

e-CFR data is current as of February 6, 2020

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Title 50: Wildlife and Fisheries  
[PART 21—MIGRATORY BIRD PERMITS](#)

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

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## §21.41 Depredation permits.

(a) Permit requirement. Except as provided in §§21.43, 21.44, and 21.46, a depredation permit is required before any person may take, possess, or transport migratory birds for depredation control purposes. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species or bald or golden eagles.

(b) Application procedures. Submit application for depredation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the

following additional information:

- (1) A description of the area where depredations are occurring;
- (2) The nature of the crops or other interests being injured;
- (3) The extent of such injury; and
- (4) The particular species of migratory birds committing the injury.

(c) Additional permit conditions. In addition to the general conditions set forth in part 13 of this subchapter B, depredation permits shall be subject to requires, in this section:

- (1) Permittees may not kill migratory birds unless specifically authorized on the permit.
- (2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or area described on the permit.
- (3) Permittees may not use blinds, pits, or other means of concealment, decoys, duck calls, or other devices to lure or entice birds within gun range.
- (4) All migratory birds killed shall be retrieved by the permittee and turned over to a Bureau representative or his designee for disposition to charitable or other worthy institutions for use as food, or otherwise disposed of as provided by law.
- (5) Only persons named on the permit are authorized to act as agents of the permittee under authority of the permit.

(d) Tenure of permits. The tenure of depredation permits shall be limited to the dates which appear on its face, but in no case shall be longer than one year.

[39 FR 1178, Jan. 4, 1974, as amended at 42 FR 17122, Mar. 31, 1977; 63 FR 52637, Oct. 1, 1998; 80 FR 15691, Mar. 25, 2015]

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## §21.42 [Reserved]

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## §21.43 Depredation order for blackbirds, cowbirds, crows, grackles, and magpies.

(a) Species covered.

| <b>Blackbirds</b>                 | <b>Cowbirds</b>               | <b>Crows</b>                     | <b>Grackles</b>               | <b>Magpies</b>               |
|-----------------------------------|-------------------------------|----------------------------------|-------------------------------|------------------------------|
| Brewer's (Euphagus cyanocephalus) | Bronzed (Molothrus aeneus)    | American (Corvus brachyrhynchos) | Boat-tailed (Quiscalus major) | Black-billed (Pica hudsonia) |
| Red-winged (Agelaius phoeniceus)  | Brown-headed (Molothrus ater) | Fish (Corvus ossifragus)         | Common (Quiscalus quiscula)   |                              |

|   |                               |                                |                                     |  |
|---|-------------------------------|--------------------------------|-------------------------------------|--|
| Yellow-headed (Xanthocephalus xanthocephalus) | Shiny (Molothrus bonariensis) | Northwestern (Corvus caurinus) | Great-tailed (Quiscalus mexicanus)  |  |
|   |                               |                                | Greater Antillean (Quiscalus niger) |  |

(b) Conditions under which control is allowed by private citizens. You do not need a Federal permit to control the species listed in paragraph (a) of this section in the following circumstances:

- (1) Where they are causing serious injuries to agricultural or horticultural crops or to livestock feed;
- (2) When they cause a health hazard or structural property damage;
- (3) To protect a species recognized by the Federal Government as an endangered, threatened, or candidate species in any county in which it occurs, as shown in the Service's Environmental Conservation Online System (<http://ecos.fws.gov>);
- (4) To protect a species recognized by the Federal Government as an endangered or threatened species in designated critical habitat for the species; or
- (5) To protect a species recognized by a State or Tribe as endangered, threatened, candidate, or of special concern if the control takes place within that State or on the lands of that tribe, respectively.
- (6) Each calendar year, you must attempt to control depredation by species listed under this depredation order using nonlethal methods before you may use lethal control. Nonlethal control methods can include such measures as netting and flagging, the use of trained raptors, propane cannons, and recordings.

