

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-HQ-ES-2023-0050; FF09E41000-234-FXES111609C0000; OMB Control Number 1018-0177]

Agency Information Collection Activities; 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 June 2, 2023.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (reference "1018-0177" in the subject line of your comment):

- *Internet (preferred):* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-HQ-ES-2023-0050.

- *Email:* Info_Coll@fws.gov.

- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, 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.

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 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 *
Amendments to Conservation Strategy					
Government	1	1	1	16	16
Annual Reports					
Government	1	1	1	20	20
Credit Agreement/Transfer of Credits					
Government	1	1	1	80	80
Development of Conservation Strategy					
Government	1	1	1	200	200
Formal Agreements					
Government	1	1	1	4	4
Management Plans					
Government	1	1	1	120	120
Monitoring Reports					
Government	1	1	1	24	24
Site-Level Agreements					
Government	1	1	1	100	100

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 *
Site-Level Reports					
Government	1	1	1	24	24
State Developed Voluntary Conservation-Action Program					
Government	1	1	1	320	320
State Recordkeeping Requirements					
Government	1	1	1	240	240
State Reports—Voluntary Prelisting Conservation Actions Taken Under Program					
Government	1	1	1	.25	0
Totals:	12	12	1,148

* Rounded to match ROCIS.

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.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agriculture, business, residential, and wind and solar leases without further BIA approval.

DATES: BIA issued the approval on March 28, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs,

Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, *carla.clark@bia.gov*, (702) 484-3233.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal Leasing regulations, including an environmental review process, and then must obtain the Secretary’s approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior’s (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado.

II. Federal Preemption of State and Local Taxes

The Department’s regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447-48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing