

SUPPORTING STATEMENT

Transparency in Poultry Grower Contracting and Tournaments Packers and Stockyards Division OMB NO. 0581-0337

Notes to reviewer – The form added in section 12 of this statement is new, and once approved, will be added to our current collection of forms 0581-0308

The cited regulations in the previous statement have been updated from the previously submitted version of this supporting statement. 9 CFR 201.100 describes the documents that live poultry dealers must provide to poultry growers within certain timeframes. 9 CFR 201.102 has been proposed to address additional disclosures for broiler production – establishing new disclosure requirements in addition to those in 9 CFR 201.100 for live poultry dealers engaged in the production of broilers. 9 CFR 201.104 has been proposed to address additional disclosures for broiler tournaments. It applies exclusively to live poultry dealers engaged in the production of broiler whose use a poultry grower ranking system to calculate broiler grower payments.

As the Packers and Stockyards Division (PSD) under the Fair Trade Practice Program (FTPP) of the Agricultural Marketing Service (AMS), we require regulated entities in the livestock, meat packing, and poultry industries to keep records, submit information to us, and provide information to third parties. The regulated entities are packers, live poultry dealers, stockyard owners, market agencies, swine contractors, and dealers. In general, the information required includes disclosures of information by live poultry dealers, and the records to be furnished to poultry growers and sellers.

A. Justification.

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

In accordance with the authority granted to the Secretary by the Packers and Stockyards Act of 1921 the Packers and Stockyards Division (PSD) is proposing regulations under the Packers and Stockyards Act, 1921, (P&S Act) (7 U.S.C. 181 *et seq.*) that clarify when certain conduct in the livestock and poultry industries represents the making or giving of an undue or unreasonable preference or advantage or subjects a person or locality to an undue or unreasonable prejudice or disadvantage. These proposed regulations also establish criteria PSD will consider in determining whether a live poultry dealer has provided prescribed documents to a prospective or current poultry grower as follows:

Specifically, PSD proposes to amend the regulations under the P&S Act by amending and adding the following sections:

(i) § 201.100 Records to be furnished poultry growers and sellers.

(a) Poultry growing arrangement; timing of disclosure. A live poultry dealer who offers a poultry growing arrangement to a poultry grower must provide the poultry grower with a true written copy of the offered poultry growing arrangement on the date the dealer provides the poultry grower with poultry housing specifications.

(b) Right to discuss the terms of poultry growing arrangement offer. A live poultry dealer, notwithstanding any confidentiality provision in the poultry growing arrangement, may not prohibit a poultry grower or prospective poultry grower from discussing the terms of a poultry growing arrangement offer, or if applicable, the accompanying Live Poultry Dealer Disclosure Document described in § 201.102 (b) through (d) of this part with any of the following:

- (1) A Federal or State agency.
- (2) The grower's financial advisor or lender.
- (3) The grower's legal advisor.
- (4) An accounting services representative hired by the grower.
- (5) Other growers for the same live poultry dealer.
- (6) A member of the grower's immediate family or a business associate. A business associate is a person not employed by the grower, but with whom the grower has a valid business reason for consulting with when entering into or operating under a poultry growing arrangement.

(ii) § 201.102 Disclosures for broiler production.

(a) *Obligation to furnish information and documents.* In addition to the requirements of § 201.100 of this part, a live poultry dealer engaged in the production of broilers must provide the documents described in this section to the prospective or current broiler grower.

(1) Except as provided in paragraph (e) of this section, when a live poultry dealer seeks to renew, revise, or replace an existing broiler growing arrangement, or to establish a new broiler growing arrangement that does not contemplate modifications to the existing housing specifications, the live poultry dealer must provide the following documents at least seven days before the live poultry dealer executes the broiler growing arrangement:

- (i) A true, written copy of the renewed, revised, replacement, or new broiler growing arrangement; and
- (ii) The Live Poultry Dealer Disclosure Document, as described in paragraphs (b), (c), and (d) of this section.

(2) When a live poultry dealer seeks to enter a broiler growing arrangement with a broiler grower or prospective broiler grower that will require an original capital investment, the live poultry dealer must provide the following to the broiler grower or prospective broiler grower simultaneously with the housing specifications:

- (i) A copy of the broiler growing arrangement that is affiliated with

the current housing specifications,

(ii) The Live Poultry Dealer Disclosure Document, as described in paragraphs (b), (c), and (d) of this section, and

(iii) A letter of intent that can be relied upon to obtain financing for the original capital investment.

