

TROY. LARRY MEIER

**Michigan Department of Natural Resources
Fisheries Division**

March 15, 2011

AVIAN PREDATOR NOTIFICATION PROCEDURE

- 1) Zones and Zone Contact Persons regarding issues with stocking and avian predators have been identified and provided by Larry Meier's group (attached).
- 2) Management Units will develop a site-specific, stocking location list where avian predators are of concern (attached). Basin Coordinators will coordinate this list with Larry Meier's group. Written documentation of the consultation will be logged and retained by the Basin Coordinators.
- 3) Using the list developed in 2), Fish Production Section and the Aquatic Species and Regulatory Affairs Unit, in collaboration with the Management Units, will populate the list with best guesses as to when stocking will occur throughout the season in each site/Zone. Each Management Unit Supervisor will communicate with and provide the list to Zone Contact Persons who cover their respective Management Unit no later than April 1 each year.
- 4) To alert Management Unit Supervisors that stocking events will be occurring in the upcoming week at sites with concerns about avian predators, the Hatchery Biologists will notify the appropriate Management Unit Supervisor no later than the Friday prior to stocking events. In addition, the Hatchery Biologists will contact the Management Unit Supervisors one work day in advance to confirm that the stocking event will occur the next day. Written documentation of these contacts will be logged and retained by the Hatchery Biologists.
- 5) Any time information has been provided via 4), each Management Unit Supervisor will communicate that information to the Zone Contact Persons who cover their respective Management Unit.
- 6) Prior to leaving the hatchery on the day of the stocking, the truck driver will notify the Zone Contact Person with an estimated time of arrival. Written documentation of this notification will be logged by the truck driver and subsequently provided to the Hatchery Biologist for retention.
- 7) If the stocking time provided to the Zone Contact Person in 6) will not be met for any reason, the truck driver will immediately call the Zone Contact Person to alert them about the delay and to provide them with a new estimated time of arrival. Written documentation of this notification will be logged by the truck driver and subsequently provided to the Hatchery Biologist for retention.
- 8) Management Unit Supervisors will notify staff in Law Enforcement Division and Wildlife Division about any activities to control avian predators that may occur at a stocking site.

<p style="text-align: center;">Zone I</p> <p style="text-align: center;">Eastern Upper Peninsula from Port Inland to Drummond Island</p>	<p>Keith Doepker W. 3673 Rogers Road Moran, MI 49760 906-292-5562 St. Ignace Sportsmen Club kbdepker@aol.com</p>
<p style="text-align: center;">Zone II</p> <p style="text-align: center;">Western Upper Peninsula from Port Inland to Ironwood</p>	<p>Dave Westerberg P.O. Box 146 Escanaba, MI 49829 906-786-3950 Bay DeNoc Sportsmen Club otee739@yahoo.com</p>
<p style="text-align: center;">Zone III</p> <p style="text-align: center;">Northeastern Lower Peninsula from Mackinac City to Tawas</p>	<p>Bill Estlack 10750 Marqaret Road Ossineke, MI 49766 989-916-5750 Alpena Commissioners Office Westlack@hline.org</p>
<p style="text-align: center;">Zone IV</p> <p style="text-align: center;">Northwestern Michigan from Mackinac City to Frankfort</p>	<p>Jeff Powers DVM 26259 Main Street Beaver Island, MI 49782 231-881-4408 Beaver Island Conservancy jpowers@powershardware.com</p>
<p style="text-align: center;">Zone V</p> <p style="text-align: center;">Southwestern Lower Michigan from Manistee to New Buffalo</p>	<p>Richard Underwood 6658 W. Jagger Road Ludington, MI 49431 231-843-8624 Past Charter Boat Captain</p>
<p style="text-align: center;">Zone VI</p> <p style="text-align: center;">Eastern Lower Michigan from Port Huron to the Detroit River</p>	<p>Ray Giacobone 12300 28 Mile Road Washington, MI 48094 586-781-4297 Lapeer County Sportsmen Club Raygman05@yahoo.com</p>
<p style="text-align: center;">Zone VIII</p> <p style="text-align: center;">Detroit River thru Lake Erie</p>	<p>Thomas Cunningham 658 New York Avenue Lincoln Park, MI 48146 313-388-0937 Down River Walleye Federation thms.cunningham@gmail.com 313-729-2227</p>
<p style="text-align: center;">Zone IX</p> <p style="text-align: center;">Roscommon and Crawford Counties</p>	<p>James Deamud 4419 Nestel Road Houghton Lake, MI 48629 989-366-7596 Houghton Lake Improvement Board deamud@charterinternet.com</p>
<p style="text-align: center;">Zone XI</p> <p style="text-align: center;">Tawas to Port Huron</p>	<p>Norm Anderson 2082 Chatfield Lane Lapeer, MI 48446 810-664-9845 Flint Steelheaders Fiftydog1@charter.net</p>

Avian Predator Notification Procedure

Site-specific, stocking location list where avian predators are of concern.

March 15, 2011

County	Water	Stocking Site	Species of Concern
Western Lake Superior Management Unit			
Keweenaw	Lake Superior	Copper Harbor	
Ontonagon	Big Iron River	Net Pen at Public Access Site	Splake
Gogebic	Oman's Creek	Little Girls Point	Chinook salmon
Marquette	Lake Superior	Marquette Harbor	Brown trout
Baraga	Huron River	Big Eric's Bridge	Steelhead, Chinook salmon, brown trout, splake
			Steelhead
Eastern Lake Superior Management Unit			
No sites of concern noted			
Northern Lake Michigan Management Unit			
Menominee	Lake Michigan	Menominee Yacht Harbor	Steelhead, brown trout
Delta	Lake Michigan	Hallstead's Resort (Kobasic's)	Brown trout
Delta	Bark River	Fuller Park	Brown trout
Delta	Ford River	Ford River at M-35	Chinook salmon
Delta	Big Bay de Noc	Fairport Marina	Chinook salmon
Delta	Little Bay de Noc	Rapid River	Walleye
Schoolcraft	Manistique River	City of Manistique Public Access Site	Chinook salmon, brown trout, steelhead
Schoolcraft	Breevort Lake	Public Access Site	Walleye
Central Lake Michigan Management Unit			
Mason	Lake Michigan	Pere Marquette Lake, Badger docking site	Brown trout
Grand Traverse	Lake Michigan	West Grand Traverse Bay - Bower's Harbor and the mouth of Brewery Creek	Brown trout
Roscommon	Higgins Lake	Higgins Lake West Road ending (T24N, R 4W, S14)	Lake trout, rainbow trout, brown trout
Southern Lake Michigan Management Unit			
No sites of concern noted			

Avian Predator Notification Procedure

Site-specific, stocking location list where avian predators are of concern.

March 15, 2011

County	Water	Stocking Site	Species of Concern
Northern Lake Huron Management Unit			
Oscoda	Au Sable River	Below Foote Dam	Steelhead
Presque Isle	Ocqueoc River	Below Lamprey barrier	Steelhead
Alpena	Lake Huron	Alpena	Steelhead
Alpena	Lake Huron	Alpena - Thunder Bay River	Brown trout
Alpena	Lake Huron	Rogers City	Brown trout
Southern Lake Huron Management Unit			
Sanilac	Lexington	Harbor	Steelhead, Chinook salmon
Sanilac	Port Sanilac	Harbor	Steelhead, Chinook salmon
Huron	Harbor Beach	Detroit Edison, Sensient plant	Chinook salmon, brown trout, steelhead
Huron	Port Austin	Harbor	Chinook salmon
Huron	Pinnebog River	Port Crescent State Park	Steelhead
Huron	Pigeon River	Caseville, Harbor	Steelhead
Arenac	East Branch Au Gres River	Lower Whitney Drain	Steelhead, Atlantic salmon
Iosco	Tawas River	Tawas River	Steelhead, Chinook salmon
Lake Erie Management Unit			
St. Clair	Black River	Port Huron/I-94 Public Access Site	Brown trout
Wayne	Huron River	Flat Rock/South Huron River Drive	Steelhead

AVIAN PREDATOR NOTIFICATION DOCUMENTATION FORM

STOCKING EVENT

Location _____ Species _____

ONE WEEK ADVANCE NOTICE

Hatchery biologist _____ Unit Manager _____ Date _____ Time _____ Comments _____

ONE DAY ADVANCE NOTICE

Hatchery biologist _____ Unit Manager _____ Date _____ Time _____ Comments _____

Unit Manager _____ Zone Contact _____ Date _____ Time _____ Comments _____

Unit Manager _____ Law Enforcement _____ Date _____ Time _____ Comments _____

Unit Manager _____ Wildlife _____ Date _____ Time _____ Comments _____

DAY OF PLANTING

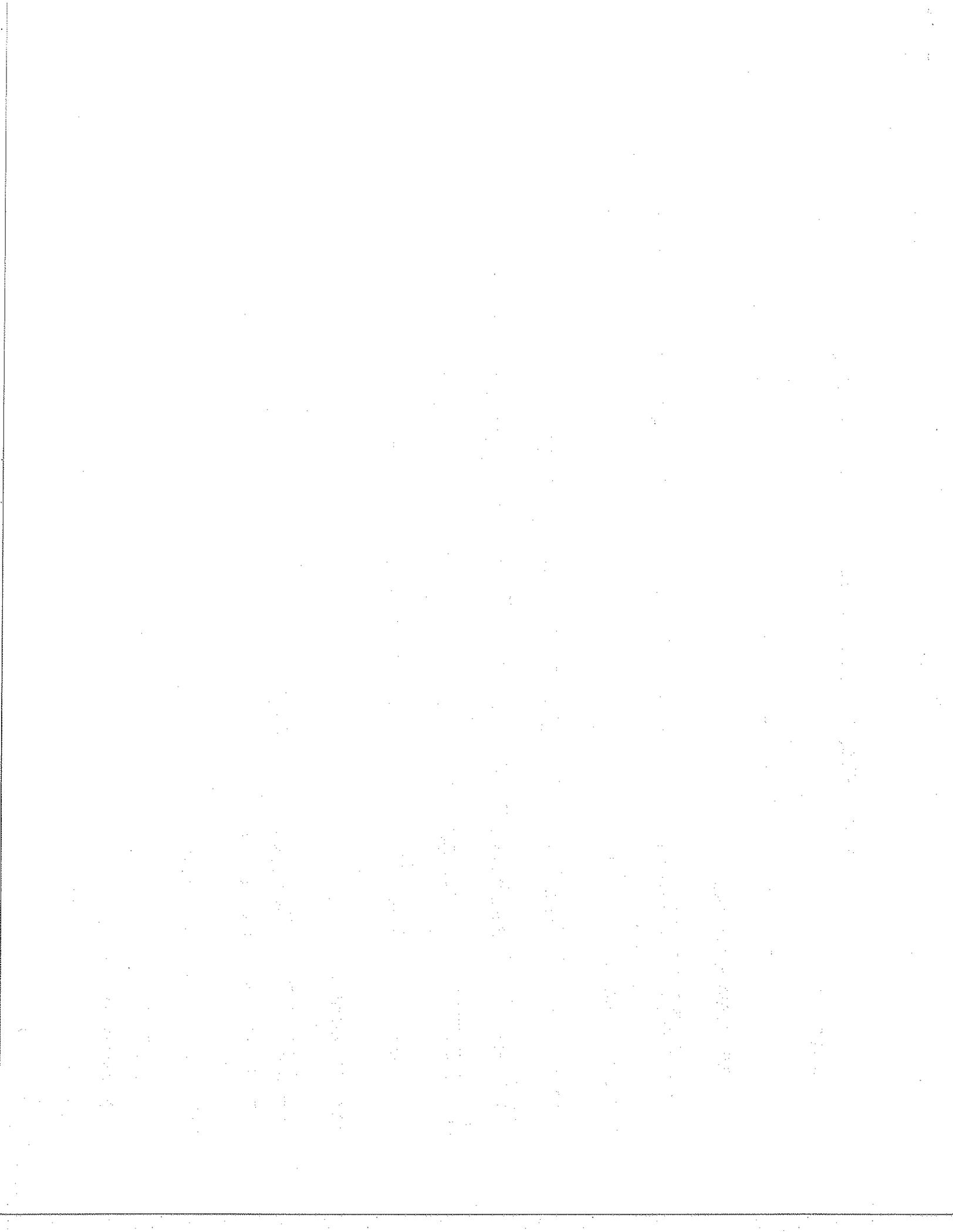
Truck Driver _____ Zone Contact _____ Date _____ Time _____ Comments _____

Estimated time of arrival given to Zone Contact: _____

PROBLEM NOTIFICATION - PLANTING TIME CHANGE

Truck Driver _____ Zone Contact _____ Date _____ Time _____ Comments _____

NEW estimated time of arrival given to Zone Contact: _____





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Michigan Department of Natural Resources

**Summary of Data Submitted
Via the
Web-based DNR Cormorant Activity Report Form**
Michigan Department of Natural Resources
Wildlife Division
Wildlife Division Report No. 3527

June 20, 2011

ISSUE

A double-crested cormorant activity report form was developed and implemented on the Department of Natural Resources (DNR) web site in 2005 (<http://www.dnr.state.mi.us/cormorantobs/>). The intent in developing this form was to allow staff to assess developing trends relative to potential cormorant impacts across the state. It was expected that this form would assist in identifying locations, currently unknown to staff, where congregations of cormorants were having detrimental effects on local fisheries, sensitive vegetation, and other resources for which the DNR has stewardship responsibilities. This data was expected to function as an adjunct to reports received via phone and email, or in person by DNR staff. These sites could then be considered and prioritized with all other sites identified statewide where management actions had been requested.

