

**1Supporting Statement A for
Paperwork Reduction Act Submission**

**Abatement Permit Reporting and Recordkeeping
50 CFR 21.32
OMB Control Number 1018-XXXX**

Terms of Clearance. None – this is a new collection.

Note: OMB has reviewed and approved the collections of information for (1) applications for abatement and depredation permits, (2) annual reporting for depredation permits, and (3) reporting of acquisition and disposition of migratory birds. These information collections are covered by existing OMB Control No. 1018–0022, which expires on May 31, 2017. OMB has also approved the recordkeeping and reporting associated with the depredation order for blackbirds, grackles, cowbirds, magpies, and crows and assigned OMB Control Number 1018–0146, which expires December 31, 2017.

We are requesting a new control number for the new requirements in the proposed rule. When we issue final regulations, we will incorporate the burden for the new requirements into OMB Control Number 1018-0022 and discontinue the new OMB control number.

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

The U.S. Fish and Wildlife Service (we, Service) is the Federal agency delegated the primary responsibility for managing migratory birds. This delegation is authorized by the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703 et seq.), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). We implement the provisions of the MBTA through regulations in parts 10, 13, 20, 21, and 22 of title 50 of the Code of Federal Regulations (CFR). Regulations pertaining to migratory bird permits are at 50 CFR part 21; subpart C of part 21 contains regulations for specific permit provisions.

In response to public interest in the use of trained raptors to haze depredating and other problem birds from airports and agricultural crops, we drafted a policy in 2007 to establish a migratory bird abatement permit. On January 12 of that year, we published a Federal Register notice containing draft permit conditions for abatement permits for public comment (72 FR 1556). On December 10, 2007, we published a Federal Register notice (72 FR 69705) announcing final permit conditions, accompanied by Migratory Bird Permit Memorandum Number 5, Abatement Activities Using Raptors, issued August 22, 2007.

The 2007 policy memorandum and conditions have governed administration of Federal Migratory Bird Special Purpose Abatement (SPA) permits (Federal abatement permits) through the present time. The provisions for abatement in the memorandum have worked well, but we have seen increased use of the Special Purpose permits, and the States have inquired about abatement activities that are not addressed in the memorandum. Therefore, on July 6, 2011, we announced through an advance notice of proposed rulemaking (ANPR) (76 FR 39368) that we were considering developing regulations to govern the use of raptors in abatement.

We are proposing permit regulations to govern the use of captive-bred, trained raptors to control or take birds or other wildlife to mitigate damage or other problems, including risks to human health and safety. This action would allow us to respond to increasing public interest in

the use of trained raptors to haze (scare) depredating and other problem birds from airports and agricultural crops while maintaining our statutory responsibility to protect migratory birds.

2. Indicate how, by whom, and for what purpose the information is to be used.

We are proposing the following new information collection requirements. We need this information to effectively manage migratory bird populations.

Application – FWS Form 3-200-79. We are revising the application form to reflect the increase in the application fee from \$100 to \$150.

§ 21.32(e)(2)(ii). Abatement permittees must provide each of their subpermittees with a legible copy of their permit and an original signed and dated letter designating the person as a subpermittee for part or all of the authorized activities.

§ 21.32(e)(3)(iii)(A). Subpermittees must report take under a depredation order to the permit holder.

§ 21.32(e)(3)(iii)(C). Permittees must immediately report to law enforcement any unauthorized take of federally protected wildlife, disturbance of bald eagles or golden eagles, or harassment of endangered species.

§§ 21.32(e)(2)(iv), 21.32(e)(8)(ii) and (iii), 21.32(e)(11), and 21.32(g). Permittees must maintain complete and accurate records of the activities conducted under the abatement permit. Records must be maintained for 5 years. We are proposing that permittees maintain the following information:

- Name and address of the property owner.
- Location, date(s), and crop or property protected for each abatement job that permittee and each subpermittee conduct.
- Date, species, and location of any unintentional take that occurs.
- Name, address, and falconry permit number of each subpermittee.
- Subpermittee designation letters.
- Raptors used for each job.
- FWS Forms 3–186A for each acquisition and disposal of birds.

§ 21.32(e)(12). Permittees must submit an annual report to their migratory bird permit issuing office. The report must include the information required on FWS Form 3–202–22–2133 including, but not limited to:

- Subpermittee Information: Name, address, and permit number for each subpermittee.
- Abatement Activities: County and State where abatement activities were conducted, landowner/business owner name and address, and crop(s) or property protected.
- Raptor Information: Species of raptors, band numbers, address where held, and whether or not raptor was held on December 31.
- Permittee Information: Name, address, telephone number, permit number, and email address.

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].

