

**2018 SUPPORTING STATEMENT**  
**Report Forms under a California Federal Milk Marketing Order**  
**(from Milk Handlers and Milk Marketing Cooperatives)**  
**OMB NO. 0581-0298**  
**(Final Rule)**

**NOTE TO REVIEWER:** Upon 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). This merge will keep all Federal Milk Marketing Orders using the same forms in one collection to prevent duplication of burden. Even though some of these forms have similar titles and look similar to forms currently approved under OMB No. 0581-0032, they are unique to the California FMMO with location information, and/or contacts and additional reporting information needed to administer the California FMMO. These changes will not modify the burden for the specific form currently reported in the 0032 collection.

**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 requiring FMMO reports is found in paragraphs 8c(5) and (7) of the AMAA. The terms of each of the 10 existing FMMOs (0581-0032) are found at 7 CFR parts 1000-1199. The reporting and recordkeeping requirements are contained in the general provisions in § 1000.27.

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.

Each FMMO is administered by a Market Administrator who is an agent of the Secretary. Part of the Market Administrators' duties are to prescribe reports required of each handler to assure that handlers properly account for milk and milk products, and that such handlers pay producers and associations of producers according to the provisions of the FMMO. All of the required FMMO reporting forms are completed by regulated milk handlers and milk marketing cooperatives. The Receipts and Utilization form and the Producer Payroll Report are the principal reporting forms needed to administer the 10 current FMMOs. Additional forms are submitted as required by the individual FMMOs.

The California FMMO will require regulated entities to submit some of the same forms with slight modifications to identify the CA FMMO already approved by OMB No. 0581-0032 and used by handlers under the 10 existing FMMOs.

**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 will be used by the California Market Administrator to determine: the quantity of milk received by regulated handlers, the pooling status of each handler, the class-use of the milk used by the handler, and the butterfat content and amounts of other components of the milk.

An electronic version of all the forms will be available on the website. Milk handlers and cooperatives will have the option to submit an electronic version of the form by downloading it from the California FMMO website, filling it out and e-mailing it to the Market Administrator of the FMMO.

**(a) Biennial Summary of Packaged Fluid Milk Products in Federal Milk Orders (New)**

The data on this form will be collected from all California FMMO regulated handlers who process and/or sell Class I fluid milk products regulated by the California FMMO. The report will be filed biennially for the month of November in odd years. The information requested includes the pounds of Class I fluid milk products delivered on routes by regulated handlers, by package size, and type. The information is compiled to mask confidential information, and a report is released to the public.

All of the information items that fully-regulated handlers report to the Market Administrator are readily available from normally maintained business records.

**(b) Report of Receipts and Utilization (including supplements) – Form 1 (currently approved under OMB No. 0581-0032)**

This report will be filed monthly by fully-regulated handlers, primarily to determine the amount of producer milk that was received during the month. This information is used to compute the monthly uniform price to producers in the market. If such information was not collected, the price could not be determined.

Because milk is commingled in a milk plant, and thus loses its identity, and because milk plants often receive milk or milk products from sources other than producer milk, it is necessary to require a fully-regulated handler to report all of its receipts of milk and milk products to account for all uses of milk and milk products and to report opening and closing inventories. The California FMMO requires handlers to provide information regarding the amount of milk components, such as skim, butterfat, nonfat solids, and/or protein of the producer milk receipts. Such information is used to assign a use classification and price to producer milk receipts and to compute the monthly uniform blend price (a weighted average price).

All of the information items that fully-regulated handlers report to the Market Administrator are readily available from normally maintained business records.

**(c) Request for Cooperative Pool Manufacturing Plant System Status (New)**

This report will be filed by cooperative associations that operate manufacturing plants to be qualified as pool plants based on establishing a system of plants described in § 1051.7(e). The report will facilitate the efficient operation of the pool by providing the Market Administrator the status of pool plants prior to receipt of the California FMMO Report of Receipts and Utilization form. It will be filed in on an “as needed” basis.

The burden of this form is minimal and the information is based on the marketing strategy of the cooperative.

**(d) California FMMO Producer Payroll Report (New)**

This report will be filed monthly by fully-regulated handlers after the uniform price has been computed and producers paid.

Its principal purpose is to enable the Market Administrator to verify that producers have been paid at least the minimum price required by the FMMO. It also provides information essential in the application of certain FMMO provisions, other than those dealing directly with minimum payments to each producer, such as: (a) identification of nonmembers as well as members of cooperative associations so that marketing service deductions and authorized deductions payable directly to cooperative associations may be determined concurrently with payments; and (b) checking the accuracy of reported receipts of producer milk.

