1Supporting Statement
Farm Security and Rural Investment Act of 2002
Voluntary Labeling Program for Biobased Products
Under Title IX, Section 9002

Proposed Voluntary Labeling Program for Biobased Products for Federal Biobased Products Preferred Procurement Program

**A. Justification**

**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.**

Section 9002(h) of the Farm Security and Rural Investment Act (FSRIA) of 2002, as amended by the Food, Conservation, and Energy Act (FCEA) of 2008, requires the Secretary of Agriculture to implement a voluntary labeling program that would enable qualifying biobased products to be labeled with a "USDA Certified Biobased Product" label. The labeling program is required to be consistent, where possible, with the guidelines implementing the preferred procurement of biobased products by Federal agencies (referred to hereafter as the preferred procurement program), which is also authorized under section 9002 of FSRIA. A copy of section 9002 of FSRIA is attached. A brief overview of the statutory requirements for the Federal preferred procurement program (part of the BioPreferred Program) is presented below.

Under the preferred procurement program, Federal agencies are required to purchase, with certain exceptions, biobased products that are identified, by rulemaking, for preferred procurement. In order for biobased products, which are grouped in product categories to qualify for the preferred procurement program, the statute requires that the Secretary consider information on the availability of products, the economic and technological feasibility of using these goods and the life-cycle costs of using such items. In addition, the Secretary is required to provide to Federal agencies information on the availability, relative price, performance, and environmental and public health benefits of the BioPreferred Products and, where appropriate, is required to recommend the level of biobased material to be contained in the procured product. This information must also be provided in rulemaking to identify product categories and the products within them for Federal preferred purchasing.

**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.**

Under the voluntary labeling program, manufacturers and vendors must submit an application for each biobased product for which they wish to use the label. Applications will be available in both hard copy and electronic formats. In addition, manufacturers and vendors whose applications have been conditionally approved would provide to USDA certain information for posting by USDA on the voluntary labeling program Web site. For each product approved by the Agency for use of the label, the manufacturer or vendor must keep that information for each certified product up-to-date. Finally, manufacturers and vendors

would interact with USDA Departmental Management (DM) as the result of the planned audit program by DM.

**Applications**

Certification applications will be submitted to DM for review. If DM determines that an application is incomplete or deficient, the applicant will be provided the opportunity to correct or modify the application and resubmit it.

Form 2904-1, Application for Certification (§ 2904.5(a))

Applications for certification will be required to be submitted once, at the beginning of the certification process. The information to be included in the certification application is: (1) contact information (for the applicant and preparer of application) and (2) product identification information, covering brand name(s), the applicable designated item category or categories or equivalent, and the biobased content of the product. In addition, the applicant would be required to certify to certain information. The information in these areas is described in more detail below.

Contact Information (§ 2904.5(a)(1) and Form 2904-1). With each application, the applicant must supply the name of the applicant seeking certification and the applicant's mailing address, email address (if available), and telephone number. In addition, the application requires the listing of the name of the person preparing the application and, if different from the applicant, the preparer's mailing address, telephone number, and, if available, email address.

This information is necessary for communicating with the applicant concerning any issues with the application, notifying the applicant as to whether the application is deficient, and whether the application has been approved.

Brand name(s) (§ 2904.5(a)(1)). The application requires the applicant to identify the product for which certification is sought by listing the brand name(s) for the product.

As products may be marketed under different brand names, the application requests that all brand names for the product be identified. This will prevent multiple applications for essentially the same product.

Biobased content and testing information (§ 2904.5(a)(1)). The application requires the applicant to identify the product's biobased content and the entity that determined the biobased content of the product. The applicant must attach to the application documentation demonstrating that the reported biobased content was tested by a third-party testing entity that is ISO 9001 conformant.

This information is necessary to ensure that the biobased content meets the applicable minimum biobased content for the product and that a qualified, independent, third-party testing entity conducted the testing.

Product category (§ 2904.5(a)(1)). The application requires the applicant to identify whether the product (1) is within a product category that has been designated under the preferred procurement program, (2) is a

finished product that is not within an identified product category and that is not a mature market product, or (3) is an intermediate ingredient or feedstock that is not within an identified product category. If the product falls within a product category identified for Federal preferred procurement, the application requires the applicant to specify the category(ies) the product is within.

