

SUPPORTING STATEMENT A FOR PAPERWORK REDUCTION ACT SUBMISSION

Eagle Permits and Fees, 50 CFR 10, 13, and 22 OMB Control Number 1018-0167

Terms of Clearance: This submission is a revision to and renewal of OMB Control No. 1018-0167 in conjunction with our proposed rule under RIN 1018-BE70, “Permits for Incidental Take of Eagles and Eagle Nests.”

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The Bald and Golden Eagle Protection Act (Eagle Act; 16 U.S.C. 668-668d) prohibits possession and take of bald eagles and golden eagles except pursuant to Federal regulations. The Eagle Act regulations at Title 50, Part 22 of the Code of Federal Regulations (CFR), define the “take” of an eagle to include the following broad range of actions: “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb.” The Eagle Act allows the Secretary of the Interior to authorize certain otherwise prohibited activities through regulations and permits.

Regulations at 50 CFR Part 22 provide for permits to possess and/or take bald eagles and golden eagles or their parts for particular purposes provided for in the Eagle Act. Permit application forms gather information necessary for the Service to evaluate whether the applicant meets Eagle Act criteria for taking or possessing eagles or their parts. Reporting requirements enable the Service to verify the permitted activity remains in compliance with permit terms and conditions, and that the permit program overall is compatible with the Eagle Act’s eagle preservation standard.

In 2016, the Service issued final regulations ([81 FR 91494](#); Dec 16, 2016) which, among other things:

- (1) extended the maximum tenure of permits for the incidental take of eagles from 5 to 30 years;
- (2) updated the boundaries to the Service’s Eagle Management Units (EMUs) to better reflect regional populations and migration patterns of both eagle species;
- (3) imposed requirements for preconstruction monitoring requirements for wind energy projects applying for incidental take permits;
- (4) amended the preservation standard (discussed below); and
- (5) imposed a new requirement to analyze cumulative-authorized and known-unauthorized take at local scales to ensure compliance with the preservation standard. This rulemaking was supported by a Programmatic Environmental Impact Statement (PEIS), and the Service’s final decision was described in a Record of Decision, both of which are available at <https://www.regulations.gov> in Docket No. [FWS-R9-MB-2011-0094](#).

On September 14, 2021, the Service published an Advance Notice of Proposed Rulemaking ([86 FR 51904](#)) FR seeking “public and regulated-community input on potential approaches for further expediting and simplifying the permit process authorizing incidental take of eagles.” The notice specifically sought comment on elements of the 2016 Eagle Rule that hindered permit

application, processing, and implementation, and suggestions for regulatory revisions and guidance resources that would reduce the time and cost associated with securing and operating under long-term eagle incidental take permits. The Service received 1,899 comments in response to the advanced notice of proposed rulemaking, which we subsequently considered in these proposed revisions (see question 8 for a summary of these comments).

We developed a proposed rule (RIN 1018-BE70) to update to the regulations to propose revisions to regulations authorizing eagle incidental take and eagle nest take permits to increase the efficiency and effectiveness of permitting, facilitate and improve compliance, and increase the conservation benefit for eagles. With a higher demand for permitting the potential take of bald eagles, the current permit framework is placing an increasing administrative burden on the public and the Service not commensurate with the conservation status of bald eagles. We are proposing these regulatory changes to provide several benefits to eagles, permittees, and the Service. Currently, the administrative process for applicants and the Service of obtaining and administering permits remains cumbersome and time-intensive, despite our efforts to streamline the permit process with the 2016 rule.

This rulemaking proposes two regulations governing the administration of:

- specific eagle permits (§ 22.200) – Incidental eagle take permits issued for activities that do not qualify for general permits; characterized by application-specific review and permit-specific estimation of eagle fatalities, avoidance and minimization measures, compensatory mitigation requirements, adaptive management measures, and fatality monitoring and reporting requirements; and
- general eagle permits (§ 22.210) – Incidental eagle take permits issued for activities that we have determined require no application-specific review or analysis to comply with the Eagle Act's preservation standard. Such permits are characterized by standard nationwide or regional permit conditions which must be accepted by the applicant in order for a permit to be issued.

Additionally, we propose the eligibility criteria and permit requirements into four regulations based on activity and type of take:

- eagle incidental take for permitting wind energy (§ 22.250),
- eagle incidental take for permitting power lines (§ 22.260),
- eagle disturbance take (§ 22.280), and
- eagle nest take (§ 22.300).

(See "Proposed Revisions" in question 2 for specific details about the impact of these regulations on existing and proposed information collections.)

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. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

The information that we collect on applications and reports is the minimum necessary for us to determine if the applicant meets/continues to meet issuance requirements for the particular activity and that any permit issued is consistent with the Service's population goals for bald and golden eagles. The Service's website for information related to the management of bald and

golden eagles can be found at <https://www.fws.gov/library/collections/bald-and-golden-eagle-management>.

Applications

Respondents submit application forms periodically, as necessary. All Service permit applications (generally in the 3-200 series of forms) are tailored to a specific activity based on the requirements for specific types of permits.

Standardizing general information common to the application forms makes filing of applications easier for the public as well as expedites our review of applications. In accordance with Federal regulations at 5 CFR 13.12, we collect standard identifier information for all permits, such as:

- Applicant's full name and address (street address, city, county, state, and zip code; and mailing address if different from street address); home and work telephone numbers; and, if available, a fax number and e-mail address, and;
 - If the applicant resides or is located outside the United States, an address in the United States, and, if conducting commercial activities, the name and address of his or her agent that is located in the United States; and
 - If the applicant is an individual, the date of birth, occupation, and any business, agency, organizational, or institutional affiliation associated with the wildlife or plants to be covered by the license or permit; or
 - If the applicant is a business, corporation, public agency, or institution, the tax identification number; description of the business type, corporation, agency, or institution; and the name and title of the person responsible for the permit (such as president, principal officer, or director);
- Location where the requested permitted activity is to occur or be conducted;
- Reference to the part(s) and section(s) of subchapter B as listed in paragraph (b) of 50 CFR 13 under which the application is made for a permit or permits, together with any additional justification, including supporting documentation as required by the referenced part(s) and section(s);
- If the requested permitted activity involves the import or re-export of wildlife or plants from or to any foreign country, and the country of origin, or the country of export or re-export restricts the taking, possession, transportation, exportation, or sale of wildlife or plants, documentation as indicated in § 14.52(c) of subchapter B;
- Certification containing the following language:
 - *I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.*
- Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;
- Date;
- Signature of the applicant; and
- Such other information as the Director determines relevant to the processing of the application, including, but not limited to, information on the environmental effects of the activity consistent with 40 CFR 1506.5 and Departmental procedures at 516 DM 6, Appendix 1.3A.

In addition to the general permitting requirements outlined in Federal regulations at 5 CFR 13.12, applications for any permit under 50 CFR 22 must contain:

- Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;
- Specific locality in which taking is proposed, if any;
- Method of proposed take, if any;
- If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;
- Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;
- Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

The following FWS forms are used in conjunction with reporting requirements associated with eagles:

Form 3-200-14, “Eagle Exhibition” (50 CFR 22.50)

This form is used to apply for a permit to possess and use eagles and eagle specimens for educational purposes. A Federal Eagle Exhibition permit is required to possess and transport eagles for the purpose of educating the public about the biology, ecology, and conservation needs of eagles. Only zoological parks, scientific or educational institutions, and museums that meet the definition of “public” under 50 CFR 10.12 are eligible for this permit and must complete section B on page 1 of this application. A minimum of 12 public educational programs per year must be conducted under this permit. If eagles are on display in an exhibit for educational purposes, the facility must be open to the public for a minimum of 400 hours per year.

