

**1SUPPORTING STATEMENT A FOR
PAPERWORK REDUCTION ACT SUBMISSION**

**IMPLEMENTING REGULATIONS FOR PETITIONS, 50 CFR 424.14
OMB Control Number 1018-0165**

Terms of Clearance: None.

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

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), specifies the process by which the U.S. Fish and Wildlife Service (we, Service) and the National Marine Fisheries Service (NMFS) make decisions on listing, delisting, changing the status of a listed species or revising critical habitat. Any interested person may submit a written petition to the Service or NMFS requesting to add a species to the Lists of Endangered or Threatened Wildlife and Plants (Lists), remove a species from the Lists, change the listed status of a species, or revise the boundary of an area designated as critical habitat. The petition process is a central feature of the Act (Act; 16 U.S.C. 1531 *et seq.*), and serves a beneficial public purpose. A petition may direct the attention of the Service and NMFS to revise critical habitat designations.

Regulations at 50 CFR 424.14 set out the procedures we use to evaluate petitions under the Act and set standards for what petitions must include. By setting standards for petitions, we assist petitioners in providing us with complete, high-quality petitions. And by following the regulations in evaluating petitions, we can make more efficient use of our resources and focus our efforts on petitions that merit further analysis, leading to better conservation outcomes and better implementation of the Act.

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.

Information regarding the petition process can be found on our website at: <https://www.fws.gov/media/petition-process>. We require the submission of the following to determine whether to list a species:

PETITIONER – PREPARE PETITION AND SUBMIT TO THE U.S. FISH AND WILDLIFE SERVICE (FWS)/NATIONAL MARINE FISHERIES SERVICE (NMFS) (50 CFR 424.14(c), (d), (e), and (g))

- (1) Petitioner's name; signature; address; telephone number; and association, institution, or business affiliation;
- (2) Scientific and any common name of the species that is the subject of the petition;
- (3) Clear indication of the administrative action the petitioner seeks (e.g., listing of a species or revision of critical habitat);
- (4) Detailed narrative justification for the recommended administrative action that contains

an analysis of the supporting information presented;

- (5) Literature citations that are specific enough for the Services to easily locate the supporting information cited by the petition, including page numbers or chapters, as applicable;
- (6) Electronic or hard copies of supporting materials (e.g., publications, maps, reports, letters from authorities) cited in the petition;
- (7) For petitions to list, delist, or reclassify a species include:
 - Information to establish whether the subject entity is a “species” as defined in the Act;
 - Information on the current geographic range of the species, including range States or countries; and
 - Copies of notification letters to States.
- (8) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available;
- (9) Identification of the factors under section 4(a)(1) of the Act that may affect the species and where these factors are acting upon the species;
- (10) Whether any or all of the factors alone or in combination identified in section 4(a)(1) of the Act may cause the species to be an endangered species or threatened species (i.e., place the species in danger of extinction now or in the foreseeable future), and, if so, how, including a description of the magnitude and imminence of the threats to the species and its habitat;
- (11) Information on existing regulatory protections and conservation activities that States or other parties have initiated or have put in place that may protect the species or its habitat;
- (12) For petitions to revise critical habitat:
 - Description and map(s) of areas that the current designation (a) does not include that should be included or (b) includes that should no longer be included, and the rationale for designating or not designating these specific areas as critical habitat. Petitioners should include sufficient supporting information to substantiate the requested changes, which may include GIS data or boundary layers that relate to the request, if appropriate;
 - Description of physical or biological features essential for the conservation of the species and whether they may require special management considerations or protection;
 - For any areas petitioned to be added to critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas contain the physical or biological features that are essential to the conservation of the species and may require special management considerations or protection. The petitioner should also indicate which specific areas contain which features;

- For any areas petitioned for removal from currently designated critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas do not contain the physical or biological features that are essential to the conservation of the species, or that these features do not require special management consideration or protections; and
- For areas petitioned to be added to or removed from critical habitat that were outside the geographical area occupied by the species at the time it was listed, information indicating why the petitioned areas are or are not essential for the conservation of the species.

(13) A complete, balanced representation of the relevant facts, including information that may contradict claims in the petition.

NOTIFICATION OF STATES (50 CFR 424(b))

For petitions to list, delist, or change the status of a species, or for petitions to revise critical habitat, petitioners must notify applicable States of their intention to submit a petition. This notification must be made at least 30 days prior to submission of the petition. Copies of the notification letters must be included with the petition. States may provide to the Service whatever information that they want to be considered in the listing decisions.

