

**SUPPORTING STATEMENT**

**FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

**A. JUSTIFICATION**

**Summary**

Sales of U.S. agricultural commodities covered under the Dairy Export Incentive Program (DEIP) are, despite U.S. Government involvement, considered normal commercial sales. As such, most information required for submission of offers, payment of bonuses, and enforcement and termination of agreements with the Commodity Credit Corporation (CCC) is information that would already be in the possession of the exporter and thus, readily available. Commercial export sales could not take place without this data. The only information not normally available would be (1) the performance security and (2) the entry certificate. Therefore, there is no reason to assume that CCC is requiring the exporter to maintain or provide information which would not normally be a necessary factor of conducting export transactions or records maintenance for accounting or tax purposes other than that mentioned above.

This information collection applies only to DEIP. Legislative authority for the Export Enhancement Program (EEP) was repealed in the Food, Conservation, and Energy Act of 2008.

**1. Explain the circumstances that make the collection of information necessary.**

The information collection is necessary to determine if potential DEIP participants are eligible to receive the benefits of the programs.

**Identify any legal or administrative requirements that necessitate the collection.**

<b>Information Required for Collection</b>	<b>Reason for Information Collection</b>	<b>Legal Requirement</b>
Qualification Requirements for Exporters - Evidence of an organized business, citizen or legal resident of the U. S.  Certification of business regarding participation in U. S. government administered programs.	Permits CCC to determine if an applicant is legally registered to conduct business in the United States.  Protects the U. S. Government from contracting with debarred or suspended companies or individuals.  (See attached template)	1494.301
Performance security.	Ensures that CCC is protected in cases of non-performance of an agreement entered into between CCC and an exporter, and that CCC is able to collect any liquidated damages which it may be due.	1494.401

Submission of Offers to CCC	Enables CCC to determine if the offer is responsive to the Invitation for Offers and meets price and bonus ranges which are acceptable for the delivery as stated in the offer. In the case of multiple offers submitted by more than one exporter under an Invitation for Offers, enables CCC to determine ranking of bonuses so that awards can be made on a competitive basis. Forms part of the agreement between CCC and the exporter.	1494.501
Request for payment of bonus.  Entry certificate.	Enables CCC to determine if the exporter has complied with the terms of the agreement, and if they have, the amount of subsidy to be granted to the exporter. Proof of entry of the commodity into the eligible foreign country enables CCC to determine if the exporter is eligible for payment of the bonus under Option B.	1494.701
Request for amendment to an agreement.	Enables CCC to determine if the proposed amendment is acceptable and/or whether a reduction in the bonus is warranted. Proposed amendments may be unacceptable if they cause the agreement to fall out of the original parameters used in reviewing the bonus request.	1494.801
Dispute resolution and appeals.	Enables CCC to evaluate whether any program determinations (e.g., liquidated damages) should be reconsidered.	1494.901
Maintenance of Records	Enables CCC to review exporter documentation related to program participation.	1494.1001

A copy of 7 C.F.R. Part 1494, Subpart B is attached.

2. Indicate how, by whom, and for what purpose the information is to be used. Indicate the actual use the agency has made of the information received from the current collection.

Information is collected from participating U. S. exporters in order to determine the exporters' eligibility for DEIP program benefits. Information must be provided in writing and is generally collected in a letter format via facsimile. Information is collected whenever an exporter desires to participate in the DEIP program. This information is not shared with organizations outside of USDA.

The following explains the specific uses of the various types of information collected:

Qualification Requirements - Collection of information as required by 7 C.F.R. Part 1494.301 is used by CCC personnel to determine if the exporter meets the regulatory requirements for program participation.

Performance Security - If CCC did not require the submission of a suitable performance security as required under section 1494.401, CCC might be unable to collect monies due for liquidated damages, possibly resulting in monetary losses to CCC.

Submission of Offers - Without the submission of offers as required under section 1494.501, CCC would be unable to determine the eligibility of export sales for the program, thus making the program of no benefit to anyone. The submitted offers between CCC and the exporter also form part of the agreement, as defined under section 1494.201(a).

Request for Payment of Bonus - The information required under section 1494.701 is necessary to ensure that the exporter has exported within the terms of the agreement and is compensated only in the appropriate amount. Without this information, CCC could make payments where they were not warranted, and make payments in amounts which were excessive, thus causing substantial monetary losses to CCC and making less program funds available to other exporters who may wish to utilize the program.