DISCUSSION AND SUMMARY

Since 2006, 285 records have been submitted via the cormorant activity report form. Of these, 12 records did not relate to actual cormorant observations (e.g., tests of the database to ensure proper functioning, reports of beaver dams, complaints about dune destruction). Twenty-four records contained reports of cormorant sightings with an indication that the submitter was not unhappy to see a cormorant (e.g., "I just thought it was amazing to see one around here."). The bulk of the records (235 records) specifically note concerns about impacts to fisheries. While most were non-specific in the fishery being impacted, 14 records specifically mention stocked fish, and two mention fish in private ponds. While 48 records cite concerns about vegetation damage, most of these records also cite fisheries concerns, which may indicate that vegetation damage alone is not a primary concern of most submitters. Ten records cite concerns with fecal matter, either aesthetic or health concerns.

Most submitters included comments with their submission, and these comments suggest that some of the categories included on the web form under "Nature of Complaint/Concern" may be getting interpreted differently by submitters than expected when the form was developed. Of note, the "Environmental" category was selected by a number of submitters with fisheries concerns, but not selected by some submitters who explicitly mentioned concerns about defecation. There appears to be similar confusion with the "Wildlife" category. These categories should be clarified or eliminated.

The pattern in observations and complaints submitted via the web form is similar to that seen in feedback from the public using more traditional avenues of communication. The Bays de Noc, Thunder Bay, Ludington, Au Sable River, and Saginaw Bay regions are in some of the counties with relatively high numbers of submissions. With the exception of Saginaw Bay, all of these locations have been under active management for a number of years. The concerns voiced about Saginaw Bay (e.g., "When I told some local residents what I observed, they commented that the walleye and perch fishing in the bay has declined dramatically in recent years."; "The cormorants have ruined the perch fishing in the Saginaw bay [sic]."; "They are destroying the Little Charity Is. The vegetation [sic] has been wiped out... Lets [sic]

be proactive and do something about them before the [sic] destroy the Big Charity Island and our fishery.") via the web site are similar to comments received from the public via other communication channels. At this time, management action to reduce cormorant numbers on Saginaw Bay has not been recommended for two reasons: fisheries data suggest that the walleye fishery is healthy and improving; and both Big and Little Charity Island are owned by the U.S. Fish and Wildlife Service and are part of the Michigan Islands National Wildlife Refuge managed by staff at the Shiawassee National Wildlife Refuge, and this landowner has neither expressed concerns about current or potential impacts to vegetation or other nesting birds or requested the assistance of the DNR in managing these sites. Additional counties which have had multiple reports submitted include Marquette, Huron, Sanilac, and Wayne. Increasing reports of flocks foraging on newly stocked fish were received through all communication channels in the past 2-4 years, and the DNR instituted a stocking notification system in 2011 to provide an advance notice of stocking events to volunteers, under the direction of USDA-Wildlife Services, so that local stakeholders would have the ability to protect these fish if they determine it would be beneficial. This harassment would likely address many of the concerns for Marquette, Huron, Sanilac, and Wayne counties. Beyond these sites, the most notable locations reported via the web form are Macomb and Monroe counties. Reports in these counties are primarily associated with Lake St. Clair and Lake Erie. Similar reports of congregations of birds have been received via other communication channels. Assessment of the resource impacts at these sites is ongoing. Based on feedback submitted via the web site, it was discovered that nine counties in the Upper Peninsula were not included in the drop-down county selection list on the form; most of these counties either have active cormorant management projects ongoing or are included in the stocking site notification list, so sites in these counties which would have been reported via the web form are likely already being managed. This omission will be corrected.

Wildlife Division Contact Person: Karen Cleveland 517-373-1263



A contribution of Federal Aid in Wildlife Restoration, Michigan Project W-147-R

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For information or assistance on this publication, contact: MDNR, WILDLIFE DIVISION, P.O. BOX 30444, LANSING, MI 48909-7944, <http://www.michigan.gov/dnr>. This publication is available in alternative formats upon request. TTY: Michigan Relay Center 1-800-649-3777

Year: 2006

Submissions: 73

Count of submissions by month of complaint:

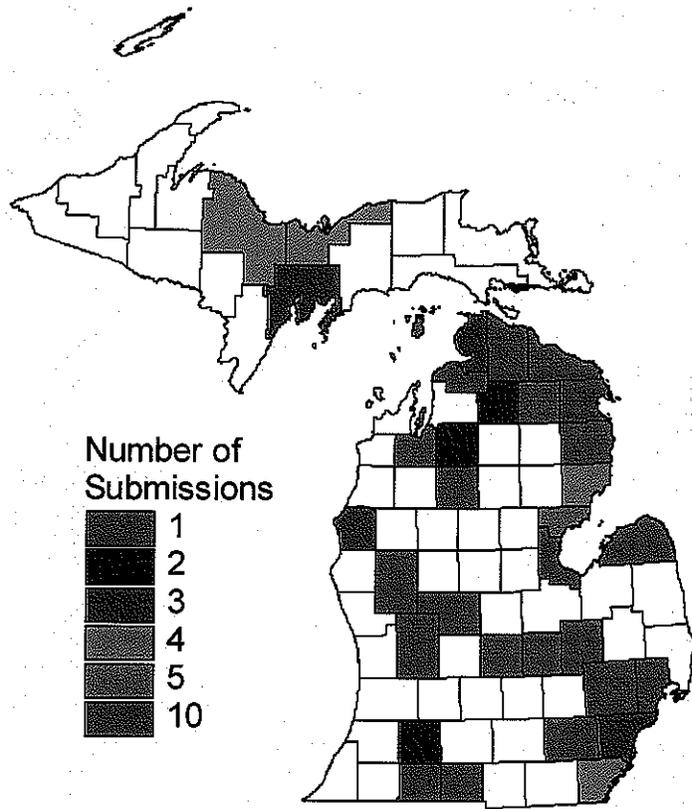
April	6
May	10
June	9
July	9
August	13
September	20
October	5
December	1

Number of birds observed:

0	2
1-10	28
11-25	14
26-75	9
76-150	12
151-300	5
301-500	1
501-999	
1,000+	2

Nature of submission:

Database test	2
Not cormorant related	
Cormorants, not a complaint	8
Fishery foraging concerns	61
-general	54
-stocking site/stocked fish	4
-private fish pond	1
Vegetation damage	18
Fecal matter	7
Other	2
-competition w/ loons for nest sites	1
-competition w/ terns and gulls for nest sites	1



Year: 2007
 Submissions: 58

Count of submissions by month of complaint:

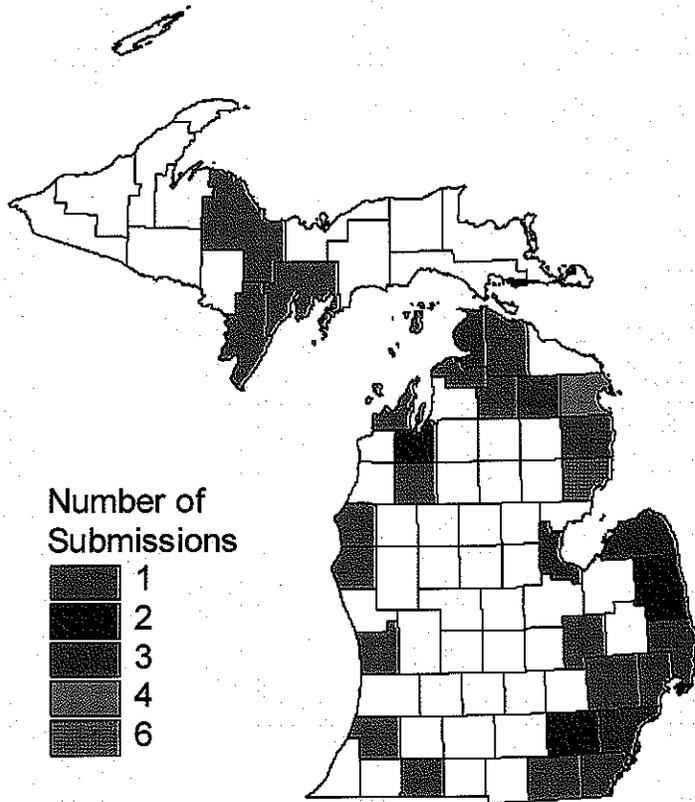
January	1
April	4
May	21
June	4
July	5
August	11
September	9
October	1
November	2

Number of birds observed:

0	3
1-10	21
11-25	6
26-75	7
76-150	9
151-300	4
301-500	3
501-999	1
1,000+	4

Nature of submission:

Database test	
Not cormorant related	
Cormorants, not a complaint	6
Fishery foraging concerns	43
-general	36
-stocking site/stocked fish	5
-private fish pond	
Vegetation damage	4
Fecal matter	2
Other	9
-fighting w/ loons	2
-difficult to steer boats around flocks	1
-duplicate entry	6



Year: 2008

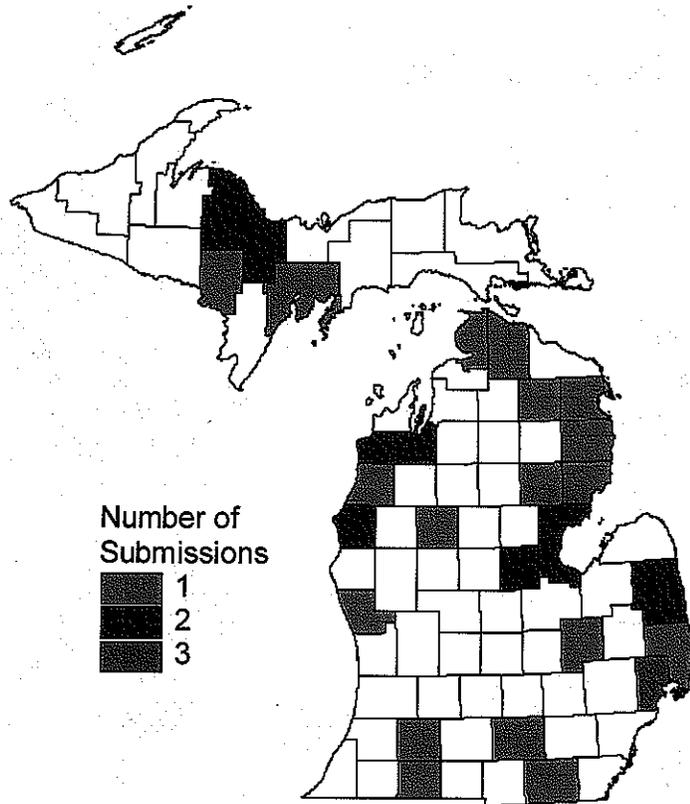
Submissions: 38

Count of submissions by month of complaint:

April	5
May	11
June	3
July	3
August	6
September	6
October	4

Number of birds observed:

0	1
1-10	9
11-25	10
26-75	11
76-150	3
151-300	1
301-500	1
501-999	
1,000+	2



Nature of submission:

Database test	
Not cormorant related	3
Cormorants, not a complaint	1
Fishery foraging concerns	33
-general	32
-stocking site/stocked fish	2
-private fish pond	
Vegetation damage	2
Fecal matter	
Other	5
-competition w/ loons	1
-destruction of duck nests	1
-difficult to steer boats around flocks	1
-duplicate entry	2

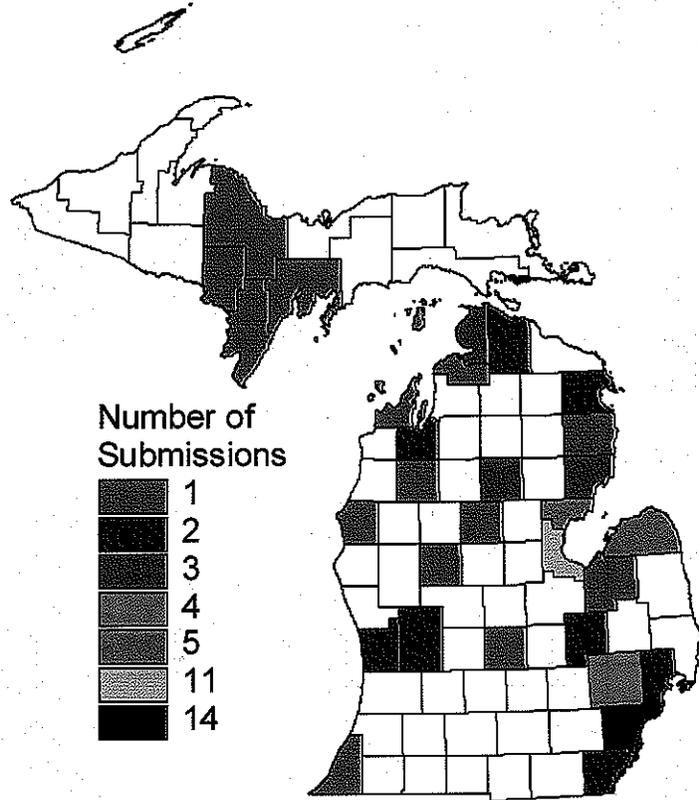
Year: 2009
 Submissions: 79

Count of submissions by month of complaint:

March	1
April	38
May	21
July	2
August	8
September	5
October	3
December	1

Number of birds observed:

0	
1-10	21
11-25	12
26-75	20
76-150	14
151-300	8
301-500	2
501-999	
1,000+	2



Nature of submission:

Database test	
Not cormorant related	2
Cormorants, not a complaint	3
Fishery foraging concerns	73
-general	70
-stocking site/stocked fish	3
-private fish pond	
Vegetation damage	20
Fecal matter	1
Other	2
-competition w/ waterfowl for nest sites	1
-duplicate entry	1

