

2013 SUPPORTING STATEMENT

Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables & Other Products 7 CFR part 51 & 52

OMB No. 0581-0125

NOTE TO REVIEWER:

Due to the merger of the Fresh and Process Products Divisions (now called Specialty Crops Inspection Division (SCI Division)) within the Agricultural Marketing Service (AMS). The currently approved OMB No. 0581-0234 Domestic Origin Verification System (DOVS) Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products is being merged into, and included in the revised renewal submission of 0581-0125. The new collection called **Regulations Governing Inspection Certification of Fresh and Processed Fruits, Vegetables and Other Products 7 CFR part 51 and 52**. Upon approval of OMB No. 0581-0125, we will request cessation of OMB No. 0581-0234 information collection to avoid duplication of burden.

A. Justification

- 1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION.**

Both OMB 0581-0125 and OMB 0581-0234 are authorized under the same authority, The Agricultural Marketing Act of 1946 (AMA), as amended, (7 U.S.C. 1621-1627) and serves the same purpose of directs and authorizes the Secretary of Agriculture to inspect, certify, and identify the class, quantity, quality, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary may prescribe, etc. (7 U.S.C 1622). The AMA provides for audit based inspection services so that agricultural products may be marketed to their best advantage, that trade may be facilitated, and that consumers may be able to ascertain characteristics involved in the production and processing of products and obtain the quality of product they desire (7 U.S.C. 1622(h)).

The present Regulations (7 CFR part 51) Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products, and Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR part 52) are promulgated under the provisions of the Agricultural Marketing Act of 1946. The Secretary has delegated this authority to

the Agricultural Marketing Service (AMS), Specialty Crops Inspection Division (SCI) Division.

SCI Division services are multifaceted and positively impact several government Agencies and their respective feeding programs. SCI Division collects information to provide services for inspection, grading, certification purposes, and other services to facilitate trading of agricultural products, e.g., providing import product inspections, export product inspections, contract and specification acceptance services, facility assessments, and certification of quantity and quality; verification and auditing; and developing standards for grades of products. SCI Division services are voluntary and fee-for-service.

The SCI Division provides nationwide audit and inspection services for fresh and processed fruits, vegetables, and other products to growers, shippers, importers, processors, sellers, buyers, and other financially interested parties on a “user fee” basis. Our regulations require that such applicants provide information which is essential to proper identification and certification of the product(s) for which inspection/re-inspection services are requested. This information includes: the name and location of the person or company shipping and receiving the product(s), the name and location of the person or company requesting the inspection services, the date and time the inspection is requested to be performed, the location where the inspection is to be completed, the type of inspection requested, and additional identification for the product(s) such as a purchase order number, carrier license number, the common name, brands or markings on containers, quantity, size and type or variety.

The audit program was developed under the President’s Food Safety Initiative to improve the safety of our nation’s food supply. The Good Agricultural Practices (GAP) and Good Handling Practices (GHP) program was formed in response to growing food safety concerns among U.S. consumers, at industry request. The GAP measures efforts to reduce the risk of microbial contamination at the farm/harvesting. The GHP measures efforts to reduce the risk of microbial contamination after harvest by way of the packing, handling, storage, transportation and processing stages. Applicants requesting audit based services must provide via an official application (FV-237A); the name and location of the person or company requesting the audit, the type and location of the product to be audited, the type of audit being requested and any information that will identify the product and/or the location(s) to be covered by the audit.

In addition, any interested party who wishes to use an official USDA approved logo in conjunction with the specific audit program must submit a request form (FV-652) for the logo’s use. Information collected for the use of this logo include: The name of the company, name of the requestor, type of product, specifications for where and how the logo will be used, and the manufacturer’s name and location who is reproducing this logo. Approved use of this logo

requires that the interested party successfully adhere to the specific audit program requirements. As part of the audit process, the party's documentation must be made available to the SCI Division personnel for review to show conformance to

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 is utilized by USDA, Agricultural marketing Service (AMS), Specialty Crops Inspection (SCI) Division, for inspection, grading, and certification purposes. SCI Division's grading and inspection services address food safety concerns, while simultaneously measuring and evaluating a multitude of quality parameters that are necessary for the procurement of nutritious foods.

