

SUPPORTING STATEMENT A FOR PAPERWORK REDUCTION ACT SUBMISSION

Federal Fish and Wildlife Permit Applications and Reports— Special Double-Crested Cormorants; 50 CFR 21 OMB Control Number 1018-0175

Terms of Clearance: None.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The U.S. Fish and Wildlife Service (Service, we) is the Federal agency delegated with the primary responsibility for managing migratory birds. Our authority derives from the Migratory Bird Treaty Act of 1918 (MBTA; 16 U.S.C. 703–712), as amended, which implements conventions with Great Britain (for Canada), Mexico, Japan, and Russia. We implement the provisions of the MBTA through the regulations in parts 10, 13, 20, 21, 22, and 92 of title 50 of the Code of Federal Regulations (CFR). The MBTA protects migratory birds (listed in 50 CFR 10.13) from take directed at birds, except as authorized under the MBTA. Regulations pertaining to specific migratory bird permit types are at 50 CFR parts 21 and 22.

The double-crested cormorant is a fish-eating migratory bird that is distributed across a large portion of North America. There are five different breeding populations, variously described by different authors as the Alaska, Pacific (or Western), Interior, Atlantic, and Southern populations. Although these populations are described by their breeding ranges, the birds commingle to various extents on their migration and wintering areas, with birds from populations closer to each other overlapping more than those that are more distant.

In response to ongoing damage at aquaculture facilities and other damage and conflicts associated with increasing cormorant populations, the Service administered regulations that included, in addition to Depredation Permits (located at 50 CFR 21.41), an Aquaculture Depredation Order (which was located at 50 CFR 21.47) beginning in 1998 and a Public Resource Depredation Order (which was located at 50 CFR 21.48), which began in 2003. Both of these regulations were in place until May 2016 when they were vacated by Court order (see more below).

The Aquaculture Depredation Order eliminated individual permit requirements in 13 States for private individuals, corporations, State agencies, and Federal agencies taking cormorants at aquaculture facilities. The Public Resource Depredation Order enabled States, Tribes, and the U.S. Department of Agriculture's Wildlife Services in 24 States, without individual depredation permits, to take cormorants found committing or about to commit, and to prevent, depredations on the public resources of fish (including hatchery stock at Federal, State, and Tribal facilities), wildlife, plants, and their habitats.

In May 2016, these depredation orders were vacated by the United States District Court for the District of Columbia. The Court concluded that the Service did not sufficiently consider the effects of the depredation orders on cormorant populations and other affected resources and failed to consider a reasonable range of alternatives in the review within the environmental assessment (EA) issued in 2014 under the National Environmental Policy Act of 1969, as amended (NEPA). Following the Court ruling, the Service prepared an EA to address

continuing conflicts with cormorants (USFWS 2017). The authority for authorizing lethal take of depredating cormorants reverted back to the issuance of individual depredation permits pursuant to 50 CFR 21.41. Under the 2017 EA, cormorants could lethally be taken only to address conflicts with aquaculture, human health and safety, threatened and endangered species (as listed under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*), and personal property.

Conflicts in aquatic systems continue to exist between cormorants and fish stocks managed by Federal, State, and Tribal agencies as recreational and/or commercial fisheries. Conflicts also exist between cormorants and conservation of other species and habitats in some areas. As fish-eating birds, cormorant predation of fish occurs not only at aquaculture facilities, but also in private recreational ponds and large aquatic ecosystems. While conflicts exist between cormorants and some stakeholders, birders and other interested parties value cormorants for their aesthetic and existential values.

The Service is responsible for balancing the lethal take of cormorants to alleviate conflicts where available data support such take and maintaining sustainable populations of cormorants and minimizing the regulatory burden on Federal and State agencies, Tribes, and individual citizens. To address these conflicts, the Service has prepared a proposed rule to establish a new permit for State and federally recognized Tribal (hereafter “Tribe” or “Tribal”) wildlife agencies for the management of double-crested cormorants (*Phalacrocorax auritus*). The new permit would authorize specific take activities that are normally prohibited and are intended to relieve or prevent impacts from cormorants on lands within State or Tribal jurisdictions to address conflicts related to the following issues:

- Depredation of fish at State- and Tribal-owned or operated aquaculture facilities, including hatcheries;
- Realized and potential impacts to human health and safety (e.g., collisions of airplanes with birds, fecal contamination of urban wetlands);
- Impacts to threatened and endangered species (species listed under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and species identified in State- or Tribal-specific legislation as threatened or endangered) or those listed as Species of Greatest Conservation Need in State Wildlife Action Plans, where take activities to prevent depredation on aquatic Species of Greatest Conservation Need may occur only in natural or public waters;
- Damage to State- or Tribal-owned property and assets; and
- Depredation of wild and publicly stocked fish managed by State fish and wildlife agencies or federally recognized Tribes and accessible to the public or all Tribal members.

The Service would retain ultimate authority for regulating the take of cormorants. States and Tribes would have the discretion to determine whether, when, where, and for which of the above purposes they would conduct lethal take within limits and allocations set by the Service.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

The information that we collect on applications and reports is the minimum necessary for us to determine if the applicant meets/continues to meet issuance requirements for the particular

activity. In instances where birds will be killed we use the information collected on the application to determine that the birds do not suffer needlessly. This permit is necessary to allow the take of double-crested cormorants to alleviate conflicts in an efficient manner by allowing States and Tribes to conduct take activities without applying for permits each time a conflict arises. Absent this permit, States and Tribes would be unable to expeditiously conduct management activities to reduce conflicts as they occur. The Service will annually determine the number of birds that can be taken to ensure sustainable cormorant populations, and how that take will be apportioned among permittees. Tracking the number of birds actually taken via this form will allow the Service to ensure compliance with amounts of take by individual permittees and that overall take is at or below the overall amount established by the Service. The questions asked specifically address required information in the permit regulation (50 CFR 21.28). We also will collect information on birds of other species that look similar to cormorants that are taken incidentally to double-crested cormorant management actions to assess potential impacts of this permit on non-target species of birds.

FWS Form 3-200-90, Special Double-Crested Cormorant Permit Application (and amendments, as appropriate – **NEW**)

This new permit would be available only to State or Tribal fish and wildlife agencies responsible for migratory bird management on lands and in waters managed by those agencies within their jurisdictions. Under this permit, the Service would authorize State and Tribal fish and wildlife agencies to conduct lethal take to reduce conflicts involving depredation at State- and Tribal-owned or operated aquaculture facilities (including hatcheries); impacts to health and human safety; impacts to threatened and endangered species (as listed under the ESA and listed species identified in State- or Tribal-specific legislation as threatened or endangered) or those listed as Species of Greatest Conservation Need in State Wildlife Action Plans; damage to State- or Tribal-owned property and assets; and depredations of wild and publicly stocked fish managed by State fish and wildlife agencies or federally recognized Tribes and accessible to the public or all Tribal members. Take activities to prevent depredation on aquatic Species of Greatest Conservation Need may occur only in natural or public waters.

Any State or Tribal fish and wildlife agency wishing to obtain a permit must submit FWS Form 3–200–90, “Federal Fish and Wildlife Permit Application Form – Special Double-Crested Cormorant” to the appropriate Regional Director containing the general information and certification required by 50 CFR 13.12(a). All Service permit applications are in the 3-200 series of forms, each tailored to a specific activity based on the regulatory requirements for specific types of permits. Sections A through D on the applications are the same for all permit types. These sections collect standard identifier information, such as the name and address, telephone and fax numbers, tax identification number, and email address for the applicant. Regulations at 50 CFR 13.12, “General information requirements on applications for permits,” require submission of this information. Standardizing general information common to the application forms makes filing of applications easier for the public as well as expedites our review of applications. We use this information to establish a permit record that is unique to the applicant. These annual permits, managed by calendar year, allow for alignment with permit processing cycles and the need to evaluate allocation at the beginning of a calendar year.

Section E of each application collects information specific to the activity the applicant wishes to conduct, as well as information concerning:

- (1) A brief description of the State's or Tribe's double-crested cormorant conflicts,

- including physical location(s) and type of conflict;
- (2) A detailed description of the nonlethal methods (i.e., active hazing, passive hazing, habitat management, and changes in management practices) that have and/or will implement and how activities will address one or more of the issues;
 - (3) The requested annual take of double-crested cormorants by life-stage, including eggs and nests;
 - (4) A description of long-term plans to eliminate or significantly reduce continued need to take double-crested cormorants;
 - (5) A statement indicating that the State or Tribe will inform and brief all employees and subpermittees of the requirements of these regulations and permit conditions;
 - (6) A list of all subpermittees who may conduct activities under the Special Double-Crested Cormorant Permit, including their names, addresses, and telephone numbers; and,
 - (7) The name and telephone number of the individual in your agency who will oversee the double-crested cormorant management activities authorized under the permit.

FWS Form 3-202-56, Annual Report – Special Double-Crested Cormorant –

In conjunction with issuance of the Special Double-Crested Cormorant permit, we will require the permittee submit Form 3-202-56, “Annual Report – Special Double-Crested Cormorant” detailing activities, including the date, numbers, and locations and life stages of birds, eggs, and nests taken and nonlethal techniques utilized, by January 31 for activities conducted during the preceding calendar year. The Service will require an annual report by the State or Tribe prior to any permit renewal. We will collect the following information via Form 3-202-56 to ensure the applicant remains in compliance with the terms of their permit:

- (1) Permittee contact information, permit number, permit calendar year, and permit report due date;
- (2) Description of non-lethal techniques utilized;
- (3) Month and location of activity;
- (4) Purpose;
- (5) Numbers of birds killed, nests oiled, and/or nests destroyed;
- (6) Final Disposition (what they did with the birds, eggs, carcasses [e.g., buried; incinerated; euthanized and donated]); and,
- (7) Take of non-target birds species, including numbers of birds.

