

**1 Supporting Statement A for
Paperwork Reduction Act Submission**

OMB Control Number 1018-0012

**Declaration for Importation or Exportation of Fish or Wildlife/Exemption to
Declaration, and Fee Exemption Program Certification
50 CFR 14**

Terms of Clearance: None.

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

***FWS Form 3-177 (Declaration for Importation or Exportation of Fish or Wildlife) with
Accompanying Documentation, and Exemption to Form 3-1771***

The U.S. Fish and Wildlife Service (Service) has oversight responsibilities under statutory and regulatory authority to regulate the importation, exportation, and transportation of wildlife. The Service's inspection program is framed by the Endangered Species Act (ESA), 16 U.S.C. §§ 1531-1544, and the Lacey Act Amendments of 1981, 16 U.S.C. §§ 3371-3378. "Many endangered-species statutes take into account interests other than preservation of species, and authorize federal authorities to issue permits so that people can legally take, possess, and import various categories of protected wildlife. . . . Each of these [laws] represents an attempt to balance the goal of species protection against competing societal and economic interests; the limitation on the importation of [wildlife] under CITES is no different." United States v. Koczuk, 252 F.3d 91, 99 (2d Cir. 2001) (referencing the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668a; the Migratory Bird Treaty Act, 16 U.S.C. § 704(a); the Fur Seal Act, 16 U.S.C. § 1153; the Marine Mammal Protection Act, 16 U.S.C. § 1374(a); and the ESA, 16 U.S.C. § 1539).

Thus, it is unlawful to import or export fish, wildlife, or plants without filing a declaration or report deemed necessary for enforcing the ESA or upholding the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). See 16 U.S.C. § 1538(e). To achieve the balance between species protection and economic interest, Section 11(e)(3) of the ESA, 16 U.S.C. § 1540(e)(3), and Section 6(b) of the Lacey Act, 16 U.S.C. § 3375(b), grant the Service broad enforcement and inspection authorities on both imports and exports. Consistent with this authority, we have established an inspection program to oversee the importation, exportation, and transportation of wildlife and wildlife products.

The strict liability nature of the ESA also lays out a framework for imports and exports that (1) defines import to mean to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States, 16 U.S.C. § 1532 (10); (2) defines "fish or wildlife" as any member of the animal kingdom, including without limitation any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof, 16 U.S.C. § 1532 (8); (3) requires prior permission from the Secretary to engage in business as an importer or exporter of wildlife and wildlife products, with the exception of certain shellfish and fishery products, 16 U.S.C. § 1538 (d)(1); (4) establishes a system of designated ports to facilitate enforcement, 16 U.S.C. § 1538

(f); and (5) places the burden of proof on any person claiming the benefit of an exemption or permit, 16 U.S.C. § 1539 (g).

In support of our program activities, we promulgated regulations contained in Title 50 of the Code of Federal Regulations in part 14 (50 C.F.R. Part 14) to provide individuals and businesses with guidelines and procedures to follow when importing or exporting wildlife, including parts and products. These regulations explain the requirements for individuals or businesses importing or exporting wildlife for commercial purposes, or for people moving their household goods, personal items, or pets, as well as the exemptions provided for specific activities or types of wildlife.

These requirements include the filing of the Declaration for the Importation or Exportation of Fish or Wildlife (Form 3-177) and the availability of shipping documents, permits, licenses, or other documents required by the laws and regulations of the United States; permits or other documents required by the laws or regulations of any foreign country; and any documents and permits required by the country of export or re-export. These regulations also contain certain exceptions to the filing of Form 3-177 for which the importer bears the burden of proof under the ESA.

The Service is responsible for determining whether or not imports or exports are in compliance with the laws and regulations enforced by the Service and should be allowed to enter into or depart from the United States. This determination must be made at the time of import and prior to export. Import laws administered by U.S. Customs and Border Protection (CBP) and many other federal agencies rely on commodity descriptions as laid out in the Harmonized Tariff Schedule of the United States (HTSUS). The laws administered by the Service are focused on tracking and monitoring of species in trade for conservation concerns. Live wildlife, or their parts and products are not openly delineated in the HTSUS except for a few categories. The HTSUS instead provides broad commodity descriptions without any recognition of the wildlife species contained therein. The number of tariff codes containing commodities manufactured with wildlife is growing as demand for the wildlife trade escalates. Neither the CBP entry declaration for import, nor the shipper export declaration collected by Census for exports, including any electronic alternatives provide any specific information on wildlife species contained in commodities to be imported or exported.

Currently, Service wildlife inspectors stationed at ports across the country receive species specific data directly from the importers or exporters who either file a paper Form 3-177 or file the electronic Form 3-177 in the Service's internet-based filing system called "eDecs", along with accompanying documentation either in paper form or as images uploaded in eDecs. After review and possible inspection of the shipment, the wildlife inspector makes a determination whether to clear the import or export. This clearance process currently is separate and apart from any CBP processes. Under the International Trade Data System (ITDS), importers, through their agents where necessary, will be able to file Service data and documents in the Automated Commercial Environment (ACE) operated by CBP in lieu of filing in eDecs. The data and documents will be pushed to eDecs for processing using risk analysis and other information in the Service's Law Enforcement Management Information System (LEMIS). For exports under ITDS, exporters will continue to file their Form 3-177 data in eDecs. Once they have received a Service determination, the exporter will file the confirmation number associated with their eDecs filing in the Automated Export System (AES), as necessary. When Service inspectors detect shipments that are not clearly identified on a cargo manifest as wildlife, they often request invoices or other information from the importer or their customs broker to determine if the shipment requires clearance by the Service. This includes shipments of animals where the

species and the source is not available in manifest or CBP entry information, or shipments of manufactured products that may or may not contain wildlife.

In 2013, the President issued the Executive Order 13648 on Combatting Wildlife Trafficking. In the past decade, wildlife trafficking—the poaching or other taking of protected or managed species and the illegal trade in wildlife and their related parts and products—has escalated into an international crisis. Wildlife trafficking is both a critical conservation concern and a threat to global security with significant effects on the national interests of the United States and the interests of our partners around the world, and the United States is one of the world’s largest markets for illegally trafficked wildlife. This Executive Order mandates, among other things, that the Government must increase domestic and global law-enforcement to interdict illegal wildlife trade. The Service’s inspection program is the front line to detect and deter wildlife traffickers. This requires our trade partners to be vigilant in understanding and monitoring their supply chains, as well as to work with us to declare all regulated commodities with fish, wildlife, or parts thereof. With dedicated trade partners doing their part, the Service can effectively meet its enforcement obligations to combat wildlife trafficking while ensuring an efficient trade environment.

Laws and Regulations Specific to this Information Collection:

- Endangered Species Act (ESA) General Import/Export Provisions
 - o Section 9 of the ESA (16 U.S.C. § 1538 (d)) requires any person who must obtain permission to engage in business as an importer or exporter of fish, wildlife or plants to keep records disclosing each importation and exportation, to afford access to such records, to allow copying of such records, and to submit declarations and reports as required.
 - o Section 9 of the ESA (16 U.S.C. § 1538 (e)) makes it unlawful to import or export fish, wildlife, or plants without filing a declaration or report deemed necessary for enforcing the Act or upholding the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
 - o Section 9 of the ESA (16 U.S.C. § 1538 (f)) makes it unlawful to import or export fish, wildlife, or plants except at a designated port unless otherwise authorized.
 - o Section 10 of the ESA (16 U.S.C. § 1539 (g)) places the burden of proving an exemption on the person claiming the exemption.
 - o Section 11 of the ESA (16 U.S.C. § 1540 (e)(3)) grants FWS enforcement officers the authority to detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents upon importation and exportation, whether or not such documents openly declare wildlife or plants.
 - o The ESA defines “fish or wildlife” as any member of the animal kingdom, and includes any part, product, egg, or offspring or the dead body or parts. The term “import” means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an import within the meaning of the customs laws of the United States. The term “plant” is defined as

any member of the plant kingdom, including seeds, roots and other parts thereof (see 16 U.S.C. § 1532).