To qualify for the label, it is necessary that a product's biobased content meets or exceeds the applicable minimum biobased content for that product. The applicable minimum biobased content is dependent upon which of the three categories of products the product for which certification is being sought falls. Therefore, this information is necessary to determine the applicable minimum biobased content against which to evaluate the product for approving the application.

Intended uses of the product (§ 2904.5(a)(1)). The application requires the applicant to identify the intended uses of the product.

This information is necessary because it is not always possible to determine from the name of the product alone what its intended use is. USDA needs this information to confirm that the product is or is not within a category or categories of products eligible for Federal preferred procurement, and whether the applicant has accurately identified the appropriate category(ies) for its product. Knowledge of which Federal preferred purchasing categories, if any, the product falls within is required to identify the appropriate applicable minimum biobased content for the product.

Certifying statements (§ 2904.5(a)(2)). The applicant must certify that the product for which use of the label is sought is a biobased product, as defined in 7 CFR 2904.2, and that it meets the country of origin requirements specified in 7 CFR 2902.4(b)(3).

This is necessary to ensure that the product is an eligible product.

Commitments (§ 2904.5(a)(3)). The applicant must also sign a statement in the application that commits the applicant as follows:

- The applicant commits to submitting to USDA certain specified information (as described later under Web Site Information) which USDA will post to the voluntary labeling program Web site, and to providing USDA with up-to-date information for posting on this Web site.

This is necessary to help ensure that those purchasing a product with the biobased label have access to sufficient information in order to make a reasoned purchasing decision. Further, the information that is to be posted on the voluntary labeling Web site and made available to eligible requestors is important to helping set apart certified biobased products from non-certified biobased products, a key purpose of the labeling program.

Reformulated Products (§ 2904.5(d)(3)). Circumstances may arise in which a manufacturer may make changes to a certified product during the term of an existing certification. If any of these changes are significant enough, the existing certification will no longer be valid for the product under the

revised conditions and the manufacturer or vendor, as applicable, and its designated representatives would be required to discontinue affixing the label to the product and would be prohibited from initiating any further advertising of the product using the label. The circumstances under which this would occur are:

- the product formulation is revised such that the biobased content of the product is reduced to a level below that reported in the most recent application,
- the product formulation is revised such that the biobased content of the product is increased from the level reported in the most recent application, and the manufacturer wishes to report the higher value on the label.

When such circumstances arise, USDA will consider a product under such revised conditions to be a reformulated product, and the manufacturer or vendor, as applicable, must submit an amended application for certification using the procedures specified in § 2904.5.

Amended applications are being requested under the above identified circumstances because it is important to the integrity of the labeling program that the label be used only on those products that meet their applicable minimum biobased content requirements.

The frequency under which a manufacturer or vendor would seek re-certification under the circumstances described above depends upon the frequency with which such changes occur.

**Web site Information (§ 2904.5(c)(1) – (c)(4))**

Manufacturers and vendors will be responsible for providing to USDA certain information on products approved for use of the label for posting by USDA on the voluntary labeling program Web site prior to their use of the label on the certified product (§ 2904.5(c)(1)-(c)(4)). The information to be posted is: (1) product brand name; (2) contact information, including the name, mailing address, email address, and telephone number of the applicant; (3) the biobased content of the product; and (4) a hot link directly to the applicant's Web site (if available).

This information is necessary in order for those who would purchase the product under the Federal preferred procurement program to: (1) identify what biobased products are available, (2) compare the biobased contents of similar products to assist in selecting those with the highest biobased content, and (3) identify a contact if the purchasing agent has questions (either by phone or through a Web site) concerning a particular product.

Finally, it is important that manufacturers and vendors keep the information provided to USDA for posting on the voluntary labeling program Web site up-to-date in order for those who would purchase such products to have the correct information when making purchasing decisions. The frequency of updating the voluntary labeling Web site will depend on how frequently a manufacturer or vendor makes changes to its product(s).

**Records (§ 2904.9)**

The labor burden associated with the proposed rule includes estimates of the time necessary for manufacturers and vendors to keep records of the documentation that DM believes is needed to demonstrate compliance with the requirements of the rule. The following paragraphs describe the recordkeeping activities that have been included in the estimates of the total labor burden.

Manufacturers and vendors would be required to maintain records associated with (1) the results of all tests, and any associated calculations, performed to determine the biobased content of the product, (2) the date of the certification by USDA, the dates of changes in formulation of certified biobased products, and the dates when the biobased content of certified biobased products was tested, and (3) documentation of analyses performed by manufacturers to support claims of environmental or human health benefits, life cycle cost, sustainability benefits, and product performance made by the manufacturer.

