

2017 SUPPORTING STATEMENT
SPECIALTY CROP MARKETING ORDERS
ASSESSMENT EXEMPTION FOR ORGANIC COMMODITIES
OMB No. 0581-0216

A. JUSTIFICATION

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

Under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. § 601 *et seq.*; Act), the U.S. Department of Agriculture (USDA) oversees marketing orders for certain agricultural commodities. Marketing orders are regulations that foster orderly marketing conditions in inter-state and intra-state commerce, while providing producers with adequate returns. Marketing orders are implemented following a favorable vote by eligible producers and apply to handlers who sell their products into commercial channels. In addition to establishing minimum quality requirements for products entering commercial channels, marketing orders may authorize production and marketing research, including paid advertising, to promote various commodities, which is paid for by assessments that are levied on the handlers.

Section 608(d)(1) of the Act provides that information necessary to determine the extent to which a marketing order has effectuated the declared policy of the Act shall be furnished at the request of the Secretary of Agriculture (Secretary).

On May 13, 2002, the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. § 401; FAIR Act) was amended by the Farm Security and Rural Investment Act (7 U.S.C. § 7901; 2002 Farm Bill), exempting any person who produces and markets solely 100 percent organic products, and who does not produce any conventional or non-organic product, from paying these assessments with respect to any agricultural commodity that is produced on a certified organic farm, as defined by the Organic Foods Production Act of 1990 (7 U.S.C. § 6502; OFPA). The provisions of the OFPA are carried out by the National Organic Program (NOP), which was created by the USDA.

Section 10004 of the 2014 Farm Bill expanded the organic assessment exemption originally established by the FAIR Act. The 2014 Farm Bill allows all organic handlers to apply for an exemption from assessments on products certified as “organic” or “100 percent organic,” regardless of whether the handler also markets conventional or nonorganic products. At the same time, the 2014 Farm Bill reduced the per response time to complete the form from 30 minutes to 15 minutes.

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 marketing orders, and the rules and regulations issued thereunder, authorize the committees, boards and councils to collect certain information from handlers (7 CFR § 900.700). As a convenience to handlers eligible for the organic assessment exemption, the Agricultural Marketing Service (AMS) created an application form that handlers may use as a means to apply to the appropriate committee, board and council for the exemption. Handlers submit the completed form to the appropriate committee, board or council once a year to apply for an assessment exemption to a certain percentage. The information gathered on this form is necessary to help the committees, boards and councils determine a handler's eligibility for the assessment exemption.

- a) **Certified Organic Handler Application for Exemption From Marketing Promotion Assessments Paid Under Federal Marketing Orders; Form SC-649 (§ 900.700)**: Handlers who (a) operate under an approved NOP process system plan, (b) only handle or market products that are eligible to be labeled 100 percent organic under the NOP and are produced on a certified organic farm as defined in the OFPA, (c) are not split transactions, and (d) are subject to assessments for marketing promotion, may complete this application seeking exemption from marketing promotion assessments, either before or during an assessment period, and annually thereafter, to seek exemption from paying the marketing promotion assessments. The handler files this application with the appropriate committee, board or council, along with copies of their organic handling operation certificate provided by a USDA-accredited certifying agent, a copy of the NOP producer certificate, and a NOP certificate for each additional producer for whom the handler handles or markets a commodity. The committee, board or council then determines whether the handler is eligible for the assessment exemption, and notifies the applicant, in writing, of its approval, or its disapproval and the reason(s) therefore. If the committee, board or council approves the exemption, it takes effect at the beginning of the next assessable period following the notification of approval.

The marketing orders covered under this submission are: 7 CFR parts 906, oranges and grapefruit grown in Lower Rio Grande Valley in Texas; 915, avocados grown in south Florida; 923, sweet cherries grown in designated counties in Washington; 925, grapes grown in a designated area of southeastern California; 927, pears grown in Oregon and Washington; 929, cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in New York; 930, tart cherries grown in the Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; 932, olives grown in California; 948, Irish potatoes grown in Colorado; 955, Vidalia onions grown in Georgia; 956, sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon; 958, onions grown in certain designated counties in Idaho, and Malheur County, Oregon; 959, onions grown in south Texas; 966, tomatoes grown in Florida; 981, almonds grown in California; 982, hazelnuts grown in Oregon and Washington; 984, walnuts grown in California; 985, spearmint oil produced in Washington, Idaho, Oregon, and designated counties in Nevada and Utah; 986, Pecans produced in Alabama, Arkansas, Arizona, California, Florida,

Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; 987, domestic dates produced or packed in Riverside County, California; 989, raisins produced from grapes grown in California; and 993, dried prunes produced in California.

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.**

Upon re-approval, form SC-649 will be shared directly to the applicable committee, board or council that administers the marketing order under which a handler seeks exemption from a marketing promotion assessment. These committees, boards and councils are not part of a Federal agency, but operate under Federal authority and oversight. Information collection forms are periodically reviewed by the committees, boards and councils to ensure that they are understood by industry members, are easy to complete, and place as small a burden as possible on the person supplying the information. AMS employees are also involved in this process.

