

2013 Supporting Statement for OMB 0596-0016
Application for a Permit for Use of
Roads, Trails and Areas Restricted by Regulation or Order;
Non-Federal Commercial Road Use Permit;
Permit for Use of Roads, Trails and Areas Restricted
by Regulation or 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.**

Authority for permits for use of National Forest System (NFS) roads, NFS trails, and areas on NFS lands restricted by order or regulation derives from the National Forest Roads and Trails Act (16 U.S.C. 532-538). This statute authorizes the Secretary of Agriculture to promulgate regulations regarding use of NFS roads, NFS trails, and areas on NFS lands; establish procedures for sharing investments in NFS roads; and require commercial users to perform road maintenance commensurate with their use of NFS roads. Forest Service regulations implementing this authority are found in 36 CFR 212.5, 212.9, 212.51, 261.10, 261.12, 261.13, 261.54, and 261.55.

In particular, 36 CFR 212.5 and 212.9 authorize the Chief of the Forest Service to establish procedures for investment sharing and to require commercial users to perform maintenance commensurate with their road use. Section 261.10 contains a national prohibition against constructing or maintaining an NFS road or NFS trail without a written authorization. Section 212.12 contains a national prohibition against violating the load, weight, height, length, or width limitations of State law when using NFS roads without a written authorization. Section 212.13 contains a national prohibition against possessing or operating a motor vehicle on NFS roads, NFS trails, or areas on NFS lands that are not designated for motor vehicle use on a motor vehicle use map, unless the use is authorized by a written authorization. Section 261.54 authorizes issuance of an order prohibiting use of an NFS road in a manner prohibited by the order without a written authorization, including commercial hauling without a permit or written authorization when required by order. Section 261.55 authorizes issuance of an order prohibiting use of an NFS trail in a manner prohibited by the order without a written authorization.

Forest Service directives implementing the regulations are found in Forest Service Manual 2350, 7710, and 7730 and Forest Service Handbook 7709.59, chapter 20. These directives provide for the size and weight limits under State traffic law to apply on NFS roads and require the responsible official to designate NFS roads, NFS trails, and areas on NFS lands for motor vehicle use; enter into appropriate investment sharing arrangements, require commercial users of NFS roads to perform maintenance commensurate with their road use; and issue orders that implement the authority in 36 CFR 261.54. The permits road users obtain contain appropriate requirements for implementation of applicable regulations and directives.

- 2. Indicate how, by whom, and for what purpose the information is to be**

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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.)

Form FS-770-40, "Application for a Permit for Use of Roads, Trails and Areas Restricted by Regulation or Order": information collected consists of (1) the applicant's name, address, and telephone number; (2) identification of the National Forest System (NFS) roads, NFS trails, and areas on NFS lands proposed for use (NFS roads and NFS trails are identified by Forest Service route number, and areas on NFS lands are identified using a map); (3) purpose of use; and (4) the proposed use schedule. The applicant is asked to provide explanatory information specific to the proposed use, including information on the types and size of vehicles, through attachments and remarks. There are standard attachments available for use when the application requests oversize vehicle use or commercial use of roads.

FS-7700-40a, *Commercial Use Attachment*: This form is used when the requested use is the non-federal commercial use of roads restricted by regulation or order. This form collects information about the commercial activity, such as vehicle types, type and amount of material, dates of hauling, and any plans for future use.

FS-7700-40b, *Oversize Vehicle Attachment*: This form is used when the requested use is for moving oversize loads (loads longer, wider, taller or heavier than permitted under applicable State traffic law). This form collects information about the reason for the permit, the schedule of use and route, the hauling vehicle(s) and the method of loading.

FS-7700-41, *Non-Federal Commercial Use Road Use Permit*: This form will be issued when the requested use is the non-federal commercial use of roads restricted by regulation or order. This form is completed by the Forest Service, and the only information required of the applicant is name, title and signature.

FS-7700-48, *Permit for Use of Roads, Trails and Areas Restricted by Regulation or Order*: This form is issued for all other requested uses. This form is completed by the Forest Service, and the only information required of the applicant is name, title and signature.

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 NFS Road, Trail or Area for purposes that are restricted. The agency issues Road Use Permits for a variety of reasons: to allow people to use a road, trail or area that is otherwise closed; to allow people to

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perform maintenance on a road when they desire a higher standard than the Forest Service does; to allow people to plow snow on a road; for non-federal commercial use of a road; or to allow over size or over weight vehicles. For non-federal commercial use permits, the land owner generally obtains the permit, but will employ a timber/trucking company to haul the material.

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

Forest Service employees use information from these forms as follows:

When the application is for non-federal commercial use, the information is used to identify maintenance commensurate with the applicant's road use, and the proportion of acquisition, construction, and maintenance costs associated with the NFS roads proposed for use that is assignable to the applicant for purposes of investment sharing. The information is also used to identify temporary traffic control requirements, identify bonding requirements if any, and arrange for coordination with any other commercial users actively using roads.

When the requested use is for moving oversize loads, the information is used by structural engineers to calculate whether loads can be safely moved over bridges without damaging the bridges, and is used by traffic engineers to determine what measures are necessary to protect the safety of other road users.