Year: 2010

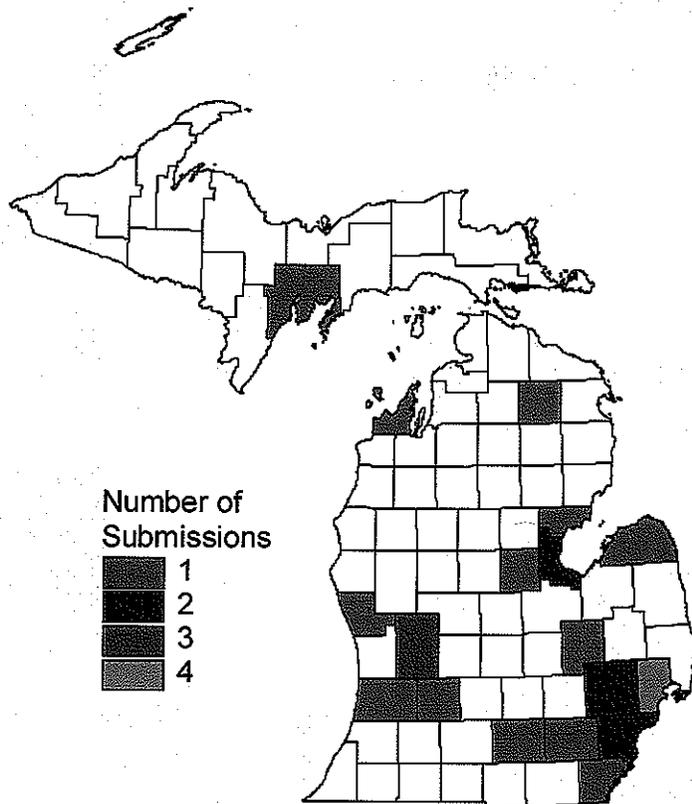
Submissions: 29

Count of submissions by month of complaint:

March	1
April	3
May	2
June	4
July	4
August	4
September	3
October	5
November	2
December	1

Number of birds observed:

0	2
1-10	10
11-25	4
26-75	6
76-150	2
151-300	5
301-500	
501-999	
1,000+	



Nature of submission:

Database test	
Not cormorant related	4
Cormorants, not a complaint	5
Fishery foraging concerns	19
-general	18
-stocking site/stocked fish	
-private fish pond	1
Vegetation damage	4
Fecal matter	
Other	1
-duplicate entry	1

Year: 2011
 Submissions: 8

Count of submissions by month of complaint:

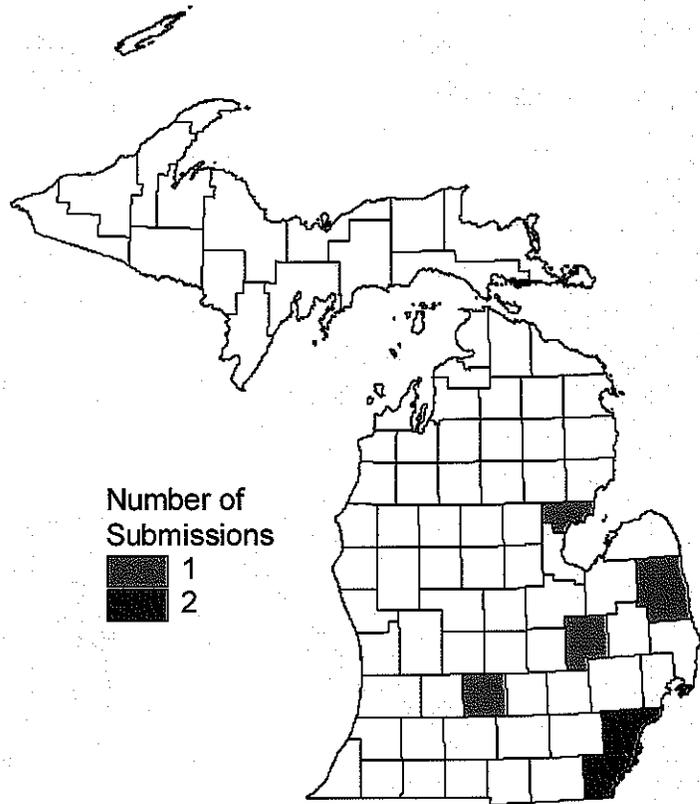
April	5
May	3

Number of birds observed:

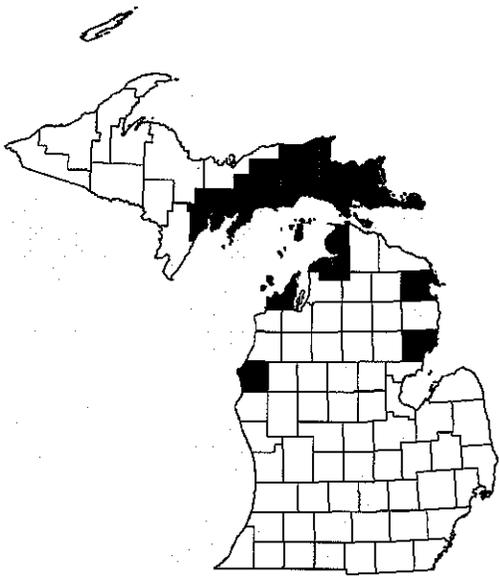
0	1
1-10	1
11-25	1
26-75	
76-150	2
151-300	2
301-500	1
501-999	
1,000+	

Nature of submission:

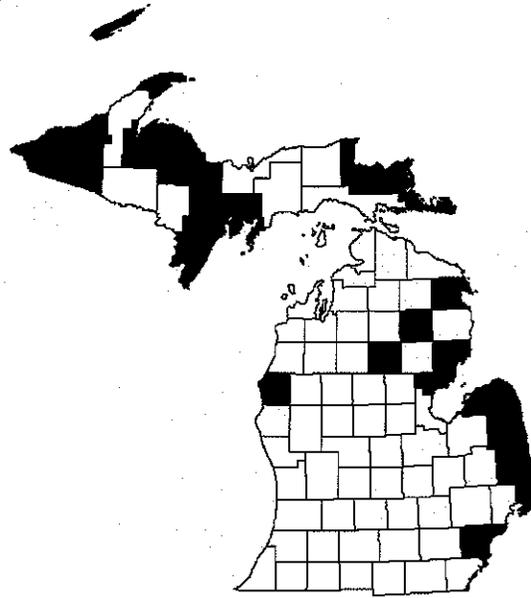
Database test	1
Not cormorant related	
Cormorants, not a complaint	1
Fishery foraging concerns	6
-general	6
-stocking site/stocked fish	
-private fish pond	
Vegetation damage	
Fecal matter	
Other	



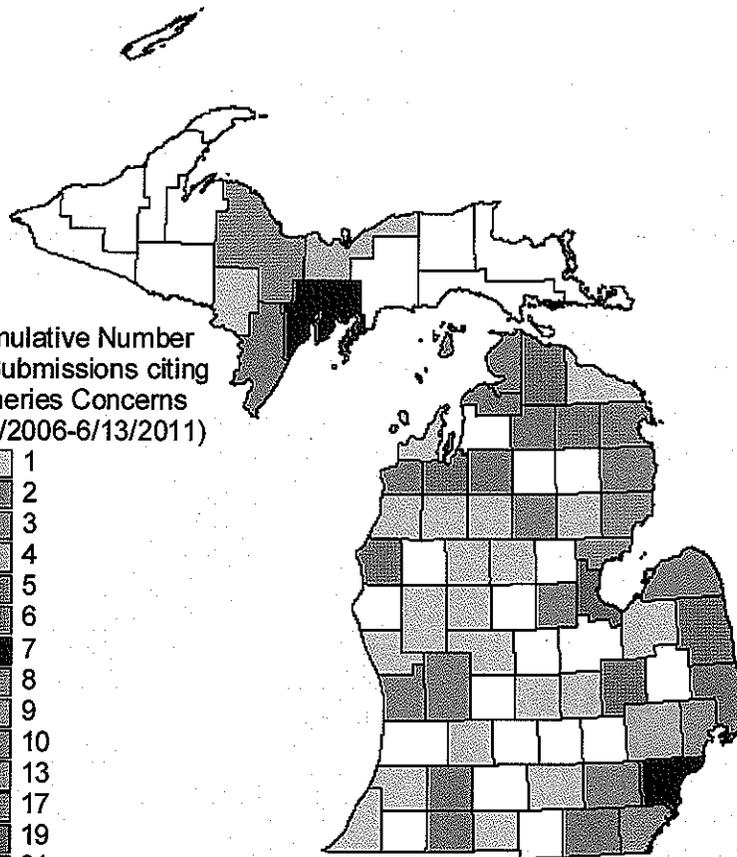
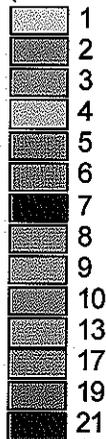
Counties where lethal management actions are currently in use:

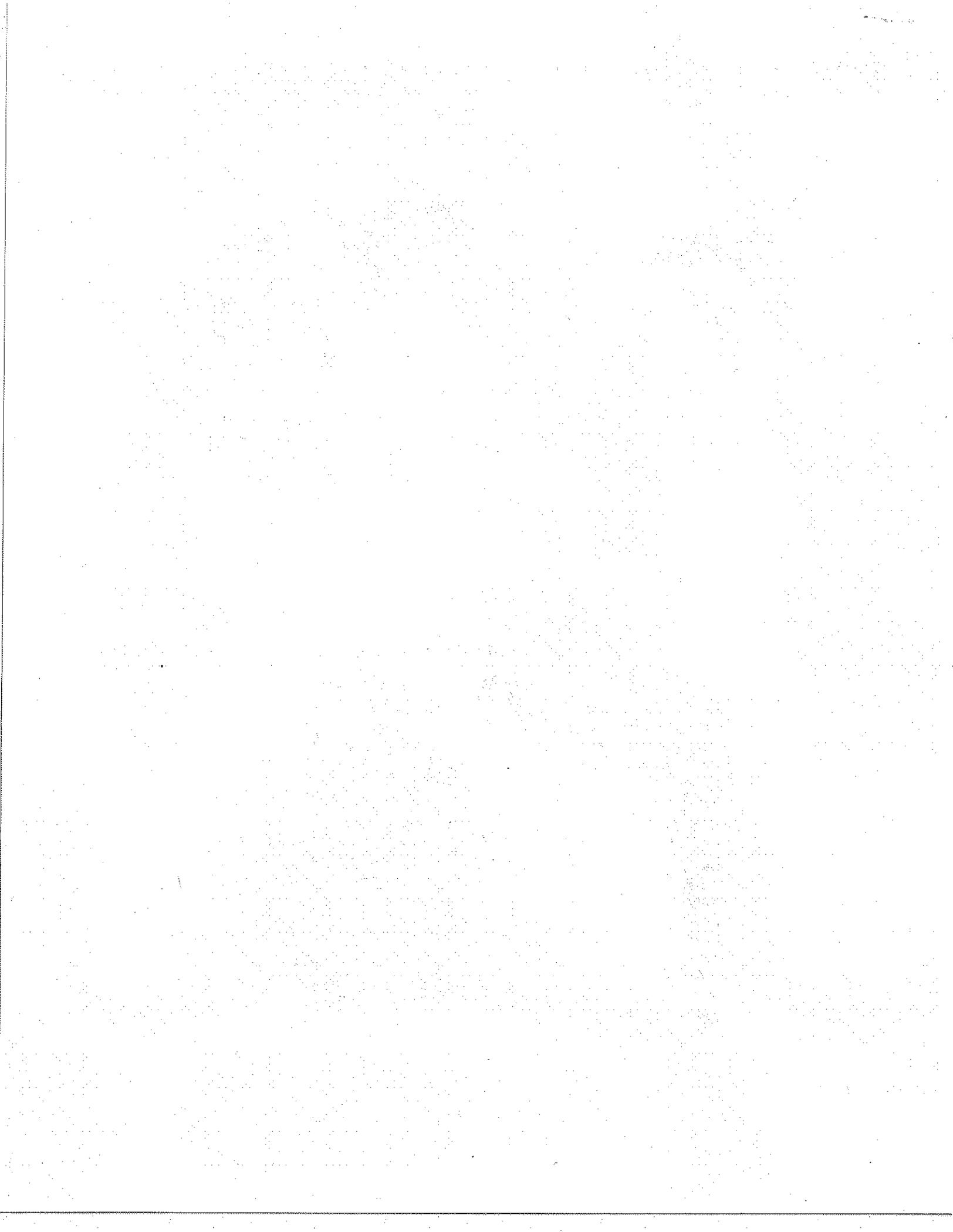


Counties where DNR fish stocking events are accompanied by notification of local volunteer groups:



Cumulative Number of Submissions citing Fisheries Concerns (1/1/2006-6/13/2011)







Michigan Department of Natural Resources - Wildlife Division

CORMORANT ACTIVITY REPORT

This information is voluntary and requested by authority of Public Act 451 of 1994, as amended.

Contact information will only be used for follow-up observations and will not be released. Although we try to answer questions submitted, we do not contact every person submitting a report.