(c) Conditions under which control is allowed by Federal, State, and Tribal employees. You do not need a Federal permit to control the species listed in paragraph (a) of this section in the following circumstances:

- (1) Where they are causing serious injuries to agricultural or horticultural crops or to livestock feed;
- (2) When they cause a health hazard or structural property damage; or
- (3) To protect a species recognized by the Federal Government, a State, or a Tribe as an endangered, threatened, or candidate, species, or a species of special concern, including critical habitat for any listed species.
- (4) Each calendar year, you must attempt to control depredation by species listed under this depredation order using nonlethal methods before you may use lethal control. Nonlethal control methods can include such measures as netting and flagging, the use of trained raptors, propane cannons, and recordings. However, this requirement does not apply to Federal, State, or Tribal employees conducting brown-headed cowbird trapping to protect a species recognized by the Federal Government, a State, or a Tribe as endangered, threatened, candidate, or of special concern.

(d) Ammunition. In most cases, if you use a firearm to kill migratory birds under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so. See §20.21(j) of this chapter for a listing of approved nontoxic shot types. However, this prohibition does not apply if you use an air rifle or an air pistol for control of depredating birds.

(e) Access to control efforts. If you exercise any of the privileges granted by this section, you must allow any Federal, State, tribal, or territorial wildlife law enforcement officer unrestricted access at all reasonable times (including during actual operations) over the premises on which you are conducting the control. You must furnish the officer whatever information he or she may require about your control operations.

(f) Trapping conditions. You must comply with the following conditions if you attempt to trap any species under this order.

- (1) You may possess, transport, and use a lure bird or birds of the species listed in paragraph (a) that you wish to trap.
- (2) You must check each trap at least once every day it is deployed.
- (3) At temperatures above 80 °Fahrenheit, the traps must provide shade for captured birds.
- (4) Each trap must contain adequate food and water.
- (5) You must promptly release all healthy nontarget birds that you capture.

(6) If a federally permitted wildlife rehabilitator is within 1 hour or less of your capture efforts, you must send injured or debilitated nontarget federally protected migratory birds to the rehabilitator. If no rehabilitator is closer than 1 hour away, you may euthanize an injured or debilitated bird of a nontarget species unless the species is federally listed as an endangered, threatened, or candidate species, in which case you must deliver it to a rehabilitator and report the take to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent.

(7) You must report captures of nontarget federally protected migratory birds in your annual report (see paragraph (i) of this section).

(g) Euthanasia. Captured birds and wounded or injured birds of the species listed in paragraph (a) may only be killed by carbon monoxide or carbon dioxide inhalation, or by cervical dislocation performed by well-trained personnel who are regularly monitored to ensure proficiency.

(h) Disposition of birds and parts. You may not sell, or offer to sell, any bird, or any part thereof, killed under this section, but you may possess, transport, and otherwise dispose of the bird or its parts, including transferring them to authorized research or educational institutions. If not transferred, the bird and its parts must either be burned, or buried at least 1 mile from the nesting area of any migratory bird species recognized by the Federal Government, the State, or a Tribe as an endangered or threatened species.

(i) Annual report. Any person, business, organization, or government official acting under this depredation order must provide an annual report using FWS Form 3-202-21-2143 to the appropriate Regional Migratory Bird Permit Office. The addresses for the Regional Migratory Bird Permit Offices are provided at 50 CFR 2.2, and are on the form. The report is due by January 31st of the following year and must include the information requested on the form.

(j) Compliance with other laws. You may trap and kill birds under this order only in a way that complies with all State, tribal, or territorial laws or regulations. You must have any State, tribal, or territorial permit required to conduct the activity.

(k) Information collection. The Office of Management and Budget has approved the information collection requirements associated with this depredation order and assigned OMB Control No. 1018-0146. 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 requirements to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

[79 FR 65601, Nov. 5, 2014]

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## §21.44 Depredation order for horned larks, house finches, and white-crowned sparrows in California.

Horned larks (*Eremophila alpestris*), house finches (*Carpodacus mexicanus*), and white-crowned sparrows (*Zonotrichia leucophrys*) may be taken in Fresno, Merced, Napa, and Sonoma Counties in California if they are depredating on agricultural or horticultural crops. Take of birds under this order must be done under the supervision of the county agriculture commissioner. You do not need a Federal permit for this depredation control as long as you meet the conditions below, but a depredation permit (see §21.41 in this subpart) is required for take of other migratory bird species, or for take of horned larks or white-crowned sparrows from May 1 through October 31.

(a) When is take allowed under this depredation order?

