

2010 SUPPORTING STATEMENT
Reporting and Recordkeeping Requirements for 7 CFR Part 29
OMB 0581- 0056

A. Justification.

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

The Fair and Equitable Tobacco Reform Act of 2004 (7 USC 518) eliminated price supports and marketing quotas for all tobacco beginning with the 2005 crop year. Mandatory inspection and grading of domestic and imported tobacco was eliminated as well as the mandatory pesticide testing of imported tobacco and the Tobacco Market News program. The Tobacco Inspection Act (U.S.C. 511) requires that all tobacco sold at designated auction markets in the U.S. be inspected and graded. Provision is also made for interested parties to request inspection and grading services on an "as needed" basis. All inspection is funded by user fees. The Act also provides for the establishment and maintenance of tobacco standards for U.S. grown types and the collection and dissemination of market news which are funded by appropriated money.

Beginning with the 2005 crop, AMS Cotton and Tobacco Programs offered voluntary tobacco inspection and grading applying the official USDA tobacco standards on all types of domestic and imported tobacco, and pesticide testing on an expanded list of pesticides on all domestic and imported tobacco. These services were implemented by contracts between AMS and the individual tobacco dealers and manufacturers.

2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, MADE OF THE COLLECTION INDICATE THE ACTUAL USE THE AGENCY HAS INFORMATION RECEIVED FROM THE CURRENT COLLECTION

Upon request of tobacco dealers and/or manufacturers, tobacco inspectors pull samples and apply U.S Standard Grades to tobacco samples providing the customer a Tobacco Inspection Certificate (TB-92). Also upon request, tobacco samples are pulled by an inspector for submission to a USDA laboratory which applies pesticide residue standards as stated in CFR, Part 29.427, and a detailed analysis is

provided by Cotton and Tobacco Programs to the customer.

The Fair and Equitable Tobacco Transition Act of 2004 eliminated price supports and marketing quotas for all tobacco beginning with the 2005 crop year. Mandatory inspection and grading of domestic and imported tobacco was eliminated as well as the mandatory pesticide testing of imported tobacco and the Tobacco Market News Program. No burden hours are reported for the mandatory forms in this approval request.

Voluntary Forms:

Application for Permissive Inspection Service, (letter/verbal) Section 29.59, 29.60 - The Tobacco Inspection Act provided two types of inspection: mandatory and permissive. Beginning with the 2005 crop Cotton and Tobacco Programs offered permissive inspection and grading on all types of domestic and imported tobacco. Permissive inspection consists of inspection, including sampling, weighing, and certifying tobacco upon the request of an interested party. An application from the public for permissive inspection may be made verbally or in writing. The information collected (date of application; designation of tobacco; crop year of its production; name and post office address of applicant; the person, if any, making the application as agent; financial interest of the applicant in the tobacco; and exact nature of services desired) is used to determine if the inspection falls under criteria for permissive inspection and to schedule Cotton and Tobacco Programs personnel for the inspection.

Withdrawal of Application for Permissive Inspection, (letter/verbal) Section 29.63, 29.126 - Gives the permissive inspection applicant the option to withdraw the application. Charges may be assessed for expenses in connection therewith. This is a fairly rare occurrence as it is not to the applicants' advantage to withdraw.

Advance Notice of Inspection, (letter/verbal) Section 29.402 – Importers are to notify Cotton and Tobacco Programs by telephone, fax, or email the location where inspection will be made and the amount of tobacco involved five (5) days prior to unloading to facilitate the efficient allocation of resources during peak periods of activity.

Accessibility of Tobacco, (letter/verbal) (Import) Section 29.403 - The inspector needs authority to require the importer to make the tobacco available in a manner in which a proper inspection can be done. The importer must remove coverings to expose tobacco and then reseal packages and place in storage after inspection.

Inspection by Submitted Sample, (letter) Section 29.405 - In cases where time, geographical distance, or availability of inspectors is a problem, the option to allow importers to provide samples is needed. However, it has not been necessary to exercise this option, nor have any requests to do so been received. Importers would submit samples of tobacco along with certification stating the sampling was completed in accordance with procedures approved by Cotton and Tobacco Programs. Importers must request in writing that samples be returned at the importers' expense. The procedures may vary and will be explained to the importer via phone or e-mail.

Import Inspection Certificate, Form TB-92, Section 29.407 - After inspection or completion of certification letter, the importer must send either the original or the importer's copy of the Inspection Certificate (Form TB-92) or certification letter for cigar and oriental tobacco to Cotton and Tobacco Programs. This is not a reporting burden as only USDA personnel enter data on the form.

Appeal of Test Results, (letter) Section 29.430 - The importers may appeal the results of tests performed on tobacco samples. The appeal must be in writing and specify relief requested.