- ESA Specific Provisions
 - o Section 9 of the ESA generally prohibits the import or export of endangered or threatened species except under a permit or exception.
 - o Section 9 of the ESA provides for an exemption for endangered or threatened species held in captivity or a controlled environment before December 28, 1973, or the date of the Federal Register notice listing the species. ESA provides for a rebuttable presumption that the fish or wildlife is not entitled to the exemption.
 - o Section 10 of the ESA grants an exemption to certain antique articles that are composed in whole or in part of an endangered or threatened species when the person importing enters the article through a specific port and provides documentation to establish that the article meets the requirements.
- 50 C.F.R. Part 17 Endangered and Threatened Species (collection authorized under OMB Control Numbers 1018-0093 and 1018-0094, but some information is collected during the import/export declaration process)
 - o § 17.4 Pre-Act Wildlife. Requires the importer or exporter to demonstrate that the pre-Act exemption applies, including through an affidavit containing the following information: affiant's name and address; identification of the affiant; identification of the endangered or threatened wildlife; a statement from the affiant regarding the holding in captivity or a controlled environment and records or other available evidence to demonstrate these facts.
 - o § 17.8 Import Exemption for threatened, CITES Appendix II wildlife. At the time of import, the importer must provide documentation to show that the specimen was not acquired in foreign commerce in the course of a commercial activity.
- Lacey Act General Import/Export Provisions
 - o In addition to the general prohibitions in Section 3 of the Lacey Act on import or export of any fish, wildlife, or plant with respect to U.S. law, treaty or regulation, State or tribal law, or foreign law, Section 3 (16 U.S.C. § 3372(b)) also makes it unlawful for any person to import or export any container or package unless it has been previously plainly marked, labeled, or tagged according to specific regulations.
 - o Section 6 of the Lacey Act (16 U.S.C. § 3375(b)) authorizes the detention and inspection by FWS officers of any vessel, vehicle, aircraft, or other conveyance, or any package, crate, or other container, including its contents, upon the arrival of the conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or if the conveyance or container is being used for exportation purposes, prior to departure from the United States. It also authorizes FWS officers to inspect and demand the production of any documents and permits required by the country of natal origin, birth, or re-export of fish or wildlife.
- 50 C.F.R. Part 14 Importation, Exportation, and Transportation of Wildlife

- o These general import/export regulations require wildlife to be imported and exported through a designated port unless a permit or exemption authorizes otherwise (§ 14.11).
- o § 14.52 requires clearance of all wildlife imported into the United States prior to release by U.S. Customs and Border Protection (CBP) unless an exemption applies. To obtain clearance, the importer or exporter or their agent must make available all shipping documents (including bills of lading, waybills and packing lists or invoices), all permits, licenses, or other documents required by the laws or regulations of the United States, all permits and other documents required by the laws and regulations of any foreign country, the wildlife being imported or exported, and any documents and permits required by the country of export or re-export of the wildlife.
- o § 14.54 requires importers to notify the Service at least 48 hours prior to the estimated time of arrival of any live or perishable shipment of wildlife or wildlife products. It also requires exporters to notify the Service and make any shipment available at least 48 hours prior to the estimated time of export of any wildlife.
- o §§ 14.61 and 14.63 require importers and exporters or their agents to declare their importation or exportation of fish or wildlife using Form 3-177 and 3-177a (Continuation Sheet), in addition to making available: all shipping documents, permits, licenses, or other documents required by the laws or regulations of the United States or any foreign country.
- o §§ 14.4, 14.62, and 14.64 exempts certain species of wildlife from import/export requirements when a specimen is domesticated and not obtained from wild populations. § 14.55 exempts certain species of shellfish and fishery products, marine mammals, antiques, and scientific specimens from clearance when specific conditions and criteria are met.
- o §§ 14.81-14.82 requires persons who import, export or transport in interstate commerce to mark any container or package containing any fish or wildlife. Alternatives to package or container markings are authorized that include the use of invoices, packing lists, bill of lading, or similar documents to accompany the shipment which accurately state the name and address of the shipper and consignee, the total number of packages or containers in the shipment, and for each species in the shipment specifies the common name, whether or not the species is venomous, and the quantity and weight of the species
- o § 14.92 (b) requires certain persons who do not require an import/export license to keep records that fully and correctly describe each importation and exportation of wildlife and the subsequent distribution made by them with respect to the wildlife as well as making these records accessible and available to copy by Service officers.
- o § 14.104 requires that any certificate or document required for the humane transport of birds or mammals to the United States that is written in a foreign language must be accompanied by an accurate English translation.
- o § 14.105 requires that any live mammal or bird must be accompanied by a certificate of veterinary medical inspection

- The Wild Bird Conservation Act general import/export provisions.
 - o Section 111 of the Wild Bird Conservation Act (WBCA) makes it unlawful for any person to import any exotic bird in violation of any prohibition, suspension, or quota on importation; to import an exotic bird of any species is included in an approved list of species if the bird was not captive bred at a qualifying facility (16 U.S.C. 4910 (a)). Section 111 also places the burden of proving an exemption or a permit is valid and in force on the person claiming the benefit.
 - o Section 112 of the WBCA authorizes the issuance of import permits if the importation is not detrimental to the survival of the species and the bird is being imported for scientific research, as a personal pet under certain criteria, for zoological breeding or display programs, or as part of a cooperative breeding program under certain criteria.
- 50 C.F.R. Part 15 Wild Bird Conservation Act (collection authorized under OMB Control Number 1018-0093, but some information is collected during the import/export declaration process)
 - o § 15.11 makes it unlawful for any person subject to the jurisdiction of the United States to import an exotic bird species except under a permit or exception.
- The Lacey Act Injurious Provisions
 - o 18 U.S.C. § 42 prohibits the importation of any species of wild mammal, bird, fish (including molluscs and crustaceans), amphibians, reptiles, or brown tree snakes, or the offspring or eggs of any injurious species unless a permit is issued for zoological, educational, medical, or scientific purposes, or under an exemption for Federal agencies.
- 50 C.F.R. Part 16 Injurious Wildlife (collection authorized under OMB Control Number 1018-0078, but some information is collected during the import/export declaration process)
 - o §§ 16.11-16.15 prohibits the import of certain species except under a permit or exception.
 - o § 16.13 exempts species of Family *Salmonidae* from injurious restrictions when such fish have been eviscerated or filleted or when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in manner whereby the *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have been killed.
- Section 101 of the Marine Mammal Protection Act (16 U.S.C. § 1371) prohibits the import of any marine mammal or marine mammal product without a permit or under an exemption.
- 50 C.F.R. Part 18 Mammals (collection authorized under OMB Control Number 1018-0022, but some information is collected during the import/export declaration process)
 - o § 18.12 prohibits the import of any marine mammal or marine mammal product without a permit or under an exemption.
 - o § 18.14 requires the importer or exporter to demonstrate that the pre-Act exemption applies, including through an affidavit at the time of import containing the following information: affiant's name and address; identification of the affiant; a description of the marine mammals or marine mammal products; a statement by the affiant that the marine mammals were taken before the Act; a statement by the Affiant

acknowledging the penalties for any false statements; and either records or other available evidence of the Pre-Act status or a statement from a responsible foreign government in the country of origin that any marine mammals were taken prior to the Act.

