

## **The Supporting Statement for OMB 0596-0172**

### Pre-Decisional Objection Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003

#### **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.**

##### Laws, Statutes, Regulations

- Healthy Forests Restoration Act of 2003 (December 3, 2003, HFRA); Public Law No. 108-148, § 105; 117 Stat 1887
- Title 36 CFR, parts 215 and 218
- Interior and Related Agencies Appropriation Act of Fiscal Year 1993 (Appeals Reform Act or ARA); Public Law 102-381, § 322; 106 Stat. 1419; 36 CFR part 215

On December 3, 2003, President Bush signed into law the Healthy Forests Restoration Act of 2003 to reduce the threat of destructive wildfires while upholding environmental standards and encouraging early public input during review and planning processes. The legislation is based on sound science and helped further the President's Healthy Forests Initiative pledge to care for America's forests and rangelands, to reduce the risk of catastrophic fire to communities, to help save the lives of firefighters and citizens, and to protect threatened and endangered species.

One of the provisions of the act, in Section 105, requires that *"...not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process."* This process *"...serves as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land."* Those choosing to participate in the predecisional administrative review process must provide information to the Forest Service which the agency must respond to. This information needs to include, as a minimum, the objector's name, address, phone number (if available); the name of the project for which they are filing an objection; and the specific changes in the authorized project they seek and the rationale for those changes.

The Forest Service, at its own discretion, provides processes by which persons or organizations may appeal or object to significant amendment, revision, or approval of a land and resource management plan (36 CFR part 219). A separate process for notice, comment, and appeal of National Forest System projects and activities was mandated by section 322 of Interior and Related Agencies Appropriation Act of Fiscal Year 1993, Pub. L. 102-381, 106 Stat. 1419 (hereinafter "Appeals Reform Act" (ARA)) and codified in 1993 as 36 CFR part

215 (58 FR 58905). With enactment of the Healthy Forests Restoration Act of 2003, Pub. L. No. 108-148, 117 Stat 1887 (Dec. 3, 2003) (HFRA), a new process has been mandated for administrative review of certain hazardous fuel restoration projects. Implementing regulations for that process have been promulgated at 36 CFR parts 215 and 218.

**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.)**

The objector must file information with the Reviewing Officer in writing that includes the objector's name, address, telephone number (if available), the name of the project, name and title of the Responsible Official, the project location, and sufficient narrative description of those parts of the project that are objected to, specific issues related to the proposed decision, and suggested remedies which would resolve the objection.

**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 will be collected from individuals or organizations voluntarily participating in the administrative review (objections) process. This could include local, state, tribal governments, individuals, or organizations that have an interest in projects on National Forest System lands.

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

This information will be used by the Reviewing Officer in responding to those who participate in the objection process prior to a decision by the Responsible Official. The Reviewing Officer's written review of the objection constitutes the final administrative determination of the Department of Agriculture.

**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?**

Information will be collected through the objection process, and must be filed in writing. There are no forms associated with the process. Objections may be delivered through the mail, fax, e-mail, or hand-delivered to the Reviewing Officer's business office.

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

There is no scheduled information collection. Through the use of a legal notice, the public will be informed of projects that are subject to the objection

process.

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

Information is available for public review and Agency responses to the objections are posted to the Web.

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

This is a renewal of an information collection approved in 2007. There are no changes in how the information is collected.

**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.**

Objections may be submitted by e-mail. The Reviewing Official's response to the objection will be in writing and will be posted on the Web.

**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 information required to file objections is specific to the individual project authorized by the Healthy Forests Restoration Act of 2003 and, therefore, is unavailable until an objection is filed.

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

The information collected does not impact on small businesses or other small entities.

**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 Forest Service is required by the Healthy Forests Restoration Act of 2003 to establish a predecisional objections process for authorized fuel reduction projects. The agency could not meet the intent of Congress without collecting this information.

**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.**

The proposed information collection was published in the Federal Register on May 24, 2010 (75 FR 28778). The information collection request was published for 60-days. The agency received the following public comment on the information collection request:

- Jean Public, Individual, 8 Winterberry Court, Whitehouse Station, NJ 08889

*Comment:* The individual states, "the reviewing officers never respond to criticisms of their plans. the revieweing officer presents his proposal and 100% of the time adopts his own proposal. the public comment that comes in is never never accepted. Those who want environmental help have to go to the courts and the resultant costs to taxpayers because of anti environmental forest service employees is enormous." [Comment quoted without correction]

*Response:* The Reviewing Officer for each hazardous fuel reduction project authorized under the Healthy Forests Restoration Act is the next

higher level supervisor of the responsible official who makes the project proposal and the final project decision; therefore, Reviewing Officers do not review their own proposals. Objectors may request to meet with the Reviewing Officer to discuss potential resolution of objection issues. Reviewing Officers must provide a written response to all objections and that response can include instructions to the responsible official regarding changes to the environmental analysis and proposed decision.