When the application requests use of NFS roads, NFS trails, or areas on NFS lands that are not designated for motor vehicle use or are restricted by order, the information is used to decide whether and, if appropriate, when the use should be permitted.

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 permit when use is otherwise prohibited by regulation or order, a potential road user must complete form FS-7700-40, "Application for a Permit

For Use of Roads, Trails, or Areas Restricted by Regulation or Order", and any necessary attachments (FS-7700-40a, Commercial Use Attachment and FS-7700-40b, Oversize Vehicle Attachment) sign them in ink, and submit them to the office of the responsible Forest Service official. Application must be made in hard copy. These forms will be available from Forest Service offices. Due to the hardcopy signature requirement, the completed forms must be submitted in person, or through the mail. These forms will be available at any FS office, and will be sent by email or hardcopy to anyone who requests them. The Forest Service will work to make these forms available in electronic format in the future, as well as to allow faxed and/or scanned signatures.

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e. How frequently will the information be collected?

The information is collected each time an application is made for a permit. Permits are issued for a time period commensurate with the purpose for issuing the permit. This can vary from a few days for moving a single oversized vehicle or a single trip inside a closed area, to many months for a commercial hauling project.

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

There are three 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.

Situation 3: This situation occurs during periods of extreme fire danger where Federal, State, and local officials all issue orders under their respective authorities to restrict access to areas for fire prevention and public safety purposes. In these situations, all law enforcement entities enforce the closures. When the Forest Service issues a permit to use a road in the closed area, the information about the permitted user must be shared with appropriate State and local law enforcement entities.

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

Permit Application Form

The current FS-7700-40 is an application form for a permit for non-federal commercial use. Applications for other types of road use permit are currently done informally, either orally in person or other forms of written communication, or in the case of over-size permits, a state application form. We are proposing to standardize the permit application form, and make it applicable to any road use permit purpose, including entry into closed areas.

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The revised permit application form (FS-7700-40) is one page, with a one page attachment if the use is non-federal commercial use (FS-7700-40a), and a one page attachment if the use is for over size vehicles (FS-7700-40b).

Permit Form

The current permit form for non-federal commercial use (FS-7700-41) will not change. It contains language that is specific to non-federal commercial use. For all other purposes, a new permit form has been developed. The FS-7700-48 will be used for all purposes except non-federal commercial use. Previously, permits for these uses were issued informally in the form of a letter, or locally generated permit form.

- 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 to automation, and a written signature is required. The non-federal commercial use permits themselves can be lengthy and sometimes involve specifications and bonding requirements similar to contracts. The application form is available at any Forest Service office. Efforts to make the form available online have not been successful for reasons of security of federal IT systems. The application forms can be emailed to an applicant upon request. The agency will continue efforts to make the form available online. The agency will also work to make this form available in electronic format in the future, as well as to allow faxed and/or scanned signatures.

- 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.**

A permit for the use of roads, trails and areas restricted by regulation or order is specific as to the roads, trails and areas used, dates of use, and the types of vehicles used and purpose of use. Each application is unique. This information is not available from any other source.

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

The collection does not disproportionately impact small businesses or other small entities. The forms are purposely designed to collect the least amount of information and pose the least amount of burden possible from all respondents. There are many small businesses or other entities that are likely affected, but without the option to obtain a road use permit, they would not be able to operate on National Forest System roads, Trails or Areas because that use is

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prohibited without a written authorization. The agency has reviewed the current form to ensure that all requested data is still relevant, and separated it into one short (one page) form, with two attachments (one page each) that can be used when the circumstances warrant their use. This makes it easier for the applicant to complete the form without providing information that may be irrelevant for their use.

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.

Issuance of these permits is essential to the road use management program. Without the collecting this information Forest Service would not be able to issue permits for moving oversize vehicles on NFS roads, permits to enter areas subject to area fire closures, or permits for motorized use of roads, trails, and areas not designated for such use on a motor vehicle use map. These restrictions are established by law and regulation.

This 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 this program, we would have to release the contractors and cooperators from those obligations.

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;**

Although there is no requirement, due to the nature of the permits being for a specific use during specific dates, there may be situations where a respondent would request a permit 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;**

Although there is no requirement, due to the nature of the permits being for a specific use during specific dates, there may be situations where a respondent would request a permit in less than 30 days from the planned use.

- **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;**

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- **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 other 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 June 28, 2012, Vol. 77, No. 125, page 38569-70.

We received one comment from Jean Public (email address: usacitizen1@live.com). This comment asked for an audit of the program. It mentioned a review completed of BLM revenue, and a finding that Government revenue was being stolen by Government employees. The comment complained about government corruption in general, logging companies not paying their fair share, and revenue being stolen by government employees.

Response:

One of the purposes of this information collection is finding out exactly what traffic logging companies will put on a road in a manner which can be easily verified. An alleged need for audit of collection funds, misuse of funds by the BLM, and complaints about government corruption in general are outside the scope of the Federal Register notice request for comment.

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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.

