

2022 SUPPORTING STATEMENT

Mandatory Country of Origin Labeling of Muscle Cuts and Ground Lamb, Chicken, and Goat; Wild and Farm-raised Fish and Shellfish; Perishable Agricultural Commodities; Peanuts; Macadamia Nuts; Pecans; and Ginseng Under the Authority of the Agricultural Marketing Act of 1946

OMB NO. 0581-0250

A. Justification

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

The 2002 (P.L. 107-171) and 2008 (P.L. 110-234), Farm Bills and the Consolidated Appropriations Act, 2016 (P.L. 114-113) amended the Agricultural Marketing Act of 1946 to require retailers to notify their customers of the country of origin of muscle cuts and ground lamb, chicken, and goat meat; wild and farm-raised fish and shellfish; perishable agricultural commodities; peanuts, pecans, and macadamia nuts; and ginseng. An interim final rule for mandatory Country of Origin Labeling (COOL) for fish and shellfish became effective on April 4, 2005. An interim final rule for the remaining covered commodities became effective on September 30, 2008. On January 15, 2009, a final rule was published for all covered commodities which became effective March 16, 2009. On May 23, 2013, a final rule was published to amend the definition of retailer and labeling requirements for meat muscle cut commodities derived from animals slaughtered in the United States. With the Consolidated Appropriations Act, 2016, Congress amended the Agricultural Marketing Act of 1946 to remove muscle cut beef and pork, and ground beef and pork commodities from COOL requirements. On March 2, 2016, AMS issued a final rule to remove mandatory COOL requirements for beef, pork, ground beef and ground pork to conform with the statute. Mandatory COOL requirements remain in full force and effect for all remaining covered commodities. Enforcement activities have been conducted since 2006 utilizing cooperative agreements established with State agencies as authorized by the statute. The previously approved information collection request expires on March 31, 2023.

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.

Individuals who supply covered commodities, whether directly to retailers or indirectly through other participants in the marketing chain, are required to establish and maintain country of origin and, if applicable, method of production information for the covered commodities and supply this information to retailers. Producers, handlers, manufacturers, wholesalers, importers, and retailers of covered commodities are affected. Storing & Maintenance Burden for Establishments

includes the following categories of regulated firms: lamb and goat livestock producers, farm-raised fish and shellfish producers, chicken producers, wild fish and shellfish producers, fruit and vegetable producers, ginseng, peanut, pecan and macadamia nut producers, handlers, processors, and wholesalers (except those involved in livestock processing and slaughtering), livestock processing and slaughtering, and retailers. Set-up and maintenance for operations includes first time costs for new producers, intermediaries (handlers, processors, and wholesalers) and retailers.

This public reporting burden is necessary to ensure accuracy of country of origin and method of production declarations relied upon at the retail point of sale. The public reporting burden also assures that all parties involved in supplying covered commodities to retail stores maintain and convey accurate information as required.

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.

There are no submission requirements associated with this mandatory program per se. Upon request by USDA representatives, suppliers, and retailers subject to this subpart shall make available to USDA representatives, records maintained in the normal course of business that verify an origin claim (7 U.S.C. 1638a. (d) (2) (A and B)). Such records shall be provided within 5 business days of the request and may be maintained in any location. These records may be in any form that is auditable and verifiable, which would include those records maintained electronically (7 CFR §65.500 (a) (1 and 2)).

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.

This collection is not prescriptive as to the form that records must take. Further, records maintained in the normal course of business are acceptable for verifying origin claims. In addition, the law prohibits the Secretary from requiring the creation of new records.

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

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (domestic manufacturers and importers) as those having annual receipts of no more than \$7 million. Under these definitions, most manufacturers and importers that would be affected are

considered small entities. We have estimated the number of respondents for this collection is 345,394 and we estimate that 296,306 (71%) are considered small businesses.