SCI Division's grade standards also serve to bring fresh and processed fruits and vegetables in line with present quality levels being marketed today. This helps the fresh and process food industries by providing an objective grade based market stratification system for fresh and processed food products. Fresh and processed food businesses often use the SCI Divisions' quality criteria as the basis for selling fresh and processed food commodities.

The following forms are used in this collection:

Section 51.4 (a) (d) Where Inspection Service is offered.

The Agricultural Marketing Act of 1946 provides the authority for the Department to enter into cooperative agreements with Cooperating Federal-State Inspection Agencies providing for this inspection work pursuant to authority contained in any Act of Congress. This section addresses inspection services available at shipping points through Cooperative Agreements. The 48 States (excluding Oklahoma and Ohio) have Cooperative Agreements with the Department.

Section 51.6, 51.7, and 51.8, Record of Request for Inspection/Re-inspection of Food Products (FV-237), and FV-237A, Audit Services

Form FV-237 – is filled out by farms, business or other for profit, and not-for profit institutions requesting services. The information is used by personnel of the grading service to record information when applications for services are made. This information is used by graders to ensure that the correct products are graded and inspected and that correct information appears on the official inspection certificates. Other information is used by the grading office to properly direct billing for these services.

Form FV-237A – is filled out by farms, business, or other for profit, not-for-profit institutions or a government agency on behalf of a business participating in

government procurement programs, interested in requesting a voluntary GAP and GHP audit or other type of audit service. The Commodity Procurement program is the government program and has a mandatory requirement that businesses participating in government procurement programs must be compliant with the USDA GAP&GHP audit program. The Specialty Crops Inspection Division will use this information to initiate audit services for the requestor in an efficient manner. These requests for services can be requested in person, by telephone, or facsimile to the nearest inspection office.

Section 51.10 When Application may be Withdrawn.

This section gives the applicant the option of withdrawing the application (FV-237) prior to the beginning of the inspection. Charges may be assessed for expenses incurred prior to the withdrawal. Respondents' burden involves a simple notification, usually in person or by a phone call, identifying the applicant and canceling the inspection request. Less than one-tenth of one percent of terminal market inspection requests are canceled.

Section 51.11 Authority to Request Inspection.

This section requires proof of financial interest of applicants or agents working on behalf of another to request inspection services on shipments. Because of the voluntary nature of inspection services and daily contact with applicants by USDA field personnel, information of this nature is not now being collected. Although specified in the regulations, this requirement for written proof of financial interest has never been requested from respondents and is not expected to be requested.

Section 51.23 Request for Inspection Results Prior to Issuance of Formal Report.

This section provides for the issuance of preliminary reports by telephone or telegraph to applicants, at their expense. Instructions requesting inspection results prior to the issuance of the formal report are received at the same time the application (FV-237) is given by annotating under "Remarks" a statement such as, "Report to Jim collect at 516-555-4444 or an e-mail address."

Section 51.24 and 51.25 Appeal Inspection.

This section provides for an application for an appeal inspection. An appeal inspection is a re-inspection on lots previously inspected. Form FV-237 is used to record the same information as required under Section 51.7. This occurs when a product has already been graded but the grade, condition or size reported is questioned by one of the financially interested parties. At that time, a different inspector re-grades the product either to sustain or to overturn the results of the previous inspection.

Section 51.28 When an Application for an Appeal Inspection may be Withdrawn.

This section gives the applicant the option to withdraw the application prior to the performance of the appeal inspection. Charges may be assessed for expenses incurred prior to the withdrawal. There have been no requests to withdraw an application for an appeal and none are expected.

Section 51.33 Licensee's Application (Federal-State Inspection Service).

Applicants are required to complete form FV-202, "Application for Interstate/Intrastate Commerce Inspector's License," to become a licensed terminal market inspector when the applicant is an employee of a State which has a cooperative agreement with the USDA. This form is used to determine eligibility of the applicant. This form is available at <http://eforms.ams.usda.gov/#customersFV>.

Section 51.34 Appeal of Suspension or Revocation of License.