- o §§ 18.21 and 18.25 provide additional exemptions to the prohibitions.
- o § 18.30 lays out import permit requirements for sport-hunted polar bear trophies. § 18.30 (e)(5) lays out procedures that must be completed at the time of import, including prior notification of the import and tagging/marking requirements.
- The Migratory Bird Treaty Act (MBTA) General Import/Export Provisions.
 - o Section 2 (16 U.S.C. § 703(a)) makes it unlawful without a permit or under an exemption to import or export any migratory bird, any part, nest, egg of such bird, or any product, whether or not manufactured, which consists in whole or in part of any such bird, or any part, nest or egg.
 - o Section 4 (16 U.S.C. § 705) of the MBTA makes it unlawful to import any bird, or any part, nest, or egg, captured, killed, taken, shipped, transported contrary to the laws of any Province of Canada.
- 50 C.F.R. Part 20 Migratory Bird Hunting (collection authorized under OMB Control Number 1018-0022, but some information is collected during the import/export declaration process)
 - o §§ 20.53 and 20.66 requires the marking of a package or container with the name and address of the shipper and consignee and an accurate statement of the numbers of each species of birds.
 - o § 20.61 requires an importer of migratory game birds from Mexico to have a Mexican hunting permit with appropriate date stamps corresponding to hunting dates.
 - o § 20.64 prohibits the import of any migratory game birds killed in a foreign country unless the birds are accompanied by export permits, tags, or other documentation required by foreign laws or regulations.
- 50 C.F.R. Part 21, Migratory Bird Permits (collection authorized under OMB Control Number 1018-0022, but some information is collected during the import/export declaration process)
 - o § 21.11 No person may import or export any migratory bird, or the parts, nests, or eggs of such bird except under a permit or exemption.
 - o § 21.21 provides for import and export permit requirements, including exceptions for certain migratory bird species lawfully hunted for personal use in a foreign country. The exception requires evidence of a hunting license and any export documentation required by the country of origin.
- Section 1 of the Bald and Golden Eagle Protection Act (16 U.S.C. § 668 (a)) makes unlawful the import or export of any bald or golden eagle, alive or dead, or any part, nest, egg without a permit.
- 50 C.F.R. Part 22 Eagle Permits (collection authorized under OMB Control Number 1018-0022 and 1018-0036, but some information is collected during the import/export declaration process)
 - o § 22.2 (a)(2) allows for the transport into or out of the United States of lawfully acquired pre-Act (lawfully acquired before October 4, 1962) bald or golden eagles, or their parts, nests, or eggs with a permit.
 - o § 22.2 (a)(4) requires marking of shipments with the name and address of the person the shipment is going to, the name and address of the person the shipment is

- coming from, an accurate list of the contents by species and the number of each species.
- o § 22.21 allows for the transportation into or out of the United States of lawfully possessed non-living bald or golden eagles, their parts, nests, or eggs for the scientific or exhibitions purposes of public museums, public scientific societies, or public zoological parks with a permit.
 - o § 22.22 allows for the transportation into or out of the United States of lawfully possessed non-living bald or golden eagles, their parts, nests, or eggs for Indian religious use with a permit.
- Section 9 of the ESA (16 U.S.C. 1538 (c)(1)) makes it unlawful for any person subject to the jurisdiction of the United States to engage in any trade in specimens contrary to the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
 - Article VIII, paragraph 6 of CITES, TIAS 8249, requires each Party to maintain records of trade in specimens of species included in Appendices I, II, and III which shall cover the names and addresses of exporters and importers; and the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.
 - Article VIII, paragraph 7 of CITES, requires 7 each Party to prepare periodic reports on its implementation of the present CITES Convention and shall transmit to the Secretariat, an annual report containing a summary of the information specified in paragraph 6 of Article VIII; and a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present CITES Convention.
 - Article VIII, paragraph 8 of CITES requires Parties to make the information referred to in paragraph 7 of Article VIII available to the public where this is not inconsistent with the law of the Party concerned.
 - 50 C.F.R. Part 23 (CITES) (collection authorized under OMB Control Number 1018-0093, but some information is collected during the import/export declaration process)
 - o § 23.15 (b)(1) requires that any personal or household effect shipment be accompanied by any document required by a country under its stricter national measures.
 - o § 23.22 (b) requires in-transit shipments to be accompanied by specific documents, except for certain exempt specimens, including valid original CITES documents issued by the exporting or re-exporting country that designate the name of the importer in the country of final destination and transportation and routing documents that show the shipment has been consigned to the same importer and country of final destination as designated on the CITES document.
 - o § 23.27 provides details on the types of original CITES documents that must be presented to the inspecting officials in the exporting or re-exporting country for certification or validation, when a copy of a CITES document must be surrendered to the inspecting official at the time of export or re-export, and when an original CITES document must be surrendered to the inspecting official at the time of import or introduction from the sea.

- o § 23.43 (f)(2) allows for the import, export, or re-export of an exempt CITES wildlife hybrid without a permit when at the time of import or export, the importer, exporter or re-exporter can clearly demonstrate that the specimen has no purebred CITES specimens in its recent lineage. The information must clearly identify the specimen and demonstrate its lineage and can include records that identify the name and address of the breeder and identity of the specimen by birth or hatch date and by sex, band number, microchip number, or other mark; or a certified pedigree issued by an internationally recognized association that contains scientific names of the animals in the specimen's recent lineage and clearly illustrates its genetic lineage. If the pedigree contains codes, a key or guide that explains the meaning of the codes must be provided.
 - o § 23.48(b)(2) allows for a registered scientific institution to loan, donate or exchange preserved, frozen, dried, or embedded museum specimens with another registered institution provided that the shipment has an external label that contains the following information: the acronym "CITES," a description of the contents, the names and addresses of the sending and receiving registered institutions, the signature of the responsible officer of the sending registered institution, the scientific institution codes of both registered scientific institutions involved in the loan, donation or exchange.
 - o §§ 23.70 (e)() and (f)(2) requires specific marking and tagging requirements for crocodylian parts.
 - o § 23.71 (b) requires specific labeling information for sturgeon caviar shipments.
 - o § 23.74 (b) requires a license or other documentation of an authorized hunt to accompany sport-hunted trophy shipments.
 - o § 23.74 (e) requires specific marking or tagging of certain sport-hunted trophies.
 - o § 23.75 (f) requires specific labeling of vicuna cloth, and products manufactured from vicuna cloth or wool.
 - o § 23.92 (b) provides exemptions for certain specimens to CITES requirements, but indicates an importer, exporter, or re-exporter may be required to demonstrate their specimen is exempt from the requirements.
- Section 4 of the Antarctic Conservation Act (16 U.S.C. § 2403 (b)) makes it unlawful for any person to import or export any native bird, native mammal, or native plant unless authorized by permit.
 - § 670.34 requires any native bird, native mammal, or native plant taken within Antarctica to import or export through a designated port in 50 C.F.R. Part 14.
 - Section 405 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act Public Law 109-347) mandated the development of ITDS as part of a single portal system through which industry will transmit data elements required for the importation or exportation of certain commodities. The SAFE Port Act requires federal agencies that require documentation for clearing or licensing the importation or exportation of cargo to participate in ITDS.
 - On February 19, 2014, the President issued Executive Order 13659, Streamlining the Export/Import Process for America's Businesses which mandates participating agencies to have capabilities, agreements, and other requirements in place by December 31, 2016, to utilize ITDS as the primary means of receiving from users the standard set of data and other relevant documentation required for the release of imported cargo and clearance of cargo for export.

Fee Exemption Program

This program activity occurs prior to import or export and is not in the scope of ACE/AES.

The Endangered Species Act (16 U.S.C. 1538(d)(1)) makes it unlawful for any person to engage in business as an importer or exporter of certain fish or wildlife without first having obtained permission from the Secretary. 16 U.S.C. 1540(f) authorizes the U.S. Fish and Wildlife Service (we, Service) to charge and retain reasonable fees for processing applications and for performing reasonable inspections of importation, exportation, and transportation of wildlife. The regulations at 50 CFR 14.91 provide the requirements for obtaining an import/export license prior to engaging in business as an importer or exporter of certain fish or wildlife and the regulations at 50 CFR 14.94(k) provide the exemptions for user fees that would otherwise be assessed to importers or exporters of certain fish or wildlife.

A commercial importer/exporter, who has obtained a Service Import/Export License, has the opportunity to request participation in the Fee Exemption Program. On October 26, 2012, the U.S. Fish and Wildlife Service published in the Federal Register (77 FR 65321), an interim rule that provided an exemption from the designated port base inspection fee for businesses meeting certain criteria. This rulemaking recognized that our current inspection fee schedule (adopted in 2009) may have placed an undue economic burden on businesses that exclusively trade in small volumes of low-value non-Federally protected wildlife parts and products. We have created a user fee exemption program as an interim measure while we work on a new economic analysis and determine any changes needed to the current user fee structure.

This request to participate in the Fee Exemption Program consists of certification by the eDecs filers that they will exclusively import and export wildlife shipments that meet all of the criteria.

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.