For each certified product, records must be maintained for at least 3 years beyond their creation or as long as necessary to support the most recent approved application for the certified product, whichever is greater.

The requirement to keep records of biobased content testing is needed to allow USDA to audit manufacturers and vendors to ensure that a certified product is in compliance with its applicable minimum biobased content and that the biobased content on the label is accurate.

The requirement to keep supporting documentation that the product for which certification is sought meets the definition of biobased product is needed to ensure that only products meeting the specified definition of a biobased product are certified.

Finally, the requirement to keep the various date records is needed to ensure that the label is being affixed during an active certification period. Changes in formulation and biobased contents can trigger the requirement to seek a new certification and, thus, affect the applicable certification period of a product.

**Oversight and Monitoring (§ 2904.10)**

USDA will conduct oversight and monitoring of manufacturers, vendors, designated representatives, and other entities involved with the voluntary labeling program to ensure compliance. This oversight will include, but not be limited to, conducting facility visits of manufacturers and vendors who have certified products, and of their designated representatives. Manufacturers, vendors, and their designated representatives are required to cooperate fully with all USDA audit efforts for the monitoring of compliance with the voluntary labeling program regulations. In addition, USDA will conduct biobased content testing of certified products to ensure compliance. Finally, manufacturers, vendors, and their designated representatives must allow Federal representatives access to the records required for inspection and copying during normal Federal business hours.

This is necessary to ensure that manufacturers and vendors are complying with the requirements of the program, which in turn will help ensure the integrity of the labeling program.

**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 copies of the application form will be available electronically through the voluntary labeling program Web site. This will facilitate the availability of the applications by allowing manufacturers and vendors to download the applications. Applications can also be submitted in paper format by mail to DM for review.

In order to obtain certification, manufacturers and vendors of certified biobased products are required to provide to USDA certain product and manufacturer or vendor information for posting, by USDA, to the voluntary labeling program Web site, as described earlier. This will provide Federal agencies an electronic means to identify available biobased products for the preferred procurement program. Every effort will be made to streamline the processes with which DM interacts with manufacturers and vendors to reduce the cost and time burden on the participants in the labeling program

**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**.

In order to be approved to use the label, manufacturers and vendors must submit information on the biobased content of the product. Some of the products for which certification is being sought will already have undergone these tests as part of the process of identifying product categories and products within them as eligible for Federal preferred purchasing. Further, some of the manufacturers and vendors may have already posted some of the information required under the labeling program to the voluntary labeling Web site as part of the Federal procurement preference program of the BioPreferred Program. The proposed requirements of the labeling program allow manufacturers and vendors to use this information already developed. Therefore, we do not anticipate any duplication of information under the labeling program.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The labeling program is a voluntary program available to all manufacturers and vendors, including small businesses that have biobased products. Information available to USDA indicates that a large majority of the businesses that manufacturer biobased products are classified as small businesses, based on the number of employees reported by these businesses. Of the 1,938 companies registered in the BioPreferred Program database, employment data are available for 1,179 companies (about 61 percent). Of this sample, 1,145 companies (about 97 percent) report less than 500 employees and only 3 percent report greater than 500 employees. Thus, based on this sample and using 500 employees as the criterion for defining a small business, USDA estimates that about 97 percent of the companies that could choose to participate in the voluntary labeling program are classified as small businesses.

The largest potential burden associated with participation in the labeling

program is that associated with label redesign (§ 2904.7). Manufacturers and vendors approved to use the label will need to redesign their biobased product or packaging label(s) for each qualified product to incorporate the "USDA Certified Biobased Product" certification mark. If a manufacturer or vendor redesigns its label(s) outside of its planned schedule for redesigning its label, then the cost to incorporate the "USDA Certified Biobased Product" label would be attributable to the voluntary labeling program. However, there are few, if any, incremental costs associated with incorporating the certified biobased label if done as part of the manufacturer's or vendor's planned schedule for label redesign. Because the certified biobased labeling program is voluntary, manufacturers and vendors should have the opportunity to schedule incorporation of the certified biobased label into their next scheduled label redesign and avoid this cost.

Another potentially large burden is associated biobased content testing. While biobased content testing is necessary to participate in the preferred procurement program and the voluntary labeling program, (1) its cost is low (about $500) and (2) USDA is providing funding for many of these tests for products in the Federal preferred purchasing program., Thus, many small businesses that choose to voluntarily participate in the program may also be able to avoid this cost.