It provides up-to-date information on a marketwide basis essential to other aspects of FMMO administration and modification, such as, but not limited to: (a) seasonality of production patterns by zones or other geographical areas of significance in establishing and appraising the effect of zone differentials, and any allocation rules that may be established with reference thereto; (b) producer response to the entire system of prices and price levels established by the FMMO and supply-demand formulae; (c) level and effect of butterfat, protein, and total solids differentials as a factor in returns to producers; and (d) comparative analysis of several markets in which the information on producer deliveries is comparable in detail and comprehensiveness.

This form is similar to the currently approved 0581-0032 H-2 form. However, a different form is needed for the California FMMO to account for a CDFA Quota Assessment that is unique to the California FMMO. Therefore, this is considered a NEW form under this information collection request.

The handler burden in reporting the payments for milk is minimal since the payroll information is a part of the normal business records of a handler.

**(e) Report of Receipts and Utilization (including schedules 1, 2, and 3) – HR-EZ (currently approved under OMB No. 0581-0032)**

This form will be used by regulated handlers whose operations have few end products. This report is filed monthly by fully-regulated handlers primarily to determine the amount of producer milk received during the month. This information is used to compute the monthly uniform price to producers in each of the FMMOs. If such information were not collected, the uniform price could not be determined.

Because milk is commingled in a milk plant, and thus loses its identity, and because milk plants often receive milk or milk products from sources other than producer milk, it is necessary

to require a fully-regulated handler to report all of its receipts of milk and milk products to account for all uses of milk and milk products and to report opening and closing inventories. Such information is used to assign a use classification and price to producer milk receipts and to compute the monthly uniform blend price.

All of the information items that fully-regulated handlers report to the Market Administrator are readily available from normally maintained business records.

This form is currently only used by the Pacific Northwest and Arizona Order. This form in this NEW package has been modified from the approved HR-EZ form in 0581-0032 to make the FMMO office name, address and contact information generic. Each FMMO office will add its respective information and this will become a standard form for all FMMOs. There is no additional information being requested and there is no change in the reporting burden associated with this form. Once approved, this form will replace the form in 0581-0032.

**(f) Notification of Producer Change(s) – MA-201 (currently approved under OMB No. 0581-0032)**

In many FMMOs, this form is used in conjunction with the producer payroll report. Handlers are required to notify the Market Administrator of the following changes in producer status: a) new producers delivering to a handler, b) producers no longer delivering to a handler, c) producers who have been degraded or reinstated by a duly constituted health authority, and d) changes to current producer data (i.e., name changes, mailing address changes).

The handler burden in reporting changes in producer status is minimal since this information is a part of normal business records.

**(g) Designation of Persons Authorized to Sign Handler Reports (currently approved under OMB No. 0581-0032)**

Handlers must file with the Market Administrator a list of individuals authorized to sign reports, and the title and a sample signature of each such authorized person. Each handler submits the form, or a similarly-prepared letter, when the handler first becomes regulated and whenever there is a change in the individuals who are authorized to sign the handler reports.

The Market Administrator uses the information provided to ensure that only reports signed by authorized handler personnel are used to compute the financial obligations of each handler.

The respondent burden to complete the form letter is minimal since the information is readily available from the handler's own knowledge and records.

**(h) Annual Report of Cooperative Milk Marketing Association – DA-24 (currently approved under OMB No. 0581-0032)**

The Secretary must annually determine that each cooperative association continues to satisfy specific requirements so that a cooperative association may continue to be eligible for certain privileges and exemptions under the FMMO.

Each cooperative association of dairy farmers must continually qualify itself under the provisions of the Capper-Volstead Act and annually satisfy the Secretary that it remains qualified under such Act for the cooperative association to be recognized under the FMMOs. Under the AMAA, the cooperative association must have full authority in the sale of milk of its members,

must be engaged in making collective sales or marketing milk or its products, and must have all of its activities under the control of its members. After receiving its initial qualification determination, the cooperative association will complete Form DA-24 annually.

The Secretary reviews the information supplied by the cooperative association and determines whether the association satisfies the requirements to be recognized as a cooperative association under the FMMO. The burden on a cooperative association to complete Form DA-24 annually is minimal since the information is readily available from the cooperative association's own knowledge and records.

**(i) Application for Qualification of Cooperative Milk Marketing Association – DA-25 (currently approved under OMB No. 0581-0032)**

The Secretary must determine that each cooperative association meets specific requirements so that a cooperative association may be eligible for certain privileges and exemptions under the FMMO.

Each cooperative association of dairy farmers must qualify itself under the provisions of the Capper-Volstead Act and satisfy the Secretary that it remains qualified under such Act for the cooperative association to be recognized under the FMMOs. Under the AMAA, the cooperative association must have full authority in the sale of milk of its members, must be engaged in making collective sales or marketing milk or its products, and must have all of its activities under the control of its members. When the cooperative association is seeking its initial qualification determination, it submits all of the information requested by Form DA-25.

