

2021 SUPPORTING STATEMENT
for
National Organic Program; Organic Livestock and Poultry Practices
OMB NO. 0581-0293

(Proposed Rule)

NOTE: AMS is using the previously assigned OMB Control # 0591-0293 even though this is new burden due to a proposed rule. Upon OMB's approval of this new information collection for National Organic Program; Organic Livestock and Poultry Practices, we will request to merge this collection into currently approved OMB Control Number 0581-0191 National Organic Program Reporting and Recordkeeping Requirements.

On April 13, 2016, AMS issued a proposed rule to amend organic livestock and poultry practices. Background on current organic livestock standards, NOSB recommendations that contributed toward the development of the proposed rule, AMS policy, and related issues are described in preamble of that action.¹ It received 6,675 written comments during the 90-day comment period. AMS made a number of changes to the 2016 proposed rule based on comments in order to mitigate impacts and/or improve the clarity of the requirements, and published the final Organic Livestock and Poultry Practices rule on January 19, 2017. AMS described and estimated the annual burden, i.e., the amount of time and cost of labor, for entities to prepare and maintain information to participate in this voluntary labeling program. OMB approved and assigned the control # 0581-0293 to account for this new information collection burden. However, a new Administration entered the day after publication and before the final rule was effective. After delaying the effective date of the final rule, AMS subsequently withdrew the final rule on March 13, 2018.

In 2017, the Organic Trade Association (OTA) filed a lawsuit in the U.S. District Court for the District of Columbia, challenging AMS's delay, and subsequently AMS's withdrawal, of the 2017 final rule. AMS is also facing a second legal challenge to the withdrawal of the final rule from Center for Food Safety and others. A new Administration then entered in January 2021, while both lawsuits remained active. In 2019, OTA filed a motion for summary judgment, which included a privately commissioned analysis of the Withdrawal RIA. While reviewing this analysis, AMS independently discovered that the Withdrawal RIA failed to fully correct for one of the previously identified flaws and that the 2017 final rule RIA contained additional flaws that had not previously been discerned or corrected.

Consistent with these developments, AMS directed a methodological review of the Final RIA and Withdrawal RIA. That review by an independent economist resulted in the preparation of an Economic Analysis Report (EAR), published on April 23, 2020, with a request

¹ <https://www.federalregister.gov/documents/2016/04/13/2016-08023/national-organic-program-organic-livestock-and-poultry-practices>

for public comment. The EAR explained that although the Withdrawal RIA correctly identified three errors in the OLPP Final RIA, it only addressed the first two errors (incorrect discounting methodology and willingness-to-pay values). The third error (incorrect depreciation treatment from the cost and benefit calculations) had not been addressed, which erroneously reduced the calculation of both costs and benefits. The final EAR (85 FR 57937), published on September 17, 2020, addresses the public comments received and affirms AMS's findings in the EAR, issuing a final decision that no additional rulemaking action with respect to the OLPP Rule was necessary.

A new Administration then entered in January 2021, while both lawsuits remained active. In June 2021, Secretary Vilsack directed AMS to develop this updated proposed Organic Livestock and Poultry Practices rule.

A. Justification.

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

The National Organic Program (NOP) is authorized by the Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. § 6501 *et. seq.*). The Agricultural Marketing Service (AMS) administers the NOP. Under the NOP, AMS oversees national standards for the production and handling of organically produced agricultural products.

The NOP is issuing a proposed rule to amend its regulations to address multiple recommendations provided to USDA by the National Organic Standards Board (NOSB) to add specificity about livestock and poultry production practices with the purpose of ensuring consumers that conditions and practices for livestock and poultry products labeled as organic encourage and accommodate natural behaviors and utilize preventive health care and humane slaughter practices. This will enable certifying agents to make consistent certification decisions and facilitate fairness and transparency for the organic producers and consumers that participate in this market. This action and its associated information collection will promulgate changes to the USDA organic regulations consistent with the OFPA.

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.

