Falconry examinations (not falconry examinations administered by other states).
- Delete restrictions on commercial exhibiting of Falconry raptors (e.g., films, education) to conform with a district court’s November 10, 2022 Stipulated Judgment and Order.

Background

The present regulations of Title 14, Section 670, Falconry, were adopted by the Fish and Game Commission in 2017. Generally, the purpose of these provisions was to streamline and clarify the permitting, possession, and treatment of raptors for purposes of Falconry as defined in Section 670(b)(7) of these regulations. Possession of any live wildlife animal by persons is always unlawful, absent specific authorization and, generally, an applicable permit. Exceptions are extremely limited and highly regulated; these may include organizations such as zoos, sanctuaries, veterinary care, rehabilitation, scientific and educational activities, and the like. Only licensed Falconers are permitted to possess, house, trap, transport, and use Falconry raptors for the purpose of hunting or training.

Falconry has been a sport for thousands of years of human history across all cultures. In the current license year (2024) there are approximately 600 California licensed falconers, enjoying and showcasing the sport. Falconers are ardent caretakers and rehabilitators of the birds. The number of raptors in possession varies but has sometimes exceeded 1,000 birds in recent license years.

Falconry raptors may be any bird of the Order Falconiformes, Accipitriformes or Strigiformes, or a hybrid thereof. Additionally, a licensed falconer may capture raptor(s) from the wild in California, according to the established limits for their respective Falconry license class (Apprentice class, General class or Master class). Raptors that may be captured from the wild for use in Falconry in California are: Northern goshawk, Cooper's hawk, sharp-shinned hawk, red-tailed hawk, red-shouldered hawk, merlin, American kestrel, prairie falcon, barred owl and great horned owl. Only a Master falconer may possess eagles in accordance with 670(e)(6)(C)2.

Proposed Regulations

Amend subsection 670(e)(2)(D)

Amend subsection 670(e)(2)(D) so that it no longer requires applicants for a falconry license to certify that they understand that their facilities, equipment, or raptors are subject to unannounced inspections, and they have read, understand and agree to abide by the applicable provisions of the Fish and Game Code and regulations promulgated thereto.

The change to section 670(e)(2)(D) conforms with the opinion issued by the U.S. Court of Appeal, 9th Circuit, in the case *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.* ((2024) 108 F.4th 1128)), in which the Department Director in his official capacity is a party), which holds that a certification signed by falconry license applicants in which they acknowledge that their facilities may be subject to unannounced inspections and that they agree to comply with all relevant laws (including laws allowing for unannounced inspections) creates an unconstitutional condition. Likewise, Forms FG 360 and FG 360b (the initial and renewal falconry applications incorporated by reference in subsection 703(b)(1)(B)) will be amended removing the relevant parts of the certification statement.

This ongoing lawsuit was filed over six years ago. To date, the Department has paid approximately \$450,000 in attorney's fees and Department staff have spent over a thousand hours helping the Department of Justice defend the Department; these changes could end this lawsuit and minimize further payment of fees and allow Department staff to work on other Department priorities.

670(e)(2)(D) Signed Certification. Each application shall contain a certification worded as follows: "I certify that I have read and am familiar with both the California and U.S. Fish and Wildlife Service falconry regulations, CFR 50, Sections 21.29 through 21.30, and that the information I am submitting 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, suspension or revocation of a license, and/or administrative, civil, or criminal penalties. ~~I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to subsection 670(j), Title 14, of the California Code of Regulations.~~ I certify that I have read, understand, and agree to abide by, all conditions of this license, ~~the applicable provisions of the Fish and Game Code, and the regulations promulgated thereto.~~ I certify that there are no pending or previous legal or administrative proceedings that could disqualify me from obtaining this license." The application shall be submitted with the applicant's original signature.

Delete subsection 670(e)(3)(A)1.

Federal falconry regulations state that state falconry regulations “may be more restrictive than these Federal standards but may not be less restrictive.” (50 C.F.R. 21.82(b)(1)(ii).) States that have regulations that are not at least as restrictive may have their licensing authority suspended. (50 C.F.R. 21.82(b)(5))

Federal falconry regulations also require that a falconry applicant take an examination administered by the state in which they wish to obtain their license. (50 C.F.R. 21.82(c)(3).) But presently, subsection 670(e)(3)(A)1 allows applicants to take out of state falconry exams. The United States Fish and Wildlife Service has notified California of this inconsistency with Federal falconry regulations, potentially placing California’s falconry program at risk of suspension. Deleting subsection 670(e)(3)(A)1. will make this regulation consistent with the federal requirement:

670(e)(3)(A) An applicant who meets one of the following criteria shall be exempt from taking the California falconry examination:

- ~~1. An applicant who provides documentation of successfully passing a federally approved examination in a state that has had its falconry regulations certified as specified in 50 CFR 21 will not be required to take the examination in California if the applicant took the examination less than five years prior to submitting an application for a California falconry license.”~~

Amend subsection 670(h)(13)(A)

Deleting the provisions of subsection 670(h)(13)(A) regarding commercial exhibiting of falconry birds described below is necessary to make this subsection comply with a November 10, 2022 Stipulated Judgment and Order in *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.*, in which the Department agreed not to enforce these provisions. In this case, the district court had earlier found that these provisions likely violate the First Amendment of the United States Constitution.

670(h)(13)(A) Education and Exhibiting. A licensee may use raptors in his or her possession for training purposes, education, field meets, and media (filming, photography, advertisements, etc.), as noted in 50 CFR 21, if the licensee possesses the appropriate valid federal permits, ~~as long as the raptor is primarily used for falconry and the activity is related to the practice of falconry or biology, ecology or conservation of raptors and other migratory birds. Any fees charged, compensation, or pay received during the use of falconry raptors for these purposes may not exceed the amount required to recover costs.~~ An Apprentice falconer may use the licensee's falconry raptor for education purposes only under the supervision of a General or Master falconer.”

Necessity of the Proposed 670 Regulation Changes

Amendments to subsection 670(e)(2)(D) and Forms FG 360, FG 360b and FG 360d are necessary to make this subsection conform with the opinion issued by the U.S. Court of Appeal, 9th Circuit, in the case *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.* ((2024) 108 F.4th 1128)), in which the Director of the Department in his official capacity is a party. This opinion holds that a certification signed by falconry license applicants in which they acknowledge that their facilities may be subject to unannounced inspections and that they agree to comply with all relevant laws (including laws allowing for unannounced inspections) creates an unconstitutional condition. These deletions would eliminate unconstitutional conditions.

Furthermore, these changes are necessary because they could help end this lawsuit and minimize further payment of fees and allow staff to work on other Department priorities. The only issue that remains in this lawsuit is whether the Plaintiffs are entitled to relief under their unconstitutional conditions claim. So far, the Department has paid approximately \$450,000 in attorney's fees, and Department staff have spent over a thousand hours working with Department of Justice attorneys to help defend the Department.

- Deleting subsection 670(e)(3)(A)1 is necessary to make California falconry regulations at least as restrictive as Federal falconry regulations and thereby prevent suspension of California's falconry licensing authority. Federal falconry regulations require that falconry applicants take exams administered by their own states. Federal falconry regulations state that state falconry regulations "may be more restrictive than these Federal standards but may not be less restrictive." (50 C.F.R. 21.82(b)(1)(ii).) States that have regulations that are not at least as restrictive may have their licensing authority suspended. (50 C.F.R. 21.82(b)(5).)
- Federal falconry regulations also require that a falconry applicant take an examination administered by the state in which they wish to obtain their license. (50 C.F.R. 21.82(c)(3).) But presently, subsection 670(e)(3)(A)1 allows applicants to take out of state falconry exams. The U.S. Fish and Wildlife has notified California of this inconsistency with Federal falconry regulations, potentially placing California's falconry program at risk of suspension. Deleting subsection 670(e)(3)(A)1 will make Section 670 consistent with the federal requirement.
- Deleting some of the provisions of subsection 670(h)(13)(A) regarding commercial exhibiting of falconry birds and fees charged is necessary to make this subsection comply with a November 10, 2022, Stipulated Judgment and Order in *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.*, in which the Department agreed not to enforce these provisions. In this case, the district court had earlier found that these provisions likely violate the First Amendment of the U.S. Constitution.

