



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-LE-2023-N075; FF09L00200-FX-LE18110900000; OMB Control Number 1018-0012]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Declaration for Importation or Exportation of Fish or Wildlife

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 an information collection with revisions.

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 "1018-0012" 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 (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

On May 5, 2023, we published in the *Federal Register* (88 FR 29145) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on July 5, 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-LE-2023-0049) 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: Electronic comment received May 5, 2023, via Regulations.gov (FWS-HQ-LE-2023-0049-0003) from Jean Public.

Agency Response to Comment 1: The commenter did not address the information collection requirements. No response is required.

Comment 2: Electronic comment received June 8, 2023, via

Regulations.gov (FWS-HQ-LE-2023-0049-0004) from Laura Bies, on behalf of the Ornithological Council. First, the commenter stated that it is difficult to enter many specimens into the e-Decs system individually rather than being able to upload a spreadsheet or a batch of information. Individual entry takes several hours, and the eDecs system appears to time out. Second, the commenter stated that automatic recognition of species' protected status under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Endangered Species Act (ESA or Act), the Migratory Bird Treaty Act (MBTA), etc., by the eDecs system when the importer/exporter is entering them, would be helpful and would save a lot of time. Third, the commenter agreed that the average estimate for an eDec with one species is 10 minutes, but for a scientific eDec with many species, it may take hours.

Agency Response to Comment 2: First, we are working on a tool in eDecs that will allow bulk entry of species comparable to what the commenter describes. Second, it is up to the importer/exporter to know the status and the requirements for the species they are importing or exporting; further, we are concerned that if the system flags a species as protected, dishonest importers/exporters will simply choose a different species and declare the species as that one instead. Third, we note the commenter's points about the burden estimate and have addressed them below, along with the comments we received from the outreach regarding the burden estimate.

Comment 3: Electronic comment received June 26, 2023, via Regulations.gov (FWS-HQ-LE-2023-0049-0005) from Jose D. Gonzalez, President, on behalf of the National Customs Brokers & Forwarders Association of America, Inc. First, the commenter stated that the container number is available in Automated Commercial Environment (ACE). Relatedly, the

commenter said that the container number is not known for exports, because the container is loaded after inspection. Second, the commenter notes that the permit number and port exception number are available in ACE, while the CITES tag number is available on the CITES certificate. Third, the commenter states that the additional data elements may not apply to exports and asks for an N/A option. Fourth, the commenter states that ACE does not support the generation of multiple eDecs per entry. Fifth, the commenter provided burden estimates for declaration filing; 15-20 minutes for eDecs, 10-15 minutes for a complete data set in ACE, and 15-25 minutes for a limited data set in ACE. The commenter added that the burden goes beyond the actual data entry and includes preparation and post-entry elements.

Agency Response to Comment 3: First, not all declarations are submitted through ACE, so we need to ask for the container number in eDecs and on the 3-177. The container number is sometimes known for exports, but we will not make this a required field. Second, again, not all declarations are submitted through ACE, and we note that the CITES certificate has the tag number, but it will better enable our inspection efforts to have it on the declaration in eDecs, and in ACE as well. Third, we disagree that these additional elements do not apply to exports, as all of them could; a field may be required based on the commodity and location of export. Fourth, we recognize that the systems have this limitation; it is a problem we hope to address in the future, recognizing that there are budget constraints. Fifth, we note the comments about additional efforts relating to the import process from the commenter. Lastly, we note the burden estimates and have addressed them below, along with the comments we received from the outreach regarding the burden estimate.

Comment 4: Anonymous comment received July 2, 2023, via

Regulations.gov (FWS-HQ-LE-2023-0049-0006).

Agency Response to Comment 4: The commenter did not address the information collection requirements. No response is required.

Comment 5: Electronic comment received July 4, 2023, via Regulations.gov (FWS-HQ-LE-2023-0049-0007) from John McLaurin, President, on behalf of Safari Club International. The commenter expressed concern about the personal information of hunters who import and export harvested wildlife and therefore use the 3-177 form. The commenter suggested changes to the existing Privacy Act and Paperwork Reduction Act statements on the form that would reflect a commitment to withhold declarants' personal private information under Freedom of Information Act (FOIA) Exemptions 6 and 7(A). The commenter also requested that we add a place on the form where declarants could indicate they want their personal information withheld from disclosure.

