

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number 1018-0094

Form 3-200-56: Native Endangered and Threatened Wildlife - Application Requirements for Incidental Take Permits Associated With A Habitat Conservation Plan - 50 CFR 17.22(b) and 17.32(b)

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The following information is provided as part of a request to renew the Office of Management and Budget's approval for information collection pursuant to regulations that implement General Permit Procedures. These information collection requirements are contained in applications for permits that are specifically provided for in 50 CFR 13 and 17. The application form for this activity was assigned number **3-200-56**.

All of the Laws, Treaties and Regulations administered by the U.S. Fish and Wildlife Service which authorize activities for which a permit is required, authorize such permits in 50 CFR Part 13 (General Permit Requirements). The requirements in 50 CFR Part 13 are in addition to any other permit regulations that may apply to a specific circumstance and are outlined in other sections of regulation. The regulations in 50 CFR part 17 implement the prohibitions and exceptions provisions of the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531-1543 (Act), except for those concerning the Convention on International Trade in Endangered Species of Wild Fauna and Flora, for which regulations are provided in part 23 of this subchapter. The Act provides for the protection of listed species through establishment of programs for their recovery and through prohibition of harmful activities. The Act also provides for the monitoring and conservation of species for which listing is warranted but precluded by other listing actions.

The Act provides a number of exceptions to its prohibitions against "take" of listed species through permitting programs. Regulations have been promulgated at 17.22 (b) for endangered wildlife species, and 17.32 (b) for threatened wildlife species, to guide implementation of these permitting programs for Incidental Take permits associated with a Habitat Conservation Plan under section 10(a)(1)(B) of the Act. **Form 3-200-56** was developed to facilitate collection of information required by these regulations.

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

Form 3-200-56 addresses application and reporting information requirements for Incidental Take permits associated with Habitat Conservation Plans under section 10(a)(1)(B) of the Act. These permits allow "take" of listed species that is incidental to otherwise lawful non-federal actions. Take authorized under this permit program would otherwise be prohibited by the Act.

We have revised the instructions in these permit application forms to make them easier to use and understand. We kept the existing application requirements, but re-grouped them for added clarification and standardization between the 3 forms. We added a check box to allow applicants to designate an authorized agent to represent them. We have also added information to clarify the permit application process in order to avoid common mistakes.

The following covers application requirements in 17.22(b) and 17.32 (b) for Incidental Take permits associated with a Habitat Conservation Plan (HCP). These regulations consist of application requirements for endangered and threatened wildlife permits, and permit conditions for endangered and threatened wildlife permits. The information is used by the Service to evaluate applications and issue or deny permits based on the issuance criteria in 17.22(b)(2) and 17.32(b)(2). The issuance criteria are designed to ensure that the requirements of the Act are met, i.e., that conduct of the requested actions and issuance of the permit will enhance the survival of the species.

The purpose for each information request follows.

Section A. The common and scientific names are necessary to identify the wildlife to be covered by the permit, as well as a description of the proposed activity, so the evaluation and permit can be tailored to the individual species' requirements. We divided the information requests into two categories: those for a new permit and those for an amended permit.

Section B. Identifies the area in which activities would be carried out. A description of the property land use activity for which the applicant requests incidental take authorization is necessary for the Service to know the type and level of take that the applicant expects to conduct so the impacts to the species populations and habitats can be

assessed.

Section C. An HCP that provides a complete description of the activity sought to be authorized. This allows the Service to estimate impacts to species populations and habitats in the area.

1. Allows the Service to determine whether the applicant has considered all likely impacts to covered species.
2. Outlines measures the applicant will take to minimize and mitigate those impacts to the maximum extent practicable - this allows the Service to evaluate whether the proposed minimization and mitigation measures will compensate for expected impacts to the species.
3. Outlines what steps will be taken to monitor and report on such impacts, including a copy of the monitoring plan.
4. Allows the Service to determine which alternative actions were considered and why those alternatives were not used.
5. Biological goals and objectives.
6. The requested duration of the permit.

Section D. Signifies whether or not an Assumption Agreement is required.

