

(B) Develop a production surveillance plan based on the risk level determined during a risk assessment;

(C) Modify the production surveillance plan to incorporate any special surveillance requirements for individual contracts, including any requirements identified by the contracting officer; and

(D) Monitor contract progress and identify potential contract delinquencies in accordance with the production surveillance plan. Contracts with Criticality Designator C are exempt from this requirement unless specifically requested by the contracting officer.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Parts 20 and 21

RIN 1018-A132

#### Migratory Bird Hunting and Permits; Regulations for Managing Resident Canada Goose Populations

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** In recent years, the numbers of Canada geese that nest and/or reside predominantly within the conterminous United States (resident Canada geese) have undergone dramatic population growth and have increased to levels that are increasingly coming into conflict with people and human activities and causing personal and public property damage, as well as public health concerns, in many parts of the country. The U.S. Fish and Wildlife Service (Service or "we") believes that resident Canada goose populations must be reduced, more effectively managed, and controlled to reduce goose related damages. This rule would authorize State wildlife agencies to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. The intent of this rule is to allow State wildlife management agencies sufficient flexibility to deal with problems caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States.

**DATES:** Comments on this proposed rule must be received by October 20, 2003.

**ADDRESSES:** Comments should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, 4401 North Fairfax Drive, MBSP-4107, Arlington, Virginia 22203. We will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. Alternatively, comments may be submitted electronically to the following address: [canada\\_goose\\_eis@fws.gov](mailto:canada_goose_eis@fws.gov). The public may inspect comments during normal business hours in Room 4107, 4501 North Fairfax Drive, Arlington, Virginia. You may obtain copies of the draft environmental impact statement from the above address or from the Division of Migratory Bird Management Web site at <http://migratorybirds.fws.gov>.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358-1714.

**SUPPLEMENTARY INFORMATION:** Migratory birds are protected under four bilateral migratory bird treaties the United States entered into with Great Britain (for Canada), Mexico, Japan, and Russia. Regulations allowing the take of migratory birds are authorized by the Migratory Bird Treaty Act (16 U.S.C. 703-711), and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712). The Migratory Bird Treaty Act (Act) provides that, subject to and to carry out the purposes of the treaties, the Secretary of the Interior is authorized and directed to determine when, to what extent, and by what means it is compatible with the conventions to allow hunting, killing, and other forms of taking of migratory birds, their nests, and eggs. The Act requires the Secretary to implement a determination by adopting regulations permitting and governing those activities.

Canada geese are Federally protected by the Act by reason of the fact that they are listed as migratory birds in all four treaties. These regulations must meet the requirements of the most restrictive of the four, which for Canada geese is the treaty with Canada. We have prepared these regulations compatible with its terms, with particular reference to Articles VII, V, and II.

Regulations governing the issuance of permits to take, capture, kill, possess, and transport migratory birds are promulgated in Title 50 Code of Federal Regulations (CFR) parts 13 and 21, and issued by the Service. Regulations governing the take, possession, and transportation of migratory birds under

sport hunting seasons are annually promulgated in 50 CFR part 20 by the Service.

In recent years, numbers of Canada geese that nest and/or reside predominantly within the conterminous United States (resident Canada geese) have undergone dramatic population growth and have increased to levels that are increasingly coming into conflict with people and causing personal and public property damage. We believe that resident Canada goose populations must be reduced, more effectively managed, and controlled to reduce goose related damages. This rule would establish a new regulation authorizing State wildlife agencies to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. The intent of this rule is to allow State wildlife management agencies sufficient flexibility to deal with problems caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States.

#### Population Delineation and Status

Waterfowl management activities frequently are based on the delineation of populations that are the target of management. Some goose populations are delineated according to where they winter, whereas others are delineated based on the location of their breeding grounds. For management purposes, populations can comprise one or more species of geese.

Canada geese (*Branta canadensis*) nesting within the conterminous United States are considered subspecies or hybrids of the various subspecies originating in captivity and artificially introduced into numerous areas throughout the conterminous United States. Canada geese are highly philopatric to natal areas, and no evidence presently exists documenting breeding between Canada geese nesting within the conterminous United States and those subspecies nesting in northern Canada and Alaska. Canada geese nesting within the conterminous United States in the months of March, April, May, or June, or residing within the conterminous United States in the months of April, May, June, July, and August will be collectively referred to in this proposed rule as "resident" Canada geese.

The recognized subspecies of Canada geese are distributed throughout the northern temperate and sub-arctic regions of North America (Delacour 1954; Bellrose 1976; Palmer 1976). Historically, breeding Canada geese are

believed to have been restricted to areas north of 35 degrees and south of about 70 degrees latitude (Bent 1925; Delacour 1954; Bellrose 1976; Palmer 1976). Today, in the conterminous United States, Canada geese can be found nesting in every State, primarily due to translocations and introductions since the 1940s.

The majority of Canada geese still nest in localized aggregations throughout Canada and Alaska and migrate annually to the conterminous United States to winter, with a few reaching as far south as northern Mexico. However, the distribution of Canada geese has expanded southward and numbers have increased appreciably throughout the southern portions of the range during the past several decades (Rusch *et al.* 1995). The following is a brief description of the status and distribution of the major management populations of Canada geese covered by this proposed rule:

In the Atlantic Flyway, the resident population of Canada geese nests from Southern Quebec and the Maritime Provinces of Canada southward throughout the States of the Atlantic Flyway (Sheaffer and Malecki 1998; Johnson and Castelli 1998; Nelson and Oetting 1998). This population is believed to be of mixed racial origin (*B. c. canadensis*, *B. c. interior*, *B. c. moffitti*, and *B. c. maxima*) and is the result of purposeful introductions by management agencies, coupled with released birds from private aviculturists and releases from captive decoy flocks after live decoys were outlawed for hunting in the 1930s. Following the Federal prohibition on the use of live decoys in 1935, Dill and Lee (1970) cited an estimate of more than 15,000 domesticated and semi-domesticated geese that were released from captive flocks. With the active restoration programs that occurred from the 1950s through the 1980s, the population has grown to over 1 million birds in the northeastern United States and has increased an average of 5 percent per year since 1993 (Sheaffer and Malecki 1998; Atlantic Flyway Council 1999; U.S. Fish and Wildlife Service, 2002).

