

**Law Enforcement
Operations and Maintenance**

| | | 2006 Actual | 2007 CR | 2008 | | Change from 2007 (+/-) | |
|--|----------------|----------------|---------------|---|-----------------------------|---------------------------------|-------------------|
| | | | | Fixed Costs & Related Changes (+/-) | Program Changes (+/-) | | Budget Request |
| Operations | (\$000) | 54,970 | 56,290 | +1,703 | -1,400 | 56,593 | +303 |
| Maintenance | (\$000) | 1,092 | 992 | | | 992 | 0 |
| Total, Operations & Maintenance | (\$000) | 56,062 | 57,282 | +1,703 | -1,400 | 57,585 | +303 |
| Other Major Resources: | | | | | | | |
| Inspection Fees/Permits/Licenses | (\$000) | 9,500 | | | | | |
| Total FTE | | 472 | 477 | | | 477 | |
| Impact of CR | (\$000) | | [+114] | | [-114] | | |

Summary of 2008 Program Changes for Law Enforcement

| Request Component | Amount | FTE |
|-------------------------------|---------------|----------|
| • Operations | -1,400 | 0 |
| • Maintenance | 0 | 0 |
| • Impact of the CR [Non-Add] | [-114] | 0 |
| Total, Program Changes | -1,400 | 0 |

Justification of 2008 Program Changes

The 2008 budget request for Law Enforcement is \$57,585,000 and 477 FTEs, a program change of -\$1,400,000 and 0 FTE from the 2007 President’s Request.

Operations (-\$1,400,000)

The Endangered Species Act (16 USC 1540(f)) authorizes the Service to charge and retain reasonable fees for processing applications and for performing reasonable inspections of importation, exportation, and transportation of wildlife. Although the Service began collecting user fees in February 1986, it has been unable to achieve full cost recovery as several categories of importers have been exempted from paying fees (such as most non-commercial importers/exporters and companies dealing in specific captive-bred or personally trapped furs, bison and ostrich meat, and aquacultured caviar) and fees were not set at levels that would cover all costs of the services provided to the trade community.

The Service plans to recoup the proposed decrease of \$1.4 million in appropriated operational funding for the Law Enforcement program by increasing fees charged to the import/export community for inspection services. These “user fees” apply primarily to commercial importers and exporters whose shipments of wildlife and wildlife products are declared to, and inspected and cleared by, Service wildlife inspectors to ensure compliance with wildlife protection laws. Examples include companies dealing in such products as reptilian leather goods, shell and coral curios, caviar, and other wildlife “foods;” businesses buying and selling live reptiles, tropical fish, and other wildlife for the pet trade; commercial zoos, circuses, and other wildlife exhibitors; and biomedical and biological supply

companies importing animal blood, and research and teaching specimens. Inspection services may include such activities as review of declarations, permits, and other shipment documents and physical inspections of shipments and their contents. These fees have not been revised since 1996 and do not capture the full cost of providing this service.

In developing this proposal, the Service is guided by the Independent Offices Appropriations Act of 1952, codified at 31 U.S.C. 9701 ("the User Fee Statute"), which states:

(a) It is the sense of Congress that each service or thing of value provided by an agency . . . to a person. . . is to be self-sustaining to the extent possible.

(b) The head of each agency . . . may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to polices prescribed by the President and shall be as uniform as practicable. Each charge shall be – (1) fair, and (2) based on – (A) the costs to the Government; (B) the value of the thing to the recipient; (C) public policy or interest served; and (D) other relevant facts.

The Service is also guided by the Office of Management and Budget ("OMB") Circular No. A-25, which "establishes Federal policy regarding fees assessed for Government services." *Id.* at ¶ 1. It states that user fees "will be sufficient to recover the full cost to the Federal Government . . . of providing the service, . . . will be based on market prices . . . [and] will be collected in advance of, or simultaneously with, the rendering of services." *Id.* at ¶ 6(a)(2).

