

2007 SUPPORTING STATEMENT
Honey Packers and Importers Research, Promotion,
Consumer Education and Industry Information Program; Referendum Procedures
7 CFR Part 1212
OMB Number 0581-NEW (Ref. 0245)

CLEARANCE NOTATION:

OMB review and approval of a new information collection is necessary for the establishment of a proposed Honey Packers and Importers Research, Promotion, Consumer Education, and Industry Information Program (Proposed Order (7 CFR Part 1212)). The Proposed Order--if adopted and favored in a referendum--would replace the existing Honey Research, Promotion, and Consumer Information Order (Current Order (7 CFR Part 1240)).

Under the Current Order (7CFR Part 1240), information collection is part of the generic OMB No. 0581-0093, National Research, Promotion, and Consumer Information Programs. The implementation of the Proposed Order (7 CFR Part 1212) would result in the termination of the Current Order (7 CFR Part 1240), and eliminate the need for information collection under the Current Order.

Justification

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

Congress has delegated the Department of Agriculture (USDA) the responsibility of establishing and overseeing agricultural commodity research and promotion orders, which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain, develop, and expand markets and uses for agricultural commodities. The programs would include projects relating to research, consumer information, advertising, sales promotion, producer information, market development and product research to assist, improve, or promote the marketing, distribution, and utilization of honey and honey products.

The purpose of this final rule submission package for referendum procedures (Part B) is to determine whether the issuance of the proposed Honey Packers and Importers Research,

Promotion, Consumer Education, and Industry Information Order (Order) is favored by first handlers and importers of honey or honey products. The Order will be implemented if approved by a majority of the eligible first handlers and importers voting in the referendum who also represent a majority of the volume of honey and honey products handled and imported during a representative period.

A separate new information collection package for the Proposed Order proposed rule (Part A) is also being submitted that contains all of the remaining items from the “initial” information collection package (recordkeeping, background form, application for exemption, monthly first handler report, application for reimbursement of assessments, application for certification of organizations, nomination form, and organic exemption form). If the referendum passes the Proposed Order (Part A) will be finalized with the other forms needed to administer the Order.

This action is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (PL 104-127, 110 Stat. 1032, April 4, 1996, 7 U.S. C. 7411-7425) and establishes procedures that USDA will use in conducting a referendum. These procedures will also be used for any subsequent referendum under the Order, if it is approved in the initial referendum. Participation in the referendum is voluntary.

Upon approval and passing of the referendum, 0581-0245 and the Order information collection package will be merged into 0581-0093.

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.**

Referendum Ballot Form (Section 1212.81) This form will be used by eligible first handlers and importers of honey or honey products in voting for the issuance of a proposed

Order. The question on the ballot will be: “Do you favor implementing the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order – Yes or No?” If the referendum passes in favor of the proposed Order, this form will be used in any subsequent referendum as required under the 1996 Act.

The other information requested on this form is used for the purpose of verification. The form includes the Registration Statement, the Ballot, and the Certification Statement. Referendum agents or the Secretary of Agriculture will tabulate the results of the referendum. The agents are officials of USDA who are charged with promulgating and administering the proposed programs.

- 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, this form will be used to submit information directly to AMS. AMS is committed to complying with the e-Government Act, that requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. At this time, the ballot may not be completed and transmitted electronically because a signature is required to cast a vote. AMS will conduct the referendum from one central location by mail ballot.

- 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. The required information for this form is

not available from any other source because it relates specifically to individual first handlers and importers of honey and honey products. The primary source of data is information to be furnished by those persons voting.

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 final rule for the referendum procedures (Part B). The form requires only a minimal amount of information which can be supplied without data processing equipment. This information collection and reporting burden is relatively small. Under the referendum procedures final rule (Part B), information collection would be requested from first handlers and importers of honey and honey products who would be subject to the program and eligible to vote in the referendum. Under the referendum procedures final rule (Part B), about 75 entities of first handlers and importers would be subject to the program and eligible to vote in the referendum. First handlers and importers of less than 250,000 pounds of honey and honey products annually will be exempt from assessments and not eligible to vote in the referendum. In addition, voting in the referendum is optional. However, if first handlers and importers choose to vote in the referendum the burden of voting would be offset by benefits of having the opportunity to vote whether or not they want to be covered by the program. Since the reporting burden under the referendum procedures final rule (Part B) would be the same for all entities, such entities should not be significantly disadvantaged.