Recordkeeping – Any State or Tribal agency, when exercising the privileges of this permit, must keep records of all activities, including those of subpermittees, carried out under the authority of the special permit.

Designation of Subpermittees – States and Tribes may designate subpermittees who must operate under the conditions of the permit. Subpermittees must be at least 18 years of age and can be employees of State and Tribal fish and wildlife agencies, USDA Wildlife Services employees, and employees of other Federal, State, or Tribal agencies or private companies licensed to conduct wildlife damage abatement. The permittee must provide the Service with the name of any subpermittees who will be conducting activities under their permit, along with

REVISIONS SINCE PROPOSED RULE SUBMISSION

Landowner Notifications – If a State or Tribe must enter private property to access State and Tribal lands or waters where take is approved in their permit, the State or Tribe must obtain authorization from the private property owner.

NOTE: We discovered the omission of the landowner notification requirement during the development of the final rule and are including it in this submission for OMB review/approval.

Changes to Permit Application (FWS Form 3-200-90): In addition to formatting changes (font changes, addition of check boxes, etc.), the following updates were made to Form 3-200-90 since the submission to OMB at the proposed rule stage:

- Updated **NOTE:** A Federal Special Double-Crested Cormorant permit is available only to a State or Tribal **fish** and wildlife management agency responsible for migratory bird management on lands **and waters** under their jurisdiction. Anyone conducting activities under authority of this permit must be listed as a subpermittee. Subpermittees must be at least 18 years old. Nonlethal methods to resolve conflicts must be attempted before lethal take occurs.
- Changed text in Box B from “State” to “Complete if applying on behalf of a **State agency or Tribe**”
- Section E was changed to include additional text to provide clarity to applicants on (1) scope of the permit where lethal take can occur; (2) who can apply; (3) roles of personnel identified on the permit and subpermittees; and (4) instructions for filling out questions.

(1) Scope of the permit where lethal take can occur:

A Federal Migratory Bird Special Double-Crested Cormorant Permit is required to take (capture, kill, egg-destroy, or nest-destroy) double-crested cormorants for the following purposes:

- (1) Aquaculture: Depredation of fish at State- or Tribal-owned or operated aquaculture facilities, including hatcheries
- (2) Health: Reduce realized and potential impacts to human health and safety (for example, collisions of airplanes with birds, fecal contamination of urban wetlands)
- (3) T/E: Reduce impacts to threatened or endangered species listed under the Endangered Species Act of 1973, and listed species identified in State- or Tribal-specific legislation as threatened or endangered, or, species listed as Species of Greatest Conservation Need in State Wildlife Action Plans
- (4) Property: Reduce or prevent damage to State- or Tribal-owned property and assets
- (5) Stocked Fish: Reduce or prevent depredation of wild and publicly stocked fish managed by State fish and wildlife agencies or federally recognized tribes and accessible to the public.

(2) Clarify who is eligible to apply:

This permit is only available to fish and wildlife agencies of States and federally recognized Tribes in the contiguous 48 states. You should apply this permit only after you’ve independently determined deterrents such as hazing and habitat modification prove unsuccessful. If a permit is issued, you will be expected to continue nonlethal measures in conjunction with any killing or nest-destruction authorized. You should review Title 50 Parts 10, 13, and 21.28 of the Code of Federal Regulations (CFR). You are responsible for reviewing and understanding these regulations before you request and accept a permit. These regulations can be found on our website at:

<https://www.fws.gov/birds/policies-and-regulations/permits/permit-policiesand-regulations.php>.

- (3) Include roles of personnel identified on the permit and subpermittees in the new instructions added to page 6 of the application form:

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

- a) Principal Officer. For permits issued to organizations, a Principal Officer is identified on the permit. The Principal Officer is the person in charge of the organization and is responsible for the application and any permitted activities. The Principal Officer is legally responsible for ensuring that your subpermittees (employees, volunteers, and contractors) adhere to the terms of your permit.
- b) Primary Contact. The Primary Contact is the person in the organization who is available to answer questions about the application or permitted activities. This person may be the same or different than the Principal Officer. The Primary Contact is not listed on the permit unless the individual is also listed as a subpermittee.
- c) Subpermittee. A subpermittee is an individual authorized to conduct some or all of the permitted activities without the permittee present. You must identify any subpermittees in your application. Your subpermittees must have either a copy of your permit that identifies them as a subpermittee, or a copy of your permit and a letter from the Permittee (Principal Officer) listing activities (including location and duration) they are authorized to conduct. Subpermittees can be employees of State and Tribal wildlife agencies, USDA Wildlife Services employees, and employees of other Federal, and State, or Tribal agencies or private incorporated companies specializing in wildlife damage abatement.

- (4) Instructions for filling out questions

Please provide the information requested below. We may request additional information as appropriate to the activities you are requesting (50 CFR 13.21(d)). You should be as thorough and specific as possible in your responses. Incomplete applications will be returned. If additional space is required, add additional sheets to your application submission. You may use as many additional sheets as needed. Please number pages accordingly using the page number box provided at the bottom of the sheet, and the corresponding question number.

If you are requesting renewal, all required reporting must be up to date or the renewal will not be processed. The report form can be found at <https://www.fws.gov/forms/3-202-56.pdf>. If you are requesting renewal, you still need to complete the entire application and provide all the requested information.

- Section E questions were reworded to provide clarification to potential applicants, and, improve the ability of responses such that Service permit staff can more easily review application.

- ~~1. A brief description of your State's or Tribe's double-crested cormorant conflicts, including physical location(s). If you wish to provide site-specific information in decimal degrees (e.g. 36.87998/-88.3435) where conflicts occur, visit <https://earthexplorer.usgs.gov/>.~~

Was changed to:

- 1) *Describe the history of double-crested cormorant conflicts in your state or tribal lands. Include locations(s) that are historically areas for conflict and,*

for each location, the type of conflict experienced (aquaculture/hatchery, human health and safety, property damage, t/e species protection, and/or wild and stocked fish). As appropriate, include the size/description of the area affected, how long this conflict has been occurring, what time of year the conflict occurs, and what time of year you will be conducting management activities, [visit https:// earthexplorer.usgs.gov/](https://earthexplorer.usgs.gov/)

- ~~2. A detailed statement explaining how the proposed cormorant management and take activities you propose will address human health and safety concerns, protect State- or Tribal- owned property and assets, protect threatened and endangered species (including species listed in your State or Tribal legislation), alleviate depredation at State- or Tribal- owned or operated aquaculture facilities, or prevent/reduce depredation of wild or publicly stocked fisheries stocked by State agencies or federally recognized Tribes.~~

Was changed to:

- 2) For each location(s), describe the non-lethal methods that you have used previously and/or plan on implementing, including (a) active hazing (e.g. horns, pyrotechnics, propane cannons, etc.), (b) passive deterrents (e.g. netting, exclusion devices, nest deterrents, etc.), (c) habitat management (e.g. vegetative barriers, grass management, prey management, etc.), and (d) practice changes (e.g. water level management, fish release timing, etc.).*

- ~~3. The number of double-crested cormorants, including eggs and nests that you propose to take annually.~~

Was changed to:

- 3) Describe your proposed double-crested cormorant management activities, including the number of double-crested cormorants you propose to take by life-stage (i.e. adults, active nests, etc.) and the method you propose to use (i.e. shooting, nest-destroy, egg-oiling, etc.).*

- ~~4. A statement indicating what information is available and will be collected to assess whether the management and take of double-crested cormorants is alleviating the damage or other conflict.~~

Was changed to:

- 4) Describe your long-term plans to eliminate or significantly reduce the continued killing of double-crested cormorants or destruction of eggs/nests.*

A 5th question was added prior to the previous question 5.

- 5) The name and telephone number of the individual in your agency who will be in charge of the double-crested cormorant management activities authorized under your permit.*

- ~~5. A statement indicating that the State or Tribe will ensure that all employees and subpermittees are fully informed and briefed regarding the regulatory requirements and conditions of this permit.~~

Was changed to:

- 6) *Subpermittees: Anyone who will be assisting you with the permitted activities or acting as your agent must either have their own Federal migratory bird permit for the activity or be identified by you, in writing, as a subpermittee under your permit. Subpermittees must be at least 18 years old. As the primary permittee, you will be responsible for ensuring that your subpermittees are properly trained and adhere to the terms of your permit. Provide the name of any subpermittees who will be conducting activities under your permit. Include the name and contact information of any commercial company that may be contracted to conduct the work.*

Agreements were added via Question 6 here:

- 7) *By requesting this permit, I acknowledge that, if a permit is issued, the State/Tribe will be responsible for the following:*
- (a) A record keeping system for tracking take that includes: the specific location (GPS coordinates in decimal degrees), the county, a description of the non-lethal methods implemented and their general efficacy for resolving the conflict, the number of double-crested cormorants and, if applicable, non-target species taken, the method of take, and the purpose of take relevant to the type of conflict (aquaculture, health, t/e, property, stocked fish). Take data must be current, sufficient to ensure tracking within authorized take limits and update at least every 30 days.*
 - (b) Activities that fall outside the scope of this permit require a separate Depredation permit. Activities may not occur under both a Depredation permit and this permit.*
 - (c) An outreach plan for communicating with the public the activities occurring under this permit, including the implementation non-lethal methods.*
 - (d) The Principal Officer is responsible for ensuring all subpermittees (employees and contractors) are fully informed and briefed regarding the regulatory requirements and conditions of this permit.*
 - (e) Anyone taking birds under this permit must be skilled in double-crested cormorant identification. Non-target take of any other avian species must be reported to your permit office with your annual report including species, number, and description of events.*

~~7)The name and telephone number of the individual in your agency who will be in charge of the double-crested cormorant management activities authorized under your permit.~~

Was changed to:

- 8) *You must retain records legibly written or reproducible in English relating to the activities conducted under your permit for at least 5 years after the date of expiration of your permit. Is the physical address you provided in Section C on page 1 of this application the address where your records will be kept? Yes No If "no,"provide the physical address:*

We shortened Frequently Asked Questions to FAQ in question 8.