In addition to the standardized information required by 5 CFR 13.12, the form also requires the following information:

- Type of eagle(s) or eagle specimens and quantity being requested;
- Documentation verifying that you meet the definition of “public” in 50 CFR 10.12;
- If requesting to display live eagles, applicants must include a Migratory Bird and Eagle Acquisition and Transfer Request form (Form 3-202-12) for each bird they wish to acquire;
- Written recommendation from another Federal permittee with eagle handling experience; and
- Photographs and diagrams of your permanent facilities/enclosures for housing migratory birds (both indoor and outdoor)
- Description of the educational message you will deliver and to what type of audience which includes:
 - An outline of their program, including as much detail as possible, and any brochures or other materials prepared for distribution; and
 - Explanation concerning why live eagles are necessary for their program, including how they will be used and displayed during the presentation to meet this need.
- Experience of handlers –

- For static display eagles: The Primary Caretaker must be at least 18 years of age and have a minimum of 300 hours of experience gained over the course of 2 years working with the eagle species they intend to acquire. This experience is to include training the species or similar species they intend to use in educational programs, the care and feeding of eagles, managing their exhibits (captive husbandry including perching, jessing, etc.) and medical management. A portion of the experience may be fulfilled by participation in migratory bird/raptor handling seminars and courses.
- For using glove-trained eagles in educational programs: In addition to the above requirements, we recommend that the Primary Caretaker have a total of at least 500 hours of experience with the eagle species they intend to acquire gained over the course of 2 years, including presenting educational programs using glove-trained eagles. ALSO: They must also attach a letter of reference from an experience eagle exhibition permittee describing your qualifications for this permit.
- For each live eagle they propose to use, they must describe in detail their experience handling and caring for those species.
- Provide the name, address, and telephone number of the facility or facilities where their experience was obtained.
- Describe their experience in presenting glove-trained programs, including the length of time they have been presenting programs and the types of audiences.
- Provide a list of the eagle(s) they will house in each enclosure, including the species, number of eagles, and flight status (flighted, non-flighted) of each eagle;
- If live eagles will be displayed outside of the enclosures described, provide a detailed description of:
 - How the eagles will be displayed, and
 - A description of the enclosures for transport of the eagles, including dimensions (length, width, and height) and the type and number of species that will be transported in each.
- For each live eagle possessed under this permit, the applicant must:
 - Describe the diet administer and indicate food source, and
 - Describe the types of daily enrichment provided for each eagle.
- If requesting to display eagle specimens, applicants must list the species and type(s) of specimen(s) and the source's name, address, and Federal permit number.
- Anyone responsible for the permitted activities or acting as their agent must either have their own Federal migratory bird permit for the activity or be identified by the applicant, in writing, as a sub-permittee under their permit. They may also require a State permit. Sub-permittees must be at least 18 years old. As the primary permittee, applicants are responsible for ensuring that their sub-permittees are properly trained and adhere to the terms of your permit. They must also provide the name of any sub-permittees who will be conducting activities under their permit. For anyone handling or caring for live birds, a brief description what they will be doing and their qualifications must also be included.
- Record retention requirements (records must legibly written or reproducible in English relating to the activities conducted under the permit for at least 5 years after the expiration date of the permit) and the physical address where records will be kept, if different from the mailing address.
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:

- The individual's name;
- Date of conviction, civil penalty assessment or revocation;
- Charge(s), or reason(s) for revocation;
- Location of the incident;
- Court (if applicable, ticket, Federal/State/Tribal court etc.); and
- Legal action taken for each violation (i.e. fine, incarceration, probation...).
- Confirmation of whether the applicant is eligible for fee exempt status (applicable to Federal, State, Tribal, and municipal government agencies).
 - Applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency, or the agencies tax exempt form.

The Service uses the information collected via Form 3-200-14 to determine that the eagles are legally acquired and will be used for bona fide conservation education; and, in the case of live eagles, will be housed and handled under safe and healthy conditions.

Form 3-200-15a, “Eagle Parts for Native American Religious Purposes” (50 CFR 22.60)

This application form is used by enrolled members of federally recognized Tribes to provide them authorization to acquire and possess eagle feathers and parts from the Service's National Eagle Repository (NER) for religious and cultural purposes, including healing, marriage, and naming ceremonies. The permittee also uses the form make additional requests for eagle parts and feathers from the NER.

In addition to the standardized information required by 5 CFR 13.12, the form also requires the following information:

- Migratory Bird Permit number;
- Name and phone number of contact person (if applicant has no phone);
- Full name of the federally recognized Tribe;
- Tribal enrollment number of the individual applicant;
- Inmate specific information in cases where applicants are incarcerated:
 - Incarceration status,
 - Inmate number,
 - Institution, and
 - Name and contact information for the institute's chaplain;
- Description of the specific eagle parts and/or feathers desired by the applicant:
 - Species;
 - Age,
 - Items/parts; and
 - Quantity;
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
 - The individual's name;
 - Date of conviction, civil penalty assessment or revocation;
 - Charge(s), or reason(s) for revocation;
 - Location of the incident;
 - Court (if applicable, ticket, Federal/State/Tribal court etc.); and

- Legal action taken for each violation (i.e. fine, incarceration, probation...).
- Certification of enrollment in a federally recognized Tribe (for first orders only) which collects:
 - Name, address, and telephone number;
 - Name of federally recognized Tribe; and
 - Enrollment number.

The Service uses the information collected via Form 3-200-15a to verify that the applicant is an enrolled member of a federally recognized Tribe, and what parts and/or feathers the applicant is requesting.

Form 3-200-16, “Take of Depredating Eagles & Eagles that Pose a Risk to Human or Eagle Health or Safety” (50 CFR 22.100)

A Federal Eagle Depredation Permit is required take Bald Eagles or Golden Eagles that have become injurious to wildlife, agriculture, or other personal property, or for human or eagle health or safety. A depredation permit is intended to provide short-term relief from depredation damage until long-term measures can be implemented to reduce or eliminate the depredation problem through nonlethal control techniques. Long-term measures might include constructing enclosures or changing their design, alteration of habitat or features to remove attractants, or modification of land-use practices that attract eagles.

In addition to the standardized information required by 5 CFR 13.12, the form also requires the following information:

- A recommendation from the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, for addressing the depredation problem.
- Copies of any receipts, invoices, contracts, necropsy reports, or other available records documenting any deterrent measures (optional);
- Any other supporting documentation (example photographs of damages);
- Status of other required authorizations (State or Tribal);
- Species and estimated number of eagles causing the problem;
- Specific details for the depredation or injuries (e.g., types of crops/livestock destroyed, property damaged, risks to human health or safety, or risks to eagle health and safety);
- How long has this depredation has been occurring (number of days, months, or years);
- When during the year the depredation or human safety hazard occurs;
- Location (including address and latitude/longitude in decimal degrees) and size of the affected location (e.g. 1-acre pond, 50-acre vineyard, 500-acre airfield);
- Length of permit requested and how often depredation activities will be conducted;
- Requested method of take, including type(s) of trap(s); proposed trapping methods, who will be conducting trapping and their previous experience, and a description of the areas if applicant is requesting authorization for trap and relocation;
- Description of deterrents used previously, specifically addressing nonlethal measures, along with photographs or other documentation available;
- Description of the proposed long-term remedy;
- Whether applicant is applying on behalf of an airport to control birds in flight zones;
- Record retention requirements (records must legibly written or reproducible in English relating to the activities conducted under the permit for at least 5 years after the expiration date of the permit) and the physical address where records will be

- kept, if different from the mailing address;
- Anyone responsible for the permitted activities or acting as their agent must either have their own Federal migratory bird permit for the activity or be identified by the applicant, in writing, as a sub-permittee under their permit. They may also require a State permit. Sub-permittees must be at least 18 years old. As the primary permittee, applicants are responsible for ensuring that their sub-permittees are properly trained and adhere to the terms of your permit. They must also provide the name of any sub-permittees who will be conducting activities under their permit. For anyone handling or caring for live birds, a brief description what they will be doing and their qualifications must also be included;
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
 - The individual's name;
 - Date of conviction, civil penalty assessment or revocation;
 - Charge(s), or reason(s) for revocation;
 - Location of the incident;
 - Court (if applicable, ticket, Federal/State/Tribal court etc.); and
 - Legal action taken for each violation (i.e. fine, incarceration, probation...); and
- Confirmation of whether the applicant is eligible for permit fee exempt status (applicable to Federal, State, Tribal, and municipal government agencies).
 - Applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency, or the agencies tax exempt form.
 - The fee exemption applies only to permit fees and does not apply to administrative fees.

