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**e-CFR Data is current as of August 31, 2012**

## **Title 50: Wildlife and Fisheries**

### **PART 21—MIGRATORY BIRD PERMITS**

#### **Subpart D—Control of Depredating and Otherwise Injurious Birds**

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### **§ 21.49 Control order for resident Canada geese at airports and military airfields.**

(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the control order for resident Canada geese at airports, and what is its purpose?* The airport control order authorizes managers at commercial, public, and private airports (airports) (and their employees or their agents) and military air operation facilities (military airfields) (and their employees or their agents) to establish and implement a control and management program when necessary to resolve or prevent threats to public safety from resident Canada geese. Control and management activities include indirect and/or direct control strategies such as trapping and relocation, nest and egg destruction, gosling and adult trapping and culling programs, or other lethal and non-lethal control strategies.

(c) *Who may participate in the program?* To be designated as an airport that is authorized to participate in this program, an airport must be part of the National Plan of Integrated Airport Systems and have received Federal grant-in-aid assistance, or a military airfield, meaning an airfield or air station that is under the jurisdiction, custody, or control of the Secretary of a military department. Only airports and military airfields in the lower 48 States and the District of Columbia are eligible to conduct and implement the various resident Canada goose control and management program components.

(d) *What are the restrictions of the control order for resident Canada geese at airports and military airfields?* The airport control order for resident Canada geese is subject to the following restrictions:

(1) Airports and military airfields should use nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, airports and military airfields should follow this procedure:

(i) Assess the problem to determine its extent or magnitude, its impact on current operations, and the appropriate control method to be used.

(ii) Base control methods on sound biological, environmental, social, and cultural factors.

(iii) Formulate appropriate methods into a control strategy that uses several control techniques rather than relying on a single method.

(iv) Implement all appropriate nonlethal management techniques (such as harassment and habitat modification) in conjunction with take authorized under this order.

(2)(i) Methods of take for the control of resident Canada geese are at the airport's and military airfield's discretion from among the following:

(A) Egg oiling,

(B) Egg and nest destruction,

(C) Shooting,

(D) Lethal and live traps,

(E) Nets,

(F) Registered animal drugs, pesticides, and repellants,

(G) Cervical dislocation, and

(H) CO<sub>2</sub> asphyxiation.

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in §20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Airports and military airfields may conduct management and control activities, involving the take of resident Canada geese, under this section between April 1 and September 15. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(4) Airports and military airfields and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. Airports/military airfields, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Regional Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(5) Resident Canada geese may be taken only within the airport, or the military base on which a military airfield is located, or within a 3-mile radius of the outer boundary of such a facility. Airports and military airfields or their agents must first obtain all necessary authorizations from landowners for all management activities conducted outside the airport or military airfield's boundaries and be in compliance with all State and local laws and regulations.

(6) Nothing in this section authorizes the killing of resident Canada geese or destruction of their nests and eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the airport or military airfield possesses the appropriate State or Tribal authorization or other permits required by the State or Tribe. Moreover, this section does not authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(7) Authorized airports and military airfields, and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(8) Airports and military airfields exercising the privileges granted by this section must submit an annual report summarizing activities, including the date and numbers and location of birds, nests, and eggs taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in §2.2 of this subchapter.

(9) Nothing in this section applies to any Federal land without written permission of the Federal agency with jurisdiction.

(10) Airports and military airfields may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, airports and military airfields must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;

(iv) Contact the Arizona Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and

(v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:

(A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.

(B) *Amphibians*: California red-legged frog and California tiger salamander.

(C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.

(D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.

(E) *Plants*: Butte County meadowfoam, large-flowered wooly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(e) *Can the control order be suspended?* We reserve the right to suspend or revoke an airport's or military airfield's authority under this control order if we find that the terms and conditions specified in the control order have not been adhered to by that airport or military airfield. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this control order. For purposes of §13.29(e), appeals must be made to the Director.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the control order?* OMB has approved the information collection and recordkeeping requirements of the control order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222—ARLSQ, 1849 C Street NW., Washington, DC 20240.