- 9) *I acknowledge that I have read the form [Instructions](#) and [FAQ](#), and have accessed the page with the [Return Addresses](#) to obtain the address where I should return this form. I have also filled out all fields and questions in this application. Check this box to acknowledge:*

Changes to Annual Report (FWS Form 3-200-56): In addition to formatting changes (font

changes, etc.), changes to the annual report form reflect public comments received on the draft rule. Public comments requested the inclusion of (1) species listed as Species of Greatest Conservation Need in State Wildlife Action Plans as part of the scope of authorized take under the permit; and (2) a need for clarity on the geographic scope of where take can occur with respect to stocked fish (must be accessible to the public or all Tribal members). The Service also includes a question of what nonlethal methods were used in order to provide a summary of nonlethal methods used to the public in planned 5-year Service reports. Lastly, the Service removed the reporting table for other species in order to discourage incidental take of nontarget species. The following updates were made to Form 3-200-56 since the submission to OMB at the proposed rule stage:

- Added text for further instructions

INSTRUCTIONS: Type or print the information requested below for all birds taken or held under your permit during the year covered by this report and return the completed report to the above address by the due date. Use of this form is not mandatory, but the same information must be submitted, including a signed certification statement. You **MUST SIGN AND DATE** the certification statement for your report to be complete. Filing an annual report is a condition of your permit. Failure to file a timely report can result in permit suspension. If you had no activity under your permit during the report year, state “No activity” on the form.

- Adjusted headings for purposes of take and revised language to reflect language in the rule:

Aquaculture. Depredation of fish at State- or Tribal-owned or operated aquaculture facilities, including hatcheries

Health. Reduce realized and potential impacts to human health and safety (for example, collisions of airplanes with birds, fecal contamination of urban wetlands)

T/E. Reduce impacts to threatened or endangered species listed under the Endangered Species Act of 1973, and listed species identified in State- or Tribal-specific legislation as threatened or endangered, *or, species listed as Species of Greatest Conservation Need in State Wildlife Action Plans*

Property. Reduce or prevent damage to State- or Tribal-owned property and assets

Stocked Fish. Reduce or prevent depredation of wild and publicly stocked fish managed by State fish and wildlife agencies and accessible to the public

- ~~Removed text: MAKE SURE YOU SIGN & DATE THE CERTIFICATION STATEMENT BELOW BEFORE YOU SUBMIT YOUR REPORT.TAKE OF DOUBLE-CRESTED CORMORANTS~~

- Adjusted wording in columns where we require data.
 - “Month of Activity” **changed to:** “Location (GPS Coordinates in Decimal Degrees)”
 - “Location (State and County required)” **changed to:** “Purpose (one code per line) Aquaculture, Health, T/E, Property, Stocked Fish”
 - “Purpose (use code from INSTRUCTIONS above; one code per line)” **changed to:** “Non-lethal Methods Implemented”
 - Quantity* column with Birds Killed, Nests Oiled**, Nests Destroyed was changed to Quantity: Killed, Nests Oiled/Addled, and Nests Destroyed
 - Added: “Month Taken”
 - Final Disposition “(What you did with the birds, eggs, carcasses, e.g., buried;

incinerated; euthanized & donated)” changed to: “Disposition (e.g., buried; incinerated; donated)”

- Footnote in table **changed from**,
 - “* For nests, include number of nests where eggs were present, not the number of eggs. Do not include inactive nests (i.e., nests with no eggs).
 - ** If nests within a colony are oiled more than once per year, enter only the maximum number of nests oiled in that colony, not the number of nests oiled on each visit.
 - *** Includes nests where eggs were destroyed, added, or removed from wild.

Changed to:

“1For nests, include number of nests where eggs were present, not the number of eggs. Do not include inactive nests (i.e., nests with no eggs).”

- Removed reporting table for other species

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.

Applicants may complete the fillable application electronically and email the application to the regional office, or print and submit the application form with an electronic or original signature by mail. Applicants may send supporting information by email or fax, if we already have their application and they are able to reference their permit number.

ePermits – We are actively developing a new automated permit application system, referred to as “ePermits.” The ePermits System will allow the agency to move towards a streamlined permitting process to more significantly reduce the information collection burden on the public, particularly small businesses. Public burden reduction is a priority for the Service; the Assistant Secretary for Fish, Wildlife, and Parks; and senior leadership at the Department of the Interior. The intent of the ePermits System is to fully automate the permitting process to improve the customer experience and to reduce time burden on respondents. This new system will enhance the user experience by allowing users to enter data from any device that has Internet access, including personal computers, tablets, and smartphones. It will also link the permit applicant to the Pay.gov system for payment of the associated permit application fee. Users of the ePermits System will register for an account which will then automatically populate the forms they complete with the required identification information, thus preventing the need for them to enter it multiple times when they apply for separate permits and reducing burden on the applicant. The account registration process will also provide private sector users an opportunity to self-identify as a small business which will enable the Service to more accurately report burden associated with information collection requirements placed on them.

Once the new ePermits System is in place, we anticipate a reduction in the amount of time necessary for an applicant to apply for a permit, and perform regular actions related to that permit (e.g., amend, renew, report). Through the ePermits account registration, we will track and be able to more accurately report the numbers of small business applicants, along with the type of business (for-profit, farm, not-for profit). This information will allow the Service to be more responsive in identifying the possibility of additional burden reduction on small businesses.

We also plan to eliminate the necessity for physical mail-in applications (though this will remain an option for those who either don't have access to the internet or prefer to use mail-in applications), thus further reducing the burden on the public as well. With ePermits, an applicant will be able to establish an account, apply for multiple permits through a single interface, and track all their applications, permits and permit-related actions as well as all communications between Service staff and the permittee/applicant within the same interface, significantly reducing the burden on the government to process these applications and manage permit-related actions.

The Service anticipates the discontinuance of the paper-based versions of a large number of forms after the ePermits System has been in full operation for at least 18-24 months. The elimination of most paper based forms is expected to reduce the government cost of administering and processing permit applications. However, .pdf copies of additional permit documentation that require signatures (for example, affidavits) will be uploaded to the system regardless of whether the application is submitted electronically or by paper.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Other than the general identifying information (name, address, telephone number, email address), the information that we collect is not available from any other source. Other than the general identifying information standard for each application, collection of duplicate information is minimal. Many permittees renew permits for ongoing activities. We retain information from their original application so they do not have to duplicate information that is unchanged for the new permit.

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

This collection affects only State and Tribal governments. It does not impact small businesses. Commercial entities, such as privately managed aquaculture facilities, would continue to have the opportunity to apply for individual depredation permits to address site-specific conflicts. The new special cormorant permit would be optional and available to State and Tribal wildlife agencies in the 48 contiguous states to manage conflicts specifically associated with cormorants. This permit would provide State wildlife management agencies and Tribes flexibility within predefined guidelines to address conflicts caused by cormorants within their jurisdictions. The new permit coupled with the continued use of individual depredation permits for commercial aquaculture producers would provide the accountability and flexibility to manage cormorants while ensuring populations are managed sustainably and take is authorized in an equitable fashion across multiple conflicts.

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.

If we do not collect the information, or if we collect the information less frequently, we would be unable to allow permittees to effectively address conflict issues with double-crested cormorants, resulting in increased threats to human health and safety and continued economic losses due to cormorant predation of fish stocked for public use. We would also

be unable to track the amount of reported take relative to the limit allowed annually by regulations. Not knowing this information would prevent the Service from effectively sustaining cormorant populations and thus, would put the Service at risk of legal challenges 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.

There are no reporting requirements inconsistent with OMB guidelines.

8. If applicable, provide a copy and identify 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 and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

We have prepared final regulations (RIN 1018-BE67, "Migratory Bird Permits; Management of Conflicts Associated with Double-Crested Cormorants (*Phalacrocorax auritus*) Throughout the United States" to solicit the necessary information to implement the authorized specific take

activities that are normally prohibited and are intended to relieve or prevent impacts from cormorants on lands within State or Tribal jurisdictions to address conflicts. A copy of the final rule is uploaded to ROCIS as a supplement document. The final rule solicits public comment for a period of 30 days on the IC requirements described in this supporting statement with the final rule schedule to be effective 45 days after publication.