This section gives a licensed inspector the opportunity to appeal, in writing, the suspension or revocation of his/her license by the Administrator, AMS.

Section 51.42 Charges for Inspection Services on a Contract Basis.

This section gives the Administrator the authority to enter into a contract with applicants to perform inspection services pursuant to the regulations and provides that the charges be reimbursed to AMS on such basis to cover full costs of conducting such inspection service, including an appropriate charge to cover administrative overhead expenses as may be determined by the Administrator. Written contracts are prepared by Federal employees in Washington, DC, and submitted to the applicant for approval and signature.

Section 51.49 Approved Identifications and Section 51.59 (e) (8) Operations and Operating Procedures.

Prior to printing, drawings or printer's proofs of each packer's or distributor's label bearing or referring in any manner to official inspection legends or grade marks must be submitted to the Fruit and Vegetable Programs for approval. This is to ensure that these meet USDA specifications.

Section 51.59 (e), Positive Lot Identification

This section covers the applicant's responsibilities concerning continuous inspection. Form FV-24, "Positive Lot Identification Stamp(s)/Die(s) Request Form," is used when an applicant has requested Positive Lot Identification (PLI) on products packed under continuous inspection and accounts for all PLI stamps and dies ordered and used by the applicant. This form is available at <http://eforms.ams.usda.gov/#customersFV>.

Section 51.59 (e) (4), Furnishing of Reports

The approved identification, including grade marks, inspection legends, combined grade and inspection legends, packer identification and other identification marks, may be used on containers, labels, or otherwise indicated on a package when: (1)

the product has been packed under continuous inspection as provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product has been certified by an inspector as meeting the requirements of US Grade A, US Grade No. 1, or a higher US grade as shown with the approved shield mark. The use of the approved identifications is associated with section 51.53, Continuous Inspection, and section 51.59 (e) (4), Furnishing of Reports, which requires applicants for continuous inspection to furnish any reports of packaging and output of products inspected, as may be requested by the inspection agencies. The primary purpose is to assure that uninspected products which are grade marked are not entered into trade channels. This has not been required, since graders are present during the operation of the plants.

Section 51.52 Licensing and Identification of Certain Services.

The Administrator may issue licenses (memorandum of agreement) permitting the manufacture, identification, distribution and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses are prepared by Federal employees and submitted for approval and signature. There has been no new license issued in recent years, nor are any requests expected. Prospective licensees need only to call or write and say they would like to be licensed. Licensees must advise Fruit and Vegetable Programs of devices made, to whom sold, and at what cost.

Section 51.53 Continuous Inspection.

The use of the approved identifications is associated with section 51.53, Continuous Inspection, and section 51.59 (e) (4), Furnishing of Reports, which requires applicants for continuous inspection to furnish any reports of packaging and output of products inspected, as may be requested by the inspection agencies. The primary purpose is to assure that uninspected products, which are grade marked, are not entered into trade channels. This has not been required, since graders are present during the operation of the plants.

Section 51.60 Termination of Contracts.

This refers to sections 51.49, 51.53, and 51.59, whereby the applicant agrees either to continue the service until all unused containers, labels, and advertising material on hand have been used, or to destroy such material or obliterate the Department shield and all other references to continuous inspection, or otherwise furnish assurance that such material will not be used in violation of the terms and conditions of the agreement. There have been no notifications of termination of contracts. If the cancellation of a contract is initiated, the applicant is required to give 30-days advance notification of the termination date, orally or in writing.

FV-651, Agreement for Participation in Audit Verification

Programs – it is necessary for all farms, other for-profit and not-for-profit businesses participating in the government procurement programs, requesting an audit, fill out the GAP&GHP Agreement form before an audit is conducted. This is a contractual agreement between the applicant and USDA which outlines the program requirements for the applicant and lists the services provided by SCI Division upon signature. This form states it takes 8.5 hours to complete, this due to the requirement that participants have a food safety plan in place before submitting this agreement.

FV-652, Logo Use Request for Audit Programs – it is necessary for any participant in a USDA GAP&GHP program, IP Program, or PIQ Program who would like to use the individual programs logo to complete this form. This form will be used by USDA to document the use of specific audit programs logo. As outlined in sections 51.49 and 51.59(e)(8) prior to printing, drawings or printer's proofs of each packer's or distributor's label bearing or referring in any manner to official inspection legends or grade marks must be submitted to the Fruit and Vegetable Programs for approval. This is to ensure that these meet USDA specifications.

