

Secretary of Agriculture (Secretary).

Marketing Order No. 920 (Order) became effective in 1984, following public hearings in accordance with formal rulemaking procedures specified under the Act. Growers approved the marketing order in referendum, as specified by the Act. The order authorizes the issuance of grade, size, pack, and container requirements. Currently, all requirements are being used. Seasonal pack and container requirements have been issued since 1985. The Order was established to create a reputation for quality produce by preventing poor quality kiwifruit from being shipped to market. Regulatory provisions apply to kiwifruit shipped both within and out of the production area to any market, except those specifically exempt.

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 new form, KISS Price/Shipment Report (Section 920.160), would require handlers who ship 100,000 tray equivalents or more per season to submit shipment and price data on a weekly basis. The information collection would include gross f.o.b. sales and the total number of containers shipped by pack, fruit size, grade, and market destination. Handlers submitting the KISS Price/Shipment Report would no longer be required to submit the shipment report or the KISS/Shipment Report, as this information would be duplicated by the KISS Price/Shipment Report. However, handlers submitting the KISS Price/Shipment Report would still be responsible for filing the KISS/Add Inventory and KISS/Deduct Inventory reports. The Committee will also use the information collected on this form in preparing the annual report and the annual

marketing policy statement.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized employees of the Committee employees. Authorized Committee employees will be the primary users of the information and AMS is the secondary user. Such information would be kept confidential in accordance with the Act and the marketing order.

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 the Committee, which administers the order. The Committee is not part of a Federal agency, but is a commodity industry committee that operates under Federal 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 Committee'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.**

Reports and forms are periodically reviewed to avoid unnecessary information collection duplication by industry and public sector agencies. At the present time, there is no duplication between Federal agencies, because the required information for this form relates specifically to individual kiwifruit handlers.

5. IF THE COLLECTION OF INFORMATION HAS SIGNIFICANT IMPACT ON A SUBSTANTIAL NUMBER OF SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF THE OMB FORM 83-1), DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.

This collection burden does not have a significant impact on small business. Information collection requirements have been reduced to the minimum requirements of the order. The KISS Price/Shipment Report requires only a minimal amount of information which can be supplied without data processing equipment or trained statistical staff. The information collection and reporting burden for this form would only affect kiwifruit handlers who ship 100,000 tray equivalent or more per season. Kiwifruit handlers who ship between 10,000 and 100,000 tray equivalents would continue to report by submitting the currently-approved monthly shipping report and the existing KISS form, including the KISS/Shipment Report, approved under OMB No. 0581-0189, Generic Fruit Crops. Organic and Gold variety kiwifruit handlers would be exempt from submitting the new KISS Price/Shipment, since there are only a small number of organic handlers representing a small percentage of total shipments and the Gold variety, a patented variety, is packed by only one handler. Exempting these handlers would not have a significant impact on the data.

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 Committee needs the information to collect weekly shipment and price information from handlers who ship 100,000 tray equivalents or more per season. This data would provide handlers with more accurate and timelier information on which to base their marketing decisions. Collecting shipment and price information on a weekly basis would provide the industry with a tool to address market swings, reduce market gluts, and increase grower and handler returns. This information would also provide the Committee with information that would be beneficial in preparing the annual report and annual marketing policy statement, which are required under 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;**

Only those kiwifruit handlers who ship 100,000 tray equivalents or more per season would be required to submit shipment and price data on a weekly basis on the new form, KISS Price/Shipment Report. Kiwifruit handlers who ship between 10,000 and 100,000 tray equivalents would continue to report by submitting a monthly shipping report and the existing KISS forms, including the KISS/Shipment Report.

- **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 OR 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 other 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 is embedded in the proposed rule. No comments are expected.

DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND

RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.

CONSULTATION WITH REPRESENTATIVE 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.

Section 608(d) of the Act provides that information acquired will be kept confidential. Reports submitted to the Committee are accessible only by the Committee manager, certain employees of USDA's Agricultural Marketing Service (AMS) headquarters and field office staff.

- 11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.**

Questions of a sensitive nature are not included on the KISS Price/Shipment Report.

- 12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION INFORMATION. THE STATEMENT SHOULD:**
- **INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCE IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOURS FOR CUSTOMARY AND USUAL BUSINESS PRACTICES.**
 - **IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEM 13 OF OMB FORM 83-1.**
 - **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 Committee is \$7,846. This total has been estimated by multiplying 420 (total burden

hours) by \$18.68, (average mean hourly earnings for full-time workers by work levels, Los Angeles-Long Beach-Riverside, CA, dated April 2007), and can be found at the following website: <http://www.bls.gov/ncs/ocs/sp/ncbl1006.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).**

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, PREPARATION 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, MAKE: (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION OR KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS

PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.

There are no capital/start-up or ongoing operation/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 estimated annual cost to the Federal Government, which includes salaries, benefits, travel, communication, supplies, etc., to administer this regulation is \$72,000.

The cost was developed by estimating the number of hours that the Agency employees will spend providing oversight and assistance for the administration, preparation of all stages of rulemaking, from the recommendation, to the proposed and final rule, as well as in the preparation of this information collection package (900 hours) at approximately \$80 per hour.

- 15. EXPLAIN THE REASON FOR ANY PROGRAM CHANGES OR ADJUSTMENT REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-1.**

This is a new collection. The total estimated burden time would be 420 hours (15 respondents x 28 responses x 1 hour per response). For further details, please see the attached AMS-71 grid. Upon OMB approval, this application will be merged into OMB No. 0581-0189, "Generic OMB Fruit Crops" generic information collection, which includes Kiwifruit Grown in California.

- 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 Committee office orders forms well in advance of the marketing year, so forms are mailed to handlers and growers in a timely manner. It is desirable to order forms in quantities large enough to obtain a price discount. If the Committee 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 handler reports are good for the length of time noted in the expiration date, rather than expiring at the end of the marketing season. Therefore, it is desirable not to display the expiration date rather than having a supply of forms on hand displaying an inaccurate expiration date.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.

No exceptions are requested to the certification statement identified in Item 19 of OMB Form 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of information does not employ statistical methods.