Because a court of appeals invalidated this regulatory requirement, the Service proceeds with processing petitions even without evidence that the petitioner has provided notice to the responsible State agency. There are no forms associated with this information collection.

In 2020, 2021 and 2022, we received 39 petitions list, delist, or reclassify a species and 2 petitions to revise critical habitat. Having the information required by 424.14 helped ensure that petitions were of high quality; we had complete information to assist in our evaluation of the petitions; our evaluations could be streamlined, efficient, and a better use of resources; and we were able to efficiently receive information from states in the species' ranges to inform our evaluation of the petition.

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.

We receive submissions of petitions regularly made via email. We accept all materials (petitions, cover letters, cited source materials, maps, supporting materials, copies of State notification letters) in electronic format. Petitioners may notify States of intent to file a petition via email.

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.

No duplicate information is collected elsewhere in the Service, nor does any other Federal agency collect information of this type. This because only the Service (and NMFS, as appropriate by jurisdiction) can make determinations on species classification and critical habitat revisions and consider petitions requesting those actions.

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

This collection of information will not have a significant impact on small entities. There are no required forms or formats for the information we collect. We collect only the minimum information necessary to make a finding on the petition.

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.

The Act requires the Services to respond to petitions in a timely manner. We are to provide an initial finding, to the maximum extent practicable, within 90 days of the receipt of a petition. To be efficient in this process, and to increase the likelihood of a well-informed and appropriate finding, it behooves the petitioner to provide the information necessary to make such a finding as the regulations state. Failure to include readily available, pertinent information on the subject species and its habitat may lead to decreased efficiency in the Services making 90-day findings, and may result in a greater number of negative, not substantial findings (i.e., the petition has failed to provide substantial information indicating that the petitioned action may be warranted). Thus, it is in the petitioner's interest to collect and provide the required information and in our interest in carrying out the Act's mandates to have the regulations articulate clearly the submission of necessary information.

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.

There are no circumstances that require us to collect the information 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 February 9, 2023, we published in the *Federal Register* ([88 FR 8451](#)) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on April 10, 2023. In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests, the Service also published the *Federal Register* notice on Regulations.gov (Docket [FWS-HQ-ES-2023-0006](#)) to provide the public with an additional method to submit comments (in addition to the typical Info_Coll@fws.gov email and U.S. mail submission methods). We received one anonymous comment which did not address the information collection requirements. No response to that comment is required.

In addition to the *Federal Register* notice, we consulted with the nine (9) individuals identified below who familiar with this collection of information in order to validate our time burden estimate and asked for comments on the questions below:

Organization	Title
Center for Biological Diversity	Senior Scientist
Defenders of Wildlife	New Mexico Representative
Humane Society International	Vice President of the Wildlife Department
Save Our Springs Alliance	Executive Director
Institute for Regional Conservation	President & Chair of the Board
Private Citizen	N/A
Private Citizen	N/A
Private Citizen	N/A
Private Citizen	N/A

“Whether or not the collection of information is necessary, including whether or not the information will have practical utility; whether there are any questions they felt were unnecessary”

Comments: One commenter acknowledged the questions in 50 CFR 424 are useful because they guide requests in such a way that an average person could probably file a petition without being too lost.

Agency Response/Action Taken: No response required.

“The accuracy of our estimate of the burden for this collection of information”

Comments: One commenter opined it is not a form at all because they have to collect the information and write it in a way that fits the regulation. They also agreed that the government estimate of 120 hours is reasonable but added they probably took more time because it was their first petition. The commenter also stated it may take others much more time if they are unfamiliar with writing reports.

Agency Response/Action Taken: The commenter's response generally supports our burden estimate and given our experience administering the collection, we believe the 120 hour estimate to be reasonable for the average respondent.

“Ways to enhance the quality, utility, and clarity of the information to be collected”

Comments: One commenter requested the Service provide a clear address or website for the publication of 50 CFR 424 petitions. They added that while the petition is submitted to the Secretary of the Interior, the process is still vague. They added that they looked up the address online and sent the petition, both via physical mail and email, to the Secretary, Director of the Service, regional director, and the Service field office. They did not receive an acknowledgement of receipt they wondered if they did it correctly because there were no clear directions. They continued to check <https://ecos.fws.gov/ecp/report/table/petitions-received.html> until they saw their petition, but still didn't receive an acknowledgement. One of the links in their petition to some required information expired (after over a year of the petition pending without a 90-day determination), so they sent a follow up letter once again by email and physical mail. After two months since sending the follow up letter with updated links to required information, there has still been no acknowledgment and no update on <https://ecos.fws.gov/ecp/report/table/petitions-received.html> showing receipt.

