



July 31, 2017

Submitted Electronically Via Email

Service Information Collection Clearance Officer

Attn: OMB 1018-0022

U.S. Fish and Wildlife Service, MS: BPHC

5275 Leesburg Pike

Falls Church, VA 22041-3803

Re: Comments regarding Proposed Information Collection regarding Federal Fish and Wildlife Permit Applications and Reports – Migratory Birds and Eagles under OMB Control Number 1018-0022 (FR, Vol. 82, No. 102, May 30, 2017, 24732-24737)

To Whom It May Concern:

The Avian Power Line Interaction Committee (APLIC) is pleased to submit additional comments in response to the U.S. Fish and Wildlife Service (Service) response to comments for information collection (IC) associated with the Federal fish and wildlife permit applications and reports for migratory birds and eagles under OMB Control Number 1018-0022. This IC is for information on the time and cost burden of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties, including the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703 et seq.), the Lacey Act (Lacey, 16 U.S.C. 3371 et seq.) and the Bald and Golden Eagle Protection Act (BGEPA, 16 U.S.C. 668). APLIC submitted comments (attached), April 25, 2017, on the February 24, 2017 notice related to this Information Collection (FR , Vol. 82, No. 36, February 24, 2017, 11596-11598)..

APLIC leads the electric utility industry in protecting avian resources while ensuring reliable energy delivery. We work in partnership with utilities, resource agencies, and the public to: develop and provide educational resources; identify and fund research; develop and provide cost-effective management options; and serve as the focal point for electric utility avian interaction issues. At present, APLIC membership includes over 70 electric utilities, the Edison Electric Institute (EEI), U.S. Fish and Wildlife Service (Service), Bureau of Land Management (BLM), National Rural Electric Cooperative Association (NRECA), U.S. Department of Energy;

Western Area Power Administration (WAPA), and Rural Utilities Service (RUS). Although a member of APLIC, the Service did not participate in the preparation of these comments.

APLIC members apply for a number of permits identified in the February 24, 2017 information request. APLIC is concerned that the cost approach set out in the information request significantly underestimates the true costs and hourly burden and future regulations will be based on the flawed data. APLIC recommends a more accurate approach using more realistic hours and costs for permit applications. APLIC looks forward to work with the Service and OMB to further address and refine permit matters related to electric utility infrastructure.

If you have any questions or require additional information, please feel free to contact me at 626-633-3485 or Kara.Donohue@sce.com.

Sincerely,

A handwritten signature in black ink that reads "Kara Donohue". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kara Donohue

Chair, Avian Power Line Interaction Committee

Mailing address:

Attn: Kara Donohue

Southern California Edison

2244 Walnut Grove Avenue

GO-1, Quad 2C, Environmental Services

Rosemead, CA 91770

Enclosures: APLIC Response to Service Comments on OMB Control Number 1018-0022, April 25, 2017 APLIC Cover letter and Comments on OMB Control Number 1018-0022

## **APLIC Response to Service Comments on OMB Control Number 1018-0022**

### **1.) FWS RESPONSE TO COMMENT 2A/ACTION TAKEN:**

APLIC does not feel our industry's information was sufficiently utilized for evaluating burden as evidenced by the large discrepancy between our estimates and those provided by U.S Fish and Wildlife Service (Service). We believe we are your primary applicant on several of the permit types listed and that we cannot complete these activities in the time allotted.

### **2.) FWS RESPONSE TO COMMENT 2B/ACTION TAKEN**

The Service states that "Because of the broad range of applicants, burden estimates vary widely. As such, the estimated reported burden does not represent any particular class of applicant, but is intended to capture an approximation of the burden in a general manner. It is not unusual for a specific type of applicant to report their burden as much higher than that estimated. No action was taken in response to this portion of their comment. Based on our experience administering this collection of information, we believe our estimates of time burden to be accurate for most respondents."

APLIC feels it is important to reiterate that the data gathered from its membership, to help the information collection, adequately represents the power line utility sector, which at least one of the permits is specifically regulated for (3-200-81). The information in Table 1 is an averaged representative estimate from all types of power line companies, from rural cooperatives to investor-owned utilities. The data has been gathered across all Service Regions and therefore represents many types of avian habitat, multiple flyways, and multiple levels of urban development and rural landscapes. This information is representative of an important data point that needs to be included in an adjustment to the Service's attempt to average the burden across all types of applicants. Perhaps a review of the total number of permit applicants and an appropriate categorization of these applicants would be a beneficial piece of information for the Service to provide to the public.

