tariff information under the DFARS clause. The legal basis for this change is 41 U.S.C. 1303.

According to the Electronic Document Access database, DoD awards approximately 855 contracts to 83 unique contractors each year that include DFARS clause 252.239–7006. It is estimated that 171 of those contracts are awarded to small entities.

This proposed rule does not include any new reporting or recordkeeping requirements for small entities. Rather this rule reduces the information collection requirements approved under OMB Control Number 0704–0341. Small entities will no longer be required to provide tariff information to the contracting officer in accordance with DFARS clause 252.239–7006.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule that would meet the policy objective of the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2018–D044), in correspondence.

VII. Paperwork Reduction Act

This rule affects the information collection requirements in the DFARS provision 252.239–7006, Tariff Information, currently approved under OMB Control Number 0704–0341, entitled ''Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology and associated clauses at DFARS 252.239–7000 and 252.239–7006.'' The rule revises an information collection requirement, which requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request to OMB for approval of a revised information collection.

A. Public Reporting Burden

Public reporting burden for this previously approved collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule proposes to eliminate DFARS 252.239–7006, Tariff Information, thereby reducing the associated current annual reporting burden and OMB inventory of hours as follows:

Respondents: 83.

Responses per respondent: Approximately 10.3.

Total annual responses: 855.

Hours per response: 2 hours.

Total response Burden Hours: 1,710.

Request for Comments Regarding Paperwork Burden Reduction. Written comments and recommendations on the proposed reduction of this information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email *Susan_M._Minson@omb.eop.gov,* with a copy to the Defense Acquisition Regulations System, Attn: Carrie Moore; OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notification, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notification.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060, or email *osd.dfars@mail.mil.* Include DFARS Case 2018–D044 in the subject line of the message.

List of Subjects in 48 CFR Parts 239 and 252

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 239 and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 239 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

239.7411 [Amended]

■ 2. Amend section 239.7411 by removing paragraph (a)(3) and redesignating paragraph (a)(4) as paragraph (a)(3).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.239–7006 [Removed and Reserved]

■ 3. Remove and reserve section 252.239–7006.

[FR Doc. 2020–11753 Filed 6–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS–HQ–MB–2019–0103; FF09M29000–201–FXMB1232090000]

RIN 1018–BE67

Migratory Bird Permits; Management of Conflicts Associated With Double-Crested Cormorants (Phalacrocorax auritus) Throughout the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes 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;* hereafter ''cormorants''). 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: wild and publicly stocked fish stocked by State agencies or 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 (listed under the Endangered Species Act of 1973, as amended, or identified in State- or Tribal-specific legislation as threatened or endangered). 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.

DATES: You must submit written comments on this proposed rule by July 20, 2020.

Information Collection Requirements: If you wish to comment on the information collection requirements in

this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after the date of publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by July 6, 2020.

ADDRESSES: *Comment Submission:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–HQ–MB–2019–0103.
- *U.S. Mail Or Hand-Delivery:* Public Comments Processing, Attn: FWS–HQ–MB–2019–0103; U.S. Fish and Wildlife Service; MS: PRB (JAO/3W); 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide (see Review of Public Comments, below, for more information).

Document Viewing: Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov* in Docket No. FWS–HQ–MB–2019–0103, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, Virginia.

Information Collection Requirements: Send your comments and suggestions on the information collection requirements by the date indicated above in **DATES** to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018—Cormorants in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–1050.

SUPPLEMENTARY INFORMATION:

Background

The Service 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.

Cormorant populations have increased over both the short term (2005–2015) and long term (1966–2015) (Sauer et al. 2017). Permits issued by the Service to take birds are one method available to reduce conflicts. However, prior to applying for permits to take cormorants, individuals and entities experiencing conflicts with cormorants should attempt nonlethal techniques (*e.g.,* hazing, habitat modification) to alleviate the conflict. Nonlethal techniques combined with lethal take should be more effective and may ultimately result in less need for lethal take in the future.

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 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 State-listed species of management concern, and personal property (under the 2017 EA, take of cormorants to protect wild and publicly stocked fisheries would only be allowed if to protect threatened or endangered species).

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. In making decisions, the Service strives to use an

effective and transparent decision-making process that ensures input from migratory bird and fisheries management programs and other stakeholders, fulfills requirements under NEPA, and addresses key biological uncertainties. When determining allowable take, the Service must consider uncertainty related to cormorant population dynamics, estimated maximum sustainable lethal take, and risk of over-exploitation. Furthermore, the Service must identify monitoring requirements that could be used to assess the effects of lethal take on cormorant populations and to ensure take is commensurate with population status. Monitoring can also improve future decisions regarding allowable take and how that allowable take could be determined. States, Tribes, and other stakeholders can provide assistance and information. The Service will formally convene meetings with the flyways and other relevant stakeholders to develop a specific cormorant population monitoring plan. This plan will be made public within approximately one year of publication of the final rule.