Agency Response/Action Taken: As indicated in the response to comments in the rule that finalized the regulations describing the process for petition findings that provided this same request, we stated that we accept petition information both by electronic and paper formats. We recommend that petitioners refer to our website to find current contact information for our offices. We stated that given the file size of source information typically provided with petitions, it may not always be practicable to provide source material by email. In such cases, we recommend that petitioners mail appropriate digital storage media (or hard copies, if preferable to the petitioner) to the appropriate office. At this time, although we understand the commenters concern, we do not plan to create a centralized location to submit petitions. If petitioners do not see their petition on the active petitions page, we recommend that the petitioner reach out to the appropriate office.

“Ways to minimize the burden of the collection of information on respondents”

Comments: One commenter requested a dedicated web page to upload 50 CFR 424 petitions which will notify the Secretary and Service Director, as well as a method for using the same webpage to upload additional letters or documents. They would also like to see a clear directive on how incoming petitions will be processed.

Agency Response/Action Taken: This comment is addressed in response to the previous comment. At this time, we do not plan to create a centralized location to submit petitions. Further, it is not clear what the commenter is requesting regarding a “clear directive” on how petitions are processed. If a petition meets the requirements in § 424.14, we strive to complete the 90-day finding within 90 days of receipt of the petition. For petitions that are found to present substantial information that the petitioned action may be warranted, we prioritize completion of the 12-month finding according to our methodology for prioritizing

status reviews and 12-month findings on petitions (81 FR 49248, July 27, 2016).

Additional comments received during the outreach:

Comments: One commenter mentioned their petition has been pending for 15 months for a statutory 90 day determination, so they began to look for ways to address this. In doing so, they noticed that a single non-profit organization has had three petitions filed after their own and after many other petitions pending for years longer. However, this organization's petitions were addressed and the 90-day determinations were made. This makes the processing of applications appear to be based on relationships rather than statutory process (correctly gathered and presented information). Right now, there are applications pending for over a decade without a 90-day determination, and there is no acknowledgement or path forward outside of legal proceedings (suing in court). That isn't possible for a typical citizen, and it goes against the purpose of even encouraging private individuals and non-environmental lawyers to participate by filing petitions. I can have the above-described experience without giving up because I am a lawyer, but imagine the frustration of a typical person that believes in the Endangered Species Act and wants to make a difference. Under the current regime, that person may as well not even start.

Agency Response/Action Taken: Responding to petitions is an important part of the Service's classification workload. We strive to complete these actions in the order received however, the FWS listing workload exceeds our current allocated budget and must be balanced across our Regional workforce. In order to provide the best possible conservation for our nation's imperiled species, we developed a National Listing Workplan (Workplan) for addressing domestic listing and critical habitat decisions under the ESA. The FWS's priority is to implement and administer the ESA effectively and efficiently. The Workplan enables us to prioritize our workload based on the needs of candidate and petitioned species, while providing greater clarity and predictability about the timing of listing determinations to state wildlife agencies, non-profit organizations, and other diverse stakeholders and partners, with the goal of encouraging proactive conservation so that federal protections are not needed in the first place. The Workplan represents the Service's conservation priorities based on our review of scientific information. The Workplan is updated regularly to reflect our consideration of new information over time. As we work through the actions on the Workplan, we add new species to forecast priorities and upcoming status reviews a minimum of five years out. Providing this predictability and transparency to stakeholders creates opportunity for proactive conservation efforts that conserve species without needing the ESA's safety net.

Despite multiple attempts to solicit feedback from the 9 individuals, we did not receive responses from 5 of the individuals we contacted.

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

We will not provide payments 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 to petitioners. We will maintain the information in a secure System of Records (Correspondence Control System-Interior, FWS-27,

May 28, 1999, [64 FR 29055](#); modifications published June 4, 2008, [73 FR 31877](#), and March 16, 2023, [88 FR 16277](#)).

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 will 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 **17 responses** per year, totaling **1,683 burden hours** per year. We estimate the annual dollar value of the burden hours is **\$70,351** (rounded).