The current fee schedule has been in place since 1996. Commercial importers/exporters (entities that hold a Service import/export license) now pay a flat rate of \$55 per shipment for inspections at designated ports during normal work hours. Additional "per hour" charges are applied when inspections are conducted outside of normal work hours; non-licensees securing inspections outside of normal working hours also pay these hourly charges.

All importers/exporters (whether licensed or not) pay a \$55 administrative fee for inspections at a staffed non-designated port plus a two-hour minimum of \$20 per hour for inspections during normal working hours. Higher hourly charges apply for inspections outside of normal hours or at ports that are not staffed by Service inspectors.

These fees were calculated based solely upon the salary and benefits of a journeyman-level wildlife inspector (circa 1996) and did not attempt to recover other costs of conducting compliance inspections and providing clearance services to the wildlife trade community. As part of its preliminary work on developing a fee increase proposal, the Service reviewed other Federal inspection agencies' fee processes and determined that a user fee rule developed several years ago by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) incorporated concepts of interest, such as projecting inflation and staggering fee increases over a five-year period and covering all categories of costs associated with inspection services. The Service met with APHIS representatives to discuss the methodology of their rule, in particular their economic analysis.

The Service has begun its own economic analysis of the costs of the trade compliance and facilitation aspects of the wildlife inspection program and expects to create a user fee template that will form the basis for determination of all future user fee increases. The proposed structure of the user fee will consist of a base fee reflecting recovery of specific direct and indirect costs, labor costs, and premium costs associated with specific types of commodities. The Service also expects to apply an inflation factor to the user fee structure and propose escalating user fees for a five-year period. These fees, of

course, are not intended to “fully fund” the wildlife inspection program, which includes both a compliance monitoring function (involving services to the trade community) and a vital smuggling interdiction mission focused on detecting and disrupting illegal wildlife trade. The planned fee increase will appropriately focus only on recovering costs associated with services provided to importers and exporters engaged in legal wildlife trade (as authorized by the User Fee Statute) so as to accommodate the proposed reduction in appropriated funding without reducing the level of service currently provided to the trade community. In implementing the increased cost recovery in 2008, there could be some impacts to the on-going program. The Service will make every effort to put the new fees in place in a timely manner to minimize impacts. If public comments are extensive, the process could be more complex.

The Service will continue efforts to modernize and enhance its efficiency. This includes facilitating legal trade through use of “e-technology” in the short term and implementation of the Automated Customs Environment (ACE)/International Trade Data System (ITDS) in the long term.

Impact of 2007 Continuing Resolution (-\$114,000)

The 2008 budget restores the priorities of the 2007 President’s budget by funding 2007 programmed fixed cost increases, eliminating unrequested 2006 congressional earmarks, and implementing the program enhancement and program reduction initiatives included in the 2007 President’s budget.

Program Performance Change

| | 2004 Actual | 2005 Actual | 2006 Actual | 2007 CR ¹ | 2008 Base Budget (2007 PB + Fixed Costs) | 2008 Plan | Program Change Accruing in 2008 | Program Change Accruing in Outyears |
|---|----------------|----------------|----------------|----------------------|---|--------------|--|---|
| | | | | | A | B=A+C | C | D |
| New 6.6 # migratory bird investigations (BUR) | n/a | 1,600 | 2,427 | 2,000 | 2,000 | 2,000 | 0 | 0 |
| Total Projected Cost (\$000) | n/a | n/a | \$15,989 | \$20,288 | \$20,792 | \$20,792 | 0 | |
| Projected Cost per unit | n/a | n/a | \$9,895 | \$10,143 | \$10,396 | \$10,396 | 0 | |
| New 11.2 # marine mammal investigations (BUR) | n/a | 120 | 293 | 200 | 200 | 200 | 0 | 0 |
| Total Projected Cost (\$000) | n/a | n/a | \$5,382 | \$3,766 | \$3,860 | \$3,860 | 0 | |
| Projected Cost Per Unit | n/a | n/a | \$18,369 | \$18,832 | \$19,298 | \$19,298 | 0 | |
| New 9.10. # investigations involving T&E species (BUR) | n/a | 2,500 | 3,029 | 2,600 | 2,500 | 2,400 | -100 | +100 |
| Total Projected Cost (\$000) | n/a | n/a | 17,067 | \$15,019 | \$14,797 | \$14,206 | -\$591 | |
| Projected Cost per unit | n/a | n/a | \$5,634 | \$5,776 | \$5,919 | \$5,919 | 0 | |
| # of wildlife shipments physically inspected (BUR) | n/a | 26,000 | 26,260 | 30,000 | 30,000 | 29,400 | -600 | +600 |
| # of wildlife shipments interdicted (BUR) | n/a | 2,800 | 2,828 | 3,000 | 3,000 | 2,940 | -60 | +60 |

