

1 Supporting Statement A for Paperwork Reduction Act Submission

OMB Control Number 1018-XXXX

Eagle Take Permits 3-200-71, 3-200-72, 3-202-15 50 CFR 22.26 and 22.27

1. Explain the circumstances that make the collection of information necessary.

The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) (Eagle Act) prohibits take of bald and golden eagles, including incidental take, unless allowed under regulations (and in the case of bald eagles, take cannot be authorized without a permit). While the bald eagle is listed under the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), we can grant authorizations for incidental take of bald eagles through the ESA's section 10 incidental take permits and ESA's section 7 incidental take statements.

If the bald eagle is removed (delisted) from the List of Threatened and Endangered Wildlife, the permitting of incidental take under the ESA would no longer be necessary. However, a mechanism would be needed to authorize incidental take under the Eagle Act. The Eagle Act provides that the Secretary of the Interior may authorize certain otherwise prohibited activities through promulgation of regulations. The Secretary is authorized to prescribe regulations permitting the "taking, possession, and transportation of [bald or golden eagles] . . . for the scientific or exhibition purposes of public museums, scientific societies, and zoological parks, or for the religious purposes of Indian tribes, or . . . for the protection of wildlife or of agricultural or other interests in any particular locality," provided such permits are "compatible with the preservation of the bald eagle or the golden eagle" (16 U.S.C. 668a). In accordance with this authority, the Secretary has promulgated Eagle Act permit regulations for:

- Scientific and exhibition purposes (50 CFR 22.21).
- Indian religious purposes (50 CFR 22.22).
- Taking depredating eagles (50 CFR 22.23).
- Possessing golden eagles for falconry (50 CFR 22.24).
- Take of golden eagle nests that interfere with resource development or recovery operations (50 CFR 22.25).

All of the laws, treaties, and regulations that the Service administers that authorize activities for which a permit is required, authorize such permits in 50 CFR 13 (General Permit Requirements). The requirements in 50 CFR 13 are in addition to any other permit regulations that may apply to a specific circumstance outlined in other sections of regulations.

In anticipation of the possible delisting of the bald eagle, we are proposing permits to authorize limited take of bald and golden eagles under the Eagle Act. We have proposed regulations at 50 CFR 22.26 to provide for issuance of permits for take of eagles where the take is incidental to otherwise lawful activities. Proposed regulations at 50 CFR 22.27 provide for permits to remove nests where their location poses a threat to human safety or a threat to the eagles themselves. Take authorized under these permits would otherwise be prohibited by the Eagle Act.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.

All Service permit applications are in the 3-200 series of forms, each tailored to a specific activity based on the information requirements for specific types of permits. We collect standard identifier information for all permits, such as the name of the applicant and the applicant's address, telephone and fax numbers, social security or tax identification number, and e-mail address. The application forms for other permits authorized under the Eagle Act are covered by OMB Control Number 1018-0022.

The information that we plan to collect on FWS Forms 3-200-71 (Eagle Take–Incidental to Other Activity) and 3-200-72 (Eagle Nest Take–Safety Emergency) will allow us to assess the qualifications of applicants for permits under the proposed regulations. FWS Form 3-200-71 addresses application requirements for eagle take permits issued under proposed 50 CFR 22.26. These permits allow "take" of listed species that is incidental to otherwise lawful actions. Form 3-200-72 addresses application requirements for eagle nest take permits issued under proposed §22.27. These permits allow "take" of eagle nests necessary to protect the safety of humans or eagles. We will not share the information that we collect on FWS Forms 3-200-71 and 3-200-72 with any organizations outside the Service. We will use the information to: (1) evaluate applications, (2) issue or deny permits based on the evaluation criteria in §22.26(c) and §22.27(c) and (3) assess the potential cumulative impacts of such permits for purposes of adaptive management.

FWS Form 3-200-71, Section D:

Item...	Provides information on...	So that we can ...
1A	activity likely to cause disturbance or other incidental take of eagles	verify if take is likely and assess if modifications can be made to minimize the take.
1B	species and number of eagles likely to be taken	determine if the take is compatible with the preservation of the species.
1C-D	spatial relationship between the applicant's activity and the important eagle use areas	determine if take is likely and how it can be avoided and minimized.
1E	presence or absence of other similar activities in the vicinity	assess if the proposed activity is likely to disturb eagles.
1F	beginning and ending dates	evaluate how the activity will affect eagles (i.e., if eagles are likely to be present during the activity).
1G	how the issuance of the permit will protect other interests in the area	justify the issuance of the permit under the Eagle Act. The Eagle Act authorizes take only for limited purposes, one of which--protection of other interests in a particular locality--is addressed by this permit.
1H-I	why avoiding take is not feasible and what measures are proposed to minimize or mitigate impacts	determine if the applicant will take reasonable measures to minimize take.
2	address where records will be kept	inspect records, if warranted.
3	other approvals applicant has/plans to obtain	determine if applicant is complying with other applicable laws and regulations.0

