

**2008 Supporting Statement
for
Regulations Governing Inspection and Certification of
Processed Fruits and Vegetables and Related Products-7 CFR 52
OMB NO. 0581- 0123**

A. Justification

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

The Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) requires and directs the Department of Agriculture (USDA) to promulgate rules and regulations to carry out voluntary inspection and grading services, on a fee for service basis. The Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR 52) authorizes the collection of information to assure that the products sampled, inspected, graded, and certified are the actual products requested to be sampled and inspected.

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 information is utilized by USDA, Agricultural Marketing Service (AMS), Processed Products Branch (PPB), for inspection, grading, and certification purposes. PPB's services are multifaceted and positively impact several government agencies and their respective feeding programs.

The PPB grading and inspection services address food safety concerns, while simultaneously measuring and evaluating a multitude of quality parameters that are necessary for the procurement of healthy and nutritious foods. These services provide the basis for all of USDA's processed fruit and vegetable purchases, including the purchase of juices and similarly processed fruit and vegetable products. The Needy Family Program and a variety of State procurement agencies rely on these services as well.

The PPB standards also serve to bring processed fruits and vegetables in line with present quality levels being marketed today. This helps the processed food industry by providing an objective grade based market stratification system for processed food products. Processed food businesses often use the PPB quality criteria as the basis for securing loans and selling processed food commodities.

The following forms are used in this collection:

(a) **FV-159, Application for Inspection of Unofficially Submitted Samples of Food Products**

The information collected in FV-159 is used to determine the unique purpose for the inspection of unofficially submitted samples. Reasons for this type of inspection are not limited to, but include all of the following:

- Processing plants not under in-plant inspection may use the inspection results for their internal quality control purposes.
- Brokers and buyers may use the inspection results as guides in sales and purchases of product.
- Inspection results may be a necessary component of import, export, and other customer purchase specifications.

This application certifies that the sample drawn was not selected by either a Federal or State licensed sampler or inspector; samples are not from lots which have been previously inspected; and the samples are not from a lot which is the subject of controversy with any Federal agency e.g. a Federal food and drug seizure, or court litigation. The information collected on form FV-159 is used for providing a user fee service and is not requested for use in conducting a survey.

(b) **FV-356, Application for Inspection and Certificate of Sampling**

The information on the face of the form is the "Application for Inspection" and it is used to fill in the respondent's name, address, and to describe the containers, their location, code marks, and the number of containers in the lot. The public may not fill any information beyond the "remarks" section on the first page. In many cases, only the signature of a corporate authority is needed on the form.

The reverse of the form is the "Certificate of Sampling," which certifies that the samples have been selected and drawn by an inspector, licensed sampler, or by a person who has been authorized by the Administrator.

Only an official sampler may complete the Certificate of Sampling (reverse of FV-356) and expense, mileage, and driving time, etc. This portion of the form is used in the billing process. The signature of the official sampler certifies that a representative number of samples were drawn (reverse of FV-356) and that they represent the lot(s) described on the application (front of FV-356.)

(c) **FV-468, Application for License to Sample Processed Foods**

The information collected is used to subcontract applicants desiring to sample processed foods and certify as to the identification, location, and condition of containers of the processed products that are sampled. The information at the top of the form (application) is intended as a general guide that indicates what is to be expected of the applicant, if the applicant is hired.

FV-468 provides for a listing of previous employers who may be contacted for references and for determining length of service benefits when the employer is either a Federal or State agency. A review of the applicant's previous duties provides USDA with an indication of his or her ability to perform the job functions. The applicant's signature on the bottom of the FV-468 certifies that the statements made thereon are correct. It also certifies that he or she is both aware of and willing to comply with the conditions outlined in the regulations regarding all licensed samplers upon approval of the application.

The information requested on Forms FV-356, FV-159, and FV-468 is essential for providing all of the PPB's grading services, which may include the sampling, inspection, and/or the certification of processed products. The information collected is used to provide a user fee service and is not requested for use in conducting a survey.

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.

Applicants may submit information by telephone, facsimile, or by email. Also, PPB is working to make forms FV-159, FV-468, and FV-356 accessible on the internet. Presently, only form FV-356 may be accessed on the internet at <http://eforms.ams.usda.gov/#CustomersFV>. Additional efforts are continually being made to reduce burden, while continuing to provide our essential user fee services. Although alternative application methods are available to our customers, we remain mindful that not all of the inspection sites involved in this information collection have the technological capability of applying over the internet. Certain inspection sites have inadequate software capabilities, high equipment costs, high staffing expenses, and a multitude of costly computer security considerations. Therefore, we need to continue providing for the usage

of our traditional forms.

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.

Repeat information such as the name and address of inspection locations is not required, unless changes have been made to this information. However, each request is based on different production information and different needs. Therefore, sample size, case marks, lot numbers, number and type of containers, product type, product codes, certification types, warehouse locations, sampling applicants, and the nature of the samples i.e. "official" and "unofficial" samples are all subject to continual change. All of these factors require for a continuation of the forms discussed in this justification.

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.

