

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 21

RIN 1018-AE46

## Migratory Bird Special Canada Goose Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The United States Fish and Wildlife Service (Service) establishes, in cooperation with State wildlife agencies, a Canada goose damage management program. This program is designed to provide a biologically sound and more cost-effective and efficient method for the control of locally-breeding Canada geese that pose a threat to health and human safety and damage personal and public property.

**DATES:** The rule becomes effective June 17, 1999.

**ADDRESSES:** You may request copies of the EA and comments received on the proposed rule by writing 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. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Andrew, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

**SUPPLEMENTARY INFORMATION:****Background**

Numbers of Canada geese that nest and reside predominantly within the conterminous United States have increased exponentially in recent years (Rusch *et al.*, 1995; Ankney, 1996). These increasing populations of locally-breeding geese are resulting in increasing numbers of conflicts with human activities and property, and concerns related to human health and safety are increasing (Ankney, 1996). To date, the U.S. Fish and Wildlife Service (We) has attempted to address this growing problem through existing annual hunting season frameworks and the issuance of control permits on a case-by-case basis. While this approach has provided relief in some areas, we realize that sport harvest will not completely address the problem and that the current permit-issuance system is a time-consuming and burdensome

process for both applicants and us. Therefore, we are changing the way we issue permits under the Migratory Bird Treaty Act for control and management of resident Canada geese that either pose a threat to health and human safety or cause damage to personal and public property.

**Which Canada Geese Are Affected by This Rule?**

The geographic scope of this rule is restricted to the conterminous United States and to Canada geese (*Branta canadensis*) that nest and/or reside predominately within the conterminous United States. Primarily, these geese consist mainly of *B. c. maxima* and *B. c. moffitti*, the "giant" and "western" Canada goose, respectively. Nesting geese within the conterminous United States are usually considered members of these two subspecies or hybrids between the various subspecies originating in captivity and introduced into numerous areas throughout the conterminous United States. No evidence presently exists documenting breeding between Canada geese nesting within the conterminous United States and those subspecies nesting in northern Canada and Alaska. For the purposes of this rule, we will collectively refer to all Canada geese nesting in the conterminous United States and/or Canada geese residing within the conterminous United States in the months of June, July, and August as "resident" Canada geese.

For the most part, the remaining subspecies of Canada geese recognized in North America nest in arctic and sub-arctic regions of Canada and Alaska (Lack 1974). These subspecies are usually encountered in the conterminous United States only during the fall, winter and spring of the year, or as a result of human placement.

**How Does This New Program Avoid Conflicts With the Management of Other Migratory Canada Goose Populations?**

Generally, we have stressed the need to manage all geese on a population basis, guided by cooperatively-developed management plans. However, resident Canada goose populations and the development of a resident Canada goose damage management program presented several potential problems with this approach. Because resident goose populations interact and overlap with other Canada goose populations during the fall and winter, any management action or program targeted at resident Canada geese during the fall and winter could potentially affect these other goose populations. Therefore, to

avoid potential conflicts with existing management plans for other goose populations, this new program is further restricted to March 11 through August 31 of each year. These dates encompass the period when sport hunting is prohibited throughout the conterminous United States by the Migratory Bird Treaty (1916) and resulting regulations promulgated under the Migratory Bird Treaty Act (1918). Any injury and damage complaints occurring during September 1 to March 10, the period open to sport hunting, will continue to be addressed through either migratory bird hunting regulations or the existing migratory bird permit process.

**What Authority Does the Service Have To Establish This New Program?**

Regulations governing the issuance of permits to take, capture, kill, possess, and transport migratory birds are authorized by the Migratory Bird Treaty Act and are promulgated in 50 CFR parts 13 and 21.

**How Are These Resident Canada Geese Different Than Other Canada Goose Populations? Other Than Location, Do They Behave Differently or Have Different Biological Characteristics?**

Canada geese, like other geese, are long-lived birds with relatively low reproduction rates and high survival rates. However, of all the Canada goose subspecies, the subspecies comprising most resident geese have higher reproductive and adult survival rates. Resident geese live in more temperate climates with relatively stable breeding habitat conditions and low numbers of predators. Arctic and subarctic Canada goose survival and reproduction are greatly influenced by weather conditions. Additionally, nesting resident geese are very tolerant of human disturbance and willing to nest in close proximity to other geese (Gosser and Conover, 1999; Zenner and LaGrange, 1998). Urban and suburban landscaping in the conterminous United States also offers resident geese a relative abundance of their preferred habitat (park-like open areas with short grass adjacent to small bodies of water). Also, resident geese fly relatively short distances to winter compared with other Canada goose populations. All of these factors result in consistently high annual reproduction and survival for the resident Canada goose population.

**What Is the Current Status of These Resident Populations?**

In recent years, the numbers of Canada geese that nest predominantly within the conterminous United States have increased tremendously. Recent

surveys in the Atlantic, Mississippi, and Central Flyways (Wood *et al.*, 1994; Kelley *et al.*, 1998; Nelson and Oetting, 1998; Sheaffer and Malecki, 1998) suggest that the resident breeding population now exceeds 1 million individuals in both the Atlantic and Mississippi Flyways and is increasing exponentially.

