

2020 SUPPORTING STATEMENT

EXPORT SALES OF U.S. AGRICULTURAL COMMODITIES 7 CFR PART 20

OMB # 0551 - 0007

- 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 information collection requirements contained in 7 CFR Part 20 (the Regulation) are necessary to implement the mandatory export sales reporting requirements of §602 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5712). Commodities subject to the export sales reporting requirements are listed in Appendix 1 of the Regulation, and the Secretary has authority to designate additional commodities. U.S. exporters are required to report to the Foreign Agricultural Service (FAS) information on: (1) the quantity of a reportable commodity to be sold to a foreign buyer; (2) the country of destination; and (3) the marketing year of shipment. Data reported is aggregated and published in compilation form to protect business confidential information submitted.

- 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 export sales reporting system provides commodity market participants with information about commodity export commitments, and is one means by which USDA seeks to insure fairness and soundness in commodity marketing.

The system requires that sales for export be reported to the Secretary on a daily basis for wheat, corn, grain sorghum, barley, oats, soybeans, and soybean meal for sales of 100,000 metric tons, or more in one day to one destination, and 20,000 tons or more for soybean oil. Weekly reporting is required for all sales activity, regardless of quantity, and for above commodities as well as cotton, beef, rice, cattle hides and skins, pork, and other minor oilseed products. The following are the currently approved reporting forms:

- For limited sales, identified as optional origin sales, the exporter uses form FAS-97 Rev. 11-01, Report of Optional Origin Sales.
- Weekly export sales and shipment activities are reported by the exporter using the form FAS-98 Rev. 11-01, Report of Export Sales and Exports.
- Quarterly reports providing selected data on individual sales contracts are submitted using the form FAS-99 Rev. 11-01, Contract Terms Supporting Export Sales and Foreign Purchases.

For activity involving commodities that have been shipped from the U.S. but are unsold or have not been allocated to an existing sales contract, the reporting exporter uses the form FAS-100 Rev-11-01, Report of Exports for Exporters' Own Account.

The total outstanding contracts identified on the quarterly report are used as an internal check to ensure exporters have included all sales activity on their weekly "FAS-98" reports.

Information collection: In general, exporters are required to regularly report to the FAS specific information on commodity shipments within specific time limits. The information to be reported is maintained during the normal course of conducting business and does not add additional recordkeeping requirements on respondents. The information collection is needed by the administrative officials, because it provides up-to-date market data for making rational export policy decisions to prevent market disruptions. USDA, in turn, reports this information to the public so that all market participants can be aware of such sales and can evaluate the effects of exports on supply and demand estimates of production, prices, and sales.

- 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.**

The Department utilizes an electronic reporting system for collection of information on export sales for all reportable commodities. All exporters use USDA's eAuthentication system to gain access and submit their reports electronically via a secure Internet website. In the event of extenuating circumstances, exporters can submit reports via facsimile directly to the Export Sales Reporting team.

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

The information collection does not duplicate information or data available elsewhere. Export data collected under other programs cannot be modified for purposes of this program but can be used to verify the accuracy of data submitted. As part of the reporting process, reported sales for exports are offset with the actual shipment quantities leaving an "outstanding balance", or a weekly "snapshot" of the commitments to export U.S. agricultural commodities. The shipment data are summarized for the marketing year and recorded in the weekly publication as "Accumulated Exports." Other programs with different data that may be compared with the accumulated exports are collected by the Grain Inspections, Packers and Stockyards Administration (GIPSA), and the U.S. Census Bureau. Using the GIPSA inspection data, individual shipments of grains inspected may be compared with the exports reported on the form "FAS-98" to ensure

proper identification of quantity and country of destination. Similarly, the U.S. export data collected and summarized by the U.S. Census Bureau on the “Shipper’s Export Declaration” provide both quantity and value of U.S. commodities being exported. Currently, the U.S. Census Bureau export data is available approximately 45 days after the month of shipment. Export sales data are available the week following the sales transaction.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The data reported is maintained as a part of the normal course of export contracting business activity including small businesses. However, most of the data collected does not originate in firms defined as small business. FAS estimates that 70 percent of the respondents are representatives of small businesses.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The frequency of data collection and reporting are stipulated by law and authorized under § 602 of the Agricultural Trade Act of 1978, as amended. If such information were collected less frequently, the Department would not be in compliance with the statutes and not fulfilling the objectives of the export sales reporting program. If markets are to work for the benefit of producers, in addition to processors and exporters, then producers need more timely information as export sales are made.