Amend subsection 703(b)(1), Falconry Application forms

The amendment updates the reference to forms incorporated by reference in subsections 703(b)(1)(B) through (E), consistent with current Department form standards and current revision dates. Amending subsection 703(b)(1) is necessary to ensure consistency with the amended forms.

Amendments to forms FG 360, 360b and 360d:

- Updating the names of each form consistent with current Department form standards and current revision date, e.g. (~~FG 360 (New 2/13)~~) (DFW 360 (Rev. 07/25)), and
 - the Department address, website, and minor grammatical edits.
 - adding "Non-binary" as a gender option is necessary for inclusivity.
 - the amounts of the fees are updated in accordance with Section 713, Fish and Game Code.
- DFW 360. Updating the applicant's certification on form DFW 360 for consistency with the amendment of subsection 670(e)(2)(D).

- DFW 360b. Updating the applicant's certification on form DFW 360b for consistency with the amendment of subsection 670(e)(2)(D); and
 - Delete the instruction specifying an examination outside California consistent with the deletion of subsection 670(e)(3)(A)1.
- DFW 360d. Updating the applicant's certification on form DFW 360d for consistency with the amendment of subsection 670(e)(2)(D).

(b) Goals and Benefits of the Regulation

The proposed amendments would:

1. Make subsection 670(e)(2)(D) comply with a 9th Circuit Court of Appeal decision that held that portions of the certification in which applicants for falconry licenses certify that they understand that their "facilities, equipment, or raptors are subject to unannounced inspection[s]" and that they "have read, understand, and agree to abide by all conditions of ...the applicable provisions of the Fish and Game Code and regulations promulgated thereto," including the unannounced inspection provision (subsection 670(j)(3)(A)), are unconstitutional conditions.
2. Updates the initial and renewal falconry license applications so that they contain current information and certifications consistent with subsection 670(e)(2)(D) and the 9th Circuit Court of Appeal decision, and update the incorporation of these applications by reference in subsection 703(b)(1)(B) so these amendments become part of the regulation.
3. Make subsection 670(e)(3)(A) consistent with Federal falconry regulations that require applicants for an apprentice falconry license to take an examination administered by the state in which they wish to obtain their license. Subsection 670(e)(3)(A)1 is proposed to be deleted, removing the allowance that California apprentice falconry license applicants may take examinations from other states, the result is, in conformance with Federal regulations, that applicants will be required to take only the California examinations.
4. Make subsection 670(h)(13)(A) consistent with the November 10, 2022 Stipulated Judgement and Order. The provisions in subsection 670(h)(13)(A) placing constraints on exhibiting are proposed for deletion.
5. Potentially save the Department tens of thousands of dollars in attorney's fees in the ongoing falconry litigation by deleting the certification language and thereby eliminating the remaining issues in the case.

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

Section 670

Authority cited: 200, 203, 265, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1054, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150 and 10500, Fish and Game Code

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

Section 703

Authority cited: Sections 713, 1002, 1002.5, 1050, 1055, 2118, 2120, 2122, 2150, 2150.2, 2157 and 5060, Fish and Game Code.

Reference: Sections 395, 396, 398, 713, 1002, 1002.5, 1050, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2150.4, 2151, 2157, 2190, 2193, 2271, 3005.5, 3007, 3503, 3503.5, 3511, 3513, 3950, 5060, 5061, 10500, 12000 and 12002, Fish and Game Code; and Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.

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

(e) Identification of Reports or Documents Supporting Regulation Change

Stipulated Judgment and Order of the United States District Court (*Stavrianoudakis, et al. v. USFWS, et al.*, Case 1:18-cv-01505-JLT-BAM), dated November 10, 2022

Opinion of the United States Court of Appeals, 9th Circuit (*Stavrianoudakis, et al. v. USFWS, et al.*, (2024) 108 F.4th 1128))

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

The Department presented the proposed amendments to the Commission's Wildlife Resources Committee meeting on January 15, 2025.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

The no change would leave the Department out of conformity with the opinion issued by the U.S. Court of Appeal, 9th Circuit, in the case *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.* ((2024) 108 F.4th 1128)). This would leave the Department vulnerable to further litigation and additional costs.

Not making the other proposed changes (i.e., allowing applicants to continue to take out of state exams) would place would leave the Department's licensing authority at risk of suspension because it would continue to be inconsistent with Federal falconry laws. Without the proposed changes, the ability of licensed Falconers in California to enjoy their sport is threatened.

V. Mitigation measures Required by Regulatory Action

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

VI. Impact of Regulatory Action

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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

The Commission does not anticipate benefits to jobs, businesses, the health and welfare of California residents, or of any benefits to worker safety and the State's environment.

- (C) Cost Impacts on a Representative Private Person or Business

The proposed regulation would require falconers to take the California-administered falconry examination for which the fee is currently \$69. Current regulations allow exams from other states for which the fee is reduced or non-existent. While this fee does not represent a new cost, and there are no additional fees required by this proposed regulation, this could represent an increase for those falconers who have completed their exams in other states.

The Commission is not aware of any cost impacts that a representative private business would necessarily incur in reasonable compliance with the proposed action as it imposes no new fees or costs.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulations may save the Department hundreds of thousands of dollars in attorney's fees in the ongoing falconry litigation by deleting the certification language and thereby eliminating the remaining issues in the case related to conformity with the opinion issued by the U.S. Court of Appeal, 9th Circuit, in the case *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.* ((2024) 108 F.4th 1128)). This lawsuit, filed over six years ago, is ongoing and so far the Department has paid approximately \$457,131 in attorney fees (\$282,131 to the California Department of Justice and \$175,000 in plaintiff's attorney fees) to defend the Department; these regulatory changes could end this lawsuit and minimize further payment of fees and allow Department staff to work on other Department priorities. In combination with the collection of approximately \$1,725 in additional fee revenue and the savings from not having to pay up to \$457,131 in additional attorney fees yields a fiscal benefit of approximately \$458,856 for the Department. See addendum to the STD 399 for further explanation.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

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

The Commission does not anticipate that the proposed action will have any effect on the creation or elimination of jobs within the state. Federal falconry regulations require that a falconry applicant take an examination administered by the state in which they wish to obtain their license (50 C.F.R. 21.82(c)(3)). Presently, subsection 670(e)(3)(A)1 C.C.R. allows applicants to take out of state falconry exams, but the U.S. Fish and Wildlife Service has notified California of this inconsistency with Federal falconry regulations, potentially placing California's falconry program at risk of suspension. The proposed action brings California's falconry exam requirements in line with existing Federal regulations. The proposed regulation would require falconers to take the California-administered falconry examination for which the fee is currently \$69. Current regulations allow exams from other states for which the fee is reduced or non-existent. While this fee does not represent a new cost, and there are no additional fees required by this proposed regulation, this could represent an increase for those falconers who have completed their exams in other states.

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

The Commission does not anticipate that the proposed action will have any negative or positive impacts regarding the creation of new businesses or the elimination of existing businesses within the state.

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

The Commission does not anticipate any expansion of businesses currently doing business within the state as a result from these proposed regulations.

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

The Commission does not anticipate any benefits to the health and welfare of California residents as a result from these proposed regulations.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate any benefits to worker safety as a result from the proposed regulations.

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

The Commission does not anticipate benefits to the state's environment as a result from the proposed regulations.

(g) Other Benefits of the Regulation

The Commission does not anticipate any other benefits as a result from the proposed regulations.

