



## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### **7 CFR Part 1051**

**Docket No. AO-15-0071; AMS-DA-14-0095**

#### **Proposed California Federal Milk Marketing Order; Producer Ballots**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Request for public comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget for a new information collection: Proposed California Federal Milk Marketing Order; Referendum Procedures.

**DATES:** Pursuant to the Paperwork Reduction Act, comments on the information collection burden that would result from the conduct of a referendum must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments should reference the docket number, title of action, date, and page number of this issue of the Federal Register and can be viewed and submitted at the Federal eRulemaking portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Erin Taylor, Acting Director, Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, STOP 0231, Room 2969-S, 1400 Independence Ave, SW, Washington, DC 20250-0231, (202) 720-7311, e-mail address: [erin.taylor@ams.usda.gov](mailto:erin.taylor@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This announcement is issued pursuant to the PRA. This document invites comments on the proposed ballots to be used in conducting a referendum to determine whether the issuance of a Federal Milk Marketing Order (FMMO) regulating the handling of milk in California is favored by producers and cooperative associations. The Recommended Decision on the issuance of a FMMO in California was published in the Federal Register on February 14, 2017 (82 FR 10634). The Agricultural Marketing Service (AMS) is accepting comments on this Recommended Decision until May 15, 2017, and, following review, will issue a Final Decision on promulgating a California FMMO. Sections 900.300 through 900.311 of title 7 of the CFR outline procedures to conduct a referendum to determine producer approval of FMMO promulgation or amendatory proceedings. These referendum procedures would apply to the proposed California FMMO, should the Final Decision continue to recommend its adoption. AMS would conduct the referendum using the proposed ballot forms for which this document invites comments. Once these ballots are approved, they will also be used to determine producer approval for future FMMO promulgation and amendatory proceedings, including any subsequent referenda under the proposed California FMMO.

In accordance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) that implement the Paperwork Reduction Act (44 U.S.C. 3501-3520) (PRA), the information collection requirements associated with the FMMO program have been previously approved by OMB and assigned OMB No. 0581-0032 collection, "Report Forms under the Federal Milk Marketing Order Program."

7 U.S.C. 608c(9) provides two options for determining industry approval of a new FMMO: (1) by two-thirds of those persons voting; or (2) by two-thirds of the milk represented in

the referendum. The AMAA lays out the statutory authority for conducting a referendum to determine industry approval of a new FMMO. 7 CFR 900.300 outlines procedures for conducting a referendum, to include: definitions; associations eligible to vote; conduct of referendum; who may vote; duties of referendum agent; notice of the referendum; time for voting; tabulation of ballots; confidential information; supplementary instructions; and submittals or requests. This document invites comments for the proposed ballots used to conduct a producer referendum regarding promulgation of a California FMMO. Upon approval, these ballots will also be used to determine producer and cooperative association approval for future FMMO promulgation and amendatory proceedings, including any subsequent referenda under the proposed California FMMO.

In accordance with the PRA, this document announces AMS' intention to request approval, from the Office of Management and Budget (OMB), for an information collection totaling 363.25 hours for the requirements contained in the ballots to carry out the referendum procedures for promulgating a California FMMO.

A new information collection package is being submitted to OMB for approval of 363.25 total burden hours to cover this new collection for conducting a producer referendum on the proposed California FMMO. Upon OMB's approval of this new information collection, AMS intends to merge this new information collection into the approved OMB No. 0581-0032 collection.

In accordance with 5 CFR part 1320, we have included below a description of the collection and recordkeeping requirements and an estimate of the annual burden on entities who would participate in the California producer referendum. As with all mandatory regulatory

programs, reporting and recordkeeping burdens are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The PRA provides authority for this action.

***Title:* Proposed California Federal Milk Marketing Order; Referendum Procedures**

*OMB Number:* 0581-NEW.

*Expiration Date of Approval:* Three years from date of approval.

*Type of Request:* This is a NEW collection

Abstract: FMMO regulations (7 CFR 900.300 through 900.311) authorized under the AMAA of 1937, as amended (7 U.S.C. 601-674, and 7253), outline procedures for conducting referenda to determine producer approval of milk marketing orders. These referendum procedures would be used to determine approval for the proposed California FMMO.

The information collection requirements in this document concern the ballots to carry out a referendum to determine industry approval of the proposed California FMMO. Upon issuance of a Final Decision, producers and/or cooperative associations potentially affected by the proposed California FMMO would be authorized to vote in the referendum regarding their support of the Final Decision. Under this referendum, cooperative associations would be able to elect to bloc vote on behalf of their members; in this case, cooperative associations would submit to AMS a Cooperative Ballot in addition to a Certificate of Resolution and an Intent to Bloc Vote indicating the cooperative association's decision to vote on behalf of its members. Cooperative associations that either check "no" or who do not return their Intent to Bloc Vote form to AMS promptly would be designated as not bloc voting on behalf of their members. In this case, a Milk Producer's Ballot would be sent to each producer associated with that cooperative. Producers who are not associated

with a cooperative would be sent a Milk Producer's Ballot to indicate their support for or against the promulgation of the proposed California FMMO. These same ballots will be used by USDA to carry out future referendum procedures to determine support for promulgation or amendatory proceedings in other FMMO rulemakings.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

*Respondents:* Milk producers and cooperative associations

*Estimated Number of Respondents:* 1,443

*Estimated Total Annual Responses:* 1,453

*Estimated Number of Responses per Respondent:* 1

*Estimated Total Annual Burden on Respondents:* 363.25

As with all FMMOs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this document. USDA has performed this initial RFA analysis regarding the impact of this document on small businesses.

An estimated 1,453 responses would provide information to AMS. The estimated cost of providing the information to AMS by respondents would be \$12,205.20. This total has been estimated by multiplying 363.25 total hours required for reporting and recordkeeping by \$33.60, the average mean hourly earnings of Farmers, Ranchers, and Other Agricultural Managers, as denoted by the U.S. Department of Labor Statistics National Compensation Survey.

The proposed California FMMO's referendum procedures have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize procedures already administered by USDA.

**Request for Public Comment under the Paperwork Reduction Act**

Comments are invited on: (1) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (2) ways to enhance the quality, utility, and clarity of the information to be collected; and (3) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581-NEW. In addition, the docket number, date, and page number of this issue of the **Federal Register** also should be referenced. Comments should be sent to the same addresses referenced in the **ADDRESSES** section of this document.

A 60-day comment period is provided to allow interested persons to comment on this proposed information collection. All written comments received will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 17, 2017

Bruce Summers  
Associate Administrator  
Agricultural Marketing Service  
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