(3) When a live poultry dealer seeks to offer or impose modifications to existing housing specifications that could reasonably require a broiler grower or prospective broiler grower to make an additional capital investment, the live poultry dealer must provide the following to the broiler grower or prospective broiler grower simultaneously with the modified housing specifications:

(i) A copy of the broiler growing arrangement that is affiliated with the modified housing specifications,

(ii) The Live Poultry Dealer Disclosure Document, as described in paragraphs (b), (c), and (d) of this section, and

(iii) A letter of intent that can be relied upon to obtain financing for the additional capital investment.

(b) *Prominent Disclosures.* The Live Poultry Dealer Disclosure Document must include a cover page followed by additional disclosures as required in paragraphs (c) and (d) of this section. Information in the Live Poultry Dealer Disclosure Document must be presented in a clear, concise, and understandable manner. In the event a prospective or current broiler grower has limited English language proficiency, the Live Poultry Dealer Disclosure Document must be translated into the preferred language of the prospective or current broiler grower. The order, form, and content of the cover page shall be and include:

(1) The title “LIVE POULTRY DEALER DISCLOSURE DOCUMENT” in capital letters and bold type;

(2) The live poultry dealer's name, type of business organization, principal business address, telephone number, email address, and, if applicable, primary internet webpage address;

(3) The length of the term of the broiler growing arrangement;

(4) The following statement: “The income from your poultry farm may be significantly affected by the number of flocks the poultry company places on your farm each year, the density or number of birds placed with each flock, and the target weight at which poultry is caught. The poultry company may have full discretion and control over these and other factors. Please carefully review the information in this document.”

(5) The following:

(i) The minimum number of placements on the broiler grower’s farm annually under the terms of the broiler growing arrangement, and

(ii) The minimum stocking density for each flock to be placed on the broiler grower’s farm under the terms of the broiler growing arrangement.

(6) The applicable of the following two statements:

(i) “This disclosure document summarizes certain provisions of

your broiler growing arrangement and other information. You have the right to read this disclosure document and all accompanying documents carefully. At least seven calendar days before the live poultry dealer executes the broiler growing arrangement, the poultry company is required to provide you with: (1) this disclosure document, and (2) a copy of the broiler growing arrangement.” OR

(ii) “This disclosure document summarizes certain provisions of your broiler growing arrangement and other information. You have the right to read this disclosure document and all accompanying documents carefully. The live poultry dealer is required to provide this disclosure document to you simultaneously with (a) a copy of the broiler growing arrangement, (b) any new or modified housing specifications that would require you to make an original or additional capital investment, and (c) a letter of intent.”

(7) This statement: “Even if the broiler growing arrangement contains a confidentiality provision, by law you still retain the right to discuss the terms of the broiler growing arrangement and the Live Poultry Dealer Disclosure Document with a Federal or State agency, your financial advisor or lender, your legal advisor, your accounting services representative, other growers for the same live poultry dealer, and your immediate family or business associates. A business associate is a person not employed by you, but with whom you have a valid business reason for consulting when entering into or operating under a broiler growing arrangement.” and

(8) The following sentence in bold type: “Note that USDA has not verified the information contained in this document. If this disclosure by the live poultry dealer contains any false or misleading statement or a material omission, a violation of Federal and/or State law may have occurred.

(c) Required disclosures following the cover page. The live poultry dealer shall disclose, in the Live Poultry Dealer Disclosure Document following the cover page, the following information:

(1) A summary of litigation over the prior five years between the live poultry dealer and any broiler grower; including the nature of the litigation, its location, the initiating party, a brief description of the controversy, and any resolution.

(2) A summary of all bankruptcy filings in the prior five years by the live poultry dealer and any parent, subsidiary, or related entity of the live poultry dealer.

(3) A statement that describes the live poultry dealer’s policies and procedures regarding the potential sale of the broiler grower’s facility or assignment of the broiler growing arrangement to another party, including the circumstances under which the live poultry dealer will offer the successive buyer a broiler growing arrangement.

(4) A statement describing the live poultry dealer’s policies and procedures, as well as any appeal rights arising from the following events

described in paragraphs (c)(4)(i) through (c)(4)(vi) in this section. If no policy or procedure exists, the live poultry dealer will acknowledge “no policy exists” relating to the items in paragraphs (c)(4)(i) through (c)(4)(vi) of this section.

- (i) Increased lay-out time.
- (ii) Sick, diseased, and high early mortality flocks.
- (iii) Natural disasters.
- (iv) Other events potentially resulting in massive depopulation of flocks, affecting grower payments.
- (v) Feed outages including outage times.
- (vi) Grower complaints relating to feed quality, formulation, or suitability.

