

United States Department of Agriculture  
Animal and Plant Health Inspection Service

# WS Directive

2.301 07/28/03

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## MIGRATORY BIRD DAMAGE MANAGEMENT

### 1. PURPOSE

To provide guidance for managing damage caused by migratory birds to agriculture, aquaculture, and natural resources; human health and safety; and property; and for assisting with the issuance of U.S. Fish and Wildlife Service (FWS) depredation permits.

### 2. REPLACEMENT HIGHLIGHTS

This directive replaces ADC Directive 2.301 dated 07/16/93.

### 3. BACKGROUND

The FWS has management responsibility for migratory birds under the authority of the Migratory Bird Treaty Act, while WS has the responsibility of responding to damage caused by such birds. However, WS can only implement migratory bird damage management activities as specified in the Code of Federal Regulations (50 CFR Part 21), and by permission of the FWS. The WS program does not have the authority to approve migratory bird damage management activities conducted by others, but in some instances, given FWS approval, may sub-permit activities to others for actions already authorized by their permit.

FWS migratory bird depredation permits (50 CFR 21.41) are required before WS (any person) may take, possess, or transport migratory birds. Specific Depredation Orders (50 CFR 21.43 - 21.47) have been developed to allow WS and the public to manage damage caused by migratory birds without requiring individual depredation permits. These Depredation Orders include the following:

50 CFR 21.43 - To control yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.

50 CFR 21.44 - To control horned larks, golden-crowned, white-crowned, and other crowned sparrows, and house finches deemed by the

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**Distribution:**

**Originating Office:**

Commissioner of Agriculture in California to be injurious to agricultural or horticultural crops.

50 CFR 21.45 - To control purple gallinules in Louisiana when found committing or about to commit depredations to growing rice crops.

50 CFR 21.46 - To control scrub jays and Steller's jays when found committing or about to commit depredations to nut crops in Oregon and Washington.

50 CFR 21.47 - To control double-crested cormorants in various states to protect aquaculture crops.

No permit is required to scare or herd depredating migratory birds other than migratory birds that are also listed as endangered or threatened species and bald or golden eagles.

#### 4. POLICY

WS will assist landowners, businesses, or governmental agencies in resolving migratory bird damage problems and wildlife damage management activities in accordance with applicable Federal, State, and local laws and regulations. Assistance may be in the form of providing technical assistance or direct control activities. Recommendations will emphasize long-term solutions and incorporate the Integrated Wildlife Damage Management approach.

On-site damage assessments may be conducted by WS personnel, as appropriate, to obtain information on which to base bird damage management recommendations. WS may make recommendations for the issuance of FWS depredation permits only if it is considered necessary to control further damage

#### 5. ASSISTANCE

##### a. Technical Assistance.

(1) Biological information, legal considerations, endangered species concerns, and management options relative to the species involved in the damage or nuisance problem will be provided. Information concerning FWS depredation permit requirements and application procedures will be made available upon request.

(2) Demonstration and instruction of wildlife damage management techniques will be offered when feasible.

(3) The services of a private wildlife damage management business may be recommended when appropriate.

(4) Avian control equipment and non-pesticide materials may be made available to the public for demonstration purposes, temporary loan or purchase.

b. Operational Assistance. Direct operational assistance may be provided if resources are available. When dealing with depredation caused by endangered and threatened species and eagles, refer to

WS Directive 2.310, Endangered and Threatened Species and WS Directive 2.315, Eagle Damage Management, for specific guidelines.

c. FWS Depredation Permits (50 CFR 21.41).

(1) WS Personnel Only.

State Directors will be responsible for 1) obtaining necessary migratory bird depredation permit(s), including permits required to take or harass endangered and threatened species and bald or golden eagles, and 2) assignment of, if necessary, appropriate WS personnel as subpermittees, before conducting direct control activities within their area of responsibility. Application and renewals of such permits will be coordinated with the Regional Office. State Directors will respond, in a timely manner, to FWS permit reporting requirements as outlined in the permit.

(2) Cooperators and the General Public.

The WS program does not have the authority to issue migratory bird depredation permits. However, as a service to cooperators and the public, WS personnel may assist with the application for migratory bird depredation permits or renewals.

When requested by FWS, WS personnel will utilize ADC Form 37, Migratory Bird Damage Project Report, to make appropriate recommendations. WS personnel may recommend special conditions that would expedite wildlife damage management activities and minimize hazards to nontarget species, livestock, humans, and the environment.

## 6. REFERENCES

WS Directive 2.310, Endangered and Threatened Species (7/28/03)  
WS Directive 2.315, Eagle Damage Management (3/26/93)  
APHIS Directive 2450.1, Grants and Cooperative Agreements for

Domestic Programs (11/2/92)  
Bald Protection Act of 1940 (16 U.S.C. 668a-668d), as amended  
Endangered Species Act of 1973 (16 U.S.C. 1531-1543), as amended  
Lacey Act (18 U.S.C. 42), as amended  
Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712), as amended  
50 CFR Part 10 - General Provisions/List of Migratory Birds  
50 CFR Part 13 - General Permit Procedures  
50 CFR Part 21 - Migratory Bird Permits

Deputy Administrator