**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.**

There are circumstances that preclude consultation. Although the predecisional objection process for hazardous fuel reduction projects was promulgated under the Healthy Forest Restoration Act of 2003 (HFRA) as a relatively new process within the Forest Service, it has seen limited use. For various reasons the agency has not issued many decisions for hazardous fuel reduction projects authorized under the HFRA and hence few decisions subject to the predecisional objection process. The HFRA objection process is very similar to the process outlined for objections to new land management plans, plan amendments, and plan revisions outlined in 36 CFR 219.32; however, that process has been used even less. Therefore, no agency employee or citizen has extensive experience with the objections process. Because of this lack of experience, the agency believes it would be inappropriate to consult with people outside the Federal government to obtain their views on this information collection.

Potential respondents are busy individuals and it would be unproductive to ask them questions about this information collection, because they do not have experience with the process. This information collection is required under 36 CFR 218, the process for objections to hazardous fuel reduction projects authorized under the Healthy Forest Restoration Act of 2003. The purpose is to provide the public 30 calendar days for pre-decisional review and the opportunity to object to proposed authorized hazardous fuel reduction projects prior to approval.

An objection must contain the name, mailing address, and telephone number of the person filing the objection so that agency employees can respond to the person or entity objecting. The agency believes it would be a significant hindrance to collaboration with people to resolve their objections if a person did not provide this information.

**9. Explain any decision to provide any payment or gift to respondents,**

**other than re-enumeration of contractors or grantees.**

There is no payment or gift provided to respondents.

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

Regulations at 36 CFR 218.8(a) require all information and data submitted by a person filing an objection be available for examination by the public.

**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.**

No information is collected that could be considered sensitive or personal in nature.

**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.**

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

Table 1 - Total Annual Burden Hours

(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)
Information filed in predecisional objections	No form utilized	121	1	121	8	968
Totals	---	121	---	121	---	968

- Record keeping burden should be addressed separately and should include columns for:

- a) Description of record keeping activity: None
- b) Number of record keepers: None
- c) Annual hours per record keeper: None
- d) Total annual record keeping hours (columns b x c): Zero

There are no recordkeeping requirements.

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

Table 2 - Estimated Cost to Respondents

(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
Information filed in pre-decisional objections	968	\$22.59	\$21,867.12
Totals	968	---	\$21,867.12

\* This information obtained from Table A-1 of "Bureau of Labor News Release" at <http://www.bls.gov/news.release/pdf/realer.pdf>, July 2010.

- 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 operation and maintenance costs.

- 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 analyzing, evaluating, summarizing, and/or reporting on the collected information**

The estimate covers the collection's life cycle and includes employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information. Three GS-12/Step 5 (average cost to the government is \$42.55) Staff Specialists will spend approximately 40 hours each analyzing comments. In addition, 121 GS-11/Step 5 (average cost to the government is \$35.50) NEPA Specialists, one specialist per national forest, will spend approximately 128 hours each analyzing comments. Each forest will spend approximately \$50 duplicating and mailing their objection response (\$50 per forest multiplied by 121 forests).

Table 3 – Estimated Annual Cost to government

Activity	Amount	Job Title/Grade	Hourly Cost to Government*	Time	Calculations	Total
Analyzing Comments	3 employees	GS-12/Step 5 Staff Specialists	$\$32.73 \times 1.3 = \$42.55$	40 hours (each)	$3 \times \$42.55 \times 40 =$	\$5,106
Analyzing Comments	121 employees	GS-11/Step 5 NEPA Specialists (one at each national forest)	$\$27.31 \times 1.3 = \$35.50$	128 hours (each)	$121 \times \$35.50 \times 128 =$	\$549,824
Printing, copying, and mailing	121 objection responses	n/a	n/a	n/a	$121 \times \$50 =$	\$6,050
Total Cost to Government	---	---	---	---	---	\$560,980

\* Taken from: [http://www.opm.gov/oca/10tables/pdf/g\\_s\\_h.pdf](http://www.opm.gov/oca/10tables/pdf/g_s_h.pdf), Cost to Government calculated as hourly wage multiplied by 1.3

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

This is an extension of the previous submission. There is no change in burden.

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

Subject information is collected in order to improve project planning. Responses to objections are posted to the Web, but the objections themselves are not.

**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.**

There is no form for information collection associated with this request.

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



The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

## **B. Collections of Information Employing Statistical Methods**

We do not employ statistical methods regarding the information collected.