[71 FR 45986, Aug. 10, 2006, as amended at 72 FR 46408, Aug. 20, 2007]

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#### **Subpart D—Control of Depredating and Otherwise Injurious Birds**

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### **§ 21.50 Depredation order for resident Canada geese nests and eggs.**

(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the depredation order for resident Canada geese nests and eggs, and what is its purpose?* The nest and egg depredation order for resident Canada geese authorizes private landowners and managers of public lands (landowners); homeowners' associations; and village, town, municipality, and county governments (local governments); and the employees or agents of any of these persons or entities to destroy resident Canada goose nests and eggs on property under their jurisdiction when necessary to resolve or prevent injury to people, property, agricultural crops, or other interests.

(c) *Who may participate in the depredation order?* Only landowners, homeowners' associations, and local governments (and their employees or their agents) in the lower 48 States and the District of Columbia are eligible to implement the resident Canada goose nest and egg depredation order.

(d) *What are the restrictions of the depredation order for resident Canada goose nests and eggs?* The resident Canada goose nest and egg depredation order is subject to the following restrictions:

(1) Before any management actions can be taken, landowners, homeowners' associations, and local governments must register with the Service at <https://epermits.fws.gov/eRCGR>. Landowners, homeowners' associations, and local governments (collectively termed "registrants") must also register each employee or agent working on their behalf. Once registered, registrants and agents will be authorized to act under the depredation order.

(2) Registrants authorized to operate under the depredation order must use nonlethal goose management techniques to the extent they deem appropriate in an effort to minimize take.

(3) Methods of nest and egg destruction or take are at the registrant's discretion from among the following:

(i) Egg oiling, using 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, and

(ii) Egg and nest destruction, including but not limited to the removal and disposal of eggs and nest material.

(4) Registrants may conduct resident Canada goose nest and egg destruction activities between March 1 and June 30. Homeowners' associations and local governments or their agents must obtain landowner consent prior to destroying nests and eggs on private property within the homeowners' association or local government's jurisdiction and be in compliance with all State and local laws and regulations.

(5) Registrants authorized to operate under the depredation order may possess, transport, and dispose

of resident Canada goose nests and eggs taken under this section. Registrants authorized to operate under the program may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada goose nest or egg taken under this section.

(6) Registrants exercising the privileges granted by this section must submit an annual report summarizing activities, including the date, numbers, and location of nests and eggs taken by October 31 of each year at <https://epermits.fws.gov/eRCGR> before any subsequent registration for the following year.

(7) Nothing in this section authorizes the destruction of resident Canada goose nests or the take of resident Canada goose eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the registrant is authorized to operate under the program and possesses the appropriate State or Tribal permits, when required. Moreover, this section does not authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(8) Registrants may not undertake any actions under this section if the activities adversely affect species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, registrants must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;

(iv) Contact the Arizona Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and

(v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:

(A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.

(B) *Amphibians*: California red-legged frog and California tiger salamander.

(C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.

(D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.

(E) *Plants*: Butte County meadowfoam, large-flowered wooly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(e) *Can the depredation order be suspended?* We reserve the right to suspend or revoke this authorization for a particular landowner, homeowners' association, or local government if we find that the registrant has not adhered to the terms and conditions specified in the depredation order. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of §13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada goose populations no longer need to be reduced in order to resolve or prevent injury to people, property, agricultural crops, or other interests, we may choose to terminate part or all of the depredation order by

subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the depredation order.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the depredation order?* OMB has approved the information collection and recordkeeping requirements of the depredation order under OMB control number 1018–0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222—ARLSQ, 1849 C Street NW., Washington, DC 20240.