Contacted the following officials to discuss these forms:

Craig Lasser, Civil Engineer, US Department of the Interior

Steve Suder, Transportation Program Manager, US Fish & Wildlife Service

The responses to the forms were generally positive. The frequency of collection is reasonable, and the requested information is self explanatory. Neither saw any requested data that seemed redundant or unnecessary, and the instructions were clear. Neither had any recommendations for improving the form.

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.

Contacted the following people to interview them about the form:

Cathy Chapel., Lands manager for JWTR Oregon, LLC; Klamath Falls, OR.

Dana Clay, Hancock Forest Management; Dallas, OR

Erwin Hackett, Roseburg Forest Products; Roseburg, OR

John Zimmerman, Local Land Owner; Canyonville, OR

In General, the responses were positive. The time taken to complete the form varied from 5 minutes to 15 minutes. The instructions (data requested) are clear, and the data was readily available. The respondents found no unnecessary data requested on the form, but did ask for a place to enter a Tax ID (Ms. Chapel) and additional details about the material to be hauled. We decided against making these changes because they are not needed in all cases, and there is opportunity in the form to provide it when needed. Mr. Zimmerman said that future plans can be difficult to project at times, but did not have any recommended changes.

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.

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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.

For this submission see separate spreadsheet for breakout of estimated burden and respondent cost under supplementary documents. There is no record keeping burden associated with this collection of information.

The estimated time to complete each form or attachment is 5 minutes. The total time required if all three forms are needed is estimated to be 15 minutes. This is based on trial application by people within the agency. Respondents from Question 8 cited a time of between 5 and 15 minutes, including the base form and the non-federal commercial use attachment.

Not all permit applications received are approved for the requested use. Of those that are approved, permit forms FS-7700-41 and FS-7700-48 are only signed by the respondent, and therefore there is no associated burden. Each respondent whom completes an approved form FS-7700-40 will receive one or the other permit.

Actual numbers of the previous usage of these forms are not available. An estimated total of 1,300 approved permit applications (FS-7700-40) are processed each year. Of these, 700 are estimated to come from Individuals & Households, and 600 are estimated to come from Private Sector applicants. Of the 1,300 total approved applications, it is estimated that 325 are for Non-Federal Commercial Use (FS-7700-40a), and 125 are for Oversize Vehicles (FS-7700-40b). For both of these attachments (FS-770-40a and FS-7700-40b), approximately one quarter are from Individuals and Households, and three quarters from Private Sector applicants. The remaining permit applications (FS-7700-40) are for other uses.

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Estimates of the total are based on a sample of Regions. I received figures from three Regions and extrapolated the total from those figures. Estimates by category and form type (attachment) are based on best professional judgment.

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

Mean wage of \$33.66 Taken from Bureau of Labor Statistics- Occupational Employment Statistics May 2011 National Industry-Specific Occupational Employment and Wage Estimates- NAICS 115200 - Support Activities for Animal Production- Farmers, Ranchers, and Other Agricultural Managers (11-9013).
http://www.bls.gov/oes/current/naics4_115200.htm#13-0000

- 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. There generally are no fees for permits. However, when commercial use of roads is involved, permits require users to perform or pay for road maintenance made necessary by their use under authority of 16 USC 537.

- 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,**

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summarizing, and/or reporting on the collected information

Table 1: Estimate of Employee labor for developing and processing forms

Task	Personnel	Number of Forms	Personnel	Hourly rate ¹	Time for Each (Hours)	Total Cost
Form Development	Engineer ²			\$57.33	80	\$4,586
Form Development	OGC Attorney ²			\$57.33	12	\$688
Forms Stored Online	Support Services Specialist ²			\$28.13	8	\$225
Reviewing Permit Application and Making Recommendation	Engineer ³	1,300	Engineer	\$37.49	0.25	\$12,184
Determination of Commensurate Share of Road Maintenance	Engineer ³	325	Engineer	\$37.49	0.5	\$6,092
Oversize Evaluations and Recommendation	Engineer ³	125	Engineer	\$37.49	1.0	\$4,686
Total						\$28,461

¹Taken from: <http://www.opm.gov/oca/11tables/index.asp> , Hourly rate calculated at the annual rate divided by 2,080 hours per year.

²Rates are for the Washington-Baltimore-Virginia Area.

³Rates are for the Rest of the US Area.

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

The agency has reviewed the current Permit application form FS-7700-40 to ensure that all requested data is still relevant, and separated it into one short (one page) form, with two attachments (one page each) that can be used when the circumstances warrant their use. Breaking the form into separate parts makes it easier for the applicant to complete the form without providing information that may be irrelevant for their particular use. Increasing the detail in the accounting of the separate response to each part of the collection instrument increases the estimated number of responses, but does not increase the number of respondents. This program change reflects a more accurate estimate in the number of responses, an increase of 1,750 responses. We also tested the forms to determine how long they each take to complete (5 minutes compared to previous 15 minutes each). The redesign of the application form resulted in a decrease of 304 burden hours and a reduction in cost to respondents from \$23,500 to \$6,597.

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.

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- 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 valid OMB control number and expiration date will be displayed on all forms.

- 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.