

§ 21.43

50 CFR Ch. I (10–1–14 Edition)

specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

**§ 21.43 Depredation order for black-birds, cowbirds, grackles, crows, and magpies.**

You do not need a Federal permit to control the species listed in the table below if they are committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner that they are a health hazard or other nuisance:

| Blackbirds   | Cowbirds   | Grackles  | Crows  | Magpies   |
|--|--|---|--|---|
| Brewer's ( <i>Euphagus cyanocephalus</i> ).<br>Red-winged ( <i>Agelaius phoeniceus</i> ).<br>Yellow-headed ( <i>Xanthocephalus xanthocephalus</i> ). | Bronzed ( <i>Molothrus aeneus</i> ).<br>Brown-headed ( <i>Molothrus ater</i> ).<br>Shiny ( <i>Molothrus bonariensis</i> ). | Boat-tailed ( <i>Quiscalus major</i> ).<br>Common ( <i>Quiscalus quiscula</i> ).<br>Great-tailed ( <i>Quiscalus mexicanus</i> ).<br><br>Greater Antillean ( <i>Quiscalus niger</i> ). | American ( <i>Corvus brachyrhynchos</i> ).<br>Fish ( <i>Corvus ossifragus</i> ).<br>Northwestern ( <i>Corvus caurinus</i> ). | Black-billed ( <i>Pica hudsonia</i> ).<br>Yellow-billed ( <i>Pica nuttalli</i> ). |

(a) You must attempt to control depredation by species listed under this depredation order using non-lethal methods before you may use lethal control.

(b) In most cases, if you use a firearm to kill migratory birds under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types. However, this prohibition does not apply if you use an air rifle, an air pistol, or a 22 caliber rimfire firearm for control of depredating birds under this order.

(c) If you exercise any of the privileges granted by this section, you must allow any Federal, State, tribal, or territorial wildlife law enforcement officer unrestricted access at all reasonable times (including during actual operations) over the premises on which you are conducting the control. You must furnish the officer whatever information he or she may require about your control operations.

(d) You may kill birds under this order only in a way that complies with all State, tribal, or territorial laws or regulations. You must have any State, tribal, or territorial permit required to conduct the activity.

(e) You may not sell, or offer to sell, any bird, or any part thereof, killed

under this section, but you may possess, transport, and otherwise dispose of the bird or its parts.

(f) Any person or agency acting under this depredation order must provide to the appropriate Regional Migratory Bird Permit Office an annual report for each species taken. You can find the addresses for the Regional Migratory Bird Permit Offices in § 2.2 of subchapter A of this chapter. You must submit your report by January 31st of the following year, and you must include the following information:

- (1) Your name, address, phone number, and e-mail address;
- (2) The species and number of birds taken;
- (3) The months in which the birds were taken;
- (4) The State(s) and county(ies) in which the birds were taken; and
- (5) The general purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources).

(g) The Office of Management and Budget has approved the information collection requirements associated with this depredation order and assigned OMB Control No. 1018-0146. 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.

You may send comments on the information collection requirements to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

[75 FR 75156, Dec. 2, 2010, as amended at 79 FR 43966, July 29, 2014]

**§ 21.44 Depredation order for horned larks, house finches, and white-crowned sparrows in California.**

Horned larks (*Eremophila alpestris*), house finches (*Carpodacus mexicanus*), and white-crowned sparrows (*Zonotrichia leucophrys*) may be taken in Fresno, Merced, Napa, and Sonoma Counties in California if they are depredating on agricultural or horticultural crops. Take of birds under this order must be done under the supervision of the county agriculture commissioner. You do not need a Federal permit for this depredation control as long as you meet the conditions below, but a depredation permit (see § 21.41 in this subpart) is required for take of other migratory bird species, or for take of horned larks or white-crowned sparrows from May 1 through October 31.

(a) *When is take allowed under this depredation order?*

(1) Horned larks and white-crowned sparrows may be controlled from November 1 through April 30.

(2) House finches may be controlled at any time.

(b) *Use of nonlethal control.* Each season, before lethal control may be undertaken, the landowner must attempt to use nonlethal control of migratory bird depredation as recommended by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. The county agriculture commissioner must confirm that nonlethal measures have been undertaken to control or eliminate the problem prior to the landowner using lethal control.

(c) *Ammunition.* Except when using an air rifle or an air pistol, if firearms are used to kill migratory birds under the provisions of this regulation, the shooter must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types.

(d) *Disposition of carcasses.* Specimens useful for scientific purposes may be transferred to any entity authorized to possess them. If not transferred, all carcasses of birds killed under this order must be buried or otherwise destroyed. None of the above migratory birds killed, or the parts thereof, or the plumage of such birds, may be sold or removed from the area where killed.

(e) *Annual report.* Any county official acting under this depredation order must provide an annual report to the Regional Migratory Bird Permit Office using FWS Form 3-202-20-2144. The address for the Regional Migratory Bird Permit Office is in § 2.2 of subchapter A of this chapter, and is on the form. The report is due by January 31st of the year after control activities are undertaken.

[78 FR 65581, Nov. 1, 2013]

**§ 21.45 Depredation order for depredating purple gallinules in Louisiana.**

Landowners, sharecroppers, tenants, or their employees or agents, actually engaged in the production of rice in Louisiana, may, without a permit, shoot purple gallinules (*Ionornis martinica*) when found committing or about to commit serious depredations to growing rice crops on the premises owned or occupied by such persons: *Provided:*

(a) That purple gallinules may only be killed pursuant to this section between May 1 and August 15 in any year.

(b) That purple gallinules killed pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided,* That the Director or the State agricultural department, college, or other public institution may requisition such purple gallinules killed as may be needed for scientific investigations: *Provided further,* That any purple gallinules killed under authority of this section may also be donated to charitable institutions for food purposes.

(c) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any