[71 FR 45988, Aug. 10, 2006, as amended by 72 FR 46408, Aug. 20, 2007]

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## **Title 50: Wildlife and Fisheries**

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### **§ 21.51 Depredation order for resident Canada geese at agricultural facilities.**

(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the depredation order for resident Canada geese at agricultural facilities, and what is its purpose?* The depredation order for resident Canada geese at agricultural facilities authorizes States and Tribes, via the State or Tribal wildlife agency, to implement a program to allow landowners, operators, and tenants actively engaged in commercial agriculture (agricultural producers) (or their employees or agents) to conduct direct damage management actions such as nest and egg destruction, gosling and adult trapping and culling programs, or other lethal and non-lethal wildlife-damage management strategies on resident Canada geese when the geese are committing depredations to agricultural crops and when necessary to resolve or prevent injury to agricultural crops or other agricultural interests from resident Canada geese.

(c) *Who may participate in the depredation order?* State and Tribal wildlife agencies in the following States may authorize agricultural producers (or their employees or agents) to conduct and implement various components of the depredation order at agricultural facilities in the Atlantic, Central, and Mississippi Flyway portions of these States: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

(d) *What are the restrictions of the depredation order for resident Canada geese at agricultural facilities?* The depredation order for resident Canada geese at agricultural facilities is subject to the following restrictions:

(1) Only landowners, operators, and tenants (or their employees or agents) actively engaged in commercial activities (agricultural producers) so designated by the States may act under this order.

(2) Authorized agricultural producers should use nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, agricultural producers should adhere to the following procedure:

(i) Assess the problem to determine its extent or magnitude, its impact to current operations, and the appropriate control method to be used.

(ii) Base control methods on sound biological, environmental, social, and cultural factors.

(iii) Formulate appropriate methods into a control strategy that uses the approach/concept that encourages the use of several control techniques rather than relying on a single method.



(iv) Implement all appropriate nonlethal management techniques (such as harassment and habitat modification) in conjunction with take authorized under this order.

(3)(i) Methods of take for the control of resident Canada geese are at the State's or Tribe's discretion among the following:

(A) Egg oiling,

(B) Egg and nest destruction,

(C) Shotguns,

(D) Lethal and live traps,

(E) Nets,

(F) Registered animal drugs, pesticides, and repellants,

(G) Cervical dislocation, and

(H) CO<sub>2</sub> asphyxiation.

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, Tribal, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in §20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(4) Authorized agricultural producers and their employees and agents may conduct management and control activities, involving the take of resident Canada geese, under this section between May 1 and August 31. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(5) Authorized agricultural producers and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. Agricultural producers, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(6) Resident Canada geese may be taken only on land which an authorized agricultural producer personally controls and where geese are committing depredations to agricultural crops.

(7) Authorized agricultural producers, and their employees and agents, operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(8) Any authorized agricultural producer exercising the privileges of this section must keep and maintain a log that indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records for 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal, State, or Tribal wildlife enforcement officers upon request during normal business hours.

(9) Nothing in this section authorizes the killing of resident Canada geese or the destruction of their nests and eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the agricultural producer possesses the appropriate State or Tribal permits, when required. Moreover, this regulation does not authorize the killing of any migratory bird species or destruction of their nests or eggs other than resident Canada geese.

(10) States and Tribes exercising the privileges granted by this section must submit an annual report summarizing activities, including the numbers and County of birds, nests, and eggs taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in §2.2 of this subchapter.

(11) Nothing in this section applies to any Federal land without written permission of the Federal agency with jurisdiction.

(12) Authorized agricultural producers may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, agricultural producers must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest; and

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities.

(e) *Can the depredation order be suspended?* We reserve the right to suspend or revoke a State, Tribal, or agricultural producer's authority under this program if we find that the terms and conditions specified in the depredation order have not been adhered to by that State or Tribe. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of §13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada geese populations no longer pose a threat to agricultural crops or no longer need to be reduced in order to resolve or prevent injury to agricultural crops or other agricultural interests, we may choose to terminate part or all of the depredation order by subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the depredation order.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the depredation order?* OMB has approved the information collection and recordkeeping requirements of the depredation order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

[71 FR 45989, Aug. 10, 2006]

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### **PART 21—MIGRATORY BIRD PERMITS**

#### **Subpart D—Control of Depredating and Otherwise Injurious Birds**

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#### **§ 21.52 Public health control order for resident Canada geese.**

(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the public health control order for resident Canada geese, and what is its purpose?* The public health control order for resident Canada geese authorizes States, Tribes, and the District of Columbia, via the State or Tribal wildlife agency, to conduct resident Canada goose control and management activities including direct control strategies such as trapping and relocation, nest and egg destruction, gosling and adult trapping and culling programs, or other lethal and non-lethal wildlife damage-management strategies when resident Canada geese are posing a direct threat to human health.