Agency Response to Comment 5: The commenter submitted comments on the existing Privacy Act and Paperwork Reduction Act Statements. We included revised statements with the draft form we placed in the docket along with the 60-day notice. We have since revised the Privacy Act and Paperwork Reduction Act, and FOIA statements. In particular, we revised the FOIA statement to address personal identifiable information under Exemption 6. With this addition to the statement, there is no need for declarants to identify personal information for withholding. We did not make changes to the Paperwork Reduction Act Statement, as submissions are voluntary.

Comment 6: Electronic comment received July 4, 2023, via Regulations.gov (FWS-HQ-LE-2023-0049-0008) from Tanya Sanerib, International Legal Director, Center for Biological Diversity, and from Nicholas Arrivo, Managing Attorney, on behalf of The Humane Society of the United

States. First, the commenter notes that the information we receive on Forms 3-177 is essential for law enforcement functions, for meeting CITES obligations, and for us and the public to understand and monitor trade. Second, the commenter makes several suggestions regarding the FOIA statement, including that the statement should reflect that all information received will be disclosed, except for some personally identifiable information under FOIA exemptions 6 and 7(A), and that the commercial information exemption (exemption 4), should not apply. The commenter also states that we should not continue to engage in a submitter notice review process that is burdensome on us and on data submitters, and their changes would allow us to avoid this. Third, the commenter states that the form should say that imports/exports will be denied if the 3-177 is not completed. Fourth, the commenter states that the full scientific and common name of each species needs to be on the 3-177; for example, marine aquarium tropical fish importers do not provide that information, so it is not clear what species are being imported. Fifth, the commenter states that submitters do not always fill out the number of specimens imported/exported, but rather the number of cartons; we should require both. Lastly, the commenter states that our recent application of FOIA exemption 4 has created an incredibly onerous system for data submitters and for us, and their suggested changes to the FOIA statement would resolve this.

Agency Response to Comment 6: Regarding the FOIA statement suggestion that all information should be disclosed except for personally identifiable information, we agree in part. We will continue to apply Exemption 4 as explained in the draft form's FOIA statement, and we added a statement reflecting that personally identifiable information will be withheld as appropriate under Exemption 6. We are retaining our previous language and proposed

process under Exemption 4 of the FOIA regarding submitted commercial information. The Service believes that it is possible that a submitter could make an appropriate showing, in some circumstances, that Exemption 4 applies to information on the 3-117. Because Exemption 4 relies upon information provided by a submitter, it is necessary that the Service include instructions for transmitting that information. We believe the approach outlined on the draft form's statement is appropriate. Because various FOIA requesters ask for import/export data in a variety of ways, we think that an approach led by the FOIA Officer will lead to less burden on the day-to-day requester and allow the Service to apply Exemption 4 more accurately.

Next, regarding the commenter's statement that the notices on the form should say that authorization to import/export wildlife will be denied if the form is incomplete, we made some changes in this language so that the public knows submission of the information is voluntary. We also clarified that information submission is required to receive import/export authorization and that failure to provide all requested information may result in denial of authorization. We will not select automatic denial in all cases and state that on this form; we routinely work with importers/exporters to correct mistakes, and we have enforcement discretion that we do not want to limit without compelling justification.

Regarding requiring the full and scientific names, we are working on programming that will allow improved/bulk entry of species names, and we hope will increase the number of species identified in the 3-177 vs. in supporting documents. As for the number of specimens, that is a required item. Lastly, we appreciate the commenter's efforts to suggest improvements to overcome the challenges presented to the Service by the application of FOIA exemptions to such an expansive database. The Service looks forward to working with the

public to better inform its Exemption 4 practice in ways that enhance our mission and fully comply with the law.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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.