Information collection requirements have been reduced to the minimum requirements of the Order. The primary sources of information are readily available from normal business records maintained by manufacturers and importers. Such information can be supplied without data processing equipment or outside technical expertise. Thus, the information collection and reporting burden is relatively small, and requiring the same reporting requirements for all manufacturers and importers does not significantly disadvantage any manufacturer or importer that is smaller than the industry average.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

The law required the Agency to establish a program that requires retailers to label covered commodities with country-of-origin information, and for fish and shellfish covered commodities, method of production information. If such products are not produced under a system that ensures that their source of origin is maintained, it will not be possible for retailers to accurately label covered commodities, and consumers will not be able to purchase such products by their country of origin with any degree of confidence.

The 2008 Farm Bill contained amendments to COOL provisions which reduced the burden on regulated entities. Subsequently, the Consolidated Appropriations Act, 2016 amended the Agricultural Marketing Act of 1946 to remove muscle cut beef and pork, and ground beef and pork commodities from COOL requirements which reduced the number of firms that are subject to the regulation. Any Agency action to further reduce the burden imposed by this mandatory program would result in a program that would not achieve the objective of the authorizing legislation and could result in a program that would provide unverifiable and even misleading information to consumers.

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

- **REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**
- **REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**
- **REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**
- **REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-**

- AID, OR TAX RECORDS FOR MORE THAN 3 YEARS;**
- **IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;**
 - **REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;**
 - **THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN 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 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.**

As required by 5 CFR 1320.8(d) a 60-day notice for comments was published in the Federal Register on November 18, 2022, Vol. 87, No. 222, page 69238. No comments were received.

- **DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.**
- **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.

The Agency is in continual contact with industry trade associations and regulated firms to gain better understanding of how retailers, suppliers, and producers handle and feel about the record requirements. Since 2019, AMS has continued to hold regular communications with regulated firms, establishments, and their trade associations primarily through email correspondence and virtual meetings. From FY2020 through FY2022, the Agency responded to an average of 107 emailed questions per year concerning various aspects of the regulatory requirements. The pandemic dramatically reduced in person discussion opportunities during conferences, meetings, and other venues. Despite this, AMS presented to industry and academia four times on COOL in fiscal year 2022. Discussions have included questions posed to regulated entities concerning the operation and performance of administering the COOL regulation, including the estimates of burden hours associated with the information collected from regulated firms. AMS has not been notified of any specific concerns with its estimated burden hours per recordkeeper.

Industry consultations resulted in amended enforcement procedures since inception of the COOL regulation. The Agency committed to providing flexibilities to support the nation's food supply and took steps to meet challenges due to the COVID-19 national emergency. The Agency exercised enforcement discretion for a temporary period to provide labeling flexibilities to the COOL requirements and allowed the re-distribution of food products intended for foodservice to be sold in retail establishments. To facilitate the distribution of food to retail establishments from suppliers that had inventory on hand that was labeled for use in restaurants, effective April 20, 2020, and for a period of 60 days, the Agency did not take enforcement action against the retail sale of commodities that lack an appropriate country of origin or method of production label, provided that the food did not make any country of origin or method of production claims.

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

No payments or gifts are provided to respondents.

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

There are no assurances of confidentiality being provided to respondents under this program.

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 of a sensitive nature in this information collection.

12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:

- **INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS 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.**

This renewal submission reflects a total of 349,598 recordkeepers for 19,879,947 burden hours. Estimates of the recordkeeping burden have been summarized on the modified AMS-71 form that displays the number of recordkeeper, burden hours, and includes the wage data and estimated total cost calculations.

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

The supply chain for each of the covered commodities includes agricultural producers or fish harvesters, processors, wholesalers, importers, and retailers. Imported products may be introduced at any level of the supply chain. Other intermediaries, such as auction markets, may be involved in transferring products from one stage of production to the next. The paperwork burden will be incurred by the number and types of firms and establishments listed in Tables 2a and 2b.

The affected firms will broadly incur two types of costs. First, newly established firms will incur initial or start-up costs to comply with the rule establishing a record keeping system. Initial costs will be borne by each firm, even though a single firm may operate more than one establishment. Second, firms will incur additional recordkeeping costs associated with storing and maintaining records on an ongoing basis. These activities will take place in each establishment operated by each affected business.