(c) *What is a direct threat to human health?* A direct threat to human health is one where a Federal, State, Tribal, or local public health agency has determined that resident Canada geese pose a specific, immediate human health threat by creating conditions conducive to the transmission of human or zoonotic pathogens. The State or Tribe may not use this control order for situations in which resident Canada geese are merely causing a nuisance.

(d) *Who may participate in the program?* Only State and Tribal wildlife agencies in the lower 48 States and the District of Columbia (or their employees or agents) may conduct and implement the various components of the public health control order for resident Canada geese.

(e) *What are the restrictions of the public health depredation order for resident Canada geese?* The public health control order for resident Canada geese is subject to the following restrictions:

(1) Authorized State and Tribal wildlife agencies should use nonlethal goose management tools to the extent they deem appropriate.

(2)(i) Methods of take for the control of resident Canada geese are at the State's and Tribe's discretion from among the following:

(A) Egg oiling,

(B) Egg and nest destruction,

(C) Shotguns,

(D) Lethal and live traps,

(E) Nets,

(F) Registered animal drugs, pesticides, and repellants,

(G) Cervical dislocation, and

(H) CO<sub>2</sub> asphyxiation.

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, Tribal, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in §20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Authorized State and Tribal wildlife agencies and their employees and agents may conduct management and control activities, involving the take of resident Canada geese, under this section between April 1 and August 31. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(4) Authorized State and Tribal wildlife agencies and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. States, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Regional Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(5) Resident Canada geese may be taken only within the specified area of the direct threat to human health.

(6) Authorized State and Tribal wildlife agencies, and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(7) No person conducting activities under this section should construe the program as authorizing the killing of resident Canada geese or destruction of their nests and eggs contrary to any State law or regulation, nor may any control activities be conducted on any Federal land without specific authorization by the responsible management agency. No person may exercise the privileges granted under this section unless they possess any permits required for such activities by any State or Federal land manager.

(8) Any State or Tribal employee or designated agent authorized to carry out activities under this section must have a copy of the State's or Tribal authorization and designation in their possession when carrying out any activities. If the State or Tribe is conducting operations on private property, the State or Tribe must also require the property owner or occupant on whose premises resident Canada goose activities are being conducted to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer on the premises where they are, or were, conducting activities. Furthermore, any State or Tribal employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.

(9) States and Tribes exercising the privileges granted by this section must submit an annual report summarizing activities, including the numbers and County of birds taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in §2.2 of this subchapter.

(10) Authorized State and Tribal wildlife agencies may not undertake any actions under this section if the

activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, State and Tribal wildlife agencies must:

- (i) Follow the Federal-State Contingency Plan for the whooping crane;
- (ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;
- (iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;
- (iv) Contact the Arizona Fish and Wildlife Service Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and
- (v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:
  - (A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.
  - (B) *Amphibians*: California red-legged frog and California tiger salamander.
  - (C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.
  - (D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.
  - (E) *Plants*: Butte County meadowfoam, large-flowered woolly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.
- (f) *Can the control order be suspended?* We reserve the right to suspend or revoke a State's or Tribe's authority under this program if we find that the terms and conditions specified in the depredation order have not been adhered to by that agency. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this control order. For purposes of §13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada geese populations no longer pose direct threats to human health, we may choose to terminate part or all of the control order by subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the control order.
- (g) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the control order?* OMB has approved the information collection and recordkeeping requirements of the control order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

[71 FR 45990, Aug. 10, 2006]

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## **Title 50: Wildlife and Fisheries**