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. We will include or summarize each comment in our request to OMB to approve this information collection request (ICR). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made 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 Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*) makes it unlawful to import or export fish, wildlife, or plants without filing a declaration or report as necessary for enforcing the Act or upholding the Convention on International Trade in Endangered Species (CITES; 16 U.S.C. 1538(e)). With some exceptions, individuals, businesses, and others importing into or exporting from the United States any fish or wildlife must complete and submit to the Service an FWS Form 3-177 (Declaration for Importation or Exportation of Fish or Wildlife). This form, as well as FWS Form 3-177a (Continuation Sheet) and instructions for completion, are available for electronic submission at <https://edecs.fws.gov>. These forms are also available in fillable format at <http://www.fws.gov/forms/>. The information that we collect enables us to:

- Accurately inspect the contents of the shipment;
- Enforce any regulations that pertain to the fish, wildlife, or plants contained in the shipment; and
- Maintain records of the importation and exportation of these commodities.

Individuals, businesses, and others must file FWS Forms 3-177 and 3-177a with us at the time of import or export of fish or wildlife. Our regulations allow certain species of fish or wildlife to be imported or exported between the United States and Canada or Mexico at U.S. Customs and Border Protection ports, even though our wildlife inspectors may not be present. In these

instances, importers and exporters may submit the hard copy of the completed forms to U.S. Customs and Border Protection (CBP). We later collect these submitted forms from CBP and enter the information into the Service's Law Enforcement Management Information System (LEMIS). Form 3-177 collects the following information:

1. Date of the import/export;
2. Import/export license number;
3. Whether the shipment is an import or export;
4. Port of clearance;
5. Purpose code;
6. Customs documents number(s);
7. Name of carrier;
8. Transportation code;
9. Bonded location for inspection;
10. Whether the importer/exporter is based in the United States or in a foreign country;
11. Name, address, phone, and email of importer/exporter;
12. Identifier number and ID type of importer/exporter;
13. Name, phone, fax, email address, and contact person for customs broker, shipping agent, or freight forwarder;
14. Identifier number and ID type of customs broker, shipping agent, or freight forwarder;
15. Scientific and common name of the fish or wildlife;
16. Permit numbers (if permits are required);
17. Description, quantity, and value of the fish or wildlife;
18. Natural country of origin of the fish or wildlife; and

19. Whether the wildlife is live and venomous.

In addition, certain information, such as the airway bill or bill of lading number, the location of the shipment containing the fish or wildlife for inspection, and the markings on cartons and number of cartons containing fish or wildlife, assists our wildlife inspectors if a physical examination of the shipment is necessary.

We are also requesting OMB's continued approval for electronic collection of data through CBP's Automated Commercial Environment (ACE) portal as an alternative electronic option for importers to eDecs. ACE is the system through which the trade community transmits international trade data required by CBP and all other participating government agencies. The Safe Port Act requires the Service to participate in the International Trade Data System, and the Executive Order on Streamlining Exports and Imports establishes ACE as the primary means for collection of international trade data by the government. Although the Service does not mandate importers to use ACE to file Service data at this time, if the filer chooses to file in ACE, we will collect the data from ACE as an alternative to eDecs. If importers file in ACE, they should not file in eDecs.

Proposed Revisions to This Information Collection

With this submission, we propose the following revisions to this information collection for OMB approval:

1. We propose to collect the container number for fish or wildlife shipped via ocean cargo. When fish or wildlife are imported and exported on cargo ships, they are packed in shipping containers, which have unique numbers. When our inspectors receive documents for these shipments, the documents often, but do not always, include the container number. However, Form 3-177 currently does not have a field for the container number. It is difficult

for our wildlife inspectors to locate a shipment at a seaport without the container number, as ocean cargo shipments are tracked by container number. By adding a field for the container number to Form 3-177 and thus requiring this information on the form, we will improve our ability to inspect ocean cargo shipments and expedite the inspection process for individuals, businesses, and others who ship via ocean cargo.

2. Second, we propose to add a field to collect U.S. permit numbers other than CITES. Currently, we require importers and exporters to include the number for a U.S. CITES permit for those CITES listed species that require a U.S. CITES permit. They may also or instead have other U.S.-issued wildlife permits, such as those required under the Endangered Species Act, Migratory Bird Treaty Act, Marine Mammal Protection Act, Wild Bird Conservation Act, Bald and Golden Eagle Protection Act, and Lacey Act. These additional permit numbers will enable us to link the Form 3-177 to the permit. This will improve data collection and analysis, as we will be able to better ascertain what fish or wildlife is being imported and exported and tie it to what is being permitted. It will also help us ensure that permits are not duplicated and are used the allowable number of times, aiding enforcement.

