



FREQUENTLY ASKED QUESTIONS ABOUT A FEDERAL DEPREDATION PERMIT

A federal depredation permit authorizes you to capture or kill birds to reduce damage caused by birds or to protect other interests such as human health and safety or personal property. A depredation permit is intended to provide short-term relief for bird damage until long-term, non-lethal measures can be implemented to eliminate or significantly reduce the problem.

You should review Title 50 parts 10, 13 and 21.41 of the Code of Federal Regulations (CFR) with your application. You are responsible for reviewing and understanding these regulations before you request and accept a permit. These regulations are on our website at: <https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php>.

1. **What is Depredation?**

Depredation is damage or loss caused by birds. Depredation includes agricultural damage, private property damage, threats to human health and safety, and threats to recovery of protected wildlife.

2. **What is a Migratory Bird?**

Almost all birds, including their nests and eggs native to the United States are protected under the Migratory Bird Treaty Act (MBTA). Protection is not limited to only individual birds or species that migrate. In this fact sheet, “bird” refers to any bird species protected by the MBTA. A list of protected species is published in the Code of Federal Regulations at 50 CFR 10.13. You can view the list at: <https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php>. Nonnative species such as European starlings, rock (feral) pigeons, house sparrows, and mute swans as well as upland gamebirds such as grouse, turkey and quail are NOT protected under the MBTA. (See 70 FR 12710 for a complete list)

3. **What activities can I do without a depredation permit?**

You do not need a federal depredation permit to simply harass or scare birds (except eagles and federally listed threatened or endangered species).

4. **Do I need a federal permit to destroy bird nest?**

A permit is not needed to destroy inactive bird nests, provided the nest is destroyed and not kept. An inactive bird nest is one without eggs or chicks present. The Nest Destruction Migratory Bird Permit Memorandum (MBPM-2; April 15, 2003) provides additional guidance on nest destruction (<http://www.fws.gov/policy/m0407.pdf>).

A permit is required to destroy an active bird nest (one with eggs or chicks present). A different permit is required to disturb or destroy nests of Bald Eagles or Golden Eagles and birds listed as federally threatened or endangered. A list of threatened or endangered species can be found at: <https://www.fws.gov/angered/>

5. **What is a federal depredation order or control order?**

Depredation and control orders allow the take of specific species of birds for specific purposes without a depredation permit. Make sure you read the depredation or control order very closely before taking birds under it because each has very specific restrictions and conditions that apply. Although a permit is not required, you must report any take conducted under a depredation or control order to be in compliance with the Order and so the Service can monitor potential population impacts. The depredation and control orders in place are listed in the following table.

Regulation	Species	Interest Harmed	States
50 CFR 21.43	Blackbirds, Cowbirds, Grackles, Crows, Magpies	Ornamental shade trees, agricultural crops, livestock, wildlife, when concentrated in such numbers and manner that they are a health hazard or other nuisance	All
50 CFR 21.44	Horned Larks, Golden-crowned, White-crowned and other Crowned Sparrows, House finches	Agriculture, horticulture	CA
50 CFR 21.46	Scrub Jay, Steller’s Jay	Nut Crops	OR, WA
50 CFR 21.49	Resident Canada Geese	Public safety at airports and military airfields	Lower 48 States (implemented by States and Tribes)
50 CFR 21.50	Resident Canada Geese (nests and eggs)	People, property, agricultural crops, or other interests	See registration website (https://epermits.fws.gov/eRCGR/)

50 CFR 21.51	Resident Canada Geese	Agriculture	Atlantic, Central, and Mississippi Flyway portions of AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NE, NH, NM, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY (implemented by States and
50 CFR 21.52	Resident Canada Geese	Human health	Lower 48 States (implemented by States and Tribes)
50 CFR 21.53	Purple swamphens	(Invasive)	All States, Puerto Rico, U.S. Virgin Islands.
50 CFR 21.54	Muscovy Duck	(Invasive)	All States except TX Counties: Hidalgo, Starr, and Sapatana
50. CFR 21.55	Barn Owl, Cattle Egret	(Invasive)	Hawaii and the Pacific Islands

6. What can I do with a depredation permit?

A depredation permit is intended to provide short-term relief for bird damage until long-term nonlethal measures can be implemented to eliminate or significantly reduce the problem. A depredation permit authorizes “take” of birds protected under MBTA. Take includes killing birds, trapping birds, egg addling (oiling), and destruction of active nests. Capture or killing of birds cannot be the primary methods used to address depredation and will ONLY be authorized in conjunction with ongoing nonlethal measures.

7. What are nonlethal measures?

Nonlethal measures are methods that prevent or minimize bird damage without take (take includes purposefully killing or trapping birds). Methods include harassment (e.g., loud noises, pyrotechnics, propane cannons, scarecrows, dogs, trained raptors), habitat management (e.g., grass management, vegetative barriers, fencing and netting), cultural practices (e.g., seasonal timing, landscape placement), and policies (e.g., no feeding policies). Wildlife Services, part of the USDA, can provide information and expertise about preventing depredation and nonlethal methods. Visit their website: www.aphis.usda.gov/aphis/ourfocus/wildlifedamage.