The form will not be made available for electronic submission due to the logistical constraints of requiring handlers to submit certifying documentation with the application.

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.**

Forms are periodically reviewed by industry and public sector agencies and presently, there is no duplication between Federal agencies with regard to this form. Information currently generated by State, Federal, and private sector reports pertains to commodities in general, but does not specifically address organic commodities grown in the marketing order production areas. Therefore, the information requested in these applications is used for the specific purposes required under 7 CFR section 900.700 and verified with certifications issued by the NOP. Such information also does not necessarily contain information of a proprietary nature relative to the affected handlers.

5. **IF THE COLLECTION OF INFORMATION HAS SIGNIFICANT IMPACT ON A SUBSTANTIAL NUMBER OF SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 15 OF THE PAPERWORK REDUCTION ACT SUBMISSION FORM), DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.**

The form requires a minimal amount of information, which can be supplied without data processing equipment or a trained statistical staff as the data used to complete the form are routinely used in all business transactions. Thus, the information collection and reporting burden is relatively small. Requiring the same reporting requirements for all eligible handlers will not significantly disadvantage any handler that is smaller than the industry average. In addition, the size of the applicant's business is not a determining or disqualifying factor to receive approval for exemption status. Therefore, the committees do not keep a record of how many applicants are 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.

The recipients of any benefits are eligible handlers, who benefit from not paying certain assessments. Handlers submit the forms annually, on a crop year basis, to be consistent with crop production and other organic certifications under the NOP. The information would, therefore, not be accurate if collected less frequently, and would not provide the committees, boards or councils with the information needed to make determinations on promotion assessment exemption eligibility.

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 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 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 other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR Section 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.**

A 60-day notice concerning this information collection was published in the Federal Register on February 21, 2017, inviting comments from interested persons through April 24, 2017. (Vol. 82, No. 33, p. 11171-11172). 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.**

Each committee, board or council manager may receive information on other marketing orders through correspondence or meetings, or from other managers and the USDA. These committees, boards and councils endeavor to consult with representatives from whom the information is to be obtained at least once every three years. Notice of committee, board or council meetings are sent to all those associated with the respective industry, and any concerns regarding committee, board or council issues are welcome. USDA personnel are in continuous contact with each of committee, board and council, and perform oversight functions at each of their meetings.

9. EXPLAIN ANY DECISION TO PROVIDE 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.

Section 608(d) of the Act provides that information acquired will be kept confidential. Information submitted to the committees, boards and councils is accessible only by each manager and staff, and certain USDA employees in Washington, D.C. Committee, board or council members are aware of the penalties for violating confidentiality requirements. Authorized committee, board and council employees are the primary users of the information and AMS employees will be the secondary users.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDE, 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 found 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 OTHERWISE 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 BURDEN AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOURS FOR CUSTOMARY AND USUAL BUSINESS PRACTICES.

The 190 respondents required to file this form was estimated based on records kept by the committees, boards and councils, which track growers and handlers regulated under its respective programs. While not exact, these estimates are close to the actual number of growers or handlers as the committees, boards and councils work closely with its respective industries in administering the marketing orders. See AMS-71 for breakout.

- **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.**

The respondents' estimated annual cost of providing information to the committees, boards and councils is approximately \$1,612.80. This total has been estimated by multiplying 48 total burden hours by \$33.60, the national mean hourly wage of Farmers, Ranches, and other agricultural managers, according to the U.S. Department of Labor Statistics. (National Compensation Survey: Occupational Employment and Wages, May 2015; <http://www.bls.gov/oes/current/oes119013.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, PREPARATION 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, MAKE: (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION OR KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

There are no capital/startup 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, OPERATIONS 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 \$15,311 for the first year, and \$15,770 for subsequent years, assuming a cost of living increase to salaries, and higher overhead costs. A breakdown of the oversight costs for the first year is as follows:

Salaries/benefits/awards	\$1,700
Travel	\$5,150

Printing/Copying/Mailing/Postage	\$927
Federal Register Services	\$1,680
OGC (legal services)	\$4,000
Supplies/equipment	\$1,854
TOTAL	\$15,311

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

Section 10004 of the 2014 Farm Bill and a final rule published in the Federal Register on December 31, 2015, implementing these changes increased burden. A change request was approved by OMB on January 8, 2016, that increased respondents from 55 to 190, responses from 55 to 190 and hours from 28 to 48. There are no changes to these burden figures for this renewal submission since that approval.

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.

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.

AMS requests approval not to display the expiration date on the forms associated with this information collection. Instead, indicating the month and year when the forms were renewed and approved by OMB enhances internal accounting practices and enables AMS to work with boards, committees and councils to replace obsolete and out-of-date forms.

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

AMS is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of information does not employ statistical methods.