In FWS RESPONSE/ACTION TAKEN TO EAWC/AWEA 3D, RE. COST ESTIMATE/BURDEN the Service states "Hourly rates for the burden estimate were selected from the average compensation tables published by the Bureau of Labor Statistics (BLS) and include estimates of benefits." This average compensation of \$34.26 used by the Service is an average of over 800 different jobs in the United States. APLIC feels this is not appropriate to use when estimating the cost of the Environmental Professional needed to adequately and accurately prepare the materials associated with a complete application package and the required reports. Using the tables provided by the BLS, the selection of a more appropriate title of Environmental Scientist with an hourly rate (including benefits) at closer to \$57 is suggested. Although this falls short of the APLIC estimate of \$106, it is a more defensible estimate of cost/hour. APLIC suggests that the Service revise the cost estimate to reflect the appropriate costs.

APLIC represents a membership of over 70 utilities; our members are likely in the majority of applicants for many of the permit types this information collection seeks to adequately evaluate. APLIC expects that we represent a large portion of the permit applications received by the Service for these permits. The Service's response of "Those key permits that apply primarily to the utility industry" should take into consideration the specific burden estimated by our industry.

Permit Number	Service Estimated Hours	APLIC Estimated Hours	APLIC Estimated Supplemental <sup>1</sup> Hours	Percentage the Service over (+) or under (-) estimated	Service Estimated Cost (Service Cost Hour multiplied by Service estimated hours)	Proper BLS Estimated Cost (BLS Cost/Hour multiplied by APLIC estimated hours)
<b>Permit Applications</b>						
3-200-13, Depredation	3.6	1.5	40	-1153%	\$123.34	\$2,365.50
3-200-14, Eagle Exhibition	5.5	2	0	+36 %	\$188.43	\$114
3-200-71, (2009) Eagle Take (Disturb)	16	30	40	-437.5%	\$548.16	\$3,990
3-200-71 and 3-200-72, (2009) Eagle/Nest Take Amendment	6	8	100	-1800%	\$205.56	\$6,156
3-200-81, Special Purpose Utility	15	12.5	45	-383%	\$513.90	\$3,277.50
<b>Reports</b>						
3-202-3, Special Purpose Salvage	1	10	0	-1000%	\$34.26	\$570
3-202-9, Depredation	1	2.3	0	-230%	\$34.26	\$131.10
3-202-13, Eagle Exhibition	1	1	0	0%	\$34.26	\$57
3-202-15, (2009) Eagle Take Monitoring & Reporting	30	40	87	-423%	\$1027.80	\$7,239
3-202-17, Avian Injury/Mortality Report (SPUT)	6	26	481.6	-8460%	\$205.56	\$28,933.20

See the attached original comments for APLIC's in-depth explanation of the burden incurred to complete the application and reporting tasks.

<sup>1</sup> Estimated Supplemental Hours is defined as the time that it takes each permittee to gather and manage the data required for both the permit applications and the annual reporting, based on real hour burden collection.

### 3.) FWS RESPONSE/ACTION TAKEN TO COMMENT 2C/ACTION TAKEN

As part of the affected public, APLIC appreciates any outreach for our input when the Service is enhancing their reporting requirements and burden estimates. In their response to comments, the Service states that part of the request for information is to help determine “the ability of the applicant to successfully conduct the requested activity”. The continued response of “no action taken” does not corroborate this stated objective. Failure of the Service to re-evaluate its burden hour estimates despite information to substantiate a change does not meet the regulatory objectives.

### 4.) FWS RESPONSE/ACTION TAKEN TO COMMENT 2D/ACTION TAKEN

Although the concept is appreciated, the current modernization efforts by the Service do not reduce the application and reporting burden that occur outside of the Service’s system. This does not eliminate the behind the scenes work involved in preparing applications or reports, which represents the majority of the burden experienced by APLIC members. In addition, the new reporting system has altered the information and format required for upload, causing a temporary increase in burden to adjust to the new system and may not result in any reduction in burden.



