

The Supporting Statement for OMB 0596-NEW

Extension of Timber Sales

June 2008

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Laws, Statutes, and Regulations

- Public Law 110-234 (Section 8401), 122 Stat. 93, May 22, 2008 (Farm Bill)

The Farm Bill provides several different relief options for timber sale purchasers due to a drastic reduction in forest products markets. This supporting statement provides information regarding the Forest Service's request for emergency review and processing of an information collection request made necessary by Section 8401 of the Food, Conservation, and Energy Act of 2008 (Pub. L. No. 110-234, 122 Stat. 93, May 22, 2008, hereinafter the Farm Bill).

- 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.**
 - a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)**
 - b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.**
 - c. What will this information be used for - provide ALL uses?**
 - d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the information? If so, what are they?**
 - e. How frequently will the information be collected?**
 - f. Will the information be shared with any other organizations inside or outside USDA or the government?**
 - g. If this is an ongoing collection, how have the collection requirements changed over time?**

The following information will be collected:

Purchasers seeking one or more of the relief options under the Farm Bill will

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be required to submit the following information:

- FS-2400-71, Request for Relief and Release of Liability Statement - One-page form identifying the relief options requested and including a statement that releases the United States from all liability associated with approving or denying the options.
- FS-2400-70, Contract Cancellation and Release of Liability - This is a detailed contract cancellation and release of liability form, which cancels the contract under the Farm Bill.

Purchasers seeking a change in the index used for determining market related contract term additions and emergency rate re-determinations must identify how much of the contract timber volume will be processed into softwood lumber, hardwood lumber or wood chip products.

Forest Service contracting officers will collect the information. The information is used as a component in determining the purchaser's eligibility for the relief sought.

The limited liability agreement requires original signatures on submitted hard copy. Purchasers seeking a change of index submit the timber classification information by hard copy, facsimile, or via e-mail.

The Farm Bill requires the Forest Service to collect this information. Exposure of the Federal government to increased liability would result without this information collection. This includes claims for damages resulting from conditions or events that were not part of the original contract.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

The limited liability agreement requires original signatures and will have to be submitted hard copy. The limited liability agreement requires original signatures on submitted hard copy. Purchasers seeking a change of index submit the timber classification information by hard copy, facsimile, or via e-mail.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information requested is not available from any other source and is unique to a single event in the life of a contract.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

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Many of the purchasers are small businesses. The Forest Service only requests the minimum information needed to process options authorized under the Farm. The information requested is readily available to the purchasers and does not require any statistical analysis of data or the need to go to outside sources for the information.

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.

Without the release of liability statements, the Forest Service is vulnerable to lawsuits from purchasers seeking compensation or damages resulting from conditions or events that were not part of the original contract. For example, under the Farm Bill a purchaser may receive additional time to complete a contract. This time would not be available in the absence of the Farm Bill. If during that additional time-period the Forest Service unilaterally modifies or cancels a contract due to environmental litigation, the Agency could be subjected to claims for damages. The Agency would not be exposed to such damages if the purchaser had completed the contract without the additional time. The limited liability agreement protects the government from incurring liability that was not part of the original contractual agreement.

One of the options under the Farm Bill is a procedure for changing the index used in a contract for determining when to do a Market-Related Contract Term Addition and/or an Emergency Rate Re-determination. Prior to advertising a sale, the Forest Service identifies the single index that it determines represents over half of the contract volume. It uses one of three indexes: softwood lumber, hardwood lumber or wood chips.

The Farm Bill recognized that sometimes more than one index might apply and provided a procedure for changing the index on sales meeting specified conditions. Under the Farm Bill, a purchaser will only have one opportunity to change the index on a contract. The index has long-term implications under the contract. To avert disputes in the future, the contract record must contain written documentation that the purchaser initiated the change of index, including the products it intended to produce when the request was submitted. Without this documentation, a purchaser could allege that the government unilaterally and inappropriately changed the index.

This is a one-time request for information specific to a single timber sale and is for information that is readily available to a purchaser.

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;**

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- **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 three 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 statute 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.**

The Farm Bill requires purchasers to request options provided under the Act by August 20, 2008. The request for emergency review and processing for this new information collection is necessary to meet the deadline mandated by the law. Information collections in this package have been reviewed and justified by Department management requirements, statutes, external regulations, Departmental orders, or other internal USDA requirements and will be collected in a manner consistent with 5 CFR 1320 guidelines.

- 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.**

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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

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

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same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A Federal Register notice addressing the information collection requirements and providing a 60-day comment period will be published within 30 days.

The Forest Service has ongoing conversations and meetings with timber purchasers. The program changes associated with this emergency information collection request will be addressed in the regular submission package.

