providers are not obligated to begin providing such service until December 31, 2014.

(iii) Valid Request means that:
   (A) The requesting PSAP represents that it is technically ready to receive 911 text messages in the format requested; and
   (B) The appropriate local or State 911 service governing authority has specifically authorized the PSAP to accept and, by extension, the signatory service provider to provide, text-to-911 service (and such authorization is not subject to dispute).

(12) Covered Devices and Network Connection. Third party interconnected text providers that meet the definition of a “covered text provider” must offer the capability described in paragraph (n)(11) of this section during time periods when the mobile device is connected to a CMRS network.

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DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

50 CFR Part 21


RIN 1018–BA26

Migratory Bird Permits; Extension of Expiration Dates for Double-Crested Cormorant Depredation Orders

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft environmental assessment.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose revisions to the two existing depredation orders for double-crested cormorants (Phalacrocorax auritus) at 50 CFR 21.47 and 21.48. We propose to extend the expiration dates from these depredation orders for 5 years. We do so to allow State and tribal resource management agencies to continue to manage double-crested cormorant problems under the terms and conditions of the depredation orders and gather data on the effects of double-crested cormorant control actions. If we do not extend these depredation orders, any action to control depredating double-crested cormorants after June 30, 2014, will require a permit. We have prepared a draft environmental assessment (DEA) to analyze the environmental impacts associated with this extension. Additionally, we propose to change the annual reporting date for the depredation order to protect public resources (50 CFR 21.48), to remove requirements for cormorant control activities around bald eagles and bald eagle nests for both depredation orders, and to recommend use of the National Bald Eagle Management Guidelines for both depredation orders. We invite the public to comment on the DEA and our proposed revisions to the regulations.

DATES: Electronic comments on this proposal via http://www.regulations.gov must be submitted by 11:59 p.m. Eastern time on April 4, 2014. Comments submitted by mail must be postmarked no later than April 4, 2014.


Written comments: You may submit comments by either of the following two methods:


We will not accept email or faxes. We will post all comments on http://www.regulations.gov. This generally means that we will post any personal information that you provide. See the Public Comments section below for more information.

FOR FURTHER INFORMATION CONTACT: George Allen at 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is the Federal agency delegated the primary responsibility for managing migratory birds. This delegation is authorized by the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). Part 21 of title 50 of the Code of Federal Regulations (CFR) covers migratory bird permits. Subpart D of 50 CFR part 21 deals specifically with the control of depredating birds and currently includes eight depredation orders. A depredation order is a regulation that allows the take of specific species of migratory birds, at specific locations and for specific purposes, without a depredation permit.

The depredation orders at 50 CFR 21.47 and 21.48 for double-crested cormorants allow take of the species under the provisions of our 2003 environmental impact statement (EIS; 68 FR 47603, August 11, 2003), in which we assessed the impacts of the depredation orders and determined that they would not significantly affect the status of the species. 50 CFR 21.47 concerns take of double-crested cormorants at aquaculture facilities, and 50 CFR 21.48 concerns take of double-crested cormorants to protect public resources. The EIS is available at http://www.fws.gov/migratorybirds/

CurrentBirdIssues/Management/Cormorant/CormorantFEIS.pdf.

We extended the expiration dates of these depredation orders to June 30, 2014, on April 6, 2009 (74 FR 15394). We reported at that time that the data we had gathered since the issuance of the final rule in 2003 and data from the 2003 EIS suggest that the orders had not had any significant negative effect on double-crested cormorant populations; data suggest that cormorant populations were stable or increasing with the orders in effect.

We have continued to comply with our goals stated in the 2003 EIS by making every effort to capture data from improved double-crested cormorant populations. We stated in 2009 that we recognize that it probably will be necessary to update the EIS at some time in the future. On November 8, 2011, we requested public comments to help guide the preparation of a supplemental environmental impact statement or environmental assessment and to help us determine future national policy for effective management of double-crested cormorant populations within the United States (76 FR 69225). On January 27, 2012, we extended the comment period on the November 8, 2011 (77 FR 4274). However, because of constraints on our ability to conduct the work necessary to complete a supplemental environmental impact statement, we are forced to defer that effort. We base this proposed rule on information in our DEA, which is available from the sources listed in ADDRESSES.

Expiration Dates

We propose to extend the expiration dates for 5 years from the expiration of the orders at 50 CFR 21.47 and 21.48. These depredation orders are currently scheduled to expire on June 30, 2014. Extending the orders for 5 years would not pose a significant, detrimental effect on the long-term viability of double-
crested cormorant populations. Extending them would allow State and tribal resource management agencies to continue to manage double-crested cormorant problems under the terms and conditions of the depredation orders and gather data on the effects of double-crested cormorant control actions.