The Service uses the information collected via Form 3-200-16 to determine the take is necessary to protect the interest; consider other alternatives; and to determine the method of take is humane and compatible with the preservation of eagles.

Form 3-200-18, "Take of Golden Eagle Nests During Resource Development or Recovery" (50 CFR 22.75)

This application is used by commercial entities engaged in resource development or recovery operations, such as mining or drilling to obtain authorization to remove or destroy golden eagle nests.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Location of the property, to include an appropriately scaled map or plat which delineates the areas of the resource development or recovery operation and identifies the exact location of each golden eagle nest you propose to take in decimal degrees (e.g.36.87998/-88.3435);
- A map and digital photographs that show the location of the nest in relation to buildings, infrastructure, and human activities;
- Status of other required authorizations;
- Type of resource development or recovery operation;
- Number of golden eagle nests to be taken;

- A description of the property on which the taking is proposed, with reference made to its exact geographic location;
- A description of the activity to be performed during the resource development or recovery operation that involves the taking of a golden eagle nest;
- Duration for which the authorization is requested, including the start and ending dates of the resource development or recovery operation;
- Disposition of the nests once removed (or destroyed) and whether applicant is willing to donate any nests for scientific or educational purposes;
- Description of the proposed mitigation measures that will be implemented;
- Record retention requirements (records must legibly written or reproducible in English relating to the activities conducted under the permit for at least 5 years after the expiration date of the permit) and the physical address where records will be kept, if different from the mailing address;
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
 - The individual's name;
 - Date of conviction, civil penalty assessment or revocation;
 - Charge(s), or reason(s) for revocation;
 - Location of the incident;
 - Court (if applicable, ticket, Federal/State/Tribal court etc.); and
 - Legal action taken for each violation (i.e. fine, incarceration, probation...); and
- Confirmation of whether the applicant is eligible for fee exempt status (applicable to Federal, State, Tribal, and municipal government agencies).
 - Applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency, or the agencies tax exempt form.

The Service uses the information collected via Form 3-200-18 to determine that the take is necessary and will be compatible with the preservation of eagles.

Form 3-200-71, “Eagle Take Associated with but not the Purpose of an Activity (Incidental Take)” (Currently 50 CFR 22.80)
(See “Proposed Revisions” below)

Form 3-200-72, “Eagle Nest Take” (Currently 50 CFR 22.85)
(See “Proposed Revisions” below)

Form 3-200-77, “Native American Eagle Take for Religious Purposes”

(50 CFR 22.60)

Federally recognized Native American Tribes use this form to apply for authorization to take eagles from the wild for Tribal religious purposes.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Status of other required authorizations;
- Location of proposed take;
- Statement of consent by the landowner or land manager if not on Tribal land;
- Species, number, and age class of eagles;
- Whether the eagles will be collected alive and held in captivity;
- Intended disposition of parts and feathers; and
- Reason why eagles obtained by other means do not meet the Tribe’s religious needs.

The Service uses the information collected via Form 3-200-77 to determine the take is necessary to meet the Tribe’s religious needs and has the consent of the landowner, the take is compatible with the preservation of eagles, and any eagles kept alive will be held under humane conditions.

Form 3-200-78, “Native American Tribal Eagle Aviary” (50 CFR 22.60)

Federally recognized Native American Tribes use this form to apply for authorization to keep live eagles for Tribal religious purposes.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Descriptions, photographs and/or diagrams of the enclosures where the eagles will be housed, and number of eagles that will be kept in each;
- Status of other required authorizations;
- Names and eagle-handling experience of caretakers;
- Veterinarian who will provide medical care; and
- Description of diet and enrichment the Tribe will provide the eagles.

The Service uses the information collected via Form 3-200-78 to ensure the Tribe has the appropriate facilities and experience to keep live eagles safely and humanely.

Form 3-200-82, “Bald Eagle or Golden Eagle Transport into the United States for Scientific or Exhibition Purposes” (50 CFR 22.50)

This application is used by researchers and museums to obtain authorization to temporarily bring eagle specimens into, or take such specimens out of, the United States.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Documentation that specimen was legally obtained;
- Documentation that the applicant meets the definition of a “public” institution as required under statute;

- Status of other required authorizations (State, local, Tribal);
- Description of the specimen(s);
- Country of origin;
- Name of and contact information for the foreign institution;
- Scientific or exhibition purposes for the transport of specimens;
- Locations where item will be exhibited (if applicable); dates and ports of departure/arrival; and names of persons acting as agents for the applicant.

The Service uses the information collected via Form 3-200-82 to ensure the specimens were legally acquired will be transported through U.S. ports that can legally authorize the transport, the transport will be temporary, as required by statute, and the specimens will be used for purposes authorized by statute.

Form 3-1552 “Native American Tribal Eagle Retention” (50 CFR 22.60)

A Federal Eagle Remains Tribal Use permit authorizes a Federally recognized tribe to acquire, possess, and distribute to Tribal members whole eagle remains found by a Tribal member or employee on the Tribe's Tribal land for Indian religious use. The applicant must be a Federally recognized Tribal entity under the Federally Recognized Tribal List Act of 1994, 25 U.S.C. 479a-1, 108 Stat. 4791 (1994).

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Name of the Tribe;
- Name and contact information for the Tribal leader and primary contact person;
- Whether the Tribe has already discovered an eagle to hold under the permit; and
- If different than what's listed for the primary contact, the address of thy physical location where records will be kept.

The Service uses the information collected via Form 3-1552 to identify which Tribe is applying for the permit and informs the Service as to whether the Tribe is applying before or subsequent to finding the first eagle they wish to retain, allowing the Service to choose the appropriate course of action.

Form 3-1591, “Tribal Eagle Retention – Acquisition Form” (50 CFR 22.60)

This form provides the Service information needed to track the chain of custody of eagle remains and ensure the Tribe takes possession of them as authorized under the permit. The applicant must be a Federally recognized Tribal entity under the Federally Recognized Tribal List Act of 1994, 25 U.S.C. 479a-1, 108 Stat. 4791 (1994).

The first part of the form (completed by a Service Law Enforcement (OLE) Officer) collects:

- Species;
- Sex;
- Age class of eagle;
- Date and location discovered;
- Date information was reported to track eagle mortalities;

- Date the remains were transferred to Tribe;
- Name and contact information for the Tribe; and
- OLE officer name and contact information.

The second part of the form (completed by the Tribe) collects:

- Permit number;
- Date the Tribe took possession of the eagle; and
- Principal Tribal Officer's name, title, and contact information.

The Service uses the information collected via Form 3-1591 to track the chain of custody of eagle remains and ensure the Tribe takes possession of them as authorized under the permit.

Form 3-2480, "Eagle Recovery Tag"

The form is used to track dead eagles as they move through the process of laboratory examination to determine cause of death and are sent to the National Eagle Repository for distribution to Native Americans for use in religious ceremonies.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- USGS band data;
- Unique ID number assigned;
- Mortality date;
- Species, age, and sex of the eagle;
- Date recovered;
- Name of person(s) who found and recovered the eagle; and
- Names and contact information of persons who received the eagle throughout the chain of custody.