History of Management and Conflicts

Cormorants are migratory waterbirds protected by the MBTA. They are native to North America and range widely across the continent, typically inhabiting wetlands and adjacent upland habitats. Cormorants also are found in some human-modified environments including airport airfields and aquaculture ponds. The bird-management community generally accepts that there are five different breeding populations, variously described by different authors as Alaska, Pacific (Western), Interior, Atlantic, and Southern populations.

Cormorant abundance in North America has increased dramatically since the 1960s and 1970s, mostly due to the growth of the Interior and Atlantic populations. The current estimate of cormorant abundance in the continental United States and Canada is 872,455 to 983,188 birds (USFWS 2020).

Prior to 1998, the sole method for authorizing the lethal take of depredating cormorants to alleviate damage and conflicts was through the issuance of depredation permits pursuant to 50 CFR 21.41, which allows the take of migratory birds that are injuring ''crops or other interests.'' In 1998, the Service published a final rule (63 FR 10550–10561, March 4, 1998) establishing a depredation order that authorized commercial freshwater aquaculture producers in 13 States to take cormorants without the need for a depredation permit when cormorants were found committing or about to commit depredations on aquaculture stocks. That rule was located at 50 CFR 21.47. The Service continued to issue depredation permits to address damage and conflicts to property, natural resources, and threats to human health and safety pursuant to 50 CFR 21.41. Any individual or entity conducting lethal take of cormorants under depredation permits or the depredation order was required to submit a report detailing the take to the Service annually.

The increase in cormorant abundance across areas of North America and the subsequent range expansion of cormorants has been well documented along with concerns of the negative impacts associated with the expanding population (*e.g.,* Taylor and Dorr 2003, Hunter et al. 2006, Atlantic Flyway Council and Mississippi Flyway Council 2010, Pacific Flyway Council 2012). In response to increasing requests for depredation permits to alleviate damage and conflicts associated with cormorants, the Service issued a Final Environmental Impact Statement (FEIS) pursuant to NEPA and made changes to the regulations governing the take of cormorants in 2003. The 2003 FEIS considered direct, indirect, and cumulative effects of alternatives for cormorant management in the United States and discussed mitigating measures. In October 2003, based on analysis in the FEIS and review of public and agency comments, the Service published a final rule and notice of record of decision (68 FR 58022–58037, October 8, 2003) that modified the existing depredation order for aquaculture facilities (previously located at 50 CFR 21.47). The regulations became effective in November 2003. The modified depredation order for aquaculture facilities eliminated the need for private individuals, corporations, State agencies, and Federal agencies to obtain a depredation permit to take cormorants at aquaculture facilities in 13 States. It also authorized U.S. Department of Agriculture/Wildlife Services' employees to take cormorants at roost sites in the vicinity of aquaculture facilities during October, November, December, January, February, March, and April.

That final rule in 2003 also established a depredation order that authorized Federal agencies, State fish and wildlife agencies, and Tribes in 24 States to take cormorants to reduce damage and conflicts with public resources without the need for a depredation permit. At that time, the Service defined a public resource as a natural resource managed and conserved by public agencies, which included fish (*i.e.,* free-swimming fish and stocked fish at Federal, State, and Tribal hatcheries that are intended for release in public or Tribal waters), wildlife, plants, and their habitats. The depredation order for public resources was previously located at 50 CFR 21.48. As with previous regulations, any individual or entity conducting lethal take of cormorants under depredation permits or the depredation orders was required to submit a report detailing the take to the Service annually.

To evaluate the potential effects on the cormorant population from the implementation of the two depredation orders, a mitigating measure required by the 2003 FEIS was to review and renew, if warranted, the two depredation orders every 5 years. Subsequently, the Service developed an EA pursuant to NEPA in 2009 and again in 2014 that determined that a 5-year extension of the expiration date of the two depredation orders would not threaten cormorant populations and that activities conducted under the two depredation orders would not have a significant impact on the human environment. Therefore, from October 2003 through May 2016, the Service authorized the take of cormorants pursuant to the two depredation orders (which covered certain States), through the issuance of depredation permits for activities in States not addressed in the two depredation orders, and through the issuance of scientific collecting permits (50 CFR 21.23).

Since the Court's vacating of the depredation orders in May 2016 as discussed above, the Service has been reviewing and issuing individual depredation permits in the central and eastern lower 48 States pursuant to two separate analyses conducted under NEPA. Individuals or entities apply for these permits to address site-specific conflicts, and each application is logged, evaluated, and acted upon (approved or rejected) on a case-by-case basis based on the merits of the permit application.

The 2017 EA (USFWS 2017) evaluated issuing depredation permits to take cormorants for specific circumstances across 37 central and eastern States and the District of Columbia. The selected alternative (Reduced Take Alternative) authorized the average annual take that occurred during 2010–2015 (51,571 birds). This amount was well below the allowable level resulting from the take analyses included in the EA (82 FR 52936–52937, November 15, 2017). In December 2019, in response to requests for increased

take to alleviate growing conflicts, the Service issued a notice (84 FR 69762–69762, December 19, 2019) that it would implement a different proposed alternative analyzed in the 2017 EA (Potential Take Limit Alternative) that had a higher annual take threshold, increasing the take of cormorants authorized by permits to 74,396.