Section E. Identify all required Federal and State permits currently held or needed for the proposed activity, not just Federal Fish and Wildlife permits. This request corresponds to item C.1. and C.2. on page 1 for the same information for Federal Fish and Wildlife and State permits.

Certification Notice. The Certification Notice allows applicants can certify that they own the land indicated in this application or have sufficient authority or rights over these lands to implement the measures of the HCP.

The reporting requirements at 17.22(b)(3) and 17.32(b)(3) are satisfied through monitoring and reporting schedules appropriate to the complexity and duration of the permitted activities that are required. Due to the very wide variety of activities permitted under this program, monitoring and reporting requirements range from simple, one-time reports to complex, multi-year documentation. In all cases, monitoring and reporting requirements are based on information needed by the Service to evaluate compliance with the terms and conditions of the permit, and results of measures minimizing and mitigating impacts on covered species. The results of these evaluations are used to determine whether the HCP's mitigation strategies are reaching the intended biological goals, develop improved management strategies for covered species and to evaluate the success of the HCP program.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].**

Currently, due to the need for an originally signed application form, we do not have on-line submission capabilities. However, applicants may submit any supporting documentation or information missing from the application, other than original signature, via facsimile transmission or through electronic mail. Applicants may also retrieve and complete page 1 of the application form via the internet using the Service's permit web page at <http://permits.fws.gov/>. The permit web page, which was launched in the Spring of 2003, was created to provide the public with one-stop-shopping for information on all of the permits issued by the Service.

The Service has requested funding for the GPEA permits e-government initiatives each year from FY 2002-FY2005. Funds requested to help accomplish this project were not received, yet the permit programs continue to work diligently with their available resources to complete the electronic submission of application forms and processing fees by the end of FY2004.

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

Requested information is unique to the applicant and is not available from any other source. Application information is kept in office files to eliminate repeat or duplicate requests in the case of renewals, extensions or repeat applications. The Service developed an electronic permit issuance and tracking system that greatly improves retrieval of file information, therefore further reducing duplicate information requests for use in renewals, extensions and repeat applications. Since only the Service is authorized to issue this type of permit for species under Service jurisdiction, there is no duplication of other agencies' efforts. Ongoing development of the Service's permit issuance and tracking system will ensure that no duplication arises among Service offices.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Small businesses or small entities must provide the same information required of individual applicants. The information requested is limited to the minimum necessary to establish eligibility.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The current frequency and extent of information collection is necessary in order to satisfy public requests for permits. Reduced information collection would result in the Service's inability to respond to permit requests. The consequence of not collecting the information contained in this application form is that the applicant would not be issued a permit since the collected information is either required on the permit itself or needed to make the necessary findings under applicable laws and regulations. Consequently, without a permit, the activity in question would be prohibited. Each application is unique as to species, area, management actions, and purposes of the applicant seeking the permit. There is no information already available that can be used in lieu of that supplied by the applicant.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * requiring respondents to report information to the agency more often than quarterly;
- * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- * requiring respondents to submit more than an original and two copies of any document;
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- * in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- * requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances that would cause this information collection to be conducted in a manner inconsistent with OMB guidelines.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions

taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Attached is a copy of the Federal Register notice of April 9, 2004 (69 FR 18924) documenting the Service's 60-day notice soliciting comments on the information collection prior to submission to OMB. The Service received 1 comment in response to this notice. The commenter opposed the information collection and suggested that we should eliminate the permit application forms. They did not comment on the cost or burden hours. The Service will continue to use the permit application forms. The information collection in the forms is necessary in order to satisfy public requests for permits. Elimination of this information collection would result in the Service's inability to respond to permit requests.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

In addition to publishing a Federal Register notice, we sent surveys to 9 permittees and asked them to review the forms relating to the permits they hold and comment on the clarity and relevance of the information collection, the burden associated with the collection, and whether there is something the Service could do to minimize the burden.

Three surveys were sent to the following permittees who used permit application form 3-200-56.