The Service uses the information collected via Form 3-2480 to maintain chain of custody for law enforcement and scientific purposes.

Reporting Requirements

Submission of reports is generally on an annual basis, although some are dependent on specific transactions. Permittees must submit an annual report for every year the permit is valid and for up to 3 years after the activity is completed.

Form 3-202-11, "Take of Depredating Eagles & Eagles that Pose a Risk to Human or Eagle Health or Safety – Annual Report" (50 CFR 22.100)

Permittees use this form to report the outcome of their action involving take of depredating eagles or eagles that pose a risk to human or eagle health or safety. In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Species,
- Location,
- Date of take,
- Number of eagles,

- Method of take (killed, trapped, or hazed), and
- Final disposition.

The Service uses the information collected via Form 3-202-11 to ascertain that the planned take was implemented, track how much authorized take occurred in the eagle management unit and local population area, and verify the disposition of any eagles taken under the permit.

Form 3-202-13, “Eagle Exhibition – Annual Report” (50 CFR 22.50)

This form is for reporting activities conducted under an eagle exhibition permits (FWS Forms 3-200-14 and 3-200-82) for both Live and Dead eagles. In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Type of species (bald eagle or golden eagle);
- Whether species is alive or dead;
- Date acquired or date disposed of;
- From whom acquired or to whom transferred;
- Total number of programs each eagle was used in; and
- If statically displayed, such as in a museum setting, the number of days the facility was open to the public.

The Service uses the information collected via Form 3-202-13 to verify that eagles held under the permit are used for the purposes of the permit: conservation education.

Form 3-202-14, “Native American Tribal Eagle Aviary – Annual Report” (50 CFR 22.60)

This form is for reporting activities conducted under a Native American Eagle Aviary Permit (FWS Form 3-200-78). In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Type of species (bald or golden);
- Date acquired or date transferred; and
- From whom acquired or to whom transferred and other disposition.

The Service uses the information collected via Form 3-202-14 to track the live eagles held by federally recognized Tribes for spiritual and cultural practices.

Form 3-202-15, “Eagle Incidental Take (50 CFR 22.80) – Annual Report”

Recipients of incidental take permits use FWS Form 3-202-15 to meet the reporting requirements at 50 CFR 22.80. The permittee is required to submit this form regardless of whether any take occurred (i.e. report no take). Permittees authorized to take eagles in the form of disturbance fill out section A, which gathers data on the monitoring conducted by the permittee to assess impacts to eagles, including:

- Date;
- Time of day;
- Number of eagles;
- Observed behavior;
- A description of the human activity that was taking place at the time the eagles were observed; and
- Whether any young were fledged during the breeding season.

Part B of 3-202-15 instructs permittees authorized to incidentally kill or injure eagles to report the following information:

- Location where the eagle was found;
- Species, age, and sex of eagle;
- Condition (live or dead);
- How the eagle was found (e.g., during surveys, opportunistically, etc.);
- Date of discovery;
- Whether samples were taken;
- Whether the injury/mortality event was seen; and
- Suspected cause.

The Service uses the information reported to ascertain that the anticipated take occurred, track how much authorized take occurred in the eagle management unit and local population area, evaluate the effectiveness of measures to minimize and mitigate impacts to eagles; and, for long-term incidental take permits, to update authorized take and mitigation levels.

Form 3-202-16, “Eagle Nest Take (50 CFR 22.100 and 22.210) – Annual Report”

The permittee is required to submit this form regardless of whether any take occurred (i.e. report no take). Permittees authorized to take eagles in the form of nest take gathers data on the monitoring conducted by the permittee to assess impacts to eagles, including:

- Permit number, calendar year, and report due date;
- Specific eagle take (bald eagle or golden eagle);
- Whether permit authorized take of a specific nest(s) or authorized programmatic nest take;
- Data on authorized nest take, to include date, location, whether nest was active, and disposition of chicks and eggs;
- Disposition of nest, to include whether the nest was rebuilt and whether there was breeding and fledging of young, whether nest was relocated or a substitute nest was provided, and a description of methods and techniques employed (if nest was relocated); and
- A description of the mitigation measures implemented to offset nest take.

The Service uses the information collected via Form 3-202-16 to track whether the authorized take occurred; when it occurred; disposition of the nest; if the nest was occupied, the disposition of the eggs or chicks; and the conservation measures being implemented to mitigate for the take.

Monitoring Requirements – Most permits that authorize take of eagles or eagle nests require monitoring. We do not require monitoring for intentional take such as when Native American Tribes take an eagle as part of a religious ceremony or when falconers trap golden eagles that are depredating on livestock. A fundamental purpose of monitoring under take permits is to track levels of take for population management. For disturbance permits, monitoring also provides information about whether the permitted activity actually disturbed eagles, allowing the Service to better understand when these types of permits may not be needed.

In addition to tracking take at population management scales, the Service uses data from

monitoring lethal take permits to adjust authorized take levels, compensatory mitigation requirements, and conservation measures as spelled out under the terms of the permit. With regard to wind industry permits, these data also enable the Service to improve future fatality estimates through enhanced understanding of exposure and collision.

Required Notifications – Most permits that authorize take or possession of eagles require a timely notification to the Service by email or phone when an eagle possessed under a possession permit or taken under a permit to take eagles dies or is found dead. These fatalities are later recorded in reports submitted to the Service as described above. The timely notifications allow the Service to better track take and possession levels, and to ensure eagle remains are sent to either a forensics lab or the NER.

Incidental take permittees are also required to notify the Service via email or phone if a threatened or endangered species is found in the vicinity of the permitted activity. There is no notification requirement for that beyond reporting each occurrence where take is discovered to have occurred.

The Service tracks whether the take level is exceeded or is likely to be exceeded.

5-Year Permit Reviews

(See “Proposed Revisions” below)

Under the final regulations, for every 5-year period the permit is in effect, long-term eagle incidental take permittees are required to generate a report compiling eagle take information entered and submit this information to the Service. Holders of incidental take permits are required to report eagle fatalities. This information is used to determine if adaptive management measures set forth in the permit should be implemented and whether authorized take levels and compensatory mitigation should be adjusted.

We use adaptive management in every long-term incidental take permit, and also to evolve the program. From the preamble to our final 2016 regulations:

“The entire eagle incidental take program has been built around explicitly accounting for uncertainty and then being clear about how that uncertainty is addressed in decisions. Adaptive management is a process of adaptive learning, whereby: (1) Predictions are made regarding anticipated effects of an activity; (2) data regarding the outcomes of the activity are collected; (3) the predictions are updated to reflect the actual outcomes of the activity; and (4) the updated predictions are used to change the activity, either in the future at the same site or at other places where the same activity is being contemplated.

The Service has described its adaptive management framework for eagle incidental take permits in the Eagle Conservation Plan Guidance (Appendix A), and in the preamble to this final rule. The overall framework is intended to account for, and over time to reduce, uncertainty in the effects of wind facility siting, design, and operations on eagles. More broadly than for just wind energy, the adaptive management process is also intended to address uncertainty in compensatory mitigation and the effects of established take rates on eagles. This uncertainty is reduced over time by using information collect on the actual outcomes of the activity to update the predictive models used initially to estimate those effects; over time, the accuracy and precision of the predictive models is improved through these updates.” ([81 FR 91514](#), Dec. 16, 2016) Also, see 81 FR 91501-91503.

Recordkeeping Requirements – As required by 50 CFR 13.46, permittees must keep records of the permitted activity as it relates to eagles and any data gathered through surveys and monitoring, to include records associated with the required internal incident reporting system for bald eagle and golden eagle remains found and the disposition of the mains. This information retained by permittees is described above under reporting requirements. The recordkeeping burden is shown in Attachment A (uploaded to ROCIS as a supplemental document).