Under the proposed rule, the amendments to §§ 205.238, 205.239, 205.241 and 205.242 impose a new reporting and recordkeeping burden on livestock and poultry

operations, certifiers, inspectors, and state organic programs. Livestock and poultry operations will be required to provide specific documentation as part of an organic system plan to include conditions on livestock and poultry living conditions to permit natural behavior, including minimum space, outdoor access, health care practices (physical alterations, annual animal status update, euthanasia), and animal handling and transport during slaughter.

Each certifier seeking to continue USDA accreditation for livestock will need to submit information documenting its business practices including certification, enforcement and recordkeeping procedures and personnel qualifications (§ 205.504). Each state organic program will need to update its procedures documenting its business practices per the new livestock and poultry requirements. Certifying agents will need to annually update the above information, provide training to its certification review personnel and inspectors, and provide results of personnel performance evaluations and the internal review of its certification activities (§ 205.510). AMS will review that information during its next scheduled on-site assessment to determine whether to continue accreditation for the scope of livestock.

Under the USDA organic regulations each operation is required to maintain and make available upon request, for 5 years, such records as are necessary to verify compliance (§ 205.103). Certifying agents and state organic programs are required to maintain records for 5 to 10 years, depending on the type of record (§ 205.510(b)) and to make these records available for inspection upon request (§ 205.501(a)(9)). Inspectors conduct on-site inspections of certified operations and operations applying for certification and report the findings to the certifying agent. Inspectors may be the agents themselves, employees of the agents, or individual contractors.

Certified operations will be inspected annually; a certifying agent may call for additional inspections on an as needed basis (§ 205.403(a)). Any individual who applies to conduct inspections of livestock and poultry operations will need to submit information documenting their qualifications to the certifying agent (§ 205.504(a)(3)). Inspectors will need to provide an inspection report to the certifying agent for each operation inspected (§ 205.403(e)).

- 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.**

USDA encourages operations, certifiers, inspectors, and state organic programs to

use any electronic means available to them to create, submit and store records, including keeping database records of products produced; to maintain business accounting records; and to send documents over the internet. AMS is committed to complying with the e-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Experience with the industry indicates that all certifiers use electronic data creation, storage, and the internet. Certifying agents are being encouraged to submit their information via INTEGRITY or via e-mail to the NOP. While the information and the data being requested of Certifying Agents are a regulatory requirement specified in § 205.510 (a), the use of the database or an actual form is not a regulatory requirement. To minimize disruption to the normal business practices of the certifying agents, they will be permitted to develop their own format for documenting how they meet the new organic livestock and poultry requirements.

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.

We have made every effort to contact appropriate sources within USDA, other Government agencies, and outside sources to ensure that we are not duplicating information collection. For example, to verify that the requirements for animal transport and handling and slaughter, we are accepting compliance records generated by other authorities to verify compliance with this rule. Other information such as names and addresses are routinely collected for income tax and other purposes for other federal, state or local governments and program. Some Federal, State or Local programs or governments may require operators to provide maps and other information contained in the OSP. Internal quality management systems such as HACCP may require schematics of processing plants. We encourage participants in the NOP to reduce the paperwork burden by establishing business operating plans and procedures that incorporate the NOP requirements. Because the amendments to §§ 205.238, 205.239, 205.241 and 205.242 introduce new practices, operations and certifiers may not be recording information or data to meet the purpose described in item 2. Certifying agents may not be auditing or verifying this information.

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

The Regulatory Impact Analysis and the Regulatory Flexibility Analysis indicate that many of the businesses in the organic industry are small businesses. Several options have been explored and every effort has been made to mitigate any negative impacts

caused by a reporting or recordkeeping burden.

The NOP has made every effort possible to secure information about the smallest segments of the industry, to provide open dialogue with them, to develop performance standards with a range of practices, and to accept the required documents in a reasonable, logical fashion.

AMS has considered the economic impact of this action on small entities. Small entities include avian and mammalian livestock producers and slaughter facilities that currently hold or are pursuing USDA organic certification, as well as organic certifying agents. While this action will affect all operations involved in the production, handling, and certification of organic livestock, AMS believes that the cost of implementing this rule will fall predominantly on currently certified organic egg and broiler producers.