0581-0234 Collection Information

FV-DOV-1, Domestic Origin Verification (DOV) Application for Service (7 CFR 52.7)

The information collected on the DOV Application for Service serves as an agreement by the requestor to apply for the DOV service. The DOV service is a user-fee assessment service, available to suppliers, processors, and any financially interested party. It is designed to provide validation of an applicant's domestic origin verification program prior to bidding on contracts to supply food product to the USDA's Domestic Feeding programs, and/or may be conducted after a contract is awarded.

A DOV participant is responsible for completing and submitting a DOV Application for Service, collecting, documenting, and maintaining all information and records in accordance with the DOV Program

requirements and in accordance with their domestic origin procedures. These records are part of their regular business practice. AMS will use that information to verify that the company meets the requirements of the USDA Purchase Program for fruits and vegetables for domestic origin. Additionally, the AMS auditor may review the applicant's receiving, production, and distribution sites; interview key personnel; and interview production-level employees. Once a company passes the audit, it will submit the DOV Application for Service annually, updating any procedures, as necessary.

Steps for participation in the DOV service:

1. A company that is interested in the DOV service begins by submitting the DOV application for service. An applicant is required to establish, implement, document, and maintain their DOV procedures and processes according to the DOV service requirements: (1) Select growers and suppliers based on their ability to provide components or products that are of domestic origin; (2) Identify each end item component or product and describe the method for documenting that it came from domestic growers; (3) Verify the method for documenting that each end item component or product came from domestic origin, prevent the use of components or products not intended for the DOV service, and control non-conforming components or products; and (4) Take corrective action to eliminate the cause of any non-conformance encountered. The elements of the applicant's DOV procedures and processes are those that should be in place whether they are on the DOV service or providing a trace-back on every contract. Auditing under the DOV service against the requirements allows the applicant to eliminate the cost, redundancy, and labor involved with tracing back every USDA contract. The applicant's DOV procedures remain the property of the applicant.

2. Once the applicant completes the DOV Application for Service and collects their domestic origin procedures to be ready for audit, it is submitted to AMS for review to save time during the audit and to ensure the applicant is ready for the on-site audit. During the review process, AMS may request additional information, clarifications, or

revisions.

3. To verify that the applicant has implemented its DOV procedures, AMS schedules the on-site Validation Audit, to verify that the procedures meet the intended purpose of ensuring domestic origin. An AMS auditor will conduct the audit.

4. If the Validation Audit verifies that the applicant has implemented all the DOV requirements, the applicant becomes an Approved DOV participant. The applicant must satisfactorily address any deficiencies found during the audit before they become an Approved DOV participant.

5. For continued participation in the DOV service, an applicant must request an annual Verification Audit, and is subject to random Verification Audits to ensure continued compliance with the DOV requirements.

6. An applicant must notify AMS of modifications in their DOV Application for Service. This includes any changes made to their DOV procedures or processes due to unusual circumstances. AMS will acknowledge and promptly respond to the applicant. AMS will assess the modifications for acceptability as appropriate and confirm or approve the requested modifications.

The procedures and records generated by the applicant will remain the property of the applicant. DOV auditors will review these procedures and records. A well-maintained filing system will provide for an efficient audit performed by AMS. Records pertaining to USDA purchase contracts shall be maintained for a period of 3 years after the disposition of the contract. All of the records and forms pertaining to the USDA purchase contracts must be accessible to AMS.

FV-356, Application for Inspection and Certificate of Sampling
(7 CFR 52.7)

This form is fillable electronically and includes additional data elements required by the various inspection services SCI Division

provides. These include Section 8e Import Product Inspection, Request for Export Certification, and Submittal of Unofficial Samples.

The information on the face of the "Application for Inspection and Certificate of Sampling" form is used by the respondent to fill in their name, address, and to describe the containers, their location, code marks, the number of containers in the lot and other pertinent information depending on the type of service requested.