DATE OF OBSERVATION		NUMBER OF CORMORANTS INVOLVED	
CONTACT INFORMATION			
Name		Telephone ()	
Address		Cell ()	
City, State, ZIP		Email	
OBSERVATION LOCATION			
INLAND SITES		GREAT LAKES SITES	
County		Name of Waterbody	
Township, Range and Section		Grid Number (see attached map)	
Name of Waterbody		Name of Island	
CORMORANTS ACTIVITY			
<input type="checkbox"/> Migratory flock (on site during spring or fall migration, i.e. April/May or September/October) <input type="checkbox"/> Loafing or roosting area <input type="checkbox"/> Nesting colony			
NATURE OF COMPLAINT			
(Check all that apply and provide explanation in COMMENTS.)			
<input type="checkbox"/> Excessive Noise		<input type="checkbox"/> Property Damage	
<input type="checkbox"/> Wildlife (e.g., affecting threatened or endangered species)		<input type="checkbox"/> Fisheries Concern	
<input type="checkbox"/> Vegetative Damage (tree, shrub, forb)		<input type="checkbox"/> Traffic/Aircraft/Boat Hazard	
<input type="checkbox"/> Environmental (e.g., long-term water quality issues)		<input type="checkbox"/> Other: _____	
COMMENTS			

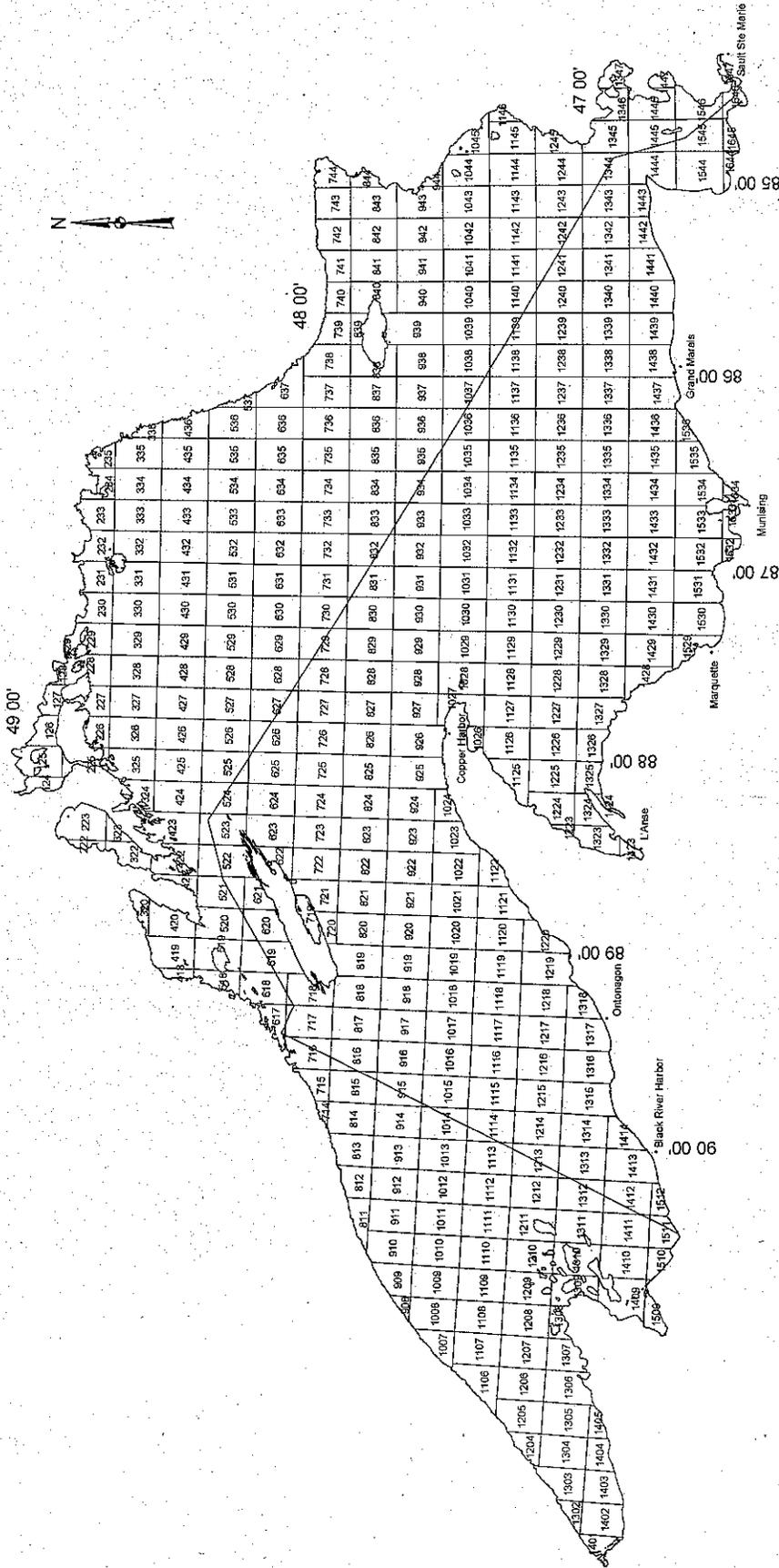
Please mail completed original report to:

Cormorant Report
Michigan Department of Natural Resources
5100 State Highway M-123
Newberry, MI 49868

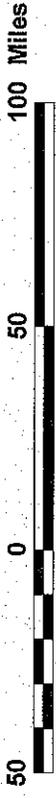
OR

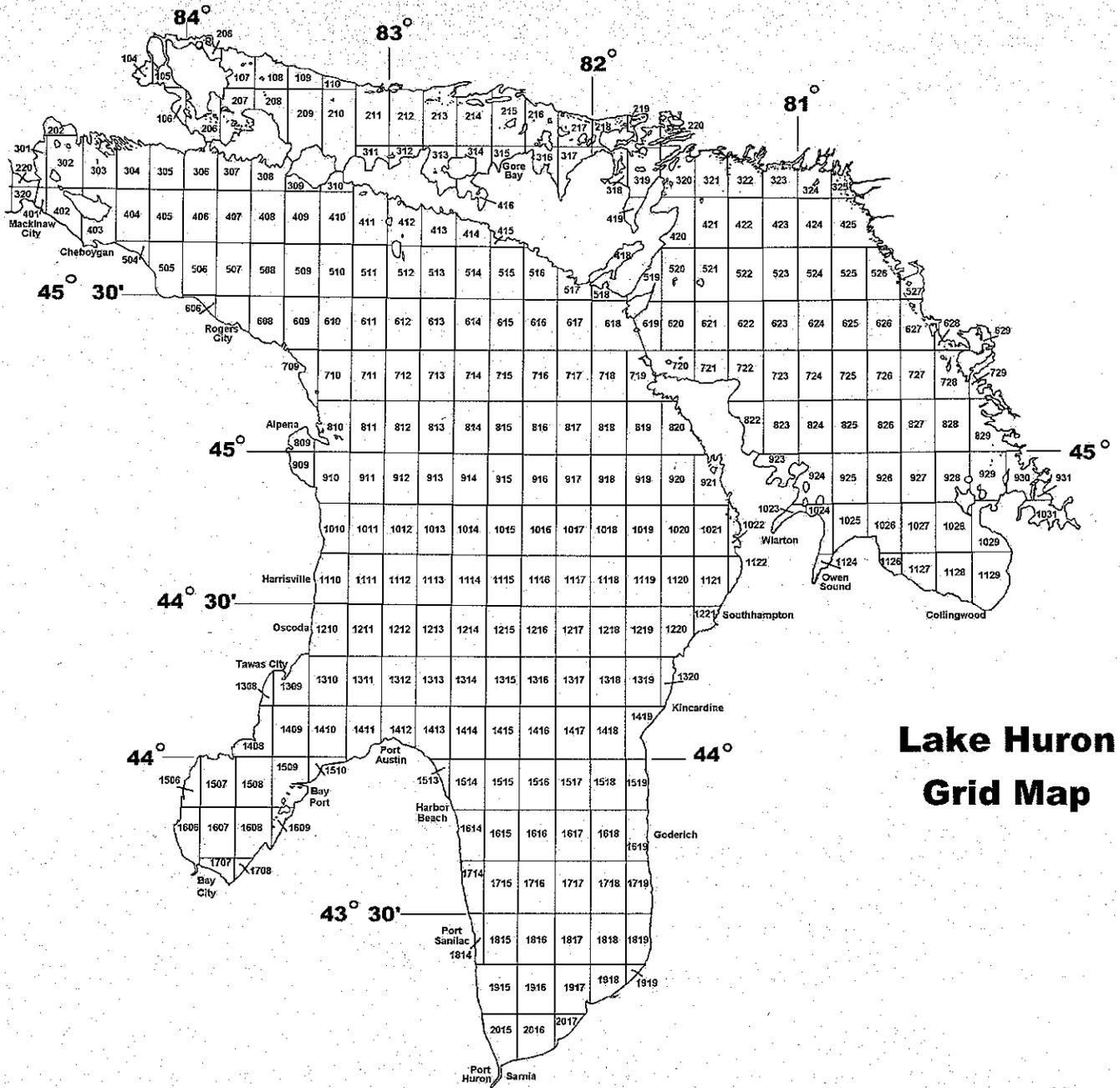
Submit Online at:
www.dnr.state.mi.us/cormorantobs

LAKE SUPERIOR GRIDS



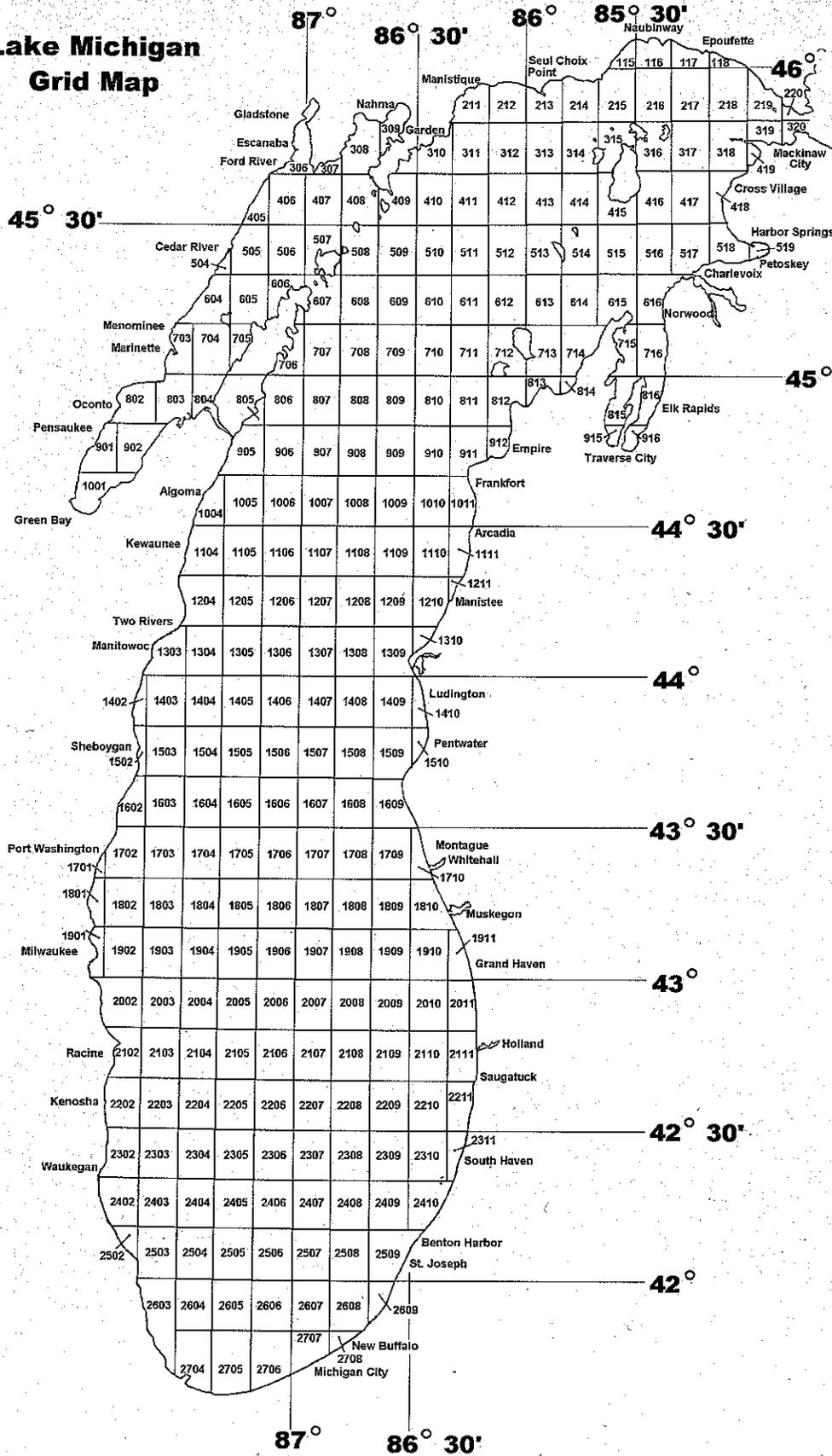
Grids = 10 minutes latitude by 10 minutes longitude