Management of cormorants in the western United States (Western population, *P. albociliatus*) is also through site-specific, case-by-case permits. The Service authorizes take of Western population cormorants primarily to reduce predation-related losses by cormorants of federally threatened or endangered juvenile salmon (*Oncorhyncus* spp.) and steelhead (*O. mykiss*) migrating to the Pacific Ocean. Additional authorizations for take occur at Federal, State, and Tribal hatcheries rearing federally threatened or endangered fish species, to protect aquaculture facilities, and for removing nests related to infrastructure maintenance. The U.S. Army Corps of Engineers' *Double-crested Cormorant Management Plan to Reduce Predation of Juvenile Salmonids in the Columbia River Estuary—Final Environmental Impact Statement* (FEIS; USACE 2015) guides management activities related to cormorant take. The National Oceanographic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) had previously determined that a reduced cormorant population of 5,380 to 5,939 breeding pairs on East Sand Island in the Columbia River Estuary would restore juvenile steelhead survival to the environmental baseline levels (NOAA Fisheries 2014), and the Service authorized lethal take at levels that attempt to achieve that colony abundance. Specifically, the Service authorized approximately 2,300 cormorants to be lethally taken each year under depredation permits, scientific collecting permits, and special purpose permits.

The Service expects the number of conflicts to increase, and we expect that demand for authorizations to take cormorants will continue to increase as a means to reduce those conflicts in the future. For example, between 2007 and 2018, the number of permit requests to take depredating birds (exclusive of requests to act under the depredation orders) increased from slightly less than 200 to almost 300 (USFWS, unpublished data), and the number of cormorants taken annually between 2004 and 2015 increased from about 42,000 to 66,500 (USFWS 2017: 50 CFR 21.24, 21.41, 21.47, and 21.48 authorizations only). As requests to take cormorants increase, the use of only depredation permits to address conflicts will become increasingly time-consuming and cumbersome, and will be less responsive to needs of those seeking relief from conflicts with cormorants.

Estimating Allowable Take

To alleviate conflicts with cormorants, we propose using a method called Potential Take Level (PTL) analyses (Wade 1998, Runge et al. 2004) to determine the number of cormorants that may be taken while maintaining the species (and breeding populations) at sustainable levels. This process has been used to determine allowable take levels for cormorants in a previous EA (USFWS 2017) and for other species, including several bird species (*e.g.,* USFWS 2009, Runge et al. 2009, Johnson et al. 2012, Zimmerman et al. 2019). Methods used to determine population sizes and allowable take levels in this proposed rule are detailed in USFWS (2020; Draft Environmental Impact Statement: Management of conflicts associated with double-crested cormorants). The median amount of allowable take resulting from the analysis was 163,219 birds annually. However, we recommend being more conservative and allowing take only up to the lower 20 percent of the distribution of the PTL annually (123,157 birds). Population-specific recommended levels of take are: Atlantic, 35,938; Interior, 77,050; Western, 8,881; and Southern, 1,288. At those levels of take, the continental population of double-crested cormorants is expected to average about 815,000 birds.

This proposed rule would bring all populations of double-crested cormorants under a common assessment framework to determine allowable levels of take. However, levels of take for each population could differ based on their current abundances, population biology, and population-specific management objectives.

Proposed Special Double-Crested Cormorant Permit

The Service proposes to add a new permit option under 50 CFR part 21 (Special Double-Crested Cormorant Permit) that would be available to State and Tribal wildlife agencies in the 48 contiguous United States to manage conflicts specifically associated with double-crested cormorants. The special permit would be available only to a State or Tribal wildlife management agency responsible for migratory bird management on lands under their jurisdiction. Under this permit, the Service would authorize State and Tribal wildlife agencies to conduct lethal take of double-crested cormorants that is normally prohibited on lands within their respective jurisdictions. The Service will issue this permit only when it is expected 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 Endangered Species Act of 1973) and listed species identified in State- or Tribal-specific legislation as threatened or endangered; damage to State- or Tribal-owned property and assets; and depredations of wild and publicly stocked fish stocked by State agencies or Tribes. Those States and Tribes not wishing to obtain this new permit could apply for depredation permits (50 CFR 21.41) to address conflicts with cormorants. However, under the scope of the November 2017 EA, these permits do not authorize take of cormorants to reduce or prevent conflicts with wild and publicly stocked fisheries (except for threatened or endangered species).

The Service would retain overall authority for the take of double-crested cormorants to ensure that levels of take are consistent with management objectives. States and Tribes must use nonlethal methods, and determine that those methods are ineffective, before lethally taking double-crested cormorants. Lethal management should be considered as part of an integrated approach to managing cormorant conflicts and used only when other methods fail to resolve conflicts. No permit is required merely to scare or herd migratory birds other than threatened or endangered species or bald or golden eagles (see 50 CFR 21.41). The Service would periodically determine the population-specific numbers of double-crested cormorants that could be taken lethally during a specified number of years in efforts to reduce conflicts while sustaining cormorant abundances, and would track authorized take through permits issued to States and Tribes to ensure take does not exceed those levels specified in the PTL. The annual allocation of take to States and Tribes would be based on recent demand by those entities and adjusted as needed (while remaining at or below population-specific allowable take levels) to respond to spatial and temporal changes in population status and the need to reduce conflicts in specific regions. The Service will prepare reports periodically, as necessary, to provide the public with

information regarding the take of cormorants and the extent to which this permit, along with other management tools (*e.g.,* depredation permits per 50 CFR 21.41), is achieving management objectives.