### **PART 21—MIGRATORY BIRD PERMITS**

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#### **Subpart E—Control of Overabundant Migratory Bird Populations**

##### **§ 21.60 Conservation order for light geese.**

(a) *What is a conservation order?* A conservation order is a special management action that is needed to control certain wildlife populations when traditional management programs are unsuccessful in preventing overabundance of the population. We are authorizing a conservation order under the authority of the Migratory Bird Treaty Act to reduce and stabilize various light goose populations. The conservation order allows new methods of taking light geese, allows shooting hours for light geese to end one-half hour after sunset, and imposes no daily bag limits for light geese inside or outside the migratory bird hunting season frameworks as described in this section.

(b) *Which waterfowl species are covered by the order?* The conservation order addresses management of greater snow ( *Chen caerulescens atlantica* ), lesser snow ( *C. c. caerulescens* ), and Ross's ( *C. rossii* ) geese that breed, migrate, and winter in North America. The term light geese refers collectively to greater and lesser snow geese and Ross's geese.

(c) *Where can the conservation order be authorized?* The Director can authorize the conservation order in these areas:

(1) The following States that are contained within the boundaries of the Atlantic Flyway: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia.

(2) The following States, or portions of States, that are contained within the boundaries of the Mississippi and Central Flyways: Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

(3) The following States, or portions of States, that are contained within the boundaries of the Pacific Flyway: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(4) Tribal lands within the geographic boundaries in paragraphs (c)(1), (2), and (3) of this section.

(d) *When will the Director authorize the conservation order in a particular Flyway?* (1) The Director may authorize the conservation order for the reduction of greater snow geese for any State or Tribe contained within the Atlantic Flyway by publishing a notice under paragraph (e) of this section when the May Waterfowl Population Status report indicates that the management goal of 500,000 birds has been exceeded and that special conservation actions conducted in Canada are insufficient to reduce the population. Authorization of the conservation order in the U.S. portion of the Atlantic Flyway will occur after the Director determines the degree to which the management goal has been exceeded, the trajectory of population growth, anticipated harvest that would result from implementation of the conservation order, and whether or not similar conservation actions will be conducted in Canada.

(2) The Director may authorize the conservation order for the reduction of mid-continent light geese (lesser snow and Ross's geese) for any State or Tribe contained within the Mississippi and Central Flyways by publishing a notice under paragraph (e) of this section when the May Waterfowl Population Status report indicates that the management goal of 1,600,000 birds (winter index for Mid-continent Population and Western Central Flyway Population, combined) has been exceeded. Authorization of the conservation order in the U.S. portion of the Mississippi and Central Flyways will occur after the Director determines the degree to which the management goal has been exceeded, the trajectory of population growth, anticipated harvest that would result from implementation of the conservation order, and whether or not similar conservation actions will be conducted in Canada.

(3) The Director may authorize a conservation order for the reduction of light geese (lesser snow and Ross's geese) for any State or Tribe contained within the Pacific Flyway by publishing a notice under paragraph (e) of this section when the Director determines that light goose numbers in the western Arctic have exceeded the ability of their breeding habitat to support them.

(e) *How will the conservation order be authorized for a particular Flyway?* The Director will publish a notice in the Federal Register when the conservation order is authorized in a particular Flyway.

(f) *What is required for State/Tribal governments to participate in the conservation order?* When authorized by the Director, any State or Tribal government responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, light geese under the following conditions:

(1) Activities conducted under the conservation order may not affect endangered or threatened species as designated under the Endangered Species Act.

(2) Control activities must be conducted clearly as such and are intended to relieve pressures on migratory birds and habitat essential to migratory bird populations only and are not to be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated under Section 3 of the Migratory Bird Treaty Act.

(3) Control activities may be conducted only when all waterfowl (including light goose) and crane hunting seasons, excluding falconry, are closed.

(4) Control measures employed through this section may be used only between the hours of one-half hour before sunrise to one-half hour after sunset.

(5) Nothing in the conservation order may limit or initiate management actions on Federal land without concurrence of the Federal agency with jurisdiction.

