SUPPORTING STATEMENT
Marketing Order No. 981
for
Almonds Grown in California
Marketing Order Administration Branch
OMB Number 0581-NEW

. Justification

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

This is a request for OMB review and approval of a new information collection related to the implementation of a mandatory treatment program to reduce the incidence of *Salmonella* bacteria in almonds, as part of the outgoing quality control requirements under the California almond marketing order (M.O. No. 981).

Marketing Order No. 981 (7 CFR Part 981), regulates the handling of almonds grown in California and 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). This legislation, hereinafter referred to as the Act, was designed to permit regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and to improve returns to growers. Section 608 (d)(1) of the Act provides the Department of Agriculture (USDA) with the authority to request from the regulated handlers such information as is deemed necessary to determine the extent to which a marketing order has effectuated the declared policy of the Act.

Marketing Order No. 981 (Order) became effective in 1950, following public hearings in accordance with formal rulemaking procedures specified under the Act, and is locally administered by the Almond Board of California (Board). Growers approved the Order in

referendum, as specified by the Act. The Order authorizes the issuance of quality and volume control regulations, as well as inspection and reporting requirements.

On August 22, 2006, the Board unanimously recommended implementation of a mandatory treatment program to reduce the potential for *Salmonella* bacteria in almonds, and thus help ensure that quality almonds are available for human consumption. This action was taken in response to *Salmonella* outbreaks in 2001 and 2004 that were linked to almonds. The Agricultural Marketing Service (AMS) is issuing a proposed rule to allow the Board to implement this mandatory treatment program. Under this program, handlers would have to subject their almonds to a process that achieves a 4-log reduction in *Salmonella* bacteria prior to shipment. The program would provide for an exemption for handlers who ship untreated almonds under a direct verifiable (DV) program to manufacturers within the U.S., Canada, or Mexico who agree to treat the almonds accordingly. The program would also provide for an exemption for handlers who ship untreated almonds to locations outside of the U.S., Canada, or Mexico. All containers of untreated almonds shipped under the two exemptions would have to be prominently identified with the term "unpasteurized." The program would become effective for the 2007-08 crop year, which begins August 1, 2007.

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.

The order is administered by a 10-member Almond Board of California (Board), comprised of five growers and five handlers. For each member, there is an alternate member. Two of the 10 members serve 1-year terms, and the remaining eight members serve 3-year terms, beginning March 1 of each respective year. Board members may serve for a total of six consecutive years. Membership is also allocated between cooperative and independent

growers. The members and alternates are appointed by the USDA to administer the program locally, and are selected from nominations submitted by almond growers and handlers in the production area.

The marketing order, and rules and regulations issued thereunder, authorize the Board to require growers and handlers to submit certain information, as provided in Sections 900.14, 981.32, 981.34, 981.41, 981.42, 981.55, 981.67, 981.71, 981.72, 981.73, 981.74, 981.441, 981.455, 981.567, 981.472, 981.473, and 981.474.

As previously explained, a proposed rule was issued by AMS which would allow the Board to implement a mandatory program to reduce the potential for *Salmonella* bacteria in almonds, to help ensure that quality almonds are available to human consumption. Handlers would have to subject their almonds to a process that achieves a minimum 4-log reduction in *Salmonella* bacteria prior to shipment, which is also explained under Item 1. Under the Board's proposal, unless handlers shipped their almonds to a Board-approved DV user, or shipped their almonds to locations outside of the U.S., Canada, or Mexico, handlers would have to subject their almonds to a treatment process or processes prior to shipment either at their on-site handling facility, or at an off-site treatment facility located within the production area (California). Handlers could only use, or transport their almonds to off-site treatment facilities that use treatment processes that have been "validated" by a Board-approved process authority.