Information from the 1998 Waterfowl Status Report (Kelley *et al.*, 1998) shows that in the Atlantic Flyway, the resident population has increased an average of 14 percent per year since 1989. Last spring, the population estimate was 970,055 geese in the northeastern U.S., a number which is, however, similar to 1997. In the Mississippi Flyway, the resident population of Canada geese has increased at a rate of about 6 percent per year during the last 10 years. The 1998 spring population estimate was 1,167,085 geese, an increase of 21 percent from 1997. In the Central and Pacific Flyways, populations of resident Canada geese have similarly increased over the last few years. In some areas, numbers of resident Canada geese have increased to record high levels. We remain concerned about the rapid growth rate exhibited by these already large populations, especially in parts of the Atlantic and Mississippi Flyways.

#### **What Interests Are Being Injured by These Large Populations (i.e., What Are Some of the Problems and Conflicts)?**

Urban and suburban resident Canada goose populations are increasingly coming into conflict with human activities in many parts of the country, especially at public parks, airports, public beaches and swimming facilities, water-treatment reservoirs, corporate business areas, golf courses, schools, college campuses, private lawns, amusement parks, cemeteries, hospitals and residential subdivisions, and along or between highways. In parks and other open areas near water, large goose flocks create a nuisance with their abundant droppings and feather litter (Conover and Chasko, 1985). Surveys have found that while most landowners like seeing some geese on their property, eventually, increasing numbers of geese and the associated accumulation of goose droppings on lawns cause many landowners to view geese as a nuisance and thus reduce the aesthetic value and recreational use of these areas (Conover and Chasko, 1985). Additionally, goose droppings in heavy concentrations can overfertilize lawns and degrade water quality resulting in eutrophication of lakes with excessive algae growth (Manny *et al.*, 1994). Overall, complaints related to personal and public property damage, agricultural

damage and other public conflicts are increasing as resident Canada goose populations increase.

#### **How Has the Service Dealt With These Problems in the Past?**

To date, we have tried to address injurious resident Canada goose problems through existing hunting seasons, the creation of new special Canada goose seasons designed to target resident populations, and issuance of permits allowing specific control activities.

#### **Have Special Hunting Seasons Been Adequate To Solve the Problems?**

Special Canada goose seasons are hunting seasons specifically designed to target resident populations through either time or area restrictions. We first initiated special seasons targeting resident Canada geese in 1977 in the Mississippi Flyway with an experimental late season in Michigan. Following this and other early experiments in Michigan and several other Midwestern States, we gave notice of pending criteria for special Canada goose seasons in the June 6, 1986, **Federal Register** (51 FR 20681). We finalized criteria for special early seasons in the August 9, 1988, **Federal Register** (53 FR 29905) and later expanded them to include special late seasons in the September 26, 1991, **Federal Register** (56 FR 49111). The original intent of these special seasons was to provide additional harvest opportunities on resident Canada geese while minimizing impacts to migrant geese. The criteria were necessary to control harvests of non-target populations and required States to conduct annual evaluations. Initially, we considered all such seasons experimental, pending a thorough review of the data gathered by the participating State. Early seasons are generally held during early September, with late seasons occurring only after the regular season, but no later than February 15.

We presently offer special seasons for resident Canada geese in all four Flyways, with 31 States participating. They are most popular among States when regular Canada goose seasons are restricted to protect migrant populations of Canada geese. Currently, restrictive harvest regimes are in place for the Atlantic, Southern James Bay, Dusky, Cackling and Aleutian Canada goose populations.

Harvest of Canada geese during these special seasons has increased substantially over the last 10 years. In the Atlantic Flyway, 16 of 17 States hold special Canada goose seasons, with

harvest rising from about 2,300 in 1988 to almost 124,000 in 1995 (MBMO, 1997). In the Mississippi Flyway, 10 of 14 States hold special Canada goose seasons, and harvest has increased from less than 10,000 birds in 1986 to almost 150,000 in 1995. Michigan currently harvests in excess of 50,000 locally-breeding Canada geese per year. While the opportunities are not as significant in the Central and Pacific Flyways, as areas and seasons have expanded, harvest has increased from approximately 1,300 in 1989 to over 20,000 in 1995.

Creation of these special harvest opportunities has helped to limit the problems and conflicts between geese and people in some areas. However, many resident Canada geese remain in urban and suburban areas throughout the fall and winter where these areas afford them almost complete protection from sport harvest. Thus, while the creation of these special hunting seasons is our first and preferred alternative for dealing with most conflicts, we realize that harvest management will never completely address this growing problem and permits to conduct otherwise prohibited control activities will continue to be necessary to balance human needs with expanding resident Canada goose populations.

#### **Have Control Measures Under the Existing Permit System Been Adequate?**

Complex Federal and State responsibilities are involved with all migratory bird control activities, including the control of resident Canada geese. All State and private control activities, except techniques intended to either scare geese out of or preclude them from a specific area, such as harassment, habitat management, or repellents, require us to issue a Federal permit. Additionally, we issue permits to alleviate migratory bird depredations in coordination with the Wildlife Services program of the Animal and Plant Health Inspection Service (APHIS/WS). APHIS/WS is the Federal Agency with lead responsibility for dealing with wildlife damage complaints. In most instances, State permits are required as well.

However, APHIS/WS has limited personnel and resources to respond to requests for assistance. Likewise, as the number of complaints and conflicts continue to increase, the public will place greater demand on us and the States to assist in goose damage-management programs. This increased need for assistance places greater demand on the current permit-issuance system. Unfortunately, administrative

procedures involved in the issuance of permits many times cause a lag time of several weeks between our receipt of a permit request, our evaluation and decision on issuing the permit, and the ultimate issuance of a site-specific permit authorizing a control action. In the interim, even small numbers of geese can cause significant damage to personal property and result in economic, recreational, and aesthetic losses. Thus, with the increase in complaints, the current permit issuance system has become time-consuming, cumbersome and inefficient for us and the States.