In the Mississippi Flyway, most resident Canada geese are giant Canada geese (*B. c. maxima*). Once believed to be extinct (Delacour 1954), Hanson (1965) rediscovered them in the early 1960s, and estimated the giant Canada goose population at about 63,000 birds in both Canada and the United States. In the nearly 40 years since their rediscovery, the breeding population of giant Canada geese in the Mississippi Flyway now exceeds 1.4 million individuals and has been growing at a

rate of about 6 percent per year since 1993 (Rusch *et al.* 1996; Wood *et al.* 1996; Nelson and Oetting 1998; U.S. Fish and Wildlife Service, 2002).

In the Central Flyway, Canada geese that nest and/or reside in the States of the Flyway consist mainly of two populations, the Great Plains and Hi-Line. The Great Plains Population (Nelson 1962; Vaught and Kirsch 1966; Williams 1967) consists of geese (*B. c. maxima*/*B. c. moffitti*) that have been restored to previously occupied areas in Saskatchewan, North and South Dakota, Nebraska, Kansas, Oklahoma, and Texas. For management purposes, this population is often combined with the Western Prairie Population (composed of geese (*B. c. maxima*/*B. c. moffitti*/*B. c. interior*) that nest throughout the prairie regions of Manitoba and Saskatchewan) and winter together from the Missouri River in South Dakota southward to Texas. The Hi-Line Population (Rutherford 1965; Grieb 1968, 1970) (*B. c. moffitti*) nests in southeastern Alberta, southwestern Saskatchewan and eastern Montana, Wyoming, and northcentral Colorado. The population winters from Wyoming to central New Mexico. Overall, these three populations of large subspecies of Canada geese have increased tremendously over the last 30 years as the result of active restoration and management by Central Flyway States and Provinces. In 1999, the index for these three populations was over 900,000 birds, 95 percent higher than 1990, and 687 percent higher than 1980 (Gabig 2000). More recently, the 2002 mid-winter survey estimate of the Great Plains Population (surveyed together with the Western Prairie Population) was 710,300 geese and has increased an average of 10 percent per year since 1993. For the Hi-Line Population, both the mid-winter survey and the spring survey estimates have increased an average of 6 percent per year since 1993 (U.S. Fish and Wildlife Service, 2002).

In the Pacific Flyway, two populations of the western Canada goose, the Rocky Mountain Population and the Pacific Population, are predominantly composed of Canada geese that nest and/or reside in the States of the Flyway. The Rocky Mountain Population (*B. c. moffitti*) nests from southwestern Alberta southward through the intermountain regions of western Montana, Utah, Idaho, Nevada, Colorado, and Wyoming. They winter southward from Montana to southern California, Nevada, and Arizona. Highly migratory, they have grown from a breeding population of about 14,000 in 1970 (Krohn and Bizeau 1980) to over 130,000 (Subcommittee on Rocky Mountain Canada Geese 2000;

U.S. Fish and Wildlife Service, 2002). Mid-winter survey estimates of Rocky Mountain Population Canada geese have increased an average of 4 percent per year since 1993, while spring populations have increased 6 percent per year over the last 10 years (U.S. Fish and Wildlife Service, 2002). The Pacific Population (Krohn and Bizeau 1980; Ball *et al.* 1981) (*B. c. moffitti*) nests from southern British Columbia southward and west of the Rockies in the States of Idaho, western Montana, Washington, Oregon, northern California, and northwestern Nevada. They are essentially nonmigratory and winter primarily in these same areas.

### Flyway Management Plans and Population Goals

The Atlantic, Mississippi, Central, and Pacific Flyway Councils are administrative bodies established to cooperatively deliver migratory bird management under the flyway system. The Councils, which are comprised of representatives from each member State and Province, make recommendations to the Service on matters regarding migratory game birds. The Flyway Councils work with the Service and the Canadian Wildlife Service to manage populations of Canada geese that occur in their geographic areas. Since there are large numbers of resident Canada geese in each Flyway, the Councils developed and prepared cooperative Flyway management plans to address these populations and establish overall population goals and associated objectives/strategies. A common goal among the plans is the need to balance the positive aspects of resident Canada geese with the conflicts they can cause. While the Service does not formally adopt Flyway management plans, because of the cooperative nature of migratory bird management under the Flyway Council system, and the fact that the Flyway Councils and States are the most knowledgeable sources of information regarding the establishment of goose population goals and objectives under their purview, we believe incorporation of these management plans into the formulation of our overall resident Canada goose management help define the objectives for acceptable resident Canada goose population reduction and management. Thus, we have attempted to incorporate the goals and objectives of the Flyways' resident Canada goose management plans and their associated population objectives into the formulation of this proposed rule. A more detailed discussion of the Flyway management plans, their specific goals and objectives, is

contained in the draft EIS described in the **ADDRESSES** section of this document.

The objective of this proposed rule is to allow State wildlife management agencies sufficient flexibility to deal with problems, conflicts, and damages caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States. The program established by this rule should contribute to human health and safety, protect personal property and agricultural crops, protect other interests from injury, and allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese. Further, the means must be effective, environmentally sound, cost-effective, flexible enough to meet the variety of management needs found throughout the flyways, should not threaten viable resident Canada goose

populations as determined by each Flyway Council, and in accordance with the mission of the Service. Formulating such a national management strategy to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce related damages, safety, and public health concerns was a complex problem, and Flyway input was essential for incorporating regional differences and solutions.

As such, we note that the overall population objectives established by the Flyways were derived independently based on the States' respective management needs and capabilities, and in some cases, these objectives were an approximation of population levels from an earlier time when problems were less severe. In other cases, population objective levels were calculated from what was professionally judged to be a more desirable or acceptable density of

geese with respect to conflicts and concerns. We further note that these population sizes are only optimal in the sense that it was each Flyway's best attempt to balance the many competing considerations of both consumptive and nonconsumptive users. As with any goal or objective, we believe that these population objectives should be periodically reviewed and/or revised in response to changes in resident Canada goose populations, damage levels, public input, or other factors. Current resident Canada goose population estimates and population objectives for each Flyway are shown in Table 1. We note that over the last three years (2001–03), the total number of temperate-nesting Canada geese, or resident Canada geese, has averaged approximately 3.2 million in the U.S. and 1.1 in Canada for a total spring population of 4.3 million (Moser and Caswell, in press).