The information required under this program is gathered through the following forms, and is used by USDA's AMS, the Board, and FSIS as described below:

a) <u>Handler Treatment Plan (No form number) (Section 981.442)</u>: To ensure compliance with the mandatory program, handlers would be subject to verification by the

Federal-State Inspection Service (inspection agency) and review by Board staff. Handlers can use either an on-site or audit based verification program. Each handler must decide which verification program will be the most cost-effective for his/her operation. All handlers must submit a treatment plan to the Board for the upcoming year (2007-2008) by May 31, 2007. The crop year runs from August 1 through July 31 of the subsequent year. A treatment plan describes how a handler plans to treat his/her almonds, and address specific parameters outlined by the Board for the handler to ship almonds. The treatment plan will be reviewed by the Board in conjunction with the inspection agency to ensure such plans are complete and auditable. The plan will be approved by the Board and must address specific parameters for the handler to ship almonds. These parameters will include, but are not limited to: 1) The handler name and address; 2) crop year; 3) certification that the information is accurate; 4) destination of almond shipments; 5) location of treatment plant(s); 6) the name and address of off-site treatment facility (custom processor), if applicable; 7) a statement regarding whether treatment processes have been accepted by the Technical Expert Review Panel (or TERP), or "determined" by the Food and Drug Administration to achieve a minimum 4-log reduction; 8) a statement regarding validation of treatment technology and equipment by a Board-approved process authority; 9) a statement whether untreated almonds will be exported; 10) a statement whether the handler would use the DV program; 11) a description or flow chart to be attached by the handler, explaining how raw, untreated almonds enter and flow through the handler facility and the treatment process, including post treatment packing, identification and storage; 12) a list of all treatments that would be used on the almonds (for example, number of blanching lines, etc.); 13) the name and company details for the process authority; 14) a description of how treated product would be differentiated and segregated from untreated

product to ensure maintenance of treated product integrity; 15) a description of processes, procedures and internal controls the handler will implement to ensure that all almonds received as inter-handler transfer or industry purchase will receive the appropriate treatment before shipment from handler's facility to prevent recontamination; and 16) process documentation detailing treatment process, whether the equipment used has been validated by a Board-approved process authority, explanation of how untreated almonds will be introduced into the system, and treatment documentation. All inter-handler transfers must be accompanied by ABC Form 7, "Inter-handler Transfer of Almonds," which is currently approved under OMB No. 0581-0178, Vegetable and Specialty Crops.

b) Application for Process Authority for Almonds (ABC Form 51) (Sections 981.42 and 981.442(b)): Entities interested in being almond process authorities that would validate technologies must submit an initial application to the Board and be approved by the TERP. Should the applicant disagree with the TERP's decision concerning approval, the applicant may appeal the decision in writing to the Board, and ultimately to USDA. For subsequent crop years, approved applicants with no changes to their initial application must send the Board a letter, signed and dated, indicating that there are no changes to the application the Board has on file. A process authority is a person or organization that has expert knowledge of appropriate processes for the treatment of almonds and meets other criteria as specified by the Board. Information provided on this application includes the applicant's company, name, address, telephone and fax numbers. The applicant also submits information regarding their professional affiliation(s) and education, length of time as a process authority, experience conducting or evaluating tests that determine the effects of the treatment on micro-organisms; and experience conducting or evaluating tests that determine the effects of the

treatment on foods (how this is relevant to processing of almonds or other nuts). The application also contains a certification statement, which is dated and signed by the applicant, certifying that the information provided to USDA and the Board is complete and correct, and that any false statement could result in a penalty or fine, or imprisonment.

c) Application for Direct Verifiable (DV) Program for Further Processing of Untreated Almonds (ABC Form 52) (Sections 981.42 and 981.442 (b)): Manufacturers in the U.S., Canada, or Mexico, who meet outlined criteria and are interested in being approved to accept untreated almonds, provided they agree to treat the almonds themselves under the Board's DV program, will have to initially submit this form to the Board and be approved by the TERP. If the applicant disagrees with the TERP's decision regarding approval, it may appeal the decision in writing to the Board, and ultimately to USDA. For subsequent crop years, approved applicants with no changes to their initial application must send the Board a letter, signed and dated, indicating that there are no changes to the application the Board has on file. The Board will issue a DV User code to an approved manufacturer. Handlers must reference such code in all documentation accompanying the lot and identify each container of such almonds with the term "unpasteurized." If a third party is involved in the transaction, the handler must provide sufficient documentation to the Board to track the shipment from the handler's facility to the approved DV user. Information to be provided by the applicant on this form includes the name of the DV applicant; crop year to receive and further process untreated almonds from almond handlers; manufacturing locations or warehouses covered by the agreement; a statement indicating that the DV user agrees that all untreated almonds received from the almond handler meet the requirements outlined in the application criteria; a statement that the DV user agrees to provide documentation (if applicable), with the application from a