Small egg producers are listed under NAICS code 112310 (Chicken Egg Production) as grossing less than \$16,500,000 per year. AMS estimates that out of 1,015 operations reporting sales of organic eggs, 28 exceed that threshold.² Small chicken producers are listed under NAICS code 11230 (Broilers and Other Meat Type Chicken Production) as grossing less than \$1 million per year. According to the NASS special tabulation, AMS estimates that 210 of the 361 operations reporting sales of organic broilers would not qualify as small businesses.³

The Small Business Administration (SBA) defines small agricultural service firms, which includes certifying agents, as those having annual receipts of less than \$8,000,000 (NAICS Subsector 115—Support Activities for Agriculture and Forestry). There are currently 75 USDA-accredited certifying agents; based on a query of the NOP certified organic operations database, there are approximately 57 certifying agents (38 domestic and 19 foreign) who are currently involved in the certification of organic livestock operations. Of the total 7,559 respondents, the large majority are considered to be small businesses by the Small Business Administration (SBA).

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.

If the collection of information was not conducted or was conducted less frequently, the Agency would not be able to carry out the intent of Congress as it enforces the OFPA. This oversight, as mandated by the OFPA, includes an annual

² The National Agricultural Statistics Service's 2019 Organic Survey provides the number of farms reporting sales of organic eggs and those reporting sales of organic broilers. AMS requested a special tabulation from NASS to obtain the number of organic egg and organic broiler operations which exceed the Small Business Administration sales criterion for small businesses in each of these production categories.

³ The per operation totals are calculated using 245 as the total number of organic layer operations; 218 qualify as small and 27 qualify as large per the SBA size standards.

inspection of certified producers and handlers. The continued accreditation of certifiers requires written documentation of their management activities.

Every attempt possible has been made to create the regulation to incorporate existing documents and allow flexibility to certifiers, producers, and handlers. Certified operations will be required only to submit annual updates of information after their initial application has been submitted. Certifying agents are encouraged to use or modify existing documents to meet the requirements of accreditation, rather than creating new documents.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

- **REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**

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

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

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

The OFPA § 6511(d)(1) requires that producers and handlers maintain records concerning the production and handling of agricultural products sold or labeled as organically produced for 5 years. OFPA § 6515(c)(1) requires any certifying agent or state organic program to maintain all records concerning its activities for a period of not less than 10 years. The recordkeeping requirements include any test results conducted as part of the residue testing requirements.

The three categories of records with varying retention periods that are addressed in the NOP regulations are: (1) records created by certifying agents regarding applicants for certification and certified operations to be maintained 10 years; (2) records obtained from applicants for certification and certified operations to be maintained 5 years; and (3) other records created or received by certifying agents to be maintained 5 years.

- **IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;**

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

APPROVED BY OMB;

There is no requirement for a statistical data classification.

- **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**

- **REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.**

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

- 8. IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THESE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

This collection is part of a proposed rule that provides a 60-day comment period for stakeholders to comment on the accuracy of the information collection request. AMS is requesting comments regarding four specific questions discussed below.

- 1) Is the proposed collection of information necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility?*

- 2) What is 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?*

- 3) Ways to enhance the quality, utility and clarity of the information to be collected?*

- 4) Ways to minimize the burden of the collection of information on those who are to respond, including the appropriate automated, electronic, mechanical, or other*

technological collection techniques or other forms of information technology?

- 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.

AMS has also consulted with the USDA Food Safety Inspection Service (FSIS), the Animal Plant Health Inspection service (APHIS) and maintains a working relationship with potentially affected regulatory agencies to ensure compliances with existing laws and regulations.

The National Organic Standards Board (NOSB), the Federal Advisory Committee to the National Organic Program, holds biannual public meetings to discuss and make recommendations to the Secretary on materials to be added or deleted from the National List of Allowed and Prohibited Substances, to amend portions of the USDA organic regulations, and to receive public comment on issues of concern to the industry. Over the period of 1994 to 2011, the NOSB held public meetings and made nine recommendations for AMS regarding livestock welfare within the USDA organic regulations. These recommendations incorporated input from the livestock industry experts, public-interest groups, and academia.

