

2021 Supporting Statement for OMB 0596-0016
**Application for Permit for Use of Roads,
Trails, or Areas Restricted by Regulation or Order**

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

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

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

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

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

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

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

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

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

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

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

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

The information is collected from individuals, corporations, or organizations who want to use a NFS Road, Trail or Area for purposes that are restricted. The agency issues Road Use Permits for a variety of reasons: to allow people to use a road, trail or area that is otherwise closed; to allow people to perform maintenance on a road when they desire a higher standard than the Forest Service does; to allow people to plow snow on a road; for non-federal commercial use of a road; or to allow over size or over weight vehicles. For non-federal commercial use permits, the land owner generally obtains the

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permit, but will employ a timber/trucking company to haul the material.

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

Forest Service employees use information from these forms as follows:

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

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

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

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

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

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

e. How frequently will the information be collected?

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

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commercial hauling project.

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

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

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

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

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

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

Permit Application Form

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

Permit Form

The current permit form for non-federal commercial use (FS-7700-41) contains language that is specific to non-federal commercial use. The FS-7700-48 will be used for all purposes except non-federal commercial use. Collection requirements remain the same since the form changes in 2013.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other techno-

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logical collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Each application is unique and does not lend itself to automation, and a written signature is required. The non-federal commercial use permits themselves can be lengthy and sometimes involve specifications and bonding requirements similar to contracts. The application form is available at any Forest Service office. The road use permit forms may be completed by hand or electronically and submitted via e-mail. Automated forms are not yet available, largely because of online federal IT security protocols. The agency continues to consider the development of an online form and have made this form available in electronic format, as well as allowed faxed and/or scanned signatures.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

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

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

The collection does not disproportionately impact small businesses or other small entities. The forms are purposely designed to collect the least amount of information and pose the least amount of burden possible from all respondents. There are many small businesses or other entities that are likely affected, but without the option to obtain a road use permit, they would not be able to operate on National Forest System roads, Trails or Areas because that use is prohibited without a written authorization. The agency has reviewed the current form to ensure that all requested data is still relevant, and separated it into one short (one page) form, with two attachments (one page each) that can be used when the circumstances warrant their use. This makes it easier for the applicant to complete the form without providing information that may be irrelevant for their use.

It is estimated that about 400 private sector respondents are small businesses.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

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

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restrictions are established by law and regulation.

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

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**

Although there is no requirement, due to the nature of the permits being for a specific use during specific dates, there may be situations where a respondent would request a permit more often than quarterly.

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

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

- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality**

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to the extent permitted by law.

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

A 60-day Federal Register Notice requesting comments was published on June 1, 2021, Vol. 86, No. 103, pages 29234-29235. FS received one from the public in response to this FRN. The comment did not address the request for comments and an additional topic in the comment was not germane to the topic. There is no response from the agency

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.

The Forest Service contacted several persons outside the agency that may or may not have a need to fill out the form.

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

Title	Employer	Work Address	Work Phone	Email
Professor and Director	School of Natural Resources WVU College of Agriculture, Natural Resources and Design		304-293-6781	Robert.Burns@mail.wvu.edu

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No Title Given	Summit Midstream Partners	1950 Hwy 6 & 50, Fruita, CO	970-620-0374	cbingham@summitmidstream.com
Rights of Way Specialist	Washington State Department of Natural Resources	Washington Ave SE Olympia WA, 98504	425-272-3002	rightofway2@dnr.wa.gov

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

No gifts or payments are provided to respondents.

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

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

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Information of a sensitive nature is not requested.

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

This renewal has 1,100 respondents and 275 burden hours. Forms are unchanged from previous submission. Feedback from users suggests that the amount of time to complete forms was accurately estimated at 15 minutes, if all three forms are needed.

Not all permit applications received are approved for the requested use. Of those that are approved, users will take one to five minutes to review and sign permit forms 7700-48 or 7700-41 that are prepared by the Forest Service. Each respondent whom completes an approved form FS-7700-40 will receive one or the other permit. Burden is estimated as the maximum possible burden, that is if all applications were approved. This is unlikely as some applicants are not accepted because they do not meet the requirements outlined above, however we cannot know how many applications will not be approved each year.

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Actual numbers of the previous usage of these forms are not collected nationally and is not available. An estimated total of 1,100 approved permit applications (FS-7700-40) are processed each year. Of these, 500 are estimated to come from Individuals & Households, and 600 are estimated to come from Private Sector applicants. Of the 1,100 total approved applications, it is estimated that 325 are for Non-Federal Commercial Use (FS-7700-40a), and 125 are for Oversize Vehicles (FS-7700-40b). The remaining permit applications (FS-7700-40) are for other uses.

Estimates of the total are based on previous region sampling. Estimates by category and form type (attachment) are based on best professional judgment.

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

Table 1: Estimate of burden for form users

Task	Personnel	Number of Forms	Time for Each (Hours)	Cost	Fringe	Total Cost
Private Sector	Employee/ Person	600	0.25	\$36.93	\$11.41	\$7,251.00
Individuals	Applicant	500	0.08	\$36.93	\$11.41	\$6,042.50
Total		1100				\$13,293.50

Mean wage of \$36.93 Taken from Bureau of Labor Statistics- Occupational Employment Statistics 2020 National Industry-Specific Occupational Employment and Wage Estimates- NAICS 115200 - Support Activities for Animal Production- Farmers, Ranchers, and Other Agricultural Managers (11-9013).
http://www.bls.gov/oes/current/oes_nat.htm

Mean fringe benefit rate of 30.9% taken from Bureau of Labor Statistics - Employer Cost for Employee Compensation December 2021._
<https://www.bls.gov/news.release/pdf/ecec.pdf>

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record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

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

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

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

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

Table 2: Estimate of Employee labor for developing and processing forms

Task	Personnel	Number of Forms	Personnel	Hourly rate^{1,2}	Fringe³	Time for Each (Hours)	Total Cost
Form Preparation	Engineer ²			\$61.37	\$23.32	20	\$1,694
Forms Stored Online	Support Services Specialist ²			\$30.98	\$11.77	8	\$342
Reviewing Permit Application and Making Recommendation	Engineer ²	1,100	Engineer	\$37.13	\$14.11	0.25	\$14,091
Determination of	Engineer ²	325	Enginee	\$37.1	\$14.1	0.5	\$8,326

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Commensurate Share of Road Maintenance			r	3	1		
Oversize Evaluations and Recommendation	Engineer ²	125	Engineer	\$37.1 3	\$14.1 1	1.0	\$6,405
Total							\$30,858

¹Taken from: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf

²Rates are for the Rest of the US Area.

³Mean fringe benefit rate of 38.0% taken from Bureau of Labor Statistics - Employer Cost for Employee Compensation December 2021. <https://www.bls.gov/news.release/pdf/ecec.pdf>

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

This submission is for renewal of the information collection for the permits. The agency has reviewed the current Permit Application form FS-7700-40 to ensure that all requested data is still relevant, with one short (one page) form and two attachments (one page each) that can be used when the circumstances warrant their use. This form renewal continues the use of forms tested three years ago and estimated to take 5 minutes each.

There are increases in cost estimates for both respondents and the federal government. This is attributed to two factors:

1. Increase in salary estimates over the three year period since the previous information collection renewal.
2. Inclusion of fringe benefits in estimates for this information collection renewal. These costs were not considered in previous information collection renewals.

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

The results of this information collection will not be published.

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

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

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

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