Lorin Hicks
Plum Creek Management Company
999 Third Avenue, Suite 4300
Seattle, WA 98104
Phone: (206) 467-3600

Susan Pardue
149 Blue Jack Oak Lane
Bastrop, TX 78602
Phone: (254) 295-4556

Stephen Kintner, Director
Volusia County Environmental Management
123 West Indiana Avenue
DeLand, FL 32720
Phone: (904) 736-5950

Comments we received on the application forms very favorable. Respondents believed the forms were easily available, and the instructions were clear. Their burden hour estimates for completing the permit application forms and annual reports were generally within the numerical range of estimates provided by our Regions, and within the Service's estimated national

averages.

The respondents' varying estimates for the burden hours for form 3-200-56 was due to the fact that their permitted activities had varying complexities. For example, one respondent may have two complex, multi-species HCPs while another respondent may have a simple, low impact HCP. The information collection burden for a complex action will naturally be greater than the burden for a simple action due to the need to comply with additional requirements such as preparing an Environmental Impact Statement under the National Environmental Policy Act. Another respondent commented that form 3-200-56 was unclear as to what type of map would be acceptable. As a result of this comment, the map requirements were clarified. Another comment on form 3-200-56 was that the frequency for annual reports was too high and that we should request only one annual report. Since form 3-200-56 currently authorizes activities that last for up to 100 years, in order to manage the permitted activities we need more than one annual report over the life of the permit. Another comment suggested that we provide guidance on the format of the annual report. Since the permitted activities vary greatly in complexity and the number of species covered, there is no standardized format for annual reports. However, we will forward this suggestion for additional guidance to our permit staff.

One respondent commented that the permit application fee of \$25 for form 3-200-56 was insignificant compared to the cost of preparing and submitting the information required in the application. They recommended that the fee should be eliminated. The Service as a whole is evaluating its permit application fees, and on August 26, 2003 (68 FR 51222), we published a proposed rule to increase our permit application fees. We are proposing to revise the standard permit application fee, designated under title 50 of the Code of Federal Regulations (CFR) at §13.11(d)(4), which has not been revised since 1982, in order to recoup more of the costs associated with providing permitting services. The fee increase is being proposed under the requirements of the Federal user fee policy in Office of Management and Budget Circular No. A-25, which requires Federal agencies to recoup the costs of special services that provide benefits to identifiable recipients.

Opportunities for informal public comment are available through extensive personal contact with the applicants. The Service, on its own initiative, continually evaluates the effectiveness of its regulations and permits. Necessary changes are made through the formal proposed rulemaking procedure at which time public comment is solicited and carefully responded to in a final rulemaking.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Not applicable. There are no circumstances that preclude consultation.

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

Not applicable, no payment or gift to respondents is made.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Information collected on permit applications is subject to the Privacy Act and Freedom of Information Act guidelines. All applicants are provided information on the form explaining the requirements of both Acts.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Not applicable, no sensitive questions are asked.

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

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

The Service estimates that 96 applicants per year will apply for this type of permit. The Service estimates it will take an applicant an average of 3 hours to complete this permit application.

Therefore, the annual burden to 96 applicants to complete the application totals 288 hours ($96 \times 3 = 288$). Cost to applicants is estimated at \$60 each, or a total of \$5,760 based on an estimated cost of \$20 per hour for time spent compiling required information and completing the forms. ($3 \times \$20 = \$60 \times 96 = \$5,760$). These estimates are based on current experience with the application and current costs for time, printing, and assembly of information.

Monitoring report requirements for these permits vary widely depending on the complexity of permitted activities. The Service estimates that applicants will submit an average of 201 annual reports per year. Time requirements for this reporting will vary from a minimum of one half hour to a maximum of 6 weeks per year for individual permittees, with an average of approximately 20 hours per permittee per year. Since these permits usually require annual reports for multiple years, the number of annual reports required in any one year will be greater than 96 permit applications received per year. Therefore, the annual burden to applicants of providing 201 annual reports totals 4,020 hours ($201 \times 20 = 4,020$). Cost to applicants is estimated at \$400 each, or a total of \$80,400 based on an estimated cost of \$20 per hour for time spent compiling and organizing the required information ($20 \times \$20 = \$400 \times 201 = \$80,400$). These estimates are based on current experience with monitoring reports and current cost for time, printing, analysis of information and any follow-up correspondence.