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 referendum procedures final rule (Part B), allows for the use of the referendum

ballot. The information will be collected through a mandatory check-off program designed to maintain, develop, and expand markets for honey and honey products.

If the information collection for the referendum ballot herein were not collected, a referendum could not be conducted and therefore the Proposed Order (Part A) could not be implemented and the Board could not carry out the coordinated research, promotion, consumer education, and industry information program on honey and honey products, ensure compliance with the mandatory program or ensure proper assessment collection. Collecting data less frequently also would limit the Secretary's ability to conduct the referendum and future referendums.

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.**

A 60-day notice for comments was embedded in a proposed rule published in the Federal Register on June 4, 2007 (72 FR 30924). No comments were received. The initial information collection package submitted to OMB included proposed rules for both the referendum procedures (Part B) and Proposed Order (Part A). OMB filed with comment and continue on the initial submission. The initial submission is being split into two separate collection packages in order to finalize the referendum ballot. Approval of the referendum ballot is needed for a vote on whether to implement the proposed Order for the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Program.

A second new information collection proposed rule package for the Proposed Order (Part A) will be submitted that contains all of the remaining items from the "initial " information collection package (recordkeeping, background form, application for exemption,

monthly first handler report, application for reimbursement of assessments, application for certification of organizations, nomination form, and organic exemption form).

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.

Honey industry representatives have been consulted on the use of this referendum form since this action is required by the implementing statute. The use of this form has been discussed with the Current Order's Board staff: Chief Executive Officer, Bruce Boynton, telephone number (303) 776-2337; and industry members: Impex Group, Hans Boedeker, telephone number (714) 544-8714; Ashurst American Honey, Everett (Buddy) Ashurst, telephone number (760) 352-8860; and Sioux Honey Association, Mark Mammen, telephone number (712) 258-0638.

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.

There are no identified obstacles for consulting with industry members who must submit information to AMS under the referendum procedures final rule. Industry members would be consulted on an ongoing basis regarding information collection requirements.

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 this form. The referendum ballot ascertains from first handlers and importers a registration statement. This information is sent to AMS for tabulation. Under the referendum procedures final rule (Part B), section 518 of the Act provides for referenda to obtain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the Order. The National Honey Packers and Dealers Association has recommended that the Department conduct a referendum in which approval of an Order would be based on a majority of first handlers and importers voting who also represent a majority of the volume voting in the referendum.

All information collected will be treated as confidential, as indicated on the forms and in conformance with the Privacy Act and Freedom of Information Act. Also, Section 515(i)(4) of the 1996 Act provides that information acquired will be kept confidential, and that penalties exist for violating confidentiality requirements. Therefore, USDA's AMS staff in Washington, D.C. is 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.

We estimate that the burden for the referendum ballot is 4 hours. 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 and/or AMS is \$132. An estimated number of 75 respondents would provide information to the Board and/or AMS annually. This total has been estimated by multiplying 4 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 \$1,337 the first year and for subsequent years it is estimated to be about \$900. AMS is reimbursed by the Board for its oversight costs. A breakdown of the oversight costs for the first year is the following:

Salaries/Benefits/FERS Contributions/Awards	\$1,116
Travel	\$38
Contracts/Services/Training	\$44
Printing/Copying/Mailing/Postage	\$42
Rent/Communication/Utilities/FTS	\$37
OGC (Legal Services)	\$45
Supplies/Equipment	<u>\$15</u>
TOTAL	\$1,337

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

There is no change between the proposed and final rules for the referendum procedures (Part B).

The previous initial submission information collection package included proposed rules for the referendum procedures, ballot and the proposed Order and all its forms for 354 burden hours. In order for the referendum ballot to be approved, the ballot needed to be separated from the Proposed Order (Part A) and its forms. Therefore, this submission package is only for referendum procedures and ballot (Part B) for 4 burden hours. Upon approval, the industry has the ability to conduct a referendum to determine whether the industry approves or disapproves of the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order.

A second proposed proposal (Part A) will be published in conjunction with the final rule on the referendum procedures (Part B) so that industry understands what they are voting on. A separate collection package for the (Part A) remaining 350 burden hours will be submitted.

Upon approval 0581-0245 and the new collection for the Order will be merged into 0581-0093.

- 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 fiscal year, so that forms can be mailed to first handlers and importers, producers, cooperative organizations 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.

COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.