

50 CFR 21 MIGRATORY BIRD PERMITS¹

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Source: 39 FR 1178, Jan. 4, 1974, unless otherwise noted.

¹ Code of Federal Regulations, Title 50, (Chapter I, United States Fish and Wildlife Service, Department of the Interior), Volume 1, Parts 1- 199. Revised as of Oct 1, 2000. From the U.S. Government Printing Office via GPO Access [CITE: 50CFR21] [Page 523-549]

Subpart A - Introduction

§ 21.1 Purpose of regulations.

The regulations contained in this part supplement the general permit regulations of part 13 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, importation, exportation, and banding or marking of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific, or educational institutions, and establishes depredation orders which provide limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703-712). [54 FR 38150, Sept. 14, 1989]

§ 21.2 Scope of regulations.

(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703-712) may be possessed or transported without a permit, but may not be imported, exported, purchased, sold, bartered, or offered for purchase, sale or barter, and all shipments of such birds must be marked as provided by part 14 of this subchapter: Provide, no exemption from any statute or regulation shall accrue to any offspring of such migratory birds.

(b) This part 21, except for Sec. 21.22 (banding or marking permits), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*) for which regulations are provided in part 22 of this subchapter.

(c) The provisions of this part are in addition to, and are not in lieu of other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also part 13).

[39 FR 1178, Jan. 4, 1974, as amended at 46 FR 42680, Aug. 24, 1981]

§ 21.3 Definitions.

In addition to definitions contained in part 10 of this chapter, and unless the context requires otherwise, as used in this part:

Bred in captivity or captive-bred refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

Captivity means that a live raptor is held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designed to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General

characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

Falconry means the sport of taking quarry by means of a trained raptor.

Raptor means a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*).

Resident Canada geese means Canada geese that nest within the conterminous United States and/or Canada geese which reside within the conterminous United States during the months of June, July, or August.

Service or we means the U.S. Fish and Wildlife Service, Department of the Interior.

[48 FR 31607, July 8, 1983, as amended at 64 FR 32774, June 17, 1999]

§ 21.4 Information collection requirements.

(a) The Office of Management and Budget approved the information collection requirements contained in this part 21 under 44 U.S.C. 3507 and assigned OMB Control Number 1018-0022. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in the Migratory Bird Treaty Act, 16 U.S.C. 703-712 and its regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 15 minutes to 4 hours per response, with an average of 0.803 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS-222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018-0022), Washington, DC 20603.

[63 FR 52637, Oct. 1, 1998]

Subpart B - General Requirements and Exceptions

§ 21.11 General permit requirements.

No person shall take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase

or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and part 13, or as permitted by regulations in this part or part 20 (the hunting regulations).

[54 FR 38151, Sept. 14, 1989]

§ 21.12 General exceptions to permit requirements.

The following exceptions to the permit requirement are allowed.

(a) Employees of the Department of the Interior authorized to enforce the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703-711), may, without a permit, take or otherwise acquire, hold in custody, transport, and dispose of migratory birds or their parts, nests, or eggs as necessary in performing their official duties.

(b) State game departments, municipal game farms or parks, and public museums, public zoological parks, accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA) and public scientific or educational institutions may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit: *Provided*, That such birds may be acquired only from persons authorized by this paragraph or by a permit issued pursuant to this part to possess and dispose of such birds, or from Federal or State game authorities by the gift of seized, condemned, [o]r sick or injured birds. Any such birds, acquired without a permit, and any progeny therefrom may be disposed of only to persons authorized by this paragraph to acquire such birds without a permit. Any person exercising a privilege granted by this paragraph must keep accurate records of such operations showing the species and number of birds acquired, possessed, and disposed of; the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold; and the dates of such transactions. Records shall be maintained or reproducible in English on a calendar year basis and shall be retained for a period of five (5) years following the end of the calendar year covered by the records.

[39 FR 1178, Jan. 4, 1974, as amended at 50 FR 8638, Mar. 4, 1985; 54 FR 38151, Sept. 14, 1989]

§ 21.13 Permit exceptions for captive-reared mallard ducks.

Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, and disposed of by any person without a permit, subject to the

following conditions, restrictions, and requirements:

(a) Nothing in this section shall be construed to permit the taking of live mallard ducks or their eggs from the wild.

(b) All mallard ducks possessed in captivity, without a permit, shall have been physically marked by at least one of the following methods prior to 6 weeks of age and all such ducks hatched, reared, and retained in captivity thereafter shall be so marked prior to reaching 6 weeks of age.

(1) Removal of the hind toe from the right foot.

(2) Pinioning of a wing: *Provided*, That this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight.

(3) Banding of one metatarsus with a seamless metal band.

(4) Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

(c) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and transferred in any number at any time or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions:

(1) The hunting regulations (part 20 of this subchapter), with the exception of Sec. 20.108 (Nontoxic shot zones), and

(2) The Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations as provided for in this paragraph, or to bona fide dog training or field trial operations.

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided*, That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot or wing when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the container in which each carcass is maintained, or each carcass is identified by

a State band on leg or wing pursuant to requirements of his State license, permit, or authorization. When properly marked, such carcasses may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981; 54 FR 36798, Sept. 5, 1989]

§ 21.14 Permit exceptions for captive-reared migratory waterfowl other than mallard ducks.

Any person may, without a permit, lawfully acquire captive-reared and properly marked migratory waterfowl of all species other than mallard ducks, alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs therefrom solely for his own use subject to the following conditions and restrictions:

(a) Such birds, alive or dead, or their eggs may be lawfully acquired only from holders of valid waterfowl sale and disposal permits, unless lawfully acquired outside of the United States, except that properly marked carcasses of such birds may also be lawfully acquired as provided under paragraph (c) of this section.

(b) All progeny of such birds or eggs hatched, reared, and retained in captivity must be physically marked as defined in Sec. 21.13(b).

(c) No such birds or eggs or any progeny or eggs thereof may be disposed of by any means, alive or dead, to any other person unless a waterfowl sale and disposal permit has first been secured authorizing such disposal: *Provided*, That bona fide clubs, hotels, restaurants, boarding houses, and dealers in meat and game may serve or sell to their customers the carcass of any such birds which they have acquired from the holder of a valid waterfowl sale and disposal permit.

(d) Lawfully possessed and properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of like species from the wild. (See part 20 of this subchapter.)

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass, unless such carcasses were marked as provided in Sec. 21.25(c)(4) and the foot or wing removed prior to acquisition.

(f) When any such birds, alive or dead, or their eggs are acquired from a waterfowl sale and disposal permittee, the permittee shall furnish a copy of Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or

methods by which individual birds are marked as required by Sec. 21.25(c)(2). The buyer shall retain the Form 3-186 on file for the duration of his possession of such birds or eggs or progeny or eggs thereof.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981]

Subpart C--Specific Permit Provisions

§ 21.21 Import and export permits.

(a) *Permit requirement.* (1) Except for migratory game birds imported in accordance with the provisions of subpart G of part 20 of this subchapter B, an import permit is required before any migratory birds, their parts, nests, or eggs may be imported.

(2) An export permit is required before any migratory birds, their parts, nests, or eggs may be exported: *Provided*, that captive-reared migratory game birds that are marked in compliance with the provisions of Sec. 21.13(b) may be exported to Canada or Mexico without a permit. *Provided further*, that raptors lawfully possessed under a falconry permit issued pursuant to Sec. 21.28 of this part may be exported to or imported from Canada or Mexico without a permit for the purposes of attending bona fide falconry meets, as long as the person importing or exporting the birds returns the same bird(s) to the country of export following any such meet. Nothing in this paragraph, however, exempts any person from the permit requirements of parts 17, 22, and 23 of this subchapter.

