

1 Supporting Statement A for Paperwork Reduction Act Submission

OMB Control Number 1018-0121

Depredation Orders for Double-Crested Cormorants 50 CFR 21.47 and 21.48

Terms of Clearance: None.

1. Explain the circumstances that make the collection of information necessary.

This information collection is associated with regulations implementing the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.). The MBTA implements four conventions, which the United States signed with Canada, Mexico, Japan, and Russia, to preserve and protect various species of migratory birds. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter migratory birds or their parts, nests, or eggs except as authorized by regulation.

In 2003, the Fish and Wildlife Service (Service, we) issued regulations at 50 CFR 21.47 and 21.48 establishing two depredation orders that authorize the take of double-crested cormorants under certain circumstances. These regulations impose reporting and recordkeeping requirements. We use the information to:

- Help assess the impact of the depredation orders on double-crested cormorant populations.
- Protect nontarget migratory birds or other species.
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders.
- Help gauge the effectiveness of the orders at mitigating cormorant-related damages.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.

The following reporting and recordkeeping requirements are the basis for this nonform information collection:

50 CFR 21.47 - Aquaculture Depredation Order, authorizes aquaculture producers and U.S. Department of Agriculture (APHIS-Wildlife Services) in 13 States to take double-crested cormorants when the birds are found committing or about to commit depredations on aquaculture stocks. Those operating under this order must:

- Report the take of any (1) migratory bird species other than double-crested cormorants or (2) species protected by the Endangered Species Act (ESA). We need this information to monitor the effects of this depredation order on nontarget species and to satisfy our trust responsibilities under the MBTA and the ESA. We have not received

any reports since we issued the regulations in 2003. (21.47(d)(7) and (8))

- Keep a log that records the date, number, and location of birds killed; maintain those logs (records) for a 3-year period; and submit each log to the Service annually. We need this information so that we can keep track of the number of birds killed by date and location, and use it for population modeling. (21.47(d)(9))

21.48 - Public Resource Depredation Order, authorizes APHIS-Wildlife Services, State fish and wildlife agencies, and federally recognized tribes in 24 States to take double-crested cormorants to protect public resources (fish, wildlife, plants, and their habitat). Those operating under this order must:

- Report the take of (1) any migratory bird species other than double-crested cormorants and (2) any species protected by the ESA. We need this information to monitor the effects of this depredation order on nontarget species and to satisfy our trust responsibilities under the MBTA and ESA. Since 2003, we have received two reports regarding the taking of nontarget species. (21.48(d)(7) and (8))
- Notify us each year of their intent to act under the order and to notify us in advance of any control actions that would take more than 10 percent of a breeding double-crested cormorant population. We need this information so we are aware of which agencies are taking actions under the order and so we can ensure agencies conduct activities in compliance with the purpose of the order. (21.48(d)(9))
- Keep detailed records of all activities carried out under the order and report these to us annually. We need this information so that we can:
 - Monitor how many double-crested cormorants are killed and the number of nests oiled (used for population modeling).
 - Keep track of agency activities to minimize incidental take of nontarget species.
 - Monitor the effects of management activities on public resources.(21.48(d)(10) and (11))
- Provide us with specific information regarding control activities at breeding colonies and include this information, if applicable, in their annual reports. We need this information to assess the impact of this program on cormorant populations and to ensure that agencies conform to the terms, conditions, and purpose of the order. (21.48(d)(12))

The required information will help us monitor take of double-crested cormorants by aquaculture producers and agencies to ensure compatibility with the long-term conservation of these cormorants and other migratory birds. This is the primary means by which we measure the population impacts associated with the depredation orders. We also conduct regular population assessments on the breeding and wintering areas. Both sets of information are used to model the effects of management on the double-crested cormorant population. We share this information with external organizations and use it in meeting presentations.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].**

Respondents may submit reports or records electronically or by standard mail. For almost all of the requirements under 21.48, respondents send reports electronically. Under 21.47, most aquaculture producers send information to us by standard mail. There are no forms for this information collection. Agencies have discussed standardizing the 21.48 report format as well as developing a form for more uniform recording of take by aquaculture producers under 21.47.