Informative Digest/Policy Statement Overview

The proposed regulatory changes amend Section 670, Title 14, CCR, Practice of Falconry, and subsection 703(b) relating to falconry forms. The Department of Fish and Wildlife (Department) has requested the proposed amendments for the purpose of conforming certain provisions of the Falconry regulations with recent court orders and federal Falconry regulations. It is necessary that the Fish and Game Commission:

- Conform the regulations and the initial and renewal Falconry license applications with the recent opinion issued by the 9th Circuit U.S. Court of Appeal concerning the “Certification” by applicants for Falconry permits.
- Require falconers to take only California-administered Falconry examinations (not falconry examinations administered by other states).
- Delete restrictions on commercial exhibiting of Falconry raptors (e.g., films, education) to conform with a district court’s November 10, 2022 Stipulated Judgment and Order.

Proposed changes to Section 670 and 703:

- Amend subsection 670(e)(2)(D) so that the required certification conforms with the opinion issued by the U.S. Court of Appeal, 9th Circuit, in the case *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.* ((2024) 108 F.4th 1128)), which holds that a certification signed by falconry license applicants in which they acknowledge that their facilities may be subject to unannounced inspections and that they agree to comply with all relevant laws (including laws allowing for unannounced inspections) creates an unconstitutional condition.
- Deleting subsection 670(e)(3)(A)1 will make this regulation consistent with the federal requirement that a falconry applicant take an examination administered by the state in which they wish to obtain their license, 50 C.F.R. 21.82(c)(3). Presently Section 670 allows Falconry applicants to take out of state examinations, this provision is deleted.
- Deleting those provisions of subsection 670(h)(13)(A) regarding commercial exhibiting of falconry birds is necessary to make this subsection comply with a November 10, 2022 Stipulated Judgment and Order in *Stavrianoudakis et al. v. United States Fish & Wildlife Service et al.*, in which the Department agreed not to enforce these provisions. In this case, the district court had earlier found that these provisions likely violate the First Amendment of the U.S. Constitution.
- Amend subsections 703(b)(1)(B), (C) and (E), where the Falconry application forms (FG360, 360b and 360d) are incorporated by reference. The forms will be amended removing the relevant parts of the certification statement as set forth in subsection 670(e)(2)(D) and in conformance with cited opinion of the court. Other minor nonsubstantial changes are proposed.

Benefits of the regulations

The benefits of the proposed regulations are consistency with the opinion of the court and federal law. The amended regulations benefit the licensed falconers and reduce the risk of further litigation of the Department.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to sections 670 and 703 are neither inconsistent nor incompatible with existing state regulations. No other state agency has the authority to promulgate falconry regulations.

Proposed Regulatory Language

Section 670, Title 14, California Code of Regulations, is hereby amended as follows:

§ 670. Practice of Falconry.

. . . [No change to subsections (a) through (e)(2)(C)] . . .

(D) Signed Certification. Each application shall contain a certification worded as follows: "I certify that I have read and am familiar with both the California and U.S. Fish and Wildlife Service falconry regulation, CFR 50, Sections 21.29 through 21.30, and that the information I am submitting 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, suspension or revocation of a license, and/or administrative, civil, or criminal penalties. ~~I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to subsection 670(j), Title 14, of the California Code of Regulations.~~ I certify that I have read, understand, and agree to abide by, all conditions of this license, ~~the applicable provisions of the Fish and Game Code, and the regulations promulgated thereto.~~ I certify that there are no pending or previous legal or administrative proceedings that could disqualify me from obtaining this license." The application shall be submitted with the applicant's original signature.

(E) Experience. The department shall consider an applicant's falconry experience acquired in California, as well as another state or country when reviewing an application for any class of license. The department shall determine which class of falconry license is appropriate, consistent with the class requirements herein and the documentation submitted with the application demonstrating prior falconry experience.

(3) Examination Requirement. An applicant not possessing a valid falconry license, or required to apply for a new falconry license in California shall pass the falconry examination to demonstrate proficiency in falconry and raptor-related subject areas before being issued a license. An applicant shall correctly answer at least 80 percent of the questions to pass the examination. An applicant who fails to pass the examination may take another examination no earlier than the next business day following the day of the failed examination. An applicant shall submit the nonrefundable falconry examination fee specified in Section 703 each time the applicant takes an examination.

(A) An applicant who meets one of the following criteria shall be exempt from taking the California falconry examination:

~~1. An applicant who provides documentation of successfully passing a federally approved examination in a state that has had its falconry regulations certified as specified in 50 CFR 21 will not be required to take the examination in California if the applicant took the examination less than five years prior to submitting an application for a California falconry license.~~

21. The applicant is a nonresident or non-U.S. citizen falconer who has a valid falconry license issued from another state or country.

32. The applicant is a member of a federally recognized tribe and has a valid falconry license issued from that member's tribe.

. . . [No change to subsections (e)(3)(B) through (h)(12)]. . .

(13) Other Uses of Falconry Raptors. A licensee may use falconry raptors for education, exhibiting, propagation, or abatement. A licensee may transfer a wild-caught raptor to a raptor propagation permit, but the raptor shall have been used in falconry for at least two years, or at least one year for a sharp-shinned hawk, merlin, Cooper's hawk or American kestrel. A wild caught raptor may be transferred to another permit type other than falconry only if it has been injured and can no longer be used in falconry. In this case, the licensee shall provide a copy of a certification from a veterinarian to the department's License and Revenue Branch stating that the raptor is not useable in falconry.

(A) Education and Exhibiting. A licensee may use raptors in his or her possession for training purposes, education, field meets, and media (filming, photography, advertisements, etc.), as noted in 50 CFR 21, if the licensee possesses the appropriate valid federal permits, ~~as long as the raptor is primarily used for falconry and the activity is related to the practice of falconry or biology, ecology or conservation of raptors and other migratory birds. Any fees charged, compensation, or pay received during the use of falconry raptors for these purposes may not exceed the amount required to recover costs.~~ An Apprentice falconer may use the licensee's falconry raptor for education purposes only under the supervision of a General or Master falconer.

. . . [No change to subsections (h)(13)(B) through (j)]. . .

Note: Authority cited: Sections 200, 203, 265, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1054, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150 and 10500, Fish and Game Code. Reference: Sections 395, 396, 713, 1050, 3007, 3031, 3503, 3503.5, 3511, 3513 and 3801.6, Fish and Game Code; Section 597, Penal Code; and Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.

Proposed Regulatory Language

Section 703, Title 14, California Code of Regulations, is hereby amended as follows:

§ 703. Miscellaneous Applications, Tags, Seals, Licenses, Permits, and Fees.

. . . *[No change to subsection (a)]*

(b) Applications, Forms and Fees for July 1 through June 30 (Fiscal Year).

(1) Falconry.

. . . *[No change to subsection (b)(1)(A)]*

(B) Falconry License Renewal Application (~~FG 360~~ (New 2/13 DFW 360 (Rev. 07/2025))) incorporated by reference herein.

1. An applicant for a license renewal that has not lapsed as specified in subsection 670(e) shall submit a License Renewal Application with the appropriate fee(s) listed in paragraph (b)(1)(A).

(C) New Falconry License Application (~~FG 360b~~ (New 2/13 DFW 360b (Rev. 07/2025))) incorporated by reference herein.

1. An applicant for a new license as specified in subsection 670(e) shall submit a New Falconry License Application with the appropriate fee(s) listed in paragraph (b)(1)(A).

2. An applicant for a lapsed license renewal as specified in subsection 670(e) shall submit a New Falconry License Application with the appropriate fee(s) listed in Paragraph (b)(1)(A).

(D) Apprentice Falconer's Annual Progress Report (FG 360c (New 2/13)) incorporated by reference herein.

1. A licensed Apprentice falconer who is applying for license renewal, or within 10 calendar days after expiration of the license, whichever comes first, shall submit an Apprentice Falconer's Annual Progress Report as required in subsection 670(f).

