§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.

(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 tectoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(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]
§ 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 operations.

(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. Certain persons may take purple gallinules without a permit on rice-producing property in Louisiana according to the terms of a separate depredation order (see §21.45).

(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]