In estimating initial and maintenance recordkeeping costs, May 2021 wage rates and benefits published by the Bureau of Labor Statistics from the National Compensation Survey are used. For producers, it is assumed that the added work needed to initially adapt an existing recordkeeping system for country of origin and, if applicable, method of production information is primarily a bookkeeping task. This task may be performed by an independent bookkeeper, or in the case of operations that perform their own bookkeeping, an individual with equivalent skills. The Bureau of Labor Statistics (BLS) publishes wage rates for bookkeepers, accounting, and auditing clerks. It is assumed that this wage rate represents the cost for producers to hire an independent bookkeeper. In the case of producers who currently perform their own bookkeeping, it is assumed that this wage rate represents the opportunity cost of the producers' time for performing these tasks. The May 2021 mean wage rate is estimated at \$17.91 per hour (see Table 1). According to a Bureau of Labor Statistics, Press Release, December 14, 2018, titled Employer Costs for Employee Compensation – September 2018, employer fringe benefit costs (including social security, unemployment insurance, workers compensation, etc.) for civilian workers averaged 31.7% of the wage rate. This additional 31.7 percent has been added to the wage rate to account for total benefits. The estimate of this additional cost to employers is published by the BLS. The 2022 estimate is an overall decrease in the total initial costs for producers since the previously approved information collection in 2019 due to a reduced number of new producers, handlers/processors/wholesalers, and retailers.

Table 1: May 2021 Occupational Employment Statistics Survey Estimates

	Occupation Title	Mean Hourly Wage	Mean Employer costs for benefits	Mean Hourly Burden

			(31.7%)	
43-3031	Bookkeeping, Accounting, and Auditing Clerks	\$21.20	\$6.72	\$27.92
43-4000	Information and Record Clerks	\$18.22	\$5.78	\$24.00
45-2092	Farmworkers and Laborers, Crop, Nursery, and Greenhouse	\$14.49	\$4.59	\$19.08
45-2093	Farmworkers, Farm, Ranch, and Aquacultural Animals	\$14.93	\$4.73	\$19.66
Sources: Bureau of Labor Statistics, Department of Labor, https://www.bls.gov/oes/tables.htm				

There are approximately 62,244 new firms yearly that are subject to COOL, and therefore burdened by the initial recordkeeping cost, required to establish a record collection system (Table 2a). This number was calculated by assuming that 20% of producers were new producers, 20% of handlers, processors, and wholesalers were new, and that 2.7% of retailers were new. Since the information collection requirement for the COOL regulations was part of the initial rule, established firms should not have any additional fees establishing a system record keeping system.

Table 2a. Estimated Costs Associated with Paperwork Burden

Initial Recordkeeping Costs:

<i>Category of Respondents</i>	Respondents (count)	Estimated Hours	May 2021 Mean Wage	Total Benefits estimated @31.7%	Cost to Employer	Total

			rate			
<i>Producers</i>	59,790	4	\$23.59	\$7.48	\$31.07	\$7,430,520
<i>Handlers, Processors & Wholesalers</i>	1,387	29			\$1,310.00	\$1,816,970
<i>New Retailers</i>	1,067	29			\$1,310.00	\$1,397,363
<i>Sub-Total: Initial Recordkeeping</i>	62,244	310,319				\$10,644,853

Initial Recordkeeping Costs

With respect to initial recordkeeping costs, it is believed that most producers currently maintain many of the types of records that would be needed to substantiate country of origin and, if applicable, method of production claims. However, producers do not typically record or pass along country of origin information and, if applicable, method of production information to subsequent purchasers. Therefore, producers will incur some additional incremental costs to record, maintain, and transfer country of origin and, if applicable, method of production information to substantiate required claims made at retail. Because much of the necessary recordkeeping has already been developed during typical farm, ranch, and fishing operations, it is estimated that the incremental costs for producers to supplement existing records with country of origin and, if applicable, method of production information will be relatively small per firm. Examples of initial or start-up costs would be any additional recordkeeping burden needed to record the required country of origin and, if applicable, method of production information and transfer this information to handlers, processors, wholesalers, or retailers via records used in the normal course of business.