(1) Horned larks and white-crowned sparrows may be controlled from November 1 through April 30.

(2) House finches may be controlled at any time.

(b) Use of nonlethal control. Each season, before lethal control may be undertaken, the landowner must attempt to use nonlethal control of migratory bird depredation as recommended by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. The county agriculture commissioner must confirm

that nonlethal measures have been undertaken to control or eliminate the problem prior to the landowner using lethal control.

(c) Ammunition. Except when using an air rifle or an air pistol, if firearms are used to kill migratory birds under the provisions of this regulation, the shooter must use nontoxic shot or nontoxic bullets to do so. See §20.21(j) of this chapter for a listing of approved nontoxic shot types.

(d) Disposition of carcasses. Specimens useful for scientific purposes may be transferred to any entity authorized to possess them. If not transferred, all carcasses of birds killed under this order must be buried or otherwise destroyed. None of the above migratory birds killed, or the parts thereof, or the plumage of such birds, may be sold or removed from the area where killed.

(e) Annual report. Any county official acting under this depredation order must provide an annual report to the Regional Migratory Bird Permit Office using FWS Form 3-202-20-2144. The address for the Regional Migratory Bird Permit Office is in §2.2 of subchapter A of this chapter, and is on the form. The report is due by January 31st of the year after control activities are undertaken.

[78 FR 65581, Nov. 1, 2013]

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## §21.45 [Reserved]

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## §21.46 Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon.

Landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in Washington and Oregon may, without a permit, take California scrub jays (*Aphelocoma californica*) and Steller's jays (*Cyanocitta stelleri*) when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons: Provided:

(a) That California scrub jays and Steller's jays may only be taken pursuant to this section between August 1 and December 1 in any year, in the Washington counties of Clark, Cowlitz, and Lewis; and the Oregon counties of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill.

(b) That California scrub jays and Steller's jays taken pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: Provided, That the Director of the State agricultural department, college, or other public institution may requisition such California scrub jays and Steller's jays killed as may be needed for scientific investigations.

(c) That such birds may be taken only by trapping or shooting and on areas where serious depredations are being or are about to be committed.

(d) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(e) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the States of Washington and Oregon.

(f) That any person authorized by this section to act under this depredation order must provide an annual report of take during the calendar year for each species by January 31st of the following year. The report must include the number of birds taken for each species, method of take, month(s) in which they were taken, county(ies) and State(s) in which they were taken, purpose of take, and disposition. Submit annual reports to the Pacific Region Migratory Bird Permit Office in Portland, Oregon, at the address shown at 50 CFR 2.2.

[39 FR 31326, Aug. 28, 1974, as amended at 84 FR 45924, Sept. 3, 2019]

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## §§21.47-21.48 [Reserved]

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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 at any time of year.

(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 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 crowscale.

(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 at the address provided at 50 CFR 2.1(b).

[71 FR 45986, Aug. 10, 2006, as amended at 72 FR 46408, Aug. 20, 2007; 79 FR 43966, July 29, 2014; 84 FR 28773, June 20, 2019]

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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 at any time of year. 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 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.

(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 at the address provided at 50 CFR 2.1(b).

[71 FR 45988, Aug. 10, 2006, as amended at 72 FR 46408, Aug. 20, 2007; 79 FR 43966, July 29, 2014; 84 FR 28773, June 20, 2019]

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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 at any time of year.

(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 at the address provided at 50 CFR 2.1(b).

[71 FR 45989, Aug. 10, 2006, as amended at 79 FR 43966, July 29, 2014; 84 FR 28773, June 20, 2019]

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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 at any time of year.

(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 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.

(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 at the address provided at 50 CFR 2.1(b).

[71 FR 45990, Aug. 10, 2006, as amended at 79 FR 43966, July 29, 2014; 84 FR 28773, June 20, 2019]

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## §21.53 Control order for purple swamphens.

(a) Control of purple swamphens. Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents may remove or destroy purple swamphens (*Porphyrio porphyrio*) or their nests or eggs at any time when they find them anywhere in the contiguous United States, Hawaii, Alaska, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands. Any authorized agency personnel may temporarily possess, transport, and dispose of purple swamphens, subject to the restrictions in paragraph (c) of this section. No permit is necessary to engage in these actions.