Type of Information: Incidental Take w/ Habitat Conservation Plan (Form 3- 200-56)	Number of Respondents	Number of Responses	Average Time Required Per Responses (hours)	Total Burden Hours	Total Dollar Value of Annual Burden Hours
permit application	96	96	3	288	\$5,760
annual report	201	201	20	4,020	\$80,400
TOTALS	297	297	23	4,308	\$86,160

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing

computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The non-hour dollar cost is a \$25.00 processing fee per application. The annual non-hour dollar burden to the respondents for form 3-200-56 is approximately \$2,400 (96 applicants multiplied by the \$25.00 application fee).

Type of Information: Incidental Take w/ Habitat Conservation Plan (Form 3- 200-56)	Number of Respondents	Number of Responses	Application Processing Fee	Total Annual Non-Hour Dollar Cost Burden
permit application	96	96	\$25	\$2,400

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

For requested activities under forms 3-200-54 and 3-200-56, the Service works with potential permit applicants for a significant amount of time to assist them in developing their draft Safe Harbor Agreement, Candidate Conservation Agreement with Assurances, or Habitat Conservation Plan. During this pre-application phase, on average we spend anywhere from 3 months to 5+ years assisting potential permit applicants (depending upon the species, species status, and the complexity of the requested activity). Forms 3-200-54 and 3-200-56 are not filled out and submitted to the Service until after the Safe Harbor Agreement, Candidate Conservation

Agreement with Assurances, or Habitat Conservation Plan documents are finalized.

There are currently 447 active permits issued under form 3-200-56. The Service estimates that 96 applicants per year will apply for this type of permit.

Time requirements to process this type of permit application will vary greatly depending upon the species, species status, and the complexity of the requested activity. Time requirements to process form 3-200-56 average 240 hours. The total cost to the Federal government of processing and renewing this type of permit application is estimated at \$4,800 per application, or a total of \$460,800 based on an estimated cost of \$20 per hour for time spent processing the application and 96 applications received ($240 \times \$20 = \$4,800 \times 96 = \$460,800$).

These estimates are based on current experience with the application and current costs for time, printing, analysis of information and issuance or denial of a permit. The estimates also include the time required for review of the permit application by staff in the Field Office, Regional Office, and Solicitor's Office.

We expect to receive 201 annual reports per year for form 3-200-56. Time requirements to process an annual report average 1 hour. The total cost to the Federal government for processing the annual reports is estimated at \$20 per annual report, or a total of \$4,020 based on an estimated cost of \$20 per hour for time spent processing the annual report and 201 annual reports received ($1 \times \$20 = \$20 \times 201 = \$4,020$). These estimates are based on current experience with annual reports and current cost for time, analysis of information and any follow-up correspondence.

Therefore, the estimated total annual cost to the Federal government is estimated to be \$464,820 ($460,800 + 4,020 = \$464,820$).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

Items 13 and 14 of the OMB Form 83-I show changes in both the total annual burden hours and total annual non-dollar cost burden to respondents that we are requesting in this renewal.

For form 3-200-56 in particular, the total annual burden hours in this request reflect an increase of 2,308 hours (38 hours for applications and 2,270 hours for annual reports). This decrease is due to: (1) a more accurate estimate of the time it takes for an applicant, and permittee submitting an annual report, to complete the information collection requirements; and (2) a more accurate estimate of the number of applicants, and permittees submitting annual reports, each year.

In addition, for this form, the total annual non-dollar cost burden to applicants has decreased by \$100 (from \$2,500 to \$2,400) because of our more accurate estimate of the total annual number of respondents.

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

Summary permit application information will be published in the Federal Register for a 30 day public comment period as required by our endangered wildlife permit regulations at 50 CFR 17.22.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable, the expiration date will be displayed.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable, no exception is requested.

B. Collections of Information Employing Statistical Methods

This collection does not employ statistical methods.