(b) *Application procedures.* Applications for permits to import or export migratory birds shall be submitted to the appropriate issuing office (see Secs. 10.22 and 13.11(b) of this subchapter). Each such application must contain the general information and certification required by Sec. 13.12(a)(5) of this subchapter plus the following additional information:

- (1) Whether importation or exportation is requested;
- (2) The species and numbers of migratory birds or their parts, nests, or eggs to be imported or exported;
- (3) The name and address of the person from whom such birds are being imported or to whom they are being exported;
- (4) The purpose of the importation or exportation;
- (5) The estimated date of arrival or departure of the shipment(s), and the port of entry or exit through which the shipment will be imported or exported; and
- (6) Federal and State permit numbers and type of permits authorizing possession, acquisition, or disposition of such birds, their parts, nests, or eggs where such a permit is required.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B,

import and export permits shall be subject to any requirements set forth in the permit.

(d) *Term of permit.* An import or export permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[54 FR 38151, Sept. 14, 1989]

§ 21.22 Banding or marking permits.

(a) *Permit requirement.* A banding or marking permit is required before any person may capture migratory birds for banding or marking purposes or use official bands issued by the Service for banding or marking any migratory bird.

(b) *Application procedures.* Applications for banding or marking permits shall be submitted by letter of application addressed to the Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. Each such application shall contain the general information and certification set forth by Sec. 13.12(a) of this subchapter plus the following additional information:

- (1) Species and numbers proposed to be banded or marked;
- (2) Purpose of banding or marking;
- (3) State or States in which authorization is requested; and
- (4) Name and address of the public, scientific, or educational institution to which any specimens will be donated that are salvaged pursuant to paragraphs (c) (3) and (4) of this section.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, banding or marking permits shall be subject to the following conditions:

- (1) The banding of migratory birds shall only be by official numbered legbands issued by the Service. The use of any other band, clip, dye, or other method of marking is prohibited unless specifically authorized in the permit.
- (2) All traps or nets used to capture migratory birds for banding or marking purposes shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number, or the area in which such traps or nets are located must be posted with notice of banding operations posters (Form 3-1155, available upon request from the Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Md. 20708) which shall bear the name and address of the permittee and the number of his permit.
- (3) The holder of a banding or marking permit

may salvage, for the purpose of donating to a public scientific or educational institution, birds killed or found dead as a result of the permittee's normal banding operations, and casualties from other causes. All dead birds salvaged under authority of a migratory bird banding or marking permit must be donated and transferred to a public scientific or educational institution at least every 6 months or within 60 days of the time such permit expires or is revoked, unless the permittee has been issued a special permit authorizing possession for a longer period of time.

(4) Permittees must keep accurate records of their operations and file reports as set forth in the North American Bird Banding Manual, or supplements thereto, in accordance with instructions contained therein.

(d) *Term of permit.* A banding or marking permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38151, Sept. 14, 1989]

§ 21.23 Scientific collecting permits.

(a) *Permit requirement.* A scientific collecting permit is required before any person may take, transport, or possess migratory birds, their parts, nests, or eggs for scientific research or educational purposes.

(b) *Application procedures.* Submit applications for scientific permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in Sec. 13.12(a) of this subchapter, and the following additional information:

(1) Species and numbers of migratory birds or their parts, nests, or eggs to be taken or acquired when it is possible to determine same in advance;

(2) Location or locations where such scientific collecting is proposed;

(3) Statement of the purpose and justification for granting such a permit, including an outline of any research project involved;

(4) Name and address of the public, scientific, or educational institution to which all specimens ultimately will be donated; and

(5) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, scientific collecting permits shall be subject to the following conditions:

(1) All specimens taken and possessed under

authority of a scientific collecting permit must be donated and transferred to the public scientific, or educational institution designated in the permit application within 60 days following the date such permit expires or is revoked, unless the permittee has been issued a special purpose permit (See Sec. 21.27) authorizing possession for a longer period of time.

(2) Unless otherwise provided on the permit, all migratory game birds taken pursuant to a scientific collecting permit during the open hunting season for such birds must be in conformance with part 20 of this subchapter;

(3) Unless specifically stated on the permit, a scientific collecting permit does not authorize the taking of live migratory birds from the wild.

(4) In addition to any reporting requirement set forth in the permit, a report of the scientific collecting activities conducted under authority of such permit shall be submitted to the issuing officer on or before January 10 of each calendar year following the year of issue unless a different date is stated in the permit.

(d) *Term of permit.* A scientific collecting permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38151, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998] [[Page 529]]

§ 21.24 Taxidermist permits.

(a) *Permit requirement.* A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any person other than himself.

(b) *Application procedures.* Submit application for taxidermist permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in Sec. 13.12(a) of this subchapter, and the following additional information:

(1) The address of premises where taxidermist services will be provided;

(2) A statement of the applicant's qualifications and experience as a taxidermist; and

(3) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Permit authorizations.* A permit authorizes a taxidermist to:

(1) Receive, transport, hold in custody or possession, mount or otherwise prepare, migratory birds, and their parts, nests, or eggs, and return them to another.

(2) Sell properly marked, captive reared migratory waterfowl which he has lawfully acquired and mounted. Such mounted birds may be placed on consignment for sale and may be possessed by such consignee for the purpose of sale.

(d) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, taxidermist permits shall be subject to the following conditions:

(1) Permittees must keep accurate records of operations, on a calendar year basis, showing the names and addresses of persons from and to whom migratory birds or their parts, nests, or eggs were received or delivered, the number and species of such, and the dates of receipt and delivery. In addition to the other records required by this paragraph, the permittee must maintain in his files, the original of the completed Form 3-186, Notice of Waterfowl Sale or Transfer, confirming his acquisition of captive reared, properly marked migratory waterfowl from the holder of a current waterfowl sale and disposal permit.

(2) Notwithstanding the provisions of paragraph (c) of this section, the receipt, possession, and storage by a taxidermist of any migratory game birds taken by another by hunting is not authorized unless they are tagged as required by Sec. 20.36 of this subchapter. The required tags may be removed during the taxidermy operations but must be retained by the taxidermist with the other records required to be kept and must be reattached to the mounted specimen after mounting. The tag must then remain attached until the mounted specimen is delivered to the owner.

(e) *Term of permit.* A taxidermist permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38151, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998]

§ 21.25 Waterfowl sale and disposal permits.

(a) *Permit requirement.* A waterfowl sale and disposal permit is required before any person may lawfully sell, trade, donate, or otherwise dispose of, to another person, any species of captive-reared and properly marked migratory waterfowl or their eggs, except that such a permit is not required for such sales or disposals of captive-reared and properly marked mallard ducks or their eggs.

(b) *Application procedures.* Submit application for waterfowl sale and disposal permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in Sec. 13.12(a) of

this subchapter, and the following additional information:

(1) A description of the area where waterfowl are to be kept;

(2) Species and numbers of waterfowl now in possession and a statement showing from whom these were obtained;

(3) A statement indicating the method by which individual birds are marked as required by the provisions of this part 21; and

(4) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, waterfowl sale and disposal permits shall be subject to the following conditions:

(1) Permittees may not take migratory waterfowl or their eggs from the wild, and may not acquire such birds or their eggs from any person not authorized by a valid permit issued pursuant to this part to dispose of such birds or their eggs.

(2) All live migratory waterfowl possessed in captivity under authority of a valid waterfowl sale and disposal permit shall have been, prior to 6 weeks of age, physically marked as defined in Sec. 21.13(b). All offspring of such birds hatched, reared, and retained in captivity shall be so marked prior to attaining 6 weeks of age. The preceding does not apply to captive adult geese, swans, and brant which were marked previous to March 1, 1967, by a "V" notch in the web of one foot, nor to such birds held in captivity at public zoological parks, and public scientific or educational institutions.