FWS Form 3-177 (Declaration for Importation or Exportation of Fish or Wildlife) with Accompanying Documentation, and Exemption to Form 3-177

FWS Forms 3-177/3-177a are the declaration forms that entities (including museums, zoos, universities, businesses, individuals, or government agencies) must file with us, along with accompanying documentation on the shipment, prior to importing into, or exporting from, the United States any fish, wildlife, or wildlife products. Entities predominantly provide this information as an electronic Form 3-177/3-177a and uploaded images using the Service's electronic declaration filing system (eDecs). Under eDecs, a filer creates an account, which collects name and contact information. Afterwards eDecs assigns a Filer Account number and the filer is able to create and submit the Form 3-177 electronically and upload document images. Some importers/exporters still provide the Form 3-177 and accompanying documents via paper. The exception to the electronic documents is the requirement for the submission of original CITES documents and foreign country export permits. An entity must submit Form 3-177, prior to import or export, for each shipment containing wildlife as defined by the ESA.

The information that we collect is unique to each wildlife shipment and enables us to:

- Accurately inspect the contents of the shipment;
- Determine legality of each shipment upon import into U.S. jurisdiction or prior to export from U.S. jurisdiction and ensure compliance with U.S., State, Tribal and Foreign wildlife laws;
- Enforce regulations that pertain to fish, wildlife, or wildlife products in the shipment;
- Maintain records of the importation and exportation of wildlife species;
- Conduct risk analysis to enhance enforcement and facilitate low risk trade;
- Detect trends in illegal trade;
- Inform State partners of import of live wildlife species of concern that may pose invasive species risk, or attempted export of native species that may have been taken in violation of State laws or regulations;
- Make listing decisions under Endangered Species Act (16 U.S.C. §§ 1531-1544), Wild Bird Conservation Act (16 U.S.C. §§ 4901-4916), and Lacey Act (18 U.S.C. § 42 et seq.);
- Monitor international trade domestically and globally for listing decisions under CITES and for required reporting under CITES;
- Assist foreign conservation agencies with analyses of international trade in wildlife species between the United States and foreign countries;
- Assist the public and non-governmental organizations through FOIA with analyses of international trade in wildlife involving the United States.

The following information is collected upon import and prior to export:

Date of Import or Export – The importer or exporter provides this date via the paper Form 3-177 or via a data field on the electronic Form 3-177 in eDecs to demonstrate when a shipment will arrive in U.S. jurisdiction, or when a shipment is due to depart from U.S. jurisdiction. The date is used to plan for review of the information, to make arrangements for physical inspection of goods, and to determine if applicable licenses, permits, certificates or other authorizations are valid. The date is also used for data management of wildlife trade statistics.

Within the ACE system, we will collect this information using “date of arrival” from the CBP entry.

Import/Export License Number – An importer or exporter provides the license number on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs to demonstrate they have received the necessary permission to engage in the business of importing or exporting wildlife. The number allows us to access information on the business and to match the issued license with the declared importer or exporter. In eDecs, this information is automatically linked and available for the inspector’s view. The license is also used for data management of wildlife trade statistics to differentiate commercial and noncommercial entities.

We will collect this information in ACE through the FWS Message Set using “LPCO type=FWL” and “LPCO number”.

CITES Document Number –An importer or exporter provides the CITES document number (s) on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs to demonstrate they have the necessary authorization to trade in CITES specimens. This number allows us to match up the original required paper CITES document with the Form 3-177 (paper or electronic). Collection of this number will also allow us to match up any valid issued or received CITES e-permit in the future. The CITES document number is also used for data management of wildlife trade statistics.

We will collect this information in ACE through the FWS Message Set using “LPCO type=FWD, FWF” and “LPCO number”.

Foreign Law Document Number– An importer or exporter provides the Foreign Law document as an original paper document directly to FWS to demonstrate they have the necessary authorization to trade in species protected by foreign law. When filing in eDecs, the importer or exporter uploads a copy of the permit (s) associated with the Form 3-177 which allows the inspector to match a hard copy original received by the inspection office with the Form 3-177 filing and to begin review of the information pending receipt of the original. The Foreign Law document number is also used for data management of wildlife trade statistics.

In ACE, a broker or an authorized importer will upload the foreign law document in the document image system to allow for advanced review by an inspector pending receipt of the original document at the inspection office. In ACE, electronic images are collected separately from the FWS message set data and will be transmitted from ACE to eDecs through separate means. In order to match up the original document with the filing, we will collect the foreign law document number in ACE. We will collect this information in ACE using “LPCO type=FWF” and “LPCO number”.

Import or Export Indicator – The importer or exporter indicates via a checkbox either on the paper Form 3-177 or the electronic Form 3-177 in eDecs whether a shipment is an import or export. This allows us to determine what documentation may be required to authorize the importation or exportation. The indicator is also used as part of data maintenance to differentiate imports from exports when creating statistical reports.

This information will not be collected in ACE or AES because the use of each specific system already identifies whether data is associated with an import or export.

Port of Clearance – The port of entry or export is required to determine if the shipment is at an authorized Service port. The importer or exporter provides a specific port code on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs. The list of port codes is available in the instructions accompanying the paper Form 3-177 or is available from a pull down menu in the electronic Form 3-177 in eDecs. The port is also used for the review of the information and to make arrangements for physical inspection of goods. The port is used in data management for statistical reports on wildlife trade, and for long-term planning of staffing levels. The information allows us to track the volume of wildlife shipments by port and set priorities for ports where shipments can be imported or exported.

In ACE, we will collect the port of entry through the CBP port of entry code in the entry. We have mapped our port codes to a defined set of CBP port codes.

Purpose of Shipment – The importer or exporter provides a purpose code on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs from a list that we provide that identifies the intended purpose of the import or export. The list of codes is available in the instructions accompanying the paper Form 3-177 or is available from a pull down menu in the electronic Form 3-177 in eDecs. The allowed codes are internationally accepted codes that are required by CITES. For ease of use, we apply these same codes to all shipments, including those with CITES species. We use this code to compare to other information to ensure the validity of information. The purpose code is used in data management for statistical reports on wildlife trade. The information allows us to track the volume of wildlife shipments by purpose.

In ACE, we will collect this information using the “Intended Use” code. We have mapped our purpose codes to a defined set of ACE intended use codes.

Custom Document Number(s) – The CBP document number is a unique reference identifier for a particular shipment or import of goods found on CBP documents (including electronic alternatives) that allows us to connect our declaration information with CBP’s information for a particular shipment, or import of goods. The importer provides this number on paper Form 3-177 or as a data field in the electronic Form 3-177 in eDecs.

We will collect this information in ACE from the CBP entry.

Carrier Information – The importer or exporter provides specific information on the name of the carrier and a code representing the mode of transportation, the carrier’s identifying “way bill” or “bill of lading” number for the shipment, the bonded location where the wildlife shipment is available for inspection, the number of cartons or containers with wildlife in the shipment, and any distinguishing markings on those cartons or containers. This information is provided on the paper Form 3-177 or as data fields in the electronic Form 3-177 in eDecs. This information helps us plan the review and physical inspection of the shipment to ensure that we can inspect the shipment without excessive delays to the importer or exporter. The carrier and mode of transport is also regularly used in statistical reporting of the wildlife trade.

In ACE, we will collect the carrier name, mode code and the waybill from manifest data pushed to us by CBP. The trade will provide the number of cartons (Cartons Containing Wildlife), carton markings (Remarks Text) and inspection location (Inspection or Arrival Location) in the FWS Message Set.

U.S. Entity Information – We collect the name, address, telephone number, and e-mail address, of the U.S. importer or exporter on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs so that we can identify and communicate with the individual or business on any matters regarding the shipment. We also use this information at the time of import or export to match the declared entity with any license, permit, certificate or other authorizations required for import or export of wildlife. In eDecs we provide a shortcut for this information. If the importer or exporter is licensed, the entity information is populated automatically when the Import/Export License number is entered. The entity information is also used for data management of wildlife trade statistics.

In ACE, we will collect the entity role code=FW1 (FWS Importer), U.S. importer name, address, telephone number, and email address.

Foreign Entity Information – We collect the name, foreign address, telephone number, e-mail address, ISO country code, and postal code of the foreign importer or exporter on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs so that we can determine the origin or destination of the wildlife shipment and the validity of any required import or export permits. Foreign government permits are intended for specific shipments and specific importers and exporters thus cannot be transferred. The entity information is also used for data management of wildlife trade statistics.

In ACE, we will collect the entity role code=FW2 for FWS foreign exporter, foreign exporter name, address, telephone number, email address, ISO country code, and postal code.