After the Federal preferred purchasing product category identification process has been completed, DM will, to the extent that funding is available to support such testing, offer cost sharing to firms, seeking first to cost share with small firms.

**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.**

DM will only collect the necessary amount of information and testing of individual products to ensure that the USDA label is applied to qualified biobased products. An initial application is necessary in order to make this determination. Failure to collect this information would result in many unqualified products using the label, thereby rendering the program useless.

Failure to require manufacturers and vendors to provide up-to-date information on each certified product to USDA for posting on the voluntary labeling program Web site could result in purchasers making poor purchase decisions and in inefficiencies in making purchasing decisions (e.g., trying to contact someone who is no longer with the manufacturer or vendor).

**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;**

Under the proposed voluntary labeling program, two situations may occur under which a manufacturer or vendor would be required to supply information to DM.

One is where a change is made to a product's formulation that results in a change in the biobased content of the product to such an extent that submittal of a new application is required. It is highly unlikely, however, such changes would occur quarterly.

The second is the requirement to provide USDA with up-to-date product information. Again, this is only required when information changes and, though likely to occur more frequently than formulation changes, is highly unlikely to occur more often than quarterly.

DM does not anticipate either of the above circumstances to result in reporting of information on any one product more often than quarterly, and anticipates a much longer time frame for each product.

**requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

Under the labeling program, no written responses are being required in fewer than 30 days after receipt of the request. There are several situations, however, in which a manufacturer or vendor is expected to supply a response in 30 days or less. These are: (1) submittal of a new application when USDA testing determines that the biobased content of a product is less than reported in the most recent approved application but is still equal to or greater than its applicable minimum biobased content(s) (§ 2904.8(b)(1)(ii)), (2) suspension of a certification for biobased content violations (§ 2904.8(c)(1)(i)), and (3) appeals (§ 2904.6(a)(1)).
Manufacturers or vendors who receive a notice of violation for other types of violations must correct the violation(s) within 60 days from receipt of the notice of violation.

**requiring respondents to submit more than an original and two copies of any document;**

DM will not require more than an original of any document submitted to it by manufacturers and vendors seeking certification.

**requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

Under the voluntary labeling program, manufacturers and vendors would be required to keep certain records to support the information presented in their applications (§ 2904.9(a)(1) through (3)). The program would require that these records be kept for 5 years after their creation or as long as necessary to support the most recent approved application for the certified product, whichever is greater (§ 2904.9(b)).

Information provided by manufacturers and vendors for posting on the voluntary labeling program Web site is expected to be the kind of information a company would normally have to provide customers in the normal course of business, for as long as would be typically required in the normal course of business and as such would not represent a new and unreasonable burden on manufacturers and vendors.

**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;**

DM does not envision initiating any statistical surveys.

**requiring the use of a statistical data classification that has not been**

**reviewed and approved by OMB;**

DM does not expect to conduct statistical surveys or require use of statistical data classifications.

**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**

Product and manufacturer and vendor information posted on the voluntary labeling program Web site would be publicly available to view, but only USDA would be able to change the posted information.

**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.**

USDA does not expect that any of the information required for the voluntary labeling program will be considered confidential by respondents.

**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 “Voluntary Labeling Program for Biobased Products” proposed rule was published in the Federal Register on July 31, 2009 (Volume 74, Number 146, and Page 38295-38317).

The proposed rule, and the comments filed/registered by twenty-five commenters, may be found at www.regulations.gov (Enter “0503-AA35” or “biobased”, no quotes, in keyword/search ID window at Web site above.)

None of the comments received addressed the burden information or USDA’s estimates contained within the proposed rule.

The comments received on voluntary labeling applicability, eligibility, requirements, evaluation, certification, and on the label artwork/logo (i.e., certification mark) are summarized and responded to in the preamble of the final rule.

**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.**

During the development of the biobased products voluntary labeling program, DM has had discussions with other agencies that have implemented labeling programs, such as the Environmental Protection Agency’s and the Department of Energy’s “ENERGY STAR” program. DM has also consulted with representatives of the Department of Agriculture’s National Organic Program.