(6) States and Tribes must designate participants who must operate under the conditions of the conservation order.

(7) States and Tribes must inform participants of the requirements and conditions of the conservation order that apply.

(8) States and Tribes must keep annual records of activities carried out under the authority of the conservation order. Specifically, information must be collected on:

(i) The number of persons participating in the conservation order;

(ii) The number of days people participated in the conservation order;

(iii) The number of persons who pursued light geese with the aid of a shotgun capable of holding more than three shells;

(iv) The number of persons who pursued light geese with the aid of an electronic call;

(v) The number of persons who pursued light geese during the period one-half hour after sunset;

(vi) The total number of light geese shot and retrieved during the conservation order;



- (vii) The number of light geese taken with the aid of an electronic call;
- (viii) The number of light geese taken with the fourth, fifth, or sixth shotgun shell;
- (ix) The number of light geese taken during the period one-half hour after sunset; and
- (x) The number of light geese shot but not retrieved.

(9) The States and Tribes must submit an annual report summarizing activities conducted under the conservation order on or before September 15 of each year, to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop MBSP-4107, Arlington, Virginia 22203. Information from Tribes may be incorporated in State reports.

(g) *What is required for persons to participate in the conservation order?* Individual participants in State or Tribal programs covered by the conservation order must comply with the following provisions:

(1) Nothing in the conservation order authorizes the take of light geese contrary to any State or Tribal laws or regulations, and none of the privileges granted under the conservation order may be exercised unless persons acting under the authority of the conservation order possess whatever permit or other authorization(s) may be required for such activities by the State or Tribal government concerned.

(2) Persons who take light geese under the conservation order may not sell or offer for sale those birds or their plumage but may possess, transport, and otherwise properly use them.

(3) Persons acting under the authority of the conservation order must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted and must promptly furnish whatever information an officer requires concerning the operation.

(4) Persons acting under the authority of the conservation order may take light geese by any method except those prohibited as follows:

(i) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance.

(ii) From or by means, aid, or use of a sinkbox or any other type of low floating device having a depression affording the person a means of concealment beneath the surface of the water.

(iii) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may carry out take activities from any stationary motor vehicle or stationary motor-driven land conveyance.

(iv) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress has ceased. A craft under power may be used only to retrieve dead or crippled birds; however, the craft may not be used under power to shoot any crippled bird.

(v) By the use or aid of live birds as decoys. It is a violation of this paragraph (g) for any person to take light geese on an area where tame or captive live geese are present unless such birds are and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of light geese.

(vi) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of light geese.

(vii) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited as described in §20.11(j–k). Light geese may not be taken on or over lands or areas that are baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation as described in §20.11(h) and (l). However, nothing in this paragraph (g) prohibits the taking of light geese on or over the following lands

or areas that are not otherwise baited areas:

(A) Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, postharvest manipulation or normal soil stabilization practice as described in §20.11(g), (i), (l), and (m);

(B) From a blind or other place of concealment camouflaged with natural vegetation;

(C) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing, or scattering of grain or other feed; or

(D) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(viii) Participants may not possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin, tungsten-iron, tungsten-polymer, tungsten-matrix, tungsten-bronze, tungsten-nickel-iron, tungsten-tin-iron, tungsten-nickel-iron-tin, tungsten-iron-copper-nickel, or other shots that are authorized in §20.21(j).

(h) *Can the conservation order be suspended?* The Director reserves the right to suspend or revoke a State's or Tribe's authority under the conservation order if we find that the State or Tribe has not adhered to the terms and conditions specified in this section. The criteria for suspension and revocation are outlined in §13.27 and §13.28 of this subchapter. Upon appeal, final decisions to revoke authority will be made by the Director. Additionally, at such time that the Director determines that a specific population of light geese no longer poses a threat to habitats, agricultural crops, or other interests, or is within Flyway management objectives, the Director may choose to terminate part or all of the conservation order.