A proposed rule, soliciting comments on this collection of information for 30 days, was published on June 5, 2020 (85 FR 34578). No comments were received in response to the proposed rule. However, in addition to soliciting comments on the proposed rule, we solicited comments in response to the draft Environmental Impact Assessment (DEIS) published June 5, 2020, titled “Management of Conflicts Associated with Double-crested Cormorants” (EIS number 20200116). In response to the DEIS associated with the proposed rule, we received comments from the following agencies that address IC requirements:

Agency	Date Submitted
Arkansas Farm Bureau Federation	July 20, 2020
Arkansas Game and Fish Commission	July 16, 2020
Association of Fish and Wildlife Agencies	July 17, 2020
Attorneys for Animals, Inc.	July 21, 2020
Audubon	July 20, 2020
Audubon Society of Portland	July 21, 2020
Arizona Game and Fish Department	July 20, 2020
Catfish Farmers of America	June 30, 2020
Center for Biological Diversity	July 20, 2020
Central Flyway Council	July 20, 2020
Columbia River Inter-Tribal Fish Commission	July 21, 2020
Congressional Sportsmen's Foundation	July 20, 2020
Congressman Jack Bergman	July 21, 2020
Finger Lakes Conservation Council	July 13, 2020
Georgia Department of Natural Resources, Wildlife Resources Division	July 20, 2020
Idaho Department of Fish and Game	July 20, 2020
Kalmiopsis Audubon Society	July 20, 2020
Leech Lake Band of Ojibwe Division of Resources Management	July 13, 2020
Louisiana Department of Wildlife and Fisheries	July 16, 2020
Michigan United Conservation Clubs	July 16, 2020
Mid-Columbia Public Utility District	July 20, 2020
Mississippi Commissioner of Agriculture and Commerce	July 20, 2020
Mississippi Farm Bureau Federation	July 20, 2020
Mississippi Flyway Council	July 20, 2020
Missouri Department of Conservation	July 17, 2020
National Aquaculture Association	July 20, 2020
New York State Department of Environmental Conservation	July 20, 2020
New York State Fish and Wildlife Management Board	July 21, 2020
New York State Conservation Council, Inc.	July 20, 2020
North Dakota Game and Fish Department	July 17, 2020
Northwest Guides and Anglers Association	July 20, 2020
Ohio Department of Natural Resources Division of Wildlife	July 20, 2020
Oklahoma Department of Wildlife Conservation	July 20, 2020

Oregon Department of Fish and Wildlife	July 20, 2020
Pacific Flyway Council	July 20, 2020
Pacific Public Employees for Environmental Responsibility (PEER)	July 15, 2020
Pro Lake Management, LLC	July 21, 2020
Quality Lake, Inc,	July 21, 2020
Roby, Daniel	July 21, 2020
South Carolina Department of Natural Resources	July 20, 2020
Texas Parks and Wildlife Department	July 20, 2020
University of Minnesota – Twin Cities Department of Fisheries, Wildlife and Conservation Biology	July 21, 2020
U.S. Environmental Protection Agency, Region 9	July 16, 2020
Virginia Department of Wildlife Resources	July 21, 2020
Washington Department of Fish and Wildlife	July 20, 2020
Waterbird Society	July 20, 2020
Wisconsin Department of Natural Resources	July 20, 2020
World Aquaculture Society	July 20, 2020
Wyoming Game and Fish	July 20, 2020

We arranged the comments by overarching themes and provide a synopsis of the comments related to each theme, along with an agency response to each theme, as indicated below:

FUNDING/RESOURCE CONCERNS: Several State agencies and organizations commented on the need for funding and technical support to implement a new State-wide special permit as described in the preferred alternative. Commenters expressed concern that a new permit process would be overly burdensome to implement, which could delay cormorant control efforts and impede management success. One State agency asked how much potential new monitoring or reporting a State would have to agree to, and the amount of time and resources that would need to be invested. They expressed concern that funding of population monitoring (and monitoring of take) would be sourced from State budgets if population monitoring is stepped down to the Flyways. Another State agency stated that in order to ensure that monitoring efforts are conducted consistently, the Service should conduct population monitoring or must allocate funding to the States for monitoring. A separate State agency expressed concerns about the burden that the proposed permit will place on States to develop and maintain programs to manage allowable take (i.e., population monitoring, permitting, and reporting). Similarly, another State agency cautioned that State resources are limited, while a separate State agency inquired whether States will receive financial assistance to implement the new permit. Lastly, the Mississippi and Pacific Flyway Councils also commented that Federal financial support may be needed to manage reporting and monitoring and the ability to administer a cormorant depredation program.

Agency Response to Funding/Resource Concerns: This new permit does not require a State or Tribe to process or issue any depredation permits to entities within their jurisdiction. As stated in the proposed rule and DEIS, States and Tribes would not be required to request a permit, and those entities within States or Tribes not seeking a new permit would continue to be able to apply for individual depredation permits (except those that address wild and publicly stocked fisheries). The Service’s purpose and need for this action, however, is to provide the flexibility for a State or Tribe to address spatial and temporal complexity of conflicts. This is because each State and Tribe has different goals and objectives for wildlife management, and, therefore, allowances for flexibility when prioritizing allocation of authorized take must be granted. In all cases under a new permit,

States and Tribes would be required to respond to questions as part of a permit application, and document all take that occurs under their permit(s), and provide the Service with a report by January 31 for activities conducted during the preceding calendar year. But the cost and means to implement permit requirements will vary based on the goals of any particular State or Tribe seeking relief from conflicts associated with cormorants. The Service cannot obligate funds to implement a new special permit at this time, nor could the Service accurately project any necessary additional funding for each State or Tribe due to the flexibility provided to them. As with the management of other migratory bird species, the Service expects costs of management to be shared among the Service, States, and Tribes.

MONITORING PLANS: Several States, organizations, and individuals commented on the need for more clarity and details from the Service with regard to the development of a cormorant population monitoring program, and how adaptive management will be incorporated. Entities requested that the Service provide an outline of a cormorant population monitoring regime as a foundation for current consideration by stakeholders and as the basis for stakeholder meetings with the Service following the publication of the record of decision. These commenters also asked how much potential new monitoring or reporting a State would have to agree to, and the amount of time and resources that would need to be invested. Some State agencies and Flyway Councils provided specific recommendations for population monitoring. One State agency, for example, requested that the Service provide standardized population monitoring and reporting protocols needed to evaluate impacts of authorized take on cormorant populations, as well as criteria to be used to assess the costs and benefits of take on wild fish stocks, aquaculture facilities, human health and safety, property, and species of conservation concern. Several commenters expressed concern over any requirement that permittees gather data to assess the efficacy of take. Similarly, commenters seek to clarify on who would be required to collect any such data.

Agency Response to Monitoring Plans Concerns: The Service will work with the four Flyway Councils and partnering Federal agencies to develop agreed-upon, standardized monitoring protocols. The purpose of the monitoring protocols will be to provide scientifically defensible estimates and/or indices of double-crested cormorant population abundance, biologically allowable take, and observed take. The protocols will detail agency-specific responsibilities and estimated annual costs associated with monitoring. The Service will also produce a report every 5 years, and additionally as needed, that provides analyses from population-monitoring efforts and other status information. This report would be provided to the public to promote transparency of decision-making and evaluation of the effectiveness of this conflict-management tool. This report would include, but not be limited to: (1) updated cormorant population status and trends; (2) reported lethal take of cormorants nationally and by cormorant population; (3) updated Potential Take Limit (PTL) analyses based on new or more current population information; (4) the state of the conflicts described in the scope of the rule and assessment of a need for continued management, as reported by requests for depredation permits (both individually and programmatically by participating States and Tribes); and (5) a conflict-management decision and justification for either continued management or a proposed new management approach, if appropriate and needed. In providing clarity to potential permittees about the necessary information applicants need to provide in the application, the Service clarifies that the application does not include language that permittees gather data to assess the efficacy of take. Rather, it includes language asking the applicant to provide a description of long-term plans to eliminate or significantly reduce continued need to take cormorants. The Service encourages State and Tribal fish and wildlife agencies to

coordinate with subpermittees to assess take measures that address long-term prevention of depredation where possible, and to conduct monitoring in conjunction with the Service as it develops its population monitoring plan.

DEVELOPMENT OF GUIDELINES: A number of State agencies recommended that the Service develop guidelines for determining when there is sufficient proof that nonlethal mechanisms are ineffective at resolving conflicts. One State agency requested that the Service provide States seeking permits with a guide or Best Management Practices on nonlethal methods of resource protection. Another State agency recommended that the Service develop and provide States with sampling protocols to assist with collecting and analyzing fish population data where cormorant control activities occur.

Agency Response to Development of Guidelines Concerns: The Service received many comments either in favor of or opposed to using nonlethal methods in all situations. Commenters cited that nonlethal methods are not effective in all cases; some may be cost-prohibitive, and some may not respond well in situations where birds may become habituated to nonlethal management. The Service agrees that harassment of cormorants may be effective in some areas, but ineffective in others. The conditions that dictate this outcome are often site-specific and variable throughout any given year. Some commenters noted that nonlethal measures may work for a limited time period, but some birds may become habituated. The Service stated in the DEIS and the FEIS that the use of nonlethal methods alone is not an effective management tool to respond to conflicts associated with cormorants, which is why the Service rejected that possible alternative in its analysis.

The Service encourages and expects continued use of nonlethal measures in conjunction with lethal measures where permittees find this approach most effective. Often, a combination of measures is the most effective way to address conflicts associated with cormorants. The Service needs to rely on permittees to make site-specific assessments and employ cormorant conflict management in a manner that makes the most sense, so long as those permittees follow the conditions of the permit. For added clarity in response to these comments, the following is a condition that would be part of any permit issued by the Service under the preferred alternative in this FEIS: States and Tribes must use nonlethal methods, and independently determine that those methods are insufficient in controlling the depredation conflict, before lethally taking double-crested cormorants. Permittees may also consult with USDA Wildlife Services for additional assistance to determine when nonlethal methods are insufficient.

FLYWAY COUNCILS AND ADAPTIVE MANAGEMENT: Comments from the Flyway Councils indicated an interest in being involved in the development of the Service's monitoring plans. The Mississippi Flyway Council noted that they felt the 5-year monitoring plan seemed reasonable, and suggested the Service consider the participation of Flyway Councils to develop coordinated monitoring. The Central Flyway Council indicated support for developing monitoring plans, and recommended that the four Flyways contribute recommendations on reasonable take allocations. A State agency recommended the Service use the Flyway system to assist in the allocation of permitted lethal removal of cormorants, due to the pressing need to resolve cormorant conflicts across broad geographic regions.