TABLE 1.—RECENT RESIDENT CANADA GOOSE POPULATION ESTIMATES (2001–03 AVERAGE) AND POPULATION OBJECTIVES ON A FLYWAY BASIS

Current resident Canada goose population <sup>a</sup>	Atlantic flyway	Mississippi flyway	Central flyway	Pacific flyway
U.S. ....	1,148,536	1,292,298	528,948	218,311
Canada .....	269,439	152,434	343,286	372,686
Total .....	1,417,975	1,444,732	872,234	590,996

  

Resident Canada goose population objective	Atlantic flyway <sup>b</sup>	Mississippi flyway <sup>c</sup>	Central flyway <sup>d</sup>	Pacific flyway
U.S. ....	620,000	989,000	368,833–448,833	<sup>e</sup> 54,840–90,900
Canada .....	30,000	180,000		<sup>e</sup> 35,750–56,250
Total .....	650,000	1,169,000		<sup>e</sup> 90,590–147,150

<sup>a</sup> Moser and Caswell, in press.

<sup>b</sup> Atlantic Flyway Council Section 1999.

<sup>c</sup> Population objective numbers are draft and are not final at this time (Giant Canada Goose Committee 2000).

<sup>d</sup> Only U.S. States provided population objectives (Gabig 2000).

<sup>e</sup> Lower end of the Pacific Flyway population objective for the Pacific Population of Western Canada geese derived from "Restriction Level" and upper end derived from "Liberalization Level" as shown in Management Plan for the Pacific Population of Western Canada Geese (Subcommittee on Pacific Population of Western Canada Geese 2000). While the cited report refers to numbers of pairs, nests, and individual geese, the numbers shown here have been converted to numbers of individual geese.

**Potential Causes of Population Growth and Past Attempts to Slow Growth**

The rapid rise of resident Canada goose populations has been attributed to a number of factors. Most resident Canada geese live in temperate climates with relatively stable breeding habitat conditions and low numbers of predators, tolerate human and other disturbances, have a relative abundance of preferred habitat (especially those located in urban/suburban areas with current landscaping techniques), and fly relatively short distances to winter compared with other Canada goose populations. This combination of factors contributes to consistently high annual production and survival. Further, the virtual absence of waterfowl hunting in

urban areas provides additional protection to those urban portions of the resident Canada goose population. Given these characteristics, most resident Canada goose populations are continuing to increase in both rural and urban areas.

We have attempted to curb the growth of resident Canada goose populations by several means. Expansion of existing annual hunting season frameworks (special and regular seasons), the issuance of control permits on a case-by-case basis, and a Special Canada goose permit have all been used with varying degrees of success. While these approaches have provided relief in some areas, they have not completely addressed the problem.

Normally, complex Federal and State responsibilities are involved with Canada goose control activities. All control activities, except those intended to either scare geese out of, or preclude them from using, a specific area, such as harassment, habitat management, or repellants, require a Federal permit issued by the Service. Additionally, permits to alleviate migratory bird depredations are issued by the Service in coordination with the Wildlife Services program of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (Wildlife Services). Wildlife Services is the Federal agency with lead responsibility for dealing with wildlife

damage complaints. In most instances, State permits are required as well.

### Conflicts and Impacts

Conflicts between geese and people affect or damage several types of resources, including property, human health and safety, agriculture, and natural resources. Common problem areas include public parks, airports, public beaches and swimming facilities, water-treatment reservoirs, corporate business areas, golf courses, schools, college campuses, private lawns, athletic fields, amusement parks, cemeteries, hospitals, residential subdivisions, and along or between highways.

Property damage usually involves landscaping and walkways, most commonly on golf courses, parks, and waterfront property. In parks and other open areas near water, large goose flocks create local problems with their droppings and feather litter (Conover and Chasko, 1985). Surveys have found that, while most landowners like seeing some geese on their property, eventually, increasing numbers of geese and the associated accumulation of goose droppings on lawns, which results in a reduction of both the aesthetic value and recreational use of these areas, cause many landowners to view geese as a nuisance (Conover and Chasko, 1985).

Negative impacts on human health and safety occur in several ways. At airports, large numbers of geese can create a very serious threat to aviation. Resident Canada geese have been involved in a large number of aircraft strikes resulting in dangerous landing/take-off conditions, costly repairs, and loss of human life. As a result, many airports have active goose control programs. Excessive goose droppings are a disease concern for many people. Public beaches in several States have been closed by local health departments due to excessive fecal coliform levels that in some cases have been traced back to geese and other waterfowl. Additionally, during nesting and brood-rearing, aggressive geese have bitten and chased people and injuries have occurred due to people falling or being struck by wings.

Agricultural and natural resource impacts include losses to grain crops, overgrazing of pastures, and degrading water quality. In heavy concentrations, goose droppings can overfertilize lawns and degrade water quality, resulting in eutrophication of lakes and excessive algae growth (Manny *et al.*, 1994). Overall, complaints related to personal and public property damage, agricultural damage, public safety

concerns, and other public conflicts have increased as resident Canada goose populations increased.

We have further described the various impacts of resident Canada geese on natural resources, public and private property, and health and human safety in our draft EIS on resident Canada goose management. Due to the volume of technical information, we refer the reader to the draft EIS for specific details. Procedures for obtaining a copy of the draft EIS are described in the **ADDRESSES** section of this document.

### Environmental Consequences of Taking No Action

We fully analyzed the No Action alternative with regard to resident Canada goose management in our draft EIS, to which we refer the reader (U.S. Fish and Wildlife Service 2002). In summary, we expect that resident Canada goose populations will continue to grow. Within 10 years, populations could approach 1.6 million in the Atlantic Flyway, 2.0 million in the Mississippi Flyway, 1.3 million in the Central Flyway, and 450,000 in the Pacific Flyway. Additionally, resident Canada goose problems and conflicts related to goose distribution are likely to continue and expand. Resident Canada geese will continue to impact public and private property, safety, and health, and impacts are likely to grow as goose populations increase. Lastly, both Federal and State workloads related to dealing with these increasing conflicts and populations will also increase.

### Environmental Consequences of Proposed Action

We fully analyzed our proposed action in the draft EIS on resident Canada goose management, to which we refer the reader for specific details (U.S. Fish and Wildlife Service 2002). In summary, under our proposed action, entitled "State Empowerment," we expect a reduction in resident Canada goose populations, especially in problem areas. We also expect significant reductions in conflicts caused by resident Canada geese; decreased impacts to property, safety, and health; and increased hunting opportunities. We expect some initial State and Federal workload increases associated with implementation of the management strategies; however, over the long term, we expect that workloads would decrease. Lastly, we expect our proposed action to maintain viable resident Canada goose populations.