In addition, DM has had discussions with representatives of “Green Seal”, an independent non-profit organization that certifies products they consider environmentally responsible. DM has also consulted with ASTM International (ASTM), and with various trade associations with interests in biobased products. The trade associations included:

Renewable Fuels Association,
Bob Dinneen, President and CEO
One Massachusetts Avenue NW, Suite 820
Washington, DC 2001
Phone: 202-289-3835

United Soybean Board
Mike Erker, New Uses Program Manager,
16640 Chesterfield Grove Road, Suite 130
Chesterfield, Mo 63005
Phone: 314-579-1581

National Corn Growers Association
Mary Holmes, Director of Business Development
632 Cepi Drive
Chesterfield, MO 63005
Phone: 636-733-9004

Biobased Manufacturers Association
Kim Kristoff, Founder and Chairman
Phone: 602-265-8586
Dan Manternach, Managing Director
Phone: 314-372-3519

DM has also had extensive discussions with the White House Council on Environmental Quality (CEQ), CEQ’s Office of the Federal Environmental Executive (OFEE), the Office of Management and Budget, USDA’s Agricultural Marketing Service, the Defense Logistics Agency, NIST, and the General Services Administration to seek their views on the biobased program and the requirements for the voluntary labeling rule.

DM’s proposed rule (Docket No. OEPNU-FRDOC-0001) described its information gathering requirements, and also provided a 60-day comment period. During this time, interested members of the public had the opportunity to provide DM with their input concerning the usefulness, legitimacy, and merit of the information collection activities DM proposed.

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

There is no intent to provide any payment or gift to respondents.

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

USDA does not expect that any of the information required for the voluntary labeling program will be considered confidential by respondents.

**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 such questions will be asked of the manufacturers and vendors seeking to participate in the voluntary labeling program.

**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.**

A tabular summary of the information discussed in the following paragraphs is presented at the end of this section and detailed tables showing the development of the burden estimates for each year are attached at the end of this document.

DM projects that it will designate 166 items by the end of the three year period covered by this Information Collection, with 100 items designated in year 1, 36 in year 2, and 30 in year 3. DM estimates that there are 830 manufacturers of products within these 166 designated items. In addition, DM estimates that an additional 830 manufacturers of non-designated, biobased products and intermediate ingredients or feedstocks will investigate the use of the label on their products. Based on these estimates, DM projects a total of 1,660 manufacturers will read the rule, which is assumed to occur during the first year after it is published. Based on the information presented in item 5 above, DM estimates that as many as 1,610 of these manufacturers will be classified as small businesses (1,660 times 97 percent).

The rule also allows vendors to apply for and use the label. DM estimated the number of vendors expected to participate to be 200, roughly 10 percent of the number of companies registered in the BioPreferred Program database (1,938 x 0.10 = 194 rounded up to 200).

Finally, because the rule also affects other entities who may wish to use the label in sales or other promotional material, DM also estimates that a number of such entities would also read the rule in the first year. DM estimates the number of other entities at 10 percent of the estimated number of manufacturers who would read the rule (1660 x 0.10 = 166).

For the first year, the hours required for the 1,860 manufacturers and vendors to read the rule are estimated to be 7,440 hours (4 hours per manufacturer and vendor). For other entities who would seek to use the label in sales or other promotional material, the hours required for these 166 entities to read the rule are estimate to be 664 hours (4 hours per entity). Total hours estimated for reading the rule, therefore, are estimated to be 8,104.

In year 1, DM assumed that (1) there will be 100 product categories identified for Federal preferred purchasing, (2) there are 500 manufacturers of products within these 100product categories, and (3) 60 percent of these 500 manufacturers will participate in the voluntary labeling program. For manufacturers of non-BioPreferred Products (products not within product categories that are eligible for Federal preferred procurement), DM assumed that 30 percent of the estimated 830 non BioPreferred product manufacturers would participate and that 10 percent of the estimated 200 vendors would participate in year one. This results in a total estimated number of manufacturer and respondents in year one of 569 (500 x 0.6 plus 830 x 0.3 plus 200 x 0.1).

In year 2, DM assumes that (1) another 36 product categories will be identified (for Federal preferred purchasing), (2) there are 180 manufacturers of products within these 36 product categories, and (3) 60 percent of these 180 manufacturers will participate in the voluntary labeling program. For manufacturers of non-BioPreferred Products, DM assumed that another 20 percent of the estimated 830 manufacturers would participate and that another 10 percent of the estimated 200 vendors would participate in year two. This results in a total estimated number of manufacturer and respondents in year two of 294 (180 x 0.6 plus 830 x 0.2 plus 200 x 0.1).

