

CORMORANT RELIEF ACT

OCTOBER 23, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 6302]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6302) to enact as law certain regulations relating to the taking of double-crested cormorants, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cormorant Relief Act”.

SEC. 2. REGULATIONS RELATING TO THE TAKING OF DOUBLE-CRESTED CORMORANTS.

(a) FORCE AND EFFECT.—

(1) IN GENERAL.—Subject to subsection (b), sections 21.47 and 21.48 of title 50, Code of Federal Regulations (as in effect on January 1, 2016), shall have the force and effect of law.

(2) PUBLIC NOTICE.—The Secretary of the Interior (referred to in this section as the “Secretary”), acting through the Director of the United States Fish and Wildlife Service (referred to in this section as the “Director”), shall notify the public of the authority provided by paragraph (1) in a manner determined to be appropriate by the Secretary.

(b) SUNSET.—The authority provided by subsection (a)(1) shall terminate on the effective date of a regulation promulgated by the Director after the date of enactment of this Act to control depredation of double-crested cormorant populations.

(c) RULE OF CONSTRUCTION.—Nothing in this section limits the authority of the Director to promulgate regulations relating to the taking of double-crested cormorants under any other law.

PURPOSE OF THE BILL

The purpose of H.R. 6302 is to enact as law certain regulations relating to the taking of double-crested cormorants.

BACKGROUND AND NEED FOR LEGISLATION

Double-crested cormorants are large, matte-black migratory fishing birds that are abundant across the entire United States and North America. There are five geographically distinct breeding populations located across the country. The largest population resides in the Mississippi flyway, which includes the Great Lakes region.¹ During breeding season, cormorants inhabit lakes, ponds, slow-moving rivers, lagoons, estuaries, and open coastline. Outside of breeding season, their habitat includes a variety of areas such as marine islands or coastal bays.² Cormorants are excellent divers and are naturally adapted to foraging for fish under water, which has historically placed the bird in direct conflict with aquaculture, subsistence and recreational fishing, and endangered species in certain parts of the country.

Like many other migratory birds, the double-crested cormorant is protected by the Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 et seq.), which prohibits any take (the killing, capture, selling, trading, or transport, etc.) of any protected species without prior authorization by the U.S. Fish and Wildlife Service (FWS).

Impact of the Cormorant

In Michigan, the cormorant population grew to nearly 90,000 birds in 2007 from 5000 breeding pairs in 1989,³ and the overall population in central and eastern United States and Canada is estimated to be between 731,880 and 752,516.⁴ This enormous population growth causes many detrimental effects for States that host these large populations of cormorants. Fisheries, aquaculture, wildlife habitat, and endangered species in these areas often see the greatest negative impact.

Fisheries: In Michigan, recreational and commercial fishing is an economically significant industry valued between \$4 billion and \$7 billion annually.⁵ According to FWS, “Double-crested cormorant populations can decrease fish populations in open waters and in aquaculture facilities.”⁶ Studies show that cormorant predation can significantly impact local economies relying on recreational fishing and related tourism. Over a 20-year period, millions of dollars and hundreds of jobs have been lost in these areas due to a decline in

¹Legislative Hearing on H.R. 2591, H.R. 4429, H.R. 4609, H.R.4647, H.R. 4851, Before the H. Comm. on Natural Resources, Subcomm. on Federal Lands, 115th Cong., 115–37, (2018) (statement of Randall Claramunt, Michigan Dep’t of Natural Resources), available at https://naturalresources.house.gov/uploadedfiles/testimony_claramunt.pdf, at 2.

²Sullivan et. al., Cornell University: The Double-Crested Cormorant, Issues and Management, Cornell University Cooperative Extension 8–14, (2006), available at <http://wildlifecontrol.info/wp-content/uploads/2016/04/Cormorant-Issues.pdf>.

³U.S. Dep’t of Ag., U.S. Dep’t of the Interior: Final Environmental Assessment: Double-Crested Cormorant Damage Management in Michigan, (2011), available at <https://www.fws.gov/midwest/MidwestBird/documents/FINAL%20Michigan%20DCCO%20EA%206-14-11.pdf>.