***Loss of Authority (Request OMB approval should suspension be lifted).**

Cotton and Tobacco Programs is requesting OMB approval of the mandatory application forms listed below as part of this renewal for future use should the suspension be lifted and the reporting requirements re-implemented.

*Application for Extension and Price Support Service, Section 29.3 (b)

*Request for Biographical Sketch for National Advisory Committee, Section 29.129

*Request for Biographical Sketch for Flue-Cured Tobacco Advisory Committee, Section 29.9430

*Request for Biographical Sketch for Burley Tobacco Advisory Committee, FR Notice 4-12-97

*Referendum Ballot, Form TB-210, Section 29.74

*Mandatory Inspection Ticket, Section 29.76, 29.77, 29.79

*Imported Tobacco Pesticide Residues and End User(s) Certification, Form TB-87, Section 29.425

*Disposition of Tobacco Testing, Section 29.429

- 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 forms in this information collection are not available electronically because respondents do not have capability in field locations. The bulk of information is delivered by postal service, and fax transmissions are utilized where available.

- 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. Similar information is not available to be modified.

- 5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF THE OMB FORM 83-I), DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.**

Only essential information, which cannot be gathered from other sources, is collected. The same information is necessary regardless of the volume but is designed to keep the burden on the public at a minimum. The Act requires that the inspection and certification not impede the normal flow of commerce. The primary sources of data used to complete the forms are used in all business transactions. Thus, the information collection and reporting burden is relatively small, and requiring the same reporting requirements for all importers does not significantly disadvantage any importer that is smaller than industry average.

- 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.**

Collecting data less frequently would eliminate data needed to keep the tobacco industry and the Secretary abreast of changes. Timing and frequency of various reports has evolved to meet the needs of the industry and yet minimize the burden on the reporting public. Information is collected when our services are requested.

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 that are inconsistent with the guidelines in 5 CFR 1320.06.

- 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 was published in the Federal Register on June 17, 2010, Vol. 75, No. 116, page 34418-34419. 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.

The tobacco industry and staff are constantly aware of activities in other markets through correspondence, meetings, and information received from the USDA Cotton and Tobacco Programs endeavors to annually consult with respondents and a procedure is in place to initiate this requirement. In addition, notices of tobacco meetings are sent to the tobacco industry personnel and other interested parties to address concerns and provide an opportunity for productive and meaningful

exchanges of information regarding tobacco. The following are contacts made in 2010:

Mark Mantipl
Universal Leaf Tobacco, Inc.
Richmond, VA 23260
(804) 359-9311

Randy Herndon
Hail & Cotton, Inc.
Springfield, TN 37172
(615) 384-9576

Charles Thomas
Alliance One International, Inc
Farmville, NC 27828
(252) 753-8894

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

No payments or gifts are provided to respondents.

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

Confidentiality is not specifically addressed in the enabling statutes; however, as a matter of policy, program personnel are not allowed to disclose details of requested services.

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 any form.

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

Estimates of the burden of collection of information have been summarized on AMS Form 71 enclosed.

The 50 respondents' estimated annual cost in providing information to Cotton and Tobacco Programs is \$64,311.70. This total has been estimated by multiplying 3,851 total burden hours by \$16.70, an average of mean hourly earnings by local white collar administrative clerical employees. Data for computation of this hourly wage was obtained from the U. S. Department of Labor Statistics publication, *National Compensation Survey, Occupational Wages in the United States, 2007*, published August 2008 (Bulletin 2704). This publication which was revised September 9, 2010, can also be found at the following website:
<http://www.bls.gov/ncs/ncswage2007.htm>

- 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 is no capital/start up on operation and maintenance costs.

- 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.**

Almost all costs are recovered through user fees. The estimated annual cost to the Federal Government, which includes salaries, benefits, travel, communication, supplies, etc., to administer this regulation is \$1,171,073 . The cost was developed by estimating the number of hours of one full time GS-13 Marketing Specialist and one GS- 12 Supervisor Agricultural Commodity Grader, who are responsible for implementing the program, 9 full time Agricultural Commodities Graders GS-9 and 11 ; and the administrative support provided throughout the year on a full time basis by one GS-06 (\$21.26 per hour) Secretary, and one GS-11 (\$32.12 per hour) Management Analyst. These administrative support personnel perform specific tasks appropriate to their level of skill and expertise.

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

Since the last submission there is no changes or adjustments.

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.

The tobacco information published is market news data collected by Program personnel and made available to the public through the media, internet, and telephone answering devices. Tobacco stock reporting is provided by mail through subscription.

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 Agency requested approval to not display the expiration date for OMB approval of the information collection. This requirement significantly affects voluntary programs by increasing costs to users since otherwise usable forms must be destroyed when the dates expire requiring the form to be revised and redistributed. Such needless cost increases passed on to users of voluntary services are counter productive to the

Administration's goal of reducing costs and increasing program efficiency.

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 Form 83-1.

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.