#### **How Have the Number of Complaints and Requests for Assistance and Permits Increased?**

A brief summary of the complaints/requests for control permits placed with APHIS/WS indicates the increasing number of public conflicts. In 1997, APHIS/WS received 3,295 complaints of injurious Canada goose activity (APHIS/WS, 1997). In response to those complaints, APHIS/WS recommended we issue 354 permits. The vast majority of these complaints concerned agricultural, human health and safety, and property issues and came primarily from the Northeastern/New England area (50%) and the Upper Midwest/Great Lakes area (29%). In 1996 and 1995, APHIS/WS received 3,265 and 2,884 complaints, respectively, of injurious goose activity (APHIS/WS, 1996; APHIS/WS, 1995). In response to those complaints, APHIS/WS recommended we issue 321 permits in 1996 and 250 permits in 1995.

Comparing these figures with previous years' data shows a steady increase in complaints since 1991. For example, in 1993 and 1991 APHIS/WS received 2,802 and 1,698 complaints, respectively, of injurious Canada goose activity (APHIS/WS, 1993; APHIS/WS, 1991). In response to those complaints, APHIS/WS recommended we issue 192 and 92 permits, respectively.

#### **Has the Number of Permits Issued Increased Correspondingly?**

Yes. Our permit issuance has also increased tremendously in recent years. For example, Region 5 (the Northeastern/New England area) issued 26 site-specific permits to kill resident Canada geese and 54 permits to addle eggs in 1994. Two years later in 1996, Region 5 issued 70 site-specific permits to kill resident Canada geese, 1 permit to relocate geese, and 151 permits to addle eggs. In addition, the Region issued Statewide permits to relocate birds and addle eggs to agencies in certain States. Over 3 years, these

permits resulted in the relocation of over 2,600 geese, the addling of eggs in over 2,300 nests, and the take of over 1,000 birds.

In Region 3, the Upper Midwest/Great Lakes area, the number and extent of permits issued to manage and control resident Canada geese has also increased significantly in the past few years. In 1994, the Region issued 149 permits authorizing resident Canada goose control activities, including trapping and relocation, destruction of nests/eggs, and take of adults. In 1998, Region 3 issued 225 permits authorizing resident Canada goose control activities. In total, permit holders, including APHIS/WS, airports, and state wildlife agencies, reported taking in excess of 27,000 eggs and 6,800 geese, and trapped and relocated over 70,000 resident Canada geese (complete reports through 1997, partial reports for 1998). States in which control activities were conducted included Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

Since 1995, Region 3 has also issued permits to the Michigan Department of Natural Resources and the Minnesota Department of Natural Resources authorizing the capture and processing of resident Canada geese as food for local food-shelf programs. Minnesota's permit was a part of the their Urban Goose Management Program for the Minneapolis-St. Paul Metropolitan Area (initiated in 1982). In 1995, the first year under these permits, Michigan and Minnesota were authorized to take up to 2,000 and 325 geese, respectively. Michigan reported taking 24 birds with Minnesota taking its full allotment of 325 birds. Since then, Minnesota has been authorized to annually take up to 2,500 resident Canada geese for its food-shelf program. In the three years under the program since 1995, Minnesota has reported taking 5,399 birds. Likewise, Michigan was also issued permits for 1996-1998 authorizing the take up to 1,000 resident Canada geese for its food-shelf programs. Michigan subsequently reported taking 490 birds in 1996 and 952 birds in 1997. Michigan vacated their 1998 permit.

In Region 1, the Pacific Northwest/West Coast area, we have primarily limited permits for the control of resident Canada geese to the addling of eggs. In 1995, the Region issued permits authorizing the take of 900 eggs in the Puget Sound Area of Washington. In 1996, this number was increased to 2,000 eggs and 200 adult birds. APHIS/WS subsequently reported taking 911 and 1,570 eggs in 1995 and 1996, respectively, and 6 geese in 1996. For 1997, the Region authorized the take of

2,000 eggs in the Puget Sound Area and another 500 eggs in the City of Fremont, California.

#### **What Exactly Are the New Permits Authorized By This Rule and How Will They Work?**

We, with our State and other Federal partners, believe development of an alternative method of issuing permits to control problem resident Canada geese, beyond those presently employed, is needed so that agencies can provide responsible, cost-effective, and efficient assistance. The special Canada goose permit authorized by this rule provide the States that opportunity while maintaining protection of our migratory bird resources. The new special Canada goose permits will allow States and their designated agents to conduct management activities as soon as it becomes apparent that resident Canada geese are a problem. The new permits would also rely on a greater application of community standards and preferences by allowing judgments determining appropriate levels of control to be made at a more local level.

The new permits are specifically for the management and control of resident Canada geese (as defined in the rule). We will issue permits to State conservation or wildlife management agencies on a State-specific basis, so States and their designated agents can initiate resident goose damage management and control injury problems within the conditions/restrictions of the permit program. The permits will be restricted to the period between March 11 and August 31. This new special permit will increase the use and availability of control measures, decrease the number of injurious resident Canada geese in localized areas, have little impact on hunting or other recreation dependent on the availability of resident Canada geese, and allow injury/damage problems to be dealt with on the State/local level, thereby resulting in more responsive and timely control activities. The new special permits will further result in biologically sound and more cost-effective and efficient resident Canada goose damage management. Those States not wishing to obtain these new permits would continue to operate under the current permitting process.