(E) Raptor Facilities and Falconry Equipment Inspection Report (~~FG 360d~~ (New 2/13 DFW 360d (Rev. 07/2025))) incorporated by reference herein.

1. A new applicant, an applicant renewing a lapsed license, or a licensee that moves housing facilities to a new address, shall initiate an inspection by submitting a Raptor Facilities and Falconry Equipment Inspection Report as required in subsection 670(j) with the specified Inspection Fee(s) listed in paragraph (b)(1)(A).

. . . *[No change to subsections (b)(1)(F) through (c)]*

NOTE : Authority cited: Sections 713, 1002, 1002.5, 1050, 1055, 2118, 2120, 2122, 2150, 2150.2, 2157 and 5060, Fish and Game Code. Reference: Sections 395, 396, 398, 713, 1002, 1002.5, 1050, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2150.4, 2151, 2157, 2190, 2193, 2271, 3005.5, 3007, 3503, 3503.5, 3511, 3513, 3950, 5060, 5061, 10500, 12000 and 12002, Fish and Game Code; and Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.



California Natural Resources Agency
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

2013-2014 2025-2026 FALCONRY LICENSE RENEWAL APPLICATION

DFW 360 (REV. 07/2025) Page 1 of 2

FEES: ~~\$93.73~~\$129.53 (~~\$79.57~~\$109.70 LICENSE FEE* + \$14.16\$19.83 NONREFUNDABLE APPLICATION FEE*)

*Fees include an ALDS nonrefundable three percent (3%) application fee, not to exceed \$7.50 per item. (Section 700.4, Title 14, California Code of Regulations)

VALID JULY 1, 2013 2025 THROUGH JUNE 30, 2014 2026 If issued after July 1, valid on effective date.

Any person using raptors to take game or nongame birds or mammals shall abide by all laws and regulations related to hunting, which includes having a valid California Hunting License.

YOU MUST INCLUDE YOUR GO ID# OR A COPY OF YOUR IDENTIFICATION WITH THIS APPLICATION. SEE INSTRUCTION ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME	M.I.	LAST NAME	GO ID NUMBER (From ALDS Issued License)			
MAILING ADDRESS						DAY TELEPHONE
CITY	STATE	ZIP CODE	SEX GENDER <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> NONBINARY		DATE OF BIRTH	
PERMANENT HOUSING FACILITY ADDRESS <input type="checkbox"/> CHECK BOX IF YOU OWN THIS			HAIR COLOR	EYE COLOR	HEIGHT	WEIGHT
PROPERTY CITY			STATE	ZIP CODE	EMAIL ADDRESS (Voluntary)	

LIST RAPTORS CURRENTLY POSSESSED UNDER YOUR FALCONRY LICENSE (Master Falconers - Attach additional list if needed)

SPECIES OF RAPTOR #1 (Apprentice, General or Master)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #2 (General or Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #3 (General or Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #4 (Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #5 (Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED

A SPONSOR IS REQUIRED IF APPLYING FOR AN APPRENTICE FALCONER

FIRST NAME	M.I.	LAST NAME	DAY TELEPHONE
MAILING ADDRESS		LAST 4 DIGITS OF GO ID # (From ALDS Issued License)	DATE OF BIRTH
CITY	STATE	ZIP CODE	COUNTY

I agree to sponsor this apprentice. I agree to assist this apprentice in learning about husbandry, training of raptors, relevant laws and regulations, and deciding what species of raptor is appropriate. I hereby certify that I am either a licensed master falconer or a licensed general falconer who has at least two years of experience at the General level. In the event a license is granted for this apprentice, I understand that if I terminate sponsorship for this apprentice, I am required to immediately notify in writing the California Department of Fish and Wildlife, License and Revenue Branch, 4740 N. Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento CA 94244-2090.

SPONSOR'S SIGNATURE X	DATE
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I certify that I have read and am familiar with both the California and U.S. Fish and Wildlife Service falconry regulations, CFR 50, Sections 21.29 through 21.30, and that the information I am submitting 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, suspension or revocation of a license, and/or administrative, civil, or criminal penalties. I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to Section 670(j), Title 14, of the CCR. I certify that I have read, understand, and agree to abide by all conditions of this license, the applicable provisions of the FGC, and the regulations promulgated thereto. I certify that I am not currently under any Fish and Wildlife license or permit revocation or suspension, and that there are no other legal or administrative proceedings pending that would disqualify me from obtaining this license.

APPLICANT'S SIGNATURE X	DATE
PARENT'S/GUARDIAN'S SIGNATURE (Required if applicant is under 18 years old.) X	DATE

FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE USE ONLY

REVIEWED BY/DATE	LRB APPROVED CLASS	TRANSACTION #	ISSUED BY/DATE
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INSTRUCTION FOR COMPLETING THE FALCONRY LICENSE RENEWAL APPLICATION

Please allow 15 business days for the processing of your application. If inspection is required, please allow an additional 30 business days. Incomplete applications will be returned and could delay the issuance of your license. Contact the License and Revenue Branch at ~~(916) 928-5849~~ (916) 928-5846 or SPU@wildlife.ca.gov, if you need additional information regarding falconry licenses.

1. It is mandatory to complete all items unless specified as voluntary.
2. Sign and date the application.
3. **IMPORTANT:** If you do not own the property where your falconry facilities are located, you must submit with this application a signed and dated statement from the property owner stating that ~~he/she~~ they agree the falconry facilities, equipment and raptors may be inspected without advance notice, as specified in Section 670(j).
4. Mail this application, your GO ID# or a copy of your identification, a Falconry Hunting Take Report, a statement from the property owner if required, and a cashier's check, money order, personal or business check*, or credit card** authorization form (online at www.dfg.ca.gov/licensing/forms (under the Other Forms tab) www.wildlife.ca.gov/licensing/falconry) with the appropriate fee to the California Department of Fish and Wildlife, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento, CA 94244-2090 or apply in person. **DO NOT SEND CASH.**
5. An apprentice must also submit an Apprentice Falconer's Annual Progress Report with their application, which is available online at www.dfg.ca.gov/licensing/forms (under the Special Permits tab) www.wildlife.ca.gov/licensing/falconry.
6. If you move your permanent falconry facility to another location, as specified in Section 670(j), you are required to notify the Department within five days and submit a completed Raptor Facilities and Falconry Equipment Inspection Report (~~FG 360d~~ DFW 360d) and inspection fee, as specified in 703. The Department will contact you about scheduling an appointment to have your facility inspected.

NOTE: The Resident Falconer Raptor Capture, Recapture or Release Report (~~FG 360f~~ DFW 360f), Raptor Facilities and Falconry Equipment Inspection Report (~~FG 360d~~ DFW 360d), and Falconry Hunting Take Report (~~FG 360h~~ DFW 360h) are available at www.dfg.ca.gov/licensing/forms (under the Special Permits tab) www.wildlife.ca.gov/licensing/falconry or by contacting the Department at the address and telephone number listed above or online.

IDENTIFICATION REQUIREMENT

Section 700.4(c), Title 14, of the California Code of Regulations (CCR) states any applicant applying for any license, tag, permit, reservation or other entitlement issued via Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel)
- US Certificate or Report of Birth Abroad
- US Birth Certificate
- Tribal Identification Card, as defined by each sovereign tribal nation
- US Passport
- A foreign government-issued photo identification
- Certificate of Naturalization or Citizenship
- Birth Certificate or passport issued from a US Territory

Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include any form of identification described above; or a parent or legal guardian's identification as described above.

NOTICE

Disclosure Statement—Under Fish and Game Code (FGC) Sections 395-398 and Section 670, Title 14, of the California Code of Regulations, the California Department of Fish and Wildlife is authorized to collect information from applicants to maintain a record of licensure. All information requested on this application is mandatory unless otherwise indicated. An applicant's name and city of residence may be provided to the public if requested. Under FGC Section 391, other personal information submitted on this application may be released for law enforcement purposes, pursuant to court order, or for official natural resources management purposes.

