Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this notice and an electronic copy of the proposed heavy-duty OBD and associated service information availability requirements can be found at *http://www.epa.gov/obd/regtech/heavy.htm.* The request from the Engine Manufacturers Association to extend the comment period can be found in the docket with the document ID number EPA–HQ–OAR–2005–0047–0016.

Dated: March 16, 2007.

Margo T. Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. E7–5266 Filed 3–21–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–AV15

Migratory Bird Permits; Regulations for Managing Resident Canada Goose Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: On August 10, 2006, the U.S. Fish and Wildlife Service (Service or ''we'') published a final rule on resident Canada goose management. This proposed rule clarifies and slightly modifies several program requirements regarding eligibility, definitions, methodologies, and dates.

DATES: Comments on this proposed rule must be received by April 23, 2007.

ADDRESSES: You may submit comments, identified by RIN 1018–AV15, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Fax: (703) 358–2217.

Mail: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP 4107, Arlington, Virginia 22203–1610.

Hand Delivery: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203–1610.

Instructions: All submissions received must include Regulatory Information Number (RIN) 1018–AV15 at the beginning. All comments received, including any personal information provided, will be available for public inspection at the address given above for hand delivery of comments. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading in the **SUPPLEMENTARY INFORMATION** section of this document.

You may obtain copies of the Final Environmental Impact Statement (FEIS) on resident Canada goose management from the above address or from the Division of Migratory Bird Management Web site at *http://fws.gov/migratorybirds/issues/cangeese/finaleis.htm.*

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358–1714 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Authority and Responsibility

Migratory birds are protected under four bilateral migratory bird treaties the United States entered into with Great Britain (for Canada in 1916 as amended in 1999), the United Mexican States (1936 as amended in 1972 and 1999), Japan (1972 as amended in 1974), and the Soviet Union (1978). Regulations allowing the take of migratory birds are authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712). The Migratory Bird Treaty Act (Act), which implements the above-mentioned treaties, provides that, subject to and to carry out the purposes of the treaties, the Secretary of the Interior is authorized and directed to determine when, to what extent, and by what means allowing hunting, killing, and other forms of taking of migratory birds, their nests, and eggs is compatible with the conventions. The Act requires the Secretary to implement a determination by adopting regulations permitting and governing those activities.

Canada geese are Federally protected by the Act by reason of the fact that they are listed as migratory birds in all four treaties. Because Canada geese are covered by all four treaties, regulations must meet the requirements of the most restrictive of the four. For Canada geese, this is the treaty with Canada. All regulations concerning resident Canada geese are compatible with its terms, with particular reference to Articles VII, V, and II.

Each treaty not only permits sport hunting, but permits the take of migratory birds for other reasons, including scientific, educational, propagative, or other specific purposes consistent with the conservation principles of the various Conventions. More specifically, Article VII, Article II (paragraph 3), and Article V of ''The Protocol Between the Government of the United States of America and the Government of Canada Amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States'' provides specific limitations on allowing the take of migratory birds for reasons other than sport hunting. Article VII authorizes permitting the take, kill, etc., of migratory birds that, under extraordinary conditions, become seriously injurious to agricultural or other interests. Article V relates to the taking of nests and eggs, and Article II, paragraph 3, states that, in order to ensure the long-term conservation of migratory birds, migratory bird populations shall be managed in accord with listed conservation principles.

The other treaties are less restrictive. The treaties with both Japan (Article III, paragraph 1, subparagraph (b)) and the Soviet Union (Article II, paragraph 1, subparagraph (d)) provide specific exceptions to migratory bird take prohibitions for the purpose of protecting persons and property. The treaty with Mexico requires, with regard to migratory game birds, only that there

be a ''closed season'' on hunting and that hunting be limited to 4 months in each year.

Regulations governing the issuance of permits to take, capture, kill, possess, and transport migratory birds are promulgated in title 50, Code of Federal Regulations (CFR), parts 13 and 21, and issued by the Service. The Service annually promulgates regulations governing the take, possession, and transportation of migratory birds under sport hunting seasons in 50 CFR part 20.