The Secretary reviews the information supplied by the cooperative association and determines whether the association satisfies the requirements to be recognized as a cooperative association under the FMMO.

This information request is collected only when the cooperative association first applies for “qualified status.”

**(j) Information Report for Designation as Producer-Handler – PH-1 (currently approved under OMB No. 0581-0032)**

This form is seldom used because few dairy farmers choose to process and market their own milk in packaged form. The information required to be submitted with this form helps the Market Administrator determine whether the applicant can satisfy the requirements of § 1051.10 of the FMMO and therefore qualify as a producer-handler on the California FMMO. Producer-handlers will be exempt from the pricing and pooling provisions of the California FMMO, but not from the reporting or record-keeping requirements.

All of the information on this report is readily available from the producer-handler's business records.

**(k) Partially Regulated Distributing Plant – Report of Route Dispositions into Federal Milk Marketing Orders – HR-76(a) (currently approved under OMB No. 0581-0032)**

At the request of the industry, the Market Administrators in the 10 current FMMOs have collected Class I route disposition information by state for one month every quarter since 1995.

The information is collected for the months of January, April, July, and October; and is summarized in the Market Information Bulletin. The summary data is used by handlers, dairy promotion organizations, and others to determine the effectiveness of marketing strategies and identify regional market trends. This information will also be collected for the California FMMO.

All of the information on this report is readily available from the handler's business records.

**(l) Record of Milk Products Dumped or Lost (currently approved under OMB No. 0581-0032)**

Milk dumped, used for animal feed, destroyed, or lost in a vehicular accident, flood, fire or similar occurrences beyond the handler's control may be classified in the lowest priced class for the month if the Market Administrator is notified no later than the next business day. To receive proper credit for dumped milk and accidental losses, this form must be sent to the Market Administrator.

The form asks the handler to specify the way the product was lost, such as via a batch tank or other measurable method, or through an uncontained loss where the quantity lost could only be estimated.

The burden to complete this form is minimal since this information is part of a handler's normal business records and the additional data requested is minor.

This form has been modified from the approved form in 0581-0032 to make the FMMO office name, address and contact information generic. Each FMMO office will add its respective information and this will become a standard form for all FMMOs. There is no additional information being requested and there is no change in the reporting burden associated with this form. Once approved, this form will replace the form in 0581-0032.

**(m) Delivery Detail Report (New)**

The Delivery Detail Report will be filed monthly by cooperatives and proprietary handlers that are responsible for the pickup and delivery of pooled producer milk. The report will provide the Market Administrator with the pickup day, delivery day, destination, volume of milk, and component tests of each pickup of producer milk. The information will be required by the California FMMO to verify the qualification of producers on the market, and establish the volumes of milk and components received at regulated and unregulated plants.

The respondent burden to complete the form is minimal since the information is readily available from the handler's own knowledge and records.

**(n) California FMMO Brokerage Report – (NEW)**

Handlers in this market may operate both pool and nonpool plants. Handlers operating in the FMMO complete the currently 0581-0032 approved form, MA-B, whenever they direct milk transfers to be made between any nonpool plants. Since the milk is not considered producer milk under the FMMO, these transfers are not reported on any other form. The Market Administrator uses the information to substantiate the movements of milk that are not pooled under the FMMO.

All information on this form is readily available from the handler's business records.

**(o) Monthly Report of Payments Received by Cooperative Association from Handlers (currently approved under OMB No. 0581-0032)**

Each cooperative association will need to report to the Market Administrator on a monthly basis the billings to and/or payments from pool handlers. The association lists the handler's name and address, the delivery period, date billed, and amount received and deposited. The report will be due on the 20<sup>th</sup> of each month and includes all amounts billed and/or received since the previous report.

The Market Administrator uses the information to verify that each cooperative association has received at least the FMMO's minimum total value for its milk deliveries to handlers regulated under the FMMO.

The burden on the cooperative association is minimal since the accounts receivable is a normal business record.

**(p) Report of Payments to Cooperative Associations – CPR-2 (currently approved under OMB No. 0581-0032)**

In many FMMOs, including the California FMMO, handlers are required to report payments made to cooperative associations. The primary purpose of this report is to enable the Market Administrator to verify the dates and amounts of payments received by cooperatives for milk marketed on behalf of their members.

The handler burden in reporting the payments to cooperative associations is minimal since the payroll information is a part of the normal business records of a handler.

**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.**

Respondents will be provided certain forms in Excel and/or Word formats. Under the California FMMO, all forms will be available via the website. The forms will be made available to be downloaded, completed, and submitted via e-mail. All respondents in all FMMOs have the option of faxing in their completed forms.