Entry Certificates - The submission of entry certificates as required under section 1494.701 is the only reasonable way that CCC can be assured that exporters participating under Option B have completely performed under an agreement, and that the product went to the intended destination(s) as reviewed. (Option B allows the exporter to request payment of the bonus only after the exported eligible commodity has entered into the eligible country/ies.) Exporters must also maintain proof of entry documentation for 5 years per section 1494.1001. USDA may review such documents to determine exporter compliance with program regulations.

Amendments - Without the information required under section 1494.801, CCC would be unable to evaluate requests for changes to the original agreement, changes which in most cases are either necessary for the exporter to perform or else are requested at the behest of the foreign buyer, thus severely restricting the flexibility of the program.

Appeals - The appeal process as outlined in section 1494.901 gives the exporter the opportunity to appeal any determinations made by CCC that may have an adverse impact upon the financial position of the exporter.

Record Keeping - For a period of 5 years after CCC agrees to the cancellation of an exporter's performance security for an Agreement, the exporter must maintain accurate records showing sales and deliveries of the eligible commodity exported in connection with the Agreement. The regulation gives USDA officials the authority to review these records during exporters' regular business hours to determine exporter compliance with program regulations.

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.

An on-line application for program qualification is available on the FAS website and may be submitted to CCC electronically. Submission of offers and amendment requests may be submitted via facsimile.

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.

CCC permits applicants to utilize a single application to qualify for multiple CCC programs at one time. This eliminated the need for exporters to submit qualification information separately for each program.

According to the performance security requirements set forth under C.F.R. section 1494.401, CCC allows exporters to use a single "generic" performance security for all offers and agreements under any Invitation for Offers issued under the program (rather than require exporters to submit a performance security for each Invitation for Offers under which they wished to submit offers).

Other information required by this program is not duplicated elsewhere.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The information required from any size entity does not vary, and thus does not lend itself to making special provisions for 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.

CCC would be unable to determine if export sales under DEIP would be eligible for bonus and therefore could not operate the program consistent with program regulations or the legislation authorizing the program (the Food Security Act of 1985, as amended). Additionally, CCC would be at risk for making improper payments under the program.

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.

Exporters must supply information corresponding to each request for bonus and under each agreement with CCC. Therefore, frequency of reporting depends on the number of times an exporter wishes to apply for a bonus.

requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

There are no such special circumstances.

requiring respondents to submit more than an original and two copies of a document.

There are no such special circumstances.

requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.

Program participants, e.g. exporters, are required to retain all records in connection with export sales under DEIP for 5 years after CCC agrees to the cancellation of an exporter's performance security for an agreement. This requirement under section 1494.1001 (b) is necessary so that the Secretary of Agriculture or the Comptroller General of the United States may have full access to such records for reasons of upholding and protecting the interests of the United States Government.

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.

There are no such special circumstances.

requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no such special circumstances.

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.

There are no such special circumstances.

requiring respondent 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 such special circumstances.

8. 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.

A Federal Register Notice was published Wednesday, October 7, 2009, Vol. 74, No. 193, page 51550. No public comments were received in conjunction with the solicitation of public comments as required by 5 CFR 1320.8(d). The following individuals/organizations were consulted regarding this information collection:

Mr. Stephen Gulley, Dairy America; 559-251-0992  
Mr. Paul van Wagenvold, Hoogwegt, U.S., Inc. 847-918-8787  
Ms. Joanne Russo, Interfood, Inc., 781-370-9983

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

There has been no such decision.

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

No such assurances are given.

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.

No such questions are asked.

12. Provide estimates of the hour burden of the collection of information.

The attached chart entitled "Hour Burden for Collection of Information" details this requirement for DEIP. The information collection was performed by 9 respondents, with a total of 85 responses. The total annual burden is 47 hours.

While respondents will spend an estimated 0.55 hours per transaction under DEIP, their added burden is not substantially increased. This is because the information provided to CCC under 7 C.F.R. Part 1494 would be readily available to program participants in the normal course of conducting their business. This amount of time should not present an impediment to program participation. The estimated annualized cost to all respondents (in total) for the hour burden of information collection is \$1,269 based on an hourly wage of \$27.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

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, operational expenses, and any other expense that would not have been incurred without this collection of information.

The annualized cost to the Federal Government is estimated at \$293,830 and is attributed to the salary costs of officials administering the program. Currently nine staffmembers ranging from grades 7 to 15 are involved in program administration. See attached chart for calculation of costs to the Federal Government.

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

There are no changes or adjustments from the last reporting period.

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.

No results are expected to be published.

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.

There are no plans to seek such approval.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions.

B. Collections of Information Employing Statistical Methods.

None.