In addition, the Organic Trade Association (OTA), based in Brattleboro, VT, represents and encourages all sectors of organic stakeholders to provide public comment on all federal register dockets and NOSB meetings, and to participate on all opportunities for public engagement.

- 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.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

There would be no payment or gift rendered to any respondent.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

Evaluators reviewing private certifiers' confidential records would be Federal employees representing the USDA. The OFPA § 6515(g) states "that any certifying agent shall maintain strict confidentiality with respect to its clients under the applicable organic certification program and may not disclose to third parties (with the exception of the Secretary or the applicable State Program's governing State official) any business related information concerning such client obtained while implementing this chapter." Section 205.504(b)(4) of the rule further states that a private certifying agent shall establish policies for protecting the confidentiality of client records.

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.

There are no questions being requested that are of a sensitive nature. The information we are seeking is directly related to the applicants' business activities as they relate to the NOP.

12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION.

Five respondent types—certified organic, applicants for organic certification, and exempt organic operations (producers and handlers), certifying agents, inspectors, state organic programs, and petitioners - have been identified in our currently approved information collection (0581-0191). Four respondent types – certified organic livestock and poultry operations and applicants for certification, certifying agents, inspectors, and state organic programs – are impacted by the requirements in this proposed rule.

In addition, to more precisely understand the costs of the paperwork impacts of the National Organic Program, AMS has divided the categories of all respondents into domestic and foreign, as appropriate. For all respondents, AMS estimates: (1) the number of respondents; (2) the hours they spend, annually, creating and storing records to meet the paperwork requirements of the organic labeling program; and, (3) the costs of those

activities based on prevailing domestic ⁴ and foreign ⁵ wages and benefits.^{6,7}

For the 7,559 reporting and recordkeeping respondents, the total information collection for both reporting and recordkeeping is 102,088 hours with 40,673 total responses, 5.38 responses per respondent, and 2.51 hours per response at a total burden cost of \$4,138,397 for both reporting and recordkeeping. Estimates of the burden of collection of information have been summarized on the AMS 71 Grid (supplementary document).

Estimates of the reporting hour burden are summarized here in Question #12. Estimates of the recordkeeping hour burden are summarized below in Question #13.

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-I.**
- **PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES.**

4 The source of the specific hourly wage rates identified below is the National Compensation Survey: Occupational Employment and Wages, May 2021, published by the Bureau of Labor Statistics. Bureau of Labor Statistics, Occupational Employment and Wages, https://www.bls.gov/oes/current/oes_nat.htm.

5 The source of the data is based on average World Bank wage rates for countries with USDA-accredited certifying agents which are 70.3% of U.S. labor rates. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

6 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, June 18, 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>

7 The source of compensation rates is based on an average of Organization for Economic Co-Operation and Development (OECD) benefits compensation rates at 34.63% of wage rates for countries with USDA-accredited certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

TOTAL ALL REPORTING BURDEN COST: \$3,537,460

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.64 hours per response

Respondents: Certified organic and applicant livestock and poultry operations, certifying agents, inspectors, and state organic programs.

Estimated Number of Reporting Respondents: 6,846

Estimated Number of Reporting Responses: 33,363

Estimated Total Reporting Burden on Respondents: 88,183 hours

Estimated Total Reporting Responses per Reporting Respondents: 5 reporting responses per reporting respondents

AMS estimates that the public reporting burden for this information collection renewal is estimated to be 88,183 hours at a total cost of \$3,537,460 with a total number of 6,846 respondents. Respondents are comprised of currently certified operations, operations that will seek certification over the next 12 months, USDA accredited certifying agents, inspectors, and state organic programs. The reporting burden of each of the respondent categories are explained below and can be viewed in **Table 1: Summary of Reporting Burden**.

