

**2018 SUPPORTING STATEMENT
SPECIALTY CROP MARKETING ORDERS
HANDLER WITHHOLDING FINAL REPORT FORM
FOR FEDERAL MARKETING ORDER FOR CRANBERRIES GROWN IN MULTIPLE
STATES.
OMB No. 0581-NEW
(Proposed Rule)**

NOTE TO REVIEWER: The form contained in this collection enable the Cranberry Marketing Committee (Committee) to use authority under the Federal marketing order for Cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York (marketing order) implement a handler withholding program.

The Doc. No. AMS-SC-17-0066; SC17-929-3 PR Cranberries Grown in States of Massachusetts, et al.; Establishment of Handler Diversion and Reporting Requirements and New Information Collection was published to the Federal Register on February 15, 2018, discusses this form and five other forms related to cranberries. The other five forms (CMC-JUN, CMC-DISP, CMC-OUT, CMC-CONF and CMC-APPL) obtained six-month emergency approval under Office of Management and Budget number 0581-0304 on October 16, 2017 and are part of a different Information Collection Package. This Information Collection Package is just for the one form since it was not approved in the emergency approval.

Upon this approval, AMS will request the form in this collection, be merged into the parent OMB No. 0581-0189 Fruit Crops containing the previously approved forms. AMS will submit a request to discontinue this collection once approval is received in an effort to keep all forms in one collection for this marketing order.

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. Handlers are those companies that typically purchase products from producers for the purpose of packaging, processing, and transporting the product for commercial or retail sales. 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 Committee made up of industry-nominated and USDA-appointed members, and any administrative rules and regulations issued under the proposed program. The Committee conducts research and promotion activities and, when supply is deemed to exceed demand, is authorized to establish volume control percentages to better manage inventories and avoid precipitous drops in grower prices. This information collection is necessary for the Secretary and the Committee to monitor adherence to the marketing order regulations, specifically for the handler withholding program.

Doc. No. AMS-SC-17-0066; SC17-929-3 PR Cranberries Grown in States of Massachusetts, et al.; Establishment of Handler Diversion and Reporting Requirements and New Information Collection was published to the Federal Register on February 15, 2018, and outlines the establishment of the handler diversion and reporting requirement as recommended by the Committee. This PR also discusses five forms that received a six-month emergency approval under 0581-0304 on October 16, 2017.

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 in 7 CFR Part 929, effective through final rule published August 10, 1962 effective August 15, 1962 (Federal Register Vol. 27, Doc 62-8177 Pages 8101-8106). The rules and regulations authorize USDA and the Committee to collect certain information from handlers on the volume of cranberries withheld, certification of the proper disposal outlets, and any appeals made by a handler regarding withholdings. AMS would make the following form available to industry members to collect information and data:

a) **Handler Withholding Final Report, CMC-AUG (§ 929.54)**: This form will be submitted once by each handler (approximately 10) by August 31 of each year. On this form, the handler will notify the Committee of the total quantity of cranberries acquired by the handler, withheld from handling, and the disposition of such withheld cranberries during the crop year. This form will be available on the Committee's website. Handlers will submit the forms to Committee staff via fax, postage mail and email. The Committee staff intends to offer an option to complete the form through the online portal in the future.

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, this form will be used to submit information directly to the Committee. The Committee is not part of a Federal agency, but is an industry commodity board that operates under Federal authority and oversight. This form will be available on the Committee's website. Handlers will submit the form to Committee staff via fax, postage mail and email. AMS is initially submitting the paper version of the form for approval. In the future, the Committee intends for cranberry handlers to insert their respective product volume with a function that auto-calculates their assessment and submit the forms through the Committees online portal. AMS expects to submit the electronic version for OMB's approval at a future date during the three-year renewal cycle. Because any web-based portal is a vehicle for information collection, AMS will follow standard protocol to obtain OMB's required approval before the system can be launched.