Broker, Agent, Freight Forwarder Information– We collect the business name, telephone and fax number, e-mail address and contact person for the customs broker, shipping agent, or freight forwarder on the paper Form 3-177 or as a data field on the electronic Form 3-177 in eDecs so that we can identify and communicate with the representative of the individual or business on any matters regarding the wildlife shipment. We also collect the customs broker customs identifier information so that we can match CBP and Service electronic records filed by this entity. The entity information is also used for data management of wildlife trade statistics.

In ACE, we will collect the entity role code=CB, Entity Identification Code and Number associated with the broker's eDec filer account, broker business name, address, telephone number, email address and contact person.

Scientific and Common Name – We collect the genus, species, and subspecies if applicable, for each species of wildlife, including hybrid species, in the shipment as well as the common name, either via a paper Form 3-177, as data fields in the electronic Form 3-177 in eDecs. In eDecs we accept text fields of scientific names which eDecs validates where possible. In eDecs, we created shortcuts to allow filers the ability to maintain and use a list of frequently used names.

We use the scientific name at the time of import or export to determine if the animal is legal under Federal, State, tribal and foreign law and whether the species requires permits, certificates or other authorization to do so. The scientific and common name information is used after import or export for statistical reporting purposes, monitoring of the wildlife trade, data management, and conservation assessments.

In ACE we will collect this information using the Scientific Genus Name, Scientific Species Name and Scientific Subspecies Name.

Hybrid Indicator Code – We currently collect scientific name information for hybrids on the paper Form 3-177 or as a data field in the electronic Form 3-177 in eDecs. The scientific name of a hybrid specimen is a combination of the scientific names of the parents and eDecs can read the electronic text field and validate the information. We use this information after import or export for data management purposes and to monitor the wildlife trade.

In ACE, we will collect the APHIS-created “commodity qualifier code=A100 or A103” in the FWS Message Set in ACE to indicate if a wildlife specimen is a hybrid. This code will trigger the ability for ACE to accept two data fields of Scientific genus name, Scientific species name, and Scientific subspecies name) for each specimen. Absent this code, ACE either would not allow for collection of a hybrid name combination or the programming would have to always allow for more than one species per PGA line creating the problem of multiple species reported on a PGA line and leading to rejection of the entry for data format problems.

Quantity and Unit of Measure – We collect the quantity of each species in a shipment at the time of import or export via paper Form 3-177, or as a data field in the electronic Form 3-177 in eDecs to determine if the quantity is equal to or less than the quantity authorized under any permit, certificate or other authorization. The quantity of each species is used after import or export for statistical reporting purposes, monitoring of the wildlife trade for conservation purposes and for data management.

In ACE, we will collect the quantity and unit of measure for each species.

Country of Species Origin – We collect the natal country of origin for each species in a shipment via paper Form 3-177, as a data field in the electronic Form 3-177 in eDecs. We use this information at the time of import or export to determine if the species is allowed for import or export and to compare with information from permits, certificates and other authorizations.

In ACE, we will collect this information in the FWS Message Set using a combination of “Source Type Code=167 (Species Country of Origin)”, “Country Code=ISO Code” and “Geographic Location.” The latter is collected for high seas shipments under CITES or is associated with Species State of Origin. The species country of origin is used after import or export for statistical reporting purposes, monitoring of the wildlife trade for conservation purposes and for data management.

Species State of Origin – We collect the natal state of origin for each species with a country of origin of the United States via paper documents accompanying Form 3-177, or as electronic images uploaded in eDecs. We use this information at the time of import or export to determine if the species is allowed for import or export, in particular under state law, but also to determine if the species is from a protected population. We also compare the information with permits, certificates and other authorizations. The species state of origin is used after import or export for statistical reporting purposes, monitoring of the wildlife trade for conservation purposes and for data management.

In ACE, we will collect this information in the FWS Message Set using the “Country Code” and “Geographic Location.”

Description code – We collect a code that describes the animal using the harmonized international codes required by CITES. For ease of use, we use the CITES description codes for all wildlife. This code is collected via paper Form 3-177, or as a data field in the electronic Form 3-177 in eDecs. We use this information at the time of import to match a specimen with the required license, permit, certificate or other authorization. The description code also assists us in establishing inspection priorities by declaring that a given shipment contains live specimens or a perishable commodity. The description code is used after import or export for statistical reporting purposes, monitoring of the wildlife trade for conservation purposes and for data management.

In ACE, we will collect this information using the “FWS Description Code.”

Source code – We collect a code that describes whether a specimen is from the wild, captive-bred, or from another source. We use the internationally harmonized codes required by CITES as well as a code created specifically for domesticated specimens. For ease of use, we use these codes for all shipments. We collect this code via paper Form 3-177, or as a data field in the electronic Form 3-177 in eDecs. This information is necessary to establish the legality of a shipment by comparing the commodities present with any accompanying documentation. The source code is used after import or export for statistical reporting purposes, monitoring of the wildlife trade for conservation purposes and for data management.

We will collect this code in ACE as a “commodity qualifier code.”

Total Monetary value – We collect the declared value of each imported or exported wildlife species using paper Form 3-177, or as a data field in the electronic Form 3-177 in eDecs. We use this value to verify compliance with CBP values at the time of import and export and to help us determine appropriate monetary penalties for violations. The value is used after import and

export for statistical reporting purposes, monitoring of the wildlife trade for conservation purposes and for data management.

We will collect this value in ACE using “PGA Line Value.”

Venomous Indicator– Each species of live wildlife must be indicated as venomous or nonvenomous. We collect this information associated with live wildlife using a checkbox on paper Form 3-177 or as a checkbox on the electronic Form 3-177 in eDecs. The information assists our wildlife inspectors in the preparation of a physical inspection of the shipment and alerts them to the need for specialized inspection equipment.

In ACE, we will collect this information using “Live Venomous Wildlife Code” that is associated with FWS Description Code=LIV.

Form 3-177 Information Certification –The importer or exporter provides the name and signature of the person certifying the Form information as well as the date. The paper Form 3-177 includes the statement “I certify under penalty of perjury that the information furnished is true and correct.” The paper form provides for a signature, date and name of the certifier. In the electronic Form 3-177 in eDecs, when the filer clicks to “submit” the completed form, a box appears with the following certification statement: “Note: Knowingly making false statement in a Declaration for Importation or Exportation of Fish or Wildlife may subject the declarant to the penalty provided by 18 U.S.C. 1001 and 16 U.S.C. 3372(d). By clicking OK, I certify under penalty of perjury that the information furnished is true and correct.” The eDecs system associates this “ok” with the filer account and the date of the filing. The signature, name and the date of that certification, are needed to establish legal responsibility for the wildlife shipment in the event of subsequent litigation resulting from the wildlife shipment.

In ACE, we will collect this certification using “Declaration Code=FW3” and the person name at the importer that certifies the information.

Disclaimer of No Wildlife –The Service regulates wildlife species, including parts and products while imports and exports are described for customs and statistical trade analysis purposes in more general terms, such as handbags, watches, sweaters, musical instruments, knives, etc. The ACE and AES systems were built around regulating/tracking commodities described within the HTSUS/Schedule B and collecting duty and general trade statistics. There is not a one-to-one relationship between wildlife species and most tariff codes/Schedule B numbers. The majority broadly describe commodities without any reference to scientific names, and in many cases without reference to whether the commodity contains animal. For example, chapter 96 of the HTSUS is the chapter on musical instruments, which includes pianos. Pianos can have ivory keys, and ivory is a part or product of wildlife that is regulated by the Service. The HTSUS for pianos describe them as either “grand” or “upright.” The HTSUS description, however, does not provide any reference to materials from which the piano is composed. Thus, this broad description means the Service is obligated to stop incoming and outgoing shipments described under these vague tariff codes to determine compliance with conservation laws and regulations.

Recognizing the burden placed on both the trade and the agency in stopping shipments for further review, in ACE and AES we will instead collect a disclaimer code indicating a commodity does not contain wildlife for those tariff codes that do not describe only wildlife. This collection will allow ACE and AES to automatically process the shipment without holding the shipment for manual review and inspection, unless a particular shipment is held for enforcement purposes.

eDec Confirmation Number—If an exporter currently files Form 3-177 with applicable accompanying documents electronically in the Service’s eDecs and receives a unique eDec confirmation number.