9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

The only remuneration contractors will receive remuneration from the Forest Service is in the form of contract modifications or cancellations authorized under the Farm Bill.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No confidential information is involved with this information collection.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or 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 information of a sensitive nature is collected.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form.**

- a) Description of the collection activity**
- b) Corresponding form number (if applicable)**
- c) Number of respondents**
- d) Number of responses annually per respondent,**
- e) Total annual responses (columns c x d)**
- f) Estimated hours per response**
- g) Total annual burden hours (columns e x f)**

Nationally, 1,030 timber sale contracts are potentially eligible for one of the

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relief options provided by the Farm Bill. A purchaser seeking relief under one of these options would submit the required information once for each contract. A small subset (less than 100) of these contracts may meet the conditions for cancellation and purchasers seeking cancellation will be required to submit a second more detailed liability release. It is estimated that less than 100 of the contracts would require classifying the volume into three groups as required under one of the relief options. Since it is unknown how many purchasers will actually seek any of these options the 1030 contracts plus 200 contracts requiring additional information represents the maximum number of potential responses.

The collected information will be used by the Forest Service in processing contract modifications or contract cancellations. It is estimated that respondents will need approximately 10 minutes to execute a limited liability agreement for a total potential burden of 172 hours. It is estimated that between 5 and 10 percent of the sale may require classifying the volume into three groups and that the respondents could prepare that information within 10 minutes per response for a total potential burden of 17 hours. Total burden hours are estimated to be 206. The limited liability agreements will require original signatures so they will have to be submitted on paper originals. Purchasers will be allowed to submit timber classification information electronically when it is required.

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(a) Description of the Collection Activity	(b) Form Number	(c) Number of Respondents	(d) Number of responses annually per Respondent	(e) Total annual responses (c x d)	(f) Estimate of Burden Hours per response	(g) Total Annual Burden Hours (e x f)
Request for Relief and Release of Liability Statement	FS-2400-71	1,030	1	1,030	10 minutes (.167 hour)	172 hours
Contract Cancellation and Release of Liability	FS-2400-70		1	100	10 minutes (.167 hour)	16.7 ≈ 17
Classification of volume into three groups	No Form		1	100	10 minutes (.167 hour)	16.7 ≈ 17
Totals	---	1,030	---	1,230	---	206

- **Record keeping burden should be addressed separately and should include columns for:**
 - a) **Description of record keeping activity: None**
 - b) **Number of record keepers: None**
 - c) **Annual hours per record keeper: None**
 - d) **Total annual record keeping hours (columns b x c): Zero**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

(a) Description of the Collection Activity	(b) Estimated Total Annual Burden on Respondents (Hours)	(c)* Estimated Average Income per Hour	(d) Estimated Cost to Respondents
Contract Relief Option	172	\$75.00	\$12,900
Cancellation Liability Release	17		1,275
Classification of volume into three groups	17		1,275
Totals	206	---	\$15,450

The estimated annualized cost to the contractor respondents for the data in this package is based on an assumed standard cost of \$75.00 per burden hour. Using this standard cost, the annualized cost for respondents is:

Business cost for first year, at \$75.00/burden hour: \$15,450

- 13. Provide estimates 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 estimates should be split into two components: (a) a total capital**

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and start-up cost component annualized over its expected useful life, and (b) a total operation and maintenance and purchase of services component.

There are no capital operation and maintenance costs.

- 14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

The response to this question covers the actual costs the agency will incur as a result of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:

Employee labor and materials for developing, printing, storing forms

Employee labor and materials for developing computer systems, screens, or reports to support the collection

Employee travel costs

Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information

Employee labor and materials for collecting the information

Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information

The Department uses standard cost data for determination of the estimated annualized cost of its information collections. The estimated annualized cost to the Department for the data in this package is based on an assumed standard cost of \$30.00 per burden hour. This standard cost is based on the General Services Administration (GSA) formula in determination of Government paperwork and report costs, and is based on an estimated \$30.00 per hour labor cost (GS-13), and additional 25-30 percent for employee fringe benefits and an additional 30% overhead cost. Using standard costs, the annualized cost to the government is:

Government Cost at \$48.00/burden hour:	\$ 9840
Business Cost, at \$75/burden hour:	<u>\$15,375</u>
Total annual cost of this package:	\$25,215

- 15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB form 83-I.**

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This is a new information request.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

There are no plans to publish results of this information collection.

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 Forest Service will display the OMB approval expiration date.

18. Explain each exception to the certification statement identified in item 19, "Certification Requirement for Paperwork Reduction Act."

Information collections in this package have been approved and justified by Departmental management requirements, statutes, external regulations or interagency reporting requirements, Departmental orders or other Internal USDA requirements and meet the requirements listed in the "Certification for Paperwork Reduction Act Submissions."

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.