

**2016 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 by Federal or Federal-State Inspection Program (FSIP) to determine if a lot of apples or grapes intended for export meet the applicable quality requirements. FSIP inspectors use the Export Form Certificate FV-207 (certificate) to certify inspection of the shipment for exports bound for non-Canadian destinations.

The completed certificate is issued to the shipper. The shipper provides the carrier with the completed certificate to verify compliance with the Acts. Under the current regulations issued under the Acts, the carrier is required to maintain the certificates for no less than three (3) years.

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.

USDA intends to expand the scope of the certificate to include inspection certificates for export shipments bound for Canadian destinations and rename it from FV-207 to FV-205. This will require cosmetic changes to the layout to the form, but this change will not affect the burden.

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.**

Currently, the shipper does not currently complete any form or file with USDA any form or form-related information as part of this inspection and certification process. The certificates are retained in hard copy format to enable filing and accompaniment with the shipment. However, the USDA is in the process of enacting rulemaking to ensure the certificate is compliant with the International Trade Data System (ITDS) to automate the filing of export and import information by the trade by December 31, 2016. Under this key White House economic initiative, shippers of apples and grapes exported from the United States will be required to electronically enter the certificate number from inspection certificates into the Automated Export System (AES) and to provide copies of the certificates (electronic or paper) to the Agricultural Marketing Service (AMS), upon request.

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 collection in the Act does not apply undue burden on small entities. The information collection requires the time and effort of FSIP in filling out the certificates; they are considered the respondents. FSIP is a government entity and is therefore not included in the public burden calculation.

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. We estimated the number of recordkeepers for this collection to be 94, and we estimate that 40 percent are considered small businesses as defined in the Small Business Administration guidelines.

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. 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 June 14, 2016, AMS published a 60-day notice in the Federal Register (Vol. 81, No. 114, Page 38656-38657), 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. The information contained in the certificates is considered confidential business information and is not released. The information collection burden for this action is primarily in the form of recordkeeping. These certificates 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 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 information collection requirements in this request impose only the minimum burden necessary to effectively administer the Acts. The information collection burden for this action is primarily in the form of recordkeeping; the certificates are not filed with USDA. USDA proposes a decrease to the time required to complete this information collection from 15 minutes per response, as indicated in the 2013 renewal, to 5 minutes per response. This is sufficient time to complete the related recordkeeping actions of the shipper delivering a copy of the certificate to the carrier and the carrier keeping the certificate on file for not less than 3 years.

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

The information collection burden for this action is primarily in the form of recordkeeping. The last renewal of the collection in 2013 reported that 102 recordkeepers (68 shippers and 15 carriers for exported apples, and 14 shippers and 5 carriers for exported grapes). Current industry data indicates a decrease in the recordkeepers from 102 to 94, as there is a reduction in the estimated number of export apple shippers (from 68 to 60) but no changes in the estimated number of export grape shippers (14), or carriers of export apples (15) and grapes (5).

The 2013 renewal reported the number of certificates per year to be approximately one response per respondent. This suggested that there were only 102 certificates issued. However, USDA's Foreign Agricultural Service estimates that, for the five-year period 2011-2015, the average number of export apple and grape shipments requiring inspection per year was 42,326 for apples and 10,462 for grapes, for a total five-year average of 52,788 certificates per year that would need to be maintained.

In this renewal of the collection in 2016, USDA will update the recordkeeping calculation to reflect an estimated 564 responses per recordkeeper

for apples, which is approximately the 42,326 certificates divided by the 75 apple shippers and carriers; and an estimated 551 responses per recordkeeper for grapes, which is approximately the 10,462 certificates divided by the 19 grape shippers and carriers.

In addition, USDA proposes a decrease to the time required to complete this information collection from 15 minutes per response, as indicated in the 2013 renewal, to 5 minutes per response. This is sufficient time to complete the related recordkeeping actions of the shipper delivering a copy of the certificate to the carrier and the carrier keeping the certificate on file for not less than 3 years.

For calculation purposes, 5 minutes is equivalent to 0.083 hours. As such, the annual hours for recordkeeping for each of the 75 recordkeepers for apple exports is 46.841 hours. To find the total annual recordkeeping hours, 46.841 hours is multiplied by the 75 recordkeepers to equal 3513.06 hours. This is also equivalent multiplying the 42,326 certificates issued annually for apples by burden time for one certificate (0.083 hours).

The annual hours for recordkeeping for each of the 19 recordkeepers for grape exports is 45.702. To find the total annual recordkeeping hours, 45.702 hours is multiplied by the 19 recordkeepers to equal 868.35 hours. This is equivalent the multiplying the 10,462 certificates issued annual for grapes by the burden time for one certificate (0.083 hours). Therefore, USDA calculates the estimated total annual burden on respondents would change from the inaccurate 25 hours to the more accurate 4,381 hours estimate.

There is no burden on the respondents for requesting the inspection. USDA estimates that there are 60 respondents for the 42,326 certificates issued for apples. This means, approximately 705 certificates are issued to each respondent. USDA estimates that there are 14 respondents for the 10,462 certificates issued for grapes. This means, approximately 747 certificates are issued to each of the respondents.

- **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 total recordkeeping costs for 94 recordkeepers to maintain the copy of the certificate is estimated to be \$110,839.30 based on industry figures. This estimated total is calculated by multiplying 4,381 (total burden hours) by \$25.30, the median hourly wage rate for Office and Administrative Support Workers, according to the U.S. Department of Labor Statistics. (National Compensation Survey: Occupational Employment and Wages, March 2015; http://www.bls.gov/oes/current/oes_nat.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 record keepers 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 providing oversight of, and assistance for, this information collection is estimated at \$21,110 for the first year, and \$22,877.13 for subsequent years, assuming higher overhead costs. A breakdown of the oversight costs for the first year is as follows:

Salaries/benefits/awards	\$5,310.00
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	\$21,110

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

USDA proposes a decrease to the time required to complete this information collection from 15 minutes per response, as indicated in the 2013 renewal, to 5 minutes per response. This is sufficient time to complete the related recordkeeping actions of the shipper delivering a copy of the certificate to the carrier and the carrier keeping the certificate on file for not less than 3 years.

The 2013 renewal incorrectly reported the number of certificates per year to be approximately one response per respondent. This suggested that there were only 102 certificates issued. This caused an inaccurate report of 25 hours for the total annual burden. The accurate estimate of burden for this information collection is 4,381 hours as summarized on AMS Form 71 (attached) and in Question 12. Based on more accurate information regarding the number of certificates issued and USDA’s decision to decrease in burden per certificate, USDA is requesting an increase of 4356 burden hours.

- 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.

USDA requests approval not to display the expiration date on the form associated with this information collection because having to do so would 1) decrease the efficiency of the marketing order and agreement programs, 2) be financially prohibitive to some certificate users, and 3) cause confusion to the recordkeepers.

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.