Based on an average of 13 ESA petitions list, delist, or reclassify a species per year received by the Service over the past 3 years (calendar years 2020-2022), we estimate the average annual number of ESA petitions received by both Services combined over the next 3 years will be 26 per year (13 for FWS and 13 for NMFS). Petitions to revise critical habitat are infrequent. In the past 3 years, FWS has received only two such petitions.

Submission of petitions is voluntary, but is required to obtain or retain a benefit (i.e., listing, delisting, changing the status of a listed species or revising critical habitat). The amount of time the petitioner spends in preparing the petition and supplementary materials depends on the petitioner's effort and expertise, as well as the complexity of the species and requested action.

We estimate the amount of time a petitioner may spend in preparing a petition, including researching literature and information sources and writing the petition, as 120 hours. We realize the time spent may be more or less than this estimate, but we believe this represents a realistic average.

We estimate that preparation of notification letters will take approximately 1 hour, which will vary depending on how many States need to be notified. We estimate that there will be a need for a petitioner to notify an average of 10 States per petition. Many species are narrow endemics and

may only occur in one State, but others are wide-ranging and may occur in many States. However, we are erring on the side of overestimating the potential number of States petitioners will need to notify on average. However, due to a court of appeals invalidated this regulatory requirement, the Service proceeds with processing petitions even without evidence that the petitioner has provided notice to the responsible State agency. Therefore, we are reporting a placeholder burden of 1 respondent per category as the requirement is still contained in regulations.

We used the of Bureau of Labor Statistics (BLS) [News Release](#) USDL-23-0488, March 17, 2023, Employer Costs for Employee Compensation—December 2022, to calculate the cost of the total annual burden hours:

- Individuals. Table 1 lists the hourly rate for all workers \$42.48, including benefits.
- Private Sector. Table 5 lists the hourly rate for all workers as \$40.23, including benefits.
- Government. Table 3 lists the hourly rate for all workers as \$57.60, including benefits (State and Tribal respondents).

Requirement	% of Electronic Submissions	Annual Number of Respondents	Average Number of Responses Each	Annual Number of Responses	Average Completion Time per Response (Hours)	Estimated Annual Burden Hours	Hourly Rate	\$ Value of Annual Burden Hours
Petitioner – Prepare and Submit Petitions (50 CFR 424.14(c), (d), (e), and (g))								
Individuals	14%	2	1	2	120	240	\$42.48	\$ 10,195.20
Private Sector	79%	11	1	11	120	1,320	40.23	53,103.60
Government	7%	1	1	1	120	120	57.60	6,912.00
Petitioner – Notify States (50 CFR 424)								
Individuals	14%	1	1	1	1	1	\$42.48	\$ 42.48
Private Sector	79%	1	1	1	1	1	40.23	40.23
Government	7%	1	1	1	1	1	57.60	57.60
Totals:		17		17		1,683		\$ 70,351.11

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 total annual nonhour burden cost to be **\$280**, based on \$20 per petition, for materials, printing, postage, data equipment maintenance, etc. Costs to notify States (mailing and printing) and to provide copies of letters with the petition are included in this estimate.

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 that the annual cost to the Federal Government to administer this information collection will be **\$12,057** (rounded) (140 hours X \$86.12 per hour). This estimate includes time for Federal staff to receive petitions and evaluate their sufficiency. It also includes time to enter petition information in our petitions database. It does not include time spent by Federal staff throughout the United States to make petition findings. We estimate that it will take an average of 10 hours for us to review the information accompanying each petition. Therefore, the annual burden to the Services is 140 hours (14 petitions X 10 hours per petition).

We used the Office of Personnel Management's Salary Table [2023-RUS](#) to determine the average wage of a GS-13/step 5. We multiplied the hourly wage (\$53.49) by 1.61 to account for benefits, in accordance with the BLS [News Release](#) USDL-23-0488, resulting in a total hourly wage of \$86.12 (rounded).

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

We are reporting a discretionary program change of (-137) annual responses and (-137) annual burden hours associated with the court of appeals invalidated the regulatory requirement for a petitioner to provide notice of their intention to file a petition to the responsible State agency. Because this regulatory requirement is still contained in our regulations at 50 CFR 424(b), we reporting a placeholder of 1 annual response/1 annual burden hour per category with this submission.

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 publish the results of our reviews of petitions in 90-day and 12-month findings in the Federal Register, as required by the Act and our implementing regulations.

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

These are regulatory requirements. We will display the OMB control number and expiration date on all appropriate documents.

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.