(3) Such properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all the applicable hunting regulations governing the taking of like species from the wild.

(4) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: Provided, That permittees who are also authorized to sell game under a State license, permit or authorization may remove the marked foot or wing from the raw carcasses if the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the wrapping or container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization.

(5) Such properly marked birds, alive or dead, or their eggs may be disposed of in any number, at any time or place, to any person: *Provided*, That all such birds shall

be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age: *And provided further*, That on each date that any such birds or their eggs, are transferred to another person, the permittee must complete a Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required by Sec. 21.25(c)(2). (Service will provide supplies of form.) The permittee will furnish the original of completed Form 3-186 to the person acquiring the birds or eggs; retain one copy in his files as a record of his operations; attach one copy to the shipping container for the birds or eggs, or include the copy in shipping documents which accompany the shipment; and, on or before the last day of each month, mail two copies of each form completed during that month to the office of the Fish and Wildlife Service which issued his permit it.

(6) Permittees shall submit an annual report within 10 days following the 31st day of December of each calendar year to the office of the Fish and Wildlife Service which issued the permit. The information provided shall give the total number of waterfowl by species in possession on that date and the method or methods by which individual birds are marked as required by the provisions of this part 21.

(d) *Term of permit.* A waterfowl sale and disposal permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[40 FR 28460, July 7, 1975, as amended at 54 FR 38151, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998] [[Page 531]]

§ 21.26 Special Canada goose permit.

(a) *What is the special Canada goose permit and what is its purpose?* The special Canada goose permit is a permit issued by us to a State wildlife agency authorizing certain resident Canada goose management and control activities that are normally prohibited. We will only issue such a permit when it will contribute to human health and safety, protect personal property, or allow resolution or prevention of injury to people or property. The management and control activities conducted under the permit are intended to relieve or prevent injurious situations only. No person should construe the permit as opening, reopening, or extending any hunting season contrary to any regulations established under Section 3 of the Migratory Bird Treaty Act.

(b) *Who may receive a permit?* Only State wildlife agencies (State) are eligible to receive a permit to undertake the various goose management and control activities. Additionally, only employees or designated agents of a permitted State wildlife agency may undertake activities for

injurious resident Canada geese in accordance with the conditions specified in the permit, conditions contained in 50 CFR part 13, and conditions specified in paragraph (d) of this section.

(c) *How does a State apply for a permit?* Any State wildlife agency wishing to obtain a permit must submit an application to the appropriate Regional Director (see Sec. 13.11(b) of this subchapter) containing the general information and certification required by Sec. 13.12(a) of this subchapter plus the following information:

(1) A detailed statement showing that the goose management and control activities will either provide for human health and safety, protect personal property, or allow resolution of other injury to people or property;

(2) An estimate of the size of the resident Canada goose breeding population in the State;

(3) The requested annual take of resident Canada geese, including eggs and nests;

(4) A statement indicating that the State will inform and brief all employees and designated agents of the requirements of these regulations and permit conditions.

(d) *What are the conditions of the permit?* The special Canada goose permits are subject to the general conditions in 50 CFR part 13, the conditions elsewhere in this section, and, unless otherwise specifically authorized on the permit, the conditions outlined below:

(1) *What are the limitations on management and control activities?*

(i) Take of resident Canada geese as a management tool under this section may not exceed the number authorized by the permit. States should utilize non-lethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take for the control of injurious resident Canada geese are at the State's discretion. Methods include, but are not limited to, firearms, alpha-chloralose, traps, egg and nest manipulation and other damage control techniques consistent with accepted wildlife damage-management programs.

(2) *When may a State conduct management and control activities?* States and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between March 11 and August 31. In California, Oregon and Washington, in areas where the threatened Aleutian Canada goose (*B. c. leucoperia*) has been present during the previous 10 years, lethal control activities are restricted to May 1 through August 31, inclusive.

(3) *How must the States dispose or utilize geese taken under this permit?* States and their employees and agents may possess, transport, and otherwise dispose of Canada geese taken under this section. States must utilize

such birds 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 Canada geese taken under this section, nor their plumage or eggs.

(4) *How does the permit relate to existing State law?* No person conducting management and control activities under this section should construe the permit to authorize the killing of injurious resident Canada geese contrary to any State law or regulation, nor 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.

(5) *When conducting management and control activities, are there any special inspection requirements?* Any State employee or designated agent authorized to carry out management and control activities must have a copy of the permit and designation in their possession when carrying out any activities. The State must also require the property owner or occupant on whose premises the State is conducting activities 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.

(6) *What are the reporting requirements of the permit?* Any State employee or designated agent exercising the privileges granted by this section must keep records of all activities carried out under the authority of this permit, including the number of Canada geese killed and their disposition. The State must submit an annual report detailing activities, including the time, numbers and location of birds, eggs, and nests taken and non-lethal techniques utilized, before December 31 of each year. The State should submit the annual report to the appropriate Assistant Regional Director—Refuges and Wildlife (see Sec. 10.22 of this subchapter).

(7) *What are the limitations of the special permit?* The following limitations apply:

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

(ii) States may not undertake any actions under any permit issued 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.

(iii) We will only issue permits to State wildlife agencies in the conterminous United States.

(iv) States may designate agents who must operate under the conditions of the permit.

(v) *How long is the special permit valid?* A special Canada goose permit issued or renewed under this section expires on the date designated on the face of the permit unless it is amended or revoked or such time that we determine that the State's population of resident Canada geese no longer poses a threat to human health or safety, personal property, or injury to other interests. In all cases, the term of the permit may not exceed five (5) years from the date of issuance or renewal.

(vi) *Can we revoke the special permit?* We reserve the right to suspend or revoke any permit, as specified in Secs. 13.27 and 13.28 of this subchapter.

(e) *What are the OMB information collection requirements of the permit program?* OMB has approved the information collection requirements of the permit and assigned clearance number 1018-0099. Federal 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. We will use the information collection requirements to administer this program and in the issuance and monitoring of these special permits. We will require the information from State wildlife agencies responsible for migratory bird management in order to obtain a special Canada goose permit, and to determine if the applicant meets all the permit issuance criteria, and to protect migratory birds. We estimate the public reporting burden for this collection of information to average 8 hours per response for 45 respondents (States), including the time for reviewing instructions, gathering and maintaining data needed, and completing and reviewing the collection of information. Thus, we estimate the total annual reporting and record-keeping for this collection to be 360 hours. 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 N.W., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0099, Washington, DC 20503.

[64 FR 32774, June 17, 1999]

§ 21.27 Special purpose permits.

Permits may be issued for special purpose activities related to migratory birds, their parts, nests, or

eggs, which are otherwise outside the scope of the standard form permits of this part. A special purpose permit for migratory bird related activities not otherwise provided for in this part may be issued to an applicant who submits a written application containing the general information and certification required by part 13 and makes a sufficient showing of benefit to the migratory bird resource, important research reasons, reasons of human concern for individual birds, or other compelling justification.

(a) *Permit requirement.* A special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part. In addition, a special purpose permit is required before any person may sell, purchase, or barter captive-bred, migratory game birds, other than waterfowl, that are marked in compliance with Sec. 21.13(b) of this part.