The application includes information collected for the inspection of unofficially submitted samples of food products. This information is used to determine the unique purpose for the inspection of unofficially submitted samples. Reasons for this type of inspection are not limited to, but include all of the following:

Processing plants not under in-plant inspection may use the inspection results for their internal quality control purposes.

Brokers and buyers may use the inspection results as guides in sales and purchases of product.

Inspection results may be a necessary component of import, export, and other customer purchase specifications.

Applicants that are required by a foreign country to furnish federal certification of a product being exported into that country.

Individuals or firms desiring information that can be used as misrepresenting a block of product or otherwise used to afford themselves an unfair advantage. Generally the inspection request is declined when possible misrepresentation is evident.

Samples drawn are not selected by either a Federal or State licensed sampler or inspector; samples are not from lots which have been previously inspected; and the samples are not from a lot which is the subject of controversy with any Federal agency e.g., a Federal food and drug seizure, or court litigation. The information collected is used for providing a user fee service and is not requested for use in

conducting a survey and results do not represent a lot. The applicant must be a financially interested party and abide by the requirements of the regulations 7 CFR 52. The applicant must sign and date the form to indicate compliance with the requirements.

Additionally, the form includes additional data elements for section 8e import product inspection. The information required for this type of inspection pertains to imported canned ripe olives, raisins, and dates which are required to be inspected by the Agricultural Marketing Service (AMS), subject to exemptions listed in the applicable Marketing Orders, Import Regulations. This rule is under Title 7 U.S.C. Section 608e-1 of the Agricultural Marketing Agreement Act of 1937, as amended. Inspection of these agricultural products is required to ensure that the standards of quality of imported products are equal to the standards imposed on domestically produced products regulated under Federal Marketing Orders. These standards protect U.S. consumers from substandard or inferior products. The process of importing products into the United States is complex and requires the coordinated efforts of many government agencies. In addition to the above information, this includes: importer of record; port of entry; name of vessel, container number, country of origin, customs entry number, bill of lading number, broker reference number, date of entry, harmonized tariff code, consignee number, and Food Canning Establishment Number (FCE). The FCE number is obtained from the Food and Drug Administration (FDA). This FCE registration is in addition to the Bioterrorism Act food establishment registration requirement. When a food canning establishment registers with FDA, it receives an FCE number. That FCE number then is used to file its scheduled processes of all the canned products manufactured at the facility for U.S. consumption.

The purpose of the export certificate is to expedite the entry of products into foreign countries. Samples are evaluated for flavor and odor and examined for the presence of foreign material to assure product wholesomeness. The information also functions as the shipper's declaration regarding the number of units in the consignment. This information includes the number of units declared in the consignment, product and storage temperatures, and other

pertinent information concerning the shipment or foreign country requirements.

The reverse of the form is the "Certificate of Sampling," which certifies that the samples have been selected and drawn by an inspector, licensed sampler, or by a person who has been authorized by the Administrator.

An official sampler completes the Certificate of Sampling which includes a record of expenses, mileage, and driving time, etc. This portion of the form is used in the billing process. The signature of the official sampler certifies that a representative number of samples were drawn and that they represent the lot(s) described on the application (front of FV-356.)

The form allow the applicant to apply for other miscellaneous services, as appropriate. SCI Division provides customized services to allow for the ever increasing needs of its customers. These other services would be based on the demands of the receiver of such goods. The applicant would specify what services to perform in the remarks section.

FV-468, Application for License to Sample Processed Foods
(7 CFR 52.30)

The information collected on the "Application for License to Sample Processed Foods" is used to subcontract applicants desiring to sample processed foods and certify as to the identification, location, and condition of containers of the processed products that are sampled. The information at the top of the form (application) is intended as a general guide that indicates what is to be expected of the applicant, if the applicant is hired.

FV-468 provides for a listing of previous employers who may be contacted for references and for determining length of service benefits when the employer is either a Federal or State agency. A review of the applicant's previous duties provides USDA with an

indication of his or her ability to perform the job functions. The applicant's signature on the bottom of the FV-468 certifies that the statements made thereon are correct. It also certifies that he or she is both aware of and willing to comply with the conditions outlined in the regulations regarding all licensed samplers upon approval of the application.