In year 3, DM assumes that (1) another 30 product categories will be identified, (2) there are 150 manufacturers of products within these 30 product categories, and (3) 60 percent of these 150 manufacturers will participate in the voluntary labeling program. For manufacturers of non BioPreferred Products, DM assumed that another 10 percent of the estimated 830 manufacturers of these products would participate and that another 10 percent of the estimated 200 vendors would participate in year three. This results in a total estimated number of manufacturer and respondents in year three of 193 (150 x 0.6 plus 830 x 0.1 plus 200 x 0.1).

For each manufacturer and vendor participating in the program, DM estimates that, on average, each will submit six applications. This yields a total number of applications of 3,414; 1,764; and 1,158 in years 1, 2, and 3, respectively.

For year 1, the total hours required for the estimated 569 manufacturers and vendors to apply for certification and to maintain the required records are estimated at 26,855. The total hours required to provide information to USDA for posting, by USDA, on the voluntary labeling Web site are estimated at 12,976 hours.

The above estimates, including the estimated hours to read the rule, yield a total annual hour burden for the first year of 47,935 hours.

For the second and third years, the hours required for the 294 and 193, respectively, new manufacturers and vendors anticipated each year and for the previously approved manufacturers and vendors to submit applications (initial and subsequent), and maintain required records are estimated to be 20,186 and 18,703 hours, respectively. The hours required for providing USDA information for posting by USDA to the voluntary labeling Web site and for updating that information are estimated to be 6,676 hours in year 2 and 4,892 hours in year 3. This yields a total annual hour burden for year 2 of 26,862 hours and for year 3 of 23,595.

The total estimated annual average hour burden for the collection of information (reading the rule, completing applications, testing, providing information for the biobased Web site, and recordkeeping) under this program over the first three years is estimated to be 32,797 hours (47,935 + 26,862 + 23,595 = 98,391 total hours; and 98,391/3 years = 32,797 per year).

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

The average annualized cost to respondents for the collection of information over the first three years is estimated to total $2,813,811. This is based on an average annual total hour burden over the first three years of the program of 32,797 hours priced at $49.98 per hour (as discussed below) plus the $116,035 in annualized cost for the biobased content testing plus $1,058,565 for label redesign (see Item 13 below).

The $49.98 hourly rate used to calculate the annualized cost to respondents is estimated to be an average wage that manufacturers and vendors would pay. That is, we expect that at least half the burden hours would likely be provided by employees earning less than this hourly rate and up to half of the employees would be earning more.

**SUMMARY OF BURDEN ESTIMATE INPUTS**

| | Year 1 | Year 2 | Year 3 |
|---|---|---|---|
| Number of BioPreferred Product manufacturers participating in labeling program | 300 | 108 | 90 |
| Number of non-BioPreferred product manufacturers participating in labeling program | 249 | 166 | 83 |
| Number of vendors participating in program | 20 | 20 | 20 |
| **Number of respondents per year [a]** | **569** | **863** | **1,056** |
| Number of manufacturers and vendors applying to use label | 569 | 294 | 193 |
| Number of applications per respondents | 6 | 6 | 6 |
| Number of Applications for Certified Products | 3,414 | 1,764 | 1,158 |
| **Number of Applications Approved (95% of Applications submitted)(= number of certified products)** | **3,244** | **1,676** | **1,100** |
| Number of manufacturers, vendors, and other entities reading rule | 2,026 | | |
| Hours required to read rule | 4 | | |
| Total hours to read rule | 8,104 | | |
| Hours for all manufacturers and vendors to apply for certification | 21,178 | 11,576 | 8,168 |
| Hours required to provide information to USDA for posting | 12,976 | 6,676 | 4,892 |
| Hours required for recordkeeping | 5,677 | 8,610 | 10,535 |
| **Total annual hour burden** | **47,935** | **26,862** | **23,595** |
| **3-year average hour burden** | **32,797** | | |
| **Average number of respondents over 3-years** | **829[b]** | | |
| Labor cost per hour | $49.98 | | |
| Average annual labor cost | $1,639,211 | | |
| Annualized cost for biobased content testing | $116,035 | | |
| Annualized cost for label redesign | $1,058,565 | | |
| **Average annualized cost to respondents** | **$2,813,811** | | |

[a] For year 1, the number of respondents is equal to the number of manufacturers and vendors applying to use the label (569). For year 2, the number of respondents (863) is equal to the 294 manufacturers and vendors applying for the label in year 2 plus the 569 manufacturers approved for the use of the label in year 1 and keeping records during year 2. For year 3, the number of respondents (1,056) is equal to the 193 manufacturers and vendors applying to use the label in year 3 plus the 863 manufacturers and vendors approved to use the label in years 1 and 2 and keeping records in year 3.

