

OMB Clearance 0580-0016
2011 Supporting Statement
Clear Title – Protection for Purchasers of Farm Products

In addition to responsibilities under the Packers and Stockyards Act and the U.S. Grain Standards Act, the Secretary assigned the Grain Inspection, Packers and Stockyards Administration (GIPSA) the responsibility for the Clear Title Program (section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631, attached, referred to below as section 1324). The Clear Title Program was enacted to facilitate interstate commerce in farm products and protect purchasers of farm products by enabling States to establish central filing systems that would allow buyers to learn about liens on farm products. For the Clear Title Program, “farm product” means an agricultural commodity such as wheat, corn, soybeans, or a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state (such as ginned cotton, wool-clip, maple syrup, milk, and eggs), that is in the possession of a person engaged in farming operations. Packers and Stockyards Program (P&SP) was assigned responsibility for section 1324 in February 1986. We believe that P&SP was assigned responsibility for two reasons, (1) P&SP is a regulatory agency, and (2) livestock, meat, and grain interests initiated introduction of the legislation. The purpose of the Clear Title Program is to remove burden on and obstruction to interstate commerce in farm products such as double payment for the products, once at the time of purchase, and again when the seller fails to repay the lender.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The collection of information is necessary for the Secretary to comply with section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631). Among other things, The Food Security Act of 1985 permits the States to establish “central filing systems” for the purpose of pre-notifying buyers, commission merchants, and selling agents of security interests against “farm products.” These central filing systems notify buyers of farm products of any mortgages or liens on the products.

Section 1324 requires the Secretary of Agriculture to certify such central filing systems. GIPSA regulations specify the information that a State requesting certification of a central filing system must submit (see 9 CFR 205, attached). GIPSA reviews the information submitted by the States to certify those central filing systems that meet the criteria set forth in section 1324. Individual States could not implement a central filing system in compliance with section 1324 without the required certification.

When a State decides that it wants to apply for certification, the State submits the information to GIPSA. States can submit information about amendments to the approved central filing system.

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 information to be submitted is specified in the regulations in 9 CFR 205. The regulations require a written request be submitted with documents to show that the central filing system complies with the requirements of section 1324. The type of information required by the regulations includes information about how the system will operate, information to be submitted to the State for inclusion in the central filing system, information on storage, retrieval, and distribution of information contained in the central filing system. In addition, the information needs to include copies of authorities, regulations, and forms for the central filing systems.

The information is submitted to GIPSA by States applying for certification of a new central filing system that would notify buyers of farm products of any mortgages or liens on the products. The information collected will be used by the Secretary to determine if a State's central filing system meets certification requirements. If the information were not collected, the Secretary would not be able to make such a determination.

When a State applies for certification, the State submits the information to GIPSA. The information is submitted one time when the State applies for the certification. The information received from the State is available for public inspection.

The following table details the number of times information has been collected from the States since the beginning of the Clear Title Program. As the table shows, the first year of the program, 1986, was the only year in which more than 9 States chose to submit information; 1993 was the last year in which a State submitted information to have their system certified; and between 1996 and 2003, we have had at most one State per year choose to submit information for an amendment.