**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.**

The AMS Dairy Program has an ongoing relationship with many organizations in the dairy industry that also respond to other governmental agencies. Thus, we are aware of the reports dairy industry organizations are submitting to other Government agencies. We are confident that

the information we collect is not duplicative of information already available.

Generally, the information submitted through these forms is currently collected by the California Department of Agriculture (CDFA) who administers the California State Order (CSO). If the California FMMO is approved by producers, the CSO will be suspended and CDFA will no longer collect the information.

**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 California FMMO. Forms require only a minimal amount of information, which can be supplied without data processing equipment or a trained statistical staff. The primary source of data used to complete the forms is routinely used in all business transactions. Thus, the information collection and reporting burden is relatively small. Imposing the same reporting requirements on all handlers does not significantly disadvantage any handler that is smaller than industry average.

Of the 55 respondents, we estimate that 33 (60 percent) are small businesses, as defined by the Small Business Administration (13 CFR 121.601).

**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.**

Collecting data less frequently will prohibit the operation and administration of the California FMMO. The data is necessary to administer the provisions of the California FMMO. Timing and frequency of the various reports are designed to meet the needs of the industry and yet minimize the burden of the reporting public.

Public comments received noted that the forms are required in order to implement FMMOs by establishing the quantity of milk received by handlers, as well as handlers' pooling status, class use, and component amounts of milk.

**7. Explain any special circumstances that will cause an information collection to be conducted in a manner:**

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

The primary information required under the FMMO program must be submitted on a monthly basis to allow the Market Administrator to compute monthly minimum prices for producers and to ensure producers are paid for milk on a timely basis, as prescribed in the



California FMMO. The AMAA imposes penalties for FMMO violations, such as the failure to pay producers by prescribed dates.

- **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 will be conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

The 10 existing FMMOs provide for the public dissemination of up-to-date market statistics and other information for the benefit of producers, handlers, and consumers. Researchers at universities and at proprietary firms use the market information in their activities. The public dissemination of California market statistics will be of equal benefit of California producers, handlers and consumers.

**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 agency requested public comments on the reporting burden associated with this information collection for 60-days after the date of publication of the recommended decision.

Comments received from Cooperatives agreed that this rule changes limited aspects of the information collection and recordkeeping requirements previously approved to meet the needs of the California FMMO.

The Cooperatives, in their comment, confirmed that the information collection is necessary for the proper performance of the agency functions. The Cooperatives agreed with AMS's burden assessment, noting that as numerous handlers who will be required to submit data with the information collection already submit similar data in the other FMMOs where they are regulated, the burden may even be less than the AMS estimates. The Cooperatives based their assessment on the experiences of Land O'Lakes, Inc. and Dairy Farmers of America, Inc., who already submit reporting information under FMMOs in other U.S. regions.

Dean Foods Company ("Dean Foods"), a publicly traded company that is the nation's largest fluid milk processor with 67 plants in 32 states, submitted a comment regarding the accuracy of AMS's estimate of the burden of the collection of information. Dean Foods estimated an annual reporting burden of 192 to 288 hours, higher than the annual reporting burden of 38.97 hours estimated by USDA.

Dean Foods based its estimates on FMMO reporting burdens for its plants outside of California, noting that plants with more complexity, bulk milk transfers, regional or national scope, manufacturing of other products, require more hours for FMMO reporting compliance.

As numerous handlers already submit data in other FMMOs that will mirror the burden associated with this information collection, AMS will not modify the burden estimates.

**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.**

Section 608(d) of the AMAA 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 55 individual respondents who will be required to file reports under the California FMMO. The frequency with which reports are submitted ranges from zero to 12 times per year. Each respondent submits a Receipts and Utilization form each month. Not all reports are submitted by each respondent in a year. The hour burden per respondent per report ranges from 0.25 to 2 hours per report. *Estimates of the burden of collection of information have been summarized on Form AMS-71 (enclosed).*

Public comments received noted that as numerous handlers that will be required to submit data with the information collection associated with a California FMMO already submit similar data in the other FMMOs where they are regulated, so the burden of new information collection may be even less than AMS's estimates.

### **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 \$40,072.68 (2,138.35 hours multiplied by \$18.74/hr.). Although hourly rates vary among handlers in various localities, the wages paid to clerical workers engaged in report preparation is estimated to be comparable to those for a government employee at GS-7, step 1.

This hourly wage was obtained from the U.S. Department of Labor Statistic's publication, National Compensation Survey. The cost estimate is for May 2015, using occupation series 43-3031 (Bookkeeping, Accounting and Auditing Clerks). This data can also be found at the following website: [http://www.bls.gov/oes/current/oes\\_nat.htm#43-](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 will 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 will apply to the 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 specifically for the California FMMO.

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

The information collection data 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 will be inappropriate.**

Putting an expiration date on the forms could confuse the respondents 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.