(b) *Application procedures.* Submit application for special purpose permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in Sec. 13.12(a) of this subchapter, and the following additional information:

(1) A detailed statement describing the project or activity which requires issuance of a permit, purpose of such project or activity, and a delineation of the area in which it will be conducted. (Copies of supporting documents, research proposals, and any necessary State permits should accompany the application);

(2) Numbers and species of migratory birds involved where same can reasonably be determined in advance; and

(3) Statement of disposition which will be made of migratory birds involved in the permit activity.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, special purpose permits shall be subject to the following conditions:

(1) Permittees shall maintain adequate records describing the conduct of the permitted activity, the numbers and species of migratory birds acquired and disposed of under the permit, and inventorying and identifying all migratory birds held on December 31 of each calendar year. Records shall be maintained at the address listed on the permit; shall be in, or reproducible in English; and shall be available for inspection by Service personnel during regular business hours. A permittee may be required by the conditions of the permit to file with the issuing office an annual report of operation. Annual reports, if required, shall be filed no later than January 31 of the calendar year following the year for which the report is required. Reports, if required, shall describe permitted activities, numbers and

species of migratory birds acquired and disposed of, and shall inventory and describe all migratory birds possessed under the special purpose permit on December 31 of the reporting year.

(2) Permittees shall make such other reports as may be requested by the issuing officer.

(3) All live, captive-bred, migratory game birds possessed under authority of a valid special purpose permit shall be physically marked as defined in Sec. 21.13(b) of this part.

(4) No captive-bred migratory game bird may be sold or bartered unless marked in accordance with Sec. 21.13(b) of this part.

(5) No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any captive-bred migratory game bird unless such permittee submits a Service form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) days of such transaction.

(6) No permittee, who is authorized to sell or barter migratory game birds pursuant to a permit issued under this section, may sell or barter such birds to any person unless that person is authorized to purchase and possess such migratory game birds under a permit issued pursuant to this part and part 13, or as permitted by regulations in this part.

(d) *Term of permit.* A special purpose permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38152, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998]

§ 21.28 Falconry permits.

(a) *Permit requirements.* A falconry permit is required before any person may take, possess, transport, sell, purchase, barter, offer to sell, purchase, or barter raptors for falconry purposes.

(b) *Application procedures.* (1) An applicant who wishes to practice falconry in a State listed in Sec. 21.29(k) of this part and which has been designated as a participant in a cooperative Federal/State permit application program may submit an application for a falconry permit to the appropriate agency of that State. Each such application must incorporate a completed official form approved by the Service and must include in addition to the general information required by part 13 of this subchapter all of the following:

(i) The number of raptors the applicant possesses at the time the application is submitted, including the species, age (if known), sex (if known), date of

acquisition, and source of each;

(ii) A check or money order made payable to "U.S. Fish and Wildlife Service" in the amount of the application fee listed in Sec. 13.11(d) of this subchapter.

(iii) An original, signed certification concerning the validity of the information provided in the application in the form set forth in Sec. 13.12(a)(5).

(iv) Any additional information requested by the State to which the application is submitted.

(2) Upon receipt of a joint application by a State listed in Sec. 21.29(k) as a participant in a cooperative Federal/State permit application program, the State will process the application for a State falconry permit in accordance with its own procedures. A copy of the application, the check or money order for Federal permit fees, and the original, signed certification required by paragraph (b)(1)(iii) of this section will be forwarded to the issuing office of the Service designated by Sec. 13.11(b) of this subchapter. If the State decides to issue a falconry permit based upon the application, a copy of the permit will also be forwarded to the appropriate issuing office of the Service.

(3) An applicant who wishes to practice falconry in a State listed in Sec. 21.29(k) of this subchapter, but which does not participate in a cooperative Federal/State permit application program must submit a written application for a falconry permit to the issuing office designated by Sec. 13.11(b) of this subchapter. Each application must contain the general information and certification required by Sec. 13.12(a) of this subchapter plus a copy of a valid State falconry permit issued to the applicant by a State listed in Sec. 21.19(k) of this subchapter.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section that meets all requirements of this part, the Director will issue a permit. In addition to meeting the general criteria in Sec. 13.21(b), the applicant must have a valid State falconry permit issued by a State listed in Sec. 21.29(k) of this subchapter.

(d) *Permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) A permittee may not take, transport, or possess a golden eagle (*Aquila chrysaetos*) unless authorized in writing under Sec. 22.24 of this subchapter.

(2) A permit issued under this section is not valid unless the permittee has a valid State falconry permit issued by a State listed in Sec. 21.29(k) of this subchapter.

(3) A permittee may not take, possess, transport, sell, purchase, barter, or transfer any raptor for falconry purposes except under authority of a Federal falconry permit issued under this section and in compliance with the Federal

falconry standards set forth in Sec. 21.29 of this subchapter. (4) No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of any such transaction.

(5) No raptor may be possessed under authority of a falconry permit unless the permittee has a properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) for each bird possessed, except as provided in paragraph (d)(4) of this section.

(6) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee for maintenance and care for a period not to exceed thirty (30) days. The raptor must be accompanied at all times by a properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the person caring for the raptor as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

(7) A permittee may not take, possess, or transport any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) unless such bird is banded either by a seamless numbered band provided by the Service or by a permanent, non-reusable band provided by the Service.

(i) Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) taken from the wild must be reported to the issuing office within five (5) days of taking and must be banded with a permanent, non-reusable band provided by the Service. No raptor removed from the wild may be banded with a seamless numbered band.

(ii) The loss or removal of any band must be reported to the issuing office within five (5) working days of the loss. The lost band must be replaced by a permanent, non-reusable band supplied by the Service. A form 3-186A (Migratory Bird Acquisition/Disposition Report) must be filed in accordance with paragraph (d)(4) of this section reporting the loss of the band and rebanding.

(8) A permittee may not sell, purchase, barter, or offer to sell, purchase or barter any raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the Service.

(9) A permittee may not propagate raptors without prior acquisition of a valid raptor propagation permit issued under section 21.30 of this subchapter.

(e) *Term of permit.* A falconry permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from

the date of issuance or renewal.

[54 FR 38152, Sept. 14, 1989]

§ 21.29 Federal falconry standards.

(a) *Before you can practice falconry in any State.*

You cannot take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter any raptor for falconry purposes, in any State unless the State allows the practice of falconry, and the State has submitted copies of its laws and regulations governing the practice of falconry to us (Director), and we have determined that they meet or exceed the Federal falconry standards established in this section. If you are a Federal falconry permittee, you can possess and transport for falconry purposes a lawfully possessed raptor through States that do not allow falconry or meet Federal falconry standards so long as the raptors remain in transit in interstate commerce. The States that are in compliance with Federal falconry standards are listed in paragraph (k) of this section.

(b) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and enforcing laws or regulations not inconsistent with the standards contained in any convention between the United States and any foreign country for the protection of raptors or with the Migratory Bird Treaty Act, and which shall give further protection to raptors.

(c) *What is the process for Federal approval of a State program?* Any State that wishes to allow the practice of falconry must submit to the Director of the Service a copy of the laws and regulations that govern the practice of falconry in the State. If we determine that they meet or exceed the Federal standards, which are established by this section, we will publish a notice in the Federal Register adding the State to the list of approved States in paragraph (k) of this section. Any State that was listed in paragraph (k) prior to September 14, 1989, is considered to be in compliance with our standards.

(d) *Permit.* State laws or regulations shall provide that a valid State falconry permit from either that State or another State meeting Federal falconry standards and listed in paragraph (k) of this section is required before any person may take, possess, or transport a raptor for falconry purposes or practice falconry in that State.

(e) *Classes of permits.* States may have any number of classes of falconry permits provided the standards are not less restrictive than the following:

(1) *Apprentice (or equivalent) class.*

(i) Permittee shall be at least 14 years old;

(ii) A sponsor who is a holder of a General or

Master Falconry Permit or equivalent class is required for the first two years in which an apprentice permit is held, regardless of the age of the permittee. A sponsor may not have more than three apprentices at any one time;

(iii) Permittee shall not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period; and

(iv) Permittee shall possess only the following raptors which must be taken from the wild: an American kestrel (*Falco sparverius*), a red-tailed hawk (*Buteo jamaicensis*), a red-shouldered hawk (*Buteo lineatus*), or, in Alaska only, a goshawk (*Accipiter gentilis*).