| Year | Number of States Certified | Number of Amendments | Number of States with Amendments | Total Information Collections | Information Collection Activity by State |
|------|----------------------------|----------------------|----------------------------------|-------------------------------|--|
| 1986 | 9 | 1 | 1 | 10 | 10 |
| 1987 | 6 | 3 | 3 | 9 | 9 |
| 1988 | 0 | 3 | 2 | 3 | 2 |
| 1989 | 2 | 5 | 5 | 7 | 7 |
| 1990 | 0 | 3 | 2 | 3 | 2 |
| 1991 | 0 | 3 | 1 | 3 | 1 |
| 1992 | 1 | 2 | 2 | 3 | 3 |
| 1993 | 1 | 2 | 1 | 3 | 2 |
| 1994 | 0 | 6 | 2 | 6 | 2 |
| 1995 | 0 | 5 | 3 | 5 | 3 |
| 1996 | 0 | 1 | 1 | 1 | 1 |
| 1997 | 0 | 1 | 1 | 1 | 1 |
| 1998 | 0 | 1 | 1 | 1 | 1 |
| 1999 | 0 | 0 | 0 | 0 | 0 |
| 2000 | 0 | 1 | 1 | 1 | 1 |
| 2001 | 0 | 1 | 1 | 1 | 1 |
| 2002 | 0 | 0 | 0 | 0 | 0 |
| 2003 | 0 | 0 | 0 | 0 | 0 |
| 2004 | 0 | 1 | 1 | 1 | 1 |
| 2005 | 0 | 0 | 0 | 0 | 0 |
| 2006 | 0 | 2 | 2 | 2 | 2 |
| 2007 | 0 | 1 | 1 | 1 | 1 |
| 2008 | 0 | 0 | 0 | 0 | 0 |
| 2009 | 0 | 0 | 0 | 0 | 0 |

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, 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.

This collection of information does not use information technology. With the limited number of States that have applied for certification and that are expected to apply for certification, it would not be cost effective to implement an information technology based system for this information collection activity. (NOTE: There are 19 States that currently have certified central filing systems. We estimate that at most one State per year will apply for certification of a central filing system.)

GIPSA will accept electronic submissions by States for application review.

Adoption of section 1324 of the Food Security Act of 1985 by a State may be limited by the resources of the State to implement associated provisions or it may be limited by the

State's knowledge of the section or both. The unfunded status of section 1324 limits GIPSA's ability to educate potential parties.

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

The information to be submitted is newly generated by each State applying for certification of its central filing system and is not available elsewhere.

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

Information is required from States only therefore, the collection of information does not impact small businesses or other small entities.

6. Describe the consequences 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 Federal program is the certification of a State's central filing system. There would be no other way that would be less costly or less burdensome to certify the central filing systems other than the States furnishing the information to the Secretary. The only other method for certification would be to send investigators to each of the individual States to make a determination if the central filing system meets the requirements of section 1324.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.6.

Collection of information will be consistent with the general information collection guidelines in 5 CFR 1320.6.

8. 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 form, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB.

The Agency consults with State offices, primarily the office of the Secretary of State, when they make application for certification and amendments to the current central filing system. Procedures and methods of providing the information needed are discussed on a regular basis at the time a State applies for certification. We have consulted with the following:

Steven Cohern (2009)
Secretary of State of Mississippi
601-359-9054

Steve Howell (2009)
Secretary of State of Arkansas
501-682-3012

Steve Windham (2010)
Commercial Division
Secretary of State of Louisiana
225-925-4704

Jeff Harvey (2010)
UCC Supervisor
Secretary of State of Idaho
208-332-2849

The Agency did not receive any comments in response to a notice of its intent to seek renewal of this information collection package, which was published on May 20, 2010, at 72 FR 28230 (copy attached).

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

There are no plans to provide any 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.

Information provided by States is available for public inspection; therefore, confidentiality is not a consideration.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and others that are 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.

There are no questions of a sensitive nature asked for this collection of information.

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.

The estimated burden for this collection is 80 hours. The potential number of respondents is one State per year with a one-time response. No forms are required to be filled out. The regulations only recommend format for establishing a central filing system.

States applying for certification of a central filing system would spend approximately \$3,200, (\$40 per hour x 80 hours – typing, printing, and other preparation costs) to put the information together and send it to the GIPSA headquarters office in Washington, D.C.

13. Provide estimates 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 estimates 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.

There are no capital/start-up or operation/maintenance costs associated with this collection of information.

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.

Review of information is done by a GS-13/02 and takes approximately one hour per response. The estimated annual cost to the Federal government is \$4,016. See separate APHIS 79.

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

No program changes or adjustments.

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

GIPSA does not plan on developing statistics, reports, or other items summarizing the results of this collection activity, or publishing results of analysis of the collection of information.

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.

No forms are required.

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.