The recordkeeping burden on handlers, processors, wholesalers, and retailers is expected to be more complex than the burden most producers face. These operations will need to maintain country of origin and, if applicable, methods of production information on the covered commodities purchased and subsequently furnish that information to the next participant in the supply chain. This will require adding additional information to a firm's bills of lading, invoices, or other records associated with movement of covered commodities from purchase to sale. Like producers, however, it is believed that most of these operations already maintain many of the types of necessary records in their existing systems. Thus, it is assumed that country of origin and, if applicable, method of production information will require only modification of existing recordkeeping systems rather than development of entirely new systems.

The Label Cost Model Developed for FDA by RTI International is used to estimate the cost of including additional country of origin and, if applicable, method of production information to an operation's records. It is assumed that limited information, one-color redesign of a paper document will be enough to comply with the rule's recordkeeping requirements. The number of

hours required to complete the redesign is estimated to be 29 with an estimated cost at \$1,310 per firm. While the cost will be much higher for some firms and lower for others, it is believed that \$1,310 represents a reasonable estimate of average cost for all firms. The recordkeeping cost estimate for 2022 decreased due to fewer total wholesalers and retailers.

Storage and Maintenance Costs

In addition to these one-time costs to modify recordkeeping systems, enterprises will incur additional recordkeeping costs associated with storing and maintaining records. Again, the marginal cost for producers to maintain and store any additional information needed to substantiate country of origin and, if applicable, method of production claims is expected to be relatively small.

For wild fish harvesters, fruit, vegetable, ginseng peanut, macadamia nut, and pecan producers, country of origin and, if applicable, method of production generally is established at the time that the product is harvested. Therefore, there is no need to track country of origin and, if applicable, method of production information throughout the production lifecycle of the product. This is also the case for many of the chicken products as most chicken products sold by firms are from chickens that are born, raised, and harvested in a controlled environment in the United States. This group of producers is estimated to require an additional 4 hours per year to maintain country of origin and, if applicable, method of production information.

Table 2b. Estimated Costs Associated with Paperwork Burden

<i>Storage & Maintenance Costs</i>						
<i>Category of Respondents</i>	Respondents (count)	Estimated Hours (hrs/year)	May 2020 Mean Wage Rate (\$/hr)	Total Benefits estimated @31.7% (\$/hr)	Cost to Employer	Total

<i>Livestock: Lamb /Goat Producers</i>	74,379	12	\$15.46	\$4.90	\$20.36	\$18,173,058
<i>Farm-Raised Fish & Shellfish Producers</i>	3,650	4	\$15.46	\$4.90	\$20.36	\$297,235
<i>Wild Fish Harvesters</i>	1,150	4	\$13.36	\$4.24	\$17.60	\$80,909
<i>Chicken</i>	26,201	4	\$13.36	\$4.24	\$17.60	\$1,844,025
<i>Fruit & Vegetable Producers</i>	112,485	4	\$13.36	\$4.24	\$17.60	\$7,916,734
<i>Ginseng, Peanut, Macadamia Nut & Pecan Producers</i>	21,298	4	\$13.36	\$4.24	\$17.60	\$1,498,935
<i>Sub-Total Producers</i>	239,162	1,551,680				
<i>Handlers, Processors, & Wholesalers (less livestock processing & slaughtering)</i>	6,230	52	\$21.13	\$6.70	\$27.83	\$9,014,648
<i>Livestock Processing & Slaughtering</i>	3,522	1040	\$21.13	\$6.70	\$27.83	\$101,942,970
<i>Sub-Total Processors</i>	9,752	3,987,235 Hours				
<i>Retailers</i>	38,440	365	\$21.13	\$6.70	\$27.83	\$390,449,642
<i>Sub-Total:</i>						

<i>Storage & Maintenance Establishments</i>	287,354	19,569,629 Hours		\$531,218,158
<i>TOTAL BURDEN</i>	349,598	19,879,947 Hours	\$51.27 (average)	\$541,863,010