Organic Operations. There are 6,539 operations worldwide that are either currently certified to the USDA organic standards for livestock or poultry production or will be seeking certification for livestock or poultry production over the next 12 months. Based on average growth of 5.9% in livestock and poultry operations under current rules,⁸ AMS expects to add 364 operations to the 6,174 operations currently certified for livestock or poultry production. AMS estimates that the average reporting burden for all domestic and foreign organic livestock and poultry producers, including new applicants is 39,229 hours at a total estimated cost of \$1,684,480.

AMS estimates that 3,858 operations based in the United States, and 2,681 operations based in foreign countries, including the respective applicants for certification under the current rules will be impacted. This is based on 23,145 hours for 3,858 domestic operations at \$48.49 per labor hour,⁹ including 31.7% benefits,¹⁰ and 16,084

⁸ Organic Integrity Database: <https://organic.ams.usda.gov/integrity/>

⁹ National Compensation Survey: Occupational Employment and Wage Estimates, May 2020, published by the Bureau of Labor Statistics. 11-9013 Farmers, Ranchers, and Other Agricultural Managers. https://www.bls.gov/oes/current/oes_nat.htm

¹⁰ Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, June 18, 2020: <https://www.bls.gov/news.release/eccec.nr0.htm>

hours per 2,681 foreign operations at \$34.95 per labor hour,¹¹ including 34.63% benefits¹².

Accredited Certifying Agents. There are 57 certifying agents worldwide that are USDA accredited under the livestock scope to certify livestock or poultry producers as organic. AMS estimates that the average reporting burden for all domestic and foreign certifying agents accredited for the scope of livestock is 34,625 hours at a total estimated cost of \$1,463,427.

AMS estimates that the reporting burden of the 34 certifying agents based in the United States is \$1,122,302 which is based on 20,429 hours at \$47.73 per labor hour,¹³ including 31.7% benefits.¹⁴ The reporting burden of the 23 certifying agents based in foreign countries is \$488,404 based on 14,196 at \$34.40 per labor hour,¹⁵ including 34.63% benefits¹⁶.

Inspectors. AMS estimates that the reporting burden for the 250 domestic and foreign inspectors inspecting livestock and poultry operations worldwide is 14,327 hours at a total estimated cost of \$389,456. AMS estimates the reporting burden of the 148 US based inspectors is \$259,479 which is based on 8,453 hours at \$30.70 per labor hour,¹⁷ including 31.7% benefits.¹⁸ The reporting burden of the 103 inspectors based in foreign countries is estimated at \$129,977 based on 5,874 at \$22.13 per labor hour,¹⁹ including 34.63% benefits²⁰.

11 The source of the data is based on average World Bank wage rates for countries with USDA-accredited certifying agents which were 70.3% of U.S. labor rates in 2020. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

12 The source of compensation rates is based on an average of Organization for Economic Co-Operation and Development (OECD) benefits compensation rates at 34.63% of wage rates for countries with USDA-accredited certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

13 National Compensation Survey: Occupational Employment and Wages, May 2020, published by the Bureau of Labor Statistics. Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, The labor rate for certification review staff is based on Occupational Employment Statistics group 13-1041, *Compliance Officers*. Compliance officers examine, evaluate, and investigate eligibility for or conformity with laws and regulations governing contract compliance of licenses and permits, and perform other compliance and enforcement inspection and analysis activities not classified elsewhere. https://www.bls.gov/oes/current/oes_nat.htm

14 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, December 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>

15 The source of the data is based on average World Bank wage rates for countries with USDA-accredited certifying agents which are 70.3% of U.S. labor rates. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>

16 The source of compensation rates is based on an average of Organization for Economic Co-Operation and Development (OECD) benefits compensation rates at 34.63% of wage rates for countries with USDA-accredited certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

17 National Compensation Survey: Occupational Employment and Wages, May 2020, published by the Bureau of Labor Statistics. Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, The labor rate for inspectors is based on Occupational Employment Statistics group 45-2011, *Agricultural Inspectors*. Agricultural inspectors inspect agricultural commodities, processing equipment, facilities, and fish and logging operations to ensure compliance with regulations and laws governing health, quality, and safety. https://www.bls.gov/oes/current/oes_nat.htm

18 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, December 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>

19 The source of the data is based on average World Bank wage rates for countries with USDA-accredited certifying agents which are 70.3% of U.S. labor rates. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

20 The source of compensation rates is based on an average of Organization for Economic Co-Operation and Development

State Organic Programs. AMS estimates 2 reporting hours for the California State Organic Program at \$47.73 per labor hour,²¹ including 31.7% benefits²² costing \$95 annually.