Another State agency requested that the Service convene meetings with the Flyways and other relevant stakeholders to develop a specific cormorant population monitoring plan. The need to ensure adequate monitoring and reporting to manage take while considering the

limited State resources was cited by some State agencies as well. One State agency also noted a concern for how Flyways would fund and provide resources for additional monitoring and reporting of cormorant populations and lethal take, as much of their funding comes from State budgets.

Another State agency commented suggesting that the involvement of the Flyway Council could be beneficial in the development of monitoring plans, but felt that monitoring plan development should be the extent of their involvement, since their nongame technical section has little relevant experience with the management of overabundant species. Both the Mississippi Flyway Council and a State agency in that flyway encouraged the Service to align their regulatory cycle with the Flyway Council's summer meeting to provide sufficient time for States to properly and carefully consider the Service's regulatory proposals.

The Mississippi Flyway Council recognized, supports, and appreciates that, under Alternative A, some States and Tribes in the Flyway not wishing to establish a new permit system, as well as commercial aquaculture facilities experiencing cormorant issues, have the option to apply for depredation permits under 50 CFR 21.41. Lastly, the Central Flyway Council recommended the Flyway process be used to notify the Service of which States within each Flyway will be participating in the new permit.

Two stakeholders submitted comments regarding adaptive management. One stated that the Service did not address adaptive management in the information collection. Another stated that the concept of adaptive management only appeared once in the DEIS, in reference to the perceived benefits of Alternative A allowing flexibility in a State's or a Tribe's cormorant control strategies to achieve desired fisheries benefits.

Agency Response to Flyway Council and Adaptive Management Concerns:

Regarding population monitoring and adaptive management, the Service will work with the four Flyway Councils and partnering Federal agencies to develop agreed-upon, standardized monitoring protocols. The Service will make every effort to align coordination with the Flyway Councils around their meetings throughout the calendar year. The purpose of the monitoring protocols will be to provide scientifically defensible estimates and/or indices of double-crested cormorant population abundance, biologically allowable take, and observed take. The protocols will detail agency-specific responsibilities and estimated annual costs associated with monitoring. The Service will also produce a report every 5 years, and additionally as needed, that provides analyses from population-monitoring efforts and other status information. This report will be provided to the public to promote transparency of decision-making and evaluate the effectiveness of this conflict-management tool. This report will include, but not be limited to: (1) updated cormorant population status and trends; (2) reported lethal take of cormorants nationally and by cormorant population; (3) updated PTL analyses based on new or more current population information; (4) the state of the conflicts described in the scope of the rule and an assessment of the need for continued management, as reported by requests for depredation permits (both individually and programmatically by participating States and Tribes); and (5) a conflict-management decision and justification for either continued management or a proposed new management approach, if appropriate and needed.

DEPREDATION/CONTROL ORDERS: Several entities and State agencies commented in support of an aquaculture depredation order in conjunction with a new special State and Tribal permit addressing conflicts associated with cormorants. Some State agencies also voiced support for a new aquaculture depredation order or a new general depredation order without

commenting specifically on a new State or Tribal special permit. One State agency referenced the DEIS by concluding that the environmental impacts between Alternatives A and C would be similar, and stated that Alternative C would provide greater efficacy and less administrative burden for their agency. Another commenter submitted a similar comment and voiced support for a nationwide depredation order. Other entities also commented in support of an aquaculture depredation order in general, stating that individual permits are not effective and the proposed rule does not provide a lethal take management option for commercial aquaculture facilities such as catfish farms. A State agency also commented in support of Alternative C, citing specific support for a new special State and Tribal permit and the ability for States to manage their own water resources. A nongovernmental organization commented in support of a nationwide depredation order, stating that individual depredation permits are ineffective due to the unpredictable migratory patterns of cormorants making it difficult to effectively assess where individual permits are needed.

Commenters in support of a new aquaculture depredation order suggested that this alternative would reduce the administrative and regulatory burden on the Service and the aquaculture industry, and emphasized that individual take permit applications are a significant burden for small businesses. These commenters asserted that low take limits for individual permits are sometimes arbitrarily set by regional agency offices, making these permits inefficient, and that small businesses would be required to continue to apply for individual take permits. One aquaculture farmer spoke about complications with having to apply and pay for two separate permits at two separate regional offices due to having farms in bordering States. A State agency commented in disagreement with the assertion that the requirement to track take of cormorants under Alternative A is less burdensome than for other alternatives and that reporting requirements under most alternatives could be structured to equally assess take levels.

A Tribal Commission commented in support of Alternative D, a general depredation order. They also suggested that the Service include Federal lands in this alternative in order to allow State and Tribal wildlife managers the necessary flexibility to manage cormorants effectively and efficiently for the resources that need protection. This Commission further states Alternative D is ideal to maximize flexibility in protecting out-migrating juvenile salmon and steelhead as it includes all lands where cormorants impact fisheries resources throughout the Columbia River basin.

Lastly, an industry association commented in support of the vacated depredation order, and not the depredation orders analyzed in the DEIS.

Agency Response to Depredation Order Comments: As explained in the DEIS, the Service would apply an annual maximum allowable take threshold across all the needs identified by stakeholders. The Service determined this threshold by using a Potential Take Limit (PTL) model, which uses underlying cormorant population metrics (productive rates, survival rates, etc.) to calculate an annual allowable take level. This is the same type of model used to sustainably manage some migratory game bird species (band-tailed pigeons) and take levels for species such as black vultures. By establishing an annual sustainable take threshold, and ensuring systems are in place to keep take below that threshold, the Service will implement the robust tool needed to assess the effects of take on cormorant populations to address potential legal challenges.

Under the vacated aquaculture depredation order, aquaculture facilities were required to annually report lethal cormorant control activities. This system of limited accountability and

self-reporting with a year time-lag was not adequate to consistently track authorized take on a national scale. In addition to timing, the lack of reliable annual take from information under the previous depredation orders complicated our ability to assess the impacts of the orders on cormorant populations.

The Service must be capable of tracking take by all authorization mechanisms available throughout the year. Presently, however, the Service does not have the necessary process or resources to adequately monitor take under any new depredation order. This is because, unlike the use of a permit system, the Service cannot track take under a depredation order until the take has already occurred, creating a greater probability that the take will exceed the maximum limit before it is reported. To adequately track take under any new depredation order, whether that order be the vacated orders, or those analyzed in the DEIS, the Service needs to develop a mechanism that allows take to be tracked in real time, such as the Canada Goose Registration database (50 CFR 21.50). Such a tool would reduce the likelihood of exceeding the annual take threshold or reaching the annual take threshold prior to the end of the year. Additionally, a registration/tracking tool would only be effective if those using the depredation order were willing to register and report take numbers on a regular and frequent basis. Since a tracking system is not currently in place, this alternative is not ripe for decision. The Service must therefore continue to rely on individual permits for private and commercial entities.

The Service will continue to issue individual depredation permits and is not proposing to implement any new cormorant depredation orders anywhere in the United States at this time. Based on information received during the public comment period, the PTL model for the western subpopulation may not have captured complex and changing population dynamics precipitated by cormorant management in the Columbia River Estuary. To reduce the risk of over-exploiting the western subpopulation, the Service will initially limit that annual take to half the PTL in the DEIS, or 4,539 individuals. This is a maximum allowable annual take level, not a prescribed level. Based on past take of cormorants, expected take is unlikely to exceed 2,000 annually.

In regard to comments questioning which entities may remain eligible to apply for and receive individual depredation permits, the Service acknowledges this complexity and refers commenters to Table 1 in the FEIS, "Differences In Regulatory Frameworks That Would Address Conflicts Across All Alternatives," which outlines how each alternative in the NEPA analysis would employ different proposed regulatory frameworks to address conflicts relating to cormorants. The preferred alternative would establish a new, optional permit that would be available to State and Tribal fish and wildlife agencies in the 48 contiguous States to manage conflicts specifically associated with cormorants. This alternative would provide State wildlife management agencies and Tribes flexibility within predefined guidelines to address conflicts caused by cormorants within their jurisdictions. As stated in the rule and NEPA analyses, States and Tribes would not be required to request a permit, and those entities within States or Tribes not seeking a new permit would continue to be able to apply for individual depredation permits (individual depredation permits would not authorize the take of cormorants to protect wild or stocked fish except when circumstances require the protection of federally listed species). Commercial aquaculture facilities would continue to have the ability to apply for individual depredation permits (50 CFR 21.41) from the Service. Regarding the individual's comment about having to apply and pay for two separate permits at two separate regional offices due to having farms in bordering States, the Service emphasizes that multiregional

depredation permits will remain available for these circumstances. For example, the regional office to which a commercial aquaculture producer would apply can issue a permit for more than one State and across regional boundaries. This would require a coordination step between those two regional permit offices, which is a standard operating practice for the Service when an applicant seeks to take migratory birds from States that occur in different administrative regions.

PERMIT APPLICATION/PERMIT SYSTEM – Allocation and Scope of Authorized Take:

Several commenters submitted questions pertaining to how the Service would manage overall allocation of authorized take of cormorants. Generally, commenters asked how the Service would: (1) allocate take among all existing authorizations for take, including a new State and Tribal permit; (2) account for regional take under the national permit system; and (3) determine an upper limit of take for each State. For example, two State agencies commented on the need to understand how the Service would allocate take among all authorization mechanisms. Another State agency also commented on the need for clarity on how annual take, both at the State and regional level, would be shared among the States and Tribes so that they can make informed determinations in successive years. Another State agency stated that the method by which take will be allocated across the western population is unclear from the DEIS and needs to be clarified. The Central Flyway Council requests the Service engage the four administrative flyways so they can provide recommendations to the Service on reasonable take allocation among States and flyways. One individual commented with concern that States may take the majority of the allocated take within a cormorant subpopulation's allowable take threshold within the PTL. This commenter further states that there is no structure to ensure that take for resources will be balanced (prioritization) or that a diversity of stakeholder interests will be considered.