### Proposed Resident Canada Goose Regulations

Recently completed resident Canada goose modeling in Missouri (Coluccy 2000; Coluccy and Graber 2000), when extrapolated to the entire Mississippi Flyway, indicates that reduction of the Mississippi Flyway's resident population from the current 1,335,683 geese to the Flyway Council's goal of 989,000 geese would require one of several management actions: (1) The harvest of an additional 240,000 geese annually over that already occurring; (2) the take of an additional 426,000 goslings per year; (3) a Flyway-wide nest removal of 264,000 nests annually; or (4) a combination of harvesting an additional 120,000 geese annually and the take of an additional 160,000 goslings per year. Each of these management alternatives would be required annually for 10 years to reach the Flyway's population management goal. In the Atlantic Flyway, where the resident Canada goose population is even further above established Flyway goals, these numbers would be even greater. Similar numbers would be expected in the Central Flyway, while numbers would be correspondingly smaller in the Pacific Flyway.

Thus, to reduce the four Flyways' resident populations from the current level of approximately 3.5 million to the Flyway Councils' goals of approximately 2.1 million geese would require, at a minimum for the next 10 years, either the harvest of an additional 480,000 geese annually, the take of an additional 852,000 goslings per year, a Flyway-wide nest removal of 528,000 nests annually, or a combination of the harvest of an additional 240,000 geese annually and the take of an additional 320,000 goslings per year. We believe the only way possibly to attain these numbers is to give the States *the flexibility* to address the problems caused by resident Canada goose populations within their respective States. By addressing population reductions on a wide number of available fronts, we believe the combination of various damage management strategies and population control strategies would successfully reduce numbers of resident Canada geese in those *priority areas identified by the States*. Since the States are the most informed and knowledgeable local authorities on wildlife conflicts in their respective States, we believe it is logical to authorize them to take the necessary actions within specified parameters.

To give States the needed flexibility to address the problems caused by resident Canada geese, this proposed rule would

establish a regulation authorizing State wildlife agencies (or their authorized agents) to conduct (or allow) management activities, including the take of birds, on resident Canada goose populations. This proposed rule would authorize indirect and/or direct population control strategies such as aggressive harassment, nest and egg destruction, gosling and adult trapping and culling programs, expanded methods of take to increase hunter harvest, or other general population reduction strategies. The intent of this proposed rule is to allow State wildlife management agencies sufficient flexibility, within predefined guidelines, to deal with problems caused by resident Canada geese within their respective States. Other guidelines would include criteria for such activities as special take authorization during a portion of the Treaty closed period (August 1–31); control for the protection of airport safety, agriculture, and public health; and the take of nests and eggs without permits.

States could choose to implement specific strategies, such as specific depredation orders that address goose control at airports, agricultural sites, public health sites, and the non-permitted take of nests and eggs, identified under the regulation conditions and guidelines. The Orders would be for resident Canada goose populations only and, as such, in order to ensure protection of migrant Canada goose populations, could only be implemented between April 1 and August 31, except for the take of nests and eggs which could be additionally implemented in March.

Special Canada goose hunting seasons within the existing Treaty frameworks (*i.e.*, September 1 to March 10) would continue to be handled within the existing migratory bird hunting season regulation development process. This proposed rule would also provide new regulatory options to State wildlife management agencies to potentially increase the harvest of resident Canada geese above that which results from existing special Canada goose seasons that target resident Canada geese. This proposed rule would authorize the use of additional hunting methods such as electronic calls, unplugged shotguns, and expanded shooting hours (one-half hour after sunset). During existing, operational, special September Canada goose seasons (*i.e.*, September 1–15), these additional hunting methods would be available for use on an operational basis. Utilization of these additional hunting methods during any new special seasons or other existing, operational special seasons (*i.e.*,

September 15–30) could be approved as experimental and would require demonstration of a minimal impact to migrant Canada goose populations. These experimental seasons would be authorized on a case-by-case basis through the normal migratory bird hunting regulatory process. All of these expanded hunting methods and opportunities under Special Canada goose hunting seasons would be in accordance with the existing Migratory Bird Treaty frameworks for sport hunting seasons (*i.e.*, 107-day limit from September 1 to March 10) and would be conducted outside of any other open waterfowl season (*i.e.*, when *all other waterfowl and crane hunting seasons were closed*).

Take of resident Canada geese outside the existing Migratory Bird Treaty frameworks for sport hunting seasons (*i.e.*, 107-day limit from September 1 to March 10) would also be available under this proposed rule by creation of a new subpart to 50 CFR part 21 specifically for the management of overabundant resident Canada goose populations. Under this new subpart, we would establish a regulation under the authority of the Migratory Bird Treaty Act with the intent to reduce and/or stabilize resident Canada goose population levels. The “managed take” regulation would authorize each State in eligible areas to initiate aggressive resident Canada goose take strategies, within the conditions that we provide, with the intent to reduce the populations. The regulation will enable States to use the general public acting under strict program controls to kill resident Canada geese, by way of shooting in a hunting manner, during the August 1 through September 15 period when all waterfowl and crane hunting seasons, excluding falconry, are closed, inside or outside the migratory bird hunting season frameworks. The regulation would also authorize the use of additional methods of take to kill resident Canada geese during that period. The regulation would authorize the use of electronic calls and unplugged shotguns, liberalize daily bag limits on resident Canada geese, and allow shooting hours to continue until one-half hour after sunset. The Service would annually assess the overall impact and effectiveness of the “managed take” regulation to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that there no longer exists a serious threat of injury to the area or areas involved for a particular resident Canada goose population, we will

initiate action to suspend the regulation, and/or regular-season regulation changes, for that population.

Suspension of regulations for a particular population would be made following a public review process.

Under this proposed rule, the Service would maintain primary authority for the management of resident Canada geese, but the individual States would be authorized to implement the provisions of this regulation within the guidelines established by the Service. In addition to specific strategies, we would continue the use of special and regular hunting seasons, issued under 50 CFR 20, and the issuance of depredation permits and special Canada goose permits, issued under 50 CFR 21.41 and 21.26, respectively. Participating States would be required to annually monitor the spring breeding population to assess population status and provide for the long-term conservation of the resource. Additionally, States or other applicable parties (such as airports or public health officials) would be required to annually report all take of geese under authorized management activities.

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### NEPA Considerations

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), we prepared a draft EIS in February 2002. The draft EIS is available to the public at the location indicated under the **ADDRESSES** caption.

### Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that “Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat \* \* \*.” We have initiated Section 7 consultation under the ESA for this proposed rule. The result of our consultation under Section 7 of the ESA will be available to the public at the location indicated under the **ADDRESSES** caption.

### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for actions that will have a significant economic impact on a substantial number of small entities, which includes small businesses, organizations, or governmental jurisdictions. The economic impacts of this proposed rule will fall primarily on State and local governments and Wildlife Services because of the structure of wildlife damage management. Data are not available to estimate the exact number of governments affected, but it is unlikely to be a substantial number on a national scale. We estimate that implementation of new resident Canada goose management regulations would help alleviate local public health and safety concerns, decrease economic damage caused by excessive numbers of geese, and increase the quality of life for those people experiencing goose conflicts. Implementation of new resident Canada goose regulations would also help reduce agricultural losses caused by these geese. Our proposed rule would give State fish and wildlife agencies significantly more latitude to manage resident Canada goose populations. Goose populations would be reduced to levels that local communities can support, and agricultural damages from resident Canada geese would be reduced. We have determined that a Regulatory Flexibility Act analysis is not required.

### Executive Order 12866

In accordance with the criteria in Executive Order 12866, this proposed action is not a significant regulatory action subject to Office of Management and Budget (OMB) review. This rule will not have an annual economic effect of \$100 million or adversely affect any economic sector, productivity, competition, jobs, the environment, or other units of government. Therefore, a cost-benefit economic analysis is not required. This proposed action will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. The Federal agency most interested in this action is Wildlife Services. The action proposed is consistent with the policies and guidelines of other Department of the Interior bureaus. This proposed action will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This proposed action will not raise novel legal or policy issues because we

have previously managed resident Canada geese under the Migratory Bird Treaty Act.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6) What else could the Service do to make the rule easier to understand?

#### **Small Business Regulatory Enforcement Fairness Act**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not have an annual effect on the economy of \$100 million or more; nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### **Paperwork Reduction Act and Information Collection**

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Under the Act, information collections must be approved by OMB. Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. As required by the Act, we will submit the necessary paperwork to OMB for approval to collect this information. We will not collect any information until approved by OMB and a final regulation is published.

#### *What Will the Required Information Be Used for?*

The proposed information collection, record-keeping, and reporting requirements imposed under proposed regulations in 50 CFR part 21, subpart E will be used to administer this

program, and particularly in monitoring resident Canada goose population status and in the assessment of impacts that alternative regulatory strategies may have on resident Canada goose populations. The information collections will be required in order to authorize State governments responsible for migratory bird management to take (or allow the take of) resident Canada geese within the program guidelines.

#### *What Are the Current Information Collection Burden Estimates Under the Existing Permit Process?*

Current total annual burden estimates for resident Canada goose depredation permits (those permits issued under 50 CFR 21.41), including the time for completing the application and filing annual reports, is 2,304 hours. The annual "out-of-pocket" cost to the applicants is approximately \$12,225. Under the Special Canada Goose Permit program (50 CFR 21.26), the total annual burden, including application and reporting requirements, is 114 hours. There is no annual "out-of-pocket" cost to the respondents under the Special Canada Goose Permit program because State agencies are exempt from the \$25 application processing fee (50 CFR 13.11).

#### *How Many Agencies, Organizations, or People Would Potentially Be Affected Under the New Requirements of This Rule?*

Based on information in the DEIS, Wildlife Services annually receives approximately 2,000 requests for technical assistance for property damage caused by resident Canada geese. Further, in 2000, the Service issued about 1,600 depredation permits for resident Canada geese. We believe these numbers are fairly representative of the current needs status. However, we also recognize that some unknown number of needs for assistance go unreported due to either higher individual resident Canada goose damage tolerance levels or personal perceptions that the obtained assistance would not "solve" the problem. Additionally, we know that States operating under the Special Canada Goose Permit (50 CFR 21.26) have been issuing individual authorizations within their respective States. For example, in 2000, the States of Michigan, Minnesota, Missouri, and Ohio, operating under a Special Canada Goose Permit, issued 528 authorizations to individuals within their respective States. These authorizations enabled the named individual(s) to conduct control and management activities on resident Canada geese under the auspices of the State wildlife agency. Had these States

not held the special permit, we believe some number of these individuals would have applied for depredation permits.

#### *How Would This Rule Change the Estimated Burden Associated With the Current Permit Process?*

We expect that this proposed rule would alleviate approximately 2,000 current or potential permit holders from the requirement of applying for a Federal depredation permit to control and manage resident Canada geese. Thus, under this proposed rule, paperwork burden would be eliminated in two main areas: Application submission and annual reporting requirements.

Under the application-associated burden, using an average of 1.5 hours to complete an application for a depredation permit, we estimate that approximately 3,500 hours (2,000 × 1.5 hours) of existing or potential burden would be eliminated with this proposed rule. Additionally, the associated annual "out-of-pocket" cost to the current and potential applicants that would be eliminated is approximately \$50,000 (2,000 applicants multiplied by a \$25 application processing fee).

Under the burden associated with annual reporting requirements, a similar elimination of existing burden would occur. Normally, holders of depredation permits are required to submit an annual report detailing the number of birds, eggs, or nests actually taken under the permit. The Service uses this information to determine whether a permit holder is in compliance with the permit and to track the number of birds actually taken from the wild and monitor the impact on the resource. While most annual reporting requirements would be eliminated under the proposed rule, a few would remain (those required for the State wildlife agency summarizing activities under § 21.61(d)(1) and (6)). Others would be replaced by the maintenance of a log recording activities. As with the normal permit application, the amount of time it takes to complete the annual report or log depends on the scope of the activities. We estimate it normally takes an average of 1 hour to complete the annual report for a depredation permit. Maintenance of a log book would be significantly less burden than completion of an annual report. We estimate that maintenance of a log book would require approximately 10 minutes per logbook, or about 1 minute per entry. Thus, we estimate that the proposed rule would result in a total annual burden of 333 hours (2,000 × 10

minutes) or less for the reporting requirements.

*What About Those State Agencies Currently Operating Under the Special Canada Goose Permit? How Would They Be Affected?*

States currently operating under the existing Special Canada Goose Permit would experience some changes in burden if they opt to operate under the proposed rule. Currently each permittee (*i.e.*, State wildlife agency) is required to submit not only an application for the permit, but an annual report detailing the number of birds, eggs, or nests actually taken under the permit. Burden requirements for the application would be eliminated for those States that opt to participate in the new management program. However, under the proposed rule, annual reports would continue to be required for State wildlife agencies summarizing management activities under § 21.61(d)(1) and (6), similar to that required under the Special Canada Goose Permit program. We estimate it would take an average of 2 hours to complete this annual report (the same as that estimated under the Special Canada Goose Permit program). We estimate that the proposed rule would not significantly affect the overall burden associated under both programs of approximately 90 hours (45 States × 2 hours) or less.

