

**1Supporting Statement A for
Paperwork Reduction Act Submission
OMB Control Number 1018-NEW**

**Depredation Order for Blackbirds, Grackles, Cowbirds, Magpies, and Crows
50 CFR 21.43**

Terms of Clearance. In accordance with 5 CFR 1320, OMB is withholding approval at this time. Prior to publication of the final rule, the agency must submit to OMB a summary of all comments related to the information collection contained in the proposed rule and the agency response. The agency should clearly indicate any changes made to the information collection as a result of these comments.

All comments received on the proposed rule are discussed in the preamble of the final rule. In addition, comments pertaining to the information collection requirements are addressed in item 8 of this supporting statement. We did not made any changes to the information collection requirements.

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

The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 et seq.) implements four treaties concerning migratory birds that the United States has signed with Canada, Mexico, Japan, and Russia. Under the treaties, we must preserve most species of birds in the United States, and activities involving migratory birds are prohibited except as authorized by regulation.

This information collection is associated with our regulations that implement the MBTA. 50 CFR 21.43 is a depredation order for blackbirds, cowbirds, grackles, crows and magpies that authorizes take of these birds "when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance."

On December 8, 2008, we issued a proposed rule to revise the depredation order to disallow take of two species that are now of conservation concern. The proposed rule also added a requirement for reporting take of birds under the order. To help fulfill our responsibility to conserve migratory birds, we must be able to estimate how many are taken under the regulations, including this depredation order. We also need to make sure that the take is in accordance with the regulations.

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 final rule requires that all persons or entities acting under the depredation order at 50 CFR 21.43 provide an annual report containing the following information for each species:

- Number of birds taken.
- Months and years in which the birds were taken.
- State(s) and county(ies) in which the birds were taken.
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources).

To effectively manage migratory bird populations, we need to collect this information so that we can determine how many birds of each species are taken each year and whether the control actions are likely to affect the populations of those species. This is a nonform information collection.

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.

Respondents may submit reports electronically by e-mail or through the mail.

4. Describe efforts to identify duplication.

No other agency has the authority to regulate take of migratory birds, and the information we propose to collect is not being gathered elsewhere.

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

This collection will not have a significant impact on small entities. We collect only the minimum information necessary to manage these migratory birds.

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.

This conservation order has been in place for many years, but we have not previously required reporting on species take. While not collecting the information would not affect the depredation order, it is important that we have this information to help us effectively manage bird populations and identify potential problems.

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.

There are no circumstances that require us to collect the information in a manner 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.]

We published a proposed rule (RIN 1018-AF66) in the Federal Register on December 8, 2008. The proposed rule described the information collection requirements and solicited comments for 60 days. The preamble fully addresses all comments. Comments pertaining to the information collection requirements are discussed below. We did not make any changes to the information collection requirements.

Comment: "WS recommends the FWS continue to use the existing reporting requirement already established to the greatest extent possible, and that no additional requirements be enacted." (Wildlife Services)

Comment: We have concerns about the paperwork requirements of this DEA. We question if non-biologists will collect this data. As stated before, Wildlife Services does the vast majority of blackbird control work in the United States and is already collecting this data. We are concerned that this DEA subjects our constituents to prosecution when the potential for valuable data acquisition is questionable." (Mississippi Flyway)

Response: This depredation order currently has no requirement for reporting on control of depredating birds. Without reporting on control of species taken under this order, we have no way to assess the effects of the activities it authorizes. Failure to assess control measures and report on control activities will potentially put any person conducting control under this depredation order in violation of the MBTA.

Comment: "WS recommends the FWS develop a standardized method to estimate the species composition of large mixed blackbird flocks to enhance the reliability of the data collected and analyzed. Many times light conditions in the field are very poor thereby increasing the difficulty of species identification. Additionally, most citizens will be unaware of the reporting requirements and are unable to distinguish fish crows from American crows, common grackles from boat-tailed grackles, etc., and this will result in inaccurate data being reported to the FWS." (Wildlife Services)

Response: Though we recognize that there may be difficulties in distinguishing species of blackbirds, grackles, and crows, we assume that any person or agency undertaking control under this depredation order will carefully identify the species involved. If the individual or agency cannot do so, control under this depredation order should not be undertaken. We are willing to work with Wildlife Services on a method of estimating the species composition of large mixed blackbird flocks as allowed by our budget and other tasks.

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

We do not provide any payments or gifts 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 pledge of confidentiality.

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 questions of a sensitive nature.

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

We are requesting 500 burden hours for this collection. We estimate 250 respondents will each submit an annual report. Each report will take approximately 2 hours to complete including time necessary to gather the information and review the report.

We estimate the annual dollar value of the burden hours to be \$20,288 (rounded). We used information from the Bureau of Labor Statistics to estimate average hourly wages and calculate benefits:

- Individuals – We used the wage and salary costs for all workers from Table 1, USDL 10-0774, June 9, 2010 (Employer Costs for Employee Compensation--March 2010), which states an hourly rate of \$20.67. To calculate benefits, we multiplied the hourly rate by 1.4. The hourly rate including benefits is \$28.94.
- Private Sector – Based on the Bureau of Labor Statistics, Occupational Employment and Wages, May 2009, United States (19-1023 Zoologists and Wildlife Biologists), the mean hourly wage for a wildlife biologist is \$29.17. We multiplied the hourly wage by 1.4 to account for benefits in accordance with BLS news release USDL 10-0774, June 9, 2010. The hourly rate including benefits is \$40.84.
- State Government – For purposes of this collection, we used the same hourly wage (\$29.17) as for the private sector. To calculate benefits, we multiplied the hourly rate by 1.5. The hourly rate including benefits is \$43.76.

	Annual Responses	Completion Time per Response (hours)	Annual Burden Hours	Hourly Labor Costs	Hourly Labor Costs including Benefits	Dollar Value of Annual Burden Hours
Individual/Households	25	2	50	\$20.67	\$28.94	\$ 1,033.50
Private Sector	75	2	150	29.17	40.84	6,126.00
State/Local/Tribal	150	2	300	29.17	43.76	13,128.00
Total	250		500			\$ 20,287.50

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 cost burden to respondents.

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

The total estimated annual cost to the Federal Government for reviewing and processing reports associated with this collection of information is \$14,908 (rounded). Staff in the migratory bird offices in each of our Regional Offices receive and process the reports. Using Office of Personnel Management pay tables (2010-RUS, 2010-ATL, 2010-DEN, 2010-MSP, 2010-POR, and 2010-SAC), we estimate that the average hourly salary rate for a GS-12/step 5 biologist is \$39.75. We multiplied the hourly wage by 1.5 to account for benefits in accordance BLS news release USDL 10-0774, June 9, 2010, for a total hourly average rate of \$59.63. We also estimate it will take staff 1 hour to review and process each report (total of 250 hours)

Action	Position and Grade	Avg Hourly Rate including Benefits	Avg Hourly Rate including Benefits	Total Annual Hours	Annual Cost
Review and process annual reports	Biologist, GS 12/5	\$39.75	\$59.63	250	\$14,907.50

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

We are requesting a program change of 250 responses and 500 annual burden hours for this new information collection requirement associated with 50 CFR 21.43.

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

We will not publish the results of this information collection.

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 OMB control number and expiration date on appropriate materials.

18. Certification.

There are no exceptions to the certification statement.