Table 1: Summary of Reporting Burden				
USDA Certified Operations Reporting Burden	Number of Respondents	Total Reporting Hours	Wage + Benefits	Total Reporting Costs
USDA Certified Producers - New and Existing Domestic	3,858	23,145	\$48.49	\$1,122,302
USDA Certified Producers - New and Existing Foreign	2,681	16,084	\$34.95	\$562,178
<i>USDA Certified Producers - New and Existing - All</i>	<i>6,539</i>	<i>39,229</i>		\$1,684,480
USDA Accredited Certifying Agents Reporting Burden	Number of Respondents	Total Reporting Hours	Wage + Benefits	Total Reporting Costs
US Accredited US-Based Certifiers	34	20,429	\$47.73	\$975,023
US Accredited Foreign-Based Certifiers	23	14,196	\$34.40	\$488,404
<i>US Certifiers - All</i>	<i>57</i>	<i>34,625</i>		\$1,463,427
Inspectors Reporting Burden	Number of Respondents	Total Reporting Hours	Wage + Benefits	Total Reporting Costs
US Based Inspectors	148	8,453	\$30.70	\$259,479
Foreign Based Inspectors	103	5,874	\$22.13	\$129,977
<i>Inspectors - All</i>	<i>251</i>	<i>14,327</i>		\$389,456

(OECD) benefits compensation rates at 34.63% of wage rates for countries with USDA-accredited certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

²¹ National Compensation Survey: Occupational Employment and Wages, May 2020, published by the Bureau of Labor Statistics. Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, The labor rate for certification review staff is based on Occupational Employment Statistics group 13-1041, *Compliance Officers*. Compliance officers examine, evaluate, and investigate eligibility for or conformity with laws and regulations governing contract compliance of licenses and permits, and perform other compliance and enforcement inspection and analysis activities not classified elsewhere. https://www.bls.gov/oes/current/oes_nat.htm

²² Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, December 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>

State Organic Programs Reporting Burden	Number of Respondents	Total Reporting Hours	Wage + Benefits	Total Reporting Costs
State Organic Programs	1	2	\$47.73	\$95
SOP - All	1	2		\$95
Total Reporting Burden - All Respondents	6,846	88,183		\$3,537,460

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).

Five respondent types—certified operations (producers and handlers), certifying agents, inspectors, state organic programs, and petitioners - have been identified in our currently approved information collection (0581-0191). Four respondent types – certified organic livestock and poultry operations and applicants for certification, certifying agents, inspectors, and state organic programs – are impacted by the requirements in this proposed rule. Three respondent types - certified organic livestock and poultry operations and applicants for certification, exempt livestock and poultry producers, certifying agents, and state organic programs – are impacted by the recordkeeping requirements in this proposed rule.

As a reminder, for the 7,559 reporting and recordkeeping respondents, the total information collection for both reporting and recordkeeping is 102,088 hours with 40,673 total responses, 5.38 responses per respondent, and 2.51 hours per response at a total burden cost of \$4,138,397 for both reporting and recordkeeping. Estimates of the burden of collection of information have been summarized on the AMS 71 Grid (supplementary document).

Estimates of the reporting hour burden are summarized above in Question #12. Estimates of the recordkeeping hour burden are summarized here in Question #13.

