



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-ES-2023-N057; FF09E41000-234-FXES111609C0000; OMB Control Number 1018-0177]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Policy Regarding Voluntary Prelisting Conservation Actions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew, without change, an information collection.

DATES: Interested persons are invited to submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference "1018-0177" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service

Information Collection Clearance Officer, by email at *Info_Coll@fws.gov*, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On April 3, 2023, we published in the *Federal Register* (88 FR 19663) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on June 2, 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 No. FWS-HQ-ES-2023-0050) 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 the following comments in response to that notice:

Comment 1: Email comment from B. Ker received April 3, 2023. The commenter did not address the information collection requirements.

Agency Response to Comment 1: No response is required.

Comment 2: Electronic comment received via Regulations.gov (FWS-HQ-ES-2023-0050-0002) from Richard Spotts on June 2, 2023. The commenter stated that voluntary conservation efforts were important but should not supersede or weaken FWS statutory and regulatory requirements. The commenter also stated that bolder conservation actions are urgently needed but did not address the information collection requirements.

Agency Response to Comment 2: While we agree that voluntary conservation actions should not weaken our statutory and regulatory requirements, the comment does not directly respond to the need for the information collection or our estimate of burden hours. Therefore, we took no action in response to this comment.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic

submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Service is charged with implementing the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). The goal of the Act is to provide a means to conserve the ecosystems upon which listed species depend and a program for listed species conservation. Through our Candidate Conservation program, we encourage the public to take conservation actions for species prior to them being listed under the Act. Doing so may result in precluding the need to list a species, may result in listing a species as threatened instead of endangered, or, if a species becomes listed, may provide the basis for its recovery and eventual removal from the protections of the Act.

This policy provides incentives to landowners, government agencies, and others to carry out voluntary conservation actions for unlisted species. It allows the use of any benefits to the species from voluntary conservation actions undertaken prior to listing under the Act—by the person who undertook such actions or by third parties—to mitigate or offset the detrimental effects of other actions undertaken after listing. The policy requires participating States to track the voluntary conservation actions and provide this information to us on an annual basis. We require this information in order to provide the entities that have taken the conservation actions with proper credit that can later be used to

mitigate for any detrimental actions they take after the species is listed.

We plan to collect the following information:

- Description of the prelisting conservation action being taken.
- Location of the action (does not include a specific address).
- Name of the entity taking the action and their contact information (email address only).
- Frequency of the action (ongoing for X years, or one-time implementation) and an indication if the action is included in a State Wildlife Action Plan.
- Any transfer to a third party of the mitigation or compensatory measure rights.

Each State that chooses to participate will collect this information from landowners, businesses and organizations, and Tribal, Federal, and local governments that wish to receive credit for voluntary prelisting conservation actions. States may collect this information via an Access database, Excel spreadsheet, or other database of their choosing and submit the information to the Fish and Wildlife Service (via email) annually. States will use this information to calculate the number of credits that the entity taking the conservation action will receive and will keep track of the credits and notify the entity of how much credit they have earned. The States will report the number of credits to the Service, and we will determine how many credits are needed by the entity to mitigate or offset the detrimental effects of other actions they take after the species is listed (assuming it is listed).

Additionally, on February 9, 2023, the Service published a proposed rule (RIN 1018-BF99; 88 FR 8380) to clarify the appropriate use of enhancement of survival permits and incidental take permits; clarify our authority to issue these

permits for non-listed species without also including a listed species; simplify the requirements for enhancement of survival permits by combining safe harbor agreements and candidate conservation agreements with assurances into one agreement type, and include portions of our five-point policies for safe harbor agreements, candidate conservation agreements with assurances, and habitat conservation plans in the regulations to reduce uncertainty. We also propose to make technical and administrative revisions to the regulations.

The goal of the rule is to reduce the time it takes for applicants to prepare and develop the required supporting documents, thus accelerating conservation implementation. The proposed regulatory changes are intended to reduce costs and time associated with negotiating and developing the required documents to support the applications. We anticipate that these improvements will encourage more individuals and companies to engage in these voluntary programs, thereby generating greater conservation results overall.

When the Service finalizes this rule, anticipated in late 2023, candidate conservation agreements with assurances (CCAAs) and safe harbor agreements will no longer be in place, and will be combined into one agreement type—conservation benefit agreements (CBAs). We will update the Policy Regarding Voluntary Prelisting Conservation Actions to replace all references to CCAAs with references to CBAs (for non-listed species). We do not anticipate this update to the policy to impact currently approved information collections.

Title of Collection: Policy Regarding Voluntary Prelisting Conservation Actions.

OMB Control Number: 1018-0177.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for new submissions, ongoing for recordkeeping requirements, and annually for reporting requirements.

Total Estimated Annual Nonhour Burden Cost: None.

Information Collection Requirement	Annual Number of Respondents	Average Number of Responses Each	Annual Number of Responses	Average Completion Time per Response (Hours)	Estimated Annual Burden Hours*
<i>State-Developed Voluntary Conservation Action Program</i>					
	1	1	1	320	320
<i>Development of Conservation Strategy</i>					
	1	1	1	200	200
<i>Amendments to Conservation Strategy</i>					
	1	1	1	16	16
<i>Credit Agreement/Transfer of Credits</i>					
	3	1	3	80	240
<i>Annual Reports</i>					
	3	1	3	20	60
<i>State Recordkeeping Requirements</i>					
	3	1	3	240	720
<i>State Reports - Voluntary Prelisting Conservation Actions Taken Under Program</i>					
	3	1	3	.25	1
<i>Site-Level Agreements</i>					
	1	1	1	100	100
<i>Formal Agreements</i>					
	1	1	1	4	4
<i>Monitoring Reports</i>					
	3	1	3	24	72
<i>Site-Level Reports</i>					
	3	1	3	24	72
<i>Management Plans</i>					
	1	1	1	120	120
<i>Totals:</i>	24		24		1,925

*Rounded

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.