Amendments – Amendments to a permit may be requested by the permittee, or the Service may amend a permit for just cause upon a written finding of necessity. Amendments comprise changes to the permit authorization or conditions. Such changes may include an increase or decrease in the authorized take or possession of eagles, proposed adjustment of permit conditions, or changes to the activity involving eagles. The permit will specify circumstances under which modifications to avoidance, minimization, or compensatory mitigation measures or monitoring protocols will be required, which may include, but are not limited to take levels, location of take, and/or changes in eagle use of the activity area.

At a minimum, the permit must specify actions to be taken if take approaches or reaches the amount authorized and anticipated within a given time frame. The permittee applies for amendments to the permit by submitting a description of the modified activity and the changed conditions affecting eagles. Substantive amendments incur a processing fee. A permittee is not required to pay a processing fee for minor changes, such as the legal individual or business name or mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change.

Transfers – In general, permits issued under 50 CFR part 22 are not transferable. However, permits issued under 50 CFR subpart E may be transferred by the transferee providing written assurances of sufficient funding the conservation measures and commitment to carry out the terms and conditions of the permit.

PROPOSED REVISIONS WITH THIS SUBMISSION:

We categorized the proposed revisions into four sections:

- Administrative Updates,
- Change in Administration Fees,
- Revisions to Currently Approved Information Collection Requirements,
- Existing Requirements Not Currently Approved, and
- New Information Collection Requirements.

Administrative Updates

On January 7, 2022, the Service published a final rule (87 FR 876) making administrative updates to Parts 21 and 22 completed by the Service in January 2022. We captured the associated administrative updates to the CFR references for Part 22 in the updated versions of the forms in this collection being submitted to OMB for approval with this renewal/revision request.

Change in Administration Fees (State, Local, Tribal, or Federal Agencies)

State, local, Tribal, and Federal government agencies, and those acting on their behalf, are exempt from processing fees.

(Proposed Update) This rule proposes a change to the Service's practice of not charging

administration fees for eagle permits under 50 CFR 22 to any State, local, Tribal, or Federal government agency, or to any individual or institution acting on behalf of such agency. With this proposed rule, these government agencies would be required to pay administrative fees to cover the costs associated with Service-led program monitoring.

Revisions to Currently Approved Information Collection Requirements:

Revision to FWS Form 3-200-71

We are proposing to split the currently approved Form 3-200-71, “Eagle Take Associated with but not the Purpose of an Activity (Incidental Take)” (currently 50 CFR 22.80) into three separate forms as follows:

- **Form 3-200-71, “Eagle Incidental Take – General and Specific”** (50 CFR 22.250),
- **Form 3-200-91, “Eagle Disturbance Take – General and Specific”** (50 CFR 22.280) **(New Form Number)**, and
- **Form 3-200-92, “Eagle Incidental Take (Power Lines) – General and Specific”** (50 CFR 22.260) **(New Form Number)**.

We further describe the proposed changes below:

(Revised Title) Form 3-200-71, “Eagle Incidental Take” (50 CFR 22.250)

The revision to Form 3-200-71 would authorize the incidental killing or injury of bald eagles and golden eagles associated with the operation of wind energy projects. General eagle permits are valid for 5 years from the date of registration. Specific eagle permits may be valid for up to 30 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- Requested permit duration;
- Description of the activity that will incidentally take eagles;
- Justification for why the take is necessary;
- Location;
- Description of eagle activity in the area and location and history of eagle use of known nests, foraging areas, and roost sites;
- Factors that may contribute to the disturbance of eagles (if applicable);
- Measures to minimize impacts to eagles; and
- Names of persons that may be carrying out the activity that will incidentally take eagles.

In addition, permit applications associated with wind energy incidental take permits under 50 Part 22 may require the following:

- Post-Construction Monitoring (§ 22.250(c)(2)) – Post-construction monitoring fatality estimation must be based on two or more years of eagle fatality monitoring that meet the Service’s minimum fatality monitoring requirements for specific eagle permits.
- Adaptive Management Plan (§ 22.250(f)(1)) – Upon the discovery of the third and fourth bald eagle or three golden eagle injuries or mortalities are discovered at a project, the permittee must provide the Service with their adaptive management plan and a description and justification of which adaptive management approaches will be

- implemented.
- Annual Report (§ 22.250(f)(6)) – Permit conditions may require the submission of annual reports to the Service.
- Compensatory Mitigation (§ 22.250(f)(8)) – For wind energy specific eagle permits, the permittee must implement the compensatory mitigation requirements on the face of their permit. For wind energy general eagle permits, the permittee must obtain eagle credits to the nearest tenth of an eagle for every cubic-meter of hazardous volume of their project from a Service-approved conservation bank or in-lieu fee program.

The Service will use the information to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

(Proposed Form - NEW) Form 3-200-91, “Eagle Disturbance Take” – General and Specific (50 CFR 22.280)

Applicants may apply for an Eagle Disturbance Permit if their activity may result in incidental disturbance of a golden eagle nest, incidental disturbance of a bald eagle nest, or disturbance to a foraging area. Disturbance General Eagle Permits issued under this section are valid for a maximum of 1 year. The permit duration for Disturbance Specific Eagle Permits is set forth on the face of the permit and may not exceed 5 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- The species of eagle sought to be covered by the permit, as well as the method of take (such as kill/injure, disturbance, alternate nest, or in-use nest take).
- A description of the activity to be authorized, including the location, seasonality, and duration of the activity. The description must include a justification of why there is no practicable alternative to take that would protect the interest to be served.
- Duration of the permit requested.
- Payment of required application and administration fee(s) (see § 13.11(d)(4) of this subchapter); and,
- If required, implementation of eagle credits by a Service-approved in-lieu fee program.

The Service will use the information to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

(Proposed Form - NEW) Form 3-200-92, “Eagle Incidental Take (Power Lines) – General (50 CFR 22.260)

The purpose of this new permit application is to authorize the incidental killing or injury of bald eagles and golden eagles associated with power line activities. Power line general eagle permits are valid for 5 years. Specific eagle permits may be valid for up to 30 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- The species of eagle sought to be covered by the permit, as well as the method of

take.

- A description of the activity to be authorized, including the location, seasonality, and duration of the activity. The description must include a justification of why there is no practicable alternative to take that would protect the interest to be served.
- Duration of the permit requested.
- Payment of required application and administration fee(s) (see § 13.11(d)(4) of this subchapter); and,
- If required, implementation of eagle credits by a Service-approved in-lieu fee program.

In addition, permit applications associated with incidental take permits for power lines under Title 50 Part 22 may require the following:

- *Avian Protection Plan* – An Avian Protection Plan (AVP) is developed through a cooperative partnership between power companies and the Service. The Service doesn't review or approve the AVP, but we reference them if there's enforcement action or whether we use discretion and not enforce the take issue. The AVP delineates a program designed to reduce the operational and avian risks that result from avian interactions with power line infrastructure with the overall goal of reducing avian mortality. The four plans defined below (collision response, eagle shooting response, proactive retrofit, and reactive retrofit) may be components of an avian protection plan:
 - *Collision Response Plan* – A strategy that describes the steps the permittee will take to identify, assess, and respond to eagle collisions with power line infrastructure. The assessment should include the species, habitat, daily and seasonal migration patterns, eagle concentration areas, and other local factors that might be contributing to eagle collisions. The response options should consider eagle collisions in the engineering design (e.g., burying the line, rerouting the line, or modifying the line to reduce the number of wires), habitat modification, and marking the line
 - *Eagle Shooting Response Plan* – An eagle shooting response plan is a strategy to respond to eagle shooting events where one or more eagles are discovered near power line infrastructure and cause of death is shooting. The plan must outline the steps to identify eagle shooting, options for response, and implementation of response.
 - *Proactive Retrofit Plan* – A proactive retrofit plan is a strategy to convert existing infrastructure to electrocution-safe. The proactive retrofit plan must include how poles are identified as not electrocution-safe, prioritized for retrofit, designed, and implemented. The proactive retrofit plan must identify annual targets for retrofitting.
 - *Reactive Retrofit Plan* – A reactive retrofit plan is a strategy to respond to incidents where eagles are electrocuted or killed. The reactive retrofit plan must include how electrocutions are detected and identified. Reactive-retrofit poles must be based on risk to eagles and not on other factors, such as convenience. The pole that caused the electrocution must be retrofit, unless the pole already provides sufficient separation by design or is fully insulated by insulators in good condition. A total of 11 poles or a ½-mile segment must be retrofit, whichever is less. The most typical pole selection is the pole that caused the electrocution and five poles in each direction. However, if it is better for eagles to retrofit other poles in the circuit that are not electrocution-safe, those poles may be retrofit,

prioritizing the least safe poles most adjacent to the electrocution. Poles outside of the circuit that caused the electrocution may be retrofit only if all poles in the circuit are already electrocution-safe.