(5) Provide a table showing the average annual broiler grower turnover rates for the previous calendar year and the average of the five previous calendar years at a company level and at a local complex level, as directed in PSD Form 6100.

(d) Financial Disclosures. The live poultry dealer must include in the Live Poultry Dealer Disclosure Document the following information:

(1) Tables showing average annual gross payments to broiler growers at the local complex for each of the five previous years. The tables must express average payments in U.S. dollars per farm facility square foot. The tables must be organized by year, housing specification tier (lowest to highest), and quintile (lowest to highest), as directed in PSD Form 6100.

(2) If poultry housing specifications for broiler growers under contract with the complex are modified such that an additional capital investment may be required, or if the 5-year averages provided under paragraph (d)(1) of this section do not accurately represent projected grower gross annual payments under the terms of the applicable broiler growing arrangement for any reason, the live poultry dealer must provide the following additional information:

- (i) Tables providing projections of average annual gross payments to broiler growers under contract with the complex with the same housing specifications for the term of the broiler growing arrangement at five quintile levels expressed as dollars per farm facility square foot, and
- (ii) An explanation of why the annual gross payment averages for the previous 5 years, as provided under paragraph (d)(1) of this section, do not provide an accurate representation of projected future payments, including the basic assumptions underlying the projections provided under (i) of this paragraph.

(3) A summary of information the live poultry dealer collects or maintains relating to grower variable costs inherent in broiler production.

(4) Current contact information for the State university extension service office or the county farm advisor’s office that can provide relevant information about broiler grower costs and broiler farm financial management in the broiler grower’s geographic area.

(e) Small Live Poultry Dealer Financial Disclosures. A live poultry dealer engaged in the production of broilers, including all parent, subsidiary, and affiliated companies (i.e., companies controlled by or under common control with the live poultry dealer), slaughtering fewer than 2 million live pounds of broilers weekly (104 million pounds annually) is exempt from the requirements in paragraph (a)(1) of this section.

(f) *Governance and Certification.*

(1) The live poultry dealer engaged in the production of broilers must establish, maintain, and enforce a governance framework that is reasonably designed to:

- (i) Audit the accuracy and completeness of the disclosures required under paragraphs (a) through (d) of this section; and
- (ii) Ensure compliance with all obligations under the Packers and Stockyards Act and regulations thereunder.

(2) The principal executive officer or officers, or persons performing similar functions, must certify in the Live Poultry Dealer Disclosure Document that the live poultry dealer has established, maintains, and enforces the governance framework and that based on the officer's knowledge, the Live Poultry Dealer Disclosure Document does not contain any untrue statement of a material fact or omit to state a material fact which would render it misleading.

(g) Receipt by Growers.

(1) The Live Poultry Dealer Disclosure Document must include a broiler grower's signature page that contains the following statement: "If the live poultry dealer does not deliver this disclosure document within the timeframe specified herein, or if this disclosure document contains any false or misleading statement or a material omission (including any discrepancy with other oral or written statements made in connection with the broiler growing arrangement), a violation of Federal and State law may have occurred. Violations of Federal and State laws may be determined to be unfair, unjustly discriminatory, or deceptive and unlawful under the Packers and Stockyards Act, as amended. Allegations of such violations may be reported to the Packers and Stockyards Division of USDA's Agricultural Marketing Service and the Department of Justice at <https://www.usda.gov/farmerfairness>."

(2) The live poultry dealer must obtain the broiler grower's or prospective broiler grower's dated signature on the broiler grower's signature page in paragraph (g)(1) of this section as evidence of receipt or obtain alternative documentation acceptable to the Administrator as evidence of receipt. The live poultry dealer must provide a copy of the dated signature page or alternative documentation to the broiler grower or prospective broiler grower and must retain a copy of the dated signature page or alternative documentation in the dealer's records for 3 years following expiration, termination, or non-renewal of the broiler growing arrangement.

(h) *Additional contract terms.* In addition to the requirements of § 201.100(c) of this part, a live poultry dealer engaged in the production of broilers must specify in the true written copy of the broiler growing arrangement the following:

- (1) The minimum number of placements of poultry at the broiler grower's facility annually, and
- (2) The minimum stocking density for each flock placed with the broiler grower under the broiler growing arrangement.

(iii) § 201.104 Disclosures for broiler grower ranking systems

(a) *Poultry grower ranking system records.* If a live poultry dealer engaged in the production of broilers uses a poultry grower ranking system to calculate broiler grower payments, the live poultry dealer must produce records in accordance with paragraphs (b) and (c) of this section. The live poultry dealer must maintain such records for 5 years.

