



BILLING CODE 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2017–N136; FF09M21200–178–FXMB1232099BPP0L2]

Migratory Birds; Take of Peregrine Falcons for Use in Falconry

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: In December 2008, the U.S. Fish and Wildlife Service completed an environmental assessment (EA) on the take of peregrine falcons for use in falconry. In 2009 and 2010, we published notices in the *Federal Register* describing the take limits and geographic allocation of take for first-year fall-migrant (passage) peregrine falcons consistent with the selected alternative in that EA. The overall take limits have remained constant since 2009. This notice is to inform the public that, at the request of the Atlantic, Mississippi and Central Flyway Councils, we have reviewed recent data and are revising the take limits for passage peregrine falcons beginning in the fall of 2017.

FOR FURTHER INFORMATION CONTACT: Brian A. Millsap, National Raptor Coordinator, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 505–761–4724; brian_millsap@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The authority of the U.S. Fish and Wildlife Service to govern take of raptors and other

migratory birds is derived from the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–712). In carrying out this responsibility, we have administratively divided the Nation into four Flyways: Atlantic, Mississippi, Central, and Pacific. Each Flyway has a Flyway Council that assists in researching and providing migratory game bird management information. The Federal regulations to carry out the MBTA are located in title 50 of the Code of Federal Regulations.

The MBTA prohibits any person from, among other things, taking, possessing, purchasing, bartering, selling, or offering to purchase, barter, or sell, raptors (birds of prey) and other migratory birds listed in 50 CFR 10.13, unless the activities are allowed under Federal regulations. Take and possession of raptors for use in falconry is governed by regulations at 50 CFR 21.29. Under the provisions of the Federal falconry regulations, the Service administers a program to approve State, tribal, and territorial falconry programs. Since January 1, 2014, the 48 continental States and Alaska all have approved falconry regulatory programs, and the Service no longer issues permits for the practice of falconry.

We completed an environmental assessment (EA) on take of migrant peregrine falcons in 2008 (*see* 73 FR 74508, December 8, 2008). Our preferred alternative at that time allowed a take of 36 passage peregrine falcons from September 20 through October 20 from anywhere in the United States east of 100 degrees W longitude. Allocation of the 36 passage peregrine falcons was agreed upon by the Atlantic, Mississippi, and Central Flyway Councils. Our management strategy analyzed in the preferred alternative in the 2008 EA incorporated three important safeguards to ensure against negative impacts from authorized falconry take on peregrine falcons across their range.

First, we constrained the timing and location of the falconry captures to focus the take on

the northern peregrine falcon management population (i.e., those birds originating from natal areas north of 54 degrees N latitude), which was known to be healthy and able to sustain take. We constrained captures in this way to minimize take from the eastern and western management populations (i.e., those originating from sites east and west, respectively, of 100 degrees W longitude and south of 54 degrees N latitude), which were still recovering from the negative population-level effects of pesticide contamination. We committed to evaluate whether our management strategy effectively focused take on the northern management population by collecting feathers from falconer-captured passage peregrine falcons, and analyzing deuterium levels in those feathers to estimate the latitude of origin.

Second, because we lacked credible estimates of the size of the northern passage peregrine falcon population in 2008, we consulted with the Canadian Wildlife Service and adopted an extremely conservative estimate of the number (i.e., 3,590) of passage peregrine falcons for the northern management population. We derived this estimate from the number of known breeding pairs in the Arctic.

Finally, in our EA and in subsequent *Federal Register* notices (74 FR 36253, July 22, 2009; 75 FR 56555, September 16, 2010), we committed to reviewing data on peregrine falcons in the future at the request of the Flyway Councils to reassess the allowable take limits if data required or supported a change.

