§ 21.61 Population control of resident Canada geese.

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

(b) What is the resident Canada goose population control program, and what is its purpose? The resident Canada goose population control program is a managed take program implemented under the authority of the Migratory Bird Treaty Act to reduce and stabilize resident Canada goose populations when traditional and otherwise authorized management measures are unsuccessful, not feasible for dealing with, or applicable, in preventing injury to property, agricultural crops, public health, and other interests from resident Canada goose. The Director is authorized to allow States and Tribes to implement a population control, or managed take, program to remedy these injuries. When authorized by the Director, managed take allows additional methods of taking resident Canada goose, allows shooting hours for resident Canada goose to extend to one-half hour after sunset, and removes daily bag limits for resident Canada goose inside or outside the migratory bird hunting season frameworks as described in this section. The intent of the program is to reduce resident Canada goose populations in order to protect personal property and agricultural crops and other interests from injury and to resolve potential concerns about human health. The management and control activities allowed or conducted under the program are intended to relieve or prevent damage and injurious situations. No person should construe this program as opening, reopening, or extending any hunting season contrary to any regulations established under section 3 of the Migratory Bird Treaty Act.

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

(d) What is required in order for State governments to participate in a managed take program? Following the conclusion of the first full operational year of §§21.49 through 21.52 of this part, any wildlife agency from a State listed in 21.61(c) may request approval for the population control program. A request must include a discussion of the injuries that continue, why the authorized methods utilized have not worked, and why methods not utilized could not effectuate resolution of the injuries. A State’s request for approval may be for an area or areas smaller than the entire State. Upon written approval by the Director, any State or Tribal government responsible for the management of wildlife and migratory birds...
may, without permit, kill or cause to be killed under its general supervision, resident Canada geese under the following conditions:

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

(2) Control activities may be conducted under this section only between August 1 and August 31.

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

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

(5) States and Tribes must designate participants who must operate under the conditions of the managed take program.

(6) States and Tribes must inform participants of the requirements/conditions of the program that apply.

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

(i) The number of individuals participating in the program;

(ii) The number of days individuals participated in the program;

(iii) The total number of resident Canada geese shot and retrieved during the program; and

(iv) The number of resident Canada geese shot but not retrieved. The States and Tribes must submit an annual report summarizing activities conducted under the program and an assessment of the continuation of the injuries on or before June 1 of each year to the Chief, Division of Migratory Bird Management, at the address provided at 50 CFR 2.1(b).

(e) What is required for individuals to participate in the program? Individual participants in State and Tribal programs covered by the managed take program must comply with the following requirements:

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

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

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

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

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

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

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

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

(v) By the use or aid of live birds as decoys. No person may take resident Canada geese on an area where tame or captive live geese are present unless such birds are, and have been for a period of 10 consecutive days before the taking, confined within an enclosure.
§21.61

that substantially reduces the audi-
bility of their calls and totally con-
ceals the birds from the sight of resi-
dent Canada geese.

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

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

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

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

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

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

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

(f) Under what conditions would we
suspend the managed take program? Fol-
lowing authorization by the Director,
we will annually assess the overall im-
pact and effectiveness of the program
on resident Canada goose populations
to ensure compatibility with long-term
conservation of this resource. If at any
time evidence is presented that clearly
demonstrates that resident Canada
geese populations no longer need to be
reduced in order to allow resolution or
prevention of injury to people, prop-
erty, agricultural crops, or other inter-
ests, the Director, in writing, will sus-
pend the program for the resident Can-
da goose population in question. How-
ever, resumption of injuries caused by
growth of the population and not oth-
erwise addressable by the methods
available in part 21 may warrant rein-
statement of such regulations. A State
must reapply for approval, including
the same information and discussions
noted in 21.61(d). Depending on the lo-
cation of the injury or threat or injury,
the Director, in writing, may suspend
or reinstate this authorization for one
or more resident Canada goose popu-
lations, but not others.

(g) What population information is the
State or Tribe required to collect con-
cerning the resident Canada goose man-
aged take program? Participating States
and Tribes must provide an annual es-
timate of the breeding population and
distribution of resident Canada geese
in their State. The States and Tribes
must submit this estimate on or before
August 1 of each year, to the Chief, Di-
vision of Migratory Bird Management,
at the address provided at 50 CFR
2.1(b).

(h) What are the general program con-
ditions and restrictions? The program is
subject to the conditions elsewhere in
this section, and, unless otherwise spe-
cifically authorized, the following con-
ditions:

(1) Nothing in this section applies to
any Federal land within a State’s or
Tribe’s boundaries without written per-
mission of the Federal agency with ju-
risdiction.

140
(2) States may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this section must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, States must:

(i) Follow the Federal State Contingency Plan for the whooping crane;
(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest; and
(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities.

(i) Has the Office of Management and Budget (OMB) approved the information collection requirements of the program? OMB has approved the information collection and recordkeeping requirements of the program under OMB control number 1018–0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service’s Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

PART 22—EAGLE PERMITS

Subpart A—Introduction

§ 22.1 What is the purpose of this part?

This part controls the taking, possession, and transportation within the United States of bald eagles (Haliaeetus leucocephalus) and golden eagles (Aquila chrysaetos) and their parts, nests, and eggs for scientific, educational, and depredation control purposes; for the religious purposes of American Indian tribes; and to protect other interests in a particular locality. This part also governs the transportation into or out of the United States of bald and golden eagle parts for scientific, educational, and Indian religious purposes. The import, export, purchase, sale, trade, or barter of bald and golden eagles, or their parts, nests, or eggs is prohibited.


Subpart B—General Requirements

§ 22.2 What activities does this part apply to?

(a)(1) You can possess or transport within the United States, without a Federal permit:

Subpart C—Eagle Permits

22.21 What are the requirements concerning scientific and exhibition purpose permits?
22.22 What are the requirements concerning permits for Indian religious purposes?
22.23 What are the requirements for permits to take depredating eagles and eagles that pose a risk to human or eagle health and safety?
22.24 Permits for falconry purposes.
22.25 What are the requirements concerning permits to take golden eagle nests?
22.26 Permits for eagle take that is associated with, but not the purpose of, an activity.
22.27 Removal of eagle nests.
22.28 Permits for bald eagle take exempted under the Endangered Species Act.

Subpart D—Depredation Control Orders on Golden Eagles

22.31 Golden eagle depredations control order on request of Governor of a State.
22.32 Conditions and limitations on taking under depredation control order.

SOURCE: 39 FR 1183, Jan. 4, 1974, unless otherwise noted.