



**Billing Code 4333-15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Parts 13 and 22**

**[Docket No. FWS–R9–MB–2011–0094; FF09M20300-167-FXMB123109EAGLE]**

**RIN 1018–AY30**

**Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule; information collection requirements.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), recently published a final rule that revises the regulations for eagle nonpurposeful take permits and eagle nest take permits. In that final rule, we stated that the Office of Management (OMB) had not yet approved the information collection requirements associated with the rule. This document announces that OMB has now approved the information collection requirements.

**DATES:** OMB approved the information collection requirements on January 6, 2017, for the final rule that published at 81 FR 91494 on December 16, 2016.

**ADDRESSES:** Relevant information and documents related to the eagle permit rule may be found on the internet at <http://www.regulations.gov> in Docket No. FWS–R9–MB–2011–0094. You may review the information collection request online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections.

**FOR FURTHER INFORMATION CONTACT:** Tina Campbell, Chief, Division of Policy, Performance, and Management Programs; 703–358–2676.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

We, the U.S. Fish and Wildlife Service (Service), published a final rule in the December 16, 2016, **Federal Register** (81 FR 91494) that revises the regulations in part 22 of title 50 of the Code of Federal Regulations (CFR) for eagle nonpurposeful take permits and eagle nest take permits. Revisions included changes to permit issuance criteria and duration, definitions, compensatory mitigation standards, criteria for eagle nest removal permits, permit application requirements, and fees. In the final rule, we stated that the Office of Management (OMB) had not yet approved the information collection requirements associated with the rule. We also stated that we would announce the approval via a separate notification in the **Federal Register**. This document provides that notification.

The following text sets forth the information collection requirements approved by OMB:

*Title:* Eagle Take Permits and Fees, 50 CFR part 22

*OMB Control Number:* 1018–0167

*Service Form Number(s):* 3–200–71, 3–200–72

*Description of Respondents:* Individuals and businesses. We expect that the majority of applicants seeking long-term permits will be in the energy production and electrical distribution business.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

Table 1 cites the total burden for this information collection. Table 2 sets forth the changes in nonhour burden fees for eagle take permits.

**Table 1. Estimated hour and cost burden for long-term eagle take permits**

Activity/Requirement	Annual Number of Responses	Average Completion Time Per Response	Total Annual Burden Hours	Cost/hour	\$ Value of Annual Burden Hours (rounded)
Preconstruction Monitoring Surveys	15	650 hours	9,750 hours	\$34.26	\$334,035
Preparation of Eagle Conservation Plan	15	200 hours	3,000 hours	\$34.26	\$102,780
Postconstruction Monitoring	15	700 hours	10,500 hours	\$34.26	\$359,730
Reporting Take of Eagles	10	2 hours	20 hours	\$34.26	\$685
Reporting Take of Threatened and Endangered Species	1	2 hours	2 hours	\$34.26	\$69
§ 22.26(c)(7)(ii)—Permit reviews. At no more than 5 years from the date a permit that exceeds 5 years is issued, and every 5 years thereafter, the permittee compiles and submits to the Service, eagle fatality data or other pertinent information that is site-specific for the project. <sup>8</sup> (Footnote 8 may be found below table 2. Note that the dollar value of the annual burden cost is included in the \$8,000 permit 5-year permit review fee.)	4	8 hours	32 hours	\$34.26	\$1,096
<b>Total</b>	60	1,562 hours	23,304 hours		\$798,395

**Table 2. Changes in nonhour burden fees for eagle take permits**

Activity/Requirement	Previous Approval Under OMB Control No. 1018-0022	Previous Fee	New Fee	Total Previously Approved Nonhour Burden Costs	Total New Approved Nonhour Burden Costs	Difference Between Previous 1018-0022 Approval and New Approval
3-200-71—application, Eagle Incidental Take (not programmatic or long-term) <sup>1</sup>	Approval covered number of responses and annual burden hours. The rule revises fees and nonhour costs.	\$500 Non-commercial	\$500 Non-commercial	\$12,500 Non-commercial	\$12,500 Non-commercial	\$0 Non-commercial
		\$500 Commercial	\$2,500 Commercial	\$60,000 Commercial	\$300,000 Commercial	+\$240,000 Commercial
3-200-72—application, Eagle Nest Take—single nest (formerly “standard”) <sup>2</sup>	Approval covered number of responses and annual burden hours. The rule revises fees and nonhour costs.	\$500 Non-commercial	\$500 Non-commercial	\$5,000 Non-commercial	\$5,000 Non-commercial	\$0 Non-commercial
		\$500 Commercial	\$2,500 Commercial	\$10,000 Commercial	\$50,000 Commercial	+\$40,000 Commercial