The special double-crested cormorant permit would be subject to the following conditions/restrictions:

1. States and Tribes must use nonlethal methods, and determine that those methods are ineffective, before lethally taking double-crested cormorants. States and Tribes and their subpermittees must make efforts to avoid disturbance to co-nesting species. Existing research findings and publications detailing appropriate methods and/or models for reducing conflicts should be used to justify activities.

2. A permit under this section does not authorize the taking of any other migratory bird, including other species of cormorants; the disturbance of bald or golden eagles; or the take of any species listed under the Endangered Species Act as threatened or endangered. If these impacts to other migratory bird species or to threatened and endangered species are likely to occur, the permittee must obtain permits specifically authorizing those activities (*i.e.,* additional migratory bird, Eagle Act and/or threatened and endangered species permits).

3. Actions under the permit may be conducted during any time of the year on lands under the jurisdiction of the State or Tribe, but only when cormorants are committing or are about to commit depredations at Tribal- and State-owned or operated aquaculture facilities (including hatcheries); to alleviate impacts to health and human safety; reduce impacts to threatened and endangered species (as listed under the Endangered Species Act) and listed species identified in State- or Tribal-specific legislation as threatened or endangered; and to prevent damage to State- or Tribal-owned property and assets. This permit would also apply to the reduction and prevention of depredations of wild and publicly stocked fish stocked by State agencies or Tribes when supported by information that take would reduce such conflicts. Permits will be issued annually. Permittees will be required to submit an annual report by December 31 each year detailing the amount of lethal take that occurred under their permit and for what purpose the take was conducted.

4. Anyone undertaking lethal control with a firearm must use nontoxic shot or nontoxic bullets (50 CFR 20.21). However, this prohibition would not apply if an air rifle or an air pistol is used.

5. Individuals conducting lethal control may not use decoys, calls, or other devices or bait to lure birds within gun range.

6. Methods of take are at the discretion of the permittee responsible for the action. Methods may include, but are not limited to, firearms, traps, egg and nest manipulation, and other techniques that are consistent with accepted wildlife damage management programs. Only 100 percent corn oil, a substance exempted from regulation by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, may be used to oil eggs.

7. States and Tribes and their employees and subpermittees may possess, transport, and otherwise dispose of double-crested cormorants taken. Double-crested cormorants killed and nests/eggs destroyed under the authority of this permit must be properly disposed of, including donation to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, or buried or incinerated. This permit does not allow for birds or their parts or nests/eggs to be sold, offered for sale, bartered, or shipped for the purpose of sale or barter.

8. The State or Tribe must also require the property owner or occupant on whose premises the State or Tribe is conducting activities to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer on the premises where they are, or were, conducting activities.

9. States and Tribes may designate subpermittees who must operate under the conditions of the permit.

10. Any employee or subpermittee authorized by the State or Tribe to carry out actions under the special permit must retain in their possession a copy of the State's or Tribe's permit while carrying out any action.

11. 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. Prior to any permit renewal, the Service will require an annual report detailing the activities conducted under the permit and the numbers of cormorants/nests/eggs lethally taken, treated, or destroyed.

12. Nothing in the permit should be construed to authorize the take of cormorants, their eggs, or nests contrary to any State or Tribal law or regulation or on any Federal land without written authorization by the appropriate management authority. Further, none of the privileges granted under the permit shall be exercised without any State or Tribal permit that may be required for such activities.

13. The Service reserves the authority to immediately suspend or revoke any permit if the Service finds that the terms and conditions set forth in the permit have not been adhered to, as specified in 50 CFR 13.27 and 13.28.

Since November 2017, permits have been available only to address conflicts with aquaculture, human health and safety, threatened and endangered species, and personal property; take of cormorants to protect wild and publicly stocked fisheries has not been authorized unless warranted to protected threatened or endangered species. The conflicts with stocked fisheries are increasingly causing concerns with State and Federal wildlife agencies, particularly those involved with providing recreational fishing opportunities. As cormorant abundance increases, and even at current levels, the issuance of individual depredation permits to address conflicts is becoming increasingly time-consuming and lengthy in some cases. With the proposed special double-crested cormorant permit, which increases the flexibility of States and Tribes to address issues and also expands the scope of conflicts that can be addressed to wild and publicly stocked fish, the Service expects that efforts to reduce those conflicts will increase, including lethal take of birds, nests, and eggs. Localized abundances of cormorants may decline as a result of these efforts, but regional and continental populations are not likely to be negatively impacted.