(i) *Under what conditions would the conservation order be suspended?* The Director will annually assess the overall impact and effectiveness of the conservation order on each light goose population to ensure compatibility with long-term conservation of this resource. The Director will suspend the conservation order if at any time evidence clearly demonstrates that an individual light goose population no longer presents a serious threat of injury to the area or areas involved. Suspension by the Director will occur by publication of a notice in the Federal Register. However, resumption of growth by the light goose population in question may warrant reinstatement of the conservation order to control the population. The Director will publish a notice of such reinstatement in the Federal Register. Depending on the status of individual light goose populations, it is possible that a conservation order may be in effect for one or more light goose populations, but not others.

(j) *What are the information collection requirements?* The information collection requirements associated with the conservation order are described in paragraphs (f)(6) through (9) of this section. Reported information helps us to assess the effectiveness of light geese population control methods and strategies and assess whether or not additional population control methods are needed. The Office of Management and Budget has approved this information collection and assigned OMB Control No. 1018-0103. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. At any time, you may submit comments on these information collection requirements to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., (mailstop ARL SQ-222), Washington, DC 20240.

[73 FR 65951, Nov. 5, 2008; 73 FR 70914, Nov. 24, 2008]

### **§ 21.61 Population control of resident Canada geese.**

(a) *Which Canada geese are covered by this regulation?* This regulation addresses the population control of resident Canada geese, as defined in §21.3.

(b) *What is the resident Canada goose population control program, and what is its purpose?* The resident Canada goose population control program is a managed take program implemented under the authority of the Migratory Bird Treaty Act to reduce and stabilize resident Canada goose populations when traditional and otherwise authorized management measures are unsuccessful, not feasible for dealing with, or applicable, in preventing injury to property, agricultural crops, public health, and other interests from resident Canada geese. The Director is authorized to allow States and Tribes to

implement a population control, or managed take, program to remedy these injuries. When authorized by the Director, managed take allows additional methods of taking resident Canada geese, allows shooting hours for resident Canada geese to extend to one-half hour after sunset, and removes daily bag limits for resident Canada geese inside or outside the migratory bird hunting season frameworks as described in this section. The intent of the program is to reduce resident Canada goose populations in order to protect personal property and agricultural crops and other interests from injury and to resolve potential concerns about human health. The management and control activities allowed or conducted under the program are intended to relieve or prevent damage and injurious situations. No person should construe this program as opening, reopening, or extending any hunting season contrary to any regulations established under section 3 of the Migratory Bird Treaty Act.

(c) *What areas are eligible to participate in the program?* When approved by the Director, the State and Tribal wildlife agencies of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming may implement the resident Canada goose population control program components in the Atlantic, Central, and Mississippi Flyway portions of these States.

(d) *What is required in order for State governments to participate in a managed take program?* Following the conclusion of the first full operational year of §§21.49 through 21.52 of this part, any wildlife agency from a State listed in 21.61(c) may request approval for the population control program. A request must include a discussion of the State's or Tribe's efforts to address its injurious situations utilizing the methods approved in this rule or a discussion of the reasons why the methods authorized by these rules are not feasible for dealing with, or applicable to, the injurious situations that require further action. Discussions should be detailed and provide the Service with a clear understanding of the injuries that continue, why the authorized methods utilized have not worked, and why methods not utilized could not effectuate resolution of the injuries. A State's request for approval may be for an area or areas smaller than the entire State. Upon written approval by the Director, any State or Tribal government responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, resident Canada geese under the following conditions:

- (1) Activities conducted under the managed take program may not affect endangered or threatened species as designated under the Endangered Species Act.
- (2) Control activities may be conducted under this section only between August 1 and August 31.
- (3) Control measures employed through this section may be implemented only between the hours of one-half hour before sunrise to one-half hour after sunset.
- (4) Nothing in the program may limit or initiate management actions on Federal land without concurrence of the Federal agency with jurisdiction.
- (5) States and Tribes must designate participants who must operate under the conditions of the managed take program.
- (6) States and Tribes must inform participants of the requirements/conditions of the program that apply.
- (7) States and Tribes must keep annual records of activities carried out under the authority of the program. Specifically, information must be collected on:
  - (i) The number of individuals participating in the program;
  - (ii) The number of days individuals participated in the program;
  - (iii) The total number of resident Canada geese shot and retrieved during the program; and
  - (iv) The number of resident Canada geese shot but not retrieved. The States and Tribes must submit an annual report summarizing activities conducted under the program and an assessment of the continuation of the injuries on or before June 1 of each year to the Chief, Division of Migratory Bird Management, 4401 North Fairfax Drive, ms-MBSP-4107, Arlington, Virginia 22203.