*How Do the Conservation Order Provisions Affect the Estimated Burden? Are There Not Additional Reporting Requirements Associated With the Special Management Actions Authorized Under the Conservation Order?*

Yes. Under § 21.61(d)(6)(iii)(H), States must keep detailed records of activities carried out under the Conservation Order and must submit an annual report summarizing such activities. We expect a maximum of 45 State wildlife agencies will participate under the authority of the Conservation Order, requiring an average of 24 hours to collect the information from program participants. Thus, the burden assumed by State participants would be 1,080 hours or less.

*What Is the Total Estimated Burden of This New Program?*

We estimate the maximum total annual burden would be about 1,503 hours (333 + 90 + 1,080).

*How Can I Comment on This Estimate?*

Comments are invited from the public on: (1) Whether the collection of information is necessary for the proper performance of the function of the

Service, including whether the information will have practical utility; (2) the accuracy of the Service's burden of the collection of information, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) how to minimize the burden of the collection of information on those who are to respond, including the use of electronic, mechanical, or other forms of information technology. Send your comments on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA via facsimile or e-mail using the following fax number or e-mail address: (202) 395-6566 (fax); [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) (e-mail); and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222-ARLSQ, 1849 C Street, NW., Washington, DC 20204.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 requires agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. The purpose of the act is to strengthen the partnership between the Federal Government and State, local, and tribal governments and to end the imposition, in the absence of full consideration by Congress, of Federal mandates on these governments without adequate Federal funding, in a manner that may displace other essential governmental priorities. We have determined, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the proposed action would not "significantly or uniquely" affect small governments, and will not produce a Federal mandate of \$100 million or more in any given year on local or State government or private entities. Therefore, this action is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

**Civil Justice Reform—Executive Order 12988**

We, in promulgating this rule, have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. It is not anticipated that this rule will require any additional involvement of

the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

**Takings Implication Assessment**

In accordance with Executive Order 12630, this proposed action, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This action will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this proposed action will help alleviate private and public property damage and concerns related to public health and safety and allow the exercise of otherwise unavailable privileges.

**Federalism Effects**

Due to the migratory nature of certain species of birds, the Federal Government has been given statutory responsibility over these species by the Migratory Bird Treaty Act. While legally this responsibility rests solely with the Federal Government, it is in the best interest of the migratory bird resource for us to work cooperatively with the Flyway Councils and States to develop and implement the various migratory bird management plans and strategies.

For example, in the establishment of migratory game bird hunting regulations, we annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Frameworks are developed in a cooperative process with the States and the Flyway Councils and any State or Tribe may be more restrictive than the Federal frameworks. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations.

The proposed rulemaking was developed following extensive input from the Flyway Councils, States, and Wildlife Services. Individual Flyway management plans were developed and approved by the four Flyway Councils, and States actively participated in the scoping process for the DEIS. This proposed rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. The proposed rule



allows States the latitude to develop and implement their own resident Canada goose management action plan within the frameworks of the proposed alternative. Therefore, in accordance with Executive Order 13132, this proposed rule does not have significant federalism effects and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that this rule has no effects on Federally-recognized Indian tribes. Specifically, Tribes were sent copies of our August 19, 1999, Notice of Intent (64 FR 45269) that outlined the proposed action in the Draft Environmental Impact Statement on Resident Canada Goose Management. In addition, Tribes were sent our December 30, 1999, Notice of Meetings (64 FR 73570), which provided the public additional opportunity to comment on the DEIS process. No known Native American tribes depend on this resource for sustenance or religious purposes.

### Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under Executive Order 12866 and is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

### List of Subjects in 50 CFR Parts 20 and 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we hereby propose to amend parts 20 and 21, of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

### PART 20—[AMENDED]

1. The authority citation for part 20 is revised to read as follows:

**Authority:** Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and

Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

2. Amend § 20.11 by adding paragraph (n) to read as follows:

#### § 20.11 What terms do I need to understand?

\* \* \* \* \*

(n) *Resident Canada geese* means Canada geese that nest within the lower 48 States in the months of March, April, May, or June, or reside within the lower 48 States in the months of April, May, June, July, or August.

3. Revise paragraphs (b) and (g) of § 20.21 to read as follows:

#### § 20.21 What hunting methods are illegal?

\* \* \* \* \*

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. However, this restriction does not apply during:

(1) A light-geese-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Atlantic, Central, and Mississippi Flyway portions 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 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.

(2) A season only for resident Canada geese during the period of September 1 to September 15 when all other waterfowl and crane hunting seasons, excluding falconry, are closed.

\* \* \* \* \*

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. However, this restriction does not apply during:

(1) A light-geese-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Atlantic, Central, and Mississippi Flyway portions 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 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.

(2) A season only for resident Canada geese during the period of September 1 to September 15 when all other waterfowl and crane hunting seasons, excluding falconry, are closed.

### PART 21—[AMENDED]

4. The authority citation for part 21 is revised to read as follows:

**Authority:** Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

5. Amend § 21.3 by revising the definition for "Resident Canada geese" to read as follows:

#### § 21.3 Definitions.

\* \* \* \* \*

*Resident Canada geese* means Canada geese that nest within the lower 48 States in the months of March, April, May, or June, or reside within the lower 48 States in the months of April, May, June, July, or August.

\* \* \* \* \*

6. Add § 21.61 to subpart E to read as follows:

#### § 21.61 Control and management of resident Canada geese.

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

(b) *What is the resident Canada goose control and management program, and what is its purpose?* The resident Canada goose control and management program authorizes State wildlife agencies to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. The intent of the program is to allow State wildlife management agencies sufficient flexibility to deal with problems, conflicts, and damages caused by resident Canada geese and guide and direct resident Canada goose population growth and management activities in the conterminous United States. The program contributes to human health and safety, protects personal property and agricultural crops, protects other interests from injury, and allows resolution or

prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese. 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) *Who may participate in the program?* Only State wildlife agencies (State) in the lower 48 States are eligible to conduct (or allow) and implement the various resident Canada goose control and management program components.

(d) *What are the various components of the resident Canada goose control and management program?* The resident Canada goose control and management program has six components. Any State identified in paragraph (c) of this section, may implement all, part, or none of the following program components:

(1) *State control and management activities for resident Canada geese.* State wildlife agencies (or their authorized agents) may conduct (or allow) control and management activities, including the take of birds, on resident Canada goose populations when necessary to protect human health and safety; protect personal property, agricultural crops, and other interests from injury; and allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese; and to reduce resident Canada goose populations within Flyway management objectives. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. The program is subject to the following restrictions:

(i) States should encourage and utilize nonlethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take for the control and management of resident Canada geese are at the State's discretion from among the following: Firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) States and their employees and agents may conduct (or allow) management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) States and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. States must dispose of birds taken under this program by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. 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. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. 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).