Board-approved process authority that the technology and equipment provide a treatment process that complies with the requirements of the order, or that has been established by a Board-approved process authority; and a certification statement, which is dated and signed, indicating that the applicant provided information that is complete and correct, and that the making of any false statement or representation on the form will result in a penalty of a fine or imprisonment or both. The applicant will also provide their company name, address, telephone and fax numbers, and the applicant's title.

d) Application for Direct Verifiable (DV) Program Auditors (ABC Form 53) (Sections 981.42 and 981.442(b)): Handlers must subject their almonds to a treatment process or processes that have been determined to achieve in total a minimum 4-log reduction of *Salmonella* bacteria. Handlers may treat the almonds prior to shipment, ship untreated almonds labeled as "unpasteurized" to locations outside the U.S., Canada, or Mexico, or ship untreated almonds labeled as "unpasteurized" under the DV program to approved manufacturers within the U.S., Canada, or Mexico, who agree to treat the almonds. Such manufacturers are subject to audit by approved DV auditors. DV auditors must initially submit this application to the Board and be approved by the TERP. If the applicant disagrees with the TERP's decision concerning approval, it may appeal the decision in writing to the Board, and ultimately to USDA. For subsequent crop years, approved DV auditors with no changes to their initial application must send the Board a letter, signed and dated, indicating that there are no changes to the application the Board has on file. All records regarding validation and verification of treatment methods, processing, and product traceability must be maintained for two years and made available for review by the Board. The type of information collected on this form includes the crop year, the date, company name, address,

telephone and fax numbers, professional affiliation(s), education, length of time as an auditor, products/equipment/processes for which the applicant has audited, and experience conducting audits for the food industry.

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 Board, which administers the order. The Board is not part of a Federal agency, but is a commodity industry board 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 Board'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 requirements

of the order. With the exception of the Handler Treatment Plan, the forms require only a minimal amount of information which can be supplied without data processing equipment or to oversee each order or agreement. This information collection and reporting burden is relatively small. Requesting this information from almond handlers, persons or organizations that would like to qualify to be Board-approved process authorities that validate treatments and technologies, manufacturers or DV program auditors, does not significantly disadvantage any handler, person or organization, manufacturer or DV program auditor that is smaller than industry average.

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 will be collected through a mandatory program to ensure that quality almonds are available for human consumption and to reduce the potential for *Salmonella* bacteria in almonds. If the information collection herein were not collected, the Secretary could not ensure compliance with the mandatory program or track shipments of almonds. 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 comments was embedded in the proposed rule, which was published in the Federal Register on December 6, 2006 (Vol. 71, No. 234), which invited comments through February 5, 2007.

In response to the proposed rule, 18 comments were received. Of these 18 comments, four comments, which are attached, addressed the proposed reporting requirements. Three of

these comments expressed concern with an annual submission of an application for DV users. Two commenters suggested that once the DV user has been approved by the Board and is on an approved list, there is no reason to remove the entity, except for cause, or at the request of the DV user. Another commenter suggested that if a DV user does not change its treatment technology, and if a problem has not been identified by the DV auditor, there is no reason for DV users to reapply annually to the Board. Two commenters suggested that the initial approval for process authorities and DV auditors should be sufficient, adding that agency approval is not required under regulations governing production of low-acid canned foods, which is the source of the process authority concept.

The Board commented that the DV user and auditor application were designed so that once the entity is originally approved, it would only have to reconfirm participation in subsequent years. A new or modified application would only be necessary in cases where new procedures, equipment, or processing locations have been introduced.

Based on the comments received, modifications to the reporting requirements are warranted. Process authorities, DV users, and DV auditors must submit an initial application to the Board, rather than on an annual basis. For subsequent years, such approved entities with changes in the information contained in their initial application must submit a new, revised application to the Board for review and approval prior to the start of the crop year. Approved applicants with no changes to their initial application must send the Board a letter, signed and dated, indicating that there are no changes to the application the Board has on file.

Based on a suggestion by AMS' Fresh Products Branch (field office), the first page of the Handler Treatment Plan (Certification Statement) was modified to clarify that the Federal-

State Inspection Service and the Board will verify documentation and procedures.

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.