The Service expects that, by allowing States and Tribes to address conflicts through a special permit, more aggressive management activities will result. By authorizing conflict-management activities at the State or Tribal level, instead of at the Service Regional level, management activities would be more responsive and timely than is currently the case. Quicker resolution of conflicts ultimately may result in fewer complaints regarding cormorants. However, in expanding authority given to the States and Tribes via this permit, workload burdens may shift with more being borne by the States and Tribes and less by the Service.

Importantly, reducing the abundance of double-crested cormorants is not the goal of the Service or this proposed management action. Reducing their overall abundance does not guarantee that conflicts in specific areas will decrease. If cormorants are attracted to an area due to food resources, nesting habitats, or other factors, those places will remain attractive regardless of the size of the cormorant population and may still experience damage to the resources. Rather, the goal of the Service is to reduce the number of conflicts with cormorants by combining lethal and nonlethal methods and allowing the lethal take of cormorants only when supported by information that such take would reduce conflicts. As a consequence, abundance of cormorants in some areas may be reduced, but regional and continental populations will be managed at sustainable levels, albeit at somewhat reduced abundances. The Service also wants to ensure accountability not only in determining allowable take, but also in reporting of actual take by permittees. We will annually review reports submitted by permit holders and will periodically assess the overall impact of this permit program to ensure compatibility with long-term conservation of double-crested cormorants. The Service believes our proposed approach results in the transparency and accountability necessary to make informed decisions about and promote adherence to authorized levels of take.

Public Comments

On January 22, 2020 (85 FR 3601–3603), the Service published an advance notice of proposed rulemaking (ANPR) and announced our intent to prepare a NEPA document indicating that the Service intended to establish new regulations regarding the management of double-crested cormorants. The comment period for the ANPR continued through March 9, 2020. The ANPR listed possible alternatives composed of the following:

(1) Establish a new permit for State and Tribal wildlife agencies for authorizing certain cormorant management and control activities;

(2) Establish an aquaculture depredation order; and

(3) Both (1) and (2) in combination.

We also announced that several public scoping meetings would be held, and that specific dates and times for the public meetings would be available on the internet at *https://www.fws.gov/birds/management/managed-species/double-crested-cormorants.php.* A total of four public scoping webinars were convened, two on February 11, 2020, and two on February 12, 2020. Additionally, we conducted two webinars provided only to Tribal members on February 19 and 27, 2020. We provided all attendees of all webinars with information on the following topics regarding cormorants, their management, and the regulations process: (1) Biology and population changes; (2) background of the issues and previous management approaches; (3) current management of conflicts; (4) proposed approaches and alternatives; and (5) the planning process for the NEPA analysis. We also informed attendees that they could provide comments on the proposed actions and the scope of the NEPA review via a website (*http://www.regulations.gov,* Docket No. FWS–HQ–MB–2019–0103) or by U.S. mail or hand-delivery to Public Comments Processing, Attn: FWS–HQ–MB–2019–0103; U.S. Fish and Wildlife Service Headquarters, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

The Department of the Interior's policy is, whenever possible, to afford the public an opportunity to participate in the rulemaking process. We received more than 1,400 comments in response to the ANPR. You may review the comments received at the Federal eRulemaking Portal: *http://www.regulations.gov* in Docket No. FWS–HQ–MB–2019–0103. We considered those comments in developing this proposed rule, and a summary of the comments will be included in the NEPA document associated with this rulemaking action. In addition, we invite interested persons to submit written comments, suggestions, or recommendations regarding this proposed regulation. Before promulgating final regulations, we will consider all comments we receive related to this rulemaking action, including those on the ANPR, the NEPA document, and this proposed rule. The comments, and any additional information we receive, may lead to final regulations that differ from those provided in this proposal.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax. We will not consider hand-delivered comments that we do not receive or mailed comments that are not postmarked by the date specified in **DATES**, or written comments sent to an address other than the one listed in **ADDRESSES**.

We may post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will consider, but possibly may not respond in detail to, each comment. We will summarize all comments we receive during the comment period and respond to them in the preamble of the final rule.

We seek comments or suggestions from the public, governmental agencies, Tribes, the scientific community, industry, or any other interested parties. To ensure that the rulemaking process effectively evaluates all potential issues and impacts, we are seeking comments and suggestions on the following:

(1) The balance we should seek between cormorant abundance and mitigation of conflicts with them;

(2) whether we sufficiently addressed a reasonable range of alternative management options;

(3) the level of interest and participation in use of a new special permit by States and Tribes, and the potential issues those entities would need to address if they availed themselves of such a permit;

(4) limitations as to the scope and scale (*e.g.,* geographic, seasonal) under which cormorant control activities should be conducted; and

(5) the best means to monitor cormorant take and abundance to ensure the Service and its partners meet objectives of reducing conflicts and maintaining sustainable abundances of cormorants.