Background

On August 10, 2006, we published in the **Federal Register** (71 FR 45964) a final rule establishing regulations in 50 CFR parts 20 and 21 authorizing State wildlife agencies, private landowners, and airports to conduct (or allow) indirect and/or direct population control management activities, including the take of birds, on resident Canada goose populations. Since publication of the August 10 rule, several questions and issues have been raised by the public regarding various restrictions and requirements of the new regulations. This proposed rule clarifies and slightly modifies several program requirements regarding eligibility, definitions, methodologies, and dates.

Definition of Resident Canada Geese

The current definition of resident Canada geese contained in § 20.11 and § 21.3 states that ''Canada geese that nest within the lower 48 States in the months of March, April, May, or June, or reside within the lower 48 States and the District of Columbia in the months of April, May, June, July, or August'' are considered resident Canada geese. The proposed change would modify the first portion of this definition by inserting ''add the District of Columbia'' following the word ''States'' to clarify that those Canada geese that nest within the District of Columbia in the months of March, April, May, or June, are included. It was not our original intention to exclude them from the definition.

Expanded Hunting Methods During September Special Seasons

One of the components in the resident Canada goose management program is to provide expanded hunting methods and opportunities to increase the sport harvest of resident Canada geese above that which results from existing September special Canada goose seasons. The regulatory changes in § 20.21(b) and (g) codified in the August 10 final rule provide State wildlife management agencies and Tribal entities the option of authorizing the use of electronic calls and unplugged shotguns during the first portion of existing, operational September Canada goose seasons (i.e., September 1–15). The August 10 final rule also stated that utilization of these additional hunting methods during any new special seasons or other existing, operational special seasons (i.e., September 16–30) could be approved by the Service and would require demonstration of a minimal impact to migrant Canada goose populations. Further, these seasons would be authorized on a case-by-case basis through the normal migratory bird hunting regulatory process. All of these expanded hunting methods and opportunities must be conducted outside of any other open waterfowl season (i.e., when all other waterfowl and crane hunting seasons were closed).

However, the regulatory changes codified in the August 10 final rule did not allow for utilization of these additional hunting methods outside of the September 1–15 period, although this was clearly our intent. We propose to modify § 20.21(b) and (g) to allow State selection of these expanded hunting methods during the September 16–30 period, when approved in the annual regulatory schedule in subpart K of part 20.

Clarification of Airports' Radius

Since publication of the August 10 final rule we have received questions regarding interpretation of the 3-mile radius restriction on resident Canada goose activities at airports and military airfields. We propose a change to clarify this restriction by inserting the term ''boundary'' at the end of the first sentence. Thus, resident Canada goose management activities at airports and military airfields would be restricted to a radius of 3 miles from the airports' boundaries.

Eligibility and Participation in the Nest and Egg Depredation Order

Currently, § 21.50 authorizes private landowners and managers of public lands to destroy resident Canada goose nests and eggs on property under their jurisdiction when necessary to resolve or prevent injury to people, property, agricultural crops, or other interests. We propose modifying this eligibility to include also homeowners' associations and village, town, municipal, and county governments (collectively termed local governments). Homeowners' associations and local governments would be allowed to register under the nest and egg depredation order and conduct nest and egg destruction anywhere within their jurisdiction, provided that they have landowner permission to conduct such activities.

Our proposal is based on several factors. First, we currently issue individual depredation permits allowing resident Canada goose nest and egg destruction to these groups, particularly in the northeastern United States. We believe the extension of eligibility to these groups to operate under the nest and egg depredation order is not outside the intent of the depredation order, is formalization of an already established practice under our permit system, and is simply an administrative modification. Second, since the publication of the August 10 rule, we have received numerous public comments requesting this modification. Modification of this requirement would help ensure public satisfaction and satisfy our original objective of providing affected States and the public with flexibility sufficient to deal with the problems caused by resident Canada geese. Lastly, since local governments are in an obvious position of local authority and jurisdiction, we believe they are a logical extension of our existing landowner definition. The proposed changes would include referring to these persons and entities collectively as ''registrants.'' Necessary conforming changes in a number of subsections also would be made.

