

2007 SUPPORTING STATEMENT
Marketing Order No. 958
for
Onions Grown in Certain Designated Counties
in Idaho, and Malheur County, Oregon
Marketing Order Administration Branch
OMB No. 0581-0241

NOTE: The agency will include this collection into the renewal of the Vegetable and Specialty Crops Generic collection, OMB No. 0581-0178. Upon approval of 0581-0178, the agency will submit an 83-D to discontinue 0581-0241.

Justification

- 1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION.**

Marketing Order No. 958 (7 CFR Part 958) regulating the handling of onions grown in certain designated counties in Idaho, and Malheur County, Oregon, emanates from enabling legislation, the Agricultural Marketing Agreement Act of 1937, Secs. 1-19, 48 Stat. 31, as amended, (7 U.S.C. 601-674), hereinafter referred to as the Act. The Act authorizes the promulgation of marketing orders for certain agricultural commodities and the issuance of regulations thereof for the purpose of providing orderly marketing conditions in interstate and intrastate commerce and for improving returns to producers. The Act provides in section 608(d)(1) that information necessary to determine the extent to which an order has effectuated the declared policy of the Act shall be furnished at the request of the Secretary of Agriculture (Secretary). The rules of practice and the procedure governing proceedings to formulate marketing orders are contained in 7 CFR Part 900.

Marketing Order No. 958 became effective on February 4, 1957, following a public hearing and producer referendum in accordance with formal rulemaking procedures specified under the Act. The order authorizes the issuance of grade, size, quality, maturity, pack, container markings, shipping holidays, inspection, and reporting requirements. Regulatory provisions apply to onions shipped for fresh market both within and out of the production area to any market, except for those specifically exempt. The order also contains authority to fund projects involving production research, marketing research and development, and marketing promotion, including paid advertising.

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.

Handlers who desire to make shipments outside the production area to canners, dehydrators, extractors, freezers, and/or picklers, which do not meet the requirements for fresh shipments, are required to use Form FV-34 “Application for Make Special Purpose Shipments – Certificate of Privilege” to apply to the Committee for permission. If approved, the Committee will issue a Certificate of Privilege (COP) and issue a COP number. Handlers receiving a COP numbers use form FV-35, “Onion Diversion Report” to indicate the date(s) of shipment(s), receiver name and address to whom the shipment is being made, as well as other pertinent information. The handler also certifies to the Committee and USDA that the onions indicated on this form were diverted from fresh channels in accordance with the handling regulations. The “Assessment Credit Report” is completed by handlers who seek a credit for assessments on onions that have been levied in accordance with the order and are subsequently regarded, resorted, repacked within the production area or shipped in accordance with a special purpose shipment. The form is

submitted to the Committee along with a copy or copies of the inspection certificates.

As provided in sections 900.24, 958.22, 958.56, 958.65, 958.71, and 958.328, the Order authorizes the U.S. Department of Agriculture (USDA) and the Committee to collect information from individuals and firms who are involved in the production, handling and processing of onions grown in the production area to ensure the effective administration of the program. The Committee, in conjunction with the USDA, has developed forms as a convenience to the producers, handlers, processors, and Committee members required to file such information. These forms require the minimum information necessary to effectively carry out the requirements of the Order, and their use is necessary to fulfill the intent of the Act as expressed in the Order.

The information collected is used only by authorized Committee staff and USDA, including AMS, Fruit and Vegetable Programs' regional and headquarters staff.

Authorized Committee employees will be the primary users of the information and AMS is the secondary user. A description of all three forms appear below.

- a) **Application to Make Special Purpose Shipments-Certificate of Privilege (FV-34); (Sections 958.56 and 958.328):** Grade, size, maturity, and pack standards specified in the handling regulation apply only to onions shipped to the fresh market. Onions shipped to other outlets are exempt from these standards provided that certain safeguards are met. Handlers who desire to make shipments outside the production area to canners, dehydrators, extractors, freezers, and/or picklers, which do not meet the requirements for fresh shipments, are required to use this form (prior to such shipments), to apply to the Committee for permission. The

Committee will evaluate the application and if approved, will issue a Certificate of Privilege, assigning a Certificate of Privilege number. If disapproved, the Committee will indicate the reason. The frequency of this form increased from once annually, to three times annually. The form also contains a penalty clause for falsifying information on the certificate.

b) **Onion Diversion Report (FV-35) (Sections 958.56 and 958.328):** This form is completed by the handler for each Certificate of Privilege number. The handler indicates on the form the date(s) of shipment(s), receiver name or agent and the address to whom the shipment is being made, and the railroad car or truck license, container and label information, and the cwt. shipped. The handler also certifies to the Committee and USDA that the onions indicated on this form were diverted from fresh channels in accordance with the handling regulations. The form also contains a penalty clause for falsifying information on the report.

c) **Assessment Credit Report, (no form number), (Sections 958.42, 958.240 and 958.250):** This is a new form. Those handlers who would like to receive a credit for assessments on onions that have been levied in accordance with the order and are subsequently regraded, resorted, repacked within the production area, or shipped in accordance with a special purpose shipment, would complete this form and submit it to the Committee, along with a copy or copies of the inspection certificates. The handler must indicate the purpose of the handling of onions, such as regrading, dehydration, freezing, planting, livestock feed, charity, et al. In

addition, the original inspection certificate number must be indicated, the original bag count, original container, original grade, new inspection certificate number, new bag count, new container, and new grade. The form also contains a penalty clause for falsifying this document.

