

## Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Proposed Rule: **Migratory Bird Permits: Management of Conflicts Associated with Double-Crested Cormorants (*Phalacrocorax auritus*) Throughout the United States**

For related information, [Open Docket Folder](#)

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### Comment

See attached file(s) Attached are comments from Arizona Game and Fish Department dated 7/20/2020.

### Attachments (1)

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[Proposed Rule Draft EIS for Mgmt of Conflicts Assoc w\\_DCCO AGFD Comments 7-20-2020](#)

View Attachment:



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### Submitter Information

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July 20, 2020

Public Comments Processing  
Attn: FWS-HQ-MB-2019-0103  
U.S. Fish and Wildlife Service  
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**Re: Proposed Rule and Draft Environmental Impact Statement for the Management of Conflicts Associated with Double-crested Cormorants Throughout the U.S. (FR FWS-HQ-MB-2019-0103)**

To Whom It May Concern:

The Arizona Game and Fish Department (Department) has reviewed the proposed rule [Docket No. FWS-HQ-MB-2019-0103; FF09M29000-201-FXMB1232090000] RIN 1018-BE67 and *Draft Environmental Impact Statement (EIS) for the Management of Conflicts Associated with Double-crested Cormorants* (DCCO). Both cormorants (and other piscivorous birds) and the fisheries resources upon which they prey have a broad range of personal, cultural, economic, social, and biological values. These values are important and vary significantly across the country and depending on the wildlife being considered. The Department applauds the U.S. Fish and Wildlife Service for their efforts to address this complex and important issue and ask that the Service consider the following suggestions in drafting a final rule.

The Department has considered all of the alternatives evaluated in the DEIS. Each of the four action alternatives provide some level of opportunity to address conflicts between DCCO and fisheries resources; however, the Department supports Alternative A that would create a new permit system for state wildlife agencies and federally-recognized tribes. In addition, the Department advocates that Alternative A be expanded to include an Aquaculture Depredation Order. Re-issuance of an Aquaculture Depredation Order to include western populations would provide both administrative relief and efficient control of DCCO where necessary at commercial, state and tribal owned aquaculture facilities.

This approach provides greater flexibility to the fish and wildlife management community to address a wide range of conflicts associated with DCCO, and will focus efforts to control conflicts in the geographic areas where they are most serious. To be effective, this permit must be optional for states and tribes because some states and tribes lack the financial and personnel resources to implement the range of actions that could be imposed through this permit system. Due to these fiscal and personnel limitations, it would be appropriate for states and tribes to

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continue to apply for specific depredation permits if that is a better solution for them. The Department recommends that the proposed permit system will be available to all states and tribes, regardless of their past participation in the former depredation orders.

The Department further recommends authorization of 5-year state and tribal permits with annual reporting requirements to provide the U.S. Fish and Wildlife Service (Service) with timely data regarding removal numbers, while reducing the Service's staff time needed to process annual permit renewals.

The Department has the following comments/recommendations:

1. The language of the rule "to address conflicts related to...threatened and endangered species (listed under the Endangered Species Act of 1973, as amended, or identified in State- or Tribal-specific legislation as threatened or endangered)" creates inequality between states. Not all states, including Arizona, have threatened or endangered species legislation. The Department recommends that the language of the rule and EIS be changed to "state or tribal species of greatest conservation need," in reference to lists created for State Wildlife Grants.
2. In the same paragraph, the Proposed Rule addresses the issue of "free swimming fish" by identifying "wild and publicly stocked fish stocked by state agencies or Tribes". The Department understands the intent of the statement is to make clear the fishery resources must be public as opposed to private. As worded, the statement is redundant; the Department believes it would be clearer, and in keeping with the intent of the rule, to say the fish are stocked and managed by state agencies or Tribes. Therefore, the Department suggests the first paragraph under the section Proposed Special Double-Crested Cormorant Permit be reworded as follows:


*The Service will issue this permit only when it is expected to reduce conflicts involving depredation at state- and tribal-owned or operated aquaculture facilities (including hatcheries); impacts to health and human safety; impacts to threatened and endangered species (as listed under the Endangered Species Act of 1973); listed as threatened or endangered by states or tribes ~~and listed~~; species identified in State- and Tribal- **Wildlife Action Plans as Species of Greatest Conservation Need**; damage to state- or tribal- owned property and assets; and depredations of wild and ~~publicly~~ stocked fish ~~stocked~~ **managed** by state agencies or Tribes.*

3. The Department recommends that the Service develop guidelines for determining when there is sufficient proof that non-lethal mechanisms are ineffective at resolving conflicts. It has been the Department's experience that there are regional implementation differences for permit authorizations without consistent guidelines in place.
4. Due to the pressing need to resolve DCCO conflicts across broad geographic regions, the Department recommends the Service use the flyway system to assist in the allocation of permitted lethal removal of DCCO. Since 2006, the Department has been working with and through the Pacific Flyway to address these issues, and through their Avian Predation

Policy (2011), Monitoring Strategy for the Western Population of Double-crested Cormorants within the Pacific Flyway (2013), and Potential Biological Removal Model (Pacific Flyway Council, In Prep.). With 8,881 DCCOs allowed annually (per this EIS), large conflicts (e.g. East Sand Island) may limit the available birds to be taken elsewhere in the flyway. The flyway system is accustomed to this type of allocation procedure, and has proven its ability to manage limited resources so all states can participate.

The Department appreciates the opportunity to provide input into this decision and commends the Service for engaging with stakeholders on this issue. We look forward to a final rule which allows the state wildlife agencies and tribes to partner with the Service in addressing impacts on public resource fisheries through responsible management and conservation actions. To this end, Arizona is still experiencing impacts from neotropical cormorants and we encourage the Service to begin to examine the impact of this species. If there are any questions, please contact James Driscoll at 623-236-7581 or [jdriscoll@azgfd.gov](mailto:jdriscoll@azgfd.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jim deVos".

Jim deVos  
Assistant Director

cc: Josh Avey, Terrestrial Wildlife Branch Chief  
Chris Cantrell, Aquatics Wildlife Branch Chief

AGFD #M20-06072326