

**2020 Supporting Statement
Special Use Administration
0596-0082**

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.**

This information collection is used by the Forest Service to evaluate and ensure that authorized uses of National Forest System (NFS) lands are in the public interest and are compatible with the agency's mission. The information helps the agency identify environmental and social impacts of special uses for purposes of compliance with the National Environmental Policy Act (NEPA) and program administration. The information is collected through application forms and terms and conditions in special use authorizations and operating plans. Ongoing uses must be monitored to ensure compliance with the terms of the corresponding authorizations. In certain situations, information from the authorization holder is the only way the Forest Service can verify compliance with the terms of an authorization.

Several statutes authorize the Forest Service to issue and administer authorizations for use and occupancy of National Forest System (NFS) lands and require the collection of information from the public for those purposes. The laws for authorizing the use and managing these uses of NFS lands include:

1. The Organic Administration Act of 1897 (16 U.S.C. 551);
2. Title V of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1761-1771);
3. The Act of March 4, 1915 (16 U.S.C. 497);
4. The National Forest Ski Area Permit Act (16 U.S.C. 497b);
5. Section 28 of the Mineral Leasing Act (30 U.S.C. 185);
6. The National Forest Roads and Trails Act (FRTA, 16 U.S.C. 532-538);
7. Section 7 of the Granger-Thye Act (16 U.S.C. 480d);
8. The Act of May 26, 2000 (16 U.S.C. 460f-6d);
9. The Federal Lands Recreation Enhancement Act (16 U.S.C. 6801-6814);
10. Act of September 3, 1954 (68 Stat. 1146; 43 U.S.C. 931c, 931d);
11. Archeological Resource Protection Act of October 31st, 1979 (16 U.S.C. 1996)
12. The Rural Electrification Act of 1936, as amended
13. Title VI of the Civil Rights Act of 1964

Forest Service regulations implementing these authorities, found at 36 CFR part 251, subpart B, contain information collection requirements, including submission of applications, execution of forms, and imposition of terms and conditions that entail information collection requirements, such as the requirement to submit annual financial information; to prepare and update an operating plan; to prepare and update a maintenance plan; and to submit compliance reports and information updates. The information collection requirements described in this request for an extension with revision of a currently approved information collection are necessary for the Forest Service to issue and administer special use authorizations to use and occupy NFS lands

under these authorities.

From time to time, the agency will be making minor changes to the forms included in this approval. These revisions will not materially change the information collection, but rather the terms and conditions and legal authorities that govern special use permits.

Under this request, the Forest Service seeks to amend on existing form FS-2700-4i (*Special Use Permit for Outfitting and Guiding*) and the creation of two supporting documents: FS-2700-4i, Appendix H (*Annual Stewardship Act Fee Offset Agreement*) and FS-2700-4i, Appendix I (*Stewardship Act Fee Offset Claim Certification*).

The change request supports implementation of the National Forest System Trails Stewardship Act of 2016 (the Act) (16 U.S.C. 583k-5). The Act directs the Forest Service to establish a pilot program on not less than 20 forest units to offset all or part of the land use fee for an outfitting and guiding permit by the cost of the work performed by the permit holder to construct, improve, or maintain National Forest System trails, trailheads, or developed sites that support public use. The amended information collection and optional appendices will be the official permit that documents the relationship between the Forest Service and the permit holder.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**
 - a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)**

Information requests for the issuance and administration of special use authorizations can be categorized as follows: (1) information required from proponents and applicants to evaluate proposals and applications to use or occupy NFS lands; (2) information required from applicants to complete special use authorizations; (3) annual financial information required from holders to determine land use fees; (4) information required from holders to prepare and update operating plans; (5) information required from holders to prepare and update maintenance plans; and (6) information required from holders to complete compliance reports and information updates. The six categories cover all information collection requirements involved in administration of the special uses program, including application and reporting forms; authorization forms; supplemental special use authorization clauses in Forest Service Handbook 2709.11, chapter 50, and information collection requirements not associated with an approved standard form.

None of the requested information is especially burdensome. When requested, financial information is the same information, and in the same level of detail, that must be supplied to the IRS or maintained under traditional sound business management practices.

Category 1: The Application Process

The application includes both the proposal to use NFS lands and the application for an authorization. When a proposal is accepted it moves

forward as an application. The information in this process identifies the applicant, is used to determine if a requested use can be authorized and provides the required information for the authorization. The typical application information in the application process is:

- (1) identification of the applicant;
- (2) a description of the proposed use;
- (3) the location and duration of the proposed use;
- (4) the technical and financial capability of the applicant;
- (5) alternative locations considered for the proposed use, including non-federal lands;
- (6) anticipated environmental impacts associated with the proposed use and proposed mitigation of those impacts; and
- (7) information needed to recover agency costs to process an application and monitor a special use authorization. The authorized officer evaluates this information and makes a decision to grant or deny the application.