FWS Form 3-200-72, Section D:

Item...	Provides information on...	So that we can ...
1A	species of eagle and number of nests	assess population impacts. Information as to whether the nest is active or not will contribute to that assessment and also help determine if eggs of juveniles will need to be relocated to a rehabilitator or other care facility.
1B	why removal of the nest is necessary	determine if the applicant qualifies for the permit.
1C	spatial relationship between the applicant's activity and the important eagle use areas	assess if the take is necessary for safety purposes.
1D	location of the property	assess impacts to regional eagle populations.
1E	beginning and ending dates	determine the tenure of the permit.
1F	intended disposition of the nest	verify that the nest will be destroyed or donated to an authorized facility. If the nest contains nestlings and/or eggs, we need this information to verify that the nestlings and/or eggs will be placed in a facility authorized to care for them or (for eggs) are otherwise properly disposed of.
2	address where records will be kept	inspect records, if warranted.
3	other approvals applicant has/plans to obtain	determine if applicant is complying with other applicable laws and regulations.

The reporting requirements at 22.26(e)(1)(ii) and 22.27(d)(3)&(4) provide information that we need to evaluate compliance with the terms and conditions of the permit, and results of measures to minimize and mitigate impacts on covered species. We developed FWS Form 3-202-15 to collect the required information for 22.26 permits. The report for 22.27 permits is a nonform report of the activities conducted under the permit. We will use the results of these evaluations to:

- Determine if the conservation strategies are reaching the intended biological goals.
- Develop improved management strategies for covered species.
- Evaluate the success of the permit program.
- Gather information needed for future permit issuance determinations.

FWS Form 3-202-15

We collect ...	So that we can ...
name, address, phone number, and email address of permittee; permit number; reporting year; and due date	identify the permittee, the specific permit, and reporting period.
important use area	identify what area of the activity site is being monitored.
date eagles observed	assess how eagles are using the area (e.g., during the breeding season).
time of day	adjust minimization measures on this and future permits.
number of eagles observed	assess if the activity disturbs eagles.

observed behavior	assess how eagles are using the area (e.g., nesting, foraging, etc.)
description of human activity at time eagles are observed	assess how human activities affect eagles. This information is essential for purposes of adaptive management.

We may share some of the information on FWS Form 3-202-15 regarding general eagle use of affected areas with the broader scientific community or other members of the interested public upon request. We will not include any information that would personally identify the permittee.

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].

FWS Forms 3-200-71 and 72 will be available in fillable format on our forms and permits websites, by mail, or by fax. We launched the permits web page - <http://permits.fws.gov/> - in spring 2003 to provide the public with one-stop-shopping for information on all of the permits that we issue. FWS Form 3-202-15 will also be available on the forms website in a fillable format.

Applicants may complete the fillable application online, but must send the application form with an original signature and the processing fee to the Service by mail. At this time, we do not have a system for electronic submission of permit application forms or report forms; however, we are actively developing the system and are pilot testing two Service application forms that have current OMB approval. Applicants may send us any supporting documentation or information missing from the application, other than original signature, via electronic mail or fax. Some Regional permit offices accept annual reports via email.

4. Describe efforts to identify duplication.

The information that we collect is unique to the applicant and is not available from any other source. We keep application and reporting information in office files to eliminate repeat or duplicate requests in the case of renewals, extensions, or repeat applications. We 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 may issue this type of permit for species under our jurisdiction, there is no duplication of other agencies' efforts. Ongoing development of our 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, describe the methods used to minimize burden.

Small businesses or small entities must provide the same information required of individual applicants. The information requested on the application forms is limited to the minimum necessary to establish eligibility and the information requested on the reporting requirements is the minimum necessary to enable us to assess the effect of the permit program on eagles.

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 through the 3-200-71 and 3-200-72 permit application forms is necessary to satisfy public requests for permits. Reduced information collection would result in our inability to respond to requests for permits. 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. The frequency of the reporting requirement is the minimum needed to ensure that the Service has the information necessary to safeguard eagle populations without unduly burdening the public. Eagles' reproductive and migration cycles are annual. The annual report will enable us to: (1) appropriately assess a full cycle of eagle activity, (2) condition future permits, and (3) adjust management guidelines to provide the least burden on the public necessary to appropriately protect eagles.

