

2009 Supporting Statement for OMB 0596-0016
**Application for Permit, Non-Federal Commercial Use
of Roads Restricted by Order**

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 National Forest Roads and Trails Act of 1964 (PL 88-657, 16 USC 532-538) authorized the Secretary of Agriculture to enter into agreements to finance needed roads in National Forests (Section 4 – 16 USC 535) and to require commercial users of roads to perform road maintenance made necessary by their use (Section 6 – 16 USC 537).

The Forest Service has entered into investment sharing arrangements under the authority of the Act with owners of private land inholdings within National Forests affecting approximately 30,000 miles of roads in 8 states. The standard form of cooperative road construction and use agreement requires the Forest Service to assume financial responsibility for investment shares attributable to third party traffic that use shared roads when either those third parties are unwilling to enter into the cooperative agreement or it is impractical to include the third parties in the cooperative agreements.

Forest Service policy in FSM 7730 requires commercial users to perform maintenance made necessary by their use. Maintenance performance is a standard provision in timber sale contracts, minerals permits, and many special use permits. As with investment sharing arrangements, the Forest Service is financially responsible for road maintenance made necessary by third party traffic, such as traffic generated by commercial use of private land inholdings within National Forests.

Owners of private lands within National Forests have a right to use National Forest System roads to access their property under various legal authorities including 36 CFR 212.6b. While their right to use roads is undisputed, it is necessary to assure that they appropriately share investments in roads accessing their property and that they perform road maintenance on those roads when they use the roads for commercial purposes.

Third party performance of road maintenance and third party sharing of road investments is accomplished by the road use permit program. 36 CFR 261.54 prohibits commercial use of National Forest System Roads without a road use permit when there is an order in effect prohibiting such use. Forest Service policy in FSM 7730 requires Forest Supervisors to issue such orders assuring that all commercial users on System roads share investments and perform maintenance when appropriate.

- 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.**

- a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)**

Information collected will identify the roads to be used, calculate investment shares and investment recovery rates where applicable, identify temporary traffic control requirements, identify bonding requirements if any, arrange for coordination with any other commercial users actively using roads, and identify road maintenance requirements and/or fees. The applicant must provide his/her name, address and telephone number.

- b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.**

The information is collected from individuals, corporations, or organizations who want to use a road for commercial purposes.

- c. What will this information be used for - provide ALL uses?**

FS employees use information from the FS-7700-40 to prepare the FS-7700-41 Road Use Permit. All of these matters are provided for in requirements of the FS-7700-41. For further details, see Section 24 of FSH 7709.59 Chapter 20.

- d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the information? If so, what are they?**

In order to obtain a road use permit when commercial use is otherwise prohibited by order, a potential road user must complete form FS-7700-40, "Application for Permit, Non-Federal Commercial Use of Roads Restricted by Order", sign it in ink, and submit it at the local Forest Service office. Application is only available in hard copy.

- e. How frequently will the information be collected?**

The information is collected each time an application is made for a commercial road use permit. Frequency is based on the needs of the applicant and averages once a year per applicant.

- f. Will the information be shared with any other organizations inside or outside USDA or the government?**

There are two situations where the Forest Service shares the information with organizations or entities outside the USDA or the government.

Situation 1: Submittal of a permit application for use of a road where hauling and/or road maintenance activities have the potential to affect individual species or critical habitat of said species listed as threatened or endangered under the Endangered Species Act. In such cases, the Forest Service is required to consult with the applicable Federal agency (either the U.S. Fish and Wildlife Service or the National Marine Fisheries Service) to determine whether to issue the road use permit and any requirements related to species protection that should be included on the permit.

Situation 2: This situation occurs when other commercial haulers are currently using the subject road. In order to demonstrate compliance with the requirements of Public Law 88-657 (i.e., that commercial users be responsible for maintenance "commensurate with the particular use requirements of each"), it is necessary to share information about the hauling activities of each user with the other users of the subject road.

g. If this is an ongoing collection, how have the collection requirements changed over time?

The requirements have been in effect since passage of PL 88-657 and have not been changed in any substantial manner.

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.

Each application is unique and does not lend itself for automation and a written signature is required. The actual road use permits themselves are lengthy and involve specifications and bonding similar to contracts.

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.

The roads to be used and the amount of commercial activity on them are unique to each application for a road use permit. This information is not available from any other source, thus there is no duplication of information.

5. If the collection of information impacts small businesses or other small entities¹, describe any methods used to minimize burden.