(2) *General (or equivalent) class.*

(i) A permittee shall be at least 18 years old;

(ii) A permittee shall have at least two years experience in the practice of falconry at the apprentice level or its equivalent;

(iii) A permittee may not possess more than two raptors and may not obtain more than two raptors for replacement birds during any 12-month period; and

(iv) A permittee may not take, transport, or possess any golden eagle or any species listed as threatened or endangered in part 17 of this subchapter.

(3) *Master (or equivalent) class.*

(i) An applicant shall have at least five years experience in the practice of falconry at the general class level or its equivalent.

(ii) A permittee may not possess more than three raptors and may not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;

(iii) A permittee may not take any species listed as endangered in part 17 of this chapter, but may transport or possess such species in accordance with part 17 of this chapter.

(iv) A permittee may not take, transport, or possess any golden eagle for falconry purposes unless authorized in writing under Sec. 22.24 of this subchapter;

(v) A permittee may not take, in any twelve (12) month period, as part of the three-bird limitation, more than one raptor listed as threatened in part 17 of this chapter, and then only in accordance with part 17 of this chapter.

(f) *Examination.* State laws or regulations shall provide that before any State falconry permit is issued the applicant shall be required to answer correctly at least 80 percent of the questions on a supervised examination provided or approved by the Service and administered by the State, relating to basic biology, care, and handling of raptors, literature, laws, regulations or other appropriate subject matter.

(g) *Facilities and equipment.* State laws or

regulations shall provide that before a State falconry permit is issued the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the State wildlife department as meeting the following standards:

(1) *Facilities.* The primary consideration for raptor housing facilities whether indoors (mews) or outdoors (weathering area) is protection from the environment, predators, or undue disturbance. The applicant shall have the following facilities, except that depending upon climatic conditions, the issuing authority may require only one of the facilities described below.

(i) Indoor facilities (mews) shall be large enough to allow easy access for caring for the raptors housed in the facility. If more than one raptor is to be kept in the mews, the raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(ii) Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators except that perches more than 6½ feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

(2) *Equipment.* The following items shall be in the possession of the applicant before he can obtain a permit or license:

(i) *Jesses*--At least 1 pair of Alymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. (Traditional 1-piece jesses may be used on raptors when not being flown.);

(ii) *Leashes and swivels*--At least 1 flexible, weather-resistant leash and 1 strong swivel of acceptable falconry design;

(iii) *Bath container*--At least 1 suitable container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;

(iv) *Outdoor perches*--At least 1 weathering area perch of an acceptable design shall be provided for each raptor; and

(v) *Weighing device*--A reliable scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than ½ ounce (15 gram) shall be provided.

(3) *Maintenance.* All facilities and equipment shall

be kept at or above the preceding standards at all times.

(4) *Transportation; temporary holding.* A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 days.

(h) *Marking.* All peregrine falcons (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), and Harris hawk (*Parabuteo unicinctus*) possessed for falconry purposes must be marked in accordance with the following provisions:

(1) Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*), except a captive bred raptor lawfully marked by a numbered, seamless band issued by the Service, must be banded with a permanent, non-reusable, numbered band issued by the Service.

(2) Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) possessed for falconry purposes must be banded at all times in accordance with these standards. Loss or removal of any band must be reported to the issuing office within five (5) working days of the loss and must be replaced with a permanent, non-reusable, numbered band supplied by the Service.

(i) *Taking restrictions.* State laws or regulations shall provide the following restrictions on the taking of raptors from the wild:

(1) Young birds not yet capable of flight (eyasses) may only be taken by a General or Master Falconer during the period specified by the State and no more than two eyasses may be taken by the same permittee during the specified period.

(2) First-year (passage) birds may be taken only during the period specified by the State;

(3) In no case shall the total of all periods of taking of eyasses or passage birds exceed 180 days during a calendar year, except that a marked raptor may be retrapped at any time; and

(4) Only American kestrels (*Falco sparverius*) and great-horned owls (*Bubo virginianus*) may be taken when over one year old, except that any raptor other than endangered or threatened species taken under a depredation (or special purpose) permit may be used for falconry by General and Master falconers.

(j) *Other restrictions.* State laws or regulations shall provide the following restrictions or conditions:

(1) A person who possesses a lawfully acquired raptor before the enactment of these regulations and who fails to meet the permit requirements shall be allowed to

retain the raptors. All such birds shall be identified with markers supplied by the Service and cannot be replaced if death, loss, release, or escape occurs.

(2) If you possessed raptors before January 15, 1976, the date these regulations were enacted, and you had more than the number allowed under your permit, you may retain the extra raptors. However, each of those birds must be identified with markers we supplied, and you cannot replace any birds, nor can you obtain any additional raptors, until the number in your possession is at least one fewer than the total number authorized by the class of permit you hold.

(3) A falconry permit holder shall obtain written authorization from the appropriate State wildlife department before any species not indigenous to that State is intentionally released to the wild, at which time the marker from the released bird shall be removed and surrendered to the State wildlife department. The marker from an intentionally released bird which is indigenous to that State shall also be removed and surrendered to the State wildlife department. A standard Federal bird band shall be attached to such birds by the State or Service-authorized Federal bird bander whenever possible.

(4) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by the properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

(5) Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by permittees only for imping purposes.

(k) *States meeting Federal falconry standards.* We have determined that the following States meet or exceed the minimum Federal falconry standards established in this section for regulating the taking, possession, and transportation of raptors for the purpose of falconry. The States that are participants in a cooperative Federal/State permit system are designated by an asterisk (*).

*Alabama, *Alaska, Arizona, *Arkansas, *California, *Colorado, *Delaware, *Florida, *Georgia, *Idaho, *Illinois, *Indiana, *Iowa, *Kansas, *Kentucky, *Louisiana, *Maine, Maryland, Massachusetts, *Michigan, *Minnesota, *Mississippi, Missouri, *Montana, *Nebraska, *Nevada, *New Hampshire, *New Jersey, New Mexico, New York, *North Carolina, *North Dakota, *Ohio, Oklahoma, *Oregon, Pennsylvania, Rhode Island, *South Carolina, *South Dakota, *Tennessee, Texas, Utah, *Vermont, *Virginia, *Washington, West Virginia, *Wisconsin, *Wyoming.

[41 FR 2238, Jan. 15, 1976; 41 FR 8053, Feb. 24, 1976, as amended at 42 FR 42353, Aug. 23, 1977; 43 FR 968, Jan. 5, 1978; 43 FR 10566, Mar. 14, 1978; 43 FR 34150, Aug. 3, 1978; 43 FR 57606, Dec. 8, 1978; 45 FR 25066, Apr. 14, 1980; 45 FR 70276, Oct. 23, 1980; 48 FR 31608, July 8, 1983; 48 FR 42820, Sept. 20, 1983; 54 FR 38153, Sept. 14, 1989; 59 FR 11204, Mar. 10, 1994; 64 FR 48566, Sept. 7, 1999; 65 FR 49509, Aug. 14, 2000]

§ 21.30 Raptor propagation permits.

(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, import, purchase, barter, or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes.

(b) *Application procedures.* Submit application for raptor propagation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in Sec. 13.12(a) of this subchapter, and the following additional information:

(1) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

(2) A statement indicating whether the applicant has been issued a State permit authorizing raptor propagation (include name of State, permit number, and expiration date);

(3) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

(4) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source, and raptor marker number;

(5) A description of each raptor the applicant possesses for purposes other than raptor propagation to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker number, and purpose for which it is possessed;

(6) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the birds;

(7) A statement indicating whether the applicant requests authority to take raptors or raptor eggs from the wild.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in

Sec. 13.21(b) of this chapter, the following factors:

(1) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be held under the permit.