In AES, if the exporter is required to submit an export filing, they will provide the “eDec confirmation number” in lieu of filing Form 3-177 with accompanying documents.

In ACE, we will collect the eDecs Confirmation Number in lieu of Form 3-177 and accompanying documents when the importer had already filed and received clearance from the Service prior to filing any data in ACE, for example, for imports from a foreign trade zone where Service filing requirements had to have been met upon import into the zone.

Accompanying Documentation—The Service currently collects accompanying documentation for wildlife shipments under three broad categories: (1) transportation documents, such as waybills; (2) transaction documents such as invoices or packing lists, affidavits; and (3) species specific documents such as licenses, permits, species inventories, photographic records associated with an affidavit, tag/label inventories, etc. Importers or exporters submitting the paper Form 3-177 provide these documents in paper form. The majority of importers and exporters, however, upload these documents as electronic images in eDecs.

In ACE, we will collect these documents in the Document Image System until such time as trade has the capacity to file appropriate documents as electronic data fields.

Voluntary Collection of Additional Data Elements in ACE –ACE accepts any data element from the trade that is provided for in the standard data set. The Service has identified a series of data elements that the trade may voluntarily wish to provide in ACE.

- **Business Confidential Indicator** –The Service processes thousands of requests under FOIA each year for data and documents associated with wildlife imports and exports. From our history, we have noticed that some importers and exporters are extremely concerned about the release of confidential business information through the FOIA process while other importers and exporters have no concern with the release of the information. In ACE, an importer may voluntarily provide us with a code that indicates data associated with a line in the FWS Message Set contains information considered confidential by the importer or exporter.
- **Commodity Characteristic Qualifier and Description**– An importer or exporter currently provides us with color, gender, and age information in accompanying paper documents such as the invoice, packing list or species inventory or as uploaded images in eDecs. In ACE, an importer or exporter may voluntarily wish to provide this information as electronic data fields in lieu of uploaded electronic images.
- **Commodity Routing Type Code and Routing Country Code**–An importer or exporter provides routing information for a particular shipment as either paper waybill documents or as an uploaded image in eDecs. In ACE, an importer or exporter may voluntarily wish to provide this information as electronic data fields in lieu of uploaded electronic images.
- **Globally Unique Product Identification Code Qualifier and Identification Code** – An importer or exporter provides product identification information such as SKUs either as paper invoices and packing lists or as an uploaded image in eDecs. In ACE, an importer

or exporter may voluntarily wish to provide this information as electronic data fields in lieu of uploaded electronic images.

- **Item Identity Number Qualifier and Number**– An importer or exporter provides serial number, tattoo, crocodile tag numbers, caviar labeling lot numbers as either paper invoices, packing lists or species inventories or an uploaded electronic images in eDecs. In ACE, an importer or exporter may voluntarily wish to provide this information as electronic data fields in lieu of uploaded electronic images.

Fee Exemption Certification *No change*

This program activity occurs prior to import or export and is not in the scope of ACE/AES.

Businesses that require an import/export license under 50 C.F.R. § 14.93 may be exempt from the designated port base inspection fee as set forth in 50 C.F.R. § 14.94(k)(4)(i). Participants in this program must continue to pay the overtime fees, the non-designated port base fees, the import/export license and non-designated port application fees, and the business must meet all of the criteria for participation. Participants must use the eDecs system for filing declarations to qualify for this exemption.

This request to participate in the Fee Exemption Program consists of certification by eDecs filers that they will exclusively import and export wildlife shipments that meet all the following criteria:

- A. Each shipment does not contain live wildlife.
- B. Each shipment does not contain wildlife that requires a permit or certificate under 50 CFR parts 15 (Wild Bird Conservation Act), 17 (Endangered Species Act), 18 (Marine Mammal Protection Act), 20 (Migratory Bird Treaty Act), 21 (Migratory Bird Treaty Act), 22 (Bald and Golden Eagle Protection Act), or 23 (CITES) or is listed under 50 C.F.R. part 16 (Injurious).
- C. Each shipment contains 25 or fewer items containing wildlife parts or products.
- D. Each wildlife shipment is valued at \$5,000 or less.

After the filer certifies, we determine the following:

- 1) The business has not been assessed a civil penalty, issued a violation notice, or convicted of any misdemeanor or felony violations involving the import or export of wildlife.
- 2) The business has had two or fewer wildlife shipments that were refused clearance in the 5 years prior to the receipt of their request by the Service.
- 3) The business has not previously participated in the program and been removed for failure to meet the criteria.

Another requirement to participate in the Fee Exemption Program is that all documents associated with each shipment must be uploaded into eDecs via the FWS eScan process.

If approved to participate in the program, the business must file FWS Form 3–177 and all required accompanying documents electronically using eDecs for each shipment and must meet all other requirements of 50 CFR part 14. Using subsequent submissions of electronic FWS Forms 3-177, we will confirm that the business exclusively imports or exports nonliving, non-Federally protected wildlife, and that each wildlife shipment contains 25 or fewer specimens valued at \$5,000 or less.

Businesses must continue to meet the program criteria while participating in the program. If the

business fails to meet the criteria after approval, it will be removed from the program. While such a business would still be able to import or export wildlife, it would need to pay the applicable designated port base inspection fees for its shipments.

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].

Currently the Service reduces the information collection burden associated with Form 3-177/3-177a with accompanying documents by allowing submission of the form electronically and uploading of document images via the Service's eDecs system. Approximately 95 percent of respondents submit responses electronically. This is an increase from approximately 91 percent of respondents who submitted responses electronically that was used as a basis for our 2016 request to OMB to renew this collection of information.

In addition to detailed instructions on filing, eDecs has many shortcuts built into the system. A filer creates an account, which collects name and contact information. This information is automatically loaded into the appropriate data field. A drop down list is also created so the eDec filer can select from previously entered importer/exporter names, foreign consignees and scientific names, thus reducing manual data entry.

The fee exemption certification required in order to participate in our user fee exemption program can only be submitted electronically through eDecs.

Importers and exporters of Service regulated shipments may voluntarily use ACE and AES to submit Service data. This electronic data system is intended to make importation quicker and more efficient. Use of these information technologies and automated processes made available by ACE and AES will enable the Service to reduce the amount of time it takes to release imports and exports. Importers and exporters have the option to interface with ACE and AES using customizable, proprietary software allowing them to enter data quickly into ACE and AES. This has the potential to reduce burden when ACE and AES are fully implemented.

4. Describe efforts to identify duplication.

The Service is the lead agency for enforcement on the importation and exportation of wildlife shipments under the ESA, Lacey Act, and CITES implementation within the United States. The majority of information collected is unique to the Service.

In ACE and AES, filers submit messages sets attached to the CBP entry or Census export filing separately to all other applicable agencies. While the Service may request information in common with other agencies through a Message Set, the importer/exporter software can populate data fields for multiple agency message sets so that repeat entry should not be necessary. In ACE and AES, the Service will not separately collect any data elements that are collected on the CBP entry or Census export declaration through the FWS message set, since these will be collected by CBP or Census and can be pushed to the Service.

5. If the collection of information impacts small businesses or other small entities,

describe the methods used to minimize burden.

We collect the minimum information necessary to allow us to fulfill our responsibilities under the ESA, Lacey Act, CITES, and other conservation laws and regulations. This collection is required regardless of the size of business. FWS Form 3-177/3-177a is designed for easy use and detailed instructions are included. If using eDecs, respondents can complete the form electronically in about two-thirds the time needed to complete the form by hand. eDecs has many shortcuts built into the system. After a filer creates their eDecs account, this information is automatically loaded into the appropriate data field. A drop down list is also created so the eDec filer can select from previously entered importer/exporter names, foreign consignees and scientific names, thus reducing manual data entry.

In ACE, the importer/exporter software can populate data fields for multiple agency message sets so that repeat entry should not be necessary. In the design of the FWS Message Set in ACE, the Service harmonized currently collected Service information to existing data elements in the Standard Data Set and used harmonized sub-codes wherever possible. The Message Set was designed to mandate the collection of the minimum information necessary for the Service to meet its statutory and regulatory responsibilities.