TOTAL ALL RECORDKEEPING BURDEN COST: \$600,937

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 1.9 hours per response

Respondents: Certified operations, exempt operations, certifying agents, and state organic programs

Estimated Number of Recordkeeping Respondents: 7,309

Estimated Number of Recordkeeping Responses: 7,309

Estimated Total Recordkeeping Burden on Respondents: 13,905 hours

Estimated Total Recordkeeping Responses per Recordkeeping Respondents: 1 recordkeeping response per recordkeeping respondent

AMS estimates that the public recordkeeping burden for this information collection renewal is estimated to be hours per year at a cost of \$600,937 with a total number of 49,750 respondents. Respondents are comprised of currently certified livestock and poultry operations, operations that will seek certification over the next 12 months, exempt livestock and poultry operations, USDA accredited certifying agents, and state organic programs. The reporting burden of each of the respondent categories are explained below and can be viewed in **Table 2: Summary of Recordkeeping Burden.**

Organic Operations. AMS estimates there are 7,252 operations worldwide that are impacted by the new requirements for recordkeeping for organic livestock and poultry. There are 6,539 operations that are either currently certified to the USDA organic standards for livestock or poultry production or will be seeking certification for livestock or poultry production over the next 12 months that are subject to these requirements. In addition, livestock and poultry operations that claim organic status in direct to consumer sales that are exempt from organic certification because they sell \$5,000 or less of organically managed animal products must maintain records to support their claim in the event of a complaint. AMS estimates that there are 713 livestock and poultry operations are exempt from certification.²³ AMS estimates that the average recordkeeping burden for 7,252 domestic and foreign organic livestock and poultry producers, including new applicants and exempt operations is 13,076 hours at a total estimated cost of \$596,071.

AMS estimates that 4,571 operations which includes the 713 exempt operations based in the United States, and 2,681 operations based in foreign countries, including the respective applicants for certification under the current rules will be impacted by recordkeeping burden. This is based on 23,145 hours for 7,715 domestic operations that are certified organic or seeking certification at \$48.49 per labor hour,²⁴ including 31.7% benefits,²⁵ 16,084 hours per 2,681 foreign operations at \$34.95 per labor hour,²⁶

23 USDA National Ag Statistics Service, Census of Agriculture, 2019 Organic Survey: https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Organics/.

24 National Compensation Survey: Occupational Employment and Wage Estimates, May 2020, published by the Bureau of Labor Statistics. 11-9013 Farmers, Ranchers, and Other Agricultural Managers. https://www.bls.gov/oes/current/oes_nat.htm

25 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, June 18, 2020: <https://www.bls.gov/news.release/eccec.nr0.htm>.

26 The source of the data is based on average World Bank wage rates for countries with USDA-accredited certifying agents which were 70.3% of U.S. labor rates in 2020. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

including 34.63% benefits²⁷, and 713 hours for domestic exempt operations at \$48.49 per labor hour,²⁸ including 31.7% benefits.²⁹

Accredited Certifying Agents. There are 57 certifying agents worldwide that are USDA accredited under the livestock scope to certify livestock or poultry producers as organic. AMS estimates that the average annual recordkeeping burden for all domestic and foreign certifying agents accredited for the scope of livestock is 115 hours at a total estimated cost of \$4,818.

AMS estimates the recordkeeping burden of the 34 certifying agents based in the United States as \$3,210 which is based on 68 hours at \$47.73 per labor hour,³⁰ including 31.7% benefits.³¹ The recordkeeping burden of the 23 certifying agents based in foreign countries is \$1,680 based on 47 hours at \$34.40 per labor hour,³² including 34.63% benefits.³³

State Organic Programs. AMS estimates 1 hour of recordkeeping for the California State Organic Program at \$47.73 per labor hour,³⁴ including 31.7% benefits³⁵ costing \$48.

Table 2: Summary of Recordkeeping Burden

27 The source of compensation rates is based on an average of Organization for Economic Co-Operation and Development (OECD) benefits compensation rates at 34.63% of wage rates for countries with USDA-accredited certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

28 National Compensation Survey: Occupational Employment and Wage Estimates, May 2020, published by the Bureau of Labor Statistics. 11-9013 Farmers, Ranchers, and Other Agricultural Managers. https://www.bls.gov/oes/current/oes_nat.htm

29 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, December 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>.