In addition, we ask for information that can be used to make our assessment of economic impacts more robust. In particular we are seeking data on the number, type, and locality of establishments that will likely benefit from our proposal along with data, including costs of implementation, to help us better characterize the extent of benefits. We also ask for information and data to help us better characterize the location, types, and number of recreational fisheries that are expected to benefit from our proposal.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of

Management and Budget (OMB) will review all significant rules. In accordance with the criteria in Executive Order 12866, we do not believe this proposed action is a significant regulatory action subject to OMB review; however, OIRA has waived their review regarding their significance determination of this proposed rule.

This rule will not have an annual economic effect of $100 million or adversely affect any economic sector, productivity, competition, jobs, the environment, or other units of government. This proposed action will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. Our draft economic analysis determined that this rule is expected to result in positive economic benefits to both the commercial aquaculture industry as well as the recreational sport fishing industry.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Codifying a new permit for the management of double-crested cormorants would provide an additional tool for States and Tribes to appropriately manage conflicts within their borders, while maintaining overall authority for the take of birds within the Service. Further, current regulations allow the take of cormorants only for the purposes of reducing conflicts with and damage to aquaculture, human health and safety, threatened and endangered species (as listed under the Endangered Species Act of 1973) and State-listed species of management concern, and personal property. Many of the conflicts with cormorants involve depredations of sport fish by cormorants, for which there is no relief under current Federal regulations unless warranted to reduce impacts to threatened and endangered fish species listed under the ESA. This new permit would allow the take of cormorants to reduce depredation of wild and publicly stocked fish stocked by State agencies or Tribes, thus enhancing the scope of conflict resolution to more comprehensively address areas of concern. However, the total number of cormorants from each population that could be taken annually would be determined by the Service to ensure that cormorant populations are sustainable.

The Service does not have empirical information to quantify the changes in costs as a result of this new permit, because we do not know how many States and Tribes would avail themselves of this permit and the extent to which conflicts would be addressed using it. However, we expect that the overall cost and regulatory burden to individuals, businesses, and State, Tribal, and Federal government agencies associated with this new permit would be lower than exists under current regulations. The reduction would be the result of the need for fewer individual depredation permits needed to address conflicts compared to single State or Tribal permits that could be used; hence, total costs associated with permit applications and biological assessments of those applications likely would be lower.

Executive Order 13771

We do not believe this proposed rule is an E.O. 13771 (''Reducing Regulation and Controlling Regulatory Costs'') (82 FR 9339, February 3, 2017) regulatory action because we believe this rule is not significant under E.O. 12866; however, OIRA has waived their review regarding their E.O. 12866 significance determination of this proposed rule.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include finfish farming and fish hatcheries (NAICS 112511) and other types of commercial aquaculture farms (NAICS Code 112519). The small business size standard defined for these businesses (as defined by the U.S. Small Business Administration) is businesses with revenues under $0.75 million.

The Service has difficulties estimating impacts to recreational fisheries because few studies have investigated direct economic impacts of cormorant management on recreational fisheries. Although a few studies have estimated impacts to local economies, loss of fishing day activities in those local areas may be offset through engaging in angling opportunities elsewhere. While it is feasible that this proposed rule could have localized effects on recreational fisheries, data does not exist to predict where those effects could occur. Further research is necessary to determine whether any impacts that may be seen at local scales can be extended to larger scales. However, the Service believes that the proposed rule will result in an overall net benefit to facilities as it will enable them to more readily and easily obtain permits to control double-crested cormorants that are negatively impacting their operations. Thus we are certifying that, if promulgated, the proposed rule would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

(a) This proposed rule would not ''significantly or uniquely'' affect small government activities, because the Federal Government would not require States to obtain this permit. A small government agency plan is not required.

(b) This proposed rule would not produce a Federal mandate on local, State, or Tribal governments or private entities. Therefore, this action is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, this proposed rule does not contain a provision for taking of private property, and would not have significant takings implications. A takings implication assessment is not required.

Federalism

This proposed rule would not interfere with the States' or Tribes' abilities to manage themselves or their funds. This rule would not have sufficient federalism effects to warrant preparation of a federalism summary impact statement under E.O. 13132.

Civil Justice Reform

In accordance with E.O. 12988, we have reviewed this proposed rule and determined that it will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This proposed rule contains new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We 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. The new reporting and/or recordkeeping requirements identified below require approval by OMB:

(1) *FWS Form 3–200–90, Permit Application—Special Double-Crested Cormorant Permit (50 CFR part 21):* This new permit would be available only to a State or Tribal wildlife management agency responsible for migratory bird management on lands under their jurisdiction. Under this permit, the Service would authorize States and Tribal 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 Endangered Species Act of 1973) and listed species identified in State- or Tribal-specific legislation as threatened or endangered; damage to State- or Tribal-owned property and assets; and depredations of wild and publicly stocked fish stocked by State agencies or federally recognized Tribes.

Any State or Tribal wildlife agency wishing to obtain a permit must submit an application (FWS Form 3–200–90) to the appropriate Regional Director containing the general information and certification required by 50 CFR 13.12(a) plus the following information:

a. A brief description of your State's or Tribe's double-crested cormorant conflicts, including physical location(s);

b. A detailed statement showing that the double-crested cormorant management and take activities will address one or more of the issues specified above in paragraph (1);

c. The requested annual take of double-crested cormorants, including eggs and nests;

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

e. 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;

f. A list of all subpermittees who may conduct activities under the Special Double-Crested Cormorant Permit, including their names, addresses, and telephone numbers; and

g. 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 the permit.

