

2018 SUPPORTING STATEMENT

Sugar Imported for Export as Refined Sugar, as a Sugar-Containing Product, or Used in the Production of Certain Polyhydric Alcohols

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The regulation at 7 CFR part 1530 authorizes the Foreign Agricultural Service (FAS) to issue import licenses to enter raw cane sugar exempt from the tariff-rate quota (TRQ) for raw cane sugar imports and related requirements on the condition that an equivalent quantity of refined sugar be: (1) exported as refined sugar; (2) exported as an ingredient in sugar-containing products; or (3) used in production of certain polyhydric alcohols. The information requirements set forth in the regulation are necessary to enable FAS to administer the licensing program in full compliance with the regulation and to ensure that licensed imports do not enter the commercial sugar market in circumvention of the TRQ for raw cane sugar. This regulation, which amended the previous regulation, became effective February 12, 1999. (Attachment 1)

Legal Authority: Presidential Proclamation 6763 amended the Harmonized Tariff Schedule of the United States (HTS) to add Additional U.S. Note 6 to chapter 17 which states:

Raw cane sugar classifiable in subheadings 1701.13.20 and 1701.14.20 shall be entered only to be used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols as a substitute for sugar in human food consumption, or to be refined and re-exported in refined form or in sugar-containing products, or to be substituted for domestically produced raw cane sugar that has been or will be exported. (See pages 2, 4, and 5 of Attachment 2.) The Secretary of Agriculture may issue licenses for such entries and may promulgate such regulations (including any terms, conditions, certifications, bonds, civil penalties, or other limitations) as appropriate to insure that sugar entered under subheadings 1701.13.20 and 1701.14.20 is used only for such purposes. (See page 4 of Presidential Proclamation 6763 in Attachment 3.)

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 had made of the information received from the current collection.

The *Sugar Import Licensing Program* is intended to: (1) assist U.S. sugar manufacturers, refiners, and processors in making U.S. products price competitive on the world market and (2) facilitate the use of domestic refining capacity.

The *Sugar-Containing Products Re-Export Program* is designed to put U.S. manufacturers of sugar-containing products on a level playing field in the world market. U.S. participants in the sugar-containing products re-export program may buy world-priced sugar from any of the refiner participants or their agents for use in products to be exported into the world market.

The *Refined Sugar Re-Export Program* is designed to facilitate use of domestic refining capacity to export refined sugar to the world market. The Program establishes licenses for sugar refiners, which may import raw sugar, refine it, and export it to the world market. The Program operates

to mitigate the imposition of sugar import restrictions, which reduce the quantity of raw sugar allowed to enter the U.S. domestic market.

The *Polyhydric Alcohol Program* functions to provide world-priced sugar to U.S. manufacturers of polyhydric alcohols. Participating U.S. manufacturers purchase world-priced sugar from licensed refiners or their agents for use in the production of polyhydric alcohols, except polyhydric alcohols substituting for sugar in human food consumption.

This information collection fulfills four functions: (1) it allows FAS to determine whether applicants for the Program meet the regulation's eligibility criteria; (2) the information permits FAS to monitor sugar imports, transfers, exports, and use to confirm that transactions are conducted and completed within the requirements of the regulation; (3) the information serves as a means to audit participants' compliance with the regulation; and (4) the information prevents world-priced sugar from entering the higher-priced domestic commercial sugar market. In general, licensees are regularly required to report specific information on sugar entries, transfers, transactions, sales, and use within specific time limits. The Licensing Authority needs the information collected to manage, plan, evaluate, and account for Program activities.

Application: License applicants must submit information required under §1530.104 and §1530.110. There are no mandatory application forms. Applications on company letterhead must contain the following information:

(1) Date of letter; (2) address of manufacturing facility(ies); (3) name and address of parent company and subsidiaries (if any); (4) description and sugar percentage of products to be exported; (5) kind and polarity of sugar to be used in the manufacturing process; (6) description of the manufacturing process in which the re-exported sugar will be used; (7) identity of companies that co-pack products or companies for whom an applicant is a co-packer of products; (8) identity of agent (if any) who will purchase sugar or export products for an applicant; (9) identity of the company that will prepare the paper work required for the Program; (10) identity of a bonding agency or bank (if applicable) that will provide a bond or letter or credit in favor of the U.S. Government; (11) list of intended export destinations; (12) certification that the company will export an amount of sugar equal to that transfer from the refiner within the prescribed time limits; and (13) certification that the company will not request drawback from U.S. Customs and Border Protection for products exported under the Program.