⁴U.S. Fish & Wildlife Service: Environmental Assessment for Issuing Depredation Permits for Double-Crested Cormorant Management, (2017), available at <https://www.fws.gov/migratorybirds/pdf/management/double-crested-cormorants/CormorantEA.pdf>.

⁵Michigan Sea Grant, *Fisheries*, <http://www.miseagrant.umich.edu/explore/fisheries/>, (last visited June 5, 2018).

⁶Migratory Bird Permits; Revision of Expiration Dates for Double-Crested Cormorant Depredation Orders, Fish and Wildlife Service, 74 Fed. Reg. 64, 15394–15398 (proposed Apr. 6, 2009) available at <https://www.gpo.gov/fdsys/pkg/FR-2009-04-06/pdf/E9-7650.pdf>.

the fisheries population.⁷ Studies conducted in Michigan show that cormorants have the potential to influence sport fishing populations, causing significant declines in fisheries.⁸ Declines in these sport fisheries in turn raise serious concerns for the local economies dependent on recreational fisheries for economic stability.

Studies, including those conducted by the Michigan Department of Natural Resources, have illustrated the link between cormorant management efforts and the recovery of fishery populations in Michigan.⁹ For instance, one study analyzed over 20 years of fishery data in Lake Ontario and found cormorant predation was associated with a decrease of smallmouth bass populations, which contributed to a major decline in the bass fishery in both quality and abundance.¹⁰ In another example, the New York Department of Environmental Conservation found declines in populations of smallmouth bass, yellow perch, and other warm-water fisheries in the eastern basin of Lake Ontario in the 1990s, which correlated with a boom in the cormorant population.¹¹

Aquaculture: Like fisheries, the aquaculture industry can be significantly impacted by cormorant predation. Economic losses have ranged from \$5 million to \$25 million in the Mississippi catfish aquaculture industry alone.¹² Fish farmers are particularly vulnerable because of the cormorant's predatory tactics, which allows them to "work as a group to herd fish into an easily catchable mass."¹³ For these farmers, non-lethal methods, such as air-cannons and boots-on-the-ground harassment, have not proven effective in deterring cormorants.¹⁴ In the Southeast region, aquaculture farms have struggled to combat cormorant predation, allowing the population to increase drastically. Because of ineffective non-lethal methods and a ballooning population in the region, FWS allows aquaculture farmers to obtain permission to protect their farms from the cormorant through lethal take.¹⁵

⁷Travis L. DeVault, Katy N. Kirkpatrick, Stephanie Shwiff, et. al., Modeling the Economic Impacts of Double-Crested Cormorant Damage to a Recreational Fishery, The Berryman Institute Human-Wildlife Interactions 36-47 (2015), available at <http://www.berrymaninstitute.org/files/ShwiffEtAlSpring2015HWI.pdf>.

⁸Brian Dorr, Shauna L. Hanish, Peter H. Butchko, et al., Management of Double-Crested Cormorants to Improve Sport Fisheries in Michigan: Three Case Studies, The Berryman Institute Human-Wildlife Interactions 155-168 (2012), available at <https://digitalcommons.usu.edu/cgi/viewcontent.cgi?article=1170&context=hwi>; see also Iyob Tsehaye, Michael L. Jones, Brian J. Irwin, et. al., *A Predictive Model To Inform Adaptive Management of Double-Crested Cormorants and Fisheries in Michigan*, 28 Natural Resource Modeling 348-376 (Aug. 2015), available at <https://onlinelibrary.wiley.com/doi/pdf/10.1111/nrm.12071>.

⁹Dorr, *supra*, note 11; see also: David F. Fielder, *Response of Yellow Perch in Les Cheneaux Islands, Lake Huron to Declining Numbers of Double-Crested Cormorants Stemming from Control Activities*, 36 Journal of Great Lakes Research 207-214 (June, 2010), available at <http://www.bioone.org/doi/abs/10.1016/j.jglr.2009.12.015?journalCode=jglr>.

¹⁰B.F. Lantry, T.H. Eckert, & C.P. Schneider, The Relationship Between the Abundance of Smallmouth Bass and Double-Crested Cormorants in the Eastern Basin of Lake Ontario, NY Dep't of Environmental Conservation (Feb. 1, 1999), available at <http://cescos.fau.edu/gawliklab/papers/LantryBFetal2002.pdf>.