The information is required from all applicants requesting our user fee service. The forms in this justification have no negative impact on small businesses or other small entities. In fact, PPB's grading and inspection services are often fundamental to the success of small business enterprises. Many companies are financially incapable of sustaining internal quality assurance departments. PPB's grading and inspection services offer small companies a third party alternative for maintaining internal quality assurance programs. In turn, small business entities can compete in markets where they may not have otherwise been able to. According to USDA's Office of Small and Disadvantaged Business Utilization, a small business for fruit and vegetable canning is defined as a business with 500 or fewer employees. By this definition, 75 of PPB's respondents are defined as small businesses.

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 Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) requires and directs the Department of Agriculture (USDA) to promulgate rules and regulations to carry out voluntary inspection and grading services, on a fee for service basis. In order to comply with the rules set forth under the Act in (7 CFR 52), the collection of information is needed to assure that the products sampled,

inspected, graded, and/or certified are the actual products that have been selected by the respective applicant. This user fee information is collected on an as needed basis.

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 pursuant the preceding questions. The collection of information is conducted in a manner consistent with the

guidelines in 5 C.F.R. 1320.6. The recordkeeping requirements for industry are self imposed. As part of our grading and inspection contract(s), AMS maintains a file of the grading and inspection information for seven years, plus the current year.

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 notice was published in the Federal Register on October 2, 2007, Volume 72, Number 190, page 56047. No comments on the notice have been received.

It should be noted that slight mathematical errors were made in the notice published in the Federal Register. One calculation error was made as to the number of responses per respondent. The other error was made regarding the estimated total annual burden on respondents. This collection reflects the current and accurate burden data.

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.

Respondents have indicated that the information collection procedure is not burdensome. The names and addresses of two firms that request inspection requiring use of forms FV-159, FV-356, and FV-486 are listed at the top of the following page:

(a) Seneca Foods Corporation
3736 South Main Street
Marion, New York 14505
Phone: (315) 926-8100

(b) Port Royal Sales, Ltd.
95 Froelich Farm Blvd.
Woodbury, NY 11797

Phone: (516) 291-8383
Fax: (516) 921-8488

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.

Periodic supervisory reviews and recommendations are conducted by regional supervisors on an annual basis. The recordkeeping of forms is completed and maintained by AMS. There are no circumstances that would preclude consultations.

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

No payments or gifts were provided to respondents.

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

All collected information is available through the Freedom of Information Act (FOIA), unless it is exempt under the provisions of FOIA.

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.

The information collected does not include any material that is of a sensitive nature or is commonly considered private.

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 HOUR BURDEN ESTIMATES. CONSULTATION SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON EXPECTED TO VARY WIDELY 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 have been summarized on the attached form AMS-71.

The annual hour burden for Forms FV-159, FV-356, and FV-468, was estimated by using data from the Fruit and Vegetable, Processed Products Branch automated billing program.

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 estimated cost to the respondents was derived from the Bureau of Labor Statistics. The specific salary estimate used was the estimate for First-Line Supervisors/Managers of Production and Operating Workers at <http://stats.bls.gov/oes/current/oes511011.htm>. The total cost is estimated at \$15,581. This total has been estimated by multiplying total burden hours by

\$24.27 per hour (642 x \$24.27 = \$15,581) a sum deemed to be reasonable should the respondents be compensated for their time.

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).

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 neither any overhead capital costs, nor ongoing operation and maintenance costs associated with this information collection.

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 Federal Government's estimated annual cost for providing oversight and assistance for this information is estimated at \$19,421. AMS is reimbursed 100 percent by the applicants for services rendered. The average hourly wage of GS-7 personnel collecting this data is estimated to be \$30.25. This average is supplied by the U.S. Office of Personnel management 2006 General Schedule.

The Federal Government's annual burden cost is estimated as follows:

Form FV-159 @ 56 hrs. x \$30.25 =	\$ 1,694.50
Form FV-356 @ 573 hrs. x \$30.25 =	\$17,333.25
Form FV-468 @ 13 hrs. x \$30.25 =	<u>\$ 393.25</u>
Total	\$19,421.00

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

Since the last submission there is an overall decrease of – 483 burden hours due to electronic filing improvements.

<u>REG. NO.</u>	<u>REASON</u>	<u>PREVIOUS BURDEN</u>	<u>NEW BURDEN</u>	<u>DIFFERENCE</u>	<u>TYPE OF CHANGE</u>
52.7 (FV-159)	Decrease in response time	156	56	- 100	Adj.
52.7 (FV-356)	Decrease in response time	956	573	- 383	Adj.
52.30 (FV-468)				0	Adj.
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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.

Data collected will not be published for statistical use.

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 Processed Products Branch (PPB) orders forms well in advance, so forms are mailed to inspectors in a timely manner. The PPB office attempts to order forms in quantities large enough to get a price break. If the PPB office needs to order more forms prior to an OMB submission for extension of approval, there is no guarantee that a requested expiration date will be used by OMB. There is also some confusion to 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 application period. Therefore, we are seeking approval to not display the OMB expiration date on these forms.

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 for 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.