Nest and Egg Destruction Methodologies Under Section 21.50

We propose to modify the approved methodologies for nest and egg destruction under the depredation order for resident Canada geese nests and eggs in § 21.50(d)(3). Currently, the regulations state that eggs may be oiled or eggs and nest material may be removed and disposed of. All of the other depredation and control orders pertaining to resident Canada geese (§§ 21.49, 21.51, and 21.52) allow egg oiling and egg and nest destruction. We believe the latter language is more comprehensive and includes such methodologies as egg addling (egg shaking), puncturing, and egg replacement. It was not our intent to be more restrictive regarding nest and egg destruction methodologies under the nest and egg depredation order than the other resident Canada goose depredation and control orders or what we currently allow on permits allowing nest and egg destruction. We believe this modification is minor in nature, satisfies numerous public requests for clarification and alignment, simplifies restrictions, and maintains the original intent of the regulation.

Web Address Under Section 21.50

We have modified the Web address for registering and submitting annual reports of the take of nests and eggs under the depredation order for resident Canada geese nests and eggs in § 21.50(d)(1) and (6).

Applicable Dates of Section 21.61 Population Control

We have corrected § 21.61(d)(2) to read ''August 31'' rather than ''August 30.'' This was strictly an oversight.

Public Participation

You may submit written comments on this proposal to the location identified in the **ADDRESSES** section, or you may submit electronic comments to the Internet address listed in the **ADDRESSES** section. We must receive your comments before the date listed in the **DATES** section. Following review and consideration of comments, we will issue a final rule on the proposed regulation changes.

When submitting electronic comments, please include your name and return address in your message, identify it as comments on the resident Canada goose management regulations change, and submit your comments as an ASCII file. Include RIN 1018–AV15 in the subject line of your message. Do not use special characters or any encryption.

When submitting written comments, please include your name and return address in your letter and identify it as comments on the resident Canada goose management regulations change, RIN 1018–AV15. You must submit written comments on 8½-inch-by-11-inch paper.

All comments on the proposed rule will be available for public inspection during normal business hours at Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia 22203–1610.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

NEPA Considerations

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), we published the availability of a DEIS on March 7, 2002 (67 FR 10431), followed by a 91-day comment period. We subsequently reopened the comment period for 60 additional days (68 FR 50546, August 21, 2003). On November 18, 2005, both the Service and the Environmental Protection Agency published notices of availability for the FEIS in the **Federal Register** (70 FR 69966 and 70 FR 69985). On August 10, 2006, we published our Record of Decision (ROD) in the **Federal Register** (71 FR 45964). The FEIS is available to the public (see **ADDRESSES**). The proposed changes to the resident Canada goose regulations fall within the scope of the FEIS.

Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that ''Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *.'' We completed a biological evaluation and informal consultation (both available upon request; see **ADDRESSES**) under Section 7 of the ESA for the action described in the August 10 final rule. In the letter of concurrence between the Division of Migratory Bird Management and the Division of Endangered Species, we concluded that the inclusion of specific conservation measures in the final rule satisfied concerns about certain species and that the action was not likely to adversely affect any threatened, endangered, or candidate species.

Prior to issuance of any final rule on these proposed modifications, we will comply with provisions of the ESA, to ensure that these proposed modifications and clarifications are not likely to adversely affect any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. As such, we have requested a letter of concurrence from the Division of Endangered Species on these proposed changes.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for actions that will have a significant economic impact on a substantial number of small entities, which includes small businesses, organizations, or governmental jurisdictions. We discussed these impacts in the August 10 final rule. For the reasons detailed in that rule, we have determined that a Regulatory Flexibility Act analysis is not required.

Executive Order 12866

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

Small Business Regulatory Enforcement Fairness Act

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

Paperwork Reduction Act and Information Collection

This proposed rule does not contain any new information collection or recordkeeping requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). OMB has approved and assigned control number 1018–0133, which expires on 08/31/2009, to the regulations concerning the control and management of resident Canada geese. We may not conduct or sponsor

and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

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

Civil Justice Reform—Executive Order 12988

We have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. We do not anticipate that this rule will require any additional involvement of the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

Takings Implication Assessment

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

Federalism Effects

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

The August 10 final rule and this proposed rule were developed following extensive input from the Flyway Councils, States, and Wildlife Services. Individual Flyway management plans were developed and approved by the four Flyway Councils, and States actively participated in the scoping process for the DEIS. This rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. The rule allows States the latitude to develop and implement their own resident Canada goose management action plan within the frameworks of the selected alternative. Therefore, in accordance with Executive Order 13132, this rule does not have significant federalism effects and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that this rule has no effects on Federally-recognized Indian tribes.