¹¹NY Dep't of Environmental Conservation, 2015 Annual Report: Bureau of Fisheries Lake Ontario Unit and St. Lawrence River Unit to the Great Lakes Fishery Commission's Lake Ontario Committee, (Mar., 2016), available at https://www.dec.ny.gov/docs/fish_marine_pdf/lorpt15.pdf, at 126.

¹²Sullivan, *supra* note 2.

¹³David Bennett, *As cormorants begin to descend, Southern aquaculture in a bind*, Delta Farm Press, Dec. 13, 2016, available at <http://www.deltafarmpress.com/aquaculture/cormorants-begin-descend-southern-aquaculture-bind>.

¹⁴*Id.*

¹⁵U.S. Fish & Wildlife Service, Reports and Publications: Double-Crested Cormorants, <https://www.fws.gov/birds/management/managed-species/double-crested-cormorants.php>, (last visited June 5, 2018).

Habitat Degradation and Other Bird Species: Double-crested cormorants have a significant impact on the areas in which they breed and roost. Large numbers of cormorants degrade vegetation, resulting in destruction of habitat for other native bird species.¹⁶ Their acidic guano alters soil chemistry, irreversibly damaging trees and ground vegetation.¹⁷ ¹⁸ This change in habitat affects other colonial water birds, as well as a variety of other species that compete with the cormorant for nesting habitat.¹⁹ Furthermore, destruction of tree populations and altered soil chemistry also have the potential to lead to increased pest invasion and have long-lasting negative impacts on the biodiversity and stability of local ecosystems.²⁰ In its 2011 environmental assessment evaluating cormorant management practices, FWS found that reducing cormorant populations would be beneficial to other species and vegetation currently negatively impacted by the cormorant.²¹

Endangered Species: Federal protections for predatory birds under the MBTA have also been found to inhibit recovery of Endangered Species Act (ESA, 16 U.S.C. 1531 et seq.) protected fish species. Cormorants prey upon millions of ESA-listed salmon smolts in the Columbia River watershed. According to the Army Corps of Engineers, predation on juvenile salmonids as they make their migration to the Pacific Ocean by these birds is a limiting factor in the species' recovery under the ESA.²² The National Oceanic and Atmospheric Administration estimates that cormorants eat an average of 12 million juvenile salmonids annually, many of which are ESA-listed.²³ The Corps attempts to control this predation through population reduction efforts through special federal permits issued by FWS.²⁴ In 2015, the Corps applied for a permit to lethally take well over half of the breeding pairs of cormorants that reside on East Sand Island.²⁵ Third party litigants have threatened to stop these efforts as well.²⁶

Cormorant Management Efforts

While cormorants are protected as migratory birds under the MBTA, FWS allows for individuals, private organizations, and other federal and State agencies to control and manage cormorants through a depredation permit or depredation order.²⁷ Management of cormorants can include non-lethal methods, such as harassment techniques, habitat modification, or fisheries management.²⁸ Lethal

¹⁶ Sullivan, *supra* note 2 at 15–16.

¹⁷ *Id.*

¹⁸ Bryan Watts, *Chesapeake Bay Cormorants Continue Steep Ascent*, The Center for Conservation Biology (Dec. 3, 2013), <http://www.ccbirds.org/2013/12/03/chesapeake-bay-cormorants-continue-steep-ascent/>, (last visited June 5, 2018).

¹⁹ *Id.*

²⁰ Piotr Klimaszuk & Piotr Rzymiski, *The complexity of ecological impacts induced by great cormorants*, 771 *Hydrobiologia* 13–30 (May 2016), available at <https://link.springer.com/article/10.1007/s10750-015-2618-1>.

²¹ U.S. Fish & Wildlife Service *supra* note 7 at 41.

²² U.S. Army Corps of Engineers: *Benefits to Columbia River Anadromous Salmonids from Potential Reductions in Avian Predation on the Columbia River*, Donald Lyons et al., September 7, 2011.

²³ Northwest Fishletter #351, November 2, 2015.

²⁴ Final EIS: Double-crested Cormorant Management Plan to Reduce Predation of Juvenile Salmonids in the Columbia River Estuary. U. S. Army Corps of Engineers, February 6, 2015.