#### **What Do States Need To Do To Apply for the New Permits?**

Applications for the new special permit would require several items from the State:

1. A detailed statement estimating the size of the resident Canada goose breeding population in the State;

2. A request for the number of resident Canada geese, including eggs and nests, to be taken;

3. A statement showing that such damage-control actions will either provide for human health and safety or protect personal property, or compelling justification that the permit is needed to allow resolution of other conflicts between people and resident Canada geese; and

4. A statement indicating that the State will inform all designated agents of the permit conditions applying to the implementation of resident Canada goose damage management activities.

#### **What Are the Conditions and Restrictions of the New Permit Program?**

The special resident Canada goose damage-management permits are subject to the following conditions and restrictions:

1. State wildlife agencies (States) may take injurious resident Canada geese as a management tool. States should utilize non-lethal management tools to the extent they consider appropriate in an effort to minimize lethal take.

2. Control activities should not adversely affect other migratory birds or any species designated under the Endangered Species Act as threatened or endangered.

3. States may conduct control activities March 11 through August 31. States should make a concerted effort to limit the take of adult birds to June, July, and August in order to minimize the potential impact on other migrant populations. In areas where the threatened Aleutian Canada goose (*B. c. leucoperia*) has been present during the previous 10 years in California, Oregon and Washington, lethal control activities are restricted to May 1 through August 31. If this subspecies is delisted, we will review this provision.

4. States must conduct control activities clearly as such (e.g., they cannot be set up to provide a hunting opportunity).

5. States cannot use the permits to limit or initiate management actions on Federal land without concurrence of the Federal Agency with jurisdiction.

6. States must properly dispose of or utilize Canada geese killed in control programs. States may donate Canada geese killed under these permits to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, or charities for human consumption. States may also bury or incinerate geese. States may not allow for Canada geese taken under these permits, nor their plumage,

to be sold, offered for sale, bartered, or shipped for purpose of sale or barter.

7. States may use their own discretion for methods of take but utilized methods should be consistent with accepted wildlife-damage management programs.

8. States may designate agents who must operate under the conditions of the State's permit.

9. Any employee/designated agent authorized by the State to carry out control measures under a special permit must have in their possession a copy of the State's permit, and designation, in the case of an agent, while carrying out any control activity.

10. States must keep records of all activities, including those of designated agents, carried out under the special permits. We will require an annual report detailing activities conducted under a permit.

11. We will annually review States' reports and will periodically assess the overall impact of this program to ensure compatibility with the long-term conservation of this resource.

12. States should not construe anything in the permits to authorize the killing of Canada geese contrary to any State law or regulation or on any Federal land without written authorization by the appropriate management authority. Further, States are not authorized to conduct control activities authorized by the permits without any required State permit.

13. We reserve the authority to immediately suspend or revoke any permit if we find that the State has not adhered to the terms and conditions specified in 50 CFR 13.27 and 13.28 or if we determine that the State's population of resident Canada geese no longer poses a threat to human health or safety, to personal property, or of injury to other interests.

#### **How Will This New Permit Actually Affect "On-the-Ground" Resident Canada Goose Control and Management Activities? Will We See a Dramatic Increase In The Use of Control Activities?**

Under the new permits, we expect that the use of resident Canada goose control and management activities, particularly lethal control methods such as egg and nest destruction, will increase. We also expect an initial increase in the lethal control methods associated with hazing techniques of adult birds. However, following this initial increase in control activities, we expect the hazing methods to become more effective and probably result in fewer overall lethal control activities.

#### **Won't This Large-Scale Increased Use of Control Activities Result in Harm to the Population?**

No. We expect these lethal and non-lethal activities to decrease the number of injurious resident Canada geese in localized areas, especially urban and suburban areas. Regionally, we expect little overall impact on the resident Canada goose population because many goose populations have demonstrated the ability to sustain harvest rates in excess of 20 percent. We anticipate the magnitude of any lethal control activities will be well below 20 percent of any State's resident Canada goose breeding population.

#### **Will These New Permits Impact Existing Sport Hunting Opportunities?**

We expect little impact on sport hunting under the new special permits. Resident Canada goose populations in areas targeted for management/control activities are generally those that provide little or no sport hunting opportunities due to restricted access within urban and suburban areas. As such, hunting in these areas is either precluded or severely restricted. We would expect areas and resident Canada goose populations already open to sport hunting to remain open, as special Canada goose season frameworks and guidelines would not change.

#### **What Are Some of the Other Benefits of These New Permits?**

By allowing States and local jurisdictions to deal with injurious resident Canada goose problems, instead of having the Service do so at a regional level, we expect control activities will be more responsive and timely to the problem(s) than is currently the case. Consequently, we expect that with reduced injurious populations and more effective hazing programs, fewer complaints are likely to occur and less resident Canada goose damage is likely.

With State fish and wildlife agencies responding to individual resident Canada goose problems within their respective jurisdictions, our administrative responsibilities for each individual control activity that currently necessitate the determination or issuance of a permit is expected to decrease significantly. Currently, in most instances, we must decide on a case-by-case basis whether a permit should be issued. This new permit would greatly lessen the number of these permits and the associated administrative procedures.

#### **Public Comment**

On September 3, 1996, we issued in the **Federal Register** (61 FR 46431) a

notice of availability of a Draft Environmental Assessment (DEA) on Permits for Control of Injurious Canada Geese and Request for Comments on Potential Regulations. The notice advised the public that we had prepared a DEA. The notice also announced our intent to consider regulatory changes to the process for issuance of permits to control injurious resident Canada geese. We subsequently extended the public comment period on November 12, 1996 (61 FR 58084).

