SUPPORTING STATEMENT

Report Forms under a California Federal Milk Marketing Order
(from Milk Handlers and Milk Marketing Cooperatives); Referendum Procedures
OMB NO. 0581-NEW
(Proposed Rule: Notice and request for public comment)

NOTE TO REVIEWER: Upon the approval of this collection, we will request to merge this collection into the currently approved OMB No. 0581-0032; Report Forms under Milk Marketing Order Programs (from Milk Handlers and Milk Marketing Cooperatives).

Justification

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

The Agricultural Marketing Agreement Act (AMAA) of 1937, as amended, (7 U.S.C. 601-674, and 7253) authorizes the Federal Milk Marketing Order (FMMO) Program. The authority for conducting a producer referendum to ascertain whether the issuance of an order is approved or favored is outlined in 7 U.S.C. 608c(9). The specific procedures for conducting referenda to determine producer approval of milk marketing orders are found at 7 CFR sections 900.300 through 900.311.

A FMMO is a regulation issued by the Secretary that places certain requirements on the handler of milk in the geographical area it covers. There are 10 existing FMMOs. Each FMMO requires that handlers of milk for a marketing area pay not less than certain minimum class prices according to how the milk is used. A FMMO requires that payments for milk be pooled and paid to individual farmers or cooperative associations of farmers on the basis of a uniform or average price.

The California dairy industry requested promulgation of a FMMO for California similar to the 10 existing FMMOs throughout the United States. The Recommended Decision on the issuance of a FMMO in California was published in the Federal Register on February 14, 2017 (82 FR 10634). The Agricultural Marketing Service (AMS) is accepting comments on this Recommended Decision until May 15, 2017, and, following review, will issue a Final Decision on promulgating a California FMMO. The procedures outlined in this document will be used to conduct a referendum to determine producer approval of a California FMMO should the Final Decision continue to recommend its establishment. Approval of the proposed California FMMO would require producers and/or cooperative associations to submit ballots indicating their support or opposition to promulgating the proposed FMMO.

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 would be used by the AMS Dairy Program to determine whether producers and/or cooperative associations support implementation of the proposed California FMMO. Referendum procedures for determining FMMO promulgation or amendatory approval are already established. 7 CFR 900.300 through 900.311 outlines referendum procedures, to include: definitions; associations eligible to vote; conduct of referendum; who may vote; duties of referendum agent; notice of the referendum; time for voting; tabulation of ballots; confidential information; supplementary instructions; and submittals or requests. This notice invites comments for the proposed ballots used to conduct a producer referendum regarding promulgation of a California FMMO. Upon approval, these ballots will also be used to determine producer and cooperative association approval for future FMMO promulgation and amendatory proceedings, including any subsequent referenda under the proposed California FMMO.

The purpose and use of the forms are described below.

Cooperative Association Ballot (New)

The data on this form demonstrates the approval or disapproval of a proposed FMMO promulgation or amendatory proceeding by a cooperative association on behalf of its members. Pursuant to 7 CFR 900.304(b), any cooperative association eligible under 900.302 may, if it elects to do so, vote and cast one ballot for producers who are members of, stockholders in, or under contract with, such cooperative association.

AMS-1 Certificate of Resolution (New)

Pursuant to 7 CFR 900.304(b), a cooperative association shall submit, with its ballot, a certified copy of the resolution authorizing the casting of the ballot.

The data on this form would be used in conjunction with the Cooperative Association Ballot to demonstrate that an individual member of a cooperative association has the authority to submit a ballot indicating support for a promulgation or amendatory FMMO proceeding. This form also designates approval or disapproval for the proposed regulation based on resolutions adopted at the cooperative association meeting. This form indicates that the resolutions indicated on the form reflect those appearing in the meeting minutes.

AMS-2 Cooperative Association Intent to Bloc Vote (New)

The data on this form demonstrates the intent of a cooperative association to submit a ballot on behalf of its members. This form indicates that in the event of a “no” designation, a ballot would be sent to each producer member of the cooperative association that would be affected by the

proposed order. This form also indicates that failure to respond promptly results in a "no" designation.

AMS-4 Milk Producer's Ballot (New)

The data on this form demonstrates the approval or disapproval of a proposed FMMO promulgation or amendatory proceeding by a milk producer.

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.

In order to vote on the proposed California FMMO, respondents will be provided a paper copy of these forms. Respondents would need to complete the form and mail it back in the self-addressed envelope provided.

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

These forms are to be used in a referendum for the proposed California FMMO. We are confident that the information we collect is not duplicative of information already available. The information being collected in these forms will determine whether a FMMO should be established for the State of California.

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.

Information collection requirements have been reduced to a minimum in the referendum for the proposed California FMMO. Forms require only a minimal amount of information, which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small.

Imposing the same reporting requirements on all cooperatives or milk producers does not significantly disadvantage anyone who 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.

If the collection is not conducted, producers and/or cooperative associations would be unable to vote on the proposed California FMMO. The referendum is necessary to determine whether the proposed California FMMO should be established.

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**

The information required under the referendum for the California FMMO would need to be collected only once to determine whether the order should be implemented.

- **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 contact, grant-in-aid, or tax records for more than three 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 additional special circumstances. The collection of information would be 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.

The Recommended Decision on the issuance of a FMMO in California was published in the Federal Register on February 14, 2017 (82 FR 10634). The Agricultural Marketing Service (AMS) is accepting comments on this Recommended Decision until May 15, 2017, and, following review, will issue a Final Decision on promulgating a California FMMO. The notice regarding producer ballots for this referendum was published in the Federal Register on X. X comments were received.

9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration 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.

7 U.S.C. 608d provides assurance of confidentiality of information collected. The AMAA imposes substantial penalties on anyone violating the confidentiality requirements of the AMAA.

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 asked.

12. Provide estimates of the hour burden of the collection of information.

We estimate there are 1,438 individual producer respondents and/or 5 cooperative associations who would be eligible to submit a ballot to vote on the proposed California FMMO. Ballots will be submitted once. The hour burden per respondent per report is estimated to be 0.25 hours. Estimates of the burden of collection of information have been summarized on Form AMS-71.

Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

The estimated annual cost to respondents for report preparation is $12,205.20 (363.25 hours multiplied by $33.60/hr.).

This hourly wage was obtained from the U.S. Department of Labor, Bureau of Labor Statistics' publication, National Compensation Survey. The cost estimate is for May 2015, using occupation series 11-9013 (Farmers, Ranchers, and Other Agricultural Managers). This data can also be found at the following website: http://www.bls.gov/oes/current/oes_nat.htm#43-.

13. Provide estimates 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).

There are no capital/startup costs or operation and maintenance costs.

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.

FMMOs call for an administrative assessment based on the volume of milk that handlers receive each month. These funds are used to pay all the expenses incurred by the various Market Administrators in the administration of the FMMOs, including preparing and publishing the required forms. All costs incurred by the various FMMOs are recovered through user fees. This would apply to the proposed California FMMO.

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

This is a NEW information collection package for the proposed California FMMO.

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

The information collection data would not be published.

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.

Putting an expiration date on the forms could confuse the respondents into thinking their annual applications are good for the length of time noted in the expiration date, rather than expiring at the end of the application period. Therefore, we are seeking approval to not display the OMB expiration date on these forms.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."

Certification Statement

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

Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.