A licensee may obtain a copy of ~~his/her~~ their license records maintained by the Department by submitting a written request to the Custodian of Records, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento, CA 94244-2090 or lr@wildlife.ca.gov LRB@wildlife.ca.gov. All requests must include the requester's name, address, and telephone number.

PAYMENT POLICY

***Personal or business checks** will be accepted by the Department if name and address are imprinted on the check. Checks returned to the Department due to insufficient funds will render your license invalid. The Department may also deny the issuance or renewal of any license if a person has failed to reimburse the Department for the amount due. Any activity performed without a valid license is a violation of the Fish and Game Code and therefore subject to enforcement action.

****Credit Cards**—Licenses, permits, tags, stamps, or registrations may be purchased with a Visa or MasterCard.



California Natural Resources Agency

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

2013-2014 2025-2026 NEW FALCONRY LICENSE APPLICATION

DFW360b (REV. 07/2025) Page 1 of 2

EXAMINATION FEE: ~~\$50.00~~\$69.00 (PAID AT TIME OF EXAM)

LICENSE AND APPLICATION FEES: ~~\$93.73~~\$129.53 (~~\$79.57~~\$109.70 LICENSE FEE* + ~~\$14.16~~\$19.83 NONREFUNDABLE APPLICATION FEE*) AND **INSPECTION FEE*: ~~\$266.50~~\$364.25** (UP TO FIVE ENCLOSURES) PLUS ~~\$13.13~~\$18.54 (FOR EACH ADDITIONAL ENCLOSURE*).

*Fees include ~~an~~ an ALDS nonrefundable three percent (3%) application fee, not to exceed \$7.50 per item. (Section 700.4, Title 14, California Code of Regulations)

VALID JULY 1, 20132025 THROUGH JUNE 30, 20142026 If issued after July 1, valid on effective date.

Any person using raptors to take game or nongame birds or mammals shall abide by all laws and regulations related to hunting, which includes having a valid California Hunting License.

YOU MUST INCLUDE YOUR GO ID# OR A COPY OF YOUR IDENTIFICATION WITH THIS APPLICATION. SEE INSTRUCTION ON REVERSE. TYPE OR PRINT CLEARLY.

FIRST NAME	M.I.	LAST NAME		GO ID NUMBER (FROM ALDS ISSUED LICENSE)			
MAILING ADDRESS						DAY TELEPHONE	
CITY	STATE	ZIP CODE	SEX <u>GENDER</u> <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> NON-BINARY		DATE OF BIRTH		
PERMANENT HOUSING FACILITY ADDRESS <input type="checkbox"/> CHECK BOX IF YOU OWN THIS PROPERTY			HAIR COLOR	EYE COLOR	HEIGHT	WEIGHT	
CITY	STATE	ZIP CODE	EMAIL ADDRESS (Voluntary)				

NONRESIDENTS: LIST RAPTORS CURRENTLY POSSESSED UNDER YOUR FALCONRY LICENSE (Master Falconers - Attach additional list if needed)

SPECIES OF RAPTOR #1 (Apprentice, General or Master)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #2 (General or Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #3 (General or Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #4 (Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED
SPECIES OF RAPTOR #5 (Master Class Only)	BAND NUMBER	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNK	AGE	<input type="checkbox"/> WILD CAUGHT	DATE ACQUIRED

A SPONSOR IS REQUIRED IF APPLYING FOR AN APPRENTICE FALCONER

SPONSOR'S FIRST NAME	M.I.	LAST NAME		DAY TELEPHONE	
MAILING ADDRESS			LAST 4 DIGITS OF GO ID NUMBER (From ALDS Issued License)		DATE OF BIRTH
CITY	STATE	ZIP CODE	COUNTY		

I agree to sponsor this apprentice. I agree to assist this apprentice in learning about husbandry, training of raptors, relevant laws and regulations, and deciding what species of raptor is appropriate. I hereby certify that I am either a licensed master falconer or a licensed general falconer who has at least two years of experience at the General level. In the event a license is granted for this apprentice, I understand that if I terminate sponsorship for this apprentice, I am required to immediately notify in writing the California Department of Fish and Wildlife, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento CA 94244-2090.

SPONSOR'S SIGNATURE	DATE
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X I certify that I have read and am familiar with both the California and U.S. Fish and Wildlife Service falconry regulations, CFR 50, Sections 21.29 through 21.30, and that the information I am submitting 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, suspension or revocation of a license, and/or administrative, civil, or criminal penalties. I understand that my facilities, equipment, or raptors are subject to unannounced inspection pursuant to Section 670(j), Title 14, of the CCR. I certify that I have read, understand, and agree to abide by all conditions of this license, the applicable provisions of the FGC, and the regulations promulgated thereto. I certify that I am not currently under any Fish and Wildlife license or permit revocation or suspension, and that there are no other legal or administrative proceedings pending that would disqualify me from obtaining this license.

APPLICANT'S SIGNATURE	DATE
PARENT'S/GUARDIAN'S SIGNATURE (Required if applicant is under 18 years old.)	DATE

FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE USE ONLY

CDFW OFFICE	CDFW EXAMINATION FEE TRANSACTION #	CDFW FALCONRY EXAM <input type="checkbox"/> PASS <input type="checkbox"/> FAIL If applicant fails, they may retake the exam the next business day.	
REVIEWED BY/DATE	LRB APPROVED CLASS	TRANSACTION #	ISSUED BY/DATE

INSTRUCTION FOR COMPLETING THE NEW FALCONRY LICENSE APPLICATION

Please allow 45 business days for the processing of your application. A person applying for a California falconry license for the first time or renewing a license that has lapsed for five or more years must take and pass a written examination given at any California Department of Fish and Wildlife (Department) office listed below and have their facility inspected by the Department. ~~An applicant who provides documentation of successfully passing a federally approved examination in a state that has had its falconry regulations certified as specified in Title 50, CFR, Section 21.29, will not be required to take the examination in California if the applicant took the exam within five years from the date the application was submitted.~~ Applicants must be 12 years of age or older to be issued an apprentice license and may possess only a red-tailed hawk or an American kestrel. Applicants under 18 years of age must have a parent or guardian co-sign this application.

Incomplete applications will be returned and could delay the issuance of your license. Contact the License and Revenue Branch at (916) 928-5849 (916) 928-5846 or SPU@wildlife.ca.gov, if you need additional information regarding falconry licenses.

1. It is mandatory to complete all items unless specified as voluntary.
2. Sign and date the application.
3. Make a reservation to take the exam at the ~~CDFW Department~~ office listed below nearest you. The written exam will take approximately two hours and will be scored while you are present. If you fail the exam, you may take another examination no earlier than the next business day following the date of the failed examination.
4. Take this completed application, the examination fee, and a copy of your identification with you to the exam.

Upon passing the exam:

5. **IMPORTANT:** You must have your permanent falconry facilities built and ready to be inspected by the Department when you submit this application. Submit a completed Raptor Facilities and Falconry Equipment Inspection Report (FG-360d ~~DFW 360d~~) and the inspection fee, as specified in Section 703 with this application. Your permanent falconry facility must pass an inspection by the Department, as specified in Section 670(j) before your license may be issued. The Department will contact you about scheduling an appointment to have your facility inspected.
If you do not own the property where your falconry facilities are located, you must submit with this application a signed and dated statement from the property owner stating that ~~he/she/they~~ agrees/agree the falconry facilities, equipment and raptors may be inspected without advance notice, as specified in Section 670(j).
6. Mail this application, the completed Raptor Facilities and Falconry Equipment Inspection Report, a copy of your identification, a statement from the property owner if required, and a cashier's check, money order, personal or business check*, or credit card** authorization form (online at www.dfg.ca.gov/licensing/forms (under the Other Forms tab) www.wildlife.ca.gov/licensing/falconry) with the license, application and inspection fees to the California Department of Fish and Wildlife, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento, CA 94244-2090 or apply in person. **DO NOT SEND CASH.**

NOTE: The Resident Falconer Raptor Capture, Recapture or Release Report (FG-360f ~~DFW 360f~~), Raptor Facilities and Falconry Equipment Inspection Report (FG-360d ~~DFW 360d~~), and Falconry Hunting Take Report (FG-360h ~~DFW 360h~~) are available at www.dfg.ca.gov/licensing/forms (under the Special Permits tab) www.wildlife.ca.gov/licensing/falconry or by contacting the Department at the address and telephone number listed above or online.