(2) Whether propagation is authorized by the State in which the propagation will occur, and if authorized, whether the applicant has any required State propagation permit.

(3) Whether the applicant is at least 18 years old with a minimum of 2 years experience handling raptors, and if the applicant requests authority to propagate endangered or threatened species, whether the applicant is at least 23 years old with a minimum of 7 years experience handling raptors.

(4) If the applicant requests authority to take raptors or raptor eggs from the wild:

(i) Whether issuance of the permit would have a significant effect on any wild population of raptors;

(ii) Whether suitable captive stock is available; and

(iii) Whether wild stock is needed to enhance the genetic variability of captive stock.

(d) *Additional permit conditions.* In addition to the general conditions found in part 13 of this chapter, raptor propagation permits are subject to the following additional conditions:

(1) *Facilities.* Any tethered raptor possessed under this permit must be maintained in accordance with the Federal falconry standards for "facilities and equipment" described in Sec. 21.29(g), unless a specific exception in writing is obtained. For untethered raptors, the breeding facilities must be soundly constructed and entirely enclosed with wood, wire netting, or other suitable material which provides a safe, health, environment. The design of such facilities and ancillary equipment must:

(i) Minimize the risk of injury by providing protection from predators, disturbances that would likely cause harm, extreme weather conditions, and collision with interior or perimeter construction materials and equipment such as support poles, windows, wire netting, perches, or lights;

(ii) Enhance sanitation by providing a well-drained floor, fresh air ventilation, source of light, fresh water for bathing and drinking, access for cleaning, and interior construction materials suitable for thorough cleaning or disinfection; and

(iii) Enhance the welfare and breeding success of the raptors by providing suitable perches, nesting and feeding sites, and observation ports or inspection windows during times when disturbance is felt to be undesirable.

(2) *Incubation of eggs.* Each permittee must notify the Director in writing within 5 days from the day the first egg is laid by any raptor held under a raptor propagation permit, but notice is not required more often than once every 60 days.

(3) *Marking requirement.* Unless otherwise specifically exempted, every raptor possessed for propagation, including all progeny produced pursuant to the permitted activity, must be banded in accordance with the following provisions:

(i) Except for captive-bred raptors lawfully marked with a seamless, numbered band provided by the Service, any raptor possessed for propagation purposes shall be banded with a permanent, non-reusable, numbered band issued by the Service.

(ii) Unless specifically exempted by the conditions of the raptor propagation permit, each captive-bred raptor produced under authority of a raptor propagation permit shall be banded within two (2) weeks of hatching with a numbered, seamless band provided by the Service, placed on the raptor's leg (*metatarsus*). In marking captive-bred raptors, permittees:

(A) Shall use a band with an opening (inside diameter) which is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the bands integrity or one-piece construction;

(B) May band a raptor with more than one size band when the potential diameter of the raptor's leg at maturity cannot be determined at the time of banding;

(C) Shall remove all but one band from any raptor with more than one band before the raptor is five (5) weeks of age and return all bands removed to the issuing office.

(iii) No raptor taken from the wild, produced from an egg taken from the wild, or produced from an egg from any source other than bred in captivity under authority of a raptor propagation permit may be banded with a numbered seamless band issued by the Service.

(iv) No permittee under this section may band any raptor with any band issued or authorized by the Service unless that raptor is lawfully possessed by the permittee.

(4) *Taking Raptors or Raptor Eggs from the Wild.* Any permit authorizing the permittee to take raptors or raptor eggs from the wild for propagation purposes is subject to the following additional restrictions:

(i) The State or foreign country in which the raptors or raptor eggs are taken must authorize the permittee in writing to take raptors or raptor eggs from the wild for propagation purposes;

(ii) No raptor listed in Sec. 17.11 of this chapter as "endangered" or "threatened" may be taken from the wild without first obtaining the proper permit under part 17 of this chapter; and

(iii) No raptor or raptor egg may be taken from the wild except in accordance with State law.

(5) *Transfer, purchase, sale, or barter of raptors, raptor eggs, or raptor semen.*

(i) A permittee may transfer any law fully possessed raptor, raptor egg, or raptor semen to another permittee or transfer any raptor to a falconer who holds a valid State falconry permit if no money or other consideration is involved.

(ii) A permittee may transfer, purchase, sell, or barter any raptor which is banded with a numbered seamless marker provided or authorized by the Service, subject to the following conditions:

(A) When the permittee purchases from, sells to, or barter with any person in the U.S., that person must be authorized under this part to purchase, sell, or barter captive-bred raptors;

(B) When the permittee purchases from or barter with any person in a foreign country, that person must be authorized by the competent wildlife management authority of the foreign country in which the transaction occurs to sell or barter captive-bred raptors; and

(C) When the permittee transfers to, sells to or barter with any person in a foreign country, that person must be authorized to possess, purchase or barter captive-bred raptors by the competent wildlife management authority of his/her country of residence or domicile and the same wildlife management authority must certify in writing that the recipient is an experienced falconer or raptor propagator who is required to maintain any raptors in his/her possession under conditions that are comparable to the conditions under which a permittee must maintain raptors under Sec. 21.29 or Sec. 21.30. No certification is required if the competent wildlife management authority itself is the recipient of captive-bred raptors for conservation purposes.

(iii) No raptor may be traded, transferred, purchased, sold, or bartered until it is two weeks old and only after it is properly banded with a nonreusable marker provided or authorized by the Service, unless it is transferred, sold, or bartered to a State or Federal wildlife management agency for conservation purposes.

(iv) A permittee may purchase, sell, or barter semen collected from any captive-bred raptor.

(v) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(6) *Use of Service form 3-186A.* No permittee may take, purchase, receive, or otherwise acquire, sell, trade, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of any such transfer. Provided, that a permittee does not have to submit a form 3-186A (Migratory Bird Acquisition/Disposition Report) to report the acquisition raptors hatched from eggs produced as a

result of the permittee's propagation activities as long as these raptors remain in the possession of the permittee.

(7) *Documentation of lawful possession.* No raptor may be possessed under authority of a raptor propagation permit unless the permittee has a properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) for each bird possessed, except as provided in paragraph (d)(5) of this section.

(8) *Temporary possession.* A raptor possessed under authority of a raptor propagation permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by the properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

(9) *Sale, purchase, barter.* A permittee may not sell, purchase, barter, or offer to sell, purchase, or barter any raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the Service.

(10) *Transfer to another.* A permittee may not receive or otherwise acquire from, may not transfer or otherwise dispose of to, and may not loan to or temporarily place with another person any raptor unless that person is authorized to acquire, possess, and dispose of such raptors under a valid permit issued pursuant to this part and part 13 or as permitted by regulations in this part.

(11) *Use in falconry.* A permittee may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's falconry permit.

(12) *Interspecific hybridization.* Hybridization between species (interspecific hybridization) is authorized only if each raptor produced by interspecific hybridization is either imprinted on humans (hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered) or surgically sterilized.

(13) *Possession of dead raptors, non-viable eggs, nests, and feathers.*

(i) Upon the death of any raptor held under permit, a permittee must remove the marker and immediately return it to the Director. The carcass must be destroyed immediately, unless the permittee requests authorization from the Director to retain possession of it. A permittee who has obtained written authorization from the Director to retain possession of the carcass may transfer it to any other person authorized by the Service to possess it, provided no money or other consideration is involved.