[b] The average number of respondents over the first three years the rule is in effect is equal to the sum of the number of respondents in year 1 (569), plus the number of respondents in year 2 (863), plus the number

of respondents in year 3 (1,056), averaged over the 3-year period by dividing the sum by 3. Thus, the average is 569 + 863 + 1,056 = 2,488/3 = 829.3 (rounded to 829) per year for each of the 3 years.

**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**.

Manufacturers and vendors are required to incur a one-time initial cost associated with testing their products for biobased content. Each product is estimated to incur a cost of $500 for biobased content testing. Assuming a manufacturer or vendor maintains certification of a product for at least 10 years, this one-time cost yields annualized costs, using a 3.9% interest rate, of $61.34. Of the estimated 6,336 products for which applications are submitted, DM estimates that 2,698 products will undergo biobased content testing (or re-testing). Over the first three years, the average three year annualized cost for these tests is estimated to be $116,035. This is calculated as follows:

| **Biobased Content Testing** | Year 1 | Year 2 | Year 3 | 3-Year Average |
|---|---|---|---|---|
| Number of Products Tested for Original Applications | 2,789 | 1,524 | 954 | 0 |
| Number of Products Tested for Amended Applications (Reformulations) | | 162 | 246 | 136 |
| Total Number of Biobased Content Tests | 2,789 | 1,686 | 1,200 | 0 |
| Cost per Test | $500 | $500 | $500 | $500 |
| **Total Biobased Content Testing Cost** | **** Expression is faulty **** | **** Expression is faulty **** | **** Expression is faulty **** | **0** |
| **Annualized Cost (over 10 yrs @ 3.9% interest)** | **$171,077** | **0** | **0** | **1** |

For label redesign, USDA assumed that 25 percent of the manufacturers and vendors cannot incorporate label redesign into their next scheduled label redesign and thus incur this cost as attributable to the voluntary labeling program. Assuming 2 labels per certified product, and an estimated cost of $8,600 per label, the average three year annualized cost for label redesign is $1,058,565. This is calculated as follows:

| **Label Redesign Cost** | Year 1 | Year 2 | Year 3 | 3-Year Average |
|---|---|---|---|---|
| Number of Certified Products | 3,244 | 1,676 | 1,100 | 0 |
| Number of Products with Label Redesign Attributable to Voluntary Labeling Rule (25% of all Products) | 0 | 0 | 0 | 0 |
| Number of Labels Redesigned (2 per Product) | 0 | 0 | 0 | 0 |
| Cost of Redesigning Label | $8,600 | $8,600 | $8,600 | $8,600 |
| **Total Cost of Label Redesign** | ** **Expression is faulty** ** | ** **Expression is faulty** ** | ** **Expression is faulty** ** | **0** |
| **Annualized Cost (over 10 yrs @ 3.9% interest)** | **0** | **0** | **0** | **17** |

**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.**

Under the guidelines for the BioPreferred Program, DM estimates the annualized cost to the Federal government of operating that Program and (including an associated model procurement program) will range from $3.5 to $4 million annually. This estimate is based on the costs of program operation, maintenance of the electronic information system, testing of biobased products, and operation of a model procurement program, all of which are mandated in section 9002 of FSRIA. The estimates of costs to the Federal government for the voluntary labeling program, including its associated audit program, are included in the estimated $3.5 to $4 million annual cost.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.**

This is a new collection of information.

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

Collections of information are planned to be published in that they would be posted to the voluntary labeling program Web site.

**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.**

USDA is not seeking approval to not display the expiration date for OMB approval of the information collection.

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

There are no exceptions to the certification statement identified in Item 19 “Certification for Paperwork Reduction Act.”

**19. How is this information collection related to the Customer Service Center?**

This information collection is not related to the Customer Service Center, but is a statutory requirement of section 9002 of FSRIA that established the Federal biobased Products Preferred Procurement Program.

**B. Collections of information employing statistical methods**

The collection of information under this program will not employ statistical methods.