

2017 SUPPORTING STATEMENT
SPECIALTY CROP MARKETING ORDERS

Forms Required for the Establishment of Additional Reporting--Marketing Order 986 (Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas)

OMB No. 0581-NEW
(Proposed Rule)

NOTE TO REVIEWER: Forms contained in this collection enable the newly established Federal marketing order for pecans (MO 986), as well as the industry council that administers the marketing order under the Agricultural Marketing Service's (AMS) supervision, to conduct business. The Office of Management and Budget (OMB) previously approved other integral forms for the Pecan Council that were used in the establishment of the program. AMS will submit a request for these five new forms to be merged into OMB No. 0581-0291 Pecans Grown in AL, AR, AZ, CA, FL, GA, KS, LA, MO, MS, NC, NM, OK, SC and TX containing the previously approved forms.

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) has authority to promulgate and oversee marketing orders to regulate the handling of an agricultural commodity placed in interstate or foreign commerce. Marketing orders are proposed and voted in by producers, and apply to handlers who place the product in commercial channels. Section 608d(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).

AMS oversees the marketing order through the American Pecan Council (Council) made up of industry-nominated and USDA-appointed members, and any administrative rules and regulations issued under the proposed program. The marketing order authorizes data collection, research and promotion activities, and grade, size, quality, pack and container regulation. The pecan industry entered into the marketing order in 2016 to increase demand, stabilize grower prices, create sustainable handler margins, and provide a consistent supply of quality pecans for consumers. The program is funded by assessments paid by pecan handlers to the Council. Section 986.61 of the marketing order requires handlers to pay those assessment, while section 986.78 authorizes the Council to collect reports and information from handlers needed to enable the Council to perform its duties.

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 rules and regulations authorize USDA and the Council to collect certain information from handlers on the volume of pecans moving through their operations and into commercial channels. Collection of that information enables the Council to calculate assessments owed by each handler. AMS would make the following forms available to industry members to collect information and data:

- a) **Summary Report: Form 1 (§986.76):** Pecan handlers will file this form with the Council monthly. The information on the form will include a monthly record of all pecan variety, Inshelled receipts and assessment made within each month. The Council staff will compile the data and will subsequently provide industry-wide reports to each Handler and the public. The handler will fill out this form and submits a copy to the Council by the tenth day of each month. Both handlers and the Council are responsible for maintaining a copy of the completed forms for their records.
- b) **Report of Shipment and Inventory on Hand: Form 2 (§986.77 and §986.78):** Pecan handler will file this form with the Council once a month. The handler will enter the total amount of Shelled Meats and Inshell shipped during the month to trade sources as well as any Shelled Meats or Inshell shipped to or from Handlers.
- c) **Exports By Country of Destination: Form 3 (§986.77 and §986.78)** Pecan handlers will file this monthly form with the Council to report the total quantity shipped during the month to each applicable foreign country - by product type (Shelled / Inshell / Substandard).
- d) **Inshell Pecans Exported to Mexico For Shelling and Returned to the United States as Shelled Meats: Form 5 §986.77 and §986.78)** Handlers file this form with the Council each month to track inshell pecans exported to Mexico for shelling and returned to the United States as shelled meats.
- e) **Pecans Purchased Outside of the United States: Form 6 (§986.77 and §986.78)** Handlers file this form with the Council each month to track pecans purchased outside the United States.

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 approval, the Council will use the forms to facilitate assessment collection and provide valuable reports to the industry, including the annual marketing policy

required by the marketing order. AMS is initially submitting the paper version for approval and intends for pecan handlers to insert their respective product volume with a function that auto-calculates their assessment. AMS will subsequently submit the electronic version for OMB's approval.

The Council's use of these forms would be handled through postage mail to afford opportunities to all handling operations conducting business in the marketing order's production area. USDA, which is making most forms available on its website for "fillable" purposes, would reference the forms when conducting periodic compliance reviews and related oversight activities.

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.