IDENTIFICATION REQUIREMENT

Section 700.4(c), Title 14, of the California Code of Regulations (CCR) states any applicant applying for any license, tag, permit, reservation or other entitlement issued via Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors Identification number (GO ID) previously issued via ALDS
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel)
- US Certificate or Report of Birth Abroad
- US Birth Certificate
- Tribal Identification Card, as defined by each sovereign tribal nation
- US Passport
- A foreign government-issued photo identification
- Certificate of Naturalization or Citizenship
- Birth Certificate or passport issued from a US Territory

Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include any form of identification described above; or a parent or legal guardian's identification as described above.

NOTICE

Disclosure Statement—Under Fish and Game Code (FGC) Sections 395-398 and Section 670, Title 14, of the California Code of Regulations, the California Department of Fish and Wildlife is authorized to collect information from applicants to maintain a record of licensure. All information requested on this application is mandatory unless otherwise indicated. An applicant's name and city of residence may be provided to the public if requested. Under FGC Section 391, other personal information submitted on this application may be released for law enforcement purposes, pursuant to court order, or for official natural resources management purposes.

A licensee may obtain a copy of his/her their license records maintained by the Department by submitting a written request to the Custodian of Records, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento, CA 94244-2090 or LRB@dfg.ca.gov LRB@wildlife.ca.gov. All requests must include the requester's name, address, and telephone number.

PAYMENT POLICY

***Personal or business checks** will be accepted by the Department if name and address are imprinted on the check. Checks returned to the Department due to insufficient funds will render your license invalid. The Department may also deny the issuance or renewal of any license if a person has failed to reimburse the Department for the amount due. Any activity performed without a valid license is a violation of the Fish and Game Code and therefore subject to enforcement action.

****Credit Cards**—Licenses, permits, tags, stamps, or registrations may be purchased with a Visa or MasterCard.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE OFFICES

www.dfg.ca.gov www.wildlife.ca.gov

FRESNO — 1234 East Shaw Avenue, Fresno, CA 93710, (559) 222-3761 Ext. 151

LOS ALAMITOS — 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 596-3885

MONTEREY — 21 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940, (831) 649-2870

NAPA FAIRFIELD — 7329 Silverado Trail, Napa, CA 94558, (707) 944-5500 2825 Cordelia Road, Suite 100, Fairfield, CA

FG-360b (New 2/13)

94534, (707) 428-2002

RANCHO CORDOVA — 1701 Nimbus Road, Rancho Cordova, CA 95670, (916) 358-2900

REDDING — 601 Locust Street, Redding, CA 96001, (530) 225-2300

SAN DIEGO — 3883 Ruffin Road, San Diego, CA 92123, (858) 467-4201

EUREKA — 619 2nd Street, Eureka, CA 95501 (707) 445-6493



California Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE

2013-2014 2025-2026 RAPTOR FACILITIES AND FALCONRY EQUIPMENT INSPECTION REPORT

DFW 360d (REV. 07/2025) Page 1 of 2

INSPECTION FEE: ~~\$266.50~~ \$364.25* (Five enclosures or less)

ADDITIONAL INSPECTION FEE: ~~\$13.13~~ \$18.54* (Required for each enclosure over five)

RE-INSPECTION FEE: ~~\$222.48~~ \$305.00* (Required for violations or non-compliance issues)

*Fees includes an ALDS nonrefundable three percent (3%) application fee, not to exceed \$7.50 per item (Section 700.4, Title 14, California Code of Regulations)

INSTRUCTIONS FOR APPLICANT OR LICENSEE: ONLY COMPLETE PARTS I AND II. Upon completion, submit **ALL COPIES** of this report along with a cashier's check, money order, personal or business check, or credit card authorization form at www.wildlife.ca.gov/Licensing/Falconry for the appropriate inspection fee(s) (based on the number of enclosures that will be inspected) to the Department of Fish and Wildlife, License and Revenue Branch, 1740 N Market Blvd., Sacramento, CA 95834 P.O. Box 944209, Sacramento, CA 94244-2090. The Department will contact you to schedule the inspection. Contact the License and Revenue Branch at (916) 928-5846 or SPU@wildlife.ca.gov if you need additional information regarding falconry licenses.

PART I

FIRST NAME	M.I.	LAST NAME	EMAIL ADDRESS
MAILING ADDRESS			DAY TELEPHONE
CITY	STATE	ZIP CODE	NUMBER OF ENCLOSURES
PERMANENT HOUSING FACILITY ADDRESS	CITY	ZIP CODE	COUNTY

PART II – RAPTOR (S) PRESENT (Master Falconers - Attach additional list if needed)

Species of Raptor #1 (Apprentice, General or Master)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #2 (General or Master)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #3 (General or Master)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #4 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #5 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #6 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #7 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #8 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #9 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #10 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #11 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #12 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #13 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #14 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired
Species of Raptor #15 (Master Class Only)	Band Number	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unk	Age	<input type="checkbox"/> Wild Caught	Date Acquired

INSTRUCTIONS FOR CDFW OFFICER: Upon completion of all parts of the Raptor Facilities and Falconry Equipment Inspection Report, provide the falconer with the original (white) copy and submit to the License and Revenue Branch a copy by email to SPU@wildlife.ca.gov. Retain the second (white) a copy for your records.

**PART III - FACILITIES** (Section 670(j), Title 14, of the CCR and Title 50, CFR, Section 21.29)

	YES	NO
A. MEW (Indoor Facility)		
1. Space to allow easy access and maintenance	<input type="checkbox"/>	<input type="checkbox"/>
2. Space to allow raptor(s) to fully extend wings	<input type="checkbox"/>	<input type="checkbox"/>
3. At least one window provided	<input type="checkbox"/>	<input type="checkbox"/>
4. Each window with vertical bars/rods on inside	<input type="checkbox"/>	<input type="checkbox"/>
5. At least one secure door - can be easily closed	<input type="checkbox"/>	<input type="checkbox"/>
6. Other doors, if any, serve to protect facility	<input type="checkbox"/>	<input type="checkbox"/>
7. Floor surface dry or well drained - can be easily cleaned	<input type="checkbox"/>	<input type="checkbox"/>
8. One perch of an acceptable design for each raptor	<input type="checkbox"/>	<input type="checkbox"/>
B. WEATHERING AREA		
1. Space to allow tethered raptor(s) to bate (<i>attempted flight</i>) without striking wings on side or top of facility	<input type="checkbox"/>	<input type="checkbox"/>
2. Sides of facility fenced with suitable material to exclude predators	<input type="checkbox"/>	<input type="checkbox"/>
3. Top of facility covered with netting, wire, or roofed to exclude predators	<input type="checkbox"/>	<input type="checkbox"/>
4. Top of facility open provided weathering perch(es) are greater than 6.5 feet in height	<input type="checkbox"/>	<input type="checkbox"/>
C. ENVIRONMENTAL PROTECTION - The facilities, singly or in combination, provide adequate protection to the raptor(s) from:		
1. Excessive heat	<input type="checkbox"/>	<input type="checkbox"/>
2. High winds and winter storms	<input type="checkbox"/>	<input type="checkbox"/>
3. Avian and ground predators	<input type="checkbox"/>	<input type="checkbox"/>
4. Disturbance which would likely cause injury	<input type="checkbox"/>	<input type="checkbox"/>