(2) *Designation of Subpermittees:* States and Tribes may designate subpermittees who must operate under the conditions of the permit. Subpermittees can be employees of State and Tribal wildlife agencies, USDA Wildlife Services employees, and employees of Federal and State agencies or private incorporated companies specializing in wildlife damage abatement.

(3) *FWS Form 3–202–56, Annual Report:* The State or Tribe must submit an annual report (FWS Form 3–202–56) detailing activities, including the time, numbers, and locations of birds, eggs, and nests taken and nonlethal techniques utilized, before December 31 of each year. The Service will require an annual report by the State or Tribe prior to any permit renewal.

(4) *Recordkeeping Requirements:* 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.

Title of Collection: Federal Fish and Wildlife Permit Applications and Reports—Special Double-Crested Cormorants; 50 CFR 21.

OMB Control Number: 1018–New.

Form Numbers: FWS Forms 3–200–90 and 3–202–56.

Type of Review: New.

Respondents/Affected Public: State and/or Tribal governments.

Total Estimated Number of Annual Respondents: 700.

Total Estimated Number of Annual Responses: 700.

Estimated Completion Time per Response: Varies from 45 minutes to 16 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 4,563.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion for applications; annually or on occasion for reports.

Total Estimated Annual Nonhour Burden Cost: None.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Send your comments and suggestions on this information collection to OMB by the date indicated in **DATES** at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–Cormorants in the subject line of your comments.

National Environmental Policy Act

We are evaluating this proposed regulation in accordance with the criteria of the NEPA, the Department of the Interior regulations on Implementation of the NEPA (43 CFR 46.10–46.450), and the Department of the Interior Manual (516 DM 8). We will complete our analysis, in compliance with NEPA, before finalizing this regulation. When completed, you may review the NEPA document and any

comments received at the Federal eRulemaking Portal: *http://www.regulations.gov* in Docket No. FWS–HQ–MB–2019–0103.

Compliance With Endangered Species Act Requirements

Section 7 of the ESA of 1973, as amended (16 U.S.C. 1531–44), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (16 U.S.C. 1536(a)(1)). It further states that ''[e]ach Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat.'' Before the Service issues a final rule regarding the issuance of a special permit available to the States and Tribes for the take of cormorants to reduce conflicts, we will comply with provisions of the ESA as necessary to ensure that the new regulation is not likely to jeopardize the continued existence of any species designated as endangered or threatened or destroy or adversely modify its critical habitat.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' and the Department of the Interior's manual at 512 DM 2, we are considering the possible effects of this proposed rule on federally recognized Indian Tribes. The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation when appropriate and recognition of their right to self-governance and tribal sovereignty. We readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have evaluated this proposed rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that this rule may have a substantial direct effect on federally recognized Indian tribes. Accordingly, we have initiated outreach to Tribes and will initiate government-to-government consultation with federally recognized Indian tribes to ensure compliance with the Executive order.

Clarity of This Proposed Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Energy Supply, Distribution, or Use (E.O. 13211)

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule is not a significant regulatory action under E.O. 13211 and would not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action. No Statement of Energy Effects is required.

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List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons described in the preamble, we propose to amend part 21 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Add § 21.28 to read as follows:

§ 21.28 Special double-crested cormorant permit.

(a) *What is the special double-crested cormorant permit and what is its purpose?* The special double-crested cormorant permit is a permit issued by the Service to a State or Tribal wildlife agency authorizing management and take activities that are prohibited without authorization on lands within their jurisdiction. We will issue such a permit only when the State or Tribal wildlife agency requests it. The management and take activities conducted under the permit are 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 Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)) and listed species identified in State- or Tribal-specific legislation as threatened or endangered;

(4) Damage to State- or Tribal-owned property and assets; and

(5) Depredation of wild and publicly stocked fish stocked by State agencies or federally recognized Tribes.

(b) *Who may receive a permit?* Only State and Tribal wildlife agencies are eligible to receive a permit to undertake management and take activities. Additionally, only employees or subpermittees of a permitted State or Tribal wildlife agency may undertake activities for double-crested cormorants in accordance with the conditions specified in the permit, conditions specified in 50 CFR part 13, and conditions specified in paragraph (d) of this section.

(c) *How does a State or Tribe apply for a permit?* Any State or Tribal wildlife agency wishing to obtain a permit must submit an application (FWS Form 3–200–90) to the appropriate Regional Director (see § 13.11(b) of this subchapter) containing the general information and certification required by § 13.12(a) of this subchapter plus the following information:

(1) A brief description of your State's or Tribe's double-crested cormorant conflicts, including physical location(s);

(2) A detailed statement showing that the double-crested cormorant management and take activities will address one or more of the issues specified in paragraph (a) of this section;

(3) The requested annual take of double-crested cormorants, including eggs and nests;

(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;

(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 be in charge of the double-crested cormorant management activities authorized under the permit.