- *Annual Report (§ 22.260(d)(8))* – Permit conditions may require the submission of annual reports to the Service.

The Service will use the information to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

Revision to FWS Form 3-200-72

We propose to revise Form 3-200-72, “Eagle Nest Take” (50 CFR 22.85) as described below:

(Retain Current Title) Form 3-200-72, “Eagle Nest Take” (50 CFR 22.300)

Form 3-200-72 is used to apply for authorized take of a bald eagle nest or golden eagle nests, including relocation, removal, and otherwise temporarily or permanently preventing eagles from using the nest structure under definitions 50 CFR 22.300(b). General permits are available for bald eagle nest take for emergency, health and safety, or a human-engineered structure, or, if located in Alaska, bald eagle nest take for other purposes. General permits authorize bald eagle nest removal as well as subsequent nesting attempts on the same nesting substrate and within ½ mile of that substrate for the duration of the permit. Take of an additional eagle nest(s) more than a ½ mile away requires additional permit(s). General permits issued under this section are valid until the start of the next breeding season, not to exceed 1 year. The tenure of specific permits is set forth on the face of the permit and may not exceed 5 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- Apply as Federal, State, or Tribal agency responsible for implementing actions for species protection.
- Include documentation demonstrating the following:
 - Describe relevant management efforts to protect the species of concern.
 - Identify how eagles are a limiting factor to survival of the species using the best available scientific information and data. Include a description of the mechanism of that threat.
 - Explain how take of eagle nest(s) is likely to have a positive outcome on recovery for the species.
 - Arborist reports (in the case of hazard tree removal).

In addition, permit applications associated with eagle nest take may require the following:

- *Monitoring (50 CFR 22.300(e)(2))* – If a foster nest is used, the permittee may be required to monitor the nest to ensure nestlings or eggs are accepted by the foster eagles. NOTE: We updated the burden for monitoring requirements associated with eagle nest take in the separate monitoring information collection requirement.

(Proposed Changes) – We propose a change in the general permit questions to be as follows:

- The species of eagle sought to be covered by the permit, as well as the method of take (such as kill/injure, disturbance, alternate nest, or in-use nest take).
- A description of the activity to be authorized, including the location, seasonality, and duration of the activity. The description must include a justification of why there is no practicable alternative to take that would protect the interest to be served.
- Duration of the permit requested.
- Payment of required application and administration fee(s) (see § 13.11(d)(4) of this subchapter); and
- If required, implementation of eagle credits by a Service-approved in-lieu fee program.

The Service will use the information to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

Permit Reviews (REVISED)

We propose to remove the regulatory requirement for long-term specific permits to mandate an administrative check-in with the Service at least every five years during the permit tenure (termed 5-year Permit Review, above). The Service introduced these mandatory 5-year permit reviews as part of the 2016 Eagle Rule to ensure that the Service had an opportunity to ask for and review all existing data related to a long-term activity's impacts on eagles. It was intended that the Service would use this information to, if necessary, re-calculate fatality estimates and authorization levels, and amend permit conditions such as mitigation requirements. However, over the last several years the Service has heard complaints from wind companies, and comments were submitted in response to the ANPR, that these scheduled reviews introduced uncertainty into project planning and funding and has discouraged participating or influenced the permit tenure that is requested by the applicant.

Removal of these administrative check-ins would increase certainty for applicants that are concerned about amendments to permit conditions every five years, and hopefully increase participating in eagle take permitting. The Service instead intends to hold the amount of take authorized under a long-term specific permit constant unless the permittee requests an amendment, or unless the Service determines that an amendment is necessary and required under 50 CFR 22.200(e). Such a change replaces scheduled check-ins and potential amendments resulting from those check-ins with unscheduled check-ins and amendments that the permittee or Service could initiate at any time as situations arise that may warrant them.

Report Take of Eagles (3rd and 4th Eagles) (50 CFR 22.250(d)(2) and (d)(3)) (NEW)

Permittees must notify the Service in writing within 2 weeks of discovering the take of a third or fourth eagle of either species. The notification must include the reporting data required in their permit conditions, their adaptive management plan, and a description and justification of which adaptive management approaches they will be implementing. Upon notification of the take of the fourth eagle of either species, the project may continue to operate through the term of the existing general permit but is denied from obtaining future general permits for incidental take.

Existing Requirements Not Previously Approved

Additionally, with this submission, the Service seeks OMB approval of the following existing

information collection requirements not previously cleared:

Labeling Requirements (50 CFR 22(a)(4)) **(NEW)**

Regulations at 50 CFR 22.4 require all shipments containing bald or golden eagles, alive or dead, their parts, nests, or eggs be labeled. The shipments must be labeled 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 contents by species, and the name of each species.

Amendments to Permit Applications (50 CFR 22) **(NEW)**

We identified additional OMB-approved permit applications which did not have an associated amendment IC. We included the new amendment ICs in Attachment A and labeled each as (NEW).

Requests for Reconsideration Associated with Eagle Permits (Suspension and Revocation) (50 CFR 13.29(b)) **(NEW)**

Persons notified of the Service's intention to suspend or revoke their permit may request reconsideration by complying with the following:

- Within 45 calendar days of the date of notification, submit their request for reconsideration to the issuing officer in writing, signed by the person requesting reconsideration or by the legal representative of that person.
- The request for reconsideration must state the decision for which reconsideration is being requested and shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.
- The request for reconsideration shall contain a certification in substantially the same form as that provided by 50 CFR 13.12(a)(5). If a request for reconsideration does not contain such certification, but is otherwise timely and appropriate, it shall be held and the person submitting the request shall be given written notice of the need to submit the certification within 15 calendar days. Failure to submit certification shall result in the request being rejected as insufficient in form and content.

Compensatory Mitigation (50 CFR 22) **(NEW)**

Compensatory mitigation will be required for any permit authorizing take that would exceed the applicable eagle management unit take limits. Compensatory mitigation for this purpose must ensure the preservation of the affected eagle species by reducing another ongoing form of mortality by an amount equal to or greater than the unavoidable mortality or increasing the eagle population by an equal or greater amount.

Compensatory mitigation may also be required when there is concern regarding the persistence of the local-area population of the project area, based on publicly available information. Except as restricted otherwise, compensatory mitigation may include in-lieu fee programs, conservation banks, other third-party mitigation projects, or arrangements and permittee-responsible mitigation. Except as restricted otherwise, compensatory mitigation may include in-lieu fee programs, conservation banks, other third-party mitigation projects, or arrangements and permittee-responsible mitigation.

