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Larry L. Hood

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## DEPREDATION PERMITS FOR MIGRATORY BIRDS

Larry L. Hood

### INTRODUCTION

All of the native species of birds in the United States are protected by either federal or state laws. Under the Migratory Bird Treaty Act, the federal government has formulated regulations that assist in controlling protected species that cause economic damage or health hazards. These regulations are in Subpoint D of Part 21, Title 50 Code of Federal Regulations, and may take the form of standing depredation orders or permits issued to kill those species that cause problems.

In the United States today, virtually every species of bird is protected by either federal or state regulations. Only introduced species such as the House Sparrow (Passer domesticus), Starling (Sturnus vulgaris), and the Rock Dove (Columba livia) are totally unprotected.

State regulations protect the members of the Order Galliformes; the grouse, quail, pheasant, ptarmigan, wild turkey and chachalaca. These species, referred to as resident game species, may only be killed during hunting seasons that are set by various state game departments.

Federal regulations, as formulated under the Migratory Bird Treaty Act (16USC, 703-711), protect all of the other species of birds that nest in, or migrate through, the United States. The only exceptions are certain species of ducks and geese, the sandhill crane, coot, rails, and doves, referred to as migratory game species, which may be killed during hunting seasons that are regulated by the U.S. Fish and Wildlife Service.

It was realized at the time this act was written in 1918 that exceptions to this total protection might be needed. Because of that realization, Section 704 was written into the act, allowing the Secretary of the Interior to formulate regulations for the controlled taking of species.

The regulations that have been written to cover depredations by migratory birds are contained in Subpoint D of Part 21, Title 50, Code of Federal Regulations. Within Subpoint D are six sections; two dealing with the issuance of depredation permits and orders and four so-called standing depredation orders, or special regulations that allow the taking of certain species without the issuance of a permit.

The standing depredation orders are for specific species and in three of the four orders are for specific states or parts of states. The orders cover the following species, problems, and areas:

Section 21.43-All species of black-birds, cowbirds, grackles, crows, and magpies when causing damage to ornamental or shade trees, agricultural crops, livestock or wildlife or when concentrated in such numbers as to be a health hazard or nuisance any place in the United States.

Section 21.44-Certain passerines and woodpeckers when causing agricultural damage in California.

Section 21.45-Purple Gallinules (Iononuis martinica) when causing damage to rice in Louisiana.

Section 21.46-Scrub Jays (Aphelocoma coerulescens) and Steller's Jays (Cyanocitta stelleri) when causing damage to nut crops in certain counties in Washington and Oregon.

Of the remaining two sections, only Section 21.41 is currently being utilized. Section 21.42 covers the issuance of depredation orders by the Director, for the killing of migratory game birds that have accumulated in such numbers that they are causing serious damage to agricultural horticultural or fish culture interests. The current Service policy is that the kill migratory game species will not be authorized except for the protection of human life by control programs at airports to attempt to prevent aircraft/bird collisions. These control measures are handled through the issuance of permits under Section 21.41, so as to avoid the delays caused

by the publishing of depredation orders.

The permits under Section 21.41 are issued by the Division of Law Enforcement, U.S. Fish and Wildlife Service. The person applying for a permit must provide information regarding the species involved, a description of where the damage is occurring, what is being damaged, an estimate of the economic value of the damage, and what non-lethal efforts have been attempted to try and prevent the damage. The use of non-lethal scaring or harrassment does not require a permit, except if Bald or Golden Eagles are involved. The harrassment of either of these species does require a permit.

In most instances the person applying for a permit has been in contact with U.S. Department of Agriculture, Animal Damage Control personnel and has utilized their recommendations in attempting to solve their problem. If non-lethal methods have not alleviated the problem and economic damage is still occurring, a permit is issued to kill a limited number of individuals. Following the expiration of the permit, a report is required, stating how many individuals were killed.