Several State agencies and commenters voiced a need for clarity on the scope of authorized take within a new cormorant depredation permit for States and Tribes outlined in the proposed rule. Specifically, commenters requested clarity on the scope of circumstances for when take would be authorized, the geographic and temporal scope, and whether the new special permit would apply to private property owners and Species of Greatest Conservation Need (SGCN) as identified in State Wildlife Action Plans. Commenters stated that this clarity is needed to understand where and when States and Tribes can implement take of cormorants. For example, two State agencies recommended rewording "wild and publicly stocked fish stocked by State agencies or Tribes" to "wild and stocked fish managed by State agencies or Tribes." Another separate State agency stated that a State agency may need to apply control of cormorants on public waters, which can occur in cases where a State does not own the land, and recommends the final rule language be revised from, "Lands under the jurisdiction of the State," to "Lands and/or public waters under the jurisdiction of the State." Similarly, another State agency sought clarification on the language used in the final rule, and referenced "state or tribal lands" and "respective jurisdiction."

One private entity commented that the proposed rule should not limit State cormorant control efforts to only those water bodies where impact studies have been performed, and should be revised to provide relief for water bodies with "publicly stocked fish" to include "publicly accessible fisheries" to include protection for wild fish. A State agency similarly requested that the Service provide States with standardized guidance on determining when take is warranted to support fish resources, and to reduce conflicts associated with risks to human health and safety, property, and species of conservation concern. A separate State agency commented about the scope of the conflicts, and asked if a State permit is the only way a State can address cormorant conflicts. That agency further asked about possible ramifications of opting

out of the permit system, and if there will still be a mechanism by which a State can address wild fishery conflicts with cormorants.

Agency Response to Permit Application/Permit System Concerns – Allocation and Scope of Authorized Take: States and Tribes would not be required to request a permit, and those entities within States or Tribes not seeking a new permit would continue to be able to apply for individual depredation permits (except those that address wild and publicly stocked fisheries). The Service cannot yet provide the specificity requested on how the allocation of individual permits for aquaculture facilities and property owners would occur because the Service does not yet know how many States or Tribes would request the proposed new permit. However, the Service understands that States and Tribes need clarity on the Service's expectations for an acceptable level of requested take in an application for a new permit. Permittees would be restricted to maximum levels of take authorized, designed not to exceed the PTL within the subpopulation where the State or Tribe is located. This level of authorized take would depend on: (1) which States and Tribes seek a new special permit within the same subpopulation analyzed within the PTL; (2) an assessment by Service permit staff of the available level of take each year within the specific subpopulation where the State or Tribe is located; and (3) an assessment by Service permit staff of the historical information of authorized take of cormorants due to depredation in the past. However, allocation of authorized take may be modified as conditions change once take is allowed. The Service encourages interested States and Tribes to communicate with the Service during the application process to best determine prioritization and allocation of authorized take of cormorants.

The Service appreciates the comments that the scope of where take activities could occur may be too limiting relative to the areas that States and Tribes manage for fisheries. The Service therefore revised the language in the final rule to better encompass the lands and waters managed by State and Tribal fish and wildlife management agencies stating that, under this (special double-crested cormorant) permit, the Service authorizes State and Tribal fish and wildlife agencies to conduct lethal take of double-crested cormorants that is normally prohibited and is intended to relieve or prevent impacts from cormorants on lands or in waters managed by those agencies within their respective jurisdictions. The scope of management and take activities conducted under the permit is intended to reduce or prevent conflicts associated with cormorants for the following concerns:

1. Depredation of fish at State- and Tribal-owned or operated aquaculture facilities, including hatcheries;
2. Realized and potential impacts to human health and safety (e.g., collisions of airplanes with birds, fecal contamination of urban wetlands);
3. Impacts to threatened and endangered species (as listed under the ESA and listed species identified in State- or Tribal-specific legislation as threatened or endangered) or those listed as Species of Greatest Conservation Need in State Wildlife Action Plans, where take activities to prevent depredation on aquatic Species of Greatest Conservation Need may occur only in natural or public waters;
4. Damage to State- or Tribal-owned property and assets; and
5. Depredation of wild and publicly stocked fish managed by State fish and wildlife agencies or federally recognized Tribes and accessible to the public or all Tribal members.

PERMIT APPLICATION/PERMIT SYSTEM – Geographic and Temporal Scope:

Some commenters inquired about the geographic scope of a new State or Tribal permit,

stating that implementation of lethal control of cormorants to reduce impacts on aquaculture, wild and stocked fisheries, human health and safety, property, and species of conservation concern should be authorized at a biologically sustainable level for the Alaska, Pacific Coast, Interior, Atlantic, and Southern breeding cormorant populations. These entities commented in concern that the scope of the new special cormorant permit would allow States and Tribes to be able to take cormorants at any location and at any time.

Agency Response to Permit Application/Permit System Concerns – Geographic and

Temporal Scope: The new permit would be available to all States and federally recognized Tribes in the contiguous 48 States. The geographic scope of the new State or Tribal permit is authorized at biologically sustainable levels for each subpopulation. To ensure biological sustainability, the Service used the most recent cormorant population data available to develop the PTL model. The PTL is a biologically based model and evaluates allowable take of cormorants in the contiguous 48 States. The Service regularly uses PTL models to determine sustainable levels of take and has concluded that if this level of take were to be authorized, it would be biologically sustainable based on knowledge of cormorant population dynamics. The PTL sets the upper limit for allowable take; it is not a take prescription. The PTL limits apply to take for entire subpopulations (i.e., Florida, Western, and Atlantic plus Central). The number of birds authorized for take for each subpopulation will depend on (a) the number of States that request a State permit, and (b) the number of birds each State/Tribe requests to take in order to minimize their particular conflict. Regarding the comment about the geographic scope and the inclusion of Alaska, the Service notes that the Alaska population is not included.

On the comment of taking cormorants at any location and at any time, actions under the permit may be conducted during any time of the year, unless specified otherwise in the permit's terms and conditions. Specific conditions include those pertaining to lethal take during the breeding season. Lethal take of adults during the breeding season must occur prior to hatching of eggs to avoid the loss of adults that likely would result in orphaning chicks and their ultimate death due to starvation. Adult birds may not be taken at any nest with young in it unless the take of adults addresses a human health and safety issue.

PERMIT APPLICATION/PERMIT SYSTEM – Private Property Owners:

Several commenters also requested the Service include provisions that allow for the lethal take of cormorants on private property, particularly to protect fish that are stocked by the landowner for their personal use. One State agency recommended that the Service include private recreational pond owners in the scope of the new permit. Some commenters voiced concerns that, if such provisions are not allowed, landowners will take matters into their own hands to protect their fish and that the presence of and depredation by cormorants on stocked fish in private ponds would negatively impact recruitment of new anglers.

Agency Response to Permit Application/Permit System Concerns – Private Property

Owners: The Service, in some instances, does allow the take of migratory birds to protect private property. Private landowners may apply for a depredation permit (50 CFR 21.41) to alleviate damage to some types of property (i.e., buildings and infrastructure, vehicles and equipment, some types of vegetation). However, by policy, the Service's Migratory Bird Program does not issue permits to prevent depredation or harm to privately owned animals (e.g., hobby animals, pets, or similar categories of animals) that are raised free-range or otherwise released to the wild. Numerous nonlethal means, such as harassment, use of effigies, habitat modification, and others, are available to landowners who maintain animals in natural-like environments. Regarding the comment suggesting that some

landowners may unlawfully take cormorants if they do not receive authorization to do so from the Service, we recognize that this activity may occur, but we can neither prevent unlawful activity nor predict where and when unlawful activity would occur in such cases. However, landowners taking such actions would face the possibility of being cited for violations of the MBTA, as well as fines for such violations.

PERMIT APPLICATION/PERMIT SYSTEM – Species of Greatest Conservation Need (SGCN):

Several State agencies also commented on the need to include conflicts related to SGCN as identified in State Wildlife Action Plans. Because not all States have State-designated lists of threatened and endangered species within their State, some State agencies recommended that the language of the rule be changed to “state or tribal species of greatest conservation need,” in reference to lists created for State Wildlife Grants. Similarly, another State agency recommended greater flexibility for State fish and wildlife agencies to authorize take to protect SGCN species. Another agency stressed in the comments responding to the DEIS and the ANPR that, when determining priority and allocation of allowable take of cormorants, the protection of special-status resources should have first priority. The Central Flyway Council stated that the final rule should include conflicts related to SGCN as identified in State Wildlife Action Plans in the scope of the new special permit.

Agency Response to Permit Application/Permit System Concerns – Species of Greatest Conservation Need (SGCN): With regard to Species of Greatest Conservation Need as identified in State Wildlife Action Plans, the Service agrees. One of the stated needs for action is to address impacts from cormorants on special status species. Impacts may involve competition for nest sites, competition for food, reducing available nesting space and nesting material for co-nesting species, habitat degradation, and nest abandonment resulting from habitat degradation. Therefore, the Service included new language within the scope of the preferred alternative, which now states, “listed species identified in State- or Tribal-specific legislation as threatened or endangered) or those listed as Species of Greatest Conservation Need in State Wildlife Action Plans, where take activities to prevent depredation on aquatic Species of Greatest Conservation Need may occur only in natural or public waters.”