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 Committee 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 Committee will use this form 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 Committee 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 form requires 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 Committee data, there are approximately 65 cranberry handlers subject to the marketing order. Fifty-seven of the 65 handlers are exempt from the volume regulations and forms, and all but one are small businesses as defined by the Small Business Administration. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201). Requiring the same reporting requirements for all eligible handlers will not significantly disadvantage any handler that is smaller than the industry average. USDA anticipates approximately 10 handlers will fill out this form.

The majority of the handlers in the industry are below the threshold. Handlers which meet the SBA definition of a small business would be exempt from filling out these forms.

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.

This form is essential for the Committee to carry out the volume control regulations. If this information was not collected, the Committee would have no way to carry out the volume control 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; 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 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.

A 60-day notice was embedded in the Proposed Rule published in the Federal Register on 02/15/2018 (Vol. 83, No. 32), pages 6800 through 6806, which invited comments from interested persons through April 16, 2018.

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.**

There are no obstacles to consulting with industry members who must submit information to the Committee. AMS has consulted with staff from the Committee on this new collection.

Michelle Hogan, Executive Director, Cranberry Marketing Committee, 219A Main Street, Wareham, MA 02571; Phone: (508) 291-1510; Fax: (508) 291-1511
Jim Resendez, Chairman, Cranberry Marketing Committee, 219A Main Street, Wareham, MA 02571; Phone: (508) 291-1510; Fax: (508) 291-1511

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. Committee staff would be the primary users of this new set of forms. USDA employees would be the secondary users. Information submitted to the Committee is accessible only by the Committee managers and staff, and certain USDA employees in Washington, D.C. and Winter Haven, FL. Industry members of the Committee do not have access to any party's reports or assessment records. The Committee will report trade data in end-of-year marketing policy reports without identifying the amount of individual handling operation's confidential information. Committee members are made aware of the penalties for violating confidentiality requirements. The form does not ask handlers to provide home address, birthdates, Social Security Numbers or other pieces of information that would be categorized as Personal Identifiable Information.

The proposed form is being cleared in accordance with the Privacy Act of 1974 (U.S.C.522a) and the Paperwork Reduction Act of 1995. The authority for requesting this information to be supplied on these forms is the Agricultural Marketing Agreement Act of 1937, Secs. 1-19, 48 Stat.31, as amended, (7 U.S.C. 601-674). Furnishing the requested information is necessary for the administration of the marketing order program. Therefore, USDA requires AMS field office staff and employees in Washington, D.C. to maintain confidentiality. Confidential information is withheld from public review under the Freedom of Information Act and the Privacy Act, 5 USC 552.

- 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 Committee in consultation with regional groups existing throughout the U.S. cranberry industry. It is estimated that there is a total of 10 respondents, 10 total annual responses and 3.33 total burden hours.

AMS-71 Grid (Excel spreadsheet) outlining details of respondents, responses and burden hours is included with the Supplementary documents.

- **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 \$121.3. This total has been estimated by multiplying 3.33 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 \$2,221.8 for the first year, and \$2,288.5 for subsequent years, assuming higher overhead costs. A breakdown of the oversight costs for the first year is as follows:

Salaries/benefits/awards	\$275.1
Travel	\$833.3
Printing/Copying/Mailing/Postage	\$100
Federal Register Services	\$280
OGC (legal services)	\$666.7
Supplies/equipment	\$66.7
TOTAL	\$2,221.8

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

This form under consideration is new to the Federal forms package and, as a result, does not have previous burden hours. Once approved, AMS will submit a request for this collection to be merged into OMB No. 0581-0189, Fruit Crops.

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.

Periodically, AMS or the Committee may be asked for information concerning the amount of assessments that have been retained for state programs. Any of the data obtained from this information collection would be published in the aggregate so as not to identify an individual entity. Using totals, as opposed to individual information, is common practice for reporting industry statistics. For example, USDA's National Agricultural Statistics Service uses similar policies. There are no complex analytical techniques that would be applied to this data.

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.