(b) Disposal of purple swamphens. If you are authorized to control purple swamphens, you may dispose of purple swamphens by the following methods: You may donate purple swamphens taken under this order to public museums or public institutions for scientific or educational purposes; you may dispose of the carcasses by burial or incineration; or, if the carcasses are not readily retrievable, you may leave them in place. No one may retain for personal use, offer for sale, or sell a purple swamphen removed under this section.

(c) Other provisions. (1) You may not remove or destroy purple swamphens or their nests or eggs if doing so is contrary to any State, territorial, tribal, or local laws or regulations.

(2) You may not remove or destroy purple swamphens or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. In particular, the purple swamphen resembles the native purple gallinule (*Porphyryla martinica*). Authorized persons must take special care not to take purple gallinules or their nests or eggs when conducting purple swamphen control activities.

(3) If you use firearms to control purple swamphens under this regulation, you may use only nontoxic shot or nontoxic bullets for the control.

(4) If, while operating under this regulation, an authorized person takes any other species protected under the Endangered Species Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act, that person must immediately report the take to the nearest Ecological Services office of the Fish and Wildlife Service. See <http://www.fws.gov/where/> to find the location of the nearest Ecological Services office.

(5) We may suspend or revoke the authority of any agency or individual to undertake purple swamphen control if we find that agency or individual has, without an applicable permit, taken actions that may take Federally listed threatened or endangered species or any bird species protected by the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act (see §10.13 of subchapter A of this chapter for the list of protected migratory bird species), or otherwise violated Federal regulations.

[75 FR 9316, Mar. 1, 2010, as amended at 80 FR 15691, Mar. 25, 2015]

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## §21.54 Control order for muscovy ducks in the United States.

(a) Control of muscovy ducks. Anywhere in the contiguous United States except in Hidalgo, Starr, and Zapata Counties in Texas, and in Alaska, Hawaii, and U.S. territories and possessions, landowners and Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents may, without a Federal permit, remove or destroy muscovy ducks (*Cairina moschata*) (including hybrids of muscovy ducks), or their nests, or eggs at any time when found. Any authorized person may temporarily possess, transport, and dispose of muscovy ducks taken under this order.

(b) Muscovy ducks in Hidalgo, Starr, and Zapata Counties in Texas. In these counties, take of muscovy ducks, their nests, and their eggs may be allowed if we issue a depredation permit for the activity.

(c) Disposal of muscovy ducks. You may donate muscovy ducks taken under this order to public museums or public institutions for scientific or educational purposes, or you may dispose of them by burying or incinerating them. You may not retain for personal use or consumption, offer for sale, or sell a muscovy duck removed under authority of this section, nor may you release it in any other location.

(d) Other provisions. (1) You must comply with any State, territorial, or Tribal laws or regulations governing the removal or destruction of muscovy ducks or their nests or eggs.

(2) You may not remove or destroy muscovy ducks or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. If you use a firearm to kill muscovy ducks under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so.

(3) If you operate under this order, you must immediately report the take of any species protected under the Endangered Species Act, or any other bird species protected under the Migratory Bird Treaty Act, to the Fish and Wildlife Service Ecological Services Office for the State or location in which the take occurred.

(4) We reserve the right to suspend or revoke the authority of any agency or individual to undertake muscovy duck control if we find that the agency or individual has undertaken actions that may harm Federally listed threatened or endangered species or are contrary to the provisions of this part.

[75 FR 9321, Mar. 1, 2010]

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## §21.55 Control order for invasive migratory birds in Hawaii.

(a) Control of cattle egrets and barn owls. Personnel of the agencies listed in paragraph (b) of this section may take cattle egrets (*Bubulcus ibis*) or barn owls (*Tyto alba*) using the methods authorized in paragraph (c) of this section at any time anywhere in the State of Hawaii, the Northwestern Hawaiian Islands, or the unincorporated territory of Midway Atoll. No permit is necessary to engage in these actions. In this section, the word “you” means a person operating officially as an employee of one of the authorized agencies.

