

**2007 SUPPORTING STATEMENT
MARKETING ORDER NO. 915
FOR AVOCADOS GROWN IN SOUTH FLORIDA
OMB NO. 0581-NEW**

A. 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. 915 (7 CFR Part 915), covering the handling of avocados grown in South Florida, emanates from enabling legislation is contained in the Agricultural Marketing Agreement Act of 1937, as amended (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 and amendment 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.

Under this authority, the Administrator of the Agricultural Marketing Service (AMS) issued a Recommended Decision proposing amendments to Marketing Order No. 915 (Order), following a series of public hearings held in accordance with procedures set forth in 7 CFR Part 900. If a Decision and Referendum Order are subsequently issued by

the Secretary, the Order will authorize avocado growers and handlers in District 1 to submit their Committee nomination ballots by mail. Under the current nomination rules of the order, growers and handlers living in District 1 must vote in person at the designated polling office, located at the Miami-Dade County Extension office. Growers and handlers in District II currently have the authority under the Order to vote via mail on nominations for the Committee. We are requesting approval by the Office of Management and Budget (OMB) for two new forms -- a grower ballot to nominate members and alternates and a handler ballot to nominate members and alternates.

2. INDICATE HOW, BY WHOM, HOW FREQUENTLY, 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.

The Order is administered by a 10 member Florida Avocado Administrative Committee (Committee), comprised of 5 growers, 4 handlers, and 1 public member. Each member serves a one year term of office and has an alternate. Members and alternates are appointed by the Secretary to administer the marketing order program locally, and are selected from nominees submitted by avocado growers and handlers in the production area. The marketing order, and rules and regulations issued thereunder, authorize the Committee to require handlers and growers to submit certain information, as provided in sections 900.14, 915.22, 915.23, 915.25, 915.26, 915.50, 915.53, 915.55, 915.60, 915.64, 915.110, 915.115, 915.120, 915.140, 915.141, and 915.150.

The Committee has developed forms as a convenience to persons required to file information with the Committee relating to avocado supplies, shipments, inspection, and other information needed to effectively carry out the purposes of the Act and Order.

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 required under the Order is gathered on forms which are included and approved under OMB No. 0581-0189, “Generic OMB Fruit Crops”, and is used by the Committee and/or the Secretary. Upon approval of these two forms, we request that they be merged into OMB No. 0581-0189. These forms are described below:

a) Grower Ballot to Nominate Members and Alternate Members for District

(X), No form number (Section 915.22): This form is used by growers to nominate members and alternates to represent growers on the Avocado Administrative Committee for either District 1 or District 2 (designated by the voter by circling the applicable District). This form is used annually, since member terms are for a one year period. Growers may only nominate growers. This ballot also contains a certification indicating that the person filling out the ballot is a (District 1 or District 2) grower registered with the Committee.

b) Handler Ballot to Nominate Members and Alternate Members for District

(X), No form number (Section 915.22): This form is used by handlers to nominate members and alternates to represent handlers on the Avocado Administrative Committee for either District 1 or District 2 (designated by the voter by circling the applicable District). This form is used annually, since member terms are for a one year period. Handlers may only nominate handlers.

Each handler's vote is weighted by the volume of avocados shipped by that handler during the preceding 12 month period, January through December.

Therefore, the handler also includes their volume of shipments from the calendar year as supplied by the Committee next to the nominee's name on the nomination ballot. In addition, this ballot includes a certification statement indicating that the handler is a (District 1 or District 2 handler) registered with the Committee.

- 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.**

Upon approval, these 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 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.

Upon approval, these nomination ballots will be submitted by mail.

- 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 requirements of the Order. This information collection and reporting burden is relatively small. Requiring the same reporting requirements for all growers and handlers will 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.

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 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 other special circumstances. The collection of information is conducted in a manner 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.**

A 60-day notice is embedded in the proposed rule, the Recommended Decision for Avocados Grown in South Florida to be published in the Federal Register on (Vol. , No. , Page), which invited comments from interested persons through . No comments are expected.

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.

The Committee, the agency that administers the Order along with oversight by the Department, meets throughout the year to assess the Order's regulatory and informational needs. 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. Discussed at these meetings is the type of information that is collected while keeping the close contact with the industry and trade associations to ensure the utmost efficiency.

The Committee is elected by the members of the Florida avocado 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 the members. Use of these forms has been discussed with the Committee Manager, Alan Flinn, phone number (305) 247-0848; or U.S. Department of Agriculture, Agricultural Marketing Services, Marketing Order Administration Branch, Marketing Specialist William Pimental, Southeast Marketing Field Office, located in Winter Haven, Florida, phone (863) 324-3375.

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.

The following individuals may be contacted regarding the information collection burden: Alan Flinn, Manager, Florida Avocado Administrative Committee at (305) 247-0848; or U.S. Department of Agriculture, Agricultural Marketing Service, Marketing Specialist William Pimental, Winter Haven, Florida at (863) 324-3375.

9. 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.

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

Section 608(d) of the Act provides that information acquired will be kept confidential. Reports submitted to the Committee are accessible only by the Committee manager, staff, employees of USDA's Agricultural Marketing Service's (AMS's) field office staff, and certain USDA employees in Washington, D.C., and they are aware that penalties exist for violating confidentiality requirements. Other confidential information will be withheld from public review under the Freedom of Information Act and the Privacy Act, 5 U.S.C. 552.

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).**

Questions of a sensitive nature are not included in this information collection.

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 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 83.1.**

The respondents' estimated annual cost of providing information to the Committee is \$1,056. This total has been estimated by multiplying 32 (total burden hours) by \$33, the average mean hourly earnings of professional, specialty and technical white collar occupations, and executive, administrative, and managerial white collar occupations by worker and establishment characteristics and geographic areas (metropolitan). Data for computation for this hourly wage was obtained from the U.S.

Department of Labor Statistics publication, "National Compensation Survey: Occupational Wages in the United States, June 2005", published August 2006 (Bulletin 2581). This publication can also be found at the following website:

<http://www.bls.gov/ncs/ocs/sp/ncbl0832.pdf>.

13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORD KEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

- **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. 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 KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

There are no start-up cost burdens to respondents or record keepers not included in items 12 and 14.

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 \$72,000. 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 (900 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 83-1.**

This is a new information collection and, upon approval, will be transferred into

OMB No. 0581-0189, Generic OMB Fruit Crops. The Recommended Decision creates two new forms with a burden of 32 hours. See breakout below:

<u>Reg #</u>	<u>Reason</u>	<u>Previous Burden</u>	<u>New Burden</u>	<u>Difference</u>	<u>Type</u>
915.22	New form (Grower Ballot) (No form number)	0	29.22	+29.22	PC
915.22	New form (Handler Ballot) (No form number)	0	2.66	<u>+2.66</u>	PC
Total change in burden				+31.88	

- 16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS ARE PLANNED TO 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.**

AMS requests approval not to display the expiration date on the forms associated with this information collection. This requirement significantly affects mandatory programs by increasing costs to users, because otherwise usable forms must be destroyed when the date expires, the form is revised, and redistributed. Such needless cost increases passed on to users of mandatory services are counter-productive to the Administration's goal of reducing costs and improving program efficiency. Additionally, the impact of the expiration date requirement on administrative and regulatory forms for

the programs can adversely affect the operation and enforcement of the statutes.

Inadvertent use of a form with an expired expiration 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 83-1.

The agency is able to certify compliance with all provisions under item 19 of OMB form 83-1.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

The collection of information does not employ statistical methods.