Board members and staff consult with representatives from whom the information is to be obtained through one-on-one meetings and through regular Board meetings. All meetings are widely publicized throughout the industry and all interested persons are invited to attend and participate in discussion and deliberation concerning forms required for this new program. The Board is elected by the members of the almond industry for the purpose of representing them and making decisions for them. The staff is subsequently hired by the Board to carry out directives and attend various meetings to respond to questions and recommendations that come directly from members. Use of these forms has been discussed with the Board's Chief Executive Officer, Richard Waycott, telephone number (209) 549-8262.

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.

Ex parte communication prohibitions, specified in § 900.16 (7 CFR Part 900), apply when the proposed rule is issued and continues until the final or interim final rule is issued. During this time, there can be no written or oral communication relevant to the merits of the proposed rule between a USDA employee and any person having an interest in the proposal or with any representative of such a person except through the comment process outlined in

the proposal. Solicitation of information from respondents outside the parameters of the rulemaking/comment guidelines is not permitted under *ex parte*.

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.

Questions of a sensitive nature are not included on any form. Private information is required on the Application for Process Authority for Almonds (ABC Form 51) and on the Application for Direct Verifiable (DV) Program Auditors (ABC Form 53), which the applicants must fill out for Board approval. These questions are asked to ascertain the applicant's qualifications to be approved as a process authority for almonds and as a DV Program Auditor, and include the professional affiliation(s) and education; length of time as a process authority or auditor; products, equipment or processes for which they have been a process authority or audited; prior experience in conducting or evaluating tests that determine the effects of treatment on microorganisms, and the effects of the treatment on foods, and conducting audits for the food industry. This information is provided to the Board for use in the approval process.

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.

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.

No questions of such sensitive nature are 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-I.

Estimates of the burden of collection of information are summarized on AMS Form 71.

We estimate that the high and low range for maintaining records by handlers and manufacturers are between 20 and 100 hours. For the purposes of this information collection, we have added 20 and 100 hours, for a total of 120, and arrived at an average of 60 hours recordkeeping burden. This is addressed on AMS Form 71, which is attached.

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 Board is $108,768. This total has been estimated by multiplying 3,296 hours (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 of this hourly wage were 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 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 are 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.

There are no additional costs associated with this information collection. The Federal government's estimated annual cost for providing oversight and assistance for this information collection is estimated at $192,000.

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

Between the issuance of the proposed rule and proposed information collection and the final rule, there has been a reduction in burden hours requested. At the proposed rule stage, we had requested approval for 8,336 burden hours. However, based on the four comments received, there is a decrease in burden hours for forms ABC 51, ABC 52 and ABC 53, totaling -72 burden hours. An explanation of the hours per response for these forms is as follows:

<u>For ABC 51, "Application for Process Authority for Almonds</u>", it is estimated that it will take about 2 hours per response (same as initial submission), for the first year of regulation, however, for each year thereafter, it will take .25 hours per response. Therefore, the burden for this form is: (25 respondents x 1 response per respondent = 25 annual responses x .833 hours per response = 20.83 burden hours).

For ABC 52, "Application for Direct Verifiable (DV) Program for Further Processing of Untreated Almonds", it is estimated that it will take about 1.5 hours per response (.5 hours more than initially proposed) for the first year of regulation. The additional .5 hours addresses the time for DV users to include documentation with their application to verify that their treatment technology and equipment were validated by a Board-approved process authority. It is estimated that it will take a manufacturer only .25 hours per response each year thereafter. Therefore, the burden for this form is: (53 respondents x 1 response per respondent = 53 annual responses x .666 hours per response = 35.30 burden hours).

For ABC 53, "Application for Direct Verifiable (DV) Program Auditors", it is estimated that it will take a DV auditor about 1 hour per response for the first year of regulation, but only .25 hours per response (a reduction of .75 hours) for each year thereafter. Therefore, the burden for this form is: (50 respondents x 1 response per respondent = 50 annual responses x .50 hours per response = 25 burden hours). The changes are detailed below:

Reg #	Reason	Previous Burden	New Burden	Difference	Type
981.42 981.442(b)	Decrease in annual burden (ABC 51)	50	20.83	-29.17	PC
981.42 PC 981.442(b)	Decrease in annual burden (ABC 52)	53	35.30	-17.70	
981.42 981.442(b)	Decrease in annual burden (ABC 53)	50	25	-25	PC
			Total change in burden hours	-71.87	

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 Board 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 Board office attempts to order forms in quantities large enough to get a price break. If the Board 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.