Terms and conditions for obtaining a license: (1) ownership and/or operation of a facility(ies) in the United States, as required under §1530.103; (2) filing an application for a license, including a proposal for a documentation agreement, as required under §1530.104 and §1530.110. The Licensing Authority evaluates the proposal and once agreement is reached with the applicant, the applicant submits a notarized documentation agreement identifying documents to be maintained by the licensee to substantiate program activity, and certifies that charges and credits made pursuant to §1530.106 will be kept on file; (3) bonds posted under the previous regulation must be updated, as required under §1530.107. Letters of credit are an acceptable alternative to bonds. (4) no person may hold more than one license. Licenses are issued to: (1) refiners to import raw sugar and transfer or export refined sugar and (2) manufacturers and producers to receive transfers from refiners and export sugar-containing products or produce polyhydric alcohols. All Program participants must submit information required by the regulation. The licensee shall maintain the documentation established in the documentation agreement for five years from the date of such Program transaction.

Submission of regular reports regarding licensing activity as required under §1530.109:

Reports are submitted on exports, imports, transfers, or license use (charges and credits against license balances). A licensee may submit reports as often as monthly for charges and credit against a license balance. At minimum, a licensee must submit at least a quarterly report not later than 90 days after the earliest transaction (unless there have been no transactions). Licensees are to update data as necessary to maintain accurate information in previously submitted reports.

Each report must include the following for all Program transactions:

(1) A unique number, assigned by the licensee, for the transaction; (2) date of the entry, transfer (only a refiner reports transfers to the Licensing Authority), export, or use; (3) quantity of sugar entered, transferred, exported as refined sugar, or used in the production of certain polyhydric alcohols; (4) the licensee's number or if a transfer is being reported, the licensee's number as well as the transfer recipient's license number; (5) country of origin (entry of raw sugar) or final destination (refined exports), using the country code designated in the HTS; and (6) initial and final polarization and final weight (when available) for entries of raw sugar.

Submission of information pertaining to bonds and/or letters of credit as required under §1530.107:

The licensee may charge Program sugar in anticipation of transfer, export, or production, if the licensee established a performance bond or a letter of credit (L/C) with USDA which meets the following criteria: (1) A bond or L/C may cover entries made during the time period stated in a bond or for a specified entry (single entry bond). (2) The obligation under bond or L/C shall be effective no later than the date of entry or date of transfer. (3) The amount of bond or L/C shall be equal to 20 cents/pound of sugar to be entered. (4) If the licensee fails to credit a license within the given time period, a specified payment shall be made to the U.S. Treasury.

PRACTICAL UTILITY OF THIS COLLECTION IN DETERMINING COMPLIANCE WITH THE PROGRAM

To set the stage for this discussion, it may be instructive to review elements of U.S. sugar policy. The United States limits imports of raw and refined sugar through tariff-rate quotas.

This situation poses a challenge to U.S. exporters of sugar and sugar-containing products, which must compete with less expensive foreign products. To address this price discrepancy, the Program was developed to provide U.S. exporters with access to world-priced sugar, thereby making them more competitive in international markets.

The information collection serves to verify that imported world-priced sugar is actually exported and not diverted onto the domestic market, thereby undermining the objectives of U.S. sugar policies. This collection enables USDA to monitor participants in an effort to ensure compliance with Program parameters.

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.

Integrated Data Base: Beginning in 2005, a web-based software system called the Sugars Users Group Accounting and Reporting System (SUGARS) (<http://www.fas.usda.gov/sugars/fassugarshome.aspx>) was adopted to allow participants to submit reports through the Internet and to manage more accurately license balances.

Objectives of the Electronic Program:

1. The system provides more efficient reporting options for Program participants by allowing participants to upload data in an ASCII format. There will be no change in the amount or type of information currently required.
2. The SUGARS software links data for manufacturers of sugar-containing products, companies making inedible polyhydric alcohol, and sugar refiners. The semi-automatic on-line system offers interim feedback to participants about their Program balances following a submission. While FAS continues to verify each submission, the ability to receive rapid feedback enables companies to know their Program status and to make more informed and timely decisions about their purchases of Program sugar from licensed refiners.
3. Managing the refined sugar re-export licensing Program no longer requires a program assistant and an import control specialist. By reducing human error, the database notifies FAS staff when a participant has exceeded their bonded or license limit.
4. The system prevents participants from entering export data for destinations for which they have not been approved in their documentation agreements. This measure requires companies to first modify their documentation agreements to secure additional export destinations.
5. FAS continues to incrementally improve the SUGARS database and has proposed specific measures to streamline operations. An archiving feature introduced in April 2015 has proven helpful for various reasons, including significantly more accurate tracking of submissions as required by the Paperwork Reduction Act (PRA).