1 The performance and cost data in the 2007 CR column is presented at the 2007 plan level, which is based upon a projection of 2007 likely enacted made during the first quarter of 2007. The 2008 plan builds on the 2007 plan. To the extent Congress enacts a 2007 appropriation that is different from the 2007 projection, the 2008 plan may require revision.

Note: Projected costs may not equal program change as these are full costs, which may include funds from other sources and (or) use averages.

Column A: The level of performance and costs expected in 2008 at the 2007 President's budget level plus funded fixed costs. Reflects the impact of prior year funding changes, management efficiencies, absorption of prior year fixed costs, and trend impacts, but does not reflect the proposed program change.

Column D: Outyear performance beyond 2008 addresses lagging performance — those changes occurring as a result of the program change (not total budget) requested in 2008. It does not include the impact of receiving the program change again in a subsequent outyear.

Program Overview

The Service's Law Enforcement Program investigates wildlife crimes and monitors wildlife trade to help achieve the DOI Resource Protection mission goal. The Service has long recognized that the work of its special agents, wildlife inspectors, and forensic scientists is essential to conserving wildlife and safeguarding the Nation's natural resources. Law Enforcement provides critical support to Service efforts to recover endangered species, conserve migratory birds, restore America's fisheries, combat invasive species, safeguard wildlife habitat, and promote international wildlife conservation.

Under its Strategic Plan for 2006-2010, the Law Enforcement Program works specifically to “Protect the Nation’s fish, wildlife and plants from unlawful exploitation and industrial hazards” and “Prevent the illegal import/export and interstate commerce in foreign fish, wildlife and plants.” Service investigations, inspections and compliance outreach and education activities contribute to Service efforts to “sustain biological resources on DOI managed or influenced lands and waters” (DOI Resource Protection End Outcome Goal 2) and “create [and maintain] habitat conditions for biological communities to flourish” (DOI Resource Protection End Outcome Goal 2- Strategy 1).

Other Law Enforcement programmatic strategic goals include efforts to “Facilitate the expeditious movement of legal wildlife” and “Create a strong management system and culture to improve program performance.” Work in these areas addresses DOI Management Excellence goals (particularly with respect to workforce skills [End Outcome Goal 1], modernization [End Outcome Goal 3], and customer value [End Outcome Goal 5]). Significant progress is also being made in implementing the President’s Management Agenda (including expanded electronic government, strategic management of human capital, and budget and performance integration).

Protecting U.S. Species: Service special agents investigate crimes involving such federally protected resources as endangered and threatened animals and plants native to the United States, migratory birds, eagles, and marine mammals. Law Enforcement efforts focus on disrupting and dismantling criminal enterprises profiteering in U.S. wildlife and plants. The Law Enforcement program also addresses other potentially devastating threats to wildlife, including habitat destruction, environmental contaminants, and industrial hazards. Service special agents participate in the development and policing of habitat conservation plans and investigate violations of laws that safeguard wildlife and wildlife habitat. Law Enforcement works with industries and professional groups whose activities affect U.S. wildlife resources and their habitat to reduce hazards and secure voluntary compliance.