Energy Effects—Executive Order 13211

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

List of Subjects in 50 CFR Parts 20 and 21

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

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

PART 20—[AMENDED]

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

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

§ 20.11 What terms do I need to understand?

* * * * *

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

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

§ 20.21 What hunting methods are illegal?

* * * * *

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

(1) A light-goose-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Central and Mississippi Flyway portions of 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) A Canada goose only season when all other waterfowl and crane hunting seasons, excluding falconry, are closed in the Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine,

Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming, as set forth below:

(i) During the period of September 1 to September 15; and

(ii) During the period of September 16 to September 30, when approved in the annual regulatory schedule in subpart K of this part.

* * * * *

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

(1) A light-goose-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Central and Mississippi Flyway portions of 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) A Canada goose only season when all other waterfowl and crane hunting seasons, excluding falconry, are closed in the Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming, as set forth below:

(i) During the period of September 1 to September 15; and

(ii) During the period of September 16 to September 30, when approved in the annual regulatory schedule in subpart K of this part.

* * * * *

PART 21—[AMENDED]

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

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

5. In subpart A, amend § 21.3 by revising the definition for ''Resident Canada geese'' to read as follows:

§ 21.3 Definitions.

* * * * *

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

* * * * *

6. In subpart D, amend § 21.49 by revising paragraph (d)(5) to read as follows:

§ 21.49 Control order for resident Canada geese at airports and military airfields.

* * * * *

(d) * * *

(5) Resident Canada geese may be taken only within a 3-mile radius of the airport's or military airfield's boundary. Airports and military airfields or their agents must first obtain all necessary authorizations from landowners for all management activities conducted outside the airport or military airfield's boundaries and be in compliance with all State and local laws and regulations.

* * * * *

7. In subpart D, amend § 21.50 by revising paragraphs (b), (c), (d)(1) through (d)(7), the introductory text of (d)(8), and (e) to read as follows:

§ 21.50 Depredation order for resident Canada geese nests and eggs.

* * * * *

(b) *What is the depredation order for resident Canada geese nests and eggs, and what is its purpose?* The nest and egg depredation order for resident Canada geese authorizes private landowners and managers of public lands (landowners); homeowners' associations; and village, town, municipality, and county governments (local governments); (and the employees or agents of any of these persons or entities) to destroy resident Canada goose nests and eggs on property under their jurisdiction when necessary to resolve or prevent injury to people, property, agricultural crops, or other interests.

(c) *Who may participate in the depredation order?* Only landowners, homeowners' associations, and local governments (and their employees or their agents) in the lower 48 States and the District of Columbia are eligible to implement the resident Canada goose nest and egg depredation order.

(d) * * *

(1) Before any management actions can be taken, landowners, homeowners' associations, and local governments must register with the Service at *https://epermits.fws.gov/eRCGR.* Landowners, homeowners' associations, and local governments (collectively termed ''registrants'') must also register each employee or agent working on their behalf. Once registered, registrants and agents will be authorized to act under the depredation order.

(2) Registrants authorized to operate under the depredation order must use nonlethal goose management techniques to the extent they deem appropriate in an effort to minimize take.

(3) Methods of nest and egg destruction or take are at the registrant's discretion from among the following:

(i) Egg oiling, using 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, and

(ii) Egg and nest destruction, including but not limited to the removal and disposal of eggs and nest material.

(4) Registrants may conduct resident Canada goose nest and egg destruction activities between March 1 and June 30. Homeowners' associations and local governments or their agents must obtain landowner consent prior to destroying nests and eggs on private property within the homeowners' association or local government's jurisdiction and be in compliance with all State and local laws and regulations.

(5) Registrants authorized to operate under the depredation order may possess, transport, and dispose of resident Canada goose nests and eggs taken under this section. Registrants authorized to operate under the program may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada goose nest or egg taken under this section.

(6) Registrants exercising the privileges granted by this section must submit an annual report summarizing activities, including the date, numbers, and location of nests and eggs taken by October 31 of each year at *https://epermits.fws.gov/eRCGR* before any subsequent registration for the following year.