The fee exemption certification only requires respondents to certify that they meet the criteria. We have dropped the annual re-certification to participate in the fee exemption program. The Service found it unnecessary to burden the participants with this annual requirement. As long as the participant's shipments meet all of the criteria, they can continue in the fee exemption program.

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.

Respondents to this data collection are expected to respond when import shipments arrive in the United States or export shipments depart from the United States. Because of the large number of Service-regulated products imported into, or exported from, the United States each year, the Service cannot physically examine every Service-regulated import or export. Therefore, it is essential for the Service to receive information regarding Service-regulated shipments so that the Service may remotely and electronically review the information to strategically focus efforts with respect to shipments admitted without further review, which shipments to detain without physical inspection, and which shipments to allocate further resources to, for example, physically inspect a shipment.

The ESA makes it unlawful to import or export fish, wildlife, or plants without filing a declaration or report deemed necessary for enforcing the Act or upholding CITES. The information we collect on FWS Form 3-177/3-177a, accompanying documents and exemptions to the Form 3-177 is necessary for us to fulfill the statutory requirements of the ESA and the obligations of the United States as a party country to CITES. Without this data, the United States could not provide the required annual CITES Report and would be in violation of the Treaty. The United States would face trade suspensions for not supplying required data. The U.S. enforces trade suspensions with other CITES countries when they fail to provide the required data to the CITES Secretariat.

In addition, without this information, we would not be able to monitor imports or exports of wildlife shipments and, therefore, would be unable to determine if imports or exports of wildlife

shipments are in compliance with Federal, State, Tribal and foreign laws. If the fee exemption program were not established, businesses will not be able to take advantage of the exemption from the designated port base inspection fees.

There are legal consequences to the Federal Government for failing to meet our legal obligations and responsibilities relating to import and export of wildlife. The parties to CITES can impose compliance measures, including trade suspensions, on parties who fail to meet their treaty obligation to accurately and fully report to the CITES Secretariat on import and export of CITES specimens, including parts and products. The U.S. may face criticism from other parties for failing to adequately identify, and therefore enforce, the restrictions on wildlife imports and exports under a number of international agreements.

In addition, any person (NGO, individual, etc.) could bring a lawsuit under the ESA Citizen Suit if a business, individual, or other entity has imported or exported an endangered or threatened species in violation of the import/export prohibitions of the ESA. While the Service or the Department of Interior (DOI) may not be a party to such a lawsuit, a court may be extremely critical if such a violation is the result of the government's failure to have an effective system in place to identify wildlife imports and exports.

- 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.**

FWS Form 3-177/3-177a with Accompanying Documentation, and Exemption to Form 3-177

The only special circumstance that is inconsistent with OMB guidelines is the timeframe for the retention of documents by commercial importers and exporters of wildlife and wildlife products. FWS Form 3-177 contains a requirement that importers and exporters must provide all relevant information including supplemental documentation for each shipment as required in 50 C.F.R. § 14.52(c), including information requesting exemption from Form 3-177. To obtain Service clearance of an imported or exported wildlife shipment, an importer or exporter must present all

relevant shipping documents, and all permits, licenses or other documents required by the laws or regulations of any foreign country or the United States, including FWS Form 3-177. Generally speaking, with the exception of FWS Form 3-177, these are preexisting documents that are either completed by foreign governments or the carrier, or are part of a normal business practice and would not impose any additional burden on the importer or exporter. In addition, it should be noted that our data indicates that at approximately 95 percent of these documents are submitted electronically via the Service's eDecs system with FWS Form 3-177 and we anticipate that this percentage will continue to increase in the future. Under 50 C.F.R. § 14.93(c)(1-3), we require that commercial importers and exporters of wildlife shipments maintain all documents that fully describe each import and export, and all permits, licenses or other documents required by the laws or regulations of any foreign country or the United States for each import and export, for a period of five years. This time period is consistent with the records requirements contained in our general permit procedures in 50 C.F.R. § 13.46. Since commercial importers and exporters may have applied for and been issued permits under the general permit procedures, we believe it would be in the public interest that the records maintenance requirements of this information collection be consistent with those in the general permit procedures.

- 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.

The Service submitted an interim final rule on electronic collection of data requesting public comment to the Federal Register.

The Service regularly participates in seminars and conferences sponsored by various trade organizations, including the National Customs Brokers and Freight Forwarders Association of America, the Trade Support Network, as well as the ACE FWS Working group. These seminars and conferences educate the trade community on the import/export filing requirements. The seminars and conferences address numerous topics such as how to maintain compliance with U.S. wildlife import/export regulations, how to file Form 3-177, either in paper or electronically, what commodities are exempt from filing the Form 3-177 and what information can be used to demonstrate the exemption, filing through eDecs and ACE. The Service worked through the design of the ACE FWS Message Set by creating an implementation guide developed with input from the FWS ACE working group consisting of software developers, importers, exporters and customs brokers.

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

We do not provide any gifts or payments to respondents.

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

All records made available under this information collection are subject to the Privacy Act and we will maintain them in a secure system of records (Interior-FWS 20, 48 FR 54719) accessible

only by authorized Service employees. These records may be subject to disclosure (as allowed) under the Freedom of Information Act (FOIA). Items that are trade secrets or considered business confidential are traditionally redacted from any responses to FOIA requests. If the Service receives a FOIA request regarding information on a specific importer or exporter previously provided to us, the Service will coordinate with the subject of the FOIA to provide an opportunity to determine what (if any) information should be withheld in accordance to FOIA.

If there is an indication of a violation of a statute, regulation, rule, order, or license, whether civil, criminal, or regulatory in nature, we may transfer the information to the appropriate Federal, State, Tribal, local, or foreign agency charged with investigating or prosecuting those violations. In the event of litigation, we may transfer the information to the U.S. Department of Justice.

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.

FWS Form 3-177 with Accompanying Documentation/Exemption to Form 3-177

We estimate that approximately 14,984 respondents will complete 181,066 forms with accompanying documents annually to request clearance of an import or export wildlife shipment. Approximately 8,485 (7,231 upon import and 1,254 upon export) of these responses will be completed by hand, each requiring approximately 15 minutes to complete (5 minutes to review instructions and 10 minutes to complete the form). Approximately 172,581 responses will be submitted electronically using either eDecs or ACE. Using eDecs should reduce the time to complete FWS Form 3-177 and upload already existing electronic images; therefore, we estimate each electronic response will require approximately 10 minutes to complete (5 minutes to review instructions and 5 minutes to complete the form). The use of ACE/AES is not mandatory for the Service and we anticipate many filers will continue to use eDecs until such time as ACE/AES is mandatory for the Service. However, we anticipate importers will require the same time to complete Form 3-177 and upload documents in ACE (5 minutes to review instructions and 5 minutes to complete). For exporters, we anticipate each response of the eDec confirmation number in lieu of Form 3-177 and documents in AES will require no more than 1 minute to complete.

In addition to the collection of Form 3-177 data and documents (or the eDec confirmation number in lieu of the Form data and documents), importers and exporters will provide a code disclaiming the need to submit Form 3-177 and accompanying documents. We estimate that approximately 5,000 respondents will provide approximately 500,000 responses in ACE and AES requiring no more than 1 minute to complete the disclaimer code.

Fee Exemption certification- No Change

We estimate that approximately 33 respondents will complete fee exemption certifications annually to request participation in our user fee exemption program for low-risk importations and exportations. All respondents must respond electronically, each requiring approximately one minute to complete the certification.

The total dollar value of the annual burden hours for the submission of FWS Form 3-177/ Exemption to Form 3-177 and the fee exemption certification is approximately \$1,297,237 (rounded). We used the Bureau of Labor Statistics news release [USDL-16-2255](#), December 8, 2016, Employer Costs for Employee Compensation—September 2016, to calculate the total annual burden.