As a result of this invitation for public comment, we received 101 comments including two from Federal agencies, 28 from State wildlife agencies, 24 from private organizations and 47 from private citizens. After consideration of the comments, we revised our DEA.

On March 31, 1998, we published in the **Federal Register** (63 FR 15698) a proposal to establish a Canada goose damage management program (i.e., Special Canada Goose Permit). In response to our proposed rule, we received 465 comments from Federal, State and local agencies, non-governmental organizations, and individuals. In addition, we received several petitions containing 1,674 signatures. We summarize the issues and provide our responses below. We also believe it is important to note that some of the comments we received on the proposed rule were very similar to comments received on the DEA. While we previously responded to these issues in our March 31, 1998 proposed rule, we respond here again as a convenience to the reader.

**Issue:** Many private individuals and several private organizations commented that our Environmental Assessment was insufficient to comply with NEPA requirements, and that we should prepare a full Environmental Impact Statement before taking any action on the program.

**Service Response:** We conducted an Environmental Assessment of alternative regulatory strategies to control and manage resident Canada geese that either pose a threat to health and human safety or cause damage to personal and public property. We considered four alternatives to the way permits for control and management of injurious resident Canada geese are issued:

**Alternative 1.** Continue current permitting procedures as described in 50 CFR part 21. This would be the No Action Alternative.

**Alternative 2.** Add a new permit option specifically for the management of injurious resident Canada geese. The permits would be available to State conservation or wildlife management

agencies on a State-specific basis. Under the permits, States and their designated agents could initiate resident goose damage management and control injury problems within the conditions/restrictions of the program. Such permits would be restricted to the period between March 11 and August 31.

**Alternative 3.** Issue a depredation order allowing State conservation agencies to control resident Canada goose damage. The depredation order would allow States to control injury from resident Canada geese within the conditions/restrictions of the depredation order. Such a depredation order would be restricted to the period between March 11 and August 31.

**Alternative 4.** More restrictive use of permits to control resident Canada goose damage, limited to situations where geese pose a direct threat to human life or safety.

We selected Alternative 2, the addition of a new permit option specifically for resident Canada goose control and management available to State conservation agencies on a State-specific basis. This alternative would increase the use and availability of control measures, decrease the number of injurious resident Canada geese in localized areas, have little impact on hunting or other recreation dependent on the availability of resident Canada geese, and allow injury and damage problems to be dealt with on the State or local level, thereby resulting in more responsive and timely control activities. This alternative would further result in biologically sound and more cost-effective and efficient resident Canada goose damage management.

Based on review and evaluation of comments by the public and information contained in the EA, we determined that the action to amend 50 CFR Part 21 to establish a special Canada goose permit program for the control and management of resident Canada geese would not be a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, we made a Finding of No Significant Impact on this action and determined that preparation of an Environmental Impact Statement was not required. This determination was based on consideration of the following factors which were addressed in the Finding of No Significant Impact and provided below:

1. While the program is State-wide in application, resident Canada goose damage management activities

conducted under the program will likely occur in localized areas only. The control activities resulting from this program would likely occur under individual special permits issued under the current permit regulations contained in 50 CFR part 21.

2. On balance, the impact of the new program will be beneficial in that reducing the number and frequency of injury to human interests will be beneficial to the human environment. However, because of the limited numbers of geese likely to be taken under the program, the benefits will not be significant. Likewise, due to the large and expanding population of resident Canada geese, adverse impacts (taking of individual geese) will not be significant in the context of the human environment.

3. The activities conducted under the program will not significantly affect public health and safety. While we believe that any impacts to public health and safety will be beneficial, impacts will not be significantly beneficial. The program will likely have a beneficial impact on human health and safety through a reduction in the likelihood of bird aircraft strikes, conflicts with people and property, and potential concerns over the transmission of disease to humans.

4. Although there is controversy over the program, it primarily has to do with objections by some groups opposed to any take of Canada geese rather than over the analysis or scientific basis for determining the impacts of our action. While some of these groups are opposed to all goose or other wildlife damage management activities and dispute the actual context of damage, the methods and impacts are generally not controversial among wildlife managers and wildlife damage management experts, nor the general public. All relevant concerns have been addressed in the Environmental Consequences chapter in the Environmental Assessment.

5. The possible effects of the program on the quality of the human environment are not highly uncertain and do not involve unique or unknown risks. The effects and potential risks were determined in the process of development of the Environmental Assessment.

6. The program does not establish a precedent for actions with future significant effects or represent a decision in principle about a future consideration. We have issued similar permits for goose control activities on a case-by-case or State-wide basis and States are currently conducting Canada goose damage management activities

under these permits. Likewise, we have issued similar regulations, in the form of depredation orders, for other species, such as the double-crested cormorant, blackbirds, cowbirds, grackles, crows, and magpies. Any future similar actions, either for Canada geese, or any other migratory bird species, would be analyzed under NEPA, with public involvement, on their own merits.

7. There are no significant cumulative effects identified by this assessment. Under this program, we expect that the use of resident Canada goose control and management activities, particularly lethal control methods such as egg and nest destruction, would increase. Lethal control methods associated with hazing techniques of adult birds would also be expected to initially increase. However, following this initial increase, continual use of hazing methods should become more effective and may result in fewer overall lethal control activities. Such lethal and nonlethal activities would be expected to decrease the number of injurious resident Canada geese in specific localized areas, especially urban and suburban areas. Regionally and nationally, we expect little overall population impact because many Canada goose populations have demonstrated the ability to sustain harvest rates in excess of 20 percent. We anticipate that the magnitude of any lethal control activities will be well below 20 percent of any State's resident Canada goose breeding population. As discussed in the Environmental Assessment, we expect the program to slow the overall population growth rate and address specific localized injurious population, but not significantly impact the overall population.