April 25, 2017

Submitted Electronically Via Email

Service Information Collection Clearance Officer  
Attn: OMB 1018-0022  
U.S. Fish and Wildlife Service, MS: BPHC  
5275 Leesburg Pike  
Falls Church, VA 22041-3803

Re: Information Collection under OMB Control Number 1018-0022

To Whom It May Concern:

The Avian Power Line Interaction Committee (APLIC) is pleased to submit comments in response to the U.S. Fish and Wildlife Service (Service) information collection (IC) associated with the Federal fish and wildlife permit applications and reports for migratory birds and eagles under OMB Control Number 1018-0022. This IC is for information on the time and cost burden of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties, including the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703 et seq.), the Lacey Act (Lacey, 16 U.S.C. 3371 et seq.) and the Bald and Golden Eagle Protection Act (BGEPA, 16 U.S.C. 668).

APLIC leads the electric utility industry in protecting avian resources while ensuring reliable energy delivery. We work in partnership with utilities, resource agencies, and the public to: develop and provide educational resources; identify and fund research; develop and provide cost-effective management options; and serve as the focal point for electric utility avian interaction issues.

Since its inception in 1989, APLIC has expanded to address a variety of avian power line interactions including electrocutions, collisions, and nests. At present, APLIC membership includes over 70 electric utilities, the Edison Electric Institute (EEI), U.S. Fish and Wildlife Service (USFWS), Bureau of Land Management (BLM), National Rural Electric Cooperative Association (NRECA), U.S. Department of Energy; Western Area Power Administration (WAPA), and Rural Utilities Service (RUS). Although a member of APLIC, the Service did not participate in the preparation of these comments.

For the past 28 years, APLIC has had positive relationships with resource agencies, in which the electric utility industry and agencies have worked together to develop practical, effective solutions to complex conservation problems. APLIC appreciates the opportunity to submit these comments to the Service regarding the cost and time to apply for and comply with the various permits issued under MBTA, Lacey, and BGEPA , and would like to continue to work with the Service to further address and refine permit matters related to electric utility infrastructure.

If you have any questions or require additional information, please feel free to contact me at 626-633-3485 or Kara.Donohue@sce.com.

Sincerely,



Kara Donohue

Chair, Avian Power Line Interaction Committee

Mailing address:

Attn: Kara Donohue  
Southern California Edison  
2244 Walnut Grove Avenue  
GO-1, Quad 2C, Environmental Services  
Rosemead, CA 91770

Enclosures: APLIC Comments on OMB Control Number 1018-0022

1.) Whether or not the collection of information is necessary, including whether or not the information will have practical utility:

Not only is the collection of information from those applying for the permits is necessary for good governance, it is also vital to the calculation of the burden that each agency uses to inform future regulation implementation. The collection of the information will not have practical utility if the Service does not absorb this information and incorporate it into future estimates.

2.) The accuracy of [the Service's] estimate of the burden for this collection of information:

APLIC has gathered data from its membership to help the information collection adequately represent the power line Utility sector. The information in Table 1 is an averaged representative estimate from all types of power line companies, from rural cooperatives to investor-owned utilities. The data has been gathered across all U.S Fish and Wildlife Service (Service) Regions and therefore represents many types of avian habitat, multiple flyways, and multiple levels of urban development and rural landscapes. The cost/hour estimate is also averaged across the United States.

Permit Number	Service Estimated Hours	APLIC Estimated Hours	APLIC Estimated Supplemental <sup>1</sup> Hours	Service Estimated Cost/Hour	APLIC Estimated Cost/Hour	APLIC Estimated Cost
<b>Permit Applications</b>						
3-200-13, Depredation	3.6	1.5	40	\$34.26	\$106	\$4,399
3-200-14, Eagle Exhibition	5.5	2	0	\$34.36	\$106	\$212
3-200-71, (2009) Eagle Take (Disturb)	16	30	40	\$34.26	\$106	\$7,420
3-200-71 and 3-200-72, (2009) Eagle/Nest Take Amendment	6	8	100	\$34.26	\$106	\$11,448
3-200-81, Special Purpose Utility	15	12.5	45	\$34.26	\$106	\$6,095
<b>Reports</b>						
3-202-3, Special Purpose Salvage	1	10	0	\$34.26	\$106	\$1,060
3-202-9, Depredation	1	2.3	0		\$106	\$244
3-202-13, Eagle Exhibition	1	1	0	\$34.26	\$106	\$106

<sup>1</sup> Estimated Supplemental Hours is defined as the time that it takes each permittee to gather and manage the data required for both the permit applications and the annual reporting.