8. Who can apply for a depredation permit?

The entity who is (a) experiencing the damage, (b) responsible for compliance with the permit, AND (c) has authority to implement nonlethal measures should apply for the permit. Applicants are most commonly the landowner, occasionally a land manager or resource manager. Private landowners, managers of public lands, State, Tribal, and local governments, and other entities, such as homeowners associations, with legal jurisdiction for the property involved may apply for depredation permits.

Pest control and other contractors may assist permittees in completing an application as well as conducting the work as a subpermittee, but may not apply for the depredation permit.

9. What is a Form 37 and what is the role of Wildlife Services?

Wildlife Services is part of the U.S. Department of Agriculture (USDA) and provides expertise to help resolve wildlife conflicts. They can assess your particular situation and provide recommendations of short-term measures to provide relief from bird damage and long-term measures to help eliminate or significantly reduce the problem. Wildlife Services also provides a “Form 37 Permit Review Form”. This form is required as part of your Depredation Permit application. You must call Wildlife Services (866-487-3297) to obtain a Form 37.

10. What information do I need to include with my application:

Your federal depredation permit application will consist of two forms:

- (1) The Service application form 3-200-13, including Section E questions along with a completed take table; and
- (2) A current “Form 37 Permit Review Form”.

Your application will be considered incomplete and returned if you provide incomplete answers, do not answer all of the questions or provide the information on each of these pages or do not include a current WS-37.

11. Will my permit be restricted to certain methods and species and numbers of birds?

Yes. Your permit will list the species and numbers of birds you are authorized to take and the method(s) you are authorized to use. You must describe the species and numbers you are requesting to take and the method(s) you propose to use on your application. The take of some species of birds may be further restricted due to their conservation status.

12. May I request to take Bald Eagles or Golden Eagles?

No. Bald Eagles and Golden Eagles receive additional protection under the Bald and Golden Eagle Protection Act. Please use the eagle depredation permit application to apply to take (this includes disturbance, harassment, and/or trap-relocate) Bald Eagles or Golden Eagles.

13. Do I have to use nontoxic ammunition when using a firearm to take birds?

Yes. We require the use of non-toxic ammunition when using firearms. You may request the use of lead shot and provide a justification in the methods section of your application.

14. How do I dispose of dead birds?

Typically, dead birds must be (a) turned over to USDA for official purposes, (b) donated to a public educational or scientific institution, or (c) completely destroyed by burial or incineration. Alternative disposal methods may be requested with appropriate justification.

15. Do I need any additional permits or other authorizations to conduct depredation activities?

Some States require a permit in addition to the Federal depredation permit. Additionally, you must comply with local ordinances, such as discharging firearms. This permit does not authorize you to use Federal, State or Tribal lands or other public or private property without appropriate authorization. It is your responsibility to make sure you comply with these requirements.

16. Where do I submit my depredation permit application?

Submit your application to the Service Regional Migratory Bird Permit Office that is responsible for the State in which the permitted activity will take place. A list of permit offices, their area of responsibility, and contact information is included in the application package.

17. Who are the personnel identified on my permit and what are they authorized to do?

- a) Principal Officer. For permits issued to organizations, a Principal Officer is identified on the permit. The Principal Officer is the person in charge of the organization and is responsible for the application and any permitted activities.
- b) Primary Contact. The Primary Contact is the person in the organization who is available to answer questions about the application or permitted activities. This person may be the same or different than the Principal Officer. The Primary Contact is not listed on the permit unless the individual is also listed as a subpermittee.
- c) Subpermittee. A subpermittee is an individual authorized to conduct some or all of the permitted activities without the permittee present. You must identify any subpermittees in your application. Your subpermittees must have either a copy of your permit that identifies them as a subpermittee, or a copy of your permit and a letter from the Permittee (Principal Officer) listing activities (including location and duration) they are authorized to conduct.

18. Will I be required to keep records of my depredation activities? Will they be inspected?

Yes. You must maintain accurate records, legibly written or reproducible in English, of operations on a calendar-year basis of the information required by your permit. By accepting a Federal Depredation permit, you authorize an agent of the Service to enter your premises at any reasonable hour to inspect the wildlife you hold, your books or records. (50 CFR 13.47)

19. Will I be required to submit an annual report of my depredation activities?

Yes. You will receive an annual report form from your Regional Migratory Bird Permit Office. The report form can also be found on our website at: [Form 3-202-9 Annual Report Depredation](#). This report must be completed and submitted to your issuing office by the date specified in your permit even if no take activity occurred.

20. How long is a depredation permit valid? Can it be renewed?

Depredation permits may be valid for up to 1 year. Permits may be restricted to less than 1 year depending on the species involved and the nature of the damage being experienced.

Depredation permits may be renewed. If you wish to renew your permit, you must submit a renewal application to your Regional Migratory Bird Permit Office at least 30 days prior to the expiration of your permit and include a copy of your current State permit, if one is required, along with a new Permit Review form from Wildlife Services. If we receive your renewal request at least 30 days prior to the expiration of your permit, your permit will remain valid beyond the expiration date for the activity authorized on your permit until a decision on your renewal is made. If we receive your renewal request fewer than 30 days prior to expiration of your permit and we are not able to process your request before the expiration date, your permit will expire and you will no longer be authorized to conduct your activity. If you allow your permit to expire before requesting renewal, you may be required to submit a new application. (See 50 CFR 13.11(c) and 13.22)