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

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contracts, grants-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 which 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 secrets, 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.**

This information collection is conducted in a manner consistent with 5 CFR 1320.5. Weekly reporting is required by § 602 of the Agricultural Trade Act of 1978, as amended, and daily reporting is required for certain commodities under the Regulation. Under the authorizing statute, individual reports remain confidential and are released in compilation form each week following the week of reporting. Data collected are identified as proprietary trade secrets, maintained in locked files, and are only available for use under the reporting program.

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, 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.**

The “Notice of Request for a Revision of a Currently Approved Information Collection” was published in the Federal Register on May 19, 2020, Volume 85, Number 97, and page 29919-29920. One organization submitted the following comments which do not affect this Paperwork Reduction Act submission but will be considered in a review of the program regulations: 1) The present definition of an export sale should be expanded to provide that this requirement is met by an electronic communication or combination of communications if the information contained therein meets the requisite details of a sale listed in CFR 7.20 § 20.4 (h); 2) The term “cancellation” needs to be defined and the possibility of default included. Guidance is needed on when defaults should be reported; 3) “Quantity” is defined as “The actual contract quantity (exclusive of any upward or downward tolerance) specified in the agreement between the reporting exporter and foreign buyer or seller.” (CFR Section 20.4(n)). The regulations and instructions must clarify that any shipments, including partial shipments, during the reporting period must be reported; 4) It is also critically important that the regulations address U.S. exporters who are owned, own, or share common ownership with foreign companies. The recommendation is that export sales, optional origin sales, and exports for own account reporting be grouped for such companies preventing potential manipulation, by use of inter-company transfers or otherwise, which can allow a market participant to mislead other participants on the timing or volume of activity during a given period; and 5) Recommendation that the USDA create and publish a file format for reporting form submission and allow the establishment of a secure file transfer for submission of the data to minimize the burden on reporting entities.

FAS will consider the first four items in the comments as part of review of the program regulation. Any changes required will be considered as part of the process for the Fall Regulatory Agenda. FAS is also considering enhancements to the electronic submission

and will request the ability to use uploaded files. FAS will need to review security policies to determine if an upload of the secure file is compliant and technically feasible.

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 form, and on the data elements to be recorded, disclosed, or reported.

Export Sales Reporting Branch (ESR) staff routinely consults with participating exporters on all aspects of the ESR program. Consultations take place during annual onsite field reviews and during weekly phone calls that take place to discuss reporting requirements. It is a critical function that ESR staff consults with participating exporters to ensure that exporters have the information and guidance necessary to efficiently, easily, and accurately fulfill the ESR program's reporting requirements.

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 precluding consultation in a specific situation. These circumstances should be explained.

There were no circumstances preventing consultation with representatives of those from whom information was obtained or those who must compile records.

Seven exporters were contacted and asked to provide information related to their current estimate of burden associated with reviewing instructions, gathering data needed, completing forms, and record keeping. These seven exporters represented both low-volume and high-volume respondents. FAS reached out by both phone and e-mail to the exporters. Four exporters responded:

Cindylou Johnson
Cargill, Inc.
18001 West 106th Street, Suite 100
Olathe, Kansas 66061

Susan McEwan
Olam Americas, Inc.
345 Pequot Avenue East Entry
Southport, Connecticut 06890

Penni Madsen
Riceland Foods
P.O. Box 927
Stuttgart, Arkansas 72160

Julie Bradford
ADM/Growmark
P.O. Box 1470
Decatur, Illinois 62525

Three of the exporters were high-volume exporters and noted that more than 30 minutes per response may be required because of the large number of export contracts entered into during a reporting period. One small volume exporter responded and noted that their time burden was less than 30 minutes. Given the mix of small- and large-volume exporters who provide information, FAS believes that 30 minutes is a sufficient estimate for the whole pool of respondents.