Category 2: Special Use Authorizations

A special use authorization is a revocable permit, term permit, lease, or easement which provides permission, without conveying an interest in land, to occupy and use NFS lands for specified purposes and for a specified term. There are approximately 82,000 special use authorizations in effect, authorizing a variety of activities that range from individual private uses to large-scale commercial facilities and public services. Examples of authorized special uses include outfitting and guiding businesses, public and private road rights-of-way, apiaries, domestic water supply conveyance systems, telephone and electric service rights-of-way, oil and gas pipeline rights-of-way, communications facilities, hydroelectric power-generating facilities, ski areas, resorts, marinas, municipal sewage treatment plants, and public parks and playgrounds. Each year the Forest Service issues approximately 8,200 special use authorizations. Due to the complexity of the special uses program, the use of standard forms to issue special use authorizations is critical to administration of the program.

Under 36 CFR part 251, subpart B, each special use authorization may be modified to include supplemental clauses (as described in Forest Service Handbook 2709.11, chapter 50) based on local conditions, unique situations, environmental needs, liability concerns, and changes in applicable law.

Category 3: Annual Financial Information

For some special use authorizations, the land use fee is determined from financial statements or accounting records maintained by the holder. For example, the land use fee may be calculated based on the number and types of users of the site or the gross revenue generated by the authorized use. Without this information, the government would not have the information necessary to calculate the holder's land use fee. This information may be obtained only from the holder and usually involves records the holder maintains in the normal course of business.

In some situations, the holder's certified public accountant or business manager extracts information from the holder's financial statements to complete the information collection. These data are reviewed and certified by the holder and forwarded to the Forest Service for the purpose of calculating the land use fee. Without this type of financial information, there

would be no way to compute the land use fee.

A requirement for the holder to submit annual or quarterly financial information may be contained in fee clauses incorporated in a special use authorization. Some holders are required to submit quarterly financial information to facilitate multiple billings during the year.

Category 4: Preparing and Updating Operating Plans Special use authorizations may contain a clause requiring the holder to prepare and update an operating plan governing day-to-day operations of the authorized use. This information is useful to the holder and the authorized officer because it specifies procedures and policies for conducting the authorized use. Typically, operating plans contain daily operating guidelines, fire abatement and control procedures, monitoring guidelines, maintenance standards, safety and emergency plans, and inspection standards. Operating plans are usually necessary for complex operations, commercial uses, and uses conducted in environmentally sensitive areas.

Category 5: Preparing and Updating Maintenance Plans

A permit or easement issued under the Federal Land Policy and Management Act or The National Forest Roads and Trails Act may require the holder or grantee to submit and update a road maintenance plan or information necessary for the preparation of a road maintenance plan. A road maintenance plan governs a holder's or grantee's responsibility to perform or pay for maintenance of a National Forest System (NFS) road.

Category 6: Compliance Reports and Information Updates

Special use authorizations may contain a clause requiring the holder to provide the authorized officer with compliance reports, information reports, and other information required by federal law or to manage NFS lands to address protection of national forest resources and public health and safety. Examples of compliance and information updates include notifications involving a change in ownership of authorized improvements or a change in control of the holder; and documentation of compliance with Title VI of the Civil Rights Act of 1964.

- 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 Forest Service collects the information from applicants and those holding a special use authorization and for this information collection change request, the Forest Service will collect information from a subset of applicants for outfitting and guiding special use permits. Based on prior year special use permits for outfitting and guiding, the proportions of different respondent categories are as follows: 95 percent private sector (sole proprietor, partnership, corporations, and charities) and 5 percent governmental entities (most likely state universities).

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

The information collected is used to issue permits and enforce compliance with

agreements and reports, which are generated to ensure fees are paid and to monitor growth of special uses.

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?

Typically, the information is collected via delivery of the form via hard copy mail, FAX or in electronic format via e-mail. Since these forms are legally binding agreements, they require a signature for the attestation or acceptance, with an original signature.

e. How frequently will the information be collected?

Each permit holder using these appendices will complete them once a year.

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

The information is not shared in any routine or established manner.

Information is released in certain situations such as audits by USDA Office of the Inspector General and the Government Accountability Office. The information from this pilot program will be shared with Congress including information on the number of pilot program participants and the number of work hours participants contribute.

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

The Forest Service is only changing one existing form (SF-2700-4i) and creating two supporting documents (FS-2700-4i Appendices H and I). All other components of this collection 0596-0082 remain unchanged.