It is expected that fish farmers and livestock producers will incur higher costs to maintain country of origin (and for fish farmers, method of production information), compared to wild fish harvesters, chicken, fruit, vegetable, ginseng, peanut, macadamia nut, and pecan producers. Wild fish, chicken, fruits, vegetables, ginseng, peanuts, and macadamia nuts are generally harvested once and then shipped by the producer to the first handler. In contrast, farm-raised fish and livestock can and often do move through several geographically dispersed operations prior to sale for processing or slaughter. Farm-raised fish and livestock may be acquired from other countries by United States producers, which may complicate the task of tracking country of origin and, if applicable, method of production information. Because animals are frequently sorted and regrouped at various stages of production and may change ownership several times prior to slaughter, country of origin information will need to be maintained on animals as they move through their lifecycle. Thus, it is expected that the recordkeeping burden for farm-raised fish farmers and livestock producers will be higher than for producers of other covered commodities. It is estimated that these producers on average will require an additional 12 hours a year, to maintain country of origin and, if applicable, method of production records (see Table 2b).

It is assumed that farm labor will primarily be responsible for maintaining country of origin information at producers' enterprises. May 2022 wage rates and benefits published by the Bureau of Labor statistics from the National Compensation Survey are used to estimate average farm wage rates. Assuming 12 hours of labor per year for livestock and farmed fish operations and 4 hours per year for all other operations, the total estimated burden hours are lower in 2020 than they were in 2019 due a change in calculation error in 2019 collection. In 2019 when a percentage of producers, handlers/processors/wholesalers, and retailer were assumed to be new, that percentage was added to the total, artificially inflated the total number of regulated entities affected by this regulation. For this updated collection, that calculation error has been rectified.

It is expected that intermediaries such as handlers, processors, and wholesalers will face higher costs per enterprise to maintain country of origin and, if applicable, method of production information compared to costs faced by producers. Much of the added cost is attributed to the larger average size of these enterprises compared to the average producer enterprise. In addition, these intermediaries will need to track products both coming into and going out of their businesses.

Except for livestock processing and slaughtering establishments, the maintenance burden hours for country of origin and, if applicable, method of production recordkeeping is estimated to be 52 hours per year per establishment. For this part of the supply chain, the recordkeeping activities are on-going and are estimated to require an additional hour a week. It is expected, however, that livestock processing and slaughtering enterprises will experience a more intensive recordkeeping

burden. These enterprises disassemble carcasses into many individual cuts, each of which must maintain its country of origin identity. In addition, businesses that produce ground lamb and goat, products may commingle product from multiple origins, which will require some monitoring and recordkeeping to ensure accurate labeling and to substantiate the country of origin information provided to retailers. Maintenance of the recordkeeping system at these establishments is estimated to total 1,040 hours per establishment, or 20 hours per week. Maintenance activities will include inputting, tracking, and storing country of origin and, if applicable, method of production information for each covered commodity. Since this is mostly an administrative task, the cost is estimated by using the May 2021 BLS wage rate from the National Compensation Survey for administrative support occupations.

Retailers will need to supply country of origin and, if applicable, method of production information for each covered commodity sold at each store. Therefore, additional recordkeeping maintenance costs are believed to affect each establishment. Because tracking of the covered commodities will be done daily, it is believed that an additional hour of recordkeeping activities for country of origin and, if applicable, method of production information will be incurred daily at each retail establishment. These additional activities result in an estimated 365 additional hours per year per establishment. Using the BLS wage rate for administrative support occupations.

The total maintenance recordkeeping costs for all enterprises are thus estimated at \$541,863,010. The decrease in estimated maintenance recordkeeping costs is due to decreases in the number of establishments and decreases in mean hourly burden wage rates.

13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

- THE COST ESTIMATE SHOULD BE SPLIT INTO TWO COMPONENTS: (a) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER ITS EXPECTED USEFUL LIFE); AND (b) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COST FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.

- **IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.**

- **GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE: (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

The COOL Subchapter of the Agricultural Marketing Act of 1946 states:

The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person (7 USC §1638a. (d) (2) (B)).

Accordingly, there are no capital/start-up or ongoing operation/maintenance costs associated with this information collection.

14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COST, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, 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.