(7) Nothing in this section authorizes the destruction of resident Canada goose nests or the take of resident Canada goose eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the registrant is

authorized to operate under the program and possesses the appropriate State or Tribal permits, when required. Moreover, this section does not authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

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

* * * * *

(e) *Can the depredation order be suspended?* We reserve the right to suspend or revoke this authorization for a particular landowner, homeowners' association, or local government if we find that the registrant has not adhered to the terms and conditions specified in the depredation order. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§ 13.27 through 13.29 of this subchapter. For the purposes of this section, ''issuing officer'' means the Regional Director and ''permit'' means the authority to act under this depredation order. For purposes of § 13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada goose populations no longer need to be reduced in order to resolve or prevent injury to people, property, agricultural crops, or other interests, we may choose to terminate part or all of the depredation order by subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the depredation order.

* * * * *

8. In subpart E, amend § 21.61 by revising paragraph (d)(2) to read as follows:

§ 21.61 Population control of resident Canada geese.

* * * * *

(d) * * *

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

* * * * *

Dated: March 6, 2007.

David M. Verhey,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–5199 Filed 3–21–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 070125020–7020–01; I.D. 010907A]

RIN 0648–AV15

Protective Regulations for Killer Whales in the Northwest Region under the Endangered Species Act and Marine Mammal Protection Act

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We, the National Marine Fisheries Service (NMFS), listed the Southern Resident killer whale distinct population segment (DPS) as endangered under the Endangered Species Act (ESA) on November 18, 2005. In the final rule announcing the listing, we identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Both the Marine Mammal Protection Act (MMPA) and the ESA prohibit take, including harassment, of killer whales, but these statutes do not prohibit specified acts. We are considering whether to propose regulations that would prohibit certain acts, under our general authorities under the ESA and MMPA and their implementing regulations. The Proposed Recovery Plan for Southern Resident killer whales (published November 29, 2006) includes as a management action the evaluation of current guidelines and the need for regulations and/or protected areas. The scope of this advance notice of proposed rulemaking (ANPR) encompasses the activities of any person or conveyance that may result in the unauthorized taking of killer whales and/or that may cause detrimental individual-level and population-level impacts. NMFS requests comments on whether—and if so, what type of—conservation measures, regulations, or other measures would be appropriate to protect killer whales from the effects of these activities.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) no later than June 20, 2007. Public meetings have been scheduled for April 18, 2007, 2–4 p.m. in The Grange Hall, Friday Harbor, WA and April 19, 2007, 7–9 p.m. at the Seattle Aquarium, Seattle, WA. Requests for additional public meetings must be made in writing by April 23, 2007.

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: *orca.plan@noaa.gov*.
- Federal e-rulemaking Portal: *http://www.regulations.gov*.
- Mail: Assistant Regional Administrator, Protected Resources Division, Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Lynne Barre, Northwest Regional Office, 206–526–4745; or Trevor Spradlin, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

Viewing wild marine mammals is a popular recreational activity for both tourists and locals. In Washington, killer whales (*Orcinus orca*) are the principal target species for the commercial whale watch industry—easily surpassing other species, such as gray whales (*Eschrichtius robustus*), porpoises, and pinnipeds (Hoyt, 2001). NMFS is concerned that some whale watch activities may cause unauthorized taking of killer whales or cause detrimental individual-level and population-level impacts.

Killer whales in the eastern North Pacific have been classified into three forms, or ecotypes, termed residents, transients, and offshore whales. Resident killer whales in the North Pacific consist of the following groups: Southern, Northern, Southern Alaska (includes Southeast Alaska and Prince William Sound whales), Western Alaska, and Western North Pacific Residents. The Southern Resident killer whale population contains three pods—J pod, K pod, and L pod and was designated as a depleted stock under the MMPA and listed as endangered under the ESA.

During the spring, summer, and fall, the Southern Residents' range includes the inland waterways of Puget Sound, Strait of Juan de Fuca, and Southern Strait of Georgia. Their occurrence in the coastal waters off Oregon, Washington, Vancouver Island, and more recently off the coast of central California in the south and off the Queen Charlotte Islands to the north has