(ii) A permittee may possess addled or blown

eggs, nests, and feathers from raptors held under permit and may transfer any of these items to any other person authorized by the Service to possess them provided no money or other consideration is involved.

(14) *Intentional release to the wild.* (i) A permittee must obtain written authorization from the Director and the Director of the wildlife conservation department of the State in which release to the wild is proposed before intentionally releasing any raptor to the wild. The raptor marker must be removed from each bird and immediately returned to the Director. A Federal bird band must be attached to each raptor by a person designated by the Director before its release.

(ii) No raptor produced by interspecific hybridization may be intentionally released to the wild.

(15) *Recordkeeping.* A permittee must maintain complete and accurate records of all operations, to include the following:

(i) Acquisition of raptors, eggs, or semen from sources other than production.

(A) Description of stock:

(1) Species, sex, age of each (if applicable),

(2) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.), and

(3) Marker number (if applicable).

(B) Type of stock (including number or amount):

(1) Semen,

(2) Egg, or

(3) Bird.

(C) How acquired:

(1) Purchase, barter, or transfer (include the purchase price or a description of any other consideration involved), or

(2) Taken from the wild.

(D) Date acquired: month, day, and year.

(E) From whom or where stock acquired:

(1) Name, address, and permit number of seller, barterer, or transferor; or

(2) Location where stock taken from the wild.

(ii) Disposition of raptors, eggs, or semen.

(A) Description of stock:

(1) Species, sex, age of each (if applicable),

(2) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.), and

(3) Marker number (if applicable).

(B) Type of stock (including number or amount):

(1) Semen,

(2) Egg, or

(3) Bird.

(C) Manner of disposition:

(1) Sale, barter, or transfer (include the sale price or a description of any other consideration involved),

(2) Live loss,

(3) Intentional release to the wild, or

(4) Death.

(D) Date of disposition: month, day, and year.

(E) To whom or where stock disposed:

(1) Name, address, and permit number of purchaser, barterer, or transferee, or

(2) Description and location of other disposition.

(iii) Production and pedigree record.

(A) Mother and father(s):

(1) Species,

(2) Genotype-natal area, and

(3) Marker number.

(B) Insemination:

(1) Natural,

(2) Artificial, or

(3) Combined.

(C) Eggs laid:

(1) Total,

(2) First date, and

(3) Last date.

(D) Eggs hatched:

(1) Total,

(2) First date, and

(3) Last date.

(E) Young raised to 2 weeks of age:

(1) Total produced, and

(2) Marker number and date marked for each raptor.

(16) *Annual report.* A permittee must submit an annual report by January 31 of each year for the preceding year to the Director. The report must include the following information for each species possessed by the permittee:

(i) Number of raptors possessed as of December 31 (including the species, marker number, sex, and age of each raptor).

(ii) Number of females laying eggs.

(iii) Number of eggs laid.

(iv) Number of eggs hatched.

(v) Number of young raised to 2 weeks of age.

(vi) Number of raptors purchased, sold, bartered, received, or transferred (including the species, marker number, sex, and age of each raptor) the date of the transaction, and the name, address and permit number of each purchaser, seller, barterer, transferor, or transferee.

(e) *Term of permit.* A raptor propagation permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[48 FR 31608, July 8, 1983, as amended at 49 FR 9736, Mar. 15, 1984; 54 FR 38154, Sept. 14, 1989; 63 FR

52637, Oct. 1, 1998]

Subpart D - Control of Depredating Birds

§ 21.41 Depredation permits.

(a) *Permit requirement.* Except as provided in Secs. 21.42 through 21.46, a depredation permit is required before any person may take, possess, or transport migratory birds for depredation control purposes. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species or bald or golden eagles.

(b) *Application procedures.* Submit application for depredation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in Sec. 13.12(a) of this subchapter, and the following additional information:

- (1) A description of the area where depredations are occurring;
- (2) The nature of the crops or other interests being injured;
- (3) The extent of such injury; and
- (4) The particular species of migratory birds committing the injury.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, depredation permits shall be subject to requires, in this section:

- (1) Permittees may not kill migratory birds unless specifically authorized on the permit.
- (2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or area described on the permit.
- (3) Permittees may not use blinds, pits, or other means of concealment, decoys, duck calls, or other devices to lure or entice birds within gun range.
- (4) All migratory birds killed shall be retrieved by the permittee and turned over to a Bureau representative or his designee for disposition to charitable or other worthy institutions for use as food, or otherwise disposed of as provided by law.
- (5) Only persons named on the permit are authorized to act as agents of the permittee under authority of the permit.

(d) *Tenure of permits.* The tenure of depredation permits shall be limited to the dates which appear on its face, but in no case shall be longer than one year.

[39 FR 1178, Jan. 4, 1974, as amended at 42 FR 17122, Mar. 31, 1977; 63 FR 52637, Oct. 1, 1998]

§ 21.42 Authority to issue depredating orders to permit the killing of migratory game birds.

Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director is authorized to issue by publication in the Federal Register a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the Federal Register an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: Provided, That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

§ 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies.

A Federal permit shall not be required to control yellow-headed red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: Provided:

(a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise

disposed of or utilized.

(b) That any person exercising any of the privileges granted by this section shall 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 shall furnish promptly to such officer whatever information he may require, concerning said operations.

(c) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State concerned.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 47525, Nov. 15, 1989]

§ 21.44 Depredation order for designated species of depredated birds in California.

In any county in California in which horned larks, golden-crowned, white-crowned and other crowned sparrows, and house finches are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his/her general supervision such of the above migratory birds as may be necessary to safeguard any agricultural or horticultural crop in the county: *Provided*:

(a) That such migratory birds shall be killed only when necessary to protect agricultural or horticultural crops from depredation; that none of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where killed; but that all such dead migratory birds shall be buried or otherwise destroyed within this area, except that any specimens needed for scientific purposes, as determined by the State or the Director shall not be destroyed.

(b) That any Commissioner of Agriculture exercising the privileges granted by this section shall keep records of the persons authorized by the Commissioner to kill such migratory birds, and the estimated number of such birds killed pursuant to the exercise of his authority, and the Commissioner shall submit a report thereof to the Director on or before December 31 of each year or whenever the Director so requests.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 47525, Nov. 15, 1989; 55 FR 17352, Apr. 24, 1990]

§ 21.45 Depredation order for depredated purple gallinules in Louisiana.

Landowners, sharecroppers, tenants, or their employees or agents, actually engaged in the production of rice in Louisiana, may, without a permit, shoot purple gallinules (*Lonornis martinica*) when found committing or about to commit serious depredations to growing rice crops on the premises owned or occupied by such persons: *Provided*:

(a) That purple gallinules may only be killed pursuant to this section between May 1 and August 15 in any year.

(b) That purple gallinules killed pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided*, That the Director or the State agricultural department, college, or other public institution may requisition such purple gallinules killed as may be needed for scientific investigations: *Provided further*, That any purple gallinules killed under authority of this section may also be donated to charitable institutions for food purposes.

(c) That any person exercising any of the privileges granted by this section shall 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 shall furnish promptly to such officer whatever information he may require, concerning said operations.

(d) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State of Louisiana.

(e) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the Director.

§ 21.46 Depredation order for depredated scrub jays and Steller's jays in Washington and Oregon.

Landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in Washington and Oregon may, without a permit, take scrub jays (*Aphelocoma coerulescens*) and Steller's jays (*Cyanocitta stelleri*) when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons: *Provided*:

(a) That scrub jays and Steller's jays may only be taken pursuant to this section between August 1 and December 1 in any year, in the Washington counties of

Clark, Cowlitz, and Lewis; and the Oregon counties of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill.