The information requested on Forms FV-DOV-1, FV-356, and FV-468 is essential for providing SCI Division's auditing and grading services, which may include the auditing sampling, inspection, and/or the certification of processed products. The information collected is used to provide a user fee service and is not requested for use in conducting a survey.

FV-358 Request for Surety Bond (7 CFR 52.41)

This form assures the inspection service that fees and charges for any inspection service are paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulation. The inspection service assures payments are guaranteed by either an advance of funds prior to rendering inspection service in an amount suitable to the Administrator or a surety bond suitable to the Administrator. Applicants that enter into a contract or an agreement for inspection service must provide acceptable surety. A surety bond or advance payment (cashier's check) is the only acceptable form of security. Form FV-358 sets forth the agreement for surety and established the amount to be paid.

FV-16, Notice for Hold for Re-Examination (7 CFR 52.57)

SCI Division has a Memorandum of Understanding between AMS and the Food and Drug Administration (FDA) where AMS is required to report to FDA any product adulterated by foreign material that is found in the course of inspection and is not under control of AMS. The FV-16 is used to report adulterated product to FDA. It is presented to an applicant to sign to acknowledge that it has disposed the product. Applicants have a number of options available, such as, segregation, reworking, destruction, or disposal for non-food use

under AMS supervision. The option taken should be reported to the SCI Division inspector within two weeks from the date shown on the FV-16 (adjacent to the inspector's signature). The applicant indicates their desired option on the FV-16 form, and dates and signs the form.

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.

These forms are available upon request at any field office and headquarters, and may be e-mailed, faxed or delivered in person. We continue to make efforts to reduce burden, to date the following forms: FV16, FV-24, FV-202, FV-237, FV-237A, FV-356, FV-358, FV-468, FV-651, FV-652, FV-DOV-1 are available on the AMS e-forms website <http://eforms.ams.usda.gov/#customersFV> and may be completed electronically. Additional efforts are continually being made to reduce burden, while continuing to provide our essential user fee services. Although alternative application methods are available to our customer, we remain mindful that not all the inspection sites involved in this information collection have the technological capability of applying over the internet. Certain inspection sites have inadequate software capabilities, high equipment cost, high staffing expenses, and a multitude of costly computer security considerations. Therefore, we need to continue to continue providing for the usage of our traditional forms though the use of facsimile machine transmission, and postal deliveries are also accepted.

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.

Repeat information such as the name and address of inspection location is not required, unless changes have been made to this information. However, each request is based on different production information and different needs. Therefore, sample size, case marks, lot numbers, number and type of containers, product type, product codes, certification types, warehouse locations, sampling applicants, and the nature of the samples i.e. "official" and "unofficial" samples

are all subject to continual change. All of these factors require a continuation of the forms discussed in this justification.

Due to the nature of information collected, duplication is not a factor. There are no other sources available to obtain this information.

5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF THE OMB FORM 83-1), DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms as those having annual receipts of no more than \$7.0 million. Under these definitions, approximately 40 % of companies that would be affected are considered small businesses. We have estimated the number of respondents for this collection is 8,422 and we estimate that 3,369 are considered small businesses. However, no difference in burden exists between small and large businesses. The minimum information necessary for an inspection request is the same regardless of business size. Although the information collection involves both small and large entities, we consider the information collected to be a minimal burden upon respondents.

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 Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) requires and directs the Department of Agriculture (USDA) to promulgate rules and regulations to carry out voluntary inspection and grading services, on a fee for service basis. In order to comply with the rules set forth under the Act in (7 CFR part 51 and part 52), the collection of information is needed to assure that the products sampled, inspected, graded, and /or certified are the actual products that have been selected by the respective applicant. This user fee information is collected on an as needed basis.

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;**

This is a voluntary service, responses are only made when a

service is being requested.

- **REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**

If the cancellation of a contract is initiated, the applicant is required to give 30 days advanced notification of the termination date, orally or in writing for the services provide on forms FV-24, FV-202 and FV-237. To date, there have been no notifications of termination of contracts.