4. Describe efforts to identify duplication.

There is no duplication. No other agency or Service office collects the information.

5. If the collection of information impacts small businesses or other small entities, describe the methods used to minimize burden.

We collect only the minimum information necessary for us to assess the impact of the depredation orders. Under 50 CFR 21.47, aquaculture producers provide the information. An estimated 2,227 individuals and small businesses could exercise the privileges of the depredation order, but only approximately 500 do so. This is a small number of affected individuals and entities, and the time required to provide the information is not considerable. Only State, tribal, and Federal agencies gather and submit information under 50 CFR 21.48.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Not collecting this information or collecting it less frequently would compromise our ability to conserve double-crested cormorant populations and could jeopardize the health of these populations in the United States. This would cause us to violate our trust responsibility under the Migratory Bird Treaty Act.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * requiring respondents to report information to the agency more often than quarterly;
- * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- * requiring respondents to submit more than an original and two copies of any document;
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- * in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- * requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Those operating under these depredation orders must immediately report the take of any

nontarget species or species protected by the ESA (21.47(d)(7) and (8) and 21.48(d)(7) and (8)). Otherwise, there are no circumstances that require us to collect the information in a manner that is inconsistent with OMB guidelines.

- 8. Provide the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

On August 13, 2009, we published in the Federal Register (74 FR 40835) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited public comments for 60 days, ending on October 13, 2009. We did not receive any comments.

In addition to the Federal Register notice, we consulted with the following persons outside the Service at various times over the past year.

Tony Aderman, District Supervisor USDA-Wildlife Services Tel. 989-705-8467, x224 E-Mail: Tony.Aderman@aphis.usda.gov	Jennifer Brennan Texas Parks and Wildlife Department Tel. 512-389-4481 E-Mail: jennifer.brennan@tpwd.state.tx.us
Mark Ebener Chippewa Ottawa Resource Authority Tel. 906-632-0072 E-mail: mebener@lighthouse.net	Jim Farquhar Wildlife Biologist NYSDEC Tel. 315-785-2261 E-Mail: jffarquh@gw.dec.state.ny.us
Kristina Casscles Godwin State Director-Mississippi USDA/APHIS/WS Tel. 662-325-3014 E-Mail: Kris.Godwin@aphis.usda.gov	Steve Lenart, Great Lakes Fisheries Biologist Little Traverse Bay Bands of Odawa Indians Tel: (231)242-1672 E-Mail: SLenart@LTBBODAWA-NSN.GOV
Charles Lovell, District Supervisor/Wildlife Biologist USDA/APHIS/Wildlife Services Phone: 920-324-4514 E-Mail: charles.d.lovell@aphis.usda.gov	Rich Minnis, Wildlife Biologist/Staff Officer USDA/APHIS/WS Phone: 301-734-8281 E-Mail: Richard.B.Minnis@aphis.usda.gov
Steve Mortensen, Fish and Wildlife Biologist Leech Lake Band of Ojibwe Phone: 218-335-7423 E-Mail: smortensen@lldrm.org	

No one commented on our burden estimates, the availability of data, or the frequency of collection. Several commented on the need to align the reporting period for the Public Resource Depredation Order (currently October 1 to September 30) with that of the Aquaculture Depredation Order (calendar year). We plan to revise the reporting period for the Public Resource Depredation Order through the rulemaking process.

Some commenters expressed concerns about what data elements to report and how best to organize the annual report. We hold periodic meetings and conference calls with those

operating under the two deprecation orders to resolve issues related to reporting and recordkeeping. Written guidance is available to agencies operating under 50 CFR 21.48. In addition, as noted in item 3, we have discussed the need to develop a format for the annual report as well as a form to ensure uniform reporting of information.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not provide gifts or payments to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

We do not provide any assurance of confidentiality. We will maintain and protect information to the extent consistent with the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

We do not ask sensitive questions.