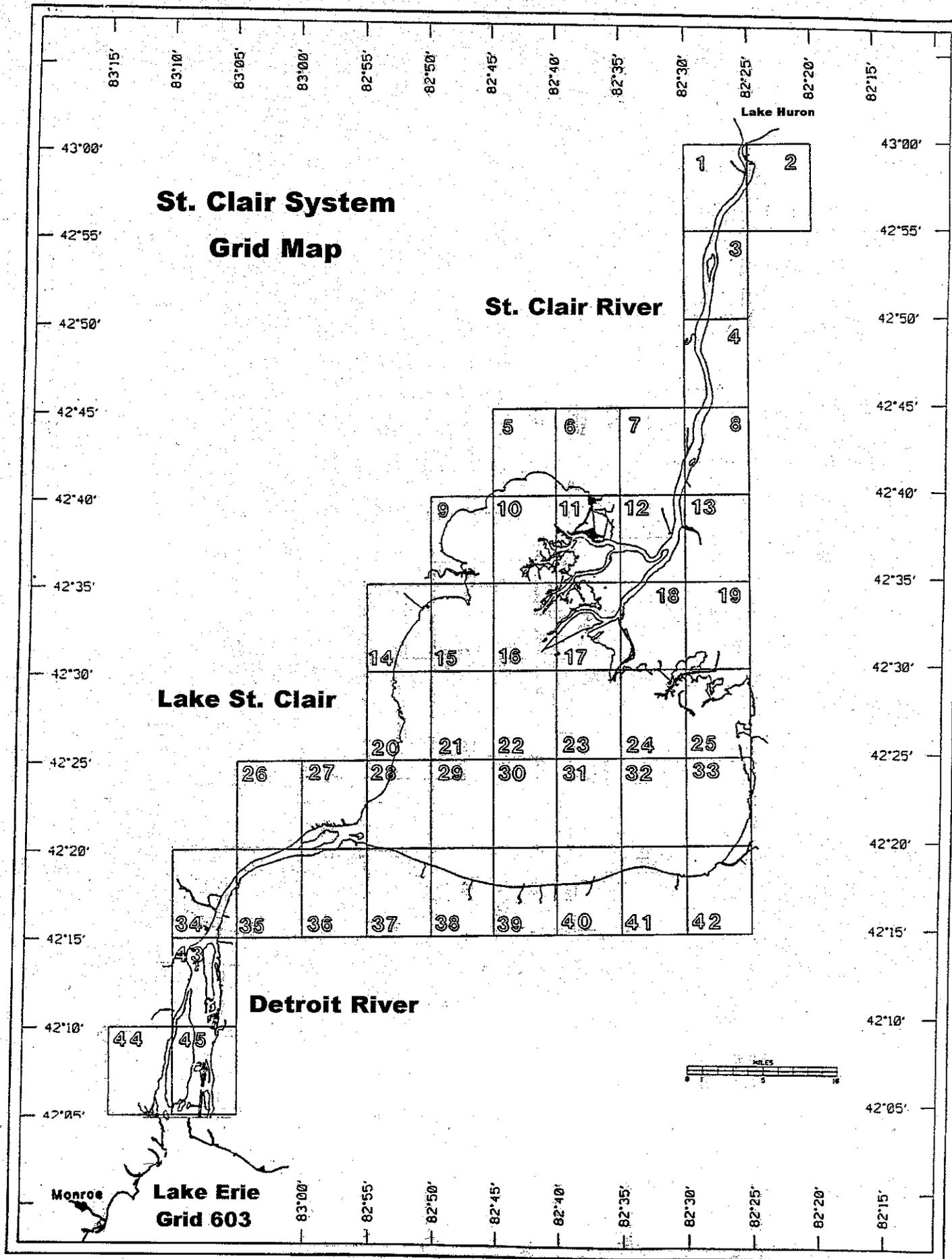


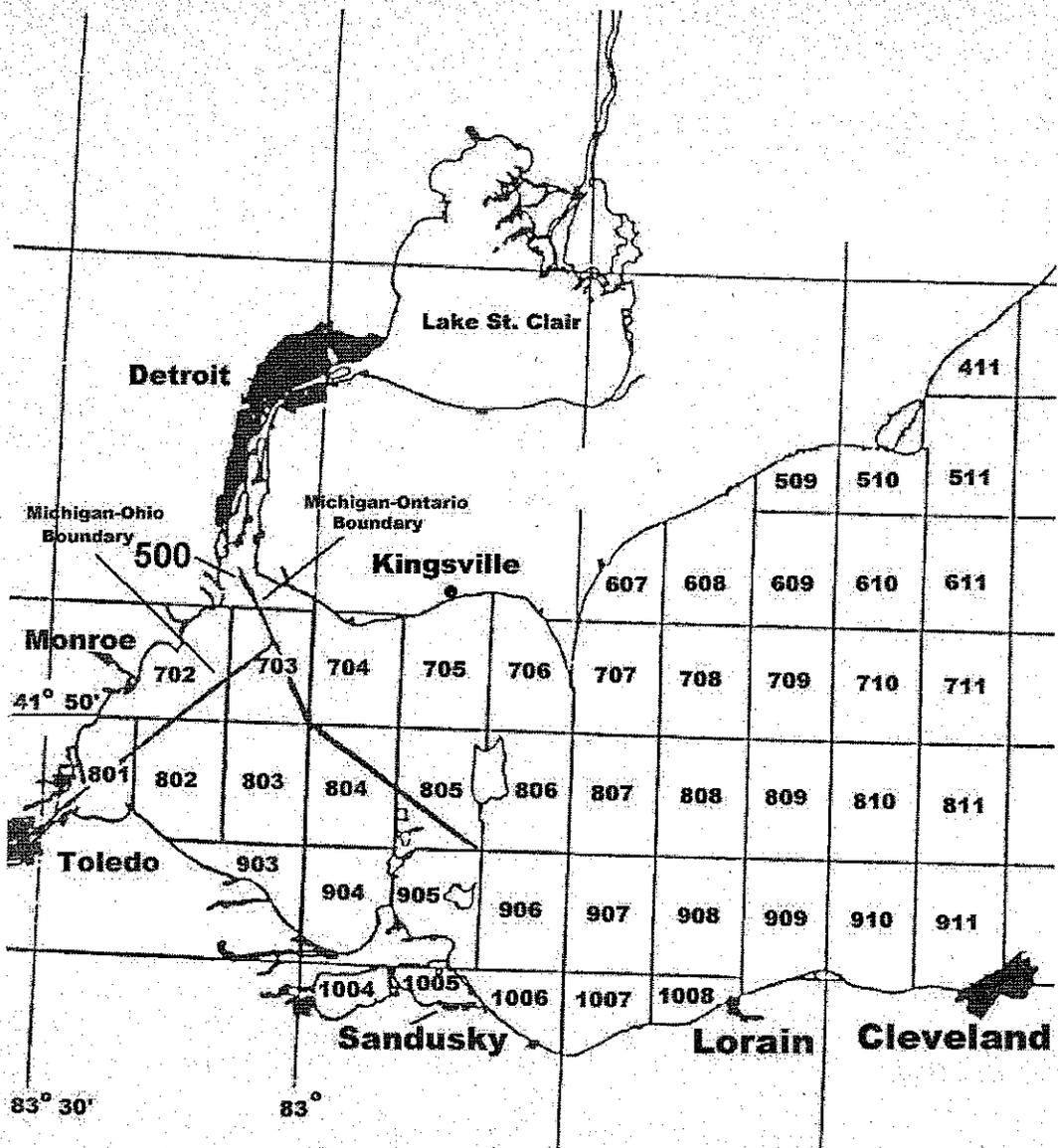


Lake Huron Grid Map

Lake Michigan Grid Map







2011 cormorant management notes

MI cormorant EA status:

- A new EA was approved midway through the 2011 breeding season, and management changes were implemented in response to the new EA at that time.
 - current statewide cap on lethal take (combination of all permits, including PRDO) is 15,500 birds annually, no cap on egg oiling.
 - requires that state population be maintained at 5,000 or more nests and that they be distributed throughout the state
 - a local breeding population that consists of a single colony cannot be reduced below 100 nests
 - a local breeding population that consists of more than one colony cannot be reduced below 200 nests
 - colonies on man-made structures can be eliminated; preference will be given to nonlethal means of removal
 - new colonies will not be managed unless there is reasonable cause to believe that the cormorants are causing or about to cause damage
 - Local population specific management goals:
 - Les Cheneaux Islands: 500 nests for 5 years unless fish population metrics indicate declines attributable to cormorants
 - Thunder Bay: approximately 450 nests
 - Bays de Noc: 50% annual reduction accompanied by fish population assessment to determine whether cormorant predation is suppressing this fishery
 - Beaver Island Archipelago: 3,000 nests accompanied by fish population assessment to determine whether cormorant predation is suppressing this fishery
 - Ludington Pumped Storage Facility: Prevent all nesting
 - Ile Aux Galets (Skillagalee): may be considered as part of the Beaver Island Archipelago for management goals
 - Bellow Island: annual egg oiling and shooting <10% of adults
 - Paquin & Naubinway Islands: reduction in breeding and foraging cormorants to meet explicit fishery goals
 - St. Marys River: reduction in breeding and foraging cormorants to meet explicit fishery goals
 - Tahquamenon Island: annual egg oiling and shooting <10% of adults to meet explicit fishery goals

Great Lakes comprehensive cormorant nest counts (Michigan estimate):

1982	1985*	1989	1997	2005	2006	2007	2009	2011
311	1,100	4,190	30,458	30,611	33,673	29,509	18,200**	18,632***

*the double-crested cormorant was removed from the state list of T&E species in 1985

**does not include most islands in Lake Superior (may underestimate actual nest count by ~400-600); later reports provide a 2009 nest count of 21,511

***does not include most islands in Lake Superior (may underestimate actual nest count by ~400-600)

Management location nest counts (not all nesting locations are management locations – e.g. Isle Royale, Saginaw Bay)

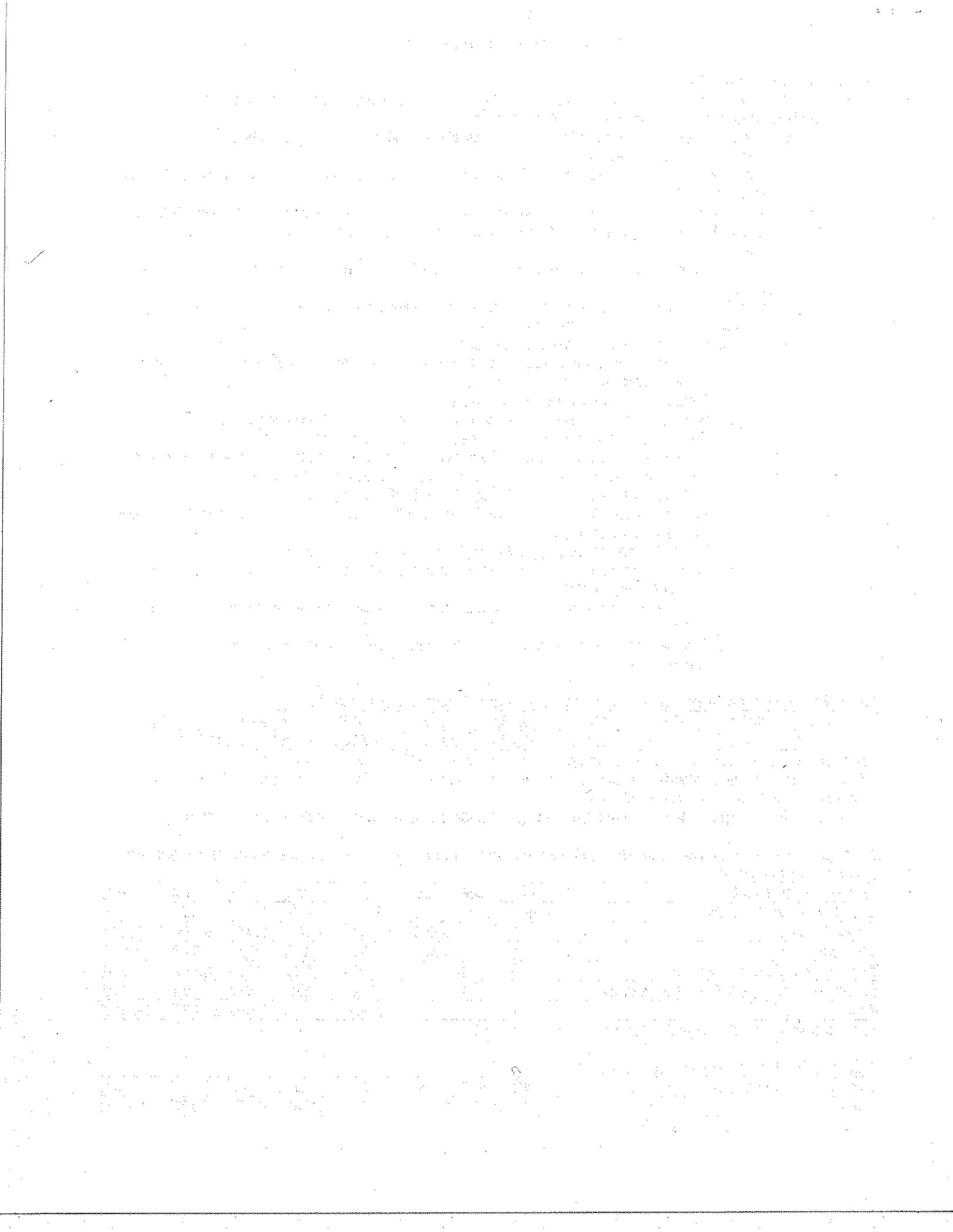
Management location	04	05	06	07	08	09	10	11
Les Cheneaux Islands	4,656	3,264	1,564	1,438	1,409	1,126	850	798
Bays de Noc			9,854	7,633	4,696*	8,077	6,294	8,048
Thunder Bay			3,364	2,193	1,428	1,060	745	975
Beaver Island Archipelago				11,549	8,926	7,520	6,627	4,308
Ludington Pumped Storage Facility				532	518	313	169	120
Total				23,345		18,096	14,685	14,249

*not all colonies on the Bays de Noc were counted in 2008

Number of birds killed under the PRDO

Management location	04	05	06	07	08	09	10	11
Total	1,424	2,779	5,627	7,767	8,223	9,728	7,139	7,545*

*2011 count does not include Tribal take



Number of nests oiled or destroyed under the PRDO

Management location	04	05	06	07	08	09	10	11
Total	3,114	2,991	12,124	13,325	17,177	9,969	13,011	858*

*2011 count does not include Tribal take

Volunteer cormorant harassing crews authorized/coordinated by Wildlife Services:

Management location	County	Number of volunteers
Elmwood Harbor fish plant	Leelanau	17
Drummond Island	Chippewa	21
Bay de Noc/Escanaba/Ford & Bark Rivers	Delta	33
Brevoort	Mackinac	28
Indian Lake	Schoolcraft	23
Beaver Island	Charlevoix	12
Les Cheneaux Islands	Mackinac/Chippewa	12
Long Lake	Presque Isle/Alpena	10
Grand Lake	Presque Isle	11
Thunder Bay River	Alpena	6
Au Sable River	Iosco	6
Ludington	Mason	12
Flat Rock	Wayne	29
Tawas/Whitney Drain/Caseville/Pinnebog River/Port Austin/Port Sanilac/Lexington Harbor/Black River	Iosco/Huron/Sanilac	26