The collection does not impact small businesses. However, failure to collect the information would be a serious impact on them. They cannot obtain a road use permit without submitting the information, and they would be cited for violation of 36 CFR 261.54 were they to use a road without an FS-7700-41 when an order is in effect.

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 FS-7700-40 is essential to the FS-7700-41 program. The FS-7700-41 program is essential to meeting Government's legal obligations to cooperators, contractors, and permit holders who are currently legally obligated to share investments in National Forest System roads and/or perform maintenance made necessary by their commercial use of National Forest System roads. Without the 7700-41 program, we would have to release the

1 **Small business.** A small business is a concern that:

(1) Is organized for profit with a place of business in the United States, operates primarily within the United States, or makes a significant contribution to the U.S. economy by paying taxes or using American products, materials, or labor.

(2) Is not dominant in its field on a national basis.

(3) Meets or is below an established size standard. The Small Business Administration's (SBA) [Web site](#) has detailed information on size standards for U.S. businesses. The following table shows the general size standards by industry. (For a more detailed definition, see [5 U.S.C. 601\(3\)](#).)

Industry	Standard Measured by Number of Employees	Standard Measured by Average Annual Revenue
Manufacturing and mining	500 or fewer	
Wholesale trade	100 or fewer	
Retail and service		\$6.5 million or less
General and heavy construction		\$31 million or less
Special trade contractors		\$13 million or less
Agricultural		\$0.75 million or less

Small government agency. A small government agency is a government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. (For a more detailed definition, see [5 U.S.C. 601\(5\)](#).)

Small not-for-profit organization. A small not-for-profit organization is an enterprise that is independently owned and operated and is not dominant in its field. (For a more detailed definition, see [5 U.S.C. 601\(4\)](#).)

contractors and cooperators from those obligations. Were the obligations to be released the value of maintenance and investment sharing lost is estimated at approximately \$50,000,000 per year. The Forest Service would have to seek appropriations to make up for this loss.

- 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 secret, 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. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

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

A 60-day Federal Register Notice requesting comments was published on August 31, 2009, Vol. 74, No. 167, page 44815-16. No comments were received.

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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

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.

Dan Cobb: 3147 Highway 238, Jacksonville, OR 97530

Bob Jones: Medford Water Commission, 200 S. Ivy Street, Rm. 117, Medford, OR 97501

Terry Salvestro: Fruit Growers Supply Co., Hilt, CA 96044

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

No gifts or payments are provided to respondents.

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

The information provided in response to this information collection is not considered confidential.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or 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.

Information of a sensitive nature is not requested.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form.**

- Description of the collection activity**
- Corresponding form number (if applicable)**
- Number of respondents**
- Number of responses annually per respondent,**
- Total annual responses (columns c x d)**
- Estimated hours per response**
- Total annual burden hours (columns e x f)**

Table 1

(a) Description of the Collection Activity	(b) Form Number	(c) Number of Respondents	(d) Number of responses annually per Respondent	(e) Total annual responses (c x d)	(f) Estimate of Burden Hours per response	(g) Total Annual Burden Hours (e x f)
Application - Business	FS-7700-40	1,000	1	1,000	.25	250
Application – Individuals	FS-7700-40	1,000	1	1,000	.25	250
Totals	---	2000	---	2000	---	500

There is no record keeping burden associated with this collection of information.

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Table 2

(a) Description of the Collection Activity	(b) Estimated Total Annual Burden on Respondents (Hours)	(c)* Estimated Average Income per Hour	(d) Estimated Cost to Respondents
Filling out FS-7700-40	500	\$47.00	\$23,500
Totals	500	---	\$23,500

- 13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates 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.**

There are no capital/startup or operation and maintenance costs.

- 14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

The response to this question covers the actual costs the agency will incur as a result of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:

- Employee labor and materials for developing, printing, storing forms**
- Employee labor and materials for developing computer systems, screens, or reports to support the collection**
- Employee travel costs**
- Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information**
- Employee labor and materials for collecting the information**
- Employee labor and materials for analyzing, evaluating, summarizing, and/or**

reporting on the collected information

Table 3

Annual Responses	Hours spent processing responses	Total Hours	Hourly cost to the agency	Total annual cost to the agency
2,000	.25 (15 minutes)	1,000	\$28.45 (GS-12)	\$28,450

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

There are no changes. This submission is an extension of the currently approved collection.

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

The results of this information collection will not be published.

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.

The Forest Service will not request that the expiration date for the OMB approval be omitted from any forms associated with this information collection.

18. Explain each exception to the certification statement identified in item 19, "Certification Requirement for Paperwork Reduction Act."

The agency is able to certify that the collection of information encompassed by this request complies with 5 CFR 1320.