²⁵ Final EIS: Double-crested Cormorant Management Plan to Reduce Predation of Juvenile Salmonids in the Columbia River Estuary. U. S. Army Corps of Engineers, February 6, 2015.

²⁶ Northwest Fishletter #344, April 3, 2015.

²⁷ U.S. Fish & Wildlife Service, *Double-Crested Cormorants* <https://www.fws.gov/southeast/faq/double-crested-cormorants/>, (last visited June 5, 2018).

²⁸ Sullivan, *supra* note 2, at 20.

methods usually involve egg or nest destruction and shooting.²⁹ Depredation permits are provided on a case-by-case basis for the lethal control of problem birds, while depredation orders establish conditions under which specific entities or individuals can take a covered species without obtaining an individual depredation permit.³⁰ Both processes require compliance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et seq.), including public comment, and are subject to judicial review.

In response to the increased concern from the aquaculture industry, natural resources professionals, recreational fishermen, and others, FWS issued an Aquatic Depredation Order in 1998 that allowed for State management of cormorants to protect the aquaculture industry in 13 southern States.³¹ In 2003, FWS expanded this order and established a Public Resource Depredation Order (PRDO) for State-level management to benefit free-swimming fishes in 24 northern States.³² Both depredation orders were subsequently extended in 2009 and 2014.³³

In May 2016, pursuant to a lawsuit brought by Public Employees for Environmental Responsibility against FWS, the U.S. District Court for the District of Columbia remanded FWS' 2014 NEPA environmental review and vacated the two depredation orders for double-crested cormorants.³⁴ The court concluded that FWS did not take a "hard look" at the effects of the depredation orders on cormorant populations and other affected resources and failed to consider a reasonable range of alternatives required under NEPA.³⁵

In November 2017, FWS released a supplementary environmental assessment (EA) with a finding of no significant impact, allowing for the issuance of individual permits for annual take, including lethal removal, of up to 51,571 cormorants in 37 central and eastern States and the District of Columbia.³⁶ The scope of the EA allows for permits to be issued to protect aquaculture facilities, human and health and safety, threatened and endangered species, and alleviate damage to property.³⁷ Despite the reissuance of permits, cormorant populations remain abundant and the reissued EA does not allow for permits to protect free swimming or recreational fish against cormorants, leaving individuals and State management agencies in the Great Lakes region with few options to effectively manage the species.

²⁹ Sullivan, *supra* note 2, at 23.

³⁰ U.S. Fish and Wildlife Service, *supra* note 29.

³¹ U.S. Fish & Wildlife Service, Double-Crested Cormorant Management: Current Status, <https://www.fws.gov/midwest/news/documents/Cormorants.pdf>, (last visited June 5, 2018).

³² H. Comm. on Natural Resources, *Subcomm. on Federal Lands*, *supra* note 1, at 5.

³³ Fish and Wildlife Service *supra*, note 3; *See also*: Migratory Bird Permits; Revision of Expiration Dates for Double-Crested Cormorant Depredation Orders, 79 Fed. Reg. 102, (30474) (May 28, 2014), available at <https://www.fws.gov/policy/library/2014/2014-12318.pdf>.

³⁴ *Public Employees for Environmental Responsibility, et al. v. U.S. Fish and Wildlife Service*, No. 14-1807 (D.D.C. 2016).

³⁵ *Id.*

³⁶ U.S. FISH AND WILDLIFE SERVICE, ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT FOR THE ISSUANCE OF DEPREDATION PERMITS FOR DOUBLE-CRESTED CORMORANTS, 82 Fed. Reg. 219, 52936 (Nov. 15, 2017), available at <https://www.federalregister.gov/documents/2017/11/15/2017-24702/environmental-assessment-and-finding-of-no-significant-impact-for-the-issuance-of-depredation>.