There is no situation where a response is required after the information is collected for FV-237A and FV-651. For form FV-652 applicant must send a copy of any manufacturers' invoices for preprinted materials produced with the audit program(s) logo and a signed copy of Section F of this form must be forwarded to the Specialty Crops Inspection Division immediately after the time of receipt of the preprinted materials.

- **REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**

There is no situation where a respondent would be required to submit more than an original and two copies of a response.

- **REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN 3 YEARS;**

There are no requirements for a respondent to retain any document longer 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;**

No surveys of industry are conducted.

- **REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;**

A statistical data classification is not used.

- **THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUE 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**

No pledge of confidentiality is required with forms FV-24, FV-202, FV-237 FV-237A and FV-652.

Form FV-651 must be filled out before the audit takes place and includes a pledge of confidentiality stating the agencies policy for sharing information obtained while auditing in clauses 2(d) and 2(e).

- **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.**

Forms FV-16, FV-24, FV-202, FV-237, FV-237A, FV-DOV-1, FV-356, FV-358, FV-468 and FV-652 do not require respondents to submit proprietary trade secret, or other confidential information

Form FV-651 must be completed before the audit takes place. This form requires the applicant make available to USDA federal and/or federal-state auditors all records required by the specific audit program including, but not limited to, quality manual, food safety manual, water test results, employee training records, manure use records, laboratory testing results and other records as required by the applicant's quality manual, food safety manual or specific audit program

requirements.

No proprietary information, trade secrets, or other confidential information is kept by the USDA. Once reviewed, reference to said documents may be mentioned in the final audit report only if they highlight a non-conformance to a component of the audit 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, 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 notice was published in the Federal Register on May 13, 2013, Volume 78, Number 92, pages 27936 – 27937.

A correction notice was published on June 11, 2013 Vol. 78, No. 112, page(s) 1. This extends the comment period due to an error. The extension allows for the 60 comment period required under the Paper Work Reduction Act.

No comments were received.

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.

The Specialty Crops Inspection Division maintains ongoing contacts with cooperating State agencies, business associations, trade organizations, etc. Their comments have never indicated any problem supplying the requested information, which is necessary to the proper performance of grading services they request.

The following companies use these forms daily and have input concerning suggestions for the changing the format or method of transmitting the request:

Bill Pool
Manager of
Agricultural Production & Research
Wegmans Supermarkets
Rochester, NY
585-464-4670

Jack Weseneck
Rema Foods, Inc.
140 Sylvan Avenue
Englewood Cliffs, NJ
201-947-1000

Thomas Henry
Quality Control
Del Monte Fresh,
Dallas, TX,
214-428-3600

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 requirements for a respondent to retain any document longer than 3 years. Inspection services do not require applicants to maintain records or to provide additional information. Audit services require applicants make all records required by the specific audit program including, but not limited to, quality manual, food safety manual, water test results, employee training records, manure use records, laboratory testing results and other records as required by the applicant's quality manual, food safety manual or specific audit program requirements.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO

RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

Payments or gifts are not offered or awarded 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 Act provides that information acquired will be kept confidential, and that penalties exist for violating confidentiality requirements. USDA's AMS employees are trained to maintain confidentiality. Other confidential information will be withheld from public review under the Freedom of information Act and the Privacy Act, 5 USC 552. In addition, form FV-651 addresses the agencies policy for confidentiality in clause 2(d).

- 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.**

Information concerning private sensitive matters is not required or requested.

- 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 DIFFERENCE 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.**

The AMS-71 spreadsheet shows a breakdown of respondents, responses, burden hours per response, and total burden hours which has been determined to be an estimated 21,127 hours. The total number of burden hours was based on an estimated 144,992 number of responses.

- **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 CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.**

For the 21,127 hours determined to be the total burden hours for the respondents, the annual cost would be an estimated \$594,514 at \$28.14 per burden hour. Data for computation for this hourly wage was obtained from the U.S. Department of Labor Bureau of Labor Statistics, "Occupational Employment Statistics: Occupational Employment and Wages, May 2011". This publication can also be found at the following website: <http://data.bls.gov/cgi-bin/print.pl/oes/current/oes113011.htm>

- 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 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, PREPARATIONS 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, 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 KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

There are no capital, startup, operation, or maintenance costs associated with this program.