Combating Global Wildlife Trafficking: The United States remains one of the world’s largest markets for wildlife and wildlife products – both legal and illegal. Global trafficking represents a threat to the continued viability of thousands of animal and plant species around the world. Law Enforcement’s trade monitoring efforts at U.S. ports of entry provide a front-line defense against illegal wildlife trade. Service wildlife inspectors process a growing number of declared shipments each year. They intercept wildlife contraband, conduct proactive enforcement blitzes to catch smugglers, and work with special agents to investigate businesses and individuals engaged in global wildlife trafficking. Service Law Enforcement also prevents the introduction of injurious species via international trade and travelers. Special agents and wildlife inspectors enforce prohibitions on the importation and interstate transport of injurious wildlife.

Facilitating Legal Wildlife Trade: Service Law Enforcement’s mandate to enforce wildlife trade laws encompasses a concomitant responsibility to deal fairly and efficiently with the businesses, organizations, and individuals that import and export wildlife. The speed and efficiency of the agency’s wildlife inspection operations affect the ability of businesses to engage profitably in legal wildlife trade; the international movement of wildlife for purposes that range from scientific research to public entertainment; and the ease with which individual Americans can travel internationally with wildlife or wildlife items. Service officers provide guidance to individuals and businesses to help them obey wildlife laws and expedite their import/export transactions. Customer service efforts use technology to speed trade, streamline communication, and improve public access to information about laws and regulations.

Management Excellence: Law Enforcement’s success in protecting the Nation’s wildlife, stemming global wildlife trafficking, and facilitating legal trade depends on how well it manages its “human

capital” and other resources. The program has instituted an ongoing strategic planning/performance management effort that links mission goals and performance measures as well as a sustained commitment through workforce planning to building and maintaining a highly skilled, efficiently deployed staff. Law Enforcement also leverages technology to support its investigative and inspection efforts and maintains professional accountability by responding to public concerns and resolving systemic issues involving the integrity of law enforcement operations.

Use of Cost and Performance Information

Performance information for the Law Enforcement program is collected through both the Service’s Activity Based Costing (ABC) program (which ties costs directly to work-hours spent on activities that address broad performance goals in the Service operational plan) and through the more detailed performance monitoring that is being conducted under the program’s Strategic Plan for 2006-2010.

Full implementation of the program’s Strategic Plan occurred in 2006. Enhancements to the Law Enforcement Management Information System allowed the collection of a full year’s worth of detailed performance data. Performance parameters being assessed include measures of loss of wildlife prevented by disruption of illegal activity; amount of restitution collected to conserve wildlife as a result of investigations; and numbers and values of illegally imported/exported protected species and product shipments interdicted. Data collected will allow the program to measure its progress in protecting U.S. species, preventing illegal trade in global resources, and facilitating legal wildlife commerce.

2008 Program Performance

Although it is projected that a planned increase in user fees will ultimately offset the proposed operations funding reduction, the Office of Law Enforcement anticipates that impacts in achieving trade-related performance measures will occur in FY 2008 in association with the substitution of user fees for appropriated funds (see Program Performance Change table). Projected performance decreases represent “temporary” transition-year impacts on performance that would occur as the Service completes the rulemaking process and implements new user fees.