³⁷ *Id.*

Solutions for Effective Cormorant Management in the Great Lakes Region

In June 2018, in response to cormorants' negative impacts on species and habitat and bureaucratic hurdles to proper cormorant management, the Natural Resources Committee held a field hearing in Alpena, Michigan, to examine the impacts that cormorants have on wild fish populations and commercial and recreational fishing. Witnesses representing the State of Michigan, local business and a local conservationist testified on the FWS's failure to incorporate a large body of non-federal data into its environmental reviews and the general challenges that uncontrolled cormorant populations create for the local ecosystem and communities. Mr. Randall Claramunt, testifying on behalf of the Michigan Department of Natural Resources, cited the success of cormorant management in the Les Cheneaux Islands in rebuilding the yellow perch fishery. Studies show that the collapse of the yellow perch fishery related to cormorant predation cost two local communities \$5.3 million annually.³⁸ Mr. Claramunt stated that, in the Les Cheneaux region, "[w]ithin nine years, cormorant abundance was reduced and sustained at agreed upon target levels in balance with the ecosystem . . . Game fish populations began to rebound and the local economy began to recover less than ten years after the PRDO."³⁹ At this hearing, Mr. Tom Cooper from FWS reiterated the Department of the Interior's support for "reinstating methods to lethally control problem birds" and emphasis on collaboration with local stakeholders.⁴⁰ Although Mr. Claramunt expressed optimism over recent commitments by FWS, he stated "[i]t is unclear as to the intent to not include the vast amount of information from non-federal governments as to the impacts of uncontrolled cormorant populations on fish populations and the communities that they support."⁴¹

As a result of this hearing, Congressman Bergman introduced H.R. 6302. The bill temporarily reinstates depredation orders vacated by the 2016 District Court ruling, providing for continued management of cormorants by State fish and game agencies, as well as private aquaculture organizations.⁴² H.R. 6302 reflects language in S. 2663, sponsored by Senator John Barrasso (R-WY).⁴³ This legislation would temporarily reimplement the original PRDO

³⁸Ridgeway, M. S., and D. G. Fielder. 2013, Double-Crested Cormorants in the Laurentian Great Lakes: Issues and Ecosystems. Pages 733–764 In *Great Lakes Fisheries Policy and Management*, second edition, W. W. Taylor, A. J. Lynch and N. J. Leonard, editors. Michigan State University Press, East Lansing.

³⁹*Legislative Hearing on "Examining the Effects of Mismanagement of the Cormorant in the Great Lakes Region", Before the H. Comm. on Natural Resources*, 115th Cong., 2, (2018) (Statement of Mr. Randall Claramunt, at 6), available at https://naturalresources.house.gov/uploadedfiles/6.11_testimony_claramunt.pdf.

⁴⁰*Legislative Hearing on "Examining the Effects of Mismanagement of the Cormorant in the Great Lakes Region", Before the H. Comm. on Natural Resources*, 115th Cong., 2, (2018) (Statement of Mr. Tom Cooper, at 2), available at https://naturalresources.house.gov/uploadedfiles/6.11_testimony_cooper.pdf.

⁴¹*Legislative Hearing on "Examining the Effects of Mismanagement of the Cormorant in the Great Lakes Region", Before the H. Comm. on Natural Resources*, 115th Cong., 2, (2018) (Statement of Mr. Randall Claramunt, at 8), available at https://naturalresources.house.gov/uploadedfiles/6.11_testimony_claramunt.pdf.

⁴²*Legislative Hearing on H.R.2591, H.R.4429, H.R. 4609, H.R.4647, H.R. 4851, Before the H. Comm. on Natural Resources, Subcomm. on Federal Lands*, 115th Cong., 115–37, (2018) (Legislative Hearing Memo on H.R. 4429), available at https://naturalresources.house.gov/uploadedfiles/memo_h.r.4429_02.15.18.pdf.

⁴³*ACRE Act, S. 2663, Sec. 9*, 115th Cong., (2018), available at <https://www.congress.gov/115/bills/s/2663/BILLS-115s2663is.pdf>.

until FWS reissues regulations to control depredation of double-crested cormorant populations.