- 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, OPERATION 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.

All costs associated with information collection are covered by user fees and therefore no cost to the Federal Government is shown.

15. EXPLAIN THE REASON FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-1.

Since the last submission AMS is combining collections 0581-0125, and 0581-0234. There is an adjustment to the number of respondents of the FV-237 which decreased by 38,009, this further correlates to a decrease in the number of responses by 129,547. However, the number of responses per respondent increased from approximately 6 to 36. This is due to market trend to decentralize from terminal markets offering specialized products to a less costly suburban location where companies can provide a variety of products to customers, respondents in suburban locations have a greater number of responses while traditional terminal markets have seen a decline in the number of responses. This results in fewer respondents with a greater number of responses per respondent for this submission. Further, the numbers in the last submission were overstated. This year's submission is supported by data in our Fresh Electronic Inspection Resource/Reporting system.

Net result of these two factors is a program change decrease of -3441 burden hours.. Also, forms FV-24, FV-202, FV-237, FV-237A, FV-651, and FV-652 are dropping the words "Fresh Products Branch" from their title since the two programs were combined within AMS.

1. EXPLAIN THE REASON FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB OMB 83-I.

<u>REG. NO.</u>	<u>REASON</u>	<u>PREVIOUS BURDEN</u>	<u>NEW BURDEN</u>	<u>DIFFERENCE</u>	<u>TYPE OF CHANGE</u>
51.6, 51.7, 51.8 (FV-237)	Dec. respondents & num. responses	8,171.46	3931.83	-4239.63	Adj.
51.10	Dec. respondents,	37.52	119.00	81.48	Adj.

	& inc. in num. responses				
51.23	Dec. in respondents	1,000.00	25.00	-975.00	Adj.
51.33 (FV-202)	Dec. in respondents	25.00	8.00	-17.00	Adj.
51.34	Dec. in respondents	2.00	0.00	-2.00	Adj.
51.59 (FV-24)	Dec. in respondents & per response time	50.00	1.00	-49.00	Adj.
51.6, 51.7, 51.8 (FV-237A) farm	Inc. in respondents	33.00	76.22	43.22	Adj.
FV-237A (Gov.)	Inc. in respondents	7.00	16.18	9.18	Adj.
51.6, 51.7, 51.8 (FV-651)	Dec. in respondents & per response	9,000.00	11,900.00	2900.00	Adj.
51.3 (FV-652)	Dec. in respondents, inc. per response	40.00	1.67	-38.33	Adj.
Sub Total		18,365.98	16,078.90	-2,287.08	
Burden Associated With Merging of 0581-0234					
52.7 (FV-DOV-1)	Dec. in respondents	25.00	21.50	-3.50	PC
52.7 (FV-356)	Dec. in num. responses	6,124.80	4,976.84	-1,147.96	PC
52.41 (FV-468)	Dec. in per response	36.55	35.91	-0.64	
52.41 (FV-358)	Dec. in respondents	5.00	2.67	-2.33	PC.

Sub Total	6,191.35	5,036.92	-1,154.43
Grand Total	24,557.33	21,115.82	-3,441.51

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.

Forms FV-16, FV-24, FV-202, FV-237, FV-237A, FV-356, FV-358, and FV-652 collect information that will not be published.

However, with the authorization of the applicants into the DOV program, their names are published on the Web as "Approved DOV Participants.

Also, form FV-651 outlines the publication policy for collected information in clause 2(e), which is limited to the name, address and audit type listed on the USDA website as meeting audit program requirements.

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 Agency requests approval not to display the expiration date for OMB approval of the information collection. This requirement significantly affects programs by increasing costs to users because otherwise usable forms must be destroyed based on the expiration date, if the form is revised, and redistributed. Such needless cost increases are passed on to applicants requesting services, and are counter-productive to the Administration's goal of reducing costs and increasing program efficiency. Forms are ordered in advance. If forms are ordered prior to an OMB submission for extension of approval,

there is no guarantee that a requested expiration date will be used by OMB. Therefore, we are seeking permission not to display the expiration date.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-1.

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.