FWS Forms 3-200-79 and 3-202-22-2133 will be available on our website in a fillable format. We are proposing that persons who undertake abatement activities must submit an annual report. We will not require that respondents use the report form, but they must submit the required information. Respondents may submit reports electronically by email 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 businesses. We collect only the minimum information necessary to manage migratory birds.

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

If we do not collect the information or if we collect the information less frequently, we could not implement many wildlife protection programs that are mandated by law.

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.

Permit regulations (50 CFR 13.46) require that records of any taking, possession, transportation, sale, purchase, barter, export or import of wildlife pursuant to a permit be maintained for 5 years from the expiration date of the permit. The statute of limitations for enforcement is 5 years. There are no other circumstances that require the information be collected in a manner inconsistent with OMB guidelines.

8. If applicable, 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.

On July 6, 2011, we announced through an advance notice of proposed rulemaking (ANPR) (76 FR 39368) that we were considering developing regulations to govern the use of raptors in abatement. Most of the comments we received on the ANPR supported development of regulations for abatement. We received one comment on information collection requirements:

Comment: The abatement permit holder should be required to complete an annual report of all abatement activities, not limited to only those instances where take is involved as required in the Memorandum. Annual reports should include: Location, date, landowner/business owner information, raptors used, subpermittees, and other appropriate information for each abatement activity that is conducted within and outside the permit holder's State of residence.

Response: An annual report that requires this information is included in the proposed regulations.

All comments received on the ANPR are addressed in the proposed rule published in the *Federal Register* on April 1, 2015 (80 FR 17374). This proposed rule largely incorporates the conditions and procedures that governed abatement permits under the 2007 memorandum and language developed in response to the public comments. The abatement permit provides the public with a nonlethal management tool to mitigate problems caused by birds and other wildlife.

We are publishing a notice in the *Federal Register* to correct errors in the Paperwork Reduction Act Statement and addresses section in the preamble of the proposed rule. The comment period for submitting comments on the information collection requirements in the proposed rule will be 30 days from the date the correction notice is published.

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

We will not provide any payment or gift 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.

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 estimate that we will receive 704 responses totaling 1,035 annual burden hours. The estimates below include time necessary to gather and maintain the information and review the report.

We estimate the annual dollar value of the burden hours to be \$32,820 (\$31.71 * 1,035 hours) (rounded). We used information from the Bureau of Labor Statistics to estimate average hourly wages and calculate benefits. We used the wage and salary costs for all workers from Table 1, USDL 15-0386, March 11, 2015 (Employer Costs for Employee Compensation-December 2014), which states an hourly rate of \$22.65. To calculate benefits, we multiplied the hourly rate by 1.4. The hourly rate including benefits is \$31.71.

ACTIVITY	NUMBER OF RESPONSES	COMPLETION TIME PER RESPONSE	TOTAL ANNUAL BURDEN HOURS
Application – FWS Form 3-200-79	100	2 hours	200
Designation Letter (§ 21.32(e)(2)(ii))	200	10 minutes	33
Report Take under Depredation Order (§ 21.32(e)(3)(iii)(A))	200	1 hour	200
Report Unauthorized Take of Federally Protected Wildlife, Disturbance of Bald Eagles or Golden Eagles, or Harassment of Endangered Species (§ 21.32(e)(3)(iii)(C))	4	30 minutes	2
Recordkeeping (§§ 21.32(e)(2)(iv), 21.32(e)(8)(ii) and (iii), 21.32(e)(11), and 21.32(g))	100	5 hours	500
Annual Reports (§ 21.32(e)(12))	100	1 hour	100
TOTALS	704		1,035

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

The total annual nonhour cost burden for this collection is \$15,000 for application fees. We are proposing to increase the application fee from \$100 to \$150.

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

The estimated annual cost to the Federal Government for reviewing and processing reports and other requirements associated with this collection of information is \$9,457 (rounded). Staff in the migratory bird offices in each of our Regional Offices receive and process the reports. We used the Office of Personnel Management 2015-DCB as an average pay rate nationwide. The hourly salary rate for a GS-12/step 5 Fish and Wildlife Service permits biologist is \$41.48. We multiplied the hourly wage by 1.5 to account for benefits in accordance BLS news release USDL 15-0386, resulting in a total hourly average rate of \$62.22. We estimate it will take staff 1/2 hour to review and process each report (total of 152 hours).

Action	Position and Grade	Average Hourly Rate including Benefits	Estimated Number of Responses	Total Annual Hours	Annual Cost*
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Review and process annual and take reports	Biologist, GS 12/5	\$62.22	304	152	\$9,457
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*rounded

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

This is a new collection.

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

We will not publish the results of this 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 the annual report form and other appropriate materials.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.