

**2010 SUPPORTING STATEMENT
EXPORT FRUIT ACTS
UNDER
7 CFR PARTS 33 AND 35
OMB No. 0581-0143**

A. JUSTIFICATION

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

Fresh apples and grapes grown in the United States and shipped to designated foreign destinations must meet certain minimum quality and other requirements established by regulations issued under the Export Apple Act (7 CFR Part 33) and the Export Grape and Plum Act (7 CFR Part 35), hereinafter referred to as the “Acts” or “The Export Fruit Acts.” Plum provisions in the marketing order were terminated in 1991.

These Acts protect the reputation of American-grown apples and grapes, and prevent deception or misrepresentation of the quality of such products moving in foreign commerce. The Export Apple Act and the Export Grape and Plum Act have been in effect since 1933 and 1960, respectively.

The Acts require that the U. S. Department of Agriculture (USDA) officially inspect and certify that each shipment of fresh apples and grapes meets quality and other requirements effective under the Acts. Each shipment must be inspected and certified by USDA’s Federal-State Inspection Program (FSIP) inspectors prior to export. FSIP inspection determines if a lot of apples or grapes intended for export meets the applicable quality requirements. The FSIP inspector completes an “Export Form Certificate” (Certificate), which is used to certify product quality and identify shipping information. If the fruit meet quality requirements, the FSIP issues the Certificate in multiple copies.

One copy is maintained by the exporter and one copy is presented by the exporter to the carrier(s) to accompany the shipment. The exporter does not complete or file with USDA any form in this inspection process. According to the Export Apple Act (7 CFR Part 33), and contrary to what was included in the 2007 Supporting Statement, apples exported to Canada and Mexico are required to first be inspected for minimum grade requirements. According to the Export Grape and Plum Act (7 CFR Part 35), exported grapes are exempt from the inspection requirement when transported to Canada or Mexico. Therefore, shipments of the fruit to those countries are, accordingly, included or not included in this information collection.

2. INDICATE HOW, BY WHOM, HOW FREQUENTLY, 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 USDA's Agricultural Marketing Services (AMS) uses the certificates for compliance purposes. The inspector records specific information on the Certificate relating to the quality of the fruit, the quantity shipped, the date shipped, vessel identification, and the intended foreign destination of the fruit. AMS relies on exporters of apples and grapes to report competitive exporters who are suspected of shipping un-inspected or failing product. AMS reviews Certificates, or the lack thereof, during the time period the violation is alleged to have taken place. If a violation is suspected, AMS will contact the exporter, or conduct a site visit, to review all Certificates and other shipping records and verify compliance with the Acts' requirements. An exporter's failure to provide proof of compliance will result in further compliance investigations and legal action, if warranted.

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.

Because Certificates are not completed by exporters, converting the information collection to electronic format would not benefit the public by minimizing any associated burden. The Certificates must be in hard copy format to enable filing and accompaniment with the shipment.

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.

AMS regularly reviews the reports and forms to avoid unnecessary information collection duplication by industry and public sector agencies. At the present time, there is no duplication between Federal agencies. The Certificates are specific to the commodity and lot of apples or grapes being inspected. Because each form is used to evaluate an individual shipment, the information on the forms cannot be applied to other shipments.

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 collections in the Acts do not require time or effort on the part of exporters, thus do not apply undue burden on small exporting entities.

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.

Inspections are conducted on an as-needed basis—as each export shipment of apples or grapes is prepared for export. With the exception of certain limited quantity and destination exemptions, all exported apples and grapes must be inspected. Less frequent inspections would eliminate certifications needed to assure receivers in foreign countries that they are receiving inspected fruit that meet the quality requirements they expected.

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 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 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 SECRETS, 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 that would require responses to any of the points listed above. 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.**

On April 12, 2010, AMS published a 60-day notice in the Federal Register (Vol. 75, No. 69, Page 18472), requesting public comments on an extension of a currently approved information collection. No comments were received.

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 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.

Exporters are kept abreast of any changing quality requirements through commodity association press releases and necessary correspondence from USDA. Export Certificates, and the information contained in them are considered confidential business

information and are not released. The information collection burden for this action is primarily in the form of recordkeeping. Export Form Certificates issued by FSIP are used to facilitate the export process. The Certificates are not completed by the exporters or carriers; they merely maintain or retain these records.

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

Respondents are not provided with gifts or payments for providing information.

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

Certificates held by FSIP are stored in secure files with access restricted to authorized personnel only. Certificates are not systems of record as defined by § 552(a) (5) of the Privacy Act of 1974, and, therefore, not subject to the requirements of the Act. If Certificates are reviewed by compliance officers on site, proprietary information is held in strictest confidence.

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 a sensitive nature are solicited 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 83.1.**

The estimate of burden for this information collection has been summarized on AMS Form 71 (attached).

- **PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES.**

AMS has reviewed the recordkeeping costs to exporters and carriers imposed under this information collection. The number of exporters and their contracted carriers who would maintain their copy of the Certificate is estimated to be 107 based on industry figures. Recordkeeping costs to exporters and carriers are estimated to be \$384.67. This estimated total is calculated by multiplying 26.75 (total burden hours) by \$14.38, the median hourly wage rate for Office and Administrative Support Workers, according to the U.S. Department of Labor Statistics. Data for computation for this hourly wage was contained in the "National Compensation Survey," dated May 2009, and is available on the Internet at www.bls.gov/oes/current/oesrcst.htm.

13. PROVIDE AN ESTIMATE 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 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 no start-up cost burdens to respondents or recordkeepers not

included in items 12 and 14.

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 annual costs for administering this information collection is estimated at \$19,342.87 the first year and for subsequent years it is estimated to be about \$20,116.58, assuming cost of living increases to salary and higher overhead costs. The amount is significantly higher than the last submission and takes into account grading services and program costs that were not previously reported. A breakdown of the oversight costs for the first year is the following:

Salaries/benefits/awards	\$3,542.87
Travel	\$2,000
Printing/Copying/Mailing/Postage	\$1,400
Federal Register Services	\$1,200
OGC (legal services)	\$8,000
Grading supplies/equipment	\$3,200
TOTAL	\$19,342.87

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

In the previous submission, the Supporting Statement incorrectly stated that apples exported to Canada or Mexico are exempt from the inspection regulations, and did not account for the number of exporters to those countries. Apples exported to Canada

and Mexico are, in fact, subject to inspection, and must meet minimum grading requirements. The number of exporters of apples has been updated to include those that should have been included in the 2007 package, resulting in an increase to the number of recordkeepers. As a result, the total hours have increased from 25 to 27. The annual responses have increased by 2 hours since the last submission.

- 16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS ARE PLANNED TO 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.**

There are no forms associated with this information collection, thus, no expiration date is applicable.

- 18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB 83-1.**

The agency is able to certify that the collection of information encompassed by this request complies with 5 CFR 1320.9 and related provisions of 5 CFR 1320.8(b)(3).

- B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.**

No information is collected and no statistical methods are used.