PART IV - EQUIPMENT (Section 670(j), Title 14, of the CCR and Title 50, CFR, Section 21.29)

A. RAPTOR EQUIPMENT		
1. One pair of Alymeri (style) jesses for each raptor (<i>An Alymeri jess consists of an anklet, grommet, and a removable strap for attaching the anklet and grommet to the swivel</i>)	<input type="checkbox"/>	<input type="checkbox"/>
2. One swivel of an acceptable design for each raptor (<i>Dog leash/fishing snap-swivels, and swivels with soft copper/aluminum rivets are rarely acceptable, except for use on kestrels</i>)	<input type="checkbox"/>	<input type="checkbox"/>
3. One leash of quality leather or synthetic material for each raptor	<input type="checkbox"/>	<input type="checkbox"/>
B. REQUIRED ANCILLARY EQUIPMENT		
1. One bath container, 2 - 6 inches deep and wider than length of the raptor for each bird	<input type="checkbox"/>	<input type="checkbox"/>
2. One outdoor perch of an acceptable design for each raptor	<input type="checkbox"/>	<input type="checkbox"/>
3. A reliable weighing scale or balance graduated in increments of not more than .5 ounce (<i>15 grams</i>)	<input type="checkbox"/>	<input type="checkbox"/>

PART V – CERTIFICATION

☐ **APPROVED** - Facilities and equipment meet federal/state standards.

☐ **CHECK HERE IF THIS IS A RE-INSPECTION**

☐ **PROVISIONAL APPROVAL** - Except as indicated in corrections required below, facilities and equipment meet federal/state standards.

☐ **NOT APPROVED** (*List corrections needed below*) - Facilities and equipment fail to meet federal/state standards.

☐ **CORRECTIONS REQUIRED** _____

Pursuant to Section 670(j), Title 14, of the CCR, equipment or housing that does not meet the minimum standards required by regulations shall not be certified by the Department.

CERTIFYING DEPARTMENT OFFICER

FIRST NAME	M.I.	LAST NAME	TITLE
SIGNATURE X			DATE

APPLICANT/LICENSEE

I agree to correct deficiencies, if any, within 30 days and to maintain facilities/equipment at or above federal/state standards. I understand the Department's employees may enter my premises at any reasonable hour to inspect the facilities/equipment.

SIGNATURE X	DATE
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**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 201-6201
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sections 670 and 703, Title 14 CCR, Re: Falconry Regulations and Forms			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 0Describe the types of businesses (Include nonprofits): N/A no businesses affected by regulations for individual falconry license exams.Enter the number or percentage of total businesses impacted that are small businesses: 04. Enter the number of businesses that will be created: 0 eliminated: 0Explain: N/A no businesses affected by regulations for individual falconry license examinations.5. Indicate the geographic extent of impacts: ☒ Statewide☐ Local or regional (List areas): _____6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: N/A the proposed regulations for individual falconry license examinations does not impact any jobs or occupations, as exams are administered by the Department and not through third-party businesses.7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 1,967.50
- a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ 78.70 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: There are indirect costs for taking the falconry examination - applicants must drive to a facility to take the examination in person. The exam is only taken once, so no ongoing costs are anticipated. See addendum.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A no industries are affected by the proposed regulations for individual falconry licenses.
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ 0
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☒ YES ☐ NO
Explain the need for State regulation given the existence or absence of Federal regulations: The state must bring its falconry exam regulations into compliance with Federal regulations (50 C.F.R. 21.82(c)(3)), failing to do so risks placing California's falconry program at risk of suspension, reducing opportunity for falconers.
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 78.70 see addendum.

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: U.S. Fish and Wildlife Service has notified California of this inconsistency with Federal falconry regulations, potentially placing California's falconry program at risk of suspension. Without the proposed changes, the ability of licensed Falconers to enjoy their sport is reduced.
2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: Fed falconry regs require that a falconry applicant take an exam administered by their state (50 C.F.R. 21.82(c)(3)).
3. What are the total statewide benefits from this regulation over its lifetime? \$ 2,212,812 annually
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: None.
The Commission does not anticipate that any businesses currently doing business within the state will expand their operations as a result of the proposed regulation changes.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: Without the proposed changes the Department's licensing authority is at risk of suspension because it would continue to be inconsistent with Federal falconry laws. This would leave the Department out of conformity with the U.S. Court of Appeal's (9th Circuit) opinion in the case Stavrianoudakis et al. v. United States Fish & Wildlife Service et al. ((2024) 108 F.4th 1128)). This would leave the Department vulnerable to further litigation and additional costs.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ 0 Cost: \$ 1,967.50

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: No alternatives were identified by or brought to the attention of
Committee staff that would have the same desired regulatory effect. Therefore no costs and benefits were estimated for any alternatives.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NO

Explain: Performance standards were not considered as they would not have the desired effect of
conforming to Federal regulations and reducing the Department and Commission's risk of continued litigation.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO

If YES, complete E2. and E3

If NO, skip to E4

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: None. These regulations only affect individual falconers who take their examinations out of state.

The incentive for innovation in products, materials or processes: None. These regulations only affect individual falconers who take their examinations out of state.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: Without the proposed
regulations the Department's licensing authority is at risk of suspension due to inconsistency with Federal falconry laws and falconry opportunity would be reduced.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain Potentially a small increase in revenue while saving the Department tens of thousands of dollars in attorney's fees in the ongoing falconry litigation by deleting the certification language and thereby eliminating the remaining issues in the case for a net benefit of approximately \$458,856.20. See addendum.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD. 399 Addendum
Amend Sections 670 and 703
Title 14, California Code of Regulations
Re: Falconry Regulations and Forms

Background

The purpose of the proposed amendments to the regulations is to allow the Department of Fish and Wildlife (Department) to make certain provisions of the Falconry regulations conform with court orders and federal Falconry regulations.

The present regulations of Title 14, Section 670, Falconry, were adopted by the Fish and Game Commission in 2013 and became operative January 1, 2014. Generally, the purpose of these provisions was to streamline and clarify the permitting, possession, and treatment of raptors for purposes of Falconry as defined in Section 670(b)(7) of these Regulations. Possession of any live wildlife animal by persons is generally unlawful (for example, it is illegal to take a young animal thinking that it has been abandoned, our advice: leave it alone and the parent will come back). Exceptions are extremely limited and highly regulated, these may include zoos, sanctuaries, veterinary care, rehabilitation, scientific and educational activities, and the like. Only licensed Falconers are permitted to possess, house, trap, transport, and use Falconry raptors for the purpose of hunting or training.

In the current license year (2024) there are approximately 600 California licensed falconers, enjoying and showcasing the sport. The number of raptors in possession varies but has sometimes exceeded 1,000 birds in recent license years.

The purpose of the proposed amendments is to align current Falconry regulations to conform with court orders deleting certain certification statements, abide by federal Falconry regulations concerning examinations, and to clarify falconers' ability to exhibit their raptors.

Economic Impact Statement

Section A. Estimated Private Sector Cost Impacts

Question 1. Answer g. Impacts individuals

Federal falconry regulations require that a falconry applicant take an examination administered by the state in which they wish to obtain their license (50 C.F.R. 21.82(c)(3)). Presently, subsection 670(e)(3)(A)1 C.C.R. allows applicants to take out of state falconry exams. The United States Fish and Wildlife Service (USFWS) has notified California of this inconsistency with Federal falconry regulations, potentially placing California's falconry program at risk of suspension.

The proposed regulation would require falconers to take the California-administered falconry examination for which the fee is currently \$69. Current regulations allow exams from other states for which the fee is reduced or non-existent. While this fee does not represent a new cost, and there are no additional fees required by this proposed regulation, this could represent an increase for those falconers who have completed their exams in other states.