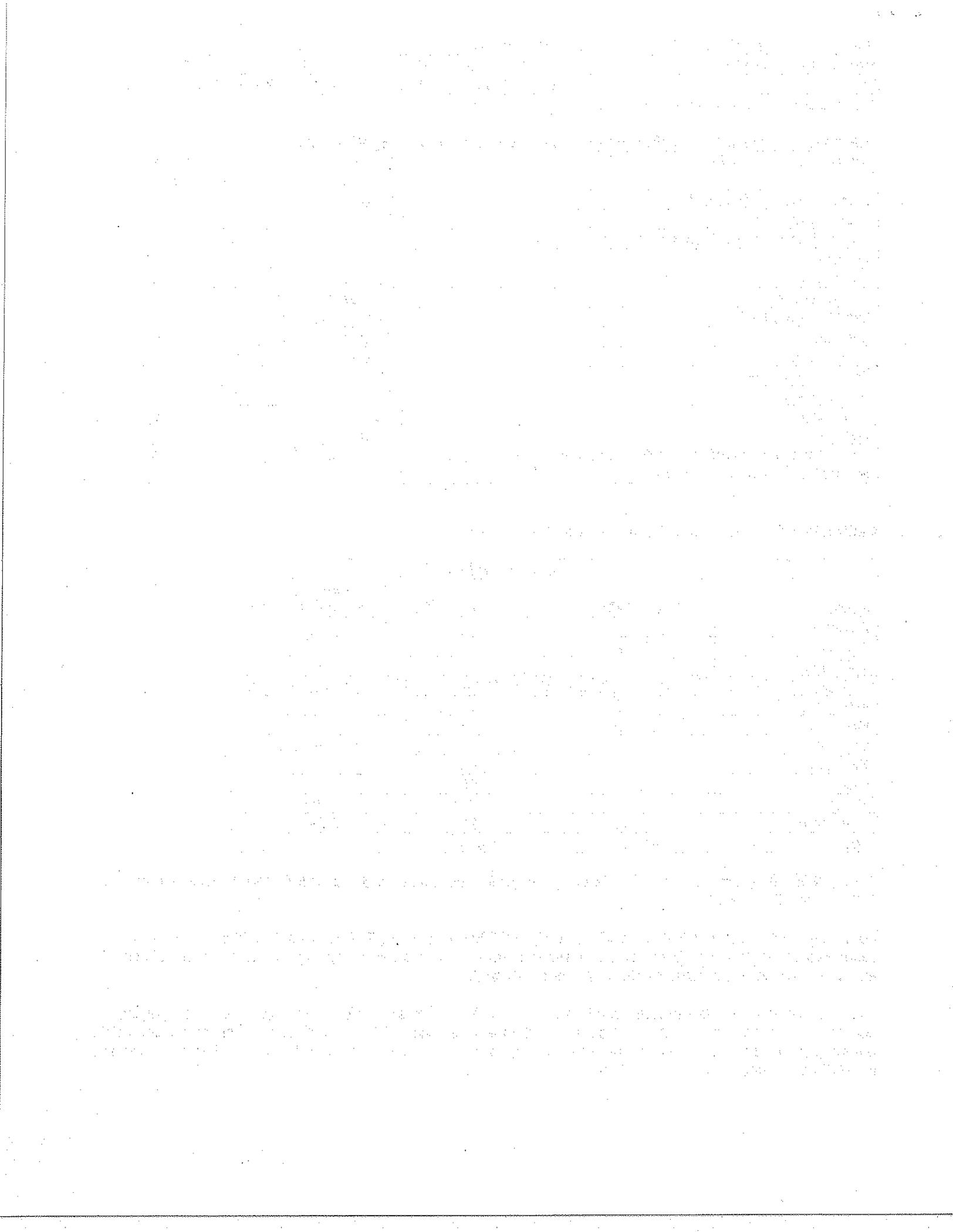
Culling in MI vs. other Great Lakes states/provinces

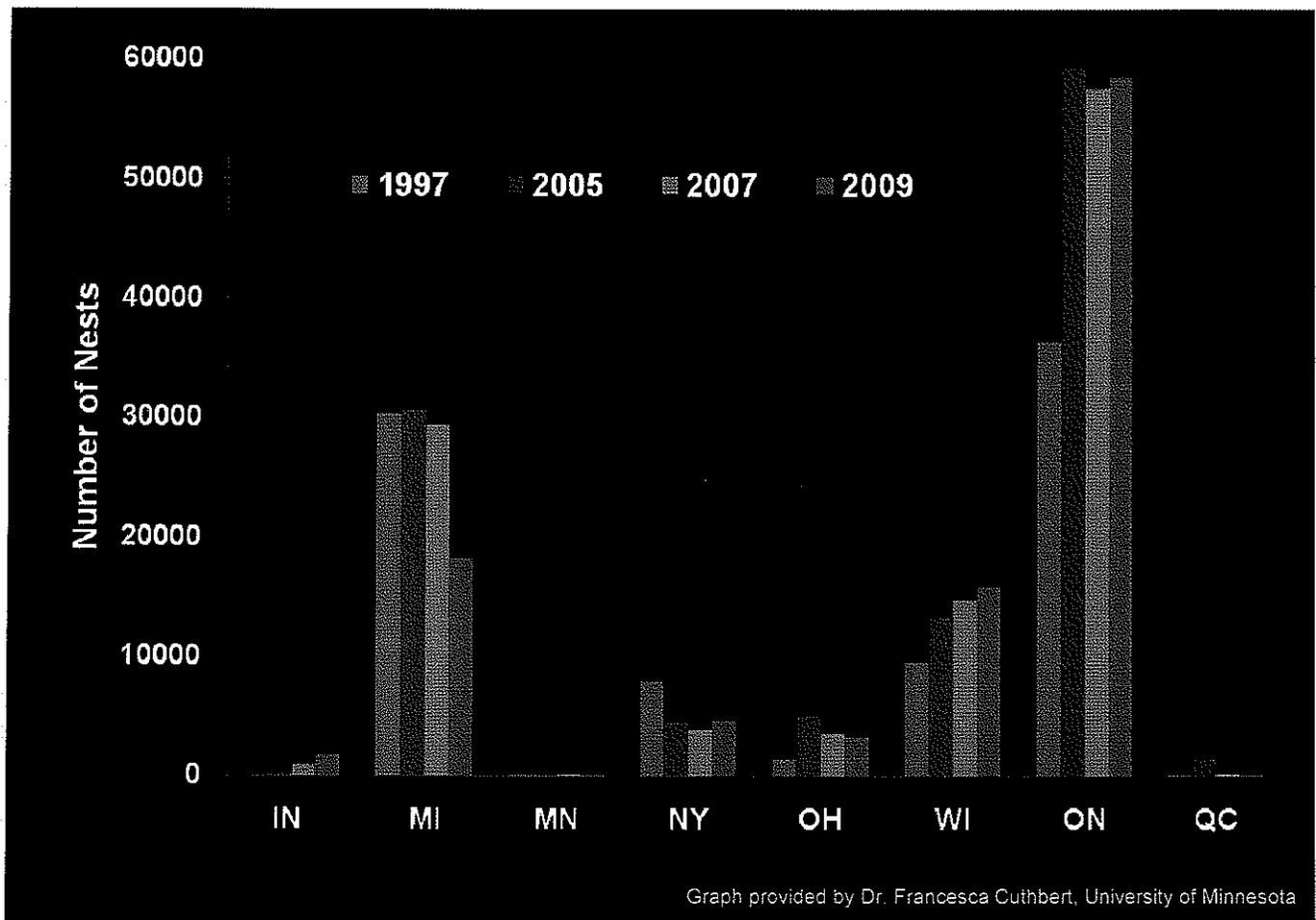
State	Number of birds killed		
	AQDO (2009)	PRDO (2010)	Depredation Permits (2009)
Alabama			246
Arkansas	5,862		1,921
California			321
Michigan		7,119	95
Minnesota	1,725	2,222	
Mississippi	3,632		
Nebraska			202
New York		601	
Ohio		2,206	
Texas		4,235	255
other states	3,504	1,901	3,898
Total	14,723	18,284	6,938

During 2005-2009, Great Lakes (US & Canada) cormorant nest counts declined 10.5% (18.6% decline in the US, 3.2% decline in Canada).

Cormorant nest counts in Michigan in 1997, 2005, and 2007 were about 30,000 nests. The 2009 Michigan nest count was about 18,000 nests (though later reports provide a nest count of 21,511). Counts in surrounding states and provinces did not increase significantly from 2007 to 2009.

As round gobies have become established around cormorant colony sites, they have become a more significant portion of the cormorant diet. At some sites, round gobies may account for 80-90% or more of the cormorant diet. Cormorants that breed in the Great Lakes region migrate south along the Ohio and Mississippi Rivers and winter in the Gulf Coast states from Texas to Florida and in Arkansas.

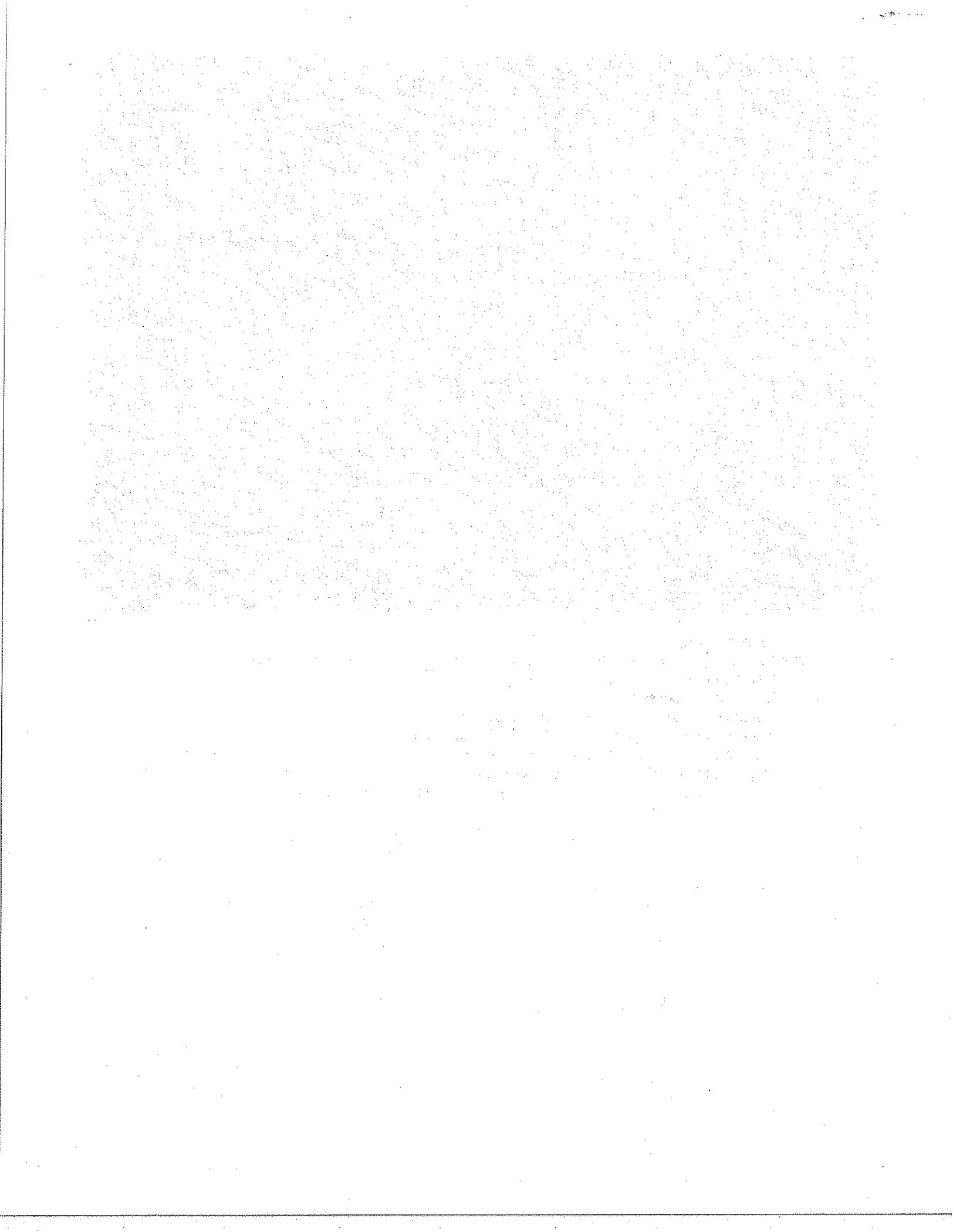




Cormorant web reporting

As of 14 November 2011, 43 submissions were received via the web reporting form for 2011.

- 1 system test
- 3 duplicate submissions
- 3 submissions on topics other than cormorants
- 3 cormorant sightings that did not include a complaint
- 3 private land cormorant issue submissions (e.g. koi pond depredation)
- 30 public resource cormorant issue submissions
 - By county
 - Alcona: 1
 - Arenac: 9
 - Emmet: 1
 - Ingham: 1
 - Iosco: 1
 - Kent: 1
 - Mason: 6
 - Monroe: 2
 - Roscommon: 1
 - Saginaw: 1
 - Sanilac: 1
 - Wayne: 5
 - By number of birds observed
 - 0: 0
 - 1-10: 6
 - 11-25: 1
 - 26-75: 3
 - 76-150: 5
 - 151-300: 5
 - 301-500: 5
 - 501-999: 2
 - 1000+: 3



under Executive Order 13132. It would not interfere with the States' abilities to manage themselves or their funds. No significant economic impacts are expected to result from the proposed change in the definition of "hybrid" at 50 CFR 21.3.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

This proposed rule does not contain any new information collections or recordkeeping requirements for which approval from the Office of Management and Budget (OMB) is required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have analyzed this proposed rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432-437(f), and Part 516 of the U.S. Department of the Interior Manual (516 DM). The proposed regulation change would have no environmental impact.