- Individuals. Table 1 lists the hourly rate for all workers \$34.15, including benefits.
- Private Sector. Table 5 lists the hourly rate for all workers as \$32.27, including benefits.
- Government. Table 3 lists the hourly rate for all workers as \$45.93, including benefits.

| Requirement | Annual No. of Respondents | Total Annual Responses | Completion Time per Response | Total Annual Burden Hours* | Hourly Labor Costs (incl. benefits) | Total Dollar Value of Annual Burden Hours* |
|---|---------------------------|------------------------|------------------------------|----------------------------|-------------------------------------|--|
| 3-177 Hard Copy – Upon Import (and accompanying documents) | | | | | | |
| Individuals | 5,405 | 6,485 | 15 minutes | 1,621 | \$34.15 | \$55,365.69 |
| Private Sector | 193 | 746 | 15 minutes | 187 | 32.27 | 6,018.36 |
| Government | 0 | 0 | 15 minutes | 0 | 45.93 | 0.00 |
| <i>Subtotals:</i> | <i>5,598</i> | <i>7,231</i> | | <i>1,808</i> | | <i>\$61,384.04</i> |
| 3-177 Hard Copy – Upon Export (and accompanying documents) | | | | | | |
| Individuals | 442 | 523 | 15 minutes | 131 | \$34.15 | 4,465.11 |
| Private Sector | 96 | 731 | 15 minutes | 183 | 32.27 | 5,897.34 |
| Government | 0 | 0 | 15 minutes | 0 | 45.93 | 0.00 |
| <i>Subtotals:</i> | <i>538</i> | <i>1,254</i> | | <i>314</i> | | <i>\$10,362.46</i> |
| 3-177 eDecs/ACE - Upon Import (and Accompanying Documents) | | | | | | |
| Individuals | 1,054 | 22,455 | 10 minutes | 3,743 | \$34.15 | 127,806.38 |
| Private Sector | 5,968 | 114,812 | 10 minutes | 19,135 | 32.27 | 617,497.21 |
| Government | 2 | 139 | 10 minutes | 23 | 45.93 | 1,064.05 |
| <i>Subtotals:</i> | <i>7,024</i> | <i>137,406</i> | | <i>22,901</i> | | <i>\$746,367.63</i> |
| 3-177 eDecs - Upon Export (and Accompanying Documents) | | | | | | |
| Individuals | 449 | 2,114 | 10 minutes | 352 | \$34.15 | 12,032.18 |
| Private Sector | 1,373 | 32,952 | 10 minutes | 5,492 | 32.27 | 177,226.84 |
| Government | 2 | 109 | 10 minutes | 18 | 45.93 | 834.40 |
| <i>Subtotals:</i> | <i>1,824</i> | <i>35,175</i> | | <i>5,863</i> | | <i>\$190,093.42</i> |
| eDecs - Confirmation Number (AES) | | | | | | |
| Private Sector | 1,824 | 35,175 | 1 minute | 586 | \$32.27 | \$18,918.29 |
| ACE/AES Disclaimer (and Accompanying Documents) | | | | | | |
| Private Sector | 5,000 | 500,000 | 1 minute | 8,333 | \$32.27 | \$268,916.67 |
| eDecs - Fee Exemption Certification | | | | | | |
| Private Sector | 33 | 2,221 | 1 minute | 37 | \$32.27 | \$1,194.53 |
| Total | 21,841 | 718,462 | | 39,841 | | \$1,297,237.02 |

* Rounded to match ROCIS

13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.

There is no non-hour cost burden to respondents using paper or eDecs. For respondents that use the FWS Message Set in ACE, there will be an initial software cost in developing the link with ACE. These respondents may purchase pre-developed software packages. Some filers may also program the linking process into their existing programs, which is generally less expensive than purchasing or developing new software. Further, purchase of outside broker services is part of usual and customary business practices for declaring imports to CBP and exports to Census.

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

To determine average hourly rates, we used Office of Personnel Management Salary Table [2017-RUS](#) as an average nationwide rate. We used Bureau of Labor Statistics news release [USDL-16-2255](#), December 8, 2016, Employer Costs for Employee Compensation—September 2016, (<http://www.bls.gov/news.release/pdf/ecec.pdf>) to obtain the most current benefits rates in order to calculate the fully burdened rate.

We estimate that the total annual cost to the Federal Government for this information collection is \$2,510,141 which includes:

FWS Form 3-177 with Accompanying Documents/ Exemptions to Form 3-177 (\$2,568,447)

- **Salary/Benefit Costs - \$2,324,007** (\$51.34 X 45,267 hours, rounded). Wildlife inspectors (GS-11) are the primary staff persons who will process these certifications. Wildlife inspectors are located across the United States, many in large cities. The fully burdened average hourly rate for a GS-11/05 is \$51.34 (\$32.70 x 1.57 for benefits). We estimate that it will take an average of 15 minutes to process each response, for a total of 45,267 staff hours. We estimate that total salary/benefit costs will be \$2,324,007 (rounded) (\$51.34 * 45,267 hours).
- **Operational Expenses - \$2,625.** Includes printing and distribution costs.
- **Data Entry - \$181,609.** We contract for data entry of Form 3-177. We estimate an hourly rate including benefits of \$29.55 for contract personnel to transfer data from FWS Form 3-177 into the law enforcement database. We no longer stipulate the number of hours in the contract awarded for this purpose. The total amount of the contact for Form 3-177 data entry is \$181,609.20.

Fee Exemption certification (\$1,900)

- **Salary/Benefit Costs - \$1,900** (rounded) (\$51.34 X 37 hours). Wildlife inspectors (GS-11) are the primary staff persons who will process these certifications. Wildlife inspectors are located across the United States, many in large cities. The fully burdened average hourly rate for a GS-11/05 is \$51.34 (\$32.70 x 1.57 for benefits). We estimate that it will take approximately 1 minute to process each certification form (2,221), for a total of 37 hours.

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

This request, associated with RIN 1018-BB93 (interim final rule – copy uploaded as a supplemental document) updates our collection of Form 3-177 through paper and eDecs to reflect 2016 shipment figures. It also breaks down collection by imports and exports rather than total collections as previously reported in order to provide a better correlation to other electronic systems. Primarily, however, we are requesting approval for electronic collection of data through ACE as an alternative electronic option for importers and exporters to eDecs. The Safe Port Act requires the Service to participate in the International Trade Data System and the Executive Order on Streamlining Exports and Imports establishes U.S. Customs and Border Protection's Automated Commercial Environment (ACE) as the primary means for collection of international trade data by the government. The latter includes the use of Census's Automated Export System (AES) to collect agency licenses and other permissions for exports. Although

importers or exporters are not mandated to use ACE and AES to file Service data at this time, the Service will begin collection of data in ACE as an alternative to eDecs. If importers file in ACE, they will not file in eDecs. We provide estimates of burden and costs for these new electronic systems, although collection in ACE or AES has not yet begun.

The burden information in this request lays out three categories of collection. First, we provide collection burdens and costs for collecting Form 3-177 and the accompanying documents in paper, and electronically in eDecs and ACE, broken down by imports and exports which reflect 2016 figures. Second, we provide the burden and cost of collecting the eDecs confirmation number in AES for exports. Third, we provide the burden and cost of collecting a disclaimer of “no wildlife” as part of automation efforts under ACE and AES.

Clarification regarding the electronic vs. paper submission:

Since 2000, the Service has allowed for the electronic transmission of data elements representing Form 3-177 and the upload of electronic images of documents, including licenses and permits where appropriate, via the Service’s electronic declaration filing system (eDecs). Certain licenses and permits must be submitted in original paper as required under other regulations even if uploaded in eDecs for review prior to importation or exportation.

As the Service moves forward with implementation of the International Trade Data System (ITDS), under Executive Order 13659 Streamlining the Export/Import Process for America’s Businesses (79 FR 10657, February 25, 2014), we wish to ensure that the public is aware of their ability to submit Form 3-177 as a set of electronic data elements and certain documents as electronic data sets or images in lieu of filing a paper form or paper documents and to provide information electronically to demonstrate any exemptions to filing of Form 3-177. This information can all be filed through either eDecs or through a CBP-approved electronic data interchange (EDI) such as the Automated Commercial Environment (ACE), part of ITDS. This electronic ability will facilitate the movement of imports and exports under the Service’s broad inspection authority.

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

We do not currently publish the information collected on FWS Forms 3-177 and 3-177a or the fee exemption certification statement collected in our eDecs system; however, we do use some of the information collected on FWS Forms 3-177 and 3-177a to compile an annual report for the CITES Secretariat (see item 2). We are exploring the legal ability to publish certain species data on the Service’s website to facilitate the public’s use of this information and reduce the need for repeated requests under FOIA.

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. Certification.

There are no exceptions to the certification statement.