Compensatory mitigation must be approved by the Service and may include conservation banks, in-lieu fee programs, other third-party mitigation projects, or arrangements and permittee-responsible mitigation. To obtain approval, the permittee

must submit a mitigation plan to the Service sufficient to demonstrate that the standards set forth in § 22.220(b) can be met, including a description of the number of credits to be provided, the Service's Eagle Management Units (EMU's) that will be implemented, and an explanation of the rationale for this determination. The Service must approve the mitigation plan before credits can be issued.

Bald Eagle and Golden Eagle Compensatory Mitigation Programs:

The [Eagle Protection and Offset Program](#) (EPOP) is authorized by the U.S. Fish and Wildlife Service (USFWS) to sell compensatory mitigation credits for bald and golden eagle take. The EPOP is currently one of two third party mitigation banking options available specific to eagles and authorized by USFWS to offset incidental take. (Note: USFWS authorization of the EPOP does not constitute blanket endorsement of its parent company.)

The [Bald Eagle And Golden Eagle Electrocutation Prevention In-lieu Fee Program](#) (Eagle ILF Program) is authorized by the U.S. Fish and Wildlife Service to sell compensatory mitigation credits for bald and golden eagle take. The Eagle ILF Program is currently one of two third-party mitigation banking options available specific to eagles and authorized by USFWS to offset incidental take. (Note: USFWS authorization of the Eagle ILF Program does not constitute blanket endorsement of Eagle Electrocutation Solutions, LLC, or its parent company.)

Single Application for Multiple Activities (50 CFR 13.11(d)(1)) **(NEW)**

When regulations require more than one type of permit, applicants may submit a single application, provided the single application contains all of the information required by the separate applications for each permitted activity. In instances where more than permitted activity is consolidated into one permit, the issuing office will charge the highest single fee for the activity permitted. If the activity spans multiple regions, applications should be submitted to the region of the applicant's U.S. mailing address. Administration fees are not waived for single applications covering multiple activities.

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.

Forms are available to the public electronically through the Service's [ePermits](#) system. Applicants also have the option to download a fillable PDF version of the form, should they choose to do so.

Applicants may complete the fillable application online (on ePermits), but must email the application to the regional office, or print and submit the application form with an electronic or original signature and submit the applicable processing fee by mail. Applicants may send supporting information by email or fax, if we already have their application and they are able to reference an application number. The Service is actively working with the developer for the ePermits system to fully automate the Section E portion of the forms to eventually discontinue the requirement to email the applications submitted via the ePermits system.

The Service anticipates the discontinuance of the paper-based versions of most of the high volume application and report forms by fiscal year 2024. The elimination of paper-based forms is expected to reduce the government cost of administering and processing permit applications.

NOTE – Upon request, the Service will continue to accommodate requests for paper-based versions of any application or report form for respondents experiencing technological difficulties.

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 that we collect is unique to the applicant and is not available from any other source. We keep application and reporting information in office files to eliminate repeat or duplicate requests in the case of renewals, extensions, or repeat applications. We have developed an electronic permit issuance and tracking system that greatly improves retrieval of file information, therefore further reducing duplicate information requests for use in renewals, amendments, and repeat applications. Since only the Service may issue this type of permit and only for species under our jurisdiction, there is no duplication of other agencies efforts. Ongoing development of our permit issuance and tracking system will ensure that no duplication arises among Service offices.

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

The information requested on the application form is limited to the minimum necessary to establish eligibility and the information requested on the reporting forms is the minimum necessary to enable us to assess the effect of the permit program on eagles.

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 we do not collect the information, or if we collect the information less frequently, we could not issue applicants permits since the collected information either is required to allow the Service to make issuance decisions or is needed to make necessary biological and legal findings under applicable statutes and treaties. If we were not able to collect the information necessary to issue a permit, the public would not be able to lawfully conduct activities that involve collection, possession, or take of eagles. Furthermore, the timely submission of data on the effects to eagles of permitted activities enables the Service to track permitted activities to ensure the permit program remains compatible with the preservation of eagles.

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.**

Tribal permittees may utilize their permit to retain an unspecified number of eagles found by Tribal members on the Tribe's lands. Each time a Tribal member finds an eagle and wishes to retain it, the Tribe is required to notify the Service to allow the agency to ascertain the cause of death, information the Service uses to analyze factors affecting bald and golden eagle populations. If a Tribe finds dead eagles frequently, they may need to report more than quarterly. Federal regulations governing fish and wildlife permits at 50 CFR §13.46 require permittees to maintain records for 5 years from the date of expiration of the permit.

Applicants for some eagle permits are required to submit data regarding their project that some in industry consider proprietary trade secrets. Applicants are asked to clearly identify any data they believe are of a proprietary nature. These data are stored on computers or in paper files. Computer access is controlled through 2-factor authentication and by industry standard firewalls and virus protection. Paper files are stored in access-controlled offices in locked file drawers. Individuals are required to submit personally identifiable information (PII). This information is stored on computers and in paper files. The PII is entered into a System of Records that must meet Federal standards for protection of such information. As with the industry data, access is controlled through 2-factor authentication as well as industry standard firewall and virus protection. Paper forms are stored in access-controlled offices in locked file drawers. Disclosures outside the Department of the Interior may be made if the disclosure is compatible with the purposes for which the record was collected. (Ref. 68 FR 52611, September 4, 2003) or is otherwise required by law.

Other than these requirements, there are no special circumstances that would cause us to conduct this information collection in a manner inconsistent with OMB guidelines.

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 in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

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 recordkeeping,

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 three 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.

On September 30, 2022, we published in the *Federal Register* ([87 FR 59598](#)) a proposed rule (RIN 1018-BE70) which announced our intention request OMB approval of the revisions to this collection explained in question 2 and the simultaneous renewal of OMB Control No. 1018-0167. In that notice, we solicit comments for 60 days on the information collections in this submission, ending on November 29, 2022. We uploaded a copy of the published proposed rule to ROCIS as a supplement document.

As targeted outreach regarding the Service's administration of the permitting processes, on September 14, 2021, we published an Advance Notice of Proposed Rulemaking (ANPR; [86 FR 51904](#)). A copy of the published proposed rule is attached as a supplement document. The ANPR specifically sought comment on elements of the 2016 Eagle Rule that hindered permit application, processing, and implementation, and suggestions for regulatory revisions and guidance resources that would reduce the time and cost associated with securing and operating under long-term eagle incidental take permits. We received 1,899 comments in response to the ANPR (Regulations.gov docket [FWS-HQ-MB-2020-0023](#)), which we subsequently considered in these proposed revisions.

Summary of the comments received in response to the ANPR: Many comments expressed concerns with the efficiency of the current permitting process, including the lack of capacity within the Service to review and issue permits and the extensive processing times. Similarly, most comments supported the idea of a general permit program to streamline the process and provide more timely and cost-effective coverage for industry. Concerns were also raised about monitoring and reporting requirements. Several comments expressed opposition to third-party or pooled monitoring approaches, while others suggested the Service require permittees to implement a regular, standardized monitoring protocol with annual reporting requirements.

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

We do not provide any payment or gifts to respondents.

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

We do not provide any assurance of confidentiality. Information is collected and protected in accordance with the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. 552). We will maintain the information in a secure System of Records (Permits System—Interior, FWS–21, September 4, 2003, 68 FR 52610; modification published June 4, 2008, [73 FR 31877](#)).

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. 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.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

We estimate that we will receive **8,469 responses** totaling **38,991 annual burden hours** with a total dollar value of the annual burden hours estimated to be **\$2,788,995** (rounded). To reflect annualized cost burden more accurately for this information collection, Attachment A (uploaded to ROCIS as a supplemental document) reflects two (2) different rates as explained below:

(1) Nationwide ICs Using General BLS Statistical Data

We used table 1 from the of Bureau of Labor Statistics (BLS) News Release [USDL-22-1176](#), June 16, 2022, Employer Costs for Employee Compensation—March 2022, to calculate the total annual burden.