(b) Authorized agencies. (1) Federal Aviation Administration;

(2) Hawaii Department of Agriculture;

(3) Hawaii Department of Lands and Natural Resources, Division of Forestry and Wildlife;

(4) National Oceanic and Atmospheric Administration;

(5) National Park Service;

(6) U.S. Department of Agriculture—Animal and Plant Health Inspection Service, Wildlife Services;

(7) U.S. Department of Defense;

(8) U.S. Fish and Wildlife Service;

(9) U.S. Geological Survey; and

(10) University of Hawaii—Pacific Cooperative Studies Units with program mandates to accomplish invasive species eradication and control, including the five island Invasive Species Committees.

(c) Means of take. (1) You may take cattle egrets and barn owls by means of lethal take or active nest take. Lethal take may occur by firearm or slingshot in accordance with paragraph (c)(2) of this section or lethal or live traps. Active nest take may occur by egg oiling in accordance with paragraph (c)(3) of this section or destruction of nest material and contents (including viable eggs and chicks). Birds may be euthanized by cervical dislocation, CO<sub>2</sub> asphyxiation, or other recommended method in the American Veterinary Medical Association Guidelines on Euthanasia.

(2) If you use a firearm or slingshot to kill cattle egrets or barn owls under the provisions of this order, you must use nontoxic shot or nontoxic bullets to do so. See §20.21(j) of this chapter for a list of approved nontoxic shot types.

(3) Eggs must be oiled with 100 percent corn oil, which is exempted from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act by the U.S. Environmental Protection Agency.

(4) You may use concealment (such as blinds) and luring devices (such as decoys or recorded calls) for locating, capturing, and/or taking cattle egrets or barn owls.

(d) Land access. You must obtain appropriate landowner permission before conducting activities authorized by this order.

(e) Relationship to other regulations. You may take cattle egrets and barn owls under this order only in a way that complies with all applicable Federal, State, county, municipal, or tribal laws. You are responsible for obtaining all required authorizations to conduct this activity.

(f) Release of injured, sick, or orphaned cattle egrets or barn owls. Wildlife rehabilitators, veterinarians, and all other individuals or agencies who receive sick, injured, or orphaned cattle egrets or barn owls are prohibited from releasing any individuals of those species back into the wild in the State of Hawaii, the Northwestern Hawaiian Islands, or the unincorporated territory of Midway Atoll. All applicable local, State, Federal, and/or territorial regulations must be followed to transfer, possess, and/or release cattle egrets or barn owls in any other location.

(g) Disposal of cattle egret or barn owl carcasses, nests, or nest contents. You may donate carcasses, nests, or nest contents taken under this control order to public museums or public institutions for scientific or educational purposes or to persons authorized by permit or regulation to possess them. You may dispose of the carcasses by

burial or incineration; or, if the carcasses are not safely retrievable, you may leave them in place. No one may retain for personal use, offer for sale, barter or trade, or sell a cattle egret or a barn owl or any feathers, parts, nests, or nest contents taken under this section.

(h) Endangered or threatened species. You may not take cattle egrets or barn owls if doing so will adversely affect other migratory birds protected under the Migratory Bird Treaty Act or species designated as endangered or threatened under the authority of the Endangered Species Act.

(i) Reporting take. Any agency engaged in control activities under this control order must provide an annual report of take during the calendar year for each species by January 31st of the following year. The report must include a summary of the number of birds and number of active nests taken for each species, the months in which they were taken, and the island(s) on which they were taken. Multiple reports within agencies may be combined, as appropriate. Submit annual reports to the Pacific Region Migratory Bird Permit Office in Portland, Oregon, at the address shown at 50 CFR 2.2.

(j) Reporting nontarget take. If, while operating under this control order, you take any other species protected under the Endangered Species Act or the Migratory Bird Treaty Act, you must report within 72 hours the take to the Pacific Region Migratory Bird Permit Office in Portland, Oregon, at the address shown at 50 CFR 2.2.

(k) Revocation of authority to operate under this order. We may suspend or revoke the authority of any individual or agency to operate under this order if we find that the individual or agency has taken actions that may take federally listed endangered or threatened species or any other bird species protected by the Migratory Bird Treaty Act (see 50 CFR 10.13 for the list of protected migratory bird species), or has violated any Federal or State law or regulation governing this activity. We will notify the affected agency by certified mail, and may change this control order accordingly.

[82 FR 34425, July 25, 2017]