AMS deployed an effective surveillance and enforcement program. A primary component of the enforcement program involves surveillance activities performed by State governments. This has required AMS to enter into cooperative agreements with each State and transfer enough funds to

cooperating State agencies to conduct the surveillance activities. We have also developed a Customer Relations Management System to help expedite reviews. The estimated current annual costs are as follows:

Retail Store Surveillance Reviews and Supplier for COOL Compliance and Enforcement	
2500/ year x \$600 / Review	\$1,500,000
200/ year x \$800 / Follow-up Reviews	<u>\$160,000</u>
Sub-Total (Primarily paid to States)	\$1,660,000
Administration-Salary and Benefits	
9 Staff Years x 114,225 (average)	\$1,028,025
Miscellaneous Costs	
CRM System Costs	\$977,000.00
Departmental assessments / travel	\$406,300
Total annual cost to the Government to maintain this regulation:	\$4,071,325

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

Table 3 displays comparisons between the estimated recordkeeping burden hours reported in the ICR approved in 2019 (Previous Burden) and the burden hour estimates contained in the current revision (New Burden).

Table 3. Comparison between estimated recordkeeping burden hours for COOL: 2019 ICR and 2022 ICR										
2019					2022			Respondent Variance	Burden Hour Variance	Explanation
Storing & Maintenance for Establishments	Respondents	Burden Hours	Total Hours		Respondents	Burden Hours	Total Hours			
Livestock (lamb and goat)	97,536	12	1,170,432		74,379	12	892,550	(23,157)	(277,882)	Decreased burden due to fewer producers, Farm Raised Fish and Shellfish moved to new group
Farm Raised Fish and Shell Fish Producers	N/A	N/A	N/A		3,650	4	14,598	N/A	N/A	Combined with Livestock in previous ICR
Chicken, Wild Fish and Shellfish, Fruit & Vegetable, Ginseng, Peanut, Pecan, and Macadamia Nut Producers	202,428	4	809,712		161,133	4	644,531	(41,295)	(165,181)	Decreased burden due to fewer producers
Handlers, Processors, & Wholesalers (except livestock processing & slaughtering)	9,251	52	481,052		6,230	52	323,939	(3,021)	(157,113)	Decreased burden due to lower estimated number of processors
Livestock Processing & Slaughtering	4,332	1040	4,505,280		3,522	1040	3,663,296	(810)	(841,984)	Decreased burden due to smaller estimated number of livestock - lamb & goat - processing
Retailers	37,439	365	13,665,235		38,440	365	14,030,714	1,001	365,479	Minor

										increase in burden due to more retailer establishments
Set-up and Maintenance (for Operations)						-		-		
Producers	59,993	4	239,972		59,790	4	239,162	(203)	(810)	Reduced number of new Producers, 2019 County Business Patterns
Intermediaries -- Handlers, Processors, and Wholesalers	2,717	29	78,793		1,387	29	40,223	(1,330)	(38,570)	Reduced number of new wholesalers, 2019 County Business Patterns; NASS 2015 Survey Data
Retailers	1,821	29	52,809		1,067	29	30,934	(754)	(21,875)	Increased estimate for number of retailers initiating COOL compliance systems. (2019 County Business Patterns)
SUBTOTAL	415,517		21,003,285		349,598		19,879,947	(65,919)	(1,123,338)	

AMS has included multiple levels of review to verify the accuracy of its source data and calculations reported above while compiling the current 2020 supporting statement for the previously approved information collection renewal. In doing so, corrective actions have been taken so that the errors identified by the 2018 GAO Report are not repeated.

During review of the 2019 collection renewal, a mathematical error was revealed. The number of new entities were added to the total number of impacted entities, which already included the number of new entities (calculated from sources such as the 2015 County Business Patterns, the 2017 NASS Census of Agriculture, and the PACA database). This approach artificially inflated the number of impacted entities by double counting the number of new entities in the existing entity calculations. For the 2020 collection, the existing entities were calculated by subtracting the number of new entities from the total number of impacted entities, giving a more accurate estimation of the number of impacted entities and the associated burden.

- 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.**

Information obtained under this information collection is not published.

- 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.**

There is no form submission requirement associated with this collection. Once OMB approves Control Number 0581-0250, AMS will display the expiration date for the information collection on the COOL website at <https://www.ams.usda.gov/rules-regulations/cool/history>.

- 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 can certify compliance with all provisions under Item 19 of OMB Form 83-I.

- B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Statistical methods were not employed in this information collection analysis.