

§ 90.13 Policy.

Whenever it is found necessary to conduct feeding programs under this section for the purposes of preventing crop damage by migratory waterfowl, it shall be the policy of the Secretary for the purposes of economy and efficiency to accord preference to feeding programs proposed to be executed through the placement of grain upon wildlife management areas or other lands or waters owned, leased, or otherwise controlled by an agency of the United States or a State.

§ 90.14 Waterfowl depredation complaints; where filed.

Any person having an interest in crops being damaged or threatened with damage by migratory waterfowl in circumstances meeting the criteria prescribed in § 90.15 may make application for grain for use in luring such waterfowl away from such crops by submitting a written request to the Regional Director of the U.S. Fish and Wildlife Service regional office having administrative jurisdiction over the wildlife activities in the State where the affected crops are located. (See § 2.2 for geographical jurisdiction and addresses of regional offices.) Such applications may be in letter form but must contain information disclosing the location, nature, condition and extent of the crops being damaged or threatened, and the particular species of migratory waterfowl committing or threatening to commit damage. For the purposes of this section any authorized official of Federal, State, or local governmental body shall be deemed to be a "person" and to have such an interest in crops threatened with damages as to qualify him as an applicant.

§ 90.15 Criteria to govern approval of applications.

Upon receipt of a written application for such grain for use in preventing crop depredations, the Regional Director shall promptly cause an investigation to be made, when necessary, to determine whether the applicant is in fact entitled to have such grain made available for such purposes. Whenever feasible the required investigation shall be made jointly by a representative of the game department of the

State in which the affected crops are located and a representative of the Regional Director. When conducting such investigations, each of the factors set forth in paragraphs (a) to (d) of this section shall be considered separately. An application for grain shall not be approved if it is determined that one or more of these factors minimizes the extent of crop damage or provides another effective method of preventing the complained of damage.

(a) The migratory waterfowl committing or threatening to commit crop damage must be predominantly of a species which are susceptible of being effectively lured away from the crops by the use of such grain.

(b) The crop damage or threatened crop damage must be substantial in nature (when measured by the extent and potential value of the crops involved and the number of birds threatening damage); and must affect growing crops or mature unharvested crops that are in such condition as to be marketable or have value as feed for livestock or other purposes of material value to the applicant.

(c) It must be shown that the damage or threat of damage cannot be abated through the exercise of any of the privileges granted in permits authorized by this chapter I to frighten or otherwise herd migratory waterfowl away from affected crops.

(d) During an open hunting season, it must be shown that the area affected by crop damage has been and is now open to public hunting and there has been a clear demonstration that such hunting is ineffective, and cannot be made effective, to prevent crop damage on such area.

§ 90.16 Actions following investigation.

Upon receipt of a report and recommendations based upon an investigation conducted under § 90.15, the Secretary shall make a determination that the applicant meets the qualifications for receiving grain. He shall then determine the quantity of grain, either bagged or in bulk, to be made available; the means of transportation; and the point of delivery in the vicinity of the crop damage. Before receiving delivery of such grain the applicant shall

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execute and deliver to any officer authorized to enforce this part written assurances as follows:

(a) That grain made available to him under this part will be used exclusively for the prevention and abatement of crop damage by migratory waterfowl and that no portion of such grain will be sold, donated, exchanged, or used as feed for livestock or other domestic animals or for any other purpose;

(b) That consent is granted to any officer authorized to enforce this part, to inspect, supervise or direct the placement and distribution of grain made available under this part for the prevention of crop damage at all reasonable times;

(c) That free and unrestricted access over the premises on which feeding operations have been or are to be conducted shall be permitted at all reasonable times, by any officer authorized to enforce this part and that such information as may be required by the officer will be promptly furnished; and

(d) That the applicant will not take, nor permit his agents, employees, invitees, or other persons under his control to take migratory game birds on or over any lands or waters subject to his control, during the time such grain is placed, exposed, deposited, distributed, scattered, or present upon such lands or waters, nor for a period of 10 days immediately following the consumption or removal of such grain from such lands or waters.

§ 90.17 Compliance with other regulations.

Nothing in this subpart shall be construed to supersede or modify any regulations relating to the hunting of migratory game birds, nor to permit the transportation, installation or use of grain contrary to any applicable Federal, State, or local laws or regulations.

PART 91—MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

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AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 718j; 31 U.S.C. 9701.

SOURCE: 53 FR 16344, May 6, 1988, unless otherwise noted.

Subpart A—Introduction

§ 91.1 Purpose of regulations.

(a) The purpose of these regulations is to establish procedures for selecting a design that will be used for the annual Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp).

(b) All individuals entering the contest must comply with these regulations. A copy of the regulations, along with the Reproduction Rights Agreement and Display and Participation Agreement, may be requested from the Federal Duck Stamp Office, U.S. Fish and Wildlife Service, 4401 N. Fairfax Dr. MBSP-4070, Arlington, VA 22203-1622. These documents can also be downloaded from our Web site: <http://www.fws.gov/duckstamps/>.

(c) All contestants from the most recent contest will be sent a copy of the