(b) *Placement Disclosure.* Within 24 hours of flock delivery to a broiler grower's facility, the live poultry dealer must provide all the following information to the broiler grower regarding the placement:

- (1) The stocking density of the placement.
- (2) Names and all ratios of breeds of the poultry delivered.
- (3) If the live poultry dealer has determined the sex of the birds, all ratios of male and female poultry delivered.
- (4) The breeder facility identifier.
- (5) The breeder flock age.
- (6) Information regarding any known health impairments of the breeder flock or of the poultry delivered.
- (7) Adjustments, if any, that the live poultry dealer may make to the calculation of the grower's pay based on the inputs in paragraphs (b)(1) through (b)(6) of this section.

(c) *Poultry grower ranking system settlement documents.* A live poultry dealer must provide the following information to broiler growers on the grouping or ranking sheets in addition to the requirements in § 201.100(f).

- (1) Housing specifications. The grouping or ranking sheet required in § 201.100(f) need not show the names of other growers but must show the housing specification for each grower grouped or ranked during the specified period.
- (2) Distribution of inputs. In addition to the grouping or ranking sheets required in § 201.100(f) of this part, live poultry dealers must disclose all the following information to each broiler grower participant compensated under a poultry grower ranking system:
 - (i) The stocking density for each placement.
 - (ii) The names and all ratios of breeds of the poultry delivered to each broiler grower's facility.
 - (iii) If the live poultry dealer has determined the sex of the birds,

all ratios of male and female poultry delivered to each broiler grower's facility.

(iv) All breeder facility identifiers.

(v) The breeder flock age(s).

(vi) The number of feed disruptions each broiler grower endured during the growout period, where the grower was completely out of feed for 12 hours or more.

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.

In general, the information requires includes providing the necessary Live Poultry Dealer Disclosure document to all regulated Live Poultry Dealers and identifying the necessary disclosure information that must be provided by the Live Poultry Dealers to their respective growers under specific conditions, stated below:

(1) When a live poultry dealer seeks to renew, revise, or replace an existing poultry growing arrangement that does not contemplate modifications to the existing housing specifications, the live poultry dealer must provide the following documents at least seven days before the live poultry dealer executes the poultry growing arrangement:

(i) A true, written copy of the renewed, revised, or replacement poultry growing arrangement, and

(ii) The Live Poultry Dealer Disclosure Document,

(2) When a live poultry dealer seeks to enter a poultry growing arrangement with a poultry grower that will require an original capital investment, the live poultry dealer must provide the following to the poultry grower simultaneously with the housing specifications:

(i) A copy of the poultry growing arrangement that is affiliated with the current housing specifications,

(ii) The Live Poultry Dealer Disclosure Document, and

(iii) A letter of intent that can be relied upon to obtain financing for the original capital investment.

(3) When a live poultry dealer seeks to offer or impose modifications to existing housing specifications that could reasonably require a current poultry grower to make an additional capital investment, the live poultry dealer must provide the following to the poultry grower simultaneously with the modified housing specifications:

(ii) The Live Poultry Dealer Disclosure Document, and

(iii) A letter of intent that can be relied upon to obtain financing for the original capital investment.

The Live Poultry Dealers will provide the Live Poultry Dealer Disclosure form to

the poultry growers multiple times each year poultry as growing arrangements are revised, renewed, replaced or housing arrangements are modified.

The resulting disclosure information provided to each grower will only be accessible to the PSD in the event of investigation of the subject firm during the review of the firm's records.

- 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.**

The Live Poultry Dealer Disclosure form to be used by the Live Poultry Dealers will be available for download on the PSD website located at <https://ams.usda.gov>.

- 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.**

The information the subject entities are required to furnish and the records they are required to maintain are not available from other sources, either within Government or from non-government sources.

- 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.**

To minimize the burden on small entities, the regulations required the least information necessary to carry out the program. The Small Live Poultry Dealers, including all parent and subsidiary companies, slaughtering fewer than 2 million live pounds of poultry weekly (104 million pounds annually) may provide, in lieu of the disclosures required in paragraph (c) of this section, a simplified financial disclosure that must include the annual gross payments for poultry growers under contract with the local complex with the same housing specifications for the three previous years on a US dollars per farming facility square foot basis.

Based on our records, 42 Live Poultry Dealers are subject to the reporting requirements of this rule. Fifteen (15) Live Poultry Dealers are identified as small businesses and can provide a simplified financial disclosure as described in

the previous paragraph. Please note that this definition of small live poultry dealers differs from the SBA definition of a small business.

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.

It is vital that current data is collected so that fair and equitable marketing practices are exhibited.

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 5CFR 1320.5.