8. The program will fully comply with the Endangered Species Act of 1973, as amended. The Service determined that the program is not likely to adversely affect the Aleutian Canada goose, a Federally listed threatened species.

9. The program will not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The EA and Finding of No Significant Impact are available to the public at the location indicated under the **ADDRESSES** caption.

*Issue:* Some commenters expressed concern that we did not have the authority under the Migratory Bird Treaty Act (MBTA) and subsequent regulations to allow non-Service entities (i.e., States) to issue permits. Many saw this as an attempt to abrogate our goose-management responsibility.

*Service Response:* As we indicated in the proposed rule, we will utilize a process whereby permits are only issued

to State conservation or wildlife management agencies responsible for migratory bird management. State conservation agency employees or their designated agents could then carry out resident Canada goose damage management and control injurious problems within the conditions/restrictions of the permit program. This process is essentially no different than the current permitting process contained in 50 CFR part 21.

*Issue:* A large number of comments challenged the notion that there are in fact "injurious" Canada geese and that the entire concept and definition of "resident" Canada geese is invalid. Some commenters saw the new permit program as a mechanism to remove Canada geese from the protection afforded them under the Migratory Bird Treaty (Treaty).

*Service Response:* We strongly disagree with these assertions and have included data in the EA that demonstrate the impact of resident Canada goose populations on personal property, agricultural commodities, and health and human safety. In addition, data is presented that clearly points out that Canada goose populations do nest in parts of the conterminous United States during the spring and summer and that these birds are increasingly causing injury to people and property. Furthermore, we are not redefining what is or is not a migratory bird under the Treaty. Canada geese are clearly protected by the Treaty and will continue to be. We are using the term "resident" to identify those commonly injurious Canada geese that will be the subject of permitted control activities within the scope of the Treaty. Additionally, in response to comments, we have clarified the definition of "resident geese" to read: 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.

*Issue:* Several commenters believed the Treaty only authorizes the killing of migratory birds if they are seriously injurious to commercial interests, not personal property.

*Service Response:* Article VII of the Treaty states, "Permits to kill any of the above named birds, which under extraordinary conditions may become seriously injurious to the agricultural or other interests in any particular community (emphasis added), may be issued by the proper authorities \* \* \*". We believe that resident Canada goose populations have reached this level. The information available to us as discussed

in the **SUPPLEMENTARY INFORMATION**, and in the Environmental Assessment accompanying this action, demonstrates that the current population levels are causing serious injury to increasing numbers of people and property. The Treaty does not limit the "interests" to be protected to those that are commercial. Rather, it provides the High Contracting Parties broad authority to address any affected interests. Therefore, we believe that establishment and implementation of this permit program is in accordance with the terms of the Treaty.

*Issue:* Some commenters questioned the actual risks posed by Canada geese on human health and safety.

*Service Response:* Although the human health and safety risks associated with resident Canada geese are difficult to quantify, we believe that the available data clearly indicate the potential negative impacts on health and safety issues (APHIS/WS, 1999). While we agree that the risk to human health from pathogens originating from geese is currently believed to be low, we are only beginning to understand these risks. Additional research is needed to assist in the quantification and understanding of these processes. Further, it is clear from bird-aircraft strike data that resident Canada geese can cause significant aircraft safety concerns. We believe that increasingly large populations of geese, especially in localized areas, only serve to increase the uncertainty associated with these risks.

*Issue:* A large number of commenters questioned the validity of resident Canada goose damage estimates supplied by APHIS/WS.

*Service Response:* According to APHIS/WS (1999), each damage report received is questioned for both scope and magnitude in order to determine reasonable and practical solutions to reduce damage. Preference is given to non-lethal alternatives. However, if capture and euthanasia are ultimately requested or recommended, APHIS/WS makes a site visit to verify damage and ensure some non-lethal methods have been tried and were ineffective to adequately reduce the damage. We believe APHIS/WS's approach is appropriate.

*Issue:* Several commenters believed the permit process does not allow adequate Federal oversight.

*Service Response:* We disagree. State applications for the special permits require several detailed statements regarding the size of the resident Canada goose breeding population in the State and the number of resident Canada geese, including eggs and nests, to be

taken. In addition, the State must show that such damage-control actions will either provide for human health and safety or protect personal property, or compelling justification that the permit is needed to allow resolution of other conflicts between people and resident Canada geese. Any failure to follow these application procedures results in a rejected application. Further, after issuance of a permit, the State and its designated agents must follow the permit restrictions and report all activities conducted under the permit. As always, we retain the right to immediately revoke any permit violated. This process is essentially no different than the current permit-issuance system contained in 50 CFR part 21.

*Issue:* Some commenters stated that the time period associated with damage management control is too restrictive.

*Service Response:* We acknowledge that complaints about injurious geese are increasing outside the time frame covered by the special permit. The permit program is designed to specifically address problems caused by resident geese during the time period when hunting seasons cannot be opened. We will continue to address injurious goose problems not covered within the permit time frame on a case-by-case basis.

*Issue:* Several commenters recommended the issuance of permits for a period of 5 years rather than 3 years.