FAS contacted the following representatives

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

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

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

Under the authorizing statute, individual reports are to remain confidential and be released in compilation form each week following the week of reporting. Export Sales Reporting personnel are extremely sensitive to the confidentiality requirements outlined in § 602 of the Agricultural Trade Act of 1978, as amended. Data collected are identified as proprietary, are maintained in locked files, and are only available for use under the reporting program.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or 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.

No questions of this nature are requested under this regulation.

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. 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.

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

Estimate of Burden of Collecting Export Sales Data

Form	Num of Respondents	Resp Per Respondent	Total Annual Hours Per Response	Total Response Hours
FAS-97	4	26.5	106	.5 53
FAS-98	383	255	97,665	.5 48,833
FAS-99 ^{1/}	220	15.0	3,300	.5 1,650
FAS-100	13	78.3	1,018	.5 509
TOTAL	383 ^{2/}	266.6 ^{3/}	102,089	.5 51,045

^{1/} The FAS-99 form is not required for smaller firms that have fewer records and typically do not carry outstanding sales from week to week. The number of FAS-99 forms has declined due to a reduction in the required frequency of FAS-99 submissions.

^{2/} Total number of respondents is better reflected by the total for the FAS-98 form that represents the number of firms actively reporting to export sales on a weekly basis. The number of respondents for the FAS-97, FAS-99, and FAS-100 forms are subsets of the FAS-98 number.

^{3/} Total responses per respondent is an average calculated using total number of respondents (FAS-98) and total annual responses (All Forms).

The public annual reporting burden for this collection of information is estimated to average 133.28 hours per respondent for a total of 51,045 hours of total annual burden hours. The average salary is equivalent to an estimated \$30 per hour. Therefore, the total annualized cost to U.S. exporters is \$1,531,350 (51,045 hours x \$30/per hour).

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). The cost estimates 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.

There are no capital start-up costs. There is no cost for operation, maintenance and purchase of services components for respondents.

14. Provide estimates of annualized cost to the Federal government. Also, 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.

Any additional costs to the Federal sector will be marginal since the compilation and processing of reports will be absorbed through current resources and with existing staff. The estimate of cost for the export sales reporting program is \$447,305 based on the following breakdown:

Salary Costs:

Program Manager (GS-14)	\$121,316
Marketing Specialist (GS-13)	\$102,663
Marketing Specialist (GS-13)	\$102,663
Management Analyst (GS-13)	<u>\$102,663</u>
Total Salary Cost	\$429,305

Other Costs:

Fringe Benefits	\$171,722
Travel	\$ 8,000
Printing/Mailing/Supplies	<u>\$ 10,000</u>
Total Other Cost	\$189,722

Total Cost	\$619,027
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15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

The change in the annual burden, responses, and respondents from the currently approved information collection reflects new exporter registrations under the program. The increase reflected new exporters who signed up to an existing program. The number of respondents increased to 383, the number of responses increased to 102,089 and the burden hours increased to 51,045.

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

Section 602 of the Agricultural Trade Act requires that individual data collected be compiled and published in compilation form each week following the week of reporting. The report is made available to the public electronically and on the Foreign Agricultural Service's Internet homepage, normally on Thursday morning at 8:30 A.M., Eastern Time. Key users of export sales data include market analysts in USDA, other government agencies, land grant colleges and universities, trade associations, private firms involved in exports and in the domestic commodity markets, analytical service firms, and news services.

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.

The forms needed for exporters to meet the continuous daily and weekly deadlines can be found online in the Export Sales Reporting and Maintenance System (ESRMS). It would be extremely cost inefficient to reproduce them in ESRMS with a later expiration date. Accordingly, we are asking for permission not to display the expiration date for:

- Form FAS-97 Rev. 11-01, Report of Optional Origin Sales.
- Form FAS-98 Rev. 11-01, Report of Export Sales and Exports.
- Form FAS-99 Rev. 11-01, Contract Terms Supporting Export Sales and Foreign Purchases.
- Form FAS-100 Rev. 11-01, Report of Export for Exporter's Own Account.

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

There are no exceptions.