

Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service.

(2) Double-crested cormorants may be taken only by shooting with firearms, including rifles. Persons using shotguns are required to use nontoxic shot as listed in 50 CFR 20.21(j).

(3) Persons operating under this depredation order may use decoys, taped calls, or other devices to lure within gun range birds committing or about to commit depredations.

(4) Persons operating under this depredation order must obtain appropriate landowner permission before implementing activities authorized by the order.

(5) Double-crested cormorants may not be killed contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State or other permits, if required.

(6) Persons operating under this depredation order must properly dispose of double-crested cormorants killed in control efforts:

(i) Individuals may donate birds killed under authority of this order to museums or other such scientific and educational institutions for the purposes of scientific or educational exhibition. Recipients of such donations must have a scientific collecting permit as outlined in 50 CFR 21.23;

(ii) Individuals may also bury or incinerate birds taken; and

(iii) Individuals may not allow birds taken under this order, or their plumage, to be sold, offered for sale, bartered, or shipped for purpose of sale or barter.

(7) Nothing in this depredation order authorizes the take of any migratory bird species other than double-crested cormorants. Two look-alike species co-occur with double-crested cormorants in the southeastern States, the anhinga, which occurs across the southeastern United States, and the neotropic cormorant, which is found in varying numbers in Texas, Louisiana, and Oklahoma. Both species can be mistaken for double-crested cormorants, but take of these two species is not authorized under this depredation order. Persons operating under this order must immediately report the take of a migratory bird species other than DCCOs to the appropriate Service Regional Migratory Bird Permit Office. Additionally, this depredation order does not authorize the take of any species protected by the Endangered Species Act, unless as permitted. Persons operating under this order must immediately report the take of species

protected under the Endangered Species Act to the Service.

(8) Persons operating under this depredation order must:

(i) Keep a log recording the date and number of all birds killed each month under this authorization;

(ii) Maintain this log for a period of 3 years (and maintain records for 3 previous years of takings at all times thereafter); and

(iii) Annually provide the most recent log to the appropriate Service Regional Migratory Bird Permit Office. Regional Office addresses are found in § 2.2 of subchapter A of this chapter.

(9) The authority to take double-crested cormorants under this order can be revoked by the Regional Director for violations of or failure to comply with the terms and conditions of the order. Persons whose authority is revoked may apply for a depredation permit under 50 CFR 21.41.

(e) *Does this rule contain information collection requirements?*

Yes. This information collection is authorized by OMB control number 1018-XXXX.

(f) *When does this depredation order expire?*

This depredation order will automatically expire on April 30, 2005, unless revoked or extended prior to that date.

3. In Subpart D, add § 21.48 to read as follows:

§ 21.48 Depredation order for double-crested cormorants to protect public resources.

(a) *What is the purpose of this depredation order?*

The purpose of this depredation order is to reduce the occurrence and/or minimize the risk of adverse impacts to public resources (fish, wildlife, plants, and their habitats) caused by double-crested cormorants.

(b) *In what areas can this depredation order be implemented?*

This depredation order applies to all lands and freshwaters in the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Vermont, West Virginia, and Wisconsin.

(c) *What does this depredation order allow and who can participate?*

(1) This depredation order authorizes State fish and wildlife agencies, federally recognized Tribes, and State Directors of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service (collectively termed

“Agencies”) to take without a permit double-crested cormorants found committing or about to commit, and to prevent, depredations on the public resources of fish (including hatchery stock at Federal, State, and Tribal facilities), wildlife, plants, and their habitats.

(2) Agencies may designate agents to carry out control, provided those individuals act under the conditions of the order.

(3) Federally recognized Tribes and their agents may carry out control only on reservation lands or ceded lands within their jurisdiction.

(d) *What are the terms and conditions of this order?*

(1) Persons operating under this order must first utilize nonlethal control methods such as harassment and exclusion devices when these are considered effective and practicable by the responsible Agency.

(2) Double-crested cormorants may be taken only by means of egg oiling, egg and nest destruction, cervical dislocation, shooting, and CO₂ asphyxiation. Persons using shotguns must use nontoxic shot, as listed in 50 CFR 20.21(j). Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Persons operating under this depredation order may use decoys, taped calls, or other devices to lure within gun range birds committing or about to commit depredation of public resources.

(4) Persons operating under this depredation order must obtain appropriate landowner permission before implementing activities authorized by the order.

(5) Persons operating under this depredation order may not take double-crested cormorants contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State or other permits, if required.

(6) Persons operating under this depredation order must properly dispose of double-crested cormorants killed in control efforts:

(i) Individuals may donate birds killed under authority of this order to museums or other such scientific and educational institutions for the purposes of scientific or educational exhibition. Recipients of such donations must have a scientific collecting permit as outlined in 50 CFR 21.23;

(ii) Individuals may also bury or incinerate birds taken; and