<b>3-200-72—application, Eagle Nest Take—multiple nests</b> (formerly “programmatic”) <sup>3</sup>	Approval covered number of responses and annual burden hours. The rule revises fees and nonhour costs.	\$1,000	\$500 Non-commercial \$5,000 Commercial	\$0 <sup>3</sup>	\$500 Non-commercial \$40,000 Commercial	+\$500 Non-commercial +\$40,000 Commercial
<b>3-200-71—Eagle Incidental Take Amendment—less than 5 years</b> (formerly “standard”) <sup>4</sup>	Approval covered number of responses and annual burden hours. The rule revises fees and nonhour costs.	\$150 Non-commercial \$150 Commercial	\$150 Non-commercial \$500 Commercial	\$300 Non-commercial \$2,700 <sup>5</sup> Commercial	\$300 Non-commercial \$9,000 Commercial	\$0 Non-commercial +\$6,300 Commercial
<b>3-200-72—Eagle Nest Take Amendment—single nest</b> (formerly “standard”) <sup>4</sup>	Approval covered number of responses and annual burden hours. The rule revises fees and nonhour costs.	\$150 Non-commercial \$150 Commercial	\$150 Non-commercial \$500 Commercial	\$150 Non-commercial \$600 <sup>6</sup> Commercial	\$150 Non-commercial \$2,000 Commercial	\$0 Non-commercial +\$1,400 Commercial
<b>3-200-71—Amendment—Eagle Incidental Take—programmatic</b>	Approval covered number of responses and annual burden hours.	\$1,000 Commercial	No Fee <sup>7</sup>	\$1,000 Commercial		– \$1,000 Commercial
<b>NEW REPORTING REQUIREMENT AND NEW ADMINISTRATION FEE</b>						
<b>§ 22.26(c)(7)(ii)—Permit reviews.</b> At no more than 5 years from the date a permit that exceeds 5 years is issued, and every 5 years thereafter, the permittee compiles and submits to the Service eagle fatality data or other pertinent information that is site-specific for the project. <sup>8</sup>		0	\$8,000	0	\$32,000	+\$32,000
<b>TOTAL</b>				\$92,250	\$431,450	\$359,200

<sup>1</sup> Approved under 1018-0022: 145 annual responses (25 from individuals/households (homeowners) and 120 from the private sector (commercial), totaling 2,320 annual burden hours) (400 burden hours for individuals and 1,920 annual burden hours for private sector); \$500 permit fee for both individuals and private sector for a total nonhour burden cost of \$72,500. The rule changes the application fees: Homeowner fee remains \$500; private sector fee (commercial) increases to \$2,500. Total for 25 homeowners = \$12,500; total for 125 commercial applicants = \$300,000.

<sup>2</sup> Approved under 1018-0022 (standard and programmatic permits were combined): 30 responses (10 from individuals/homeowners and 20 from private sector (commercial), totaling 480 burden hours) (160 hours (individuals) and 320 hours (private sector)). Homeowner fee remains \$500; private sector fee (commercial) increases to \$2,500. Total for 10 homeowners = \$5,000.; total for 20 commercial applicants = \$50,000.

<sup>3</sup> Approved under 1018-0022 (standard and programmatic permits were combined): 9 responses (1 from individuals/homeowners (noncommercial) and 8 from private sector (commercial), totaling 360 burden hours) (40 hours (individuals) and 320 hours (private sector)). The homeowner fee increases to \$500; private sector fee (commercial) increases to \$5,000. Total for 1 homeowner = \$500; total for 8 commercial = \$40,000.

<sup>4</sup> The amendments for standard nonpurposeful eagle take permits and standard eagle nest take permits are combined in the approved collection for a total of 25. Here they are split into 20 eagle incidental take permit amendments and 5 eagle nest take permit amendments.

<sup>5</sup> Two homeowner; 18 commercial.

<sup>6</sup> One homeowner; four commercial.

<sup>7</sup> The amendment fee for long-term programmatic permits was approved under 1018-0022. However, the rule removes this fee because the costs associated with it are included under the administration fee.

<sup>8</sup> This is a new reporting requirement as well as a new administration fee and applies only to commercial permittees. We will not receive any reports or assess the administration fee until after a permittee has had a permit for 5 years (earliest probably 2022). We estimate that we will receive 19 responses every 5 years, which, annualized over the 3-year period of OMB approval, results in 4 responses annually. We estimate that each response will take 8 hours, for a total of 32 annual burden hours. We will assess an \$8,000 administration fee for each permittee for a total of \$32,000. Note: This burden reflects what will be imposed in 5 years. Each 5 years thereafter, the burden and nonhour costs will increase because of the number of permittees holding 5-year or longer term permits.

*Estimated Total Hour Burden:* 23,304 hours; the total number of new respondents is 60.

*Estimated Total Hour Burden Cost:* \$798,395 for gathering information required to support an application, which may include preparation of an Eagle Conservation Plan (ECP). This amount includes 650 hours for preconstruction monitoring surveys of eagle use of the project site and 700 hours of postconstruction monitoring for each respondent. Preparation of the application, which may include preparation of an ECP, will take approximately 200 hours per respondent. These burden hours apply only to those seeking a long-term eagle take permit. In addition, those that receive a permit are required to report take of eagles and threatened or endangered species within 48 hours of discovery of the take. It is estimated that of the 15 projects permitted to take eagles each year, 10 will actually take eagles, requiring 2 hours per respondent to report. Take of threatened or endangered species is expected to be a rare event, and occur at only 1 of the 15 projects permitted each year, requiring only 2 hours to report. The burden hours also include the costs for the 5-year permit review. We estimate 8 hours per respondent to complete the requirements of the permit review for a total of 32 hours.

*Estimated New Total Nonhour Burden Cost:* \$359,200 for administration fees and application fees associated with changes implemented by this rule. This amount does not include

the nonhour cost burden for eagle or eagle nest take permits approved under OMB Control No. 1018–0022. States, local governments, and tribal governments are exempt from paying these fees.

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

**Dated:** \_\_\_January 12, 2017\_\_\_\_\_ .

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Michael J. Bean

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

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