In continuing efforts to meet its strategic goals of “protect[ing] the Nation’s fish, wildlife, and plants from unlawful exploitation and industrial hazards” and “prevent[ing] the unlawful import/export and interstate commerce of foreign fish, wildlife, and plants,” the program will focus on those enforcement efforts that address the greatest conservation concerns. Resources available for enforcing U.S. wildlife laws and treaties will be used so as to maximize benefits to wildlife populations. Prioritization of enforcement activities to address unlawful take and trafficking will help sustain protections for U.S. species listed as endangered or threatened or as protected migratory birds and marine mammals. Prioritization will also ensure that efforts on behalf of international conservation focus appropriately on the interdiction of illegal trade involving species that are already at risk of extinction (i.e., species that have been identified for protection by the global community through the CITES treaty). Trade interdiction capabilities and related investigations will also be enhanced by use of risk assessment methodologies and by initial Service access to automated importer/exporter account and shipment manifest information provided by ACE/ITDS.

Service Law Enforcement will look to greater utilization of computer technology to meet its goal of “facilitating the expeditious movement of legal wildlife.” The program will promote increased use of its electronic declaration system and on-line fee payment process; seek to expand technological alternatives for handling other import/export procedures; and move forward with other Service permitting entities to create and implement “e-permitting” options. Implementation of screening

methodologies to distinguish risk levels of shipments will support both trade facilitation and efforts to ensure that the agency's inspection program functions primarily as a conservation enforcement tool.

Program Performance Overview

| Measure | 2004 Actual | 2005 Actual | 2006 Plan | 2006 Actual | 2007 Plan | 2007 Change from 2006 | 2008 Request | 2008 Change from 2007 |
|---|-------------|-------------|-----------|-------------|-----------|-----------------------|--------------|-----------------------|
| 6.4. # of migratory bird conservation agreements or actions by industry (BUR) new 8.5 | n/a | 165 | 167 | 167 | 167 | 0 | 167 | 0 |
| Total Actual/Projected Cost (\$000) | n/a | n/a | n/a | \$2,359 | \$2,419 | +\$60 | \$2,669 | +\$250 |
| Actual/Projected Cost per unit | n/a | n/a | n/a | 14,129 | \$14,485 | +\$356 | \$14,844 | +\$359 |
| 6.6.3.1 # migratory bird investigations (BUR) | n/a | 1,600 | 1,616 | 2,427 | 2,000 | -427 | 2,000 | 0 |
| Total Actual/Projected Cost (\$000) | n/a | n/a | n/a | \$15,989 | \$20,288 | +\$4,299 | \$20,792 | +\$503 |
| Actual/Projected Cost per unit | n/a | n/a | n/a | \$9,895 | \$10,143 | +\$248 | \$10,396 | +\$253 |
| 8.2.3.1 # marine mammal investigations (BUR) new 11.2 | n/a | 120 | 121 | 293 | 200 | -93 | 200 | 0 |
| Total Actual/Projected Cost (\$000) | n/a | n/a | n/a | \$5,382 | \$3,766 | -\$1,616 | \$3,860 | +\$94 |
| Actual/Projected Cost per unit | n/a | n/a | n/a | \$18,369 | \$18,832 | +\$462 | \$19,298 | +\$474 |
| 13.12.3 # investigations involving threatened or endangered species (BUR) new 9.10 | n/a | 2,500 | 2,525 | 3,029 | 2,600 | +75 | 2,500 | -100 |
| Total Actual/Projected Cost (\$000) | n/a | n/a | n/a | \$17,067 | \$15,019 | +\$2,048 | \$14,797 | +\$222 |
| Actual/Projected Cost per unit | n/a | n/a | n/a | \$5,634 | \$5,776 | +\$42 | \$5,919 | +\$143 |
| 10.4.4.2 # of wildlife shipments (BUR) | n/a | 150,000 | 151,500 | 151,500 | 160,000 | +8,500 | 175,000 | +15,000 |
| 10.4.5.1 # of wildlife shipments physically inspected (BUR) | n/a | 26,000 | 26,260 | 26,260 | 30,000 | +3,740 | 29,400 | -600 |
| 10.4.6.3 # of wildlife shipments interdicted (BUR) | n/a | 2,800 | 2,828 | 2,828 | 3,000 | +172 | 2,940 | -60 |

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