

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

Native Endangered and Threatened Wildlife - Application Requirements for Incidental Take Permits Associated With A Habitat Conservation Plan - 50 CFR 17.22(b)(1) & (3) and 17.32(b)(1) & (3)

A. Justification - Form 3-200-56

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**.

1. 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 listings.

The Act also 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. **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 significantly expanded the instructions in these permit application forms to make them easier to use and understand. 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)(1) & (3) and 17.32 (b)(1) & (3) 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.

1. 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. To clarify the scope of the HCP, we have added a request for acres covered by the HCP, acres to be impacted, and acres to be protected. To assist us in determining whether the application satisfies the permit issuance criteria, we have also added a request for information on the proposed management activities to enhance, restore, or maintain habitat.
2. 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.
3. The common and scientific names are necessary to identify the wildlife to be covered by the permit as well as the number, age, and sex of such species, if known. This allows the Service to judge whether the applicant has considered all species that may be impacted by the proposed action and the specific impacts to individual animals and plants so that our 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. To assist us in our evaluation, we added a request for species' status (threatened, endangered, etc.); and quantification of the effects to the species' habitat. For an amended permit we added a request for information on changed activities to be covered, and species to be deleted or added to the existing permit.
4. A HCP that: a. Describes the proposed activity and its expected impacts on covered species - this allows the Service to determine whether the applicant has considered all likely impacts to covered species; b. 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. We deleted the requirement for monitoring here and made it a separate item under 4.c. Ensures that funding for the plan will be provided - this provides necessary assurances that the terms of the plan will be properly carried out.; c. What steps will be taken to monitor and report on such impacts, including a copy of the monitoring plan; d. illustrates that the incidental taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild - this ensures that issuance of the permit will not jeopardize the continued existence of covered species.; We added the following two items under 4. - e. biological goals of the HCP; f. The duration requested for the proposed permit. The overall purpose of this information gathering is to provide the information necessary for 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).

We deleted item 5., the requirement for a certification notice and made it into a separate page for the applicant to sign to indicate 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 (and Implementing Agreement). We added a new item 5 to indicate whether an Implementing Agreement is required. We added a new item 6. to encourage applicants to be sure their HCPs are consistent with the latest requirements. We added a new item 7. to identify any required Federal permits currently held or needed for the proposed activity, not just Federal Fish and Wildlife permits. This request corresponds to item C.1. on page 1 for Federal Fish and Wildlife permits.

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. The Service has developed an electronic permit issuance and tracking system called SPITS (Service Permit Issuance and Tracking System) that will greatly improve retrieval of file information, thereby reducing information collection requirements for renewal applications. To date, the electronic submission of the application is not possible. The Service must receive an originally signed application form. Facsimile and e-mailed signatures are not accepted. Currently, applicants may submit any supporting documentation or information missing from the application, other than an original signature, via facsimile transmission.

We expect that as technology advances, we will be able to accept electronic submissions of applications. Therefore, we changed the format of page 1 of the application form so that the information fields on the form correspond to the data fields in SPITS. The Service is also currently developing electronic forms that will be available for use over the Internet, thereby allowing electronic filing of applications. Once the form is approved, it will be posted on the Internet in a format that will allow the public to complete the form on-line and print the completed form for signature and submission.

4. 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 has developed an electronic permit issuance and tracking system that will greatly improve 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 new electronic permit issuance and tracking system will ensure that no duplication arises among Service offices.

5. 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. 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, type of activity and purpose 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. Guidelines in 5 CFR 1320.6 are not exceeded.

8. Attached is a copy of the Federal Register notice of December 21, 2000 (65 FR 80449) documenting the Service's notice soliciting comments on the information collection prior to submission to OMB. The Service's Information Collection Clearance Officer indicates that no comments were received regarding this License/Permit Application form in response to this

notice. Opportunities for informal public comment are available through extensive personal contacts with 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.

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

10. Not applicable, no confidential information is solicited. Information collected on permit applications is subject to the Privacy Act and Freedom of Information Act guidelines. All applicants are provided information explaining the requirements of both Acts.

11. Not applicable, no sensitive questions are asked.

12. The number of applicants for these permits has risen in recent years and the Service expects this trend to continue over the next several years, then level off at approximately 100 application per year.

The Service estimates it will take an applicant for this type of permit an average of two and a half hours to complete this application. Therefore, the annual burden to 100 applicants to complete the application totals 250 hours. Cost to applicants is estimated at \$45 each, or a total of \$450 based on an estimated cost of \$15 per hour for time spent compiling required information and completing the forms.

Monitoring report requirements for these permits vary widely depending on the complexity of permitted activities. Time requirements for this reporting will vary from a minimum of one half hour to a maximum of 15 hours per year for individual permittees, with an average of approximately 5 hours per permittee per year. The Service expects that the number of permits for which reporting is required in any one year will level out at approximately 350. Therefore, the annual time burden for reporting will be approximately 1,750 hours per year. Cost estimates based on a rate of \$15 per hour yield an annual cost burden of \$26,250. These estimates are based on current experience with monitoring reports and current cost for time, printing, analysis of information and any follow-up correspondence.

The total burden hours for completing the permit application and reporting requirement is 2,000 hours.

13. There is an additional cost in the form of a \$25.00 processing fee per application. The

annual non-hour dollar burden to the respondents for form 3-200-56 is approximately \$2,500 (100 applicants multiplied by the \$25.00 application fee).

14. The total cost to the Federal government of processing and renewing this type of permit application is estimated at \$5,550 or approximately \$555 per application. 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.

15. The 10(a)(1)(B) permit program was not active when time burdens for Act permit applications were last calculated. Therefore, the number of burden hours has increased by 2,000 hours. This is due to the tremendous increase in applicants for these permits over the last few years.

16. Summary information for endangered species permit applications will be published in the Federal Register as required by regulation.

17. Not applicable, the expiration date will be displayed.

18. Not applicable, no exception is requested.

Incorrect Form Numbers On Previous Approval

The Division of Endangered Species was originally assigned form numbers 3-200-52, 3-200-53, and 3-200-54 for our permit application forms, but while we were preparing our OMB justification the Division of Management Authority added 2 forms during the preparation of their OMB justification, and took the form numbers 3-200-52 and 3-200-53. When we were informed of their changes, we removed the 3-200-52 and 3-200-53 numbers from our justification and substituted the numbers 3-200-55 and 3-200-56. On November 21, 1997, the Service submitted the following Division of Endangered Species permit application forms to OMB for approval: 3-200-54 (Safe Harbor Agreements and Candidate Conservation Agreements with Assurances), 3-200-55 (Recovery and Interstate Commerce), and 3-200-56 (Incidental Take). The Service was notified on February 6, 1998, that OMB approval was granted for the Division of Endangered Species permit application forms. However, the OMB notification had the old form numbers of 3-200-52, 3-200-53, and 3-200-54. OMB records are still using the old form numbers for the Division of Endangered Species permit application forms. The Service requests that the OMB records be updated as part of this request for renewal of our approval.

B. Collection of Information Employing Statistical Methods (Not applicable)