30 National Compensation Survey: Occupational Employment and Wages, May 2020, published by the Bureau of Labor Statistics. Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, The labor rate for certification review staff is based on Occupational Employment Statistics group 13-1041, *Compliance Officers*. Compliance officers examine, evaluate, and investigate eligibility for or conformity with laws and regulations governing contract compliance of licenses and permits, and perform other compliance and enforcement inspection and analysis activities not classified elsewhere. https://www.bls.gov/oes/current/oes_nat.htm.

31 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, December 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>.

32 The source of the data is based on average World Bank wage rates for countries with USDA-accredited certifying agents which are 70.3% of U.S. labor rates. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

33 The source of compensation rates is based on an average of Organization for Economic Co-Operation and Development (OECD) benefits compensation rates at 34.63% of wage rates for countries with USDA-accredited certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

34 N National Compensation Survey: Occupational Employment and Wages, May 2020, published by the Bureau of Labor Statistics. Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, The labor rate for certification review staff is based on Occupational Employment Statistics group 13-1041, *Compliance Officers*. Compliance officers examine, evaluate, and investigate eligibility for or conformity with laws and regulations governing contract compliance of licenses and permits, and perform other compliance and enforcement inspection and analysis activities not classified elsewhere. https://www.bls.gov/oes/current/oes_nat.htm.

35 Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation, Wages account for 68.7% and Benefits account for 31.3% of total average employer compensation costs, December 2020: <https://www.bls.gov/news.release/ecec.nr0.htm>.

USDA Certified Operations Recordkeeping Burden	Number of Respondents	Total Recordkeeping Hours	Wage + Benefits	Total Recordkeeping Costs
USDA Certified Producers & Handlers - New and Existing Domestic	3,858	7,715	\$48.49	\$374,101
USDA Certified Producers & Handlers - New and Existing Foreign	2,681	5,361	\$34.95	\$187,393
Exempt Producers ((11.5% of current total certified that are exempt from organic certification))	713	713	\$48.49	\$34,577
<i>USDA Certified Producers & Handlers - New and Existing - All</i>	7,252	13,076		\$596,071
USDA Accredited Certifiers Recordkeeping Burden				
USDA Accredited Certifiers Recordkeeping Burden	Number of Respondents	Total Recordkeeping Hours	Wage + Benefits	Total Recordkeeping Costs
US Accredited US-Based Certifiers	34	68	\$47.73	\$3,210
US Accredited Foreign-Based Certifiers	23	47	\$34.40	\$1,608
<i>US Certifiers - All</i>	57	115		\$4,818
State Organic Programs Recordkeeping Burden				
State Organic Programs Recordkeeping Burden	Number of Respondents	Total Recordkeeping Hours	Wage + Benefits	Total Recordkeeping Costs
State Organic Programs	1	1	\$47.73	\$48
<i>SOP - All</i>	1	1.00		\$48
Total Recordkeeping Burden - All Respondents	7,309	13,905		\$600,937

- **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 and start-up costs associated with this new collection. Under the NOP (§ 205.103) each operation is required to maintain and make available upon request, for 5 years, such records as are necessary to verify compliance with the NOP. There are no additional costs to maintain the required records.

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.

We estimate the annual cost to operate the NOP at approximately \$8 million. These costs include salaries and benefits; travel and transportation; rent, communications, utilities; printing; contractual services; supplies; and equipment. The NOP currently operates on appropriated funds.

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

This is a new collection.

- 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.**

No publication of data obtained through the regulation is planned.

- 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.**

No new forms will be generated from this collection.

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

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

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

- THE AGENCY SHOULD BE PREPARED TO JUSTIFY ITS DECISION NOT TO USE STATISTICAL METHODS IN ANY CASE WHERE SUCH METHODS MIGHT REDUCE BURDEN OR IMPROVE ACCURACY OF RESULTS. WHEN ITEM 17 ON THE FORM 83-I IS CHECKED "YES", THE FOLLOWING DOCUMENTATION SHOULD BE INCLUDED IN THE SUPPORTING STATEMENT TO THE EXTENT THAT IT APPLIES TO THE METHODS PROPOSED.

This information collection does not employ statistical methods.