Section B. Estimated Costs

Answer 1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime?

Individuals taking the California falconry exam for the first time will need to pay the state's \$69 examination fee. This fee is not adjusted by these regulations and represents a cost that falconers would have already been incurring by complying with Federal regulations regarding state falconry examinations. The fee may be considered a cost to individuals who would have taken the examination in other states where the fees may be less or non-existent. Additionally, falconry examinations may only be taken in person at a testing facility administered by the Department. The Federal Highway Administration estimates ¹that the average mileage for a car is 24.4 miles per gallon, and the statewide average gas price is estimated to be \$4.85 per gallon as of February 19, 2025². Assuming an applicant drives 40 miles to a testing facility and consumes roughly two gallons of gas, the indirect transportation cost for individuals is estimated to be \$9.70. Currently there are approximately 20 to 25 individuals who may decide to take the examination in state and who would be faced with these costs. Assuming that 25 applicants elect to pay the examination fee and incur the transportation costs, the average cost for individuals is \$78.70 with a combined cost of \$1,967.50.

Section C. Estimated Benefits

Answer 3. What are the total statewide benefits from the regulation over its lifetime?
\$2,212,812 annually

The USFWS has notified California of its inconsistency with Federal falconry regulations, which potentially places California's falconry program at risk of suspension. The Department's license data indicates that approximately 596 falconers purchased or renewed a license in 2024 (note: 2024 licensing data has not been finalized and there may be an increase as those final tallies are completed). If the Department's falconry program were de-certified by the USFWS then existing falconers would lose the authority to possess their falconry raptors and use their raptors as a means of take. The USFWS's 2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation ³estimated that a hunter spends approximately \$3,264 (\$3,688.02 adjusted for 2025 dollars) in a season. Trip-related expenditure items include food, drink, refreshments, lodging, public and private transportation, airfare, charter, guide, package, and pack trips, public and private land use, heating and cooking fuel, equipment rental, and boating expenses. The survey does not include distinctions for different types of hunting practices, so for the purposes of this analysis we assume that falconers have the same seasonal spending pattern. Assuming the number of falconers is at least 600 individuals based on incomplete license data for 2024 and applying the \$3,688.02 per spender figure from the USFWS's 2022 survey yields an annual value of approximately \$2,212,812 for recreational hunter spending.

Section D. Alternatives to the Regulation

Answer 1. List alternatives considered and describe them below. If no alternatives were considered, explain why not:

No alternatives were identified by or brought to the attention of Commission staff that would

¹ Federal Highway Administration. Highway Statistics 2021, Table VM-1.

² AAA Fuel Prices

³ 2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation | FWS.gov

have the same desired regulatory effect.

Not amending the regulations would leave the Department out of conformity with the opinion issued by the U.S. Court of Appeals, 9th Circuit, in the case Stavrianoudakis et al. v. United States Fish & Wildlife Service et al. ((2024) 108 F.4th 1128)). This would leave the Department vulnerable to further litigation and additional costs.

Not making the other proposed changes (i.e., allowing applicants to continue to take out-of-state exams) would place the Department's licensing authority at risk of suspension because it would continue to be inconsistent with Federal falconry laws.

Fiscal Impact Statement

Section A. Fiscal Effect on Local Government

Answer 5. No Fiscal impact exists. This regulation does not affect any local entity or program.

Section B. Fiscal Impact on State Government

Answer 4. Other.

This regulation does not affect any state agency or program outside of the Department and does not create any new duties or requirements for Department staff that are outside of their existing duties. The proposed regulations may save the Department hundreds of thousands of dollars in attorney's fees in the ongoing falconry litigation by deleting the certification language and thereby eliminating the remaining issues in the case related to conformity with the opinion issued by the United States Court of Appeal, 9th Circuit, in the case Stavrianoudakis et al. v. United States Fish & Wildlife Service et al. ((2024) 108 F.4th 1128)). This lawsuit, filed over six years ago, is ongoing and so far the Department has paid approximately \$457,131 in attorney fees (\$282,131 to the California Department of Justice and \$175,000 in plaintiff's attorney fees) to defend the Department; these regulatory changes could end this lawsuit and minimize further payment of fees and allow Department staff to work on other Department priorities.

The Department anticipates that an estimated 20 to 25 falconry applicants may start to take the California-administered Falconry examination, as the proposed regulations conform to Federal regulations that prevent falconers from taking tests administered by other states where the cost may be lower. Under the current \$69 fee for the California falconry examination, this could net the Department anywhere between \$1,380 and \$1,725 in additional fee revenue.

In combination, the collection of additional fee revenue (assuming 25 applicants pay the examination fee) and the savings from not having to pay up to \$457,131 in additional attorney fees yields a fiscal benefit of approximately \$458,856 for the Department.

Section C. Fiscal Effect on Federal Funding of State Programs

Answer 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

PROPOSED AMENDMENTS TO CALIFORNIA FALCONRY REGULATIONS

California Code of Regulations, title 14, sections 670 and 703



PRESENTATION TO THE CALIFORNIA FISH AND GAME COMMISSION

April 16, 2025 | David Kiene

Office of the General Counsel, CDFW

Proposed Amendments to Section 670

1. Delete a provision in subsection 670(h)(13)(A) that restricts the purposes for which falconry birds can be exhibited and limits compensation for exhibiting, to be consistent with a court order prohibiting enforcement of this provision.



Proposed Amendments to Section 670

2. Delete subsection 670(e)(3)(A)1, which allows falconers to take out-of-state examinations in certain circumstances, for consistency with Federal falconry regulations.



Proposed Amendments to Section 670

3. Delete provisions in subsection 670(e)(2)(D), disfavored by the 9th Circuit, which requires falconry license applicants to sign a certification on their applications stating that they 1) understand their facilities, equipment, or raptors are subject to unannounced inspections, and 2) have read, understand, and agree to abide by the applicable provisions of the Fish and Game Code and regulations promulgated thereto.



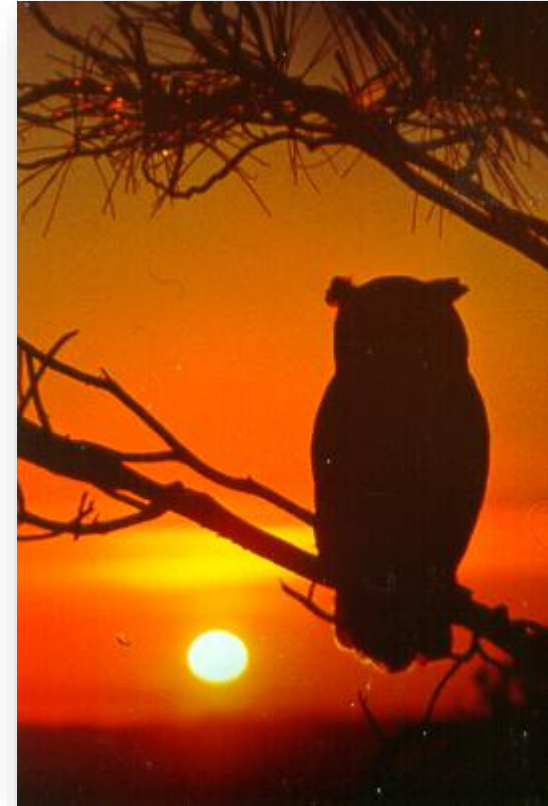
Proposed Amendments to Section 703

4. Delete the certification provisions on the license applications and an inspection form, make several minor changes to the applications, and amend Subsections 703(b)(1)(B), (C), and (E) to update the incorporations of the revised applications and inspection form.



Questions | Contact

David Kiene
Attorney IV
Office of the General Counsel
regulations@wildlife.ca.gov



CDFW photo