Entities acting under the Depredation Order would still be required to follow applicable regulations. Depredation control efforts under the Depredation Order may take place only where cormorants are found committing or about to commit depredations under specified conditions, 50 CFR 21.47(c)(1) and 21.48(c)(1). There is the requirement to use initially non-lethal control methods, 50 CFR 21.47(d)(1) and 21.48(d)(1); provide notice to FWS indicating their intent to act under the Depredation Order, 50 CFR 21.48(d)(9); and notify the FWS in writing 30 days in advance if any single control action would individually, or a succession of such actions would cumulatively, kill more than 10 percent of the double-crested cormorants in a breeding colony, 50 CFR 21.48(d)(9)(i). FWS has the power to prohibit cormorant take under the depredation order if FWS deems it a threat to the long-term sustainability of double-crested cormorants or any other migratory bird species, 50 CFR 21.48(d)(9)(ii). Similarly, FWS reserves the right to suspend or revoke the authority of any person acting pursuant to the Depredation Order if they do not adhere to the Order’s purpose, terms and conditions or if the long-term sustainability of double-crested cormorant populations is threatened, 50 CFR 21.47(d)(10) and 21.48(d)(13).

Updated population information indicates that the orders have not had a significant negative effect on double-crested cormorant populations (see data in the DEA). To summarize the DEA here, a 2006 study by Wetlands International estimated the continental population at between 1 to 2 million birds of four recognized subspecies. In the southeastern U.S., though numbers of cormorants declined 46% in both Mississippi and Alabama from the peak count in 2004, cormorants in that area have undergone dramatic increases in the last 20 years; and, in a 2006 study, Mississippi populations at some colonies are likely greater than the pre-1990 levels. For the Great Lakes survey on the US side, from 1997 to 2011, the population was between 45,626 and 53,802. Under various models, we estimate a Great Lakes double-crested cormorant population would be lower than current numbers but would remain significantly higher than populations in the early 1990s.

If this proposed rule is adopted, the depredation orders will expire on June 30, 2019. If we determine that future changes to the depredation orders are necessary to eliminate an expiration date or make other changes, we would publish the requisite documents in the Federal Register to make those changes.

Other Proposed Changes to the Depredation Orders

We also propose other changes to the depredation orders at 50 CFR 21.47 and 21.48 to bring them in line with our current regulations and practices. Specifically, we propose to add a January 31 reporting deadline to the depredation order at aquaculture facilities (50 CFR 21.47) and to change the annual reporting date for the depredation order to protect public resources (50 CFR 21.48). There currently is no specified annual reporting date at 50 CFR 21.47. The current annual reporting date at 50 CFR 21.48 is December 31, but we propose to move that due date to January 31 to give respondents an additional month to submit the requisite information. Together, these proposed changes to 50 CFR 21.47 and 21.48 would provide a uniform annual reporting date for these two depredation orders.

In addition, we propose to update both depredation orders to remove the requirements for cormorant control activities around bald eagles (Haliaeetus leucocephalus) and bald eagle nests. These requirements for bald eagles and bald eagle nests were included in the depredation orders because, at that time, the species was protected by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). The bald eagle has since been removed from the Federal List of Endangered and Threatened Wildlife (72 FR 37345; July 9, 2007), so the requirements should no longer apply.

Lastly, we propose to revise the depredation orders to recommend use of the National Bald Eagle Management Guidelines for both depredation orders. These management guidelines were adopted in 2007 (72 FR 31156; June 5, 2007). They provide guidance to land managers, landowners, and others as to how to avoid disturbing bald eagles and their nests.

Public Comments

You may submit your comments and materials concerning our proposed rule and DEA by one of the methods listed in the ADDRESSES section. We will not accept comments sent by email or fax or to an address not listed in the ADDRESSES section.

If you submit a comment via http://www.regulations.gov, your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on http://www.regulations.gov as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities.
Supplemental: The issue of double-crested cormorants and the depredation orders is important for the conservation of native wildlife populations. The orders have long-term benefits for ecosystems and human safety. The proposed changes to the depredation orders aim to balance the needs of both wildlife and human communities, ensuring that the orders continue to be effective while minimizing negative impacts on small entities. The Federal Register notes that the rule does not have a significant economic impact and does not require any new information or data from small entities. The changes proposed should not result in the destruction or adverse modification of critical habitat, nor are they anticipated to affect listed species or result in the destruction of or adverse modification of federal lands or funds. The rule does not have a takings implication assessment.