(v) No person conducting resident Canada goose control and management 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 or management 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.

(vi) States 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.

(vii) Persons using shotguns are required to use nontoxic shot.

(viii) Any State, its employees, and agents exercising the privileges of this section must keep and maintain a log recording the date and number of birds killed each month under this authorization. The log and any related records must be made available to Federal or State wildlife enforcement

officers upon request during normal business hours.

(ix) Any State employee or designated agent authorized to carry out management and control activities must have a copy of the State's authorization and designation in their possession when carrying out any activities. If the State is conducting operations on private property at the request of the property owner or occupant, the State must also require the property owner or occupant on whose premises resident Canada goose control and management 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 wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (wildlife officer) on the premises where they are, or were, conducting activities. Furthermore, any State employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.

(x) States exercising the privileges granted by this section must submit an annual report summarizing activities, including the date, numbers, and location of birds taken by December 31 of each year. The State should submit the annual report to the Assistant Director for Migratory Birds and State Programs, U.S. Fish and Wildlife Service, (Attention: Division of Migratory Bird Management), 4401 North Fairfax Drive, MBSP-4107, Arlington, Virginia 22203.

(2) *Airport safety.* States may authorize commercial, public, and private airports (Airports) (and their employees or their agents) to establish and implement a resident Canada goose control and management program when necessary to protect public safety and allow resolution or prevention of airport safety threats from resident Canada geese. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. This program is subject to the following restrictions:

(i) Authorized airports should utilize nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, Airports should follow the following procedure:

(A) Assess the problem to determine its extent or magnitude, its impact on

current operations, and the appropriate control method to be used.

(B) Base control methods on sound biological, environmental, social, and cultural factors.

(C) Formulate appropriate methods into a control strategy that utilizes the approach or concept that encourages the use of several control techniques rather than relying on a single method.

(D) Always first consider nonlethal harassment methods in any control strategy.

(ii) Methods of take for the control of resident Canada geese are at the State's discretion from among the following: Firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Authorized airports may conduct management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) Authorized airports and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. They must dispose of birds taken under this order by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. Airports, 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. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. 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).

(v) Resident Canada geese may be taken only within a 3-mile radius of the Airport.

(vi) Persons using shotguns are required to use nontoxic shot as identified in § 20.22(j).

(vii) Authorized airports, and their employees and agents operating a program authorized under the provisions of this section may not use

decoys, calls, or other devices to lure birds within gun range.

(viii) Any Airport exercising the privileges of a program authorized under this section must keep and maintain a log recording the date and number of birds killed, and the number of nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records of 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(ix) 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, and none of the privileges of this section may be exercised unless the Airport possesses the appropriate State authorization or other permits required by the State, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(3) *Nest and eggs.* States may authorize the manipulation and destruction of resident Canada goose nests and the take of resident Canada goose eggs when necessary to allow resolution or prevention of injury to people, property, agricultural crops, or other interests from resident Canada geese, and to reduce resident Canada goose populations within Flyway management objectives. An authorized program is subject to the following restrictions:

(i) Persons authorized to operate under the program should utilize nonlethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take are at the State's discretion from among the following: egg and nest manipulation and destruction, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Persons authorized to operate under the program may conduct resident Canada goose nest and egg manipulation and destruction activities between March 1 and June 30.

(iv) Persons authorized to operate under the program may not possess or transport resident Canada goose nest and eggs taken under this section. Persons 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.

(v) Any person exercising the privileges of this section under a State authorization must keep and maintain a log recording the date and number of resident Canada goose nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records of 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(vi) 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, and none of the privileges of this section may be exercised unless the persons authorized to operate under the program possess the appropriate State permits, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(4) *Agricultural depredation.* States may authorize landowners, operators, and tenants actively engaged in the production of commercial agriculture (agricultural producers) (or their employees or agents) to conduct indirect and/or direct population control strategies such as aggressive harassment, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies on resident Canada goose populations when the geese are committing or about to commit depredations to agricultural crops and when necessary to allow resolution or prevention of injury to agricultural crops or other agricultural interests from resident Canada geese. The program is subject to the following restrictions:

(i) Authorized agricultural producers should utilize nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, agricultural producers should follow the following procedure:

(A) Assess the problem to determine its extent or magnitude, its impact to current operations, and the appropriate control method to be used.

(B) Base control methods on sound biological, environmental, social, and cultural factors.

(C) Formulate appropriate methods into a control strategy that utilizes the approach/concept that encourages the use of several control techniques rather than relying on a single method.

(D) Always first consider nonlethal harassment methods in any control strategy.

(ii) Methods of take for the control of resident Canada geese are at the State's discretion among the following: firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Authorized agricultural producers and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) Authorized agricultural producers and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Agricultural producers must dispose of birds taken under this order by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them.

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. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. 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).

(v) Resident Canada geese may be taken on land an authorized agricultural producer personally controls and where damage is either occurring or where geese are committing or about to commit depredations to agricultural crops.

(vi) Persons using shotguns are required to use nontoxic shot as identified in § 20.22(j).

(vii) 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.

(viii) 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 or State wildlife enforcement officers upon request during normal business hours.

(ix) 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, and none of the privileges of this section may be exercised unless the agricultural producer possesses the appropriate State permits, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(5) *Public health.* States may authorize State, county, municipal, or local public health officials (public health agencies) (or their employees or their agents) to establish and implement a resident Canada goose control and management program when necessary to protect public health and allow resolution or prevention of public health threats from resident Canada geese. Control and management activities include indirect and/or direct population control strategies such as aggressive harassment, trapping and relocation, nest and egg manipulation and destruction, gosling and adult trapping and culling programs, or other general population reduction strategies. The program is subject to the following restrictions:

(i) Authorized public health agencies should utilize nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, public health agencies should follow the following procedure:

(A) Assess the problem to determine its extent or magnitude, its impact to public health, and the appropriate control methods to be used.

(B) Base control methods on sound biological, environmental, social, and cultural factors.

(C) Formulate appropriate methods into a control strategy that utilizes the approach or concept that encourages the use of several control techniques rather than relying on a single method.

(D) Always first consider nonlethal harassment methods in any control strategy.

(ii) Methods of take for the control of resident Canada geese are at the State's discretion from among the following: Firearms, alpha-chloralose, traps, egg and nest manipulation and destruction, euthanization, and other damage control

techniques consistent with accepted wildlife damage-management programs as may be approved by the Director.