(d) *What are the conditions of the permit?* The special double-crested cormorant permits are subject to the general conditions in 50 CFR part 13, the conditions elsewhere in this section, and, unless otherwise specifically authorized on the permit, the conditions outlined below:

(1) *What are the limitations on management and take activities?* (i) Take of double-crested cormorants as a management tool under this section may not exceed the number authorized by the permit. States and Tribes must use nonlethal methods, and determine that those methods are ineffective, before lethally taking double-crested cormorants.

(ii) A permit under this section does not authorize the take of any other migratory bird, including other species of cormorants; the take of bald or golden eagles; or the take of any species listed under the Endangered Species Act as threatened or endangered. If these impacts to other migratory bird species or to threatened and endangered species are likely to occur, the permittee must obtain permits specifically authorizing those activities (*i.e.,* additional migratory bird, Eagle Act and/or threatened and endangered species permits).

(iii) Methods of take for double-crested cormorants are at the State's or Tribe's discretion. Methods include, but are not limited to, firearms, traps, egg and nest manipulation, and other damage control techniques consistent with accepted wildlife damage-management programs. Only 100 percent corn oil, a substance exempted from regulation by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, may be used to oil eggs.

(iv) Take using firearms must use nontoxic shot or nontoxic bullets (§ 20.21 of this subchapter). However, this prohibition would not apply if an air rifle or an air pistol is used.

(v) Individuals conducting lethal take activities may not use decoys, calls, or other devices or bait to lure birds within gun range.

(2) *When may a State or Tribe conduct management and control activities?* States and Tribes and their employees and subpermittees may conduct management activities, including lethal take, at any time of year.

(3) *How must States and Tribes dispose of or utilize cormorants taken under this permit?* States and Tribes and their employees and subpermittees may possess, transport, and otherwise dispose of double-crested cormorants taken under the regulations in this section. States and Tribes must utilize such birds by donation to public museums or public institutions for scientific or educational purposes, or by burying or incinerating them. States, Tribes, their employees, and subpermittees may not sell, offer for sale, barter, or ship for the purpose of sale or barter any double-crested cormorants taken under this section or their parts or eggs.

(4) *How does the permit relate to existing State and Tribal law and Federal land?* No person conducting management and take activities under the regulations in this section should construe the permit to authorize the killing of double-crested cormorants contrary to any State or Tribal law or regulations or on any Federal land without specific written authorization by the responsible management agency. No person may exercise the privileges granted under this section unless that person possesses any permits required for such activities by any State, Tribal, or Federal land manager.

(5) *How will the Service ensure that persons conducting control activities have the authority to do so?* Any State or Tribal employee or subpermittee authorized to carry out management and take activities must have a copy of the permit and designation in their possession when carrying out any activities. The State or Tribe must also

require the property owner or occupant on whose premises the State or Tribe is conducting activities to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (wildlife officer) on the premises where they are, or were, conducting activities. Furthermore, any State or Tribal employee or subpermittee conducting such activities must promptly furnish information concerning such activities to any such wildlife officer.

(6) *What are the reporting requirements of the permit?* Any State or Tribal employee or subpermittee exercising the privileges granted by the regulations in this section must keep records of all activities carried out under the authority of this permit, including the number of double-crested cormorants killed and their disposition. Any other species of bird taken incidentally to double-crested cormorant management activities under this permit, along with the numbers of birds taken of those species, also must be reported. The State or Tribe must submit an annual report (FWS Form 3–202–56) detailing activities, including the time, numbers, and locations of birds, eggs, and nests taken and nonlethal techniques utilized, before December 31 of each year. The State or Tribe should submit the annual report to the appropriate Migratory Bird Permit Office in the Region in which the permittee is located (see § 2.2 of this subchapter).

(7) *What are the limitations of this permit?* The following limitations apply:

(i) Nothing in this section applies to any Federal land within a State's or Tribe's boundaries without written permission of the Federal agency with jurisdiction.

(ii) We will issue permits only to State and Tribal wildlife agencies in the conterminous (*i.e.,* contiguous 48) United States.

(iii) States and Tribes may designate subpermittees who must operate under the conditions of the permit. Subpermittees can be employees of State and Tribal wildlife agencies, U.S. Department of Agriculture's Wildlife Services employees, and employees of Federal and State agencies or private incorporated companies specializing in wildlife damage abatement.

(iv) A special double-crested cormorant permit issued or renewed under the regulations in this section expires on the date designated on the face of the permit unless it is amended or revoked, or at such time we determine that conflicts with cormorants within the bounds of the specific population of double-crested cormorants have been reduced to the point where lethal take is no longer necessary. In all cases, the term of the permit may not exceed 5 years from the date of issuance or renewal.

(v) We reserve the right to suspend or revoke any permit, as specified in §§ 13.27 and 13.28 of this subchapter.

(e) *What are the OMB information collection requirements of the permit program?* OMB has approved the information collection requirements of the permit and assigned OMB Control Number 1018–####. Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Direct comments regarding the burden estimate or any other aspect of the information collection to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

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