To address potential adverse impacts, the Federal Register includes a takings implication assessment. This assessment is required by the Unfunded Mandates Reform Act (UMRA) and the Regulatory Flexibility Act (RFA). The rule does not have a significant economic impact and does not require any new information or data from small entities. The changes proposed should not result in the destruction or adverse modification of critical habitat, nor are they anticipated to affect listed species or result in the destruction of or adverse modification of federal lands or funds. The rule does not have a takings implication assessment.

The proposed changes aim to balance the needs of both wildlife and human communities, ensuring that the orders continue to be effective while minimizing negative impacts on small entities. The changes proposed should not result in the destruction or adverse modification of critical habitat, nor are they anticipated to affect listed species or result in the destruction of or adverse modification of federal lands or funds. The rule does not have a takings implication assessment.

To address potential adverse impacts, the Federal Register includes a takings implication assessment. This assessment is required by the Unfunded Mandates Reform Act (UMRA) and the Regulatory Flexibility Act (RFA). The rule does not have a significant economic impact and does not require any new information or data from small entities. The changes proposed should not result in the destruction or adverse modification of critical habitat, nor are they anticipated to affect listed species or result in the destruction of or adverse modification of federal lands or funds. The rule does not have a takings implication assessment.
Double-Crested Cormorant Management.

List of Subjects in 50 CFR Part 21
Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation
For the reasons described in the preamble, we propose to amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

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

2. Amend § 21.47 as follows:

(a) By revising paragraph (d)(8)(i) to read as set forth below;

(b) By removing the words “and bald eagles” from paragraph (d)(8)(ii);

(c) By removing the words “or bald eagles” from paragraph (d)(8)(iii);

(d) By adding a new paragraph (d)(8)(iv) to read as set forth below;

(e) By removing the word “Each” and adding in its place the words “By January 31 each” at the beginning of paragraph (d)(9)(iii); and

(f) By removing the word “2014” in paragraph (f) and adding in its place the word “2019.”

§ 21.47 Depredation order for double-crested cormorants at aquaculture facilities.

(8) * * *

(i) To protect wood storks, the following conservation measures must be observed anywhere Endangered Species Act protection applies to this species: all control activities are allowed if the activities occur more than 1,500 feet from active wood stork nesting colonies, more than 1,000 feet from active wood stork roost sites, and more than 750 feet from feeding wood storks.

(iv) We recommend that any agency or its agents or any individual or company planning to implement control activities that may affect bald eagles comply with the National Bald Eagle Management Guidelines (http://www.fws.gov/migratorybirds/CurrentBirdIssues/Management/BaldEagle/NationalBaldEagleManagementGuidelines.pdf) in conducting the activities.

3. Amend § 21.48 as follows:

(a) In the introductory text of paragraph (d)(8)(i), by removing the words “wood storks, and bald eagles” and adding in their place the words “wood storks”;

(b) In paragraphs (d)(8)(i)(A) and (d)(8)(i)(B), by removing the words “or occur more than 750 feet from active bald eagle nests;” in each place that they occur;

(c) By adding a new paragraph (d)(9)(iii) to read as set forth below;

(d) By revising paragraph (d)(11) to read as set forth below; and

(e) By removing the word “2014” in paragraph (f) and adding in its place the word “2019.”

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

(8) * * *

(i) * * *

(D) We recommend that any agency or its agents planning to implement control activities that may affect bald eagles comply with the National Bald Eagle Management Guidelines (http://www.fws.gov/migratorybirds/CurrentBirdIssues/Management/BaldEagle/NationalBaldEagleManagementGuidelines.pdf) in conducting the activities.

3. Amend § 21.48 as follows:

(a) In the introductory text of paragraph (d)(8)(i), by removing the words “wood storks, and bald eagles” and adding in their place the words “wood storks”;

(b) In paragraphs (d)(8)(i)(A) and (d)(8)(i)(B), by removing the words “or occur more than 750 feet from active bald eagle nests;” in each place that they occur;

(c) By adding a new paragraph (d)(9)(iii) to read as set forth below;

(d) By revising paragraph (d)(11) to read as set forth below; and

(e) By removing the word “2014” in paragraph (f) and adding in its place the word “2019.”

3. Amend § 21.48 as follows:

(a) In the introductory text of paragraph (d)(8)(i), by removing the words “wood storks, and bald eagles” and adding in their place the words “wood storks”;

(b) In paragraphs (d)(8)(i)(A) and (d)(8)(i)(B), by removing the words “or occur more than 750 feet from active bald eagle nests;” in each place that they occur;

(c) By adding a new paragraph (d)(9)(iii) to read as set forth below;

(d) By revising paragraph (d)(11) to read as set forth below; and

(e) By removing the word “2014” in paragraph (f) and adding in its place the word “2019.”

Dated: February 26, 2014.
Rachel Jacobson,
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

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BILLING CODE 4310–55–P