(iii) Authorized public health agencies and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between April 1 and August 31. The manipulation and destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(iv) Authorized public health agencies and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Public health agencies must dispose of birds taken under this order by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. Public health agencies, 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. Persons authorized to operate under the program may not possess or transport resident Canada goose nests and eggs taken under this section. 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).

(v) Resident Canada geese may be taken only within the area of potential health threat.

(vi) Persons using shotguns are required to use nontoxic shot as identified in § 20.22(j).

(vii) Authorized public health 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.

(viii) Any authorized public health agencies exercising the privileges of this section must keep and maintain a log which 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 the 3 previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal or State wildlife enforcement

officers upon request during normal business hours.

(ix) 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, and none of the privileges of this section may be exercised unless the public health agency possesses the appropriate State permits, when required; nor does it authorize the killing of any migratory bird species or destruction of their nest and eggs other than resident Canada geese.

(6) *Managed take of resident Canada geese.* (i) What is managed take? Managed take is a special management action that is needed to control certain wildlife populations when traditional management programs are unsuccessful in preventing overabundance of the population. We are implementing a managed take program under the authority of the Migratory Bird Treaty Act to reduce and stabilize resident Canada goose populations. Managed take allows additional methods of taking resident Canada geese, allows shooting hours for resident Canada geese to extend to one-half hour after sunset, and removes daily bag limits for resident Canada geese inside or outside the migratory bird hunting season frameworks as described below.

(ii) *In what areas can a managed take program be implemented?* All States except Alaska and Hawaii.

(iii) *What is required in order for State governments to participate in a managed take program?* Any State 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:

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

(B) Control activities must be conducted clearly as such and are not to be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated under Section 3 of the Migratory Bird Treaty Act.

(C) Control activities may only be conducted under this section between August 1 and September 15.

(D) Control activities may be conducted only when all waterfowl (including resident Canada goose) and crane hunting seasons, excluding falconry, are closed.

(E) 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.

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

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

(H) States must inform participants of the requirements/conditions of the program that apply.

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

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

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

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

(4) The number of resident Canada geese shot but not retrieved. The States must submit an annual report summarizing activities conducted under the program on or before June 1 of each year, to the Chief, Division of Migratory Bird Management, 4401 N. Fairfax Dr., Suite 634, Arlington, Virginia 22203.

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

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

(B) 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.

(C) Participants must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game 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.

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

(1) 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.

(2) 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.

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

(4) 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.

(5) 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 that substantially reduces the audibility of their calls and totally conceals the birds from the sight of resident Canada geese.

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

(7) 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 described in § 20.11(j) and (k). 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 scattered solely as the result of manipulation 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). 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:

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

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

(iii) 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

(iv) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(8) 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).

(v) *Under what conditions would the managed take program be suspended?* We will annually assess the overall impact and effectiveness of the program on each resident Canada goose population to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that a resident Canada goose population no longer presents a serious threat of injury to the area or areas involved, we will initiate action to suspend the program for the specific resident Canada goose population in question. However, resumption of growth by the resident Canada goose population in question may warrant reinstatement of such regulations to control the population. Depending on the status of resident Canada goose populations, it is possible that a managed take program may be in effect for one or more resident Canada goose populations, but not others.

(e) *What are the general program conditions and restrictions?* The program is subject to the conditions elsewhere in this section, and, unless otherwise specifically authorized, the conditions outlined below:

(1) Nothing in this section applies to any Federal land within a State's boundaries without written permission of the Federal agency with jurisdiction.

(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.

(f) *Can the program be suspended?* We reserve the right to suspend or revoke an Agency's authority under this program if we find that the terms and conditions specified in the program

have not been adhered to by that Agency. The criteria for suspension and revocation are outlined in § 13.27 and § 13.28 of this subchapter. Upon appeal, final decisions to revoke authority will be made by the Director. Additionally, at such time that we determine that a specific population of resident Canada geese no longer poses a threat to human health or safety, personal property, agricultural crops, or injury to other interests; or no longer needs to be reduced in order to allow resolution or prevention of injury to people, property, agricultural crops, or other interests, or is within Flyway management objectives, we may choose to terminate part or all of the program. In all cases, we will annually review the effectiveness of the program.

(g) *What population information is the State required to collect concerning the resident Canada goose control and management program?* Participating States must provide an annual estimate of the breeding population and distribution of resident Canada geese in their State. The States must submit this estimate on or before August 1 of each year, to the Chief, Division of Migratory Bird Management, 4401 N. Fairfax Dr., MBSP-4107, Arlington, Virginia 22203.

(h) *Has OMB approved the information collection requirements of the program?* The information collection requirements of the program will be submitted to OMB for approval.

Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The proposed recordkeeping and reporting requirements imposed under § 21.61 will be used to administer this program, particularly in the assessment of impacts that alternative regulatory strategies may have on resident Canada geese and other migratory bird populations, and to monitor the program effectiveness and the population status of resident Canada geese. We will require the information from State wildlife agencies responsible for migratory bird management in order to continue participation in the program and to protect the resident Canada goose population. We estimate the public reporting burden for this collection of information to be 1503 hours, including the time for gathering and maintaining data needed, and completing and reviewing the collection of information. States may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, Fish and Wildlife Service, ms 224-ARLSQ, 1849

C Street, NW., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0099, Washington, DC 20503.

\* \* \* \* \*

Dated: July 9, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[I.D. 081303C]

#### Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska; Public Hearings

**AGENCY:** National Marine Fisheries Service (NOAA Fisheries), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Public hearings on the revised Draft Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (PSEIS)

**SUMMARY:** NOAA Fisheries will hold five public meetings in Washington, D.C., Seattle, WA, and in Juneau, Kodiak and Anchorage, AK, in September and October 2003 for the purpose of answering questions and receiving public testimony on the PSEIS.

**DATES:** See **SUPPLEMENTARY INFORMATION** under the heading "Meeting Dates and Addresses" for the dates of the public meetings.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** under the heading "Meeting Dates and Addresses" for the addresses of the public meetings.

**FOR FURTHER INFORMATION CONTACT:** Steven K. Davis, Programmatic SEIS Manager, Anchorage, AK, Phone: 907-271-3523.

**SUPPLEMENTARY INFORMATION:** On November 27, 2001, based on a review of public comment, NOAA Fisheries announced its intent to revise the Alaska Groundfish Fisheries draft PSEIS released in January 2001 (66 FR 59228, November 27, 2001). An extensive public involvement process has resulted in the adoption of new multi-objective policy alternatives which have been analyzed in the revised PSEIS.