REPORTING REQUIREMENTS: Several stakeholders inquired as to the specific requests for information required in a new special permit. Commenters also expressed concern regarding the Service’s commitment to producing a report every 5 years. One nongovernmental organization asserted that the Service’s reporting plan is inadequate as it will produce a report providing analysis of population monitoring efforts only every 5 years, and instead recommends it be done annually. Regarding reporting by permittees, both the Central Flyway Council and a State agency recommended authorization of a 5-year State and Tribal permit with annual reporting requirements, to provide the Service with timely data regarding take while reducing the Service’s staff time needed to process annual permit renewals. The Central Flyway Council recommended annual reporting of control activities conducted under each permit, similar to what was required in the past, and a periodic cormorant population assessment at a decadal interval while encouraging the Service to explore the efficacy of existing monitoring programs. Another State agency suggested commercial aquaculture facilities and private landowners be required to report annually, at a minimum, and noted that issuing annual permits provides accurate and timely reporting to maintain compliance with permit provisions. Separately, another State agency recommended that the Service provide detailed criteria regarding the annual reporting requirements.

The Central Flyway Council opined that increased reporting requirements and intensive monitoring of cormorant populations would be difficult for many State wildlife agencies, given limited personnel and budget constraints. One State agency in that flyway requested clarification on how much potential new monitoring or reporting a State would have to agree to, and the amount of time and resources that would need to be invested.

Both the Pacific Flyway Council and a State agency in that flyway stressed the importance that any expectation of monitoring and reporting needed to implement the proposed new permit system must be backed with a robust program of Federal funding to support the duration of the monitoring activities. The Pacific Flyway Council also noted a concern that the costs of permit management, reporting, and monitoring will detract from other species conservation work, which is already difficult due to limited funding. A separate State agency commented with concern for the burden that the proposed permit will place on States to develop and maintain programs to manage allowable take (i.e., population monitoring, permitting, and reporting). One private entity questioned whether the requirement to provide information to evaluate control efforts could become so complex and cumbersome that it curtails action, citing the information collected for a considerable amount of time by State agency wildlife professionals.

A State agency requested clarification of the Service's expectations with regards to permitting, monitoring, and reporting requirements on waters managed by private landowners. Another State agency noted that it does not desire the authority to issue take permits to other entities within their State to address aquaculture conflicts, property damage, nuisance, or human safety issues. Another State agency noted that the renewal of subpermittee authority would be conditional on timely and accurate reporting, and recommended that steps be taken to ensure data collection is timely, accurate, and complete by all persons authorized to take cormorants (offering a comparison to the Resident Canada Goose Nest and Egg Depredation Order under 50 CFR 21.50 (OMB Control No. 1018-0146)).

Separately, one State agency requested that the Service provide standardized population monitoring and reporting protocols needed to evaluate impacts of authorized take on cormorant populations, as well as criteria to be used to assess the cost and benefit of take on wild fish stocks, aquaculture facilities, human health and safety, property, and species of conservation concern. Another State noted their assumption that, under a special permit, the prioritization of issued take ultimately would be the responsibility of the respective State fish and wildlife agencies or Tribes to manage accordingly, including reporting. Yet another State opined that the reporting requirements for the proposed permit system are unclear.

Agency Response to Reporting Requirements Concerns: The Service will require, as part of receiving a permit, an annual report that must be submitted by January 31st each year. The annual report requires the permittee to include location of take (GPS coordinates in decimal degrees), purpose of take (aquaculture, health, threatened or endangered species, property, stocked fish), nonlethal methods implemented, month taken, quantity taken (birds killed, nests oiled/addled, and nests destroyed), and disposition of carcass (e.g., buried, incinerated, donated).

Given the controversial nature of this issue and the novel approach toward reducing conflicts, the Service concludes annual permits and annual reporting by permittees are appropriate at this time. As we gain experience with this program, the Service could consider permits of longer duration, but additional NEPA analyses may be required for any additional rulemaking procedures or amendments.

Take of cormorants will be compiled annually and information can be made available if needed prior to completion of the 5-year reports. However, as with any bird population monitoring efforts, variation throughout the year, due largely to sampling error, can be quite high. The Service concludes that assessing population status over a 5-year period will avoid inappropriate decisions based on observed, but not necessarily real, annual changes in abundance, and still be sufficient to ensure sustainable populations of cormorants.

The new special permit would not apply to private landowners. Private property owners may apply for a depredation permit (50 CFR 21.41) to the Service to alleviate damage to some types of property (i.e., buildings and infrastructure, vehicles and equipment, and some types of vegetation).

DESIGNATION OF SUBPERMITTEES: Several commenters requested clarity about who a State or Tribe may delegate authority to as a subpermittee under a new permit to conduct take of cormorants. One State recommended that the Service allow willing States and Tribes to issue permits to subpermittees, with the subpermittee's renewal authority conditional on timely and accurate reporting. Another State agency requested clarity on the level of authority given by a State or Tribe to carry out lethal take, asking if this would be limited to only State agency personnel, or other private and public entities or persons as authorized by States. For example, one State commented that the language related to subpermittees should read, "Subpermittees may be, but are not limited to, employees of state and tribal wildlife agencies, Wildlife Services employees, and employees of federal and state agencies or private companies specializing in wildlife damage abatement." Some commenters opined that the Service should define the level of training and control needed to ensure people operate in a humane, accountable, and lawful manner.

Agency Response to Delegation of Subpermittees Concerns: The Service agrees with the need to provide further clarification of the role that subpermittees may play, and to identify who can operate as a subpermittee pursuant to a permit issued under this rule. The final rule states that subpermittees "can be employees of State and Tribal wildlife agencies, USDA Wildlife Services employees, and employees of Federal and State agencies or private companies specializing in wildlife damage abatement and under direct control of the permittee." The Service is limiting subpermittees to these entities because in some areas other cormorant species and look-alike species (e.g., anhingas) can overlap in specific ranges and habitats with double-crested cormorants. Professional biologists and trained experts are more likely to be able to differentiate between these species and reduce the possibility of taking nontarget species.

There are many levels of training that vary widely across the country that may be appropriate. The Service will not identify specific training requirements necessary to become a subpermittee. Rather, we expect that the categories of individuals listed above will have the skills, or could readily acquire the skills, to accurately identify double-crested cormorants and differentiate other look-alike species to avoid taking them. Further, by virtue of their positions, we expect that all such employees will operate in a humane, accountable, and lawful manner. The authority to take double-crested cormorants conferred by the permit is given to the State or Tribal fish and wildlife agency, and those agencies may designate permittees that the Service approves on the application for the permit. To provide added clarity, the Service included as part of the application for a new permit that permittees must agree that, "(e) Anyone taking birds under this permit must be

skilled in double-crested cormorant identification. Nontarget take of any other avian species must be reported to your permit office with your annual report including species, number, and description of events.” The application for this permit can be found in Appendix H of the FEIS, and we cross-reference the FEIS for additional comments and responses on this issue not directly related to this rulemaking. Further, any birds incidentally taken would be reported by States and Tribes, and the Service would use this data to better track accidental take of these species when take of cormorants occurs, and recommend appropriate actions such as additional training of personnel, or avoiding areas where there is a high concentration of non-target species in the area.

GENERAL COMMENTS: Some entities commented that the Service would need to ensure that current depredation permits for take of cormorants continue to be issued under 50 CFR 21.41, as population levels allow. These commenters stated that depredation permits are essential to manage the effects of increased double-crested cormorant populations on migrating salmon and steelhead smolts. One State agency requested clarity on which entities remain eligible to receive individual depredation permits for those States that do choose to obtain a special statewide depredation permit, noting that they do not desire the authority to issue take permits to other entities within their State to address aquaculture conflicts, property damage, nuisance, or human safety issues. This particular State agency requested the preferred alternative include a specific statement affirming the continued availability of individual depredation permits for entities within States that choose to obtain a special depredation permit.

Another State agency requested clarification on how the Service will account for the illegal take of cormorants. This State agency also inquired as to whether they should apply for and receive 150 permits. They ask if it is possible for the Service to consider a higher level of take (150 permits) under Alternative E for hatcheries to correspond to the higher level of authorized take, or the maximum allowable take, in Alternatives A–D. This State asserts that they operate four State-owned hatcheries, where fingerlings are raised for stocking public water bodies for the enjoyment and recreational use of fisheries resources by the public. The current number of depredation permits allocated to this State appears to be helpful in reducing fingerling depredation and pond liner damage, but not adequate to prevent still significant losses to production and facilities. Therefore, this particular State requested 150 cormorant depredation permits, regardless of the management alternative selected, to better manage cormorant populations at its State hatchery facilities.

Some commenters stated that the Service failed to address the cumulative impacts of climate change and other cormorant take, and should therefore evaluate the cumulative impact of other cormorant take, such as the planned hunting seasons in Ontario, Canada.

Agency Response to General Comments Concerns: Individual permits would still be available to address some depredation activities. However, conflicts associated with cormorants and wild or publicly stocked fish would only be addressed through the special cormorant permit, which would only be available to fish and wildlife agencies of States and federally recognized Tribes in the contiguous 48 States. Entities other than private landowners who want to reduce depredations of fish in their private ponds may be eligible to apply for permits other than the special cormorant permit.

The PTL estimate considers all forms of take and is conservative in that the lower 60 percent confidence interval of the PTL was used. However, in the NEPA analyses where comparisons are made to historical take data, historical take only included legal take. The Service was not able to include data relating to any potential illegal take of cormorants in

the PTL. This is because the Service does not have the ability to adequately track where and when individuals might illegally take cormorants. If in the future the Service is sufficiently able to track and monitor illegal take across the broad geographic scale represented in the PTL, then this data can be counted against PTL. If illegal take is substantial, however, then this factor should also become an enforcement issue in the management of cormorants.