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.

Federal regulations governing fish and wildlife permits at 50 CFR 13.46 require permittees to maintain records for 5 years. Other than that requirement, there are no special circumstances that would cause us to conduct this information collection in a manner inconsistent with OMB guidelines.

8. Provide 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 (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.

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.]

We have prepared proposed regulations at 50 CFR 22.26 to provide for issuance of permits for take of eagles where the take is incidental to otherwise lawful activities. Proposed regulations at 50 CFR 22.27 provide for permits to remove nests where their location poses a threat to human safety or a threat to the eagles themselves. A copy of the proposed rule is attached. The proposed rule solicits public comment for a period of 60 days on the information collection and recordkeeping requirements described in this supporting statement.

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

We do not provide any payment or gifts to respondents.

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. Each form provides information 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.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

We estimate a total of 5,251 annual burden hours (see table below) for this information collection. At an average rate of \$30 per hour for salary and benefits, the dollar value of the annual burden hours is \$157,530.

ACTIVITY/REQUIREMENT	ANNUAL NO. OF RESPONDENTS	TOTAL ANNUAL RESPONSES	COMPLETION TIME PER RESPONSE	TOTAL ANNUAL BURDEN HOURS	TOTAL BURDEN COST TO PUBLIC (\$30/HR)
FWS Form 3-200-71 – permit application	200	200	10 hrs	2,000	\$ 60,000
FWS Form 3-202-15 – annual report §22.26 & monitoring	300	300	10 hrs	3,000	90,000
FWS Form 3-200-72 – permit application	3	3	6 hrs	18	540
Monitoring and reporting for §22.27 permit	3	3	6 hrs	18	540
Amendments to permits	6	6	2 hrs	12	360
Recordkeeping - §22.26-27	203*	203*	1 hr	203	6,090
Totals	512	512		5,251	\$157,530

*Not included in totals—respondents are the same as for permit applications.

13. Provide an estimate of the total annual [nonhour] cost burden to respondents or

recordkeepers resulting from the collection of information.

We are proposing a \$500 permit application processing fee for the §22.26 take permit (FWS Form 3-200-71) and a \$300 permit application fee for the emergency nest take permit (FWS Form 3-200-72). Both permit types would require a \$150 fee for amendments. We anticipate about 200 (non-Federal) §22.26 take permit applications nationwide annually, and about 3 (non-Federal) §22.27 emergency nest take permits. Approximately six permits may need amendment annually. We expect about half of the 200 non-Federal applicants to be State, local, or tribal governments, none of which pay a permit application or amendment fee. Therefore, annual application fees and amendments would total approximately \$51,050 (100 permits @\$500 fee + 2 permits @\$300 fee + 3 amendments @\$150 fee). There is no fee for processing annual reports.

14. Provide estimates of annualized costs to the Federal Government.

We estimate the annual cost to the Federal Government to implement the non-Federal portion of this information collection to be \$718,800 based on an average of \$30 per hour for salary and benefits. Total costs including Federal applications will be approximately \$1 million. Service biologists at GS-11/13, with support of GS-9 staff, will:

- Review and determine the adequacy of the information an applicant provides.
- Conduct any internal research necessary to verify information in the application or evaluate the biological impact of the proposed activity.
- Assess the biological impact of the proposed activity on the bald or golden eagle.
- Evaluate whether the proposed activity meets the issuance criteria.
- Prepare or review NEPA documentation.
- Prepare either a permit or a denial letter for the applicant.
- When necessary to evaluate the impact of the proposed activity, visit the location to examine site-specific conditions.

We estimate it will take the Service approximately 80 hours (\$2,400) to process most §22.26 take applications, 40 hours (\$1,200) to process each §22.27 application for emergency nest take, and 40 hours (\$1,200) to process each amendment. We will also incur costs for providing technical assistance, even when no permit is issued. We anticipate 350 technical consultations at an average of 20 hours of staff time for each.

ACTIVITY	COST
Process §22.26 applications for take	\$ 480,000
Process §22.27 applications for emergency nest take	3,600
Process an amendment	7,200
Technical consultations	210,000
Processing annual reports	18,000
Total	\$ 718,800

15. Explain the reasons for any program changes or adjustments.

This is a new information collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

We do not publish the results of these information collections.

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.

We will display the OMB control number and expiration date.

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

There are no exceptions to the certification statement.