Socioeconomic. The proposed regulation change would have no discernible socioeconomic impacts.

Migratory bird populations. The proposed regulation change would not affect native migratory bird populations.

Endangered and threatened species. The proposed regulation change would not affect endangered or threatened species or habitats important to them.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on Federally recognized Indian Tribes from the proposed regulation change. The proposed regulation change would not interfere with Tribes' abilities to manage themselves or their funds, or to regulate migratory bird activities on tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

This proposed rule would not affect energy supplies, distribution, or use. This action would not be a significant energy action, and no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter" (16 U.S.C. 1536(a)(1)). It further states that the Secretary must "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat" (16 U.S.C. 1536(a)(2)). The proposed regulation change would not affect listed species.

Clarity of this Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons described in the preamble, we propose to amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

1. The authority for part 21 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Public Law 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106-108, 113 Stat. 1491, Note following 16 U.S.C. 703.

2. Amend § 21.3 by revising the definition of "hybrid" to read as follows:

§ 21.3 Definitions.

* * * * *

Hybrid means offspring of any two different species listed in § 10.13 of subchapter B of this chapter, and any progeny of those birds; or offspring of any bird of a species listed in § 10.13 of subchapter B of this chapter and any bird of a species not listed in § 10.13 of subchapter B of this chapter, and any progeny of those birds.

* * * * *

Dated: October 28, 2011.

Michael J. Bean,
Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011-28942 Filed 11-7-11; 8:45 a.m.]
 BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS-R9-MB-2011-0033; 91200-1231-9BPP]

RIN 1018-AX82

Migratory Bird Permits; Double-Crested Cormorant Management in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (USFWS), are requesting public comments to guide the preparation of a Supplemental Environmental Impact Statement or Environmental Assessment on the development of revised regulations governing the management of double-crested cormorants. Under current regulations, cormorant damage management activities are conducted annually at the local level by individuals or agencies operating under USFWS depredation permits, the existing Aquaculture Depredation Order, or the existing Public Resource Depredation Order. The depredation orders are scheduled to expire on June

30, 2014. This analysis will update the 2003 Final Environmental Impact Statement (FEIS): *Double-crested cormorant management in the United States* (USFWS 2003).

DATES: Electronic comments on this notice via <http://www.regulations.gov> must be submitted by midnight Eastern Time on February 6, 2012. Comments submitted by mail must be postmarked on or before February 6, 2012.

ADDRESSES: You may submit comments by either one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R9-MB-2011-0033.
- **U.S. Mail or hand delivery:** Public Comments Processing, Attn: FWS-R9-MB-2011-0033; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Suite 222; Arlington, VA 22203-1610.

We will not accept email or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information that you provide. See the Public Comments section below for more information.

FOR FURTHER INFORMATION CONTACT: Terry Doyle, Wildlife Biologist, Division of Migratory Bird Management, 703-358-1799.

SUPPLEMENTARY INFORMATION: We seek comments to help us determine future national policy for effective management of double-crested cormorant (DCCO, *Phalacrocorax auritus*) populations within the United States. Primary management objectives surrounding DCCOs are at times in conflict. They include meeting conservation obligations under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) and other Federal laws, while enabling management of human-wildlife conflicts related to the expansion of DCCO populations, particularly in the Great Lakes and southeastern United States. Developing a comprehensive national policy requires consideration of the decision process at each of the geographic scales relevant to DCCO management. Management decisions are made at the local level (including individual lakes, breeding colonies, aquaculture facilities, and roosts), at the State level, regional or national scales, and across international borders. Under the current regulations, control activities are proposed and conducted annually at the local level by individuals or agencies operating under depredation permits (50 CFR 21.41), the Aquaculture

Depredation Order (AQDO, 50 CFR 21.47), or the Public Resource Depredation Order (PRDO, 50 CFR 21.48). U.S. Fish and Wildlife Service (USFWS) Regional Directors make annual decisions on whether to allow these activities. Ultimately, the USFWS Director will decide, through the National Environmental Policy Act (NEPA) process, on a national management strategy by June 30, 2014, at which time the existing depredation orders are scheduled to expire.

The analysis will be prepared in cooperation with the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (APHIS-WIS). The decision to prepare a Supplemental Environmental Impact Statement or Environmental Assessment will be based on responses to this notice and: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) U.S. Department of the Interior regulations implementing NEPA (43 CFR part 46), and (4) USFWS implementing provisions (516 DM 8).

Background

Ecological Context

Double-crested cormorant populations, especially those breeding in the Great Lakes States and provinces and wintering in the southeastern United States, have increased rapidly since the mid-1970s, and may have reached or exceeded carrying capacity in the Great Lakes. Before that time, DCCOs were considered a rare breeder in the Great Lakes, with the first confirmed nesting documented in 1913 (Wires and Cuthbert 2006). The reasons for the rapid expansion are unknown, but likely involved several factors, including U.S. Federal protection under the MBTA in 1972, the elimination of DDT, the expansion of the aquaculture industry and construction of reservoirs in the Southeast, and alterations of the Great Lakes fish communities.

By the mid 1990s, DCCO populations were perceived to have a negative impact on the aquaculture industry and on natural resources at many locations across North America. Double-crested cormorants have been implicated in several human-DCCO conflict issues including depredation of aquaculture stocks and local sport and commercial fisheries, as well as conflicts with other conservation interests such as damage to sensitive vegetation and other colonial nesting bird species (Fielder 2010, Glahn and Brugger 1995, Hebert et al.

2005, Rudstam et al. 2004, Somers et al. 2007).

In certain areas, evidence suggests that DCCOs have contributed to declines in walleye, yellow perch, and smallmouth bass, whereas in other areas no such evidence exists for the decline of sport fishery stocks (Seefelt and Gillingham 2006). The implication of DCCOs as a causative factor in these declines is confounded, however, by uncertainties regarding the effect of other ecosystem changes (e.g., exotic species introductions, lower nutrient loading, or decreases in alternate prey) and how these changes interact with each other and with DCCO population dynamics.

Legal, Regulatory, and Management Context

The USFWS has statutory authority to manage migratory bird populations in the United States, under the MBTA (16 U.S.C. 703-712) and the Conventions with Canada (1916 as amended in 1996), Mexico (1936 as amended in 1972), Japan (1972), and Russia (1976). We have interstate regulatory authority over cormorants and permit take by individuals and agencies. All the Conventions, except the one with Mexico, specifically mention allowing the lethal take of birds and eggs to protect injury to agricultural interests, persons, or property. The Federal regulation at 50 CFR 21.1 provides limited exceptions to protections afforded by the MBTA, such as the establishment of depredation orders.

In response to rapidly increasing wintering populations in the southeastern United States, breeding populations of DCCOs in the Great Lakes region, and concerns about potential impacts, we adopted two depredation orders that facilitate the control of depredating DCCOs. The Aquaculture Depredation Order (AQDO) was established in 1998 to assist with the control of DCCOs at aquaculture facilities in 13 States. In 2003, we modified the AQDO and established a Public Resource Depredation Order (PRDO) to protect additional public resources including fish, wildlife, plants, and their habitats from DCCO impacts in 24 States (USFWS 2003). Both depredation orders were recently authorized to remain in effect through June 2014 (USFWS 2009a and USFWS 2009b). Prior to establishment of the depredation orders, depredation permits were the primary tool used to resolve DCCO conflicts. Permits are still used to resolve conflicts related to human health and safety and economic losses to private property in all States,

including those operating under the depredation orders.

Double-crested cormorants in the United States are managed at selected sites on the breeding and wintering grounds and during migration to alleviate damage and lessen economic, social, and ecological conflicts. Management actions are conducted locally each year and include various forms of harassment, shooting, nest and egg destruction, and egg oiling. Under the PRDO, agencies (State fish and wildlife agencies, Federally recognized Tribes, and APHIS-WS) submit annual written proposals to the USFWS Regional Migratory Bird Permit Office (RMBPO) describing the locations and levels of proposed management actions. The Regional Director may prevent any activities that pose a threat to the long-term sustainability of DCCOs or any other migratory bird species. Often, decisions are made through interactive communications between the action agencies and USFWS. In some cases, USFWS asks action agencies to clarify their request or provide additional rationale for a decision. Inter-agency coordination also occurs through the NEPA process when environmental assessments are developed for DCCO management within individual States.

No such interaction occurs under the AQDO. However, aquaculture producers may operate under the AQDO only in conjunction with an established nonlethal harassment program as certified by APHIS-WS as outlined in WS Directive 2.330. This certification is documented on WS Form 37, which APHIS-WS is required to share with the USFWS when requested. Aquaculture producers submit an annual report of take by location and date, as does APHIS-WS for take at roosts in the vicinity of aquaculture facilities.

We retain the authority to revoke privileges to operate under the PRDO or AQDO if we believe the depredation orders have not been adhered to, or if the long-term sustainability of DCCO populations is threatened. Since 2004, total annual take of DCCOs in the United States has averaged 27 percent of the amount projected in the 2003 FEIS,

for depredation permits, expanded AQDO, and PRDO (USFWS 2003).

Preliminary Objectives

We have identified the following objectives that will be used to evaluate the alternatives. We identified three fundamental objectives:

- (1) To meet our legal obligations under the MBTA, Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668), Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*), and other Federal laws;
- (2) To minimize conflicts related to DCCO impacts and resultant management actions; and
- (3) To minimize the costs of implementing regulations.

Each alternative will be measured against the following criteria, or means objectives, to determine how it facilitates achieving the fundamental objectives:

- (1) Maintain sustainable DCCO populations;
- (2) Minimize negative impacts to other migratory birds and threatened and endangered species;
- (3) Maximize the ability to manage DCCO conflicts;
- (4) Maximize the social acceptance of DCCO management actions;
- (5) Minimize the cost of implementation by action agencies; and
- (6) Minimize the cost of USFWS oversight.

Preliminary Alternatives

We considered several alternative management actions in the 2003 EIS (USFWS 2003) including:

- (1) No Action;
- (2) Non-lethal Management;
- (3) Increased Local Damage Control;
- (4) Public Resource Depredation Order;
- (5) Regional Population Reduction; and
- (6) Regulated Hunting.

That environmental review resulted in the selection of the alternative establishing the PRDO and modifying the AQDO (USFWS 2003). In addition to considering the management alternatives identified above, the following actions may be included and addressed in the new NEPA analysis:

- (1) Renewing the depredation orders as currently written (with or without an expiration date);
- (2) Modifying the current depredation orders;
- (3) Allowing the depredation orders to expire; or
- (4) Adopting a different alternative that may or may not have been considered in the 2003 EIS.

Public Comments

We seek comments and suggestions from the public, concerned government agencies, Tribes, industry, the scientific community, and other interested parties regarding the problem, objectives, and alternatives that we have described and identified. Explaining your reasons will help us evaluate your comments. Of particular interest are answers to the following questions:

- (1) Have we accurately described the problem? If not, how could it be better described?
- (2) Are there fundamental or means objectives regarding DCCO management missing from the list above that we should consider?
- (3) Should the current fundamental or means objectives be modified? If so, how?
- (4) How would you rank the relative importance of the identified fundamental and means objectives? Please provide your rationale.
- (5) Are there any other alternatives that should be evaluated? If so, please describe them in sufficient detail so that they can be evaluated.
- (6) Should any of the identified alternatives be modified? If so, how?
- (7) How would you rank the preliminary list of alternatives? Please provide your rationale.

As examples of the level of detail needed to evaluate alternatives, we present the specifics of two alternatives that will likely be evaluated: The current and an alternative version of both the AQDO and PRDO. In many cases, the alternative versions attempt to resolve ambiguities in existing regulations.

TABLE 1—CURRENT AQUACULTURE DEPREDATION ORDER (AQDO) PROVISIONS, AND AN EXAMPLE OF AN ALTERNATIVE VERSION OF THE AQDO WITH MODIFIED PROVISIONS

Provision in 50 CFR 21.47	Current	Modified
(b) Area of coverage	Commercial freshwater aquaculture facilities and State and Federal fish hatcheries in 13 States (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Minnesota, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas).	(1) Should saltwater facilities be included? (2) Should we modify the coverage by eliminating States that have not used the AQDO (e.g., Oklahoma, South Carolina, and Tennessee) and consider adding other States?

TABLE 1—CURRENT AQUACULTURE DEPREDATION ORDER (AQDO) PROVISIONS, AND AN EXAMPLE OF AN ALTERNATIVE VERSION OF THE AQDO WITH MODIFIED PROVISIONS—Continued

Provision in 50 CFR 21.47	Current	Modified
(c)(2) APHIS-WS	Authorized to take DCCOs at roosts in the vicinity of aquaculture facilities.	Define vicinity as being within a reasonable distance of the facility such that DCCOs at the roost site are likely to be responsible for depredation.
(c)(3) Agents	Agents are authorized	Should we require training for agents?
(d)(1) Certification	Producer certified by APHIS-WS	(1) Certification renewed on a regular basis. (2) APHIS-WS required to submit WS Form 37s to Regional Migratory Bird Permit Office (RMBPO).
(d)(2) Methods of take	Firearms including rifles	(1) Define firearms.
	Nontoxic shot	(2) Should we change this to nontoxic ammunition?
(d)(6) Carcass disposal	Donate, bury, incinerate. Not to be sold	Should we allow the option to leave birds in ponds?
(d)(7) Incidental take	Report to RMBPO immediately	Report to RMBPO within 2 days.
(d)(8) Endangered Species Act provisions	Provisions for wood stork and bald eagle	Provisions for wood stork.
(d)(9) Recordkeeping		(1) Clarify calendar year. (2) Reports due to the RMBPO by January 31st of the following year.
(f) Expiration	June 30, 2014	Should we have an expiration date? If so, when?
Other: Bald and Golden Eagle Protection Act provisions.	None	Add provisions for bald eagle protection.