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

The information collection does not duplicate information or data available elsewhere.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The method used to obtain information has been minimized to ensure all respondents, including small business, will not be burdened. Of the 325 respondents, the agency estimates 41 percent are small business.

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 regulation stipulates the frequency of data collection and reporting. Less frequent reporting or no reporting would impede administration of the refined sugar re-export licensing Program.

7. Explain any special circumstance that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

Under Section 1530.105: (1) Refiners have 90 days to export or transfer an equivalent amount of sugar if entry results in a positive license balance, and manufacturers and producers have 18 months to export or use an equivalent amount of sugar charged against a license. (2) Licensees have 90 days to report transactions. The 90-day reporting requirement is necessary to maintain timely information on license balances.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

Not applicable

- **requiring respondents to submit more than an original and two copies of any document;**

Not applicable

- **requiring respondents to retain records, other than health, medical or government contract, grant-in-aid, or tax records for more than three years;**

Under Section 1530.110(c): Licensees are to maintain the documentation established in the documentation agreement for five years from the date of each Program transaction. Past investigations regarding the sugar re-export licensing Program have revealed that the Office of the Inspector General needs five years of data to substantiate compliance or non-compliance with the Program.

- **in connection with a survey that is not designed to produce valid and reliable results that can be generalized to the universe of the study;**

Not applicable

- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**

Not applicable

- **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**

Not applicable. FOIA rules govern this material.

- **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.**

FOIA rules govern this material. There are no other special circumstances. This information is conducted in a manner consistent with guidelines established in 5 CFR 1320.5.

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.

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.

The *Federal Register* notice was published on February 6, 2018 (83 FR 5239-5240). No comments were received regarding the Program. (Attachment 4)

Consultations with the following individuals were made regarding this collection:

1. Cel Maldonado, American Sugar Refining, 914-709-8051
2. Jerry Erhart, Covestro LLC, 412-413-2408
3. Myron Swartzentruber, Hershey Company, 717-374-2775

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

Respondents do not receive any payment or gifts for participation in the Program.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations or agency policy.

No additional assurance of confidentiality is provided with this information collection. Any and all information obtained in this collection shall not be disclosed except in accordance with 5 U.S.C.552a.

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.

The information requested under the regulation is not of a sensitive nature.

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 differences 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.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contraction out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Details for Estimates of Annual Reporting and Recordkeeping Burden Hours							
	A	B	C	D	E	F	G
Activity	Respondents	Responses	Total Annual Responses (A*B)	Average Hours Needed for Activity	Total Annual Burden Hours	Avg. Hrs. for Rcrdkpg per Response	Total Annual Burden for Rcrdkpg
Applications	5	1	5	20	100	0.07	7.00
Reporting	146	8.7	1,270	0.21	266.6		
Recordkpg	146	1	146	0.07	10.22	0.07	10.22
Bonds	19	1	19	1	19	0.07	1.33
Waivers	9	1	9	2	18	0.07	1.26
TOTAL	325	N.A.	1,449	N.A.	413.82		19.81
N.A. = Not Applicable.							
Total Annual Responses =1,449; 413.82+19.81=433.63 hours <i>*(both include Recordkeeping)</i>							

Estimate of Annual Reporting Burden Hours
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	A	B	C	D	E
Activity	Respondents	Responses	Total Annual Responses (B)	Average Hours Needed for Activities	Total Annual Burden Hours
Annual Reporting and Recordkeeping	325	1,449	1,449	See previous table	433.63

Based on data from the Bureau of Labor Statistics for a compliance specialist, a reasonable estimate of \$36.23 per hour has been used as the average cost for respondents' program participation. The total FY 2017 annual estimated burden in dollars is \$15,710.41.

13. Provide an estimate 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 estimate should be split into two components: (a) a 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 the 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 collection 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 keep records for the government, or (4) as part of customary and usual business or private practices.

No capital startup costs are necessary.

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, operational 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.

Government officials are responsible for administering the regulation. Their annual salary (based on GS-13/step 5) and estimated percentage of work hours devoted to the program result in an estimated FY 2017 dollar cost of \$86,401. (Attachment 5)

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

The number of responses increased slightly from 1,412 to 1,449, a gain of 37. Certain companies have increased their exporting through third-party exporters to sell their products overseas. Use of this business strategy, included in the regulation, has contributed to generating slightly more responses, which has also increased the number of respondents from 172 to 325, a gain of 153. The estimated burden hours dropped from 481 to 434, a decrease of 47, as only 5 companies applied for a license.

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.

This collection of information will 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.

There are no forms in this collection.

18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions” of OMB Form 83–1.

There are no exceptions.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of data does not employ statistical methods.