The Forest Service requests that the above changes be approved through the current expiration date of 0596-0082 (August 31, 2020). At that time, the Forest Service will review the entirety of the information collection and seek renewal of 0596-0082, including the changes to be implemented here.

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.

Authorizations are automated and produced in the Agency's Special Uses Database System (SUDS). Routine and reoccurring information can be delivered to the agency by the applicant or permit holder using the information technology employed in the normal course of business. The agency uses e-mail and FAX to improve delivery of services and plans to use improved technology when it is available.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use

for the purposes described in Item 2 above.

The information collected is unique to the Forest Service. The Forest Service has determined that the information the agency needs to process special use applications and monitor special use authorizations for use of NFS lands is not available from other governmental and private entities.

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

The information collection impacts small business and other small entities. While many small entities; individuals, businesses, organizations and governmental units qualify for fee exemptions or waivers, there is no waiver from compliance with required environmental laws and receiving the appropriate legal instrument for their occupancy of NFS lands.

The methods used to minimize burden include collecting only the minimal information necessary to calculate the land use fee and to verify a basic level of maintenance at the site is required. Financial information, when required, involves records typically maintained in the normal course of business. No unusual information is required to determine the land use fee.

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.

If the collection is not conducted, we will not be able to implement the National Trails Stewardship Act's outfitter and guide pilot fee offset program. This program is required by statute. In order to implement we need these forms to be finalized, allowing us to appropriately offset fees to the government through certain trails stewardship and maintenance work.

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;**

Based on regulation or law, certain information is collected more frequently than quarterly. Due to unusual events or environmental concerns, information collection can occur more frequently than quarterly. Offset work may be done on a frequent basis, requiring use of these forms on a more than quarterly basis.

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

Certain situations can require a response sooner than 30 days. Examples are a permit holder wanting to do offset work during a quick time frame due to environmental or weather concerns, such as late season snowmelt.

- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

Revenue based authorizations require the retention of support documentation for revenue and related information for the period between fee audits, which can be 5 years, or to the standard required by the IRS, which is 6 years. This record keeping is a normal business practice.

- **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;**
n/a
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
n/a
- **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**
n/a
- **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.

The Forest Service solicited comments on information collection 0596-0082 Recreation Special uses and Trail Program Administration in a Federal Register notice published on September 5, 2019, Vol. 84, No. 172, pages 46706-46707. The 60-day comment period for the notice closed on November 4, 2019. One comment was received which was not germane to the topic. No response was provided.

The 60-day notice only accounted for burden associated with the proposed changes for the Trail Stewardship Program. The burden associated with the entire information collection is several orders of magnitude larger than the estimate provided in the 60-day notice. Through the upcoming 30-day public notice process, the public will be notified of the total burden for the information collection.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may

preclude consultation in a specific situation. These circumstances should be explained.

Table 1.

<p>Marilyn Reese National Forest Recreation Association P.O. Box 488 Woodlake, CA 93286 559-564-2365 info@nfra.org</p>	<p>FS-2700-4i Special Use Application & Temporary Permit for Outfitting and Guiding</p> <p>No response.</p>
<p>Aaron Bannon America Outdoors P.O. Box 10847 Knoxville, TN 37939 abannon@americaoutdoors.org</p>	<p>FS-2700-4i Special Use Application & Temporary Permit for Outfitting and Guiding</p> <p>“By and large the changes seem straightforward and clear, and it is good to see a stewardship program take shape. Upon reviewing the Holder Maintenance clause in Appendix I, which refers to the Holder maintenance definition in Appendix H, the language may benefit from clarification around trail clearing. If a commercial outfitter is to clear a trail that has been obstructed extensively by downfall, would that be considered Holder Maintenance, and therefore not subject to the land use fee offset, or would it be available to be offset?”</p>
<p>Matt Wade American Mountain Guides Association 4720 Walnut St., Suite 200 Boulder, CO 80301 Direct: 303-847-4482 matt@amga.com</p>	<p>FS-2700-4i Special Use Application & Temporary Permit for Outfitting and Guiding</p> <p>“I reviewed the forms in Appendix H and Appendix I and found them to be clear and easy to understand. I don't have any recommendations for changes. Thank you for the opportunity to comment.”</p>

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

The Forest Service does not provide any gift or payment to the respondents regarding information collection requirements of 36 CFR Part 251, Subpart B, for Special Uses.

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

The Privacy Act of 1974 (5 U.S.C. 552a) protects proprietary and confidential information.

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.

Questions of a sensitive nature are not asked or included on any form in this information collection.