TABLE 2—CURRENT PUBLIC RESOURCE DEPREDATION ORDER (PRDO) PROVISIONS, AND AN EXAMPLE OF AN ALTERNATIVE VERSION OF THE PRDO WITH MODIFIED PROVISIONS

Provision in 50 CFR 21.48	Current	Modified
(b) Area of coverage	Lands and freshwaters in 24 States (Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Vermont, West Virginia, Wisconsin).	(1) Should saltwater systems be included? (2) Should we modify the coverage by eliminating States that have not used the PRDO (e.g., Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and West Virginia) and consider adding other States?
(c)(1) Action agencies	State fish and wildlife agencies, Federally recognized Tribes, and State Directors of APHIS-WS.	Should we add National Fish Hatcheries, National Wildlife Refuges, and National Parks operating on their own land?
(c)(1) Public resources	Fish (including hatchery stock at Federal, State, and Tribal hatcheries), wildlife, plants, and their habitats.	(1) Define specifically as natural resources managed and conserved by public agencies for public benefit. (2) Should we add resource allocation among anglers, forage fish, and DCCOs as a public resource? (3) Should we remove nonnative species from consideration as a public resource?
(c)(2) Agents	Allowed	(1) Should we require training for agents? (2) Should we eliminate agents?
(d)(2) Methods of take	Egg oiling, egg and nest destruction, cervical dislocation, firearms, and CO ₂ asphyxiation. Nontoxic shot.	(1) Define firearms. (2) Should we change this to nontoxic ammunition?
(d)(4) Landowner permission	Yes	Does this need clarification for birds taken off shore of private property?
(d)(6) Carcass disposal	Donate, bury, incinerate. Not to be sold	(1) Add properly conducted composting. (2) Should we allow the option to leave carcasses on site when disturbance to co-nesters is an issue?
(d)(7) Incidental take	Report to RMBPO immediately	Report to RMBPO within 2 days.
(d)(8) Endangered Species Act provisions	Provisions for wood stork, bald eagle, piping plover, and interior least tern.	(1) Provisions for wood stork, piping plover, and interior least tern. (2) Should we add provisions for snowy plover where it is threatened?
(d)(9)(i) Notification	Required 30-day written notice to RMBPO in advance of actions taking more than 10 percent of a breeding colony.	(1) Change "breeding colony" to "established breeding colony". (2) Define breeding colony. (3) Define established breeding colony.

TABLE 2—CURRENT PUBLIC RESOURCE DEPREDAATION ORDER (PRDO) PROVISIONS, AND AN EXAMPLE OF AN ALTERNATIVE VERSION OF THE PRDO WITH MODIFIED PROVISIONS—Continued

Provision in 50 CFR 21.48	Current	Modified
(d)(9)(ii) Approval	Regional Director can prevent if long-term sustainability of DCCOs or any other migratory bird species is threatened.	(4) Define threshold percent from potential biological removal (PBR) criteria. (5) Clarify whether part of the threshold percent can be taken within 30 days notice. In addition, RMBPO acknowledges receipt.
(d)(10) Recordkeeping	Number of nests oiled by date and location	(1) Define location: (a) During breeding season use colony location. (b) During nonbreeding season use next larger scale (e.g., bay, lake, area, etc.). (2) Add number of nests destroyed, empty nests, and otherwise untreated nests, by date and location.
(d)(11) Reporting period	(1) October 1 to September 30 reporting period. (2) Due December 31.	(1) Report on calendar year. (2) Due March 15th of the following year.
(d)(12) Requirements if reducing or eliminating a local breeding population.	(1) Evaluate effects of management activities on DCCOs at the control site. (2) Evaluate, by means of collecting data or using best available information, effects of management activities on the public resources being protected and on nontarget species.	(1) Define "local breeding population." (2) Distinguish and define "established" local breeding population. (3) Should we require data collection and eliminate using best available information?
(f) Expiration	June 30, 2014	Should we have an expiration date? If so, when?
Other: Justification .....	.....	Agreement between USFWS Regions on standards, especially regarding impact to fish.
Definitions .....	.....	Define regional population.
Timing of control .....	.....	Should we require a moratorium on shooting adults when nestlings are present?
Bald and Golden Eagle Protection Act provisions.	.....	Add provisions for bald eagle protection.
State-wide coordination groups .....	.....	Should this be required if there is more than one action agency in a State?

In addition, APHIS-WS and some State fish and wildlife agencies have continued to express interest in the Regional Population Regulation alternative (formerly referred to as Regional Population Reduction), though we considered and rejected that alternative in the 2003 EIS. To assist us in further evaluating that alternative, we are requesting information that will help us answer the following questions:

- (1) Define "regional."
 - a. What scale?
 - b. What geographic area?
- (2) How will population objectives be established?
 - a. Breeding population?
 - b. Wintering population?
- (3) How will birds breeding in Canada be incorporated?
- (4) How will allowable take be allocated by State?
- (5) How will allocated take be distributed, and how will this affect take by aquaculture producers?
- (6) Where does the funding come from to implement this alternative?

(7) What are the implications of taking birds that are not directly causing damage? Does this alternative just shift the public pressure to the national level?

(8) What are the implications if this alternative does not have the desired effect and local conflicts continue to occur?

You may submit your comments and supporting materials only by one of the methods listed in the ADDRESSES section. We will not consider comments sent by email or fax, or written comments sent to an address other than the one listed in the ADDRESSES section.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request that we withhold this information from public review, but we cannot guarantee that we will be able to do so. We will post all hardcopy

comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this notice, will be available for public inspection at <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service (see FOR FURTHER INFORMATION CONTACT).

Literature Cited

Fielder, D.G. 2010. Response of yellow perch in Les Cheneaux Islands, Lake Huron to declining numbers of double-crested cormorants stemming from control activities. *Journal of Great Lakes Research* 36:207–214.

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Dated: October 17, 2011.

Eileen Sobeck,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011-28755 Filed 11-7-11; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110831547–1639–01]

RIN 0648–BB26

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Ecosystem-Based Amendment 2 for the South Atlantic Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement the Comprehensive Ecosystem-Based Amendment 2 (CE–BA 2) to implement the following South Atlantic fishery management plan (FMP) amendments: Amendment 1 to the FMP for Pelagic Sargassum Habitat of the South Atlantic Region (Sargassum FMP); Amendment 7 to the FMP for Coral, Coral reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (Coral FMP); and Amendment 25 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council); as well as Amendment 21 to the FMP for Coastal Migratory Pelagic (CMP) Resources (CMP FMP) as prepared and submitted by the South Atlantic and Gulf of Mexico Fishery Management Councils. If implemented, this rule would modify the fishery management unit for octocorals in the South Atlantic exclusive economic zone (EEZ), establish an annual catch limit (ACL) for octocorals, modify management in special management zones (SMZs) off South Carolina, and modify sea turtle and small tooth sawfish release gear specifications in the South Atlantic region. Through CE–BA 2, NMFS also proposes to designate new Essential Fish Habitat (EFH) and EFH–Habitat Areas of Particular Concern (EFH–HAPCs) for the Snapper-Grouper, Coral and Sargassum FMPs. The intended effects of this rule are to specify an ACL for octocorals, implement management measures to ensure overfishing does not occur for these species but that optimum yield may be achieved, and to conserve and protect habitat in the South Atlantic region.

DATES: Written comments on this proposed rule must be received no later than 5 p.m., Eastern time, on November 25, 2011.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2011–0219, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on “submit a comment,” then enter “NOAA–NMFS–2011–0219” in the keyword search and click on “search.” To view posted comments during the comment period, enter “NOAA–NMFS–2011–0219” in the keyword search and click on “search.” NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be accepted.

Electronic copies of CE–BA 2, which includes an environmental assessment, Regulatory Impact Review, Initial Regulatory Flexibility Act Analysis (IRFA), and a Fishery Impact Statement may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/CE-BAAmendment2.htm>.

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone: (727) 824–5305, email: Karla.Gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The fisheries for CMP species; coral, coral reefs, and live/hard bottom habitats; pelagic Sargassum; and snapper-grouper off the southern Atlantic states are managed under their respective FMPs. The FMPs were prepared by the Council(s) and are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management

HR 3074 IH

112th CONGRESS

1st Session

H. R. 3074

To amend the Migratory Bird Treaty Act to delegate to States the authorities of the Secretary of the Interior under that Act with respect to cormorants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES**October 3, 2011**

Mr. KLINE (for himself and Mr. PETERSON) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Migratory Bird Treaty Act to delegate to States the authorities of the Secretary of the Interior under that Act with respect to cormorants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Cormorant Management and Natural Resources Protection Act'.

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) The current permitting system is not sufficient to achieve a streamlined control of excessive cormorant populations.
- (2) Excessive cormorant populations cause damage to ecosystems.
- (3) Excessive cormorant populations pose public health and safety concerns.
- (4) Excessive cormorant populations pose an unsightly, loud, and olfactory nuisance.
- (5) Excessive cormorant populations can have a detrimental effect on fish populations.
- (6) Excessive cormorant populations displace native species from their habitats.
- (7) Cormorant excrement in colonies often kills vegetation.

SEC. 3. DELEGATION TO STATES OF AUTHORITY UNDER MIGRATORY BIRD TREATY ACT WITH RESPECT TO CORMORANTS.

- (a) Delegation of Authority- Section 7 of the Migratory Bird Treaty Act (16 U.S.C. 708) is amended--
- (1) by inserting '(a) Preservation of State Authority-' before the first sentence; and
 - (2) by adding at the end the following:

(b) Delegation to States of Authority With Respect to Cormorants-

(1) **IN GENERAL-** The authority of the Secretary under this Act with respect to cormorants in a State is hereby delegated to the governor of the State effective on the date on which the Secretary approves a management plan for cormorants in the State that is submitted by the governor.

(2) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN-

(A) IN GENERAL- The Secretary shall approve or disapprove a management plan submitted under this subsection by not later than the end of the 60-day period beginning on the date the plan is submitted.

(B) REQUIREMENT TO APPROVE- The Secretary shall approve a management plan submitted under this subsection if the plan is in accordance with United States obligations under treaties and Federal law.

(C) DISAPPROVAL OF PLAN- If the Secretary disapproves a management plan under this subsection the Secretary shall provide to the governor who submitted the plan the reasons for the disapproval and an opportunity to revise and resubmit the plan.

(D) PLAN DEEMED APPROVED- Except as provided in subparagraph (E), if the Secretary does not approve or disapprove a management plan before the end of the period referred to in paragraph (1) the Secretary is deemed to have approved the plan.

(E) LIMITATION ON APPROVAL- A management plan shall not be approved under this paragraph if the plan is found to be in violation of United States obligations under treaties and Federal law.

(F) REVIEW OF APPROVED PLANS- The Secretary--

(i) shall review every 5 years each management plan approved for a State under this subsection and the State governor's exercise of authority delegated under this subsection; and

(ii) may revoke such approval and delegation if, based on such review, the Secretary determines that the plan or the governor's exercise of authority delegated under this subsection is not in accordance with this Act or any treaty implemented by this Act.

(3) RELATIONSHIP BETWEEN APPROVED PLAN AND REGULATIONS- A management plan that is approved for a State under this subsection shall apply in that State with respect to management of cormorants, in lieu of regulations issued under this Act.

(4) COMPLIANCE WITH TREATIES AND FEDERAL LAW- In exercising authority delegated under this subsection the governor of a State shall comply with this Act and all treaties implemented by this Act.

(5) RELATIONSHIP TO OTHER AUTHORITY- Nothing in this subsection limits the authority of the Secretary or any Federal agency to exercise authority under any Federal law to assist a State, upon request by the governor of the State, with control of cormorants.

(6) CORMORANT DEFINED- In this subsection the term 'cormorant' means the double-crested cormorant (*Phalacrocorax auritus*).

(b) Cooperation To Prevent Cormorant Proliferation-

(1) DEPARTMENT OF INTERIOR COOPERATION- The Secretary of the Interior, acting in consultation with the National Aquaculture Information Center and the Animal and Plant Health Inspection Service, shall conduct educational and informational activities for the owners and operators of aquaculture facilities to improve their efforts to prevent cormorants from consuming aquatic species being reared in aquaculture facilities, which contributes to the proliferation of cormorants.

(2) OTHER EFFORTS- Nothing in this subsection restricts the authority of other Federal or State wildlife or natural resource management agencies to cooperate with the owners and operators of aquaculture facilities regarding the management and control of cormorants to prevent their proliferation.

(3) CORMORANT DEFINED- In this subsection, the term 'cormorant' means the double-crested cormorant (*Phalacrocorax auritus*).

END

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H.R.3074

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H.R.3074

Latest Title: Cormorant Management and Natural Resources Protection Act

Sponsor: [Rep Kline, John](#) [MN-2] (introduced 10/3/2011) [Cosponsors](#) (16)

Latest Major Action: 10/5/2011 Referred to House subcommittee. Status: Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.

COSPONSORS(16), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: [by date](#))

[Rep Bachmann, Michelé](#) [MN-6] - 11/1/2011
[Rep Bachus, Spencer](#) [AL-6] - 10/27/2011
[Rep Benishek, Dan](#) [MI-1] - 10/6/2011
[Rep Bonner, Jo](#) [AL-1] - 10/26/2011
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