New Information

We have reviewed two recent scientific analyses that provide important new information relevant to the take of passage peregrine falcons. First, Franke (2016) used a mark-recapture model to generate an improved data-based estimate of the average number of passage peregrine

falcons produced in the northern management population annually. Franke's (2016) data-based estimate of 21,000 is more than five times greater than the number we used to set take limits in the 2008 EA. Second, the Service and cooperators completed the analysis of deuterium levels in passage peregrine falcons captured in fall within the prescribed take area. The deuterium level analysis shows that the management strategy outlined in the 2008 EA is likely resulting in more than 75 percent of the falconer take coming from the northern peregrine falcon management population (Franke et al. 2017). This outcome is more protective than the objective outlined in the 2008 EA, which was that at least 65 percent of the passage peregrine falcons taken by falconers must originate from the northern management population. Overall, peregrine falcon populations remain healthy across North America, and indices such as the Breeding Bird Survey (BBS) show the continental population increasing (BBS index for the period 2005–2015 = 6.4 percent per year, with a 95 percent credible interval of 0.45–13.45 percent) and no regional populations appear to be declining (Sauer et al. 2017).

The Atlantic, Mississippi, and Central Flyway Councils reviewed this new information in 2017 and formally requested that we reevaluate and revise the passage peregrine falcon take limits based on the updated estimate of the number of passage peregrine falcons produced annually in the northern management population. Further, the Flyway Councils requested that we use the 10th quantile (i.e., 18,000) of the probability distribution for the updated mean annual number of passage peregrine falcons exposed to take rather than the mean value (i.e., 21,000). By using the 10th quantile, we expect there to be a 90 percent chance that the actual number is larger and, therefore, that we remain protective against overexploitation and account for the uncertainty in the production estimate. We undertook the analyses requested by the Flyway

Councils by substituting 18,000 (the updated production estimate for the northern peregrine falcon management population) for 3,590 (the production estimate used in the 2008 EA) in the same models and using the same population-specific take rates as specified under the preferred alternative in the 2008 EA.

The updated analysis indicates that 144 passage peregrine falcons may be taken annually by falconers east of the 100th meridian between September 20 and October 20 consistent with the management strategy and the objectives of the selected alternative in the 2008 EA. In accordance with these findings, and consistent with the Flyway Councils' request, this notice announces that the annual take limits for passage peregrine falcons starting in the fall of 2017 will increase from 36 to 144, to be divided equally between the Atlantic, Mississippi, and Central Flyways (i.e., 48 per flyway).

The sole basis for this increase is the updated estimate for the northern management population. Thus, we consider this increase to be a technical update to incorporate new and better data. All other provisions outlined in the 2008 EA remain in effect (e.g., the take rates and management objectives are unchanged, the take season remains September 20 to October 20 annually, and the take of passage peregrine falcons is restricted to areas in the United States east of 100 degrees W longitude). Therefore, the environmental impact of authorizing take of passage peregrine falcons under the preferred alternative will remain unchanged from that analyzed in the 2008 EA. Because this assessment addresses only take east of 100 degrees W longitude, the general provisions for take of peregrine falcons west of 100 degrees W longitude remain as described in our 2010 *Federal Register* notice (75 FR 56555, September 16, 2010).

We will continue to review peregrine falcon population and take data for Canada, the

United States, and Mexico every 5 years, or at the request of the Flyway Councils, to reassess the allowable take limits. We will publish a notice in the *Federal Register* if we determine that the take limits for peregrine falcons should be changed again in the future.

Literature Cited

Franke, A. 2016. Population estimates for Northern juvenile peregrine falcons with implications for harvest levels in North America. *Journal of Fish and Wildlife Management* 7:36–45.

Franke, A., J. Duxbury, H. Qi, T. Coplen, G. L. Holroyd, and B. A. Millsap. 2017. U. S. Fish and Wildlife Service report: hydrogen stable isotope analysis of peregrine falcons in the United States. U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Washington, D.C.

Sauer, J. R., D. K. Niven, J. E. Hines, D. J. Ziolkowski, K. L. Pardieck, J. E. Fallon, and W. A. Link. 2017. The North American Breeding Bird Survey, Results and Analysis 1966 - 2015, Version 2.07.2017. < <https://www.mbr-pwrc.usgs.gov/cgi-bin/atlas15.pl?03560&1&15&csrfmiddlewaretoken=3YKakk7LxT2ki6NSpl4mstudYCqdW02C>>.

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Principal Deputy Director,

U.S. Fish and Wildlife Service.

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