COMMITTEE ACTION

H.R. 6302 was introduced on July 3, 2018, by Congressman Jack Bergman (R-MI). The bill was referred to the Committee on Natural Resources. On February 15, 2018, the Subcommittee on Water, Power and Oceans held a hearing on a similar legislation (H.R. 4429). On July 11, 2018, the Natural Resources Committee met to consider the bill. Congressman Bergman offered an amendment designated #1; it was adopted by voice vote. No further amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 19 yeas and 13 nays as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 07.11.18

Recorded Vote #:1

Meeting on / Amendment on: Favorably Report HR 6302 (Rep. Jack Bergman)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>			
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>				<i>Mr. Brown, MD</i>		X	
Mr. Gohmert, TX, Vice Chairman	X			Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>		X	
Mr. Lamborn, CO	X			Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>				<i>Mr. Gomez, CA</i>		X	
Mr. Wittman, VA	X			Mrs. Radewagen, AS			
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>		X	
Mr. McClintock, CA	X			Mr. Webster, FL	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI	X		
Mr. Pearce, NM				Ms. Cheney, WY			
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA	X		
Mr. Thompson, PA	X			Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT	X		
Mr. Gosar, AZ	X			Mr. Curtis, UT	X		
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>		X					
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>							
Mr. LaMalfa, CA	X						
<i>Ms. Barragán, CA</i>		X					
Mr. Denham, CA	X						
<i>Mr. Soto, FL</i>		X		TOTAL:	19	13	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6302, the Cormorant Relief Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 6302—Cormorant Relief Act

H.R. 6302 would temporarily reinstate two depredation orders that allow people to take double-crested cormorants without a permit from the U.S. Fish and Wildlife Service (USFWS). (Take has many meanings, including to kill, capture, sell, or transport cormorants.) Those orders would terminate once the agency issued regulations to control cormorant populations. At that time, cormorant hunters would again need to obtain permits.

Under current law, a permit to take cormorants, which costs \$100, generally allows one person to take between 20 and 150 cormorants. CBO estimates that the nationwide limit, which is set by USFWS, will be about 50,000 birds annually and that those fees total about \$300,000 each year. Those fees are recorded as reductions in direct spending and USFWS has authority to spend those amounts without further appropriation action. Under the bill, those fees would not be collected while the two depredation orders were in effect.

Because enacting H.R. 6302 would reduce offsetting receipts and the associated direct spending from fees for permits that allow for the taking of cormorants, pay-as-you-go procedures apply. However, CBO estimates that the net effect on direct spending would be negligible. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 6302 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6302 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to enact as law certain regulations relating to the taking of double-crested cormorants.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 6302 would enact as law a 2014 U.S. Fish and Wildlife Service (FWS) rule that extended the expiration date for two depredation orders—the Aquaculture Depredation Order and the Public Resource Depredation Order—which allowed an unlimited number of double-crested cormorants to be killed without a permit. These depredation orders, which were first promulgated in 1998, remove the legal protections cormorants receive under the Migratory Bird Treaty Act in an attempt to protect sport fisheries and aquaculture. The FWS has extended the orders every five years but without monitoring the status of the species or considering updated scientific information. In 2016, a federal court ruled that the FWS failed to adequately assess the environmental impacts of the orders and instructed the agency to suspend them until a proper analysis is complete.

The FWS completed an environmental assessment (EA) for the Aquaculture Depredation Order in 2017 and reissued individualized cormorant depredation permits to aquaculture facilities where there is a significant impact to their operations, native vegetation, threatened or endangered species, or a significant risk to human safety. Aquaculture facility managers and property owners in 37 states and the District of Columbia can now apply for these individual permits for the lethal take of cormorants. This order represents a measured approach and aligns with protections other bird species receive under the Migratory Bird Species Act.

The scope of the aquaculture EA did not include potential damage by cormorants to recreational and commercial fishing. However, FWS is in the initial phase of conducting an EA and gathering scientific data to determine if a new Depredation Order should be issued. FWS will engage states, tribes, and other stakeholders to assess the biological, social, and economic impacts of cormorants on wild fish. The FWS has indicated that this process is expected to take approximately one year.

H.R. 6302 circumvents the FWS' ongoing process, ignores the best available science, and sets a dangerous precedent for wildlife management. Over broad geographic regions, no studies to date have demonstrated that cormorants have a consistently negative effect on wild fish populations. Before prematurely reinstating the depredation order, it is imperative that the FWS finalize the EA to better understand the full range of environmental impacts and to prevent unnecessary depredation of the species.

RAÚL M. GRIJALVA,
*Ranking Member, Committee
on Natural Resources.*