*Service Response:* We concur that permits could reasonably be issued for a period of 5 years given timely submission of annual reports documenting the actions taken under authority of the permit. However, failure to submit complete annual reports may result in suspension or revocation of the permit.

*Issue:* Several commenters recommended elimination of the paperwork and reporting requirements.

*Service Response:* Information specific to the applicant State's population of resident Canada geese and the take requested is vital to the application and ultimate decision on a permit. The reporting requirement is essential for us to be able to monitor the action and assess possible impacts to the population. Additionally, we will utilize this information and other pertinent biological and population-specific data as the basis for determining the permitted take.

*Issue:* Several commenters stated that the special permit was unacceptable because it merely shifts costs and workload from the Federal level to the State level without providing additional funds to the States.

*Service Response:* We are not obligating States to apply for this new permit. States may continue to handle injurious goose situations with the current permitting system on a case-by-case basis.

*Issue:* Several commenters suggested that conditioning the permit whereby taking Canada geese could occur ". . . only after applicable non-lethal alternatives means . . . have proven to be unsuccessful or not feasible" is too restrictive.

*Service Response:* We never intended that a State would need to prove the need for lethal control at each site before implementation of lethal control techniques. We believe this decision should be based on the experience and judgement of professional wildlife managers on-site. Thus, we have amended the wording of 21.26(c)(1)(I) to read as follows: "Take of resident Canada geese as a management tool pursuant to 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."

*Issue:* Several commenters requested clarification that research activities are not included as a part of the proposed permit program.

*Service Response:* Because the permit program is for the purpose of resolving injurious behavior of resident Canada geese, it is clear that scientific research is not covered. All researchers who are not Federal employees must have a scientific collecting permit to take any migratory birds. We believe additional wording to clarify this point is unnecessary.

*Issue:* Several commenters requested clarification of designated agents and use of APHIS/WS as designated agents.

*Service Response:* "Designated agents" means individuals or organizations and their employees who have written authority from the State wildlife management agency (permit holder) to implement State-approved resident Canada goose control measures. Thus, States could utilize APHIS/WS as a designated agent.

*Issue:* Some commenters were concerned that the new permit process does not allow more hunting opportunity.

*Service Response:* The purpose of the new special permit program is to resolve injurious resident Canada goose problems, not create more hunting opportunity. More specifically, the permit program is designed to address problems caused by resident geese during the time period when hunting seasons cannot be opened. For those

States wishing to primarily handle injurious resident populations through sport hunting, sufficient hunting opportunities designed to target resident Canada goose populations, while protecting migrant populations, exist in the current hunting season frameworks.

*Issue:* Several commenters believed that the size of the resident goose population in the State has little to do with the population causing a problem in a localized area.

*Service Response:* We designed the new special permit program to allow those States with widespread injurious goose problems the latitude to deal with those problems on a broader management basis than the current case-by-case basis. We believe the State wildlife agency is the logical authority, within the context of the new special permit's guidelines, to determine the proper goose management control activities for the State's resident Canada goose population, including those smaller, more localized populations. However, the new permit program does not preclude a State from applying for a depredation permit under the current permit regulations to deal with a specific localized injurious goose problem. In fact, we realize that injurious situations will continue to occur outside of the March 11 to August 31 time period allowed under the new permit program. We will continue to deal with these situations on a case-by-case basis. Furthermore, as we stated earlier, information on the State's goose population is an essential part of the basis for our permit decisions and our long-term monitoring of the population.

*Issue:* Several commenters were concerned that this action establishes a precedent for future actions.

*Service Response:* We reiterate that this program does not establish a precedent for actions with future significant effects or represent a decision in principle about a future consideration. As we stated earlier, in the past, we have issued similar permits for goose control activities on a case-by-case or State-wide basis. States are currently conducting Canada goose damage management activities under these permits. Likewise, we have issued similar regulations, in the form of either depredation orders or permits, for other species, such as the double-crested cormorant, blackbirds, cowbirds, grackles, crows, and magpies. Any future similar actions, either for Canada geese, or any other migratory bird species, would be analyzed under NEPA, with public involvement, on their own merits.

*Issue:* A large number of commenters indicated that they are philosophically



opposed to the killing of Canada geese and any other "inhumane" treatments of these birds. They expressed preferences for non-lethal solutions to all resident Canada goose/human conflicts and pointed out that people need to be more tolerant of wildlife. Some commenters also opposed the removal of geese on the grounds that these management actions were only short-term solutions.

**Service Response:** We are also opposed to the inhumane treatment of any birds, but do not believe the capture and relocation, or processing for human consumption, of resident Canada geese from human conflict areas is by definition "inhumane." Over the past few years, States have rounded up thousands of problem resident Canada geese and relocated them to unoccupied sites. However, few such unoccupied sites remain. Therefore, we believe that humane lethal control of some geese is an appropriate part of an integrated resident Canada goose damage and control management program.

We also prefer non-lethal control activities, such as habitat modification, as the first means of eliminating resident Canada goose conflict and damage problems and have specified language to this effect in the final regulations. However, habitat modification and other harassment tactics do not always work satisfactorily and lethal methods are sometimes necessary to increase the effectiveness of non-lethal management methods.

There are many situations where resident Canada geese have created injurious situations and damage problems that few people would accept if they had to deal directly with the problem situation. We continue to encourage state wildlife management agencies to work with not only the local citizens impacted by the management actions but all citizens. While it is unlikely that all resident Canada goose/human conflicts can be eliminated in all urban settings, implementation of broad-scale resident Canada goose management activities may result in an overall reduced need for other management actions, such as large-scale goose round-ups and lethal control.