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

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

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

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

Table 2 - List of Forms and Burden Hours for New Trail Stewardship Program

(a)	(b)	(c)	(d)	(e)	(f)	(g)
Description of the Collection Activity	Form Number	Number of Respondents	Number of responses annually per Respondent	Number of annual responses	Estimate of Burden (Hours per response)	Total Annual Burden (Hours)
Special Use Permit for Outfitting and Guiding	FS-2700-4i	20	1	20	2	40
Annual Stewardship Act Fee Offset Agreement	FS-2700-4i Appendix H	20	1	20	0.25	5
Stewardship Act Fee Offset Claim Certification	FS-2700-4i, Appendix I	20	1*	20	0.25	5
Totals		20⁺		60		50

*It is possible that a respondent could submit more than one fee offset claim certification within a year depending on the frequency of the work conducted by the respondent as described in the agreement. However, one response annually is the minimum. As this is a pilot program, the Forest Service will evaluate the frequency of the use of Appendix I and readjust burden calculations accordingly.

+Each respondent to FS-2700-4i will also complete Appendix H and Appendix I. Within this table it is the same 20 respondents for each form.

Table 3 - Total Burden for Update to 0596-0082

Program	Number of Responses	Total Annual Burden
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Existing burden under 0596-0082	171,141	336,462
Proposed burden under update for Trail Stewardship Program	60	50
Totals	171,201	336,512

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

Table 4 Estimated Annualized Cost to Respondents for New Trail Stewardship Program

(a) Description of the Collection Activity	(b) Estimated Total Annual Burden on Respondents (Hours)	(c) Estimated Average Income per Hour	(d) Fringe	(d) Estimated Cost to Respondents
The Application Process	45	\$24.98	\$11.42	** Expression is faulty **
Compliance Reports and Information Updates	5	\$24.98	\$11.42	** Expression is faulty **
Totals	50	---	---	0

The Mean average hourly rate of \$24.98 for all occupations from the most recent (2018) Bureau of Labor Statistics was used. (https://www.bls.gov/oes/2018/may/oes_nat.htm#00-0000). The salaries of employees supporting these authorizations range depending on the type of outfitting and guiding and vary across geographic areas.

Mean fringe benefit rate of 45.7% taken from Bureau of Labor Statistics - Employer Cost for Employee Compensation June 2019. <https://www.bls.gov/news.release/pdf/ecec.pdf>

Table 5 Estimated Total Annualized Cost to Respondents for Update to 0596-0082 Program

Program	(d) Estimated Cost to Respondents
Existing burden under 0596-0082	0
Proposed burden under update for Trail Stewardship Program	0
Totals	\$13,701,0110

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/start-up or operation and maintenance costs associated with this collection.

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

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

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

Table 5 - Estimated Annual Cost to the Government for New Trail Stewardship Program

ACTION ITEM	PERSONNEL	GS LEVEL	HOURLY RATE*	FRINGE HOURLY	HOURS	SALARY
The Application Process	Resource Specialists	9/5	\$24.78	\$11.32	45	\$1,624.50
Compliance Reports and Information Updates	Resource Specialists	9/5	\$24.78	\$11.32	5	** Expression is faulty **
TOTALS					50	\$1,805

* Taken from https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/GS_h.pdf 2020 General Schedule (Base), rate for a GS 9 / Step 5 is \$24.78.
 Mean fringe benefit rate of 45.7% taken from Bureau of Labor Statistics - Employer Cost for Employee Compensation June 2019. <https://www.bls.gov/news.release/pdf/ecec.pdf>

Table 6 - Estimated Total Annualized Cost to Government for Update to 0596-0082 Program

Program	SALARY
Existing burden under 0596-0082	\$2,267,264
Proposed burden under update for Trail Stewardship Program	\$1,805
TOTALS	\$2,269,069

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

These are new burden estimates based on modification of an existing form and the creation of two supporting documents. We have added \$1,805 in annualized cost to the government for the inclusion of the Trail Stewardship Program to information collection 0596-0082. As a result of modification to an existing form and the creation of two supporting documents, the number of respondents will increase by 20, response by 60, and the burden hours by 50.

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

There are no plans to publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Forest Service requested and was exempted from displaying the OMB expiration date on the previous Paperwork Reduction Act submission. Holders of Forest Service Special Use authorizations often confuse OMB's expiration date with the Forest Service's date for expiration of the authorized use, or with the date a form was last revised. Therefore, we are requesting approval to not display the OMB expiration date on forms covered by OMB information collection #0596-0082.

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

There are two exceptions to the certification statement.

(g)(vi) The agency has requested an exemption for displaying the OMB control number (see response to question #17)

(i) statistical survey methodology is not applicable to this collection

The agency is able to certify compliance with all other provisions under Item 19 of OMB form 83-I, *Certification Requirements for Paperwork Reduction Act*.