3. Next, we propose to add a field to collect the designated port exception permit number. We have designated certain ports for import and export of fish and wildlife (see 50 CFR 14.12). Generally, individuals, businesses, and others who seek to import and export fish and wildlife at non-designated ports must obtain a designated port exception permit by submitting an application and paying the appropriate fees (see 50 CFR part 13). When they file Form 3-177, they must also include the issued designated port exception permit in their document package. Requiring importers and exporters to put the

permit number on Form 3-177, along with the import-export license number (which we already require on Form 3-177), will assist us in tracking permits and making sure that importers and exporters are authorized to use the ports they are seeking to use. Having the number easily accessible on Form 3-177 will help to streamline the review process. If they are not authorized because they have not obtained the designated port exemption permit for the particular port, it will assist us with enforcement.

4. Next, we propose to add a field to collect the CITES tag or marking number for sport-hunted wildlife species that require a CITES tag or marking for import, export, and in-transit shipments (see 50 CFR 23.74(e)). Those species include black rhinoceros, crocodilians (all members of the order *Crocodylia*, which includes alligators, caimans, crocodiles, and gavials), elephants, leopards, and markhor. A CITES tag or marking is specific to an individual wildlife item and may not be used for multiple wildlife items. Each CITES tag or marking has a unique alphanumeric identifier. Requiring placement of the CITES tag or marking number on Form 3-177 will help ensure we can match the tag or marking to the Form 3-177 declaration and verify that the tag or marking has only been used once. Thus, we will improve our ability to inspect shipments of these species, expedite inspections, and improve enforcement. It will also bolster our ability to meet our obligations under the CITES treaty.

As part of the renewal of and proposed changes for this information collection, we also will review the instructions pages of Form 3-177 to determine what updates are appropriate.

The public may request copies of any form or document contained in this information collection by sending a request to the Service Information Collection Clearance Officer in **ADDRESSES**, above.

Title of Collection: Declaration for Importation or Exportation of Fish or Wildlife, 50 CFR 14.61-14.64 and 14.94(k)(4).

OMB Control Number: 1018-0012.

Form Number: 3-177 and 3-177a.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals, businesses, or others that import or export fish, wildlife, or plants; scientific institutions that import or export fish, wildlife, or plant scientific specimens; and government agencies that import or export fish, wildlife, or plant specimens for various purposes.

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

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Annual No. of Respondents	Total Annual Responses	Completion Time per Response	Total Annual Burden Hours*
FWS Form 3-177 Hard Copy (Upon Import)				
Individuals	2,884	3,107	15 minutes	777
Private Sector	1	1	15 minutes	0
<i>Subtotals:</i>	<i>2,885</i>	<i>3,108</i>		<i>777</i>
FWS Form 3-177 Hard Copy (Upon Export)				
Individuals	76	76	15 minutes	19
Private Sector	1	1	15 minutes	0
<i>Subtotals:</i>	<i>77</i>	<i>77</i>		<i>19</i>
eDecs (Upon Import)				
Individuals	1,273	15,576	12 minutes	3,115
Private Sector	1,563	110,653	12 minutes	22,131
Government	89	347	12 minutes	69
<i>Subtotals:</i>	<i>2,925</i>	<i>126,576</i>		<i>25,315</i>
eDecs (Upon Export)				
Individuals	642	15,782	12 minutes	3,156
Private Sector	429	16,258	12 minutes	3,252
Government	61	213	12 minutes	43
<i>Subtotals:</i>	<i>1,132</i>	<i>32,253</i>		<i>6,451</i>
ACE (Upon Import)				
Individuals	1	1	10 minutes	0
Private Sector	81	12,828	10 minutes	2,138
Government	1	1	10 minutes	0
<i>Subtotals:</i>	<i>83</i>	<i>12,830</i>		<i>2,138</i>
ACE/AES Disclaimer				
Private Sector	819	149,820	1 minute	2,497
Totals	7,921	324,664		37,197

*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.*).

Signed:

Madonna Baucum,

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

[FR Doc. 2023-22181 Filed: 10/4/2023 8:45 am; Publication Date: 10/5/2023]