**Issue:** Some commenters indicated that they were concerned about the potential loss of aesthetic value if Canada geese were removed from areas.

**Service Response:** While we attempted to consider the views of all those concerned, we admit that this was difficult given the highly variable values people place on geese and other wildlife. Some commenters conveyed their pleasure and appreciation for being able to see geese locally in their neighborhood. However, we must weigh

these benefits with the views of other commenters who wanted to see fewer geese because of the damage, including loss in the aesthetic value, being caused by excessive numbers of geese on personal and public property.

**Issue:** Several commenters believed that the special permit fell far short of providing the States with more authority and less burdensome regulations. Further, it does not provide States with enough management flexibility. They believed a depredation order approach would be a more cost-effective/efficient means to manage injurious resident Canada Geese.

**Service Response:** As we indicated in the proposed rule, we included the depredation order alternative in the EA. However, while we agree that depredation orders in other circumstances have proven to be valuable tools in wildlife damage management, we believe that management of resident Canada geese deserves special attention and consideration which, at this time, is best provided by the special Canada goose permit program. We believe that the special Canada goose permit program will provide the management flexibility needed to address this serious problem and at the same time simplify the procedures needed to administer this program. The special Canada goose permit program will satisfy the need for an efficient and cost-effective program while allowing us to maintain management control.

However, in the long-term, we realize that more management flexibility will likely be necessary. Because of the unique locations where large numbers of these geese nest, feed, and reside, we believe that new and innovative approaches to dealing with bird/human conflicts will be needed. In order to best deal with this problem, we have begun to develop a short-term and long-term strategy. In the short-term, these regulations to create and issue a new special permit specifically for resident Canada goose control and damage management will significantly reduce Service administrative costs for this activity, provide quicker response to injurious situation and more effectively control resident Canada goose populations throughout the conterminous United States. In the long-term, we have recently begun the initial groundwork, with the full assistance and cooperation of the Flyway Councils and APHIS/WS, to integrate our management of these birds into a larger Flyway management plan system. We believe the end result of this approach should provide States with more management flexibility and authority to

deal with resident Canada geese within their State while increasing the commitment to establish population goals and objectives, management planning, and population monitoring.

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### Effective Date

Under the Administrative Procedures Act (5 U.S.C. 553 (d)) we waive the 30-day period before the rule becomes effective and find that “good cause” exists, within the terms of 5 U.S.C. 553(d)(3) of the APA, and so this rule will take effect immediately upon publication. It is not in the public interest to delay the effective date of this rule. In many parts of the country, especially the northeastern and mid-western States, locally-breeding Canada geese have already nested and produced broods. Molting will soon take place (typically mid-June to mid-July) and any delay in the effective date of this rule could reduce the effectiveness of potential damage management actions for this year. It is in the best interest of the public to establish this new special permit program to allow State wildlife agencies the ability to reduce the number and frequency of injurious resident Canada geese. It is also in the best interest of the public to provide alternative regulatory options to address the problem of overabundant resident Canada geese that may affect the public's health and safety.

### NEPA Considerations

We prepared an Environmental Assessment (EA), as defined under the authority of the National Environmental Policy Act of 1969, in connection with this regulation. Based on review and evaluation of the information contained in the EA, we determined that the proposed action to amend 50 CFR Part 21 to establish a special Canada goose permit for the control and management of resident Canada geese would not be a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, we made a Finding of No Significant Impact on this action and determined that preparation of an Environmental Impact Statement was not required. The EA is available to the

public at the location indicated under the ADDRESSES caption.

### Endangered Species Act Consideration

Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, “The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act” (and) shall “ensure that any action authorized, funded or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat \* \* \*”. Consequently, we initiated Section 7 consultation under the ESA for this rulemaking. You may inspect completed results of our consultation under Section 7 of the ESA at the location indicated under the ADDRESSES caption.

### Paperwork Reduction Act and Information Collection

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted the necessary paperwork to the Office of Management and Budget (OMB) for approval to collect the information required by the applicant and permittee. Under the Act, OMB must approve information collections. After review, OMB approved the information collection requirements of the Special Canada Goose Permit and assigned clearance number 1018–0099. We will use the information collection requirement to administer this program and in the issuance and monitoring of these special permits. 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.

### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities. We determined that this rulemaking would not have a significant effect on a substantial number of small entities, which include small businesses, organizations and small governmental jurisdiction. This rule will only effect State wildlife agencies responsible for migratory bird management that wish to initiate a resident Canada goose control and damage management program within our guidelines. We anticipate that less than 45 applicants will annually apply. Therefore, this rule will have minimal effect on small entities.

### Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

### Executive Order 12866

We determined that this rule is not significant under the definition in Executive Order 12866, and therefore, not subject to OMB review.

### Unfunded Mandates

We determined and certify in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

### Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

### List of Subjects in 50 CFR Part 21

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

Accordingly, we hereby amend part 21 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

### PART 21—[AMENDED]

1. The authority for part 21 continues to read as follows:

**Authority:** Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

2. Amend § 21.3 by adding alphabetically definitions for “Resident Canada geese” and “Service.”

#### § 21.3 Definitions.

\* \* \* \* \*

*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.

3. Add a new § 21.26 to read as follows:

#### § 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 § 13.11(b) of this subchapter) containing the general information and certification required by § 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. leucoparia*) 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 § 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 § 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.

Dated: June 9, 1999

**Donald J. Barry,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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