12. Provide estimates of the hour burden of the collection of information.

We estimate that 535 respondents will submit reports and maintain records associated with double-crested cormorant deprecation orders. Response time for the requirements varies from 1 to 100 hours depending on the activity, with a total estimate of 4,678 burden hours per year.

We estimate that the total dollar value of the annual burden hours is \$143,548.

- To obtain wage estimates for the private sector (aquaculture producers), we used the Bureau of Labor Statistics (BLS) Occupational Employment and Wages, May 2008, 45-1011 First-Line Supervisors/Managers of Farming, Fishing, and Forestry Workers (<http://www.bls.gov/oes/2008/may/oes451011.htm>). The national mean hourly wage is \$20.55. We multiplied the hourly wage by 1.4 to account for benefits in accordance with BLS news release USDL 09-1098, September 10, 2009, resulting in a total hourly cost factor of \$28.77.
- To estimate the dollar value of a burden hour for State and tribal respondents, we used BLS May 2008 National Industry-Specific Occupational Employment and Wage Estimates NAICS 999200 - State Government (OES Designation) (http://www.bls.gov/oes/2008/may/naics4_999200.htm#b19-0000). The mean hourly wage for zoologists and wildlife biologists is \$24.26. We multiplied this rate by 1.5 to account for benefits in accordance with BLS news release USDL 09-1098, September 10, 2009, resulting in a total hourly cost factor of \$36.39.

ACTIVITY/REQUIREMENT	ANNUAL NO. OF RESPONDENTS	TOTAL ANNUAL RESPONSES	COMPLETION TIME PER RESPONSE (hours)	TOTAL ANNUAL BURDEN HOURS	HOURLY RATE	DOLLAR VALUE OF ANNUAL BURDEN HOURS ²
Report take of migratory bird species other than double crested cormorants (21.47(d)(7) & 21.48(d)(7))	1	1	1	1	\$28.77 ¹	\$ 29
Report take of species protected under ESA (21.47(d)(8) & 21.48(d)(8))	1	1	1	1	28.77 ¹	29
Written notice of intent to conduct control activities (50 CFR 21.48(d)(9))	12	12	3	36	36.39	1,310
Report of control activities (50 CFR 21.48(d)(10) & (11))	12	12	20	240	36.39	8,734
Report effects of management activities (21.48(d)(12))	9	9	100	900	36.39	32,751
Recordkeeping (50 CFR 21.47(d)(9))	500	500	7	3,500	28.77	100,695
Totals	535	535		4,678		\$143,548

¹ Both aquaculture producers and State/tribal workers must report; however, we have received only two reports in the past. We are including one response as a placeholder for each requirement and have used the lowest dollar value for a burden hour.

² Values are rounded.

13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.

There is no nonhour dollar cost burden to respondents or recordkeepers.

14. Provide estimates of annualized costs to the Federal Government.

We estimate that the total annual cost to the Federal Government is \$68,690.

Approximately 14 Federal Government offices in USDA/APHIS and FWS are involved with the depredation orders. The average grade of staff who review and process this information is GS-12/5. Because the offices are in several States, we used the Office of Personnel Management Salary Table 2009-RUS (http://www.opm.gov/flsa/oca/09tables/html/RUS_h.asp) to obtain the hourly salary rate. We multiplied the salary rate (\$36.72) by 1.5 to account for benefits in accordance with BLS news release USDL 09-1098, September 10, 2009, resulting in an average rate of \$55.08. Each office spends approximately 80 hours annually on this information collection for a total of 1,120 hours. Annual salary expenses are approximately \$61,690 (rounded).

We estimate \$7,000 (\$500 per entity) for operational expenses.

15. Explain the reasons for any program changes or adjustments.

Based on our experience, we adjusted the number of responses from 516 to 535 to reflect an increased number of agencies operating under 50 CFR 21.48. This resulted in an increase in the annual burden hours from 4,017 to 4,678.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

We use this information to update several National Environmental Policy Act documents. Analysis includes summary statistics and use in population modeling. The results of the population modeling may be published in a peer-reviewed scientific journal.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the expiration date.

18. Certification.

There are no exceptions to the certification statement.