3-202-15, (2009) Eagle Take Monitoring & Reporting	30	40	87	\$34.26	\$132	\$16,764
3-202-17, Avian Injury/Mortality Report (SPUT)	6	26	481.6	\$34.26	\$106	\$53,805

It is clear that the Service often significantly underestimates the time it takes Utility permittees to complete both the application and the reporting tasks. APLIC has included, as a separate estimate in the Table (column 3 above), Supplemental Hours, the time that it takes each permittee to gather and manage the data required for both the permit applications and the annual reporting. APLIC would like to remind the Service of the time it takes to gather, manage, and organize the data used for reporting; it appears as though the hour estimates that the Service provided are strictly the time spent on preparing the application form or the form submitting the final report.

For example, a Utility, in order to obtain an eagle nest removal permit for power line maintenance near an active nest or alternate nest, would need to complete a survey of the power lines prior to submitting the permit application. These surveys are necessary in order to provide responses to the permit application questions regarding nesting locations and eagle site use. This data may take multiple surveys or observation periods in order to obtain the level of information requested by various regional permit reviewers. This eagle use data is also needed for the annual report for the duration of the permit and the Utility may be required to follow strict multiple site visit protocols. None of these estimates appear to be taken into consideration for the burden hours.

For each Utility that maintains a Special Purpose Utility (SPUT) permit there is a required annual reporting element. APLIC has included the time it takes throughout the year to gather the information (from staff that report finds, to staff that enter and/or check records periodically), as well the time it takes at the end of year to prepare the report in the proper format for submittal. This time estimate does not include time for incident management such as retrofitting or line marking, only the time required for data management. Even with that limitation, it is evident that the Service has significantly under estimated the required time for permit reporting.

In summary, the costs the Service uses to estimate the overall burden cost are a gross under estimation. The forms for the permits themselves are simple and straight forward, so these forms may be completed by administrative support at an hourly rate near to the Service estimate; however, the associated information in the form of eagle use data or avian species identification require the input from scientists and those with highly specialized skill sets. The Service fails to take into consideration that the cost per hour may be much more for these employees. It also appears that the Service used an erroneous assumption that this information would be compiled and submitted by a Utility employee—often, outside consultants are hired to work on permitting. Those costs can be higher as well. In the Table, above, APLIC has supplied the average cost of a Utility staff level Biologist or Natural Resource Scientist for the majority of the estimates, but the Eagle Nest monitoring report includes the cost of outside consultants.

Lastly, in regards to pursuing long-term incidental take permits under the Eagle Rule, the APLIC membership does not have the breadth of data to provide an accurate estimate for acquiring this permit, nor have any of our members been successful in acquiring this permit to date.

However, it appears that the costs associated with obtaining this permit has also been grossly underestimated by the Service. APLIC questions whether the Service has contemplated costs associated with the third-party monitoring, increased mitigation rates in Local Population Areas that have cumulative impacts, and retrofit costs associated with the program. Additionally, working through these long-term incidental take permits is a challenging process that requires many hours of data collection, permit preparation, and negotiating with the Service. For instance, the Service estimates that the permit application should take about 200 hours; one of our member Utilities estimate the hours to prepare the application is closer to 7,000 hours.

### 3.) Ways to enhance the quality, utility, and clarity of the information to be collected:

The processes through which the Service determines burden hours and cost estimates is not transparent, nor are the cost per hours realistic of the real world costs for these types of actions. Working with major permit stakeholders (like the electric utility industry and/or industry groups like APLIC) to solicit data would be helpful in addition to relying on public comment and aggregating those costs. Perhaps a more detailed report out for the multiple permittees would be more representative.

### 4.) Ways to minimize the burden of the collection of information on respondents:

The associated reports for the permits are the elements that take the longest to respond to. These reports are necessary for the permit program to accurately collect information on biological impacts and baseline levels. There may not be a way around the information collection, but the in-print acknowledgement and adjustment of burden hour estimates and costs would be helpful.