

actually mean fewer problems (since sometimes distribution is as important as number in determining impacts), what the necessary scale of control would be, and whether or not that scale of control is biologically, socially, and economically feasible.

*Comment 5:* States should be granted full authority to control DCCOs as needed.

*Service Response:* Under the MBTA, we have the ultimate responsibility for cormorant management. While we can grant States and other agencies increased authority, giving them “full authority” without any limitations and requirements would abdicate our responsibilities.

*Comment 6:* The final rule should authorize the use of all effective DCCO control methods at aquaculture facilities.

*Service Response:* The final rule authorizes shooting, which is considered very effective, to be used at aquaculture facilities. There is no evidence of the need for other techniques to be used.

*Comment 7:* The Service needs to more fully address other causes of fish depletion.

*Service Response:* We recognize that factors other than DCCOs contribute to resource impacts such as fishery declines. However, an exhaustive and comprehensive analysis of these myriad factors is outside the scope of the EIS. Our focus is chiefly on addressing conflicts caused by cormorants and then attempting to manage DCCOs, or the resources themselves, to alleviate those conflicts.

*Comment 8:* There should be a hunting season on DCCOs.

*Service Response:* While we recognize the validity of hunting as a wildlife management tool, we believe that the risks associated with it outweigh any potential benefits. We are gravely concerned about the negative public perception that would arise from authorizing hunting of a bird with little consumptive (or “table”) value. While it is true that this has been done in the past for other species (e.g., crows), public attitudes are different today than they were 30 years ago when those decisions were made. Additionally, a number of hunters commented that they did not support hunting as a means of cormorant control. Therefore, it is our position that hunting is not, on the whole, a suitable technique for reducing cormorant damages.

*Comment 9:* The Service should add Montana and New Hampshire to the public resource depredation order.

*Service Response:* We determined that the most crucial States to include in the

public resource depredation order were those States with DCCOs from the increasing Interior and Southern populations or States affected by those populations (e.g., those with high numbers of migrating birds). Other States with cormorant conflicts are not precluded from cormorant control but would have to obtain depredation permits.

*Comment 10:* The Service should remove DCCOs from MBTA protection.

*Service Response:* In our view, this is not a “reasonable alternative.” DCCOs have been protected under the MBTA since 1972. Removing DCCOs from MBTA protection would not only be contrary to the intent and purpose of the original treaty, but would require amending it, a process involving lengthy negotiations and approval of the U.S. Senate and President. Since DCCOs are protected by family (*Phalacrocoracidae*) rather than by species, the end result could be the loss of protection for all North American cormorant species in addition to that of DCCOs. At this time, there is adequate authority for managing cormorant conflicts within the context of their MBTA protection and, thus, we believe the suggestion to remove DCCOs from MBTA protection is not practical, necessary, or in the best interest of the migratory bird resource.

*Comment 11:* Private landowners should be allowed to control DCCOs on their lands.

*Service Response:* The take of DCCOs and other migratory birds is regulated by the MBTA and, in most cases, requires a Federal permit. Under the aquaculture depredation order, private commercial aquaculture producers in 13 States are allowed to control DCCOs on their fish farms without a Federal permit. However, all other individuals who experience damages to private resources must contact the appropriate Service Regional Migratory Bird Permit Office for a depredation permit. There is not sufficient justification for authorizing “private landowners” in general to take DCCOs without a Federal permit.

*Comment 12:* The proposed action will be more effective if agencies coordinate with each other.

*Service Response:* Yes, this is true. While agencies are not required under the public resource depredation order to coordinate with each other, they are entirely free to do so.

*Comment 13:* Humaneness and the use of nonlethal methods should be emphasized.

*Service Response:* Wherever feasible, we have required the use of nonlethal methods before killing is allowed. All authorized control techniques for killing

birds outside of the egg are approved by the American Veterinary Medical Association as being humane for the euthanization of birds.

*Comment 14:* The Service needs to better educate the public about DCCOs.

*Service Response:* We have prepared fact sheets for public distribution. Information about DCCOs is available at our Web site <http://migratorybirds.fws.gov/issues/cormorant/cormorant.html>. Our intention is to distribute fact sheets on the depredation orders in the near future. Beyond DCCOs, we participate in numerous outreach activities around the nation to increase public awareness about the importance of migratory birds and other Federal trust species.

*Comment 15:* The Service needs to issue permits to allow DCCOs to be shot legally at anytime.

*Service Response:* The authorization of virtually unregulated shooting of DCCOs would clearly not be a fulfillment of our responsibilities under the MBTA, since it could lead to extermination of the species. We can only allow take under appropriately adopted regulations that are consistent with our obligations and the relevant treaties. The depredation orders issued in this rulemaking only authorize take of DCCOs in certain locations and timeframes, and by certain agencies, to ensure this take is consistent with the purpose for which the depredation order was established.

*Comment 16:* DCCOs are being scapegoated for fishery declines.

*Service Response:* The Service recognizes that many factors other than DCCOs can contribute to fishery declines. However, studies have shown that in some cases cormorants are a significant contributing factor to these declines and therefore we believe that DCCO management, where there is evidence of real conflicts, is likely to have beneficial impacts.

*Comment 17:* The Service is dumping the burden of DCCO control on the States; the Service should take care of the DCCO problem since they created it.

*Service Response:* The public resource depredation order is not a requirement being forced upon the States (or any other agency). The decision ultimately lies with individual agencies to choose whether or not to use the authority granted to them by the public resource depredation order. As we were considering options for addressing DCCO conflicts more effectively, it became clear that, since many conflicts tend to be localized in nature, a sensible and flexible solution was to allow local agencies more authority in deciding when to control cormorants. The