The Service encourages the State and Tribal agencies to seek a new permit under this final rule to accomplish its goals, as that permit would be less costly, but also sufficient for a State or Tribe to meet its needs. Permits under this rule will provide the flexibility to State and Tribal fish and wildlife agencies to address conflicts related to the following issues: wild and publicly stocked fish managed by State fish and wildlife agencies or federally recognized Tribes; Tribal- and State-owned or operated aquaculture facilities (including hatcheries); human health and safety; State- or Tribal-owned property and assets; and threatened and endangered species or those listed as Species of Greatest Conservation Need in State Wildlife Action Plans. If a State or Tribe determines a permit under this rule would meet their needs, upon receiving the permit, that State or Tribe would have the discretion to determine whether, when, where, and for which of the above purposes they conduct lethal take within limits and allocations set by the Service.

The Service used population data from Canada in the subpopulation estimates, and will work closely with Ontario on population monitoring and obtain take data and incorporate it into our assessments. Our DEIS discussed climate change, and we noted that there remains some uncertainty regarding effects of climate change, but the Service can estimate that there will likely be less water available in the Great Basin, and cormorant colonies may shift locations. Cormorants may be able to stay and forage longer in northern portions of the Interior and Atlantic subpopulations, and it is possible that breeding seasons may lengthen. The Service makes decisions given this uncertainty by using the data and modeling available and adapting through time as change occurs. The planned 5-year assessment will address this issue.

IMPACT ON SMALL BUSINESSES: The U.S. Small Business Administration (SBA) commented in support of an aquaculture depredation order in combination with a new special permit for States and Tribes. SBA stated that, prior to the previous aquaculture depredation order being vacated, commercial aquaculture producers were able to manage cormorant populations while not exceeding the allowable take limits established by the Service. SBA further stated that this rulemaking has the potential to increase costs to small private aquaculture facilities that are not otherwise able to employ effective methods of controlling cormorant damage and that have seen and may well continue to see an increase in cormorant feeding. SBA further stated that individual depredation permit applications are a significant burden for small businesses, citing lower take limits for cormorants and complications among Service regions in issuing permits. SBA stated that an aquaculture depredation order would eliminate these burdensome and time-consuming application requirements. SBA also cautioned that the Service should not require documentation of revenue increases as part of any new aquaculture depredation order, as this would result in additional administrative costs associated with recordkeeping. SBA recommended that the Service consider other sources of data, and methods of data collection other than reporting increased revenue data, to measure the success of conflict management programs. SBA urged the Service to consult with industry directly to devise a cost-effective and more accurate method of data collection.

Agency Response to Impact on Small Businesses Concerns: This collection

associated with the new permit affects only State and Tribal governments, and does not impact small businesses. Commercial entities, such as privately managed aquaculture facilities, would continue to have the opportunity to apply for individual depredation permits to address site-specific conflicts. Information collection requirements associated with individual depredation permits are outside the scope of this rulemaking.

In response to comments about a new aquaculture depredation order, we reference our response above. The Service must be capable of tracking take by all authorization mechanisms available throughout the year. Presently, however, the Service does not have the necessary process or resources to adequately monitor take under any new depredation order. However, the Service established a new, higher threshold for annual maximum allowable take using the most recent biological information. While the Service is best equipped to accurately monitor the authorized and actual take of cormorants throughout the year under preferred Alternative A (the new State and Tribal permit in this final rule), a higher threshold for annual take will still yield benefits to the aquaculture industry and others in need of individual depredation permits. These benefits result from indirect effects on cormorant populations from a higher threshold of authorized take, and the resulting lower cormorant populations projected in the EIS. The new special cormorant permit would be optional and available to State and Tribal fish and wildlife agencies in the 48 contiguous States to manage conflicts specifically associated with cormorants. This permit would provide State wildlife management agencies and Tribes flexibility within predefined guidelines to address conflicts caused by cormorants within their jurisdictions. The new permit coupled with the continued use of individual depredation permits for commercial aquaculture producers would provide the accountability and flexibility to manage cormorants while ensuring populations are managed sustainably and take is authorized in an equitable fashion across multiple conflicts.

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

We do not provide 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 assurance of confidentiality. Information is collected and protected in accordance with the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. 552). We will maintain the information in a secure System of Records (Permits System—Interior, FWS–21, September 4, 2003, 68 FR 52610; modification published June 4, 2008, [73 FR 31877](#)).

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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature.

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

should:

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

We estimate that we will receive **711 responses** totaling **4,598 annual burden hours** for this information collection. The total dollar value of the annual burden hours is approximately **\$240,751** (rounded). This new permit will only be available to States and federally recognized tribes in the contiguous 48 states. We used table 1 from the of Bureau of Labor Statistics (BLS) News Release [USDL-20-1736](#), September 17, 2020, Employer Costs for Employee Compensation—June 2020, to calculate the total annual burden. Table 1 lists the hourly rate for government workers as \$52.36, including benefits.

Requirement	Average Number of Annual Respondents	Average Number of Responses Each	Average Number of Annual Responses	Average Completion Time per Response	Estimated Annual Burden Hours	Hourly Rate	\$ Value of Annual Burden Hours
Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21							
Reporting	50	1	50	16	800	\$52.36	\$ 41,888.00
ePermits Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21							
Reporting	50	1	50	14	700	52.36	36,652.00
Amendment - Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21							
Reporting	5	1	5	4	20	52.36	1,047.20
ePermits Amendment - Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21							
Reporting	5	1	5	3	15	52.36	785.40
Annual Report - Special Double-Crested Cormorant Permit (Form 3-202-56) 50 CFR 21							
Reporting	50	1	50	1	50	52.36	2,618.00
Recordkeeping				16	800	52.36	41,888.00
ePermits Annual Report - Special Double-Crested Cormorant Permit (Form 3-202-56) 50 CFR 21							
Reporting	50	1	50	.75	38	52.36	1,989.68
Recordkeeping				16	800	52.36	41,888.00
Designation of Subpermittees - Special Double-Crested Cormorant Permit 50 CFR 21							
Reporting	500	1	500	.75	375	52.36	19,635.00
Recordkeeping				2	1,000	52.36	52,360.00
Landowner Notifications 50 CFR 21*							
Reporting	1	1	1	0.017	0	52.36	0.00
Totals:	711		711		4,598		\$ 240,751.28

*Placeholder value of one respondent for OMB approval as we do not have any data to develop a better estimate. This estimate will be updated when the Service renews this collection for the first time.

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no non-hour costs associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate the total cost to the Federal Government to administer this information collection will be **\$68,686** (rounded).

Service biologists (GS-11/13) and permit examiners (GS-9/12), with support of GS-7 staff, will:

- Review and determine the adequacy of the information an applicant provides.
- Conduct any internal research necessary to verify information in the application or evaluate the biological impact of the proposed activity.
- Assess the biological impact of the proposed activity on double-crested cormorants.
- Evaluate whether the proposed activity meets the issuance criteria.
- Prepare or review NEPA documentation.
- Prepare either a permit or a denial letter for the applicant.
- When necessary to evaluate the impact of the proposed activity, visit the location to examine site-specific conditions.
- Monitor reports.

Permits are processed in our eight Regional Offices, which are located in major cities

across the United States. Therefore, we used Office of Personnel Management Salary Table [2020-DCB](#) to obtain the most up-to-date hourly rates for staff. In accordance with BLS News Release [USDL-20-1736](#), September 17, 2020, Employer Costs for Employee Compensation—June 2020, we multiplied the hourly rate by 1.59 to calculate the fully burdened rates for each staff member. The table below shows Federal staff and grade levels performing various tasks associated with this information collection.

Position/Grade	2020 Hourly Rate	Hourly Rate, Incl. Benefits (x1.59 multiplier)	Time Spent on Information	Weighted Average (\$/Hour)
Clerical – Receptionist, Office Asst. (GS-07/05)	\$26.43	\$42.02	5%	\$2.10
Legal documents examiner – Permit Examiner (GS-09/05)	32.33	51.40	30%	15.42
Legal documents examiner - Permit Examiner (GS-11/05)	39.12	62.20	30%	18.66
Biologist (GS-11/05)	39.12	62.20	10%	6.22
Supervisor – Permit Chief (GS-12/05)	46.88	74.54	20%	14.91
Management - Branch/Division Chief, Solicitor (GS-13/05)	55.75	88.64	5%	4.43
Weighted Average (\$/hr)				\$61.74

IC	Total Responses	Gov't Hours/Response	Total Gov't Hours*	Total Gov't Cost* (\$61.74/hour)
Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21				
	50	8	400	\$ 24,696
ePermits Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21				
	50	7.5	375	23,153
Amendment - Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21				
	5	2	10	617
ePermits Amendment - Application - Special Double-Crested Cormorant Permit (Form 3-200-90) 50 CFR 21				
	5	1.5	7.5	463
Annual Report - Special Double-Crested Cormorant Permit (Form 3-202-56) 50 CFR 21				
	50	1	50	3,087
ePermits Annual Report - Special Double-Crested Cormorant Permit (Form 3-202-56) 50 CFR 21				
	50	.75	37.5	2,315
Designation of Subpermittees - Special Double-Crested Cormorant Permit 50 CFR 21				
	500	.5	250	15,435
Totals:	710		1,130	\$ 69,766

*Rounded

NOTE: We did not include a government cost burden associated with the landowner notification. This is a requirement we place on the State/Tribe and therefore, we do not incur any costs associated with it.

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

This is a request for a new OMB control number in conjunction with a rulemaking (RIN 1018-BE67). Changes to the submission since the proposed rule phase are explained in question 2 of this Supporting Statement A.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

We will not publish the information collected.

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.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.