(b) That scrub jays and Steller's jays taken pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided*, That the Director of the State agricultural department, college, or other public institution may requisition such scrub jays and Steller's jays killed as may be needed for scientific investigations.

(c) That such birds may be taken only by trapping or shooting and on areas where serious depredations are being or are about to be committed.

(d) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(e) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the States of Washington and Oregon.

(f) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the appropriate Special Agent in Charge (see Sec. 10.22 of this subchapter).

[39 FR 31326, Aug. 28, 1974]

§ 21.47 Depredation order for double-crested cormorants at aquaculture facilities.

The Service examined the rule under the Paperwork Reduction Act of 1995 and found that it does contain information collection requirements. OMB has issued the following emergency information collection number, 1018-0097, which expires on August 31, 1998. Information collection is required to better enable the Service to assess the benefits of the depredation order on aquaculturists and to assess impacts to the double-crested cormorant population. Burden hours to aquaculturists are calculated as follows: an average of 41 birds may be taken by each of some 2,200 aquaculturists per season. An estimated total of 800 hours will be required to keep and maintain the monthly logs, and produce the logs for inspection, yielding an average of 22 minutes per

aquaculturists per year. Landowners, operators, and tenants actually engaged in the production of commercial freshwater aquaculture stocks (or their employees or agents) in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Minnesota, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas may, without a Federal permit, take double-crested cormorants (*Phalacrocorax auritus*) when found committing or about to commit depredations to aquaculture stocks on the premises used for the production of such stocks: *Provided that*:

(a) Double-crested cormorants may be taken by shooting during daylight hours only, and only when necessary to protect freshwater commercial aquaculture and State-operated hatchery stocks from depredation; none of the birds so taken may be sold; and all dead birds must be buried or incinerated, except that any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands may be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(b) Double-crested cormorants may be shot at freshwater commercial aquaculture facilities or State-operated hatcheries only in conjunction with an established non-lethal harassment program as certified by officials of the Wildlife Services' program of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service.

(c) Double-crested cormorants may be taken with firearms only within the boundaries of freshwater commercial aquaculture facilities or State-operated hatcheries, and persons using shotguns are required to use nontoxic shot.

(d) Persons operating under the provisions of this section may use decoys, taped calls, or other devices to lure birds committing or about to commit depredations within gun range.

(e) Any person exercising the privileges of this section must keep and maintain a log recording the date and number of all birds killed each month under this authorization, that the log must be maintained for a period of three years (and that three previous years of takings must be maintained at all times thereafter), that the log and any related records be made available to Federal or State wildlife enforcement officers upon request during normal business hours.

(f) Nothing in this section authorizes the killing of double-crested cormorants contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State permits, when required; nor the killing of any migratory bird species other than double-crested cormorants when committing or about to commit

depredations to aquaculture stocks.

(g) The authority granted in this section will automatically expire on April 30, 2005, unless revoked or specifically extended prior to that date.

[63 FR 10560, Mar. 4, 1998]

Subpart E - Control of Overabundant Migratory Bird Populations

Source: 64 FR 71237, Dec. 20, 1999, unless otherwise noted.

Effective Date Note: At 64 FR 71237, Dec. 20, 1999, Subpart E was added, effective Dec. 20, 1999 through May 15, 2001.

§ 21.60 Conservation order for mid-continent light geese.

(a) *Which waterfowl species are covered by this order?* This conservation order addresses management of lessersnow (*Anser c. caerulescens*) and Ross' (*Anser rossii*) geese that breed, migrate, and winter in the mid-continent portion of North America, primarily in the Central and Mississippi Flyways (mid-continent light geese).

(b) *In what areas can the conservation order be implemented?*

(1) The following States, or portions of States, that are contained within the boundaries of the Central and Mississippi Flyways: Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

(2) Tribal lands within the geographic boundaries in paragraph (b)(1) of this section.

(3) The following areas within the boundaries in paragraph (b)(1) of this section are closed to the conservation order after 10 March of each year: Monte Vista National Wildlife Refuge (CO); Bosque del Apache National Wildlife Refuge (NM); the area within 5 miles of the Platte River from Lexington, Nebraska, to Grand Island, Nebraska; the following area in and around Aransas National Wildlife Refuge; those portions of Refugio, Calhoun, and Aransas Counties that lie inside a line extending from 5 nautical miles offshore to and including Pelican Island, thence to Port O'Conner, thence northwest along State Highway 185 and southwest along State Highway 35 to Aransas Pass, thence southeast along State Highway 361 to Port Aransas, thence east along the Corpus Christi Channel, thence southeast along the Aransas Channel, extending to 5 nautical miles offshore; except that it is lawful to take mid-continent light geese after 10 March

of each year within the Guadalupe WMA. If at any time we receive evidence that a need to close the areas in this paragraph (b)(3) no longer exists, we will publish a proposal to remove the closures in the Federal Register.

(c) *What is required in order for State/Tribal governments to participate in the conservation order?*

Any State or Tribal government responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, mid-continent light geese under the following condition: (1) Activities conducted under this section may not affect endangered or threatened species as designated under the Endangered Species Act.

(2) Control activities must be conducted clearly as such and are intended to relieve pressures on migratory birds and habitat essential to migratory bird populations only 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.

(3) Control activities may be conducted only when all waterfowl and crane hunting seasons, excluding falconry, are closed.

(4) 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.

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

(6) States and Tribes must designate participants who must operate under the conditions of this section.

(7) States and Tribes must inform participants of the requirements/ conditions of this section that apply.

(8) States and Tribes must keep records of activities carried out under the authority of this section, including the number of mid-continent light geese taken under this section, the methods by which they were taken, and the dates they were taken. The States and Tribes must submit an annual report summarizing activities conducted under this section on or before August 30 of each year to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634--ARLSQ, 1849 C Street NW., Washington, D.C. 20240.

(d) *What is required for individuals to participate in the conservation order?* Individual participants in State or tribal programs covered by this section are required to comply with the following requirements:

(1) Nothing in this section authorizes the take of mid-continent light geese contrary to any State or Tribal laws or regulations, and none of the privileges granted under this section may be exercised unless persons acting under the authority of the conservation order possess whatever permit or other authorization(s) required for such activities by the State or Tribal government concerned.

(2) Participants who take mid-continent light geese under this section may not sell or offer for sale those birds nor their plumage, but may possess, transport, and otherwise properly use them.

(3) Participants acting under the authority of this section 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.

(4) Participants acting under the authority of this section may take mid-continent light geese by any method except those prohibited as follows:

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

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

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

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

(v) By the use or aid of live birds as decoys; although not limited to, it will be a violation of this paragraph for any person to take mid-continent light 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 mid-continent light geese;

(vi) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving,

rallying, or stirring up of mid-continent light geese;

(vii) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction, or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph prohibits the taking of mid-continent light geese on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(viii) Participants may not possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, or bismuth-tin, or other shots that are authorized in 50 CFR 20.21(j). Season limitations in that section do not apply to participants acting under this order.

(e) *Under what conditions would the conservation order be revoked?* The Service will annually assess the overall impact and effectiveness of the conservation order to ensure compatibility with long-term conservation of this resource. If at any time we receive evidence that clearly demonstrates a serious threat of injury to the area or areas involved no longer exists, we will initiate action to revoke the conservation order.

(f) *Will information concerning the conservation order be collected?* The information collection requirements of the conservation order have been approved by OMB and assigned clearance number 1018-0103. 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 recordkeeping and reporting requirements imposed under regulations established in this subpart E will be used to administer this program, particularly in the assessment of impacts alternative regulatory strategies may have on mid-continent light geese and other migratory bird populations. The information collected will be required to authorize State and Tribal governments responsible for migratory bird management to take Mid-continent light geese within the guidelines provided by the Service.

[End]