(e) *What is required for individuals to participate in the program?* Individual participants in State and

Tribal programs covered by the managed take program must comply with the following requirements:

(1) Participants must comply with all applicable State and Tribal laws or regulations including possession of whatever permit(s) or other authorization(s) may be required by the State or Tribal government concerned.

(2) Participants who take resident Canada geese under the program may not sell or offer for sale those birds or their plumage, but may possess, transport, and otherwise properly use them.

(3) Participants must permit at all reasonable times, including during actual operations, any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted and must promptly furnish whatever information an officer requires concerning the operation.

(4) Participants may take resident Canada geese by any method except those prohibited as follows:

(i) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance.

(ii) From or by means, aid, or use of a sinkbox or any other type of low-floating device, having a depression affording the person a means of concealment beneath the surface of the water.

(iii) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegic persons and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance.

(iv) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress has ceased. A craft under power may be used only to retrieve dead or crippled birds; however, the craft may not be used under power to shoot any crippled birds.

(v) By the use or aid of live birds as decoys. No person may take resident Canada geese on an area where tame or captive live geese are present unless such birds are, and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of resident Canada geese.

(vi) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of resident Canada geese.

(vii) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited as described in §20.11(j) and (k) of this part. Resident Canada geese may not be taken on or over lands or areas that are baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation as described in §20.11(h) and (l) of this part. However, nothing in this paragraph prohibits the taking of resident Canada geese on or over the following lands or areas that are not otherwise baited areas:

(A) Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice as described in §20.11(g), (i), (l), and (m) of this part;

(B) From a blind or other place of concealment camouflaged with natural vegetation;

(C) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing, or scattering of grain or other feed; or

(D) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(E) Participants may not possess shot (either in shotshells or as loose shot for muzzleloading) other than

steel shot, bismuth-tin, tungsten-iron, tungsten-polymer, tungsten-matrix, tungsten-nickel iron, or other shots that are authorized in §20.21(j) of this part.

(f) *Under what conditions would we suspend the managed take program?* Following authorization by the Director, we will annually assess the overall impact and effectiveness of the program on resident Canada goose populations to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that resident Canada geese populations no longer need to be reduced in order to allow resolution or prevention of injury to people, property, agricultural crops, or other interests, the Director, in writing, will suspend the program for the resident Canada goose population in question. However, resumption of injuries caused by growth of the population and not otherwise addressable by the methods available in part 21 may warrant reinstatement of such regulations. A State must reapply for approval, including the same information and discussions noted in 21.61(d). Depending on the location of the injury or threat or injury, the Director, in writing, may suspend or reinstate this authorization for one or more resident Canada goose populations, but not others.

(g) *What population information is the State or Tribe required to collect concerning the resident Canada goose managed take program?* Participating States and Tribes must provide an annual estimate of the breeding population and distribution of resident Canada geese in their State. The States and Tribes must submit this estimate on or before August 1 of each year, to the Chief, Division of Migratory Bird Management, 4401 N. Fairfax Dr., MBSP-4107, Arlington, Virginia 22203.

(h) *What are the general program conditions and restrictions?* The program is subject to the conditions elsewhere in this section, and, unless otherwise specifically authorized, the following conditions:

(1) Nothing in this section applies to any Federal land within a State's or Tribe's boundaries without written permission of the Federal agency with jurisdiction.

(2) States may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this section must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, States must:

(i) Follow the Federal State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest; and

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities.

(i) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the program?* OMB has approved the information collection and recordkeeping requirements of the program under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

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