- Individuals – the hourly rate for all workers is \$40.90, including benefits.
- Private Sector – the hourly rate for all workers is \$38.61, including benefits.
- Government – the hourly rate for all workers is \$55.47, including benefits.

(2) Specialized ICs Related to Power Generation, Construction, and Transportation Industries

The cost burden associated with certain activities are often conducted using contracted services does not fit well within the hourly rates published by the BLS. The cost of these services can vary widely depending on size of the consulting company, the seniority of the persons providing the services, and the reputation of the consulting firm. In general, individuals contracting for these services select a smaller company with less experienced personnel as opposed to a large

company that selects a renowned consulting firm employing senior scientists with decades of experience.

Accordingly, we used the below listed mean hourly wages published in the BLS May 2021 National Industry-Specific Occupational Employment and Wage Estimates (11-1021, General and Operations Managers) to calculate an average hourly rate of \$59.75:

- [211100 – Oil and Gas Extraction](#) – \$76.54;
- [236100 – Residential Building Construction](#) – \$50.29;
- [237130 – Power and Communication Line and Related Structures Construction](#) – \$63.74; and
- [488200 – Support Activities for Rail Transportation](#) – \$48.42.

To account for benefits, we used 45% as an average overhead rate for contracted work, resulting in a fully burdened hourly rate for consultants of **\$86.64** (rounded).

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * **The cost estimate 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. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- * **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- * **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

We estimate the nonhour cost burden to respondents for this information collection to be **\$7,249,980** (see Attachment A). These costs are primarily for application processing fees, which range from \$0 to \$25,000. Some permits require the payment of administration fees, in addition to the permit fee (with the exception of government entities who are only required to pay the administration fee, but not the permit fee (see proposed revision in question 2 on pg. 16)).

When there is more than one applicable fee, such as for a combined permit authorizing two distinct activities that each have their own permit types and fees, we have used the higher permit application processing fee to calculate costs.

For the purposes of estimating the fees for eagle incidental take (power lines) permit applications (see “General Permits” tab in Attachment A), we assume 9 permittees per year operating in an average of 4 states resulting in an average nonhour administrative fee of \$20,000, in addition to the permit fee (if applicable).

For the purposes of estimating the fees for eagle incidental take (wind energy) permit applications (see “General Permits” tab in Attachment A), we estimate an average of 36 turbines associated with most permit applications for an average permit fee of \$95,000 (36 turbines x \$2,625 + \$500 permit application fee). For government respondents, we only included an average fee of \$94,500 (without the \$500 permit application fee).

For the purposes of estimating the fee for a single permit application covering multiple activities (see “Misc Eagle Permit Apps” tab in Attachment A), we used an estimate of \$1,500 in the nonhour cost burden estimate (take permit fees average \$100 to \$2,500) as the actual permit cost will be the higher of the combined permits in the application.

Type of Permit	CFR Citation	Permit Application Fee	Administration Fee*	Amendment Fee
Specific Permit Eagle Nest Take—Single nest, Noncommercial (<i>Individuals</i>)	§ 22.200	500		150
Specific Permit Eagle Nest Take—Single nest, Commercial (<i>Private Sector</i>)	§ 22.200	2,500		500
Specific Permit Eagle Incidental Take	§ 22.200	28,000	8,000	500
Transfer of a Subpart E Eagle Permit	§ Subpart E	1,000		
Specific Permit Eagle Disturbance Take—Noncommercial (<i>Individuals</i>)	§ 22.200	500		150
Specific Permit Eagle Disturbance Take—Commercial (<i>Private Sector</i>)	§ 22.200	2,500		500
Specific Permit Eagle Nest Take—Multiple nests	§ 22.200, 22.210	5,000		500
General Permit—1 year	§ 22.210	100		
General Permit—5 years	§ 22.210	500		
General Permit—Power lines incidental take	§ 22.210	500	5,000 (per state)	
General Permit—Wind incidental kill	§ 22.210	500	2,625 (per turbine)	500
Eagle Take—Exempted under ESA	§ 22.400		No fee	
Eagle Scientific Collecting	§ 22.50	100		
Eagle Exhibition	§ 22.50	75		
Eagle—Native American Religion	§ 22.60	No fee		
Eagle Take Permits—Depredation and Protection of Health and Safety	§ 22.100	100		
Golden Eagle Nest Take	§ 22.325	100		50

Eagle Transport—Scientific or Exhibition	\$ 22.50	75		
Eagle Transport—Native American Religious Purposes	\$ 22.60	No fee		

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate Service staff will spend an average of 20 minutes to 400 hours, depending on activity, reviewing submissions with a total Federal Government cost to administer this information collection estimated to be **\$1,219,966** (rounded) (see Attachment A).

Service biologists (GS-11/13) and permit examiners (GS-9/12), with support of GS-7 staff, will:

- Review and determine the adequacy of the information an applicant provides.
- Conduct any internal research necessary to verify information in the application or evaluate the biological impact of the proposed activity.
- Assess the biological impact of the proposed activity on the bald or golden eagle.
- Evaluate whether the proposed activity meets the issuance criteria.
- Prepare or review NEPA documentation.
- Prepare either a permit or a denial letter for the applicant.
- When necessary to evaluate the impact of the proposed activity, visit the location to examine site-specific conditions.
- Monitor reports.

The Service processes permits in our eight Regional Offices, which are located in major cities across the United States. Therefore, we used Office of Personnel Management Salary Table [2022-DCB](#) as the average hourly rates for staff. We multiplied the hourly rates by 1.59 in accordance with the News Release [USDL-22-1176](#), June 16, 2022, Employer Costs for Employee Compensation—March 2022, to calculate the fully burdened rates for each staff member. The table below shows Federal staff and grade levels performing various tasks associated with this information collection.

Position/Grade	2022 Hourly Rate	Hourly Rate, Incl. Benefits	Time Spent on Information Collection	Weighted Average (\$/Hour)
Clerical – Receptionist, Office Asst. (GS-07/05)	\$ 27.50	\$ 43.73	5%	\$ 2.19
Legal documents examiner – Permit Examiner (GS-09/05)	33.64	53.49	30%	16.05
Legal documents examiner - Permit Examiner (GS-11/05)	40.70	64.71	30%	19.41
Biologist (GS-11/05)	40.70	64.71	10%	6.47
Supervisor – Permit Chief (GS-12/05)	48.78	77.56	20%	15.51
Management - Branch/Division Chief, Solicitor (GS-13/05)	58.01	92.24	5%	4.61
Weighted Average (\$/hr):				\$ 64.24

NOTE: With this rulemaking, the Service proposes general permits as an alternative approach to authorization for projects that meet eligibility criteria. The purpose of general permits is to

reduce public burden by simplifying and expediting the permitting process for activities that have relatively consistent and low effects on eagles and well-established avoidance, minimization, compensatory mitigation, monitoring, and other permit conditions where take may be authorized without site-specific analysis. General-permit applicants would self-identify eligibility and register with the Service, including providing required application information and fees, as well as certify that they meet eligibility criteria and will implement permit conditions and reporting requirements. This new streamlined process does not require any processing time by Service personnel; thus, the burden spreadsheet (Attachment A) reflects zero processing time in the calculation of Federal government costs for general permitting ICs.

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

With this submission, we are reporting a discretionary burden change of **4,151 annual responses, 13,097 annual burden hours, and \$5,880,780 annual nonhour cost burden**. We reported all changes are discretionary due to the significant changes to the existing ICs and new ICs related to the new processes associated with issuing general and specific permits.

*With this submission, the Service also corrected an error with the previous submission regarding four amendment ICs incorrectly referencing a \$36,000 administrative processing fee (nonhour burden cost) instead of the correct \$100/500 fees.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

We do not publish the results of these information collections.

17. If seeking approval not to 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. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.