§ 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) CO2 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...
§ 21.52

50 CFR Ch. I (10–1–11 Edition)

goose taken under this section, nor
their plumage or eggs. Any specimens
needed for scientific purposes as deter-
mained by the Regional Director must
not be destroyed, and information on
birds carrying metal leg bands must be
submitted to the Bird Banding Labora-
tory 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 wild-
life 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 author-
ization by the responsible management
agency. No person may exercise the
privileges granted under this section
until they possess any permits re-
quired 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 au-
thorization and designation in their
possession when carrying out any ac-

tivities. If the State or Tribe is con-
ducting 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 dur-
ing actual operations, free and unre-
stricted access to any Service special
agent or refuge officer, State or Tribal
wildlife or deputy wildlife agent, war-
den, protector, or other wildlife law en-
forcement officer on the premises
where they are, or were, conducting ac-
tivities. 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 migra-
tory birds or species designated as en-
dangered or threatened under the au-
thority of the Endangered Species Act.
Persons operating under this order
must immediately report the take of
any species protected under the Endan-
gered Species Act to the Service. Fur-
ther, to protect certain species from
being adversely affected by manage-
ment actions, State and Tribal wildlife
agencies must:

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

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

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

(iv) Contact the Arizona Fish and
Wildlife Service Ecological Services Of-

cine for the Colorado River and Ari-
 zona 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 im-
plementation will not adversely affect
clapper rails or their habitats; and

(v) In California, any control activi-
ties 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 oper-
ating 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, south-
western willow flycatcher, least Bell’s
vireo, western snowy plover, California
gnatcatcher.
§ 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 (Porphyraula martinica). Authorized persons must take special care not to take purple gallinules or their nests or eggs when conducting purple swamphens.