- 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.**

The forms will be used to submit information directly to the Committee, which administers the order. The Committee is not part of a Federal agency, but is a commodity industry committee that operates under Federal authority and oversight. Though AMS is committed to complying with the e-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible, the availability and submission of forms electronically is at the Committee's discretion. Currently, forms are transmitted by fax machine and postal delivery.

- 4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN ITEM 2 ABOVE.**

Information collection processes are periodically reviewed to avoid unnecessary duplication by industry and public sector agencies. At the present time, there is no duplication between Federal agencies.

- 5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF THE OMB FORM 83-1), DESCRIBE**

THE METHODS USED TO MINIMIZE BURDEN.

Information collection requirements have been reduced to the minimum to oversee each order or agreement. This information collection and reporting burden is relatively small. Requesting this information from producers does not significantly disadvantage any of the respondents.

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 information is collected on an as-needed basis. If the information collection herein was not collected, the Secretary could not ascertain the level of support for the order, nor in fact, carry out obligations required by the Act. Collecting data less frequently would also eliminate the Secretary's ability to administer the order.

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 3 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 STATUE 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 SECRET, 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 special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

- 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 DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THESE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

The 60-day notice for this information collection was published in the Federal Register on November 7, 2006 (71 FR 215, page 65037), and invited comments through January 8, 2007. No comments were received.

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.

Committee members and staff consult with representatives from whom the information is to be obtained through one-on-one meetings and through regular Committee meetings. All meetings are widely publicized throughout the industry and all interested persons are invited to attend and participate in discussion and deliberation concerning these forms. The Committee is elected by the members of the Idaho and Eastern Oregon onion industry for the purpose of representing them and making decisions for them. The staff is subsequently hired by the Committee to carry out directives and attend various meetings to respond to questions and recommendations that come directly from members.

CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 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.

The information collection requirements are essentially self-imposed. The forms have been developed by the Committee and reviewed by the Secretary. The Committee meets several times a year in sessions which are open to all members of the industry. Any industry member subject to the information collection burden has ample opportunity to comment on and suggest changes to the forms. Use of these forms has been discussed with the Committee Manager, Candi Fitch, phone number (208) 722-5111.

EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

AMS does not provide payments or gifts to respondents.

9. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

Questions of a sensitive nature are not included on any form. The information requested on these forms relate to shipments of onions outside the production area for approved outlets, as well as onions that have been levied and are subsequently regraded, repacked, etc., for the purpose of receiving a credit for assessments. This information is provided to the Committee to improve the accounting of assessments, as well as for enhancing overall compliance.

In addition, Section 608(d) of the Act provides that information acquired will be kept confidential, and that penalties exist for violating confidentiality requirements. Therefore, USDA's AMS field office staff and employees in Washington, D.C., are required to maintain confidentiality. Other confidential information will be withheld from public review under the

Freedom of Information Act and the Privacy Act, 5 USC 552.

10. **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.**

No questions of such sensitive nature are included in this information collection.

11. **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 DIFFERENCE 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 IN ITEM 13 OF OMB FORM 83-I.

See attached AMS-71 spreadsheet.

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. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.

The respondents' estimated annual cost of providing information to the committee is \$4,306. This total has been estimated by multiplying 358.80 hours (total burden hours) by

\$12.00 (average hourly wage for “Office Clerks, General” in Grant, Harney, and Malheur Counties, Oregon Employment Department, and can be found at the following website:

<http://www.qualityinfo.org/olmisj/OIC?>

[occ=439061&occtype=SOC&area=01000000&action=full#wages.](http://www.qualityinfo.org/olmisj/OIC?occ=439061&occtype=SOC&area=01000000&action=full#wages)

- 13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).**
- **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 KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.

There is no capital, startup, operation, or maintenance costs associated with this program.

- 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, OPERATION EXPENSES (SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF), AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.**

The estimated annual cost to the Federal Government, which includes salaries, benefits, travel, communication, supplies, etc., to administer this regulation is \$36,000. The cost was developed by estimating the number of hours that the Agency employees will spend providing oversight and assistance for the administration, preparation of all stages of rulemaking, from the recommendation, to the proposed and final rule, as well as in the preparation of this information collection package (450 hours) at approximately \$80 per hour.

15. EXPLAIN THE REASON FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-I.

There are no changes since the last 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.

There are no plans to publish any information or data collected.

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.

The Agency requests approval not to display the expiration date for OMB approval of the information collection. This requirement significantly affects mandatory programs by increasing costs to users because otherwise usable forms must be destroyed based on the expiration date, if the form is revised, and redistributed. Such needless cost increases are passed on to users of mandatory services, and are counter-productive to the Administration's

goal of reducing costs and increasing program efficiency. In addition, the Committee office orders forms well in advance of the marketing year, so that forms can be mailed to handlers and growers in a timely manner. The Committee office attempts to order forms in quantities large enough to get a price break. If the Committee office needs to order more forms prior to an OMB submission for extension of approval, there are no guarantees that a requested expiration date will be honored by OMB. There is also some confusion among respondents thinking their annual applications are good for the length of time noted in the expiration date, rather than expiring at the end of the marketing season. Additionally, the impact of the expiration date requirement on administrative and regulatory forms for the programs can adversely affect the operation and enforcement of statutes. Inadvertent use of a form with an expired date poses an opportunity for those looking for a means of disruption to challenge paying for services rendered, the validity of the collection of information, or legal requirement imposed by regulations or statutes.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, □CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS, OF OMB FORM 83-I.

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.