Information collections will be periodically reviewed by USDA and the Council to ensure they are understood by industry members, are easy to complete, and place as small a burden as possible on the respondents.

USDA and the Council will use these five forms in this information collection. Consequently, the information needs are unique to the Federal program and do not exist elsewhere. There will be no duplication in effort among the companion marketing orders. The Council will continue creating new forms and will then work to ensure an efficient and non-duplicative collection of information from industry members.

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 information being collected has been reduced to the minimum requirements of the marketing order. The forms require a minimal amount of information, which can be supplied without data processing equipment or a trained statistical staff. The primary sources of data respondents use to complete the form are routinely available in their individual business transactions. Thus, the information collection and reporting burden is relatively small. Based on information presented at the hearing, approximately 80 percent of the estimated 250 commercially viable pecan handling, shelling and accumulating operations are considered small businesses as defined by the Small Business Administration. Requiring the same reporting requirements for all eligible handlers will not significantly disadvantage any handler that is smaller than the 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 this information collection were not conducted, not only would the Secretary lose the ability to administer the marketing order, but the Council would have no way to collect funds to finance its activities or monitor handler compliance with the handling regulations.

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;**

All of the forms in this information collection requires respondents to report information on a monthly basis, if transactions took place, by the tenth day of each month:

Summary Report: Form 1 (§986.76): Pecan handlers will file this form with the Council monthly. The information on the form will include a monthly record of all pecan variety, Inshelled receipts and assessment made within each month. The Council staff will compile the data and will subsequently provide industry-wide reports to each Handler and the public. The handler will fill out this form and submits a copy to the Council by the tenth day of each month. Both handlers and the Council are responsible for maintaining a copy of the completed forms for their records.

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Pecans Purchased Outside of the United States: Form 6 (§986.77 and §986.78) Handlers file this form with the Council each month to track pecans purchased outside the United States.

- **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.**

On **XXXX**, 2017, USDA published the proposed rule inviting comments on the establishment of reporting requirements under the Federal marketing order for pecans (**XXXXXXXXXXXXXXXXXX**). The 60-day notice was imbedded in the proposed rule.

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.**

- Byron Gossett, Acting Executive Director, American Pecan Council, Dallas/Fort Worth, Texas; Phone: (817) 887-8056
- Michael Adams, Chairman, American Pecan Council, and President, American Pecan Board, 10600 State Highway 21 E, Caldwell, TX 77836; Phone: (903) 649-2077

The number of Council and industry members involved in designing forms will increase once Council leadership hires a fulltime administrative staff.

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. Council staff would be the primary users of this new set of forms. USDA employees would be the secondary users. Information submitted to the Council is accessible only by the Council managers and staff, and certain USDA employees in Washington, D.C. and Winter Haven, FL. The Council will report trade data in end-of-year marketing policy reports without identifying the amount of individual handling operation's confidential information. Council members are made aware of the penalties for violating confidentiality requirements.

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 number of respondents required to file these forms was estimated based on current records maintained by the Council in consultation with regional groups existing throughout the U.S. pecan industry.

- **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 USDA is approximately \$81,409.96. This total has been estimated by multiplying 2,234 total burden hours, by \$36.44, the national mean hourly wage of Farmers, Ranches, and other agricultural workers, according to the U.S. Department of Labor Statistics. (National Compensation Survey: Occupational Employment and Wages, May 2016; <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 is 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 \$12,830.48 for the first year, and \$13,215.39 for subsequent years, assuming higher overhead costs. A breakdown of the oversight costs for the first year is as follows:

Salaries/benefits/awards	\$1,650.48
Travel	\$5,000
Printing/Copying/Mailing/Postage	\$300
Federal Register Services	\$1,680
OGC (legal services)	\$4,000
Supplies/equipment	\$200
TOTAL	\$12,830.48

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

The five forms under consideration are new to the Federal forms package and, as a result, do not have previous burden numbers associated with them. Once approved, AMS will submit a request for this collection to be merged into OMB No. 0581-0291.

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 marketing 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.

The Agency 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.