§ 21.52 Public health control order for resident Canada goose.

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

(b) What is the public health control order for resident Canada goose, and what is its purpose? The public health control order for resident Canada goose 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 goose 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 goose 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 goose 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 goose.

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

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

(ii) Methods of take for the control of resident Canada goose 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.

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 goose, 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 goose 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 goose 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 goose 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
§ 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.