- 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.**

On June 8, 2022, Vol. No. 87, No. 110, page 34980, the agency published a notice of information collection and request for comments in the Federal Register. In response, 504 comments were submitted for the rule titled "*Transparency in Poultry Grower Contracting and Tournaments*," 34980 (Transparency). A summary of the comments from the proposed rule and the changes AMS made to arrive at the final rule are in that attached document titled "*Summary of Comments from the Proposed 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 FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.

The response below should go here.

The Competition Branch has reviewed past contract data from live poultry dealers and determined an historical lack of transparency and incomplete contracts in poultry contracting. Final regulations §§ 201.102 and 201.104 will require live poultry dealers to disclose more and potentially valuable information to growers regarding the placement of flocks, and disclosing information prior to growers entering into new contracts, renewing existing contracts, or the requirement to make additional capital investments.

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 response should also include a reference to three individuals or organizations, outside of USDA (this is mandatory by OMB) who are either respondents or interested parties in the collection that have been consulted about the burden estimate and other characteristics (i.e., frequency, clarity of instructions) of the collection. The individual contacts should be different from the last submission. If any comments are received, they should be summarized. The reference should include an accurate telephone number for OMB to use in case contact with the public is desired. This requirement especially applies to collections which have been ongoing for more than three years.

PSD conducted no outside consults regarding this information.

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

The recordkeeping/reporting requirements are mandated by law. No payments are made to respondents.

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

Records/reports received from firms and individuals subject to the Packers & Stockyards Act are considered confidential and protected under the Freedom of Information Act (5. U.S.C §552). Information on individual firms is not released. Any Packers and Stockyards Division employee releasing such information without proper authority is subject to a fine and/or imprisonment as referenced by Section 10 of the F.T.C Act (15 U.S.C. 50) as made applicable by Section 402 of the P&S Act, and §201.96 of the Regulations issued thereunder.

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.

This collection of information contains no such questions of a sensitive nature. Requests for records or information of a personally sensitive nature are not asked or maintained.

12. **PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION.** *This is a two-part question and both parts must be addressed.*

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.

This combined collection has 42 respondents. The combined responses for §§ 201.102 and 201.104 are 46,203. The combined hours are 17,20920 for reporting and recordkeeping. The public reporting and recordkeeping burden is estimated to average .59112 hours per response.

Live Poultry Dealers are required to provide the Live Poultry Disclosure Document to poultry growers multiple times each year, whenever a new growing arrangement is enacted with growers.

Number of large poultry dealers by SBA definition – 22

Number of small poultry dealers by SBA definition – 20

- 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.

PSD has created only one form, PSD-6100, to be used by the Live Poultry Dealers when providing disclosure documents to each of their respective poultry growers. All other documents provided to the growers, including the above-mentioned Live Poultry Dealer Disclosure document, a copy of the poultry growing arrangement,

and a letter of intent that can be relied upon to obtain financing for original or additional capital investment. These additional documents are generated and provided by the Live Poultry Dealers.

Table 1 below provides the details of the estimated one-time, first-year costs of providing disclosure documents required in § 201.102. AMS expects that the direct costs will consist entirely of the value of the time required to produce and distribute the disclosures and maintain proper records. The number of hours the second column were provided by AMS subject matter experts. These experts were auditors and supervisors with many years of experience in auditing live poultry dealers for compliance with the Packers and Stockyards Act. They provided estimates of the average amount of time that would be necessary for each live poultry dealer to meet each of the elements listed in the “Regulatory Requirements” column. Estimates for the value of the time are U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics estimated released May 2022. Wage estimates are marked up 41.82 percent to account for benefits. The “Adjustment” column allows for estimation of costs that will only apply to a subset of the poultry growers or to the live poultry dealers. A blank value in the Adjustment column indicates that no adjustments were made to the costs. Each adjustment is different and described in the relevant footnote. Expected costs for each “Regulatory Requirement” and are listed in the “Expected Cost” column. Summing the values in the “Expected Cost” column provides the total expected first-year, one-time costs for setting-up and producing the disclosure documents associated with § 201.102.

Table 1. Expected First-Year Direct Costs Associated with § 201.102

Regulatory Requirement	Number of Hours Required for Each LPD	Profession	Expected Wage (\$)	Number of LPDs	Adjustment (percent)	Expected Cost (\$)
201.102(b)(1)-(8)	1	Manager	84.27	42		3,539
	4	Lawyer	131.38	42		22,072
201.102(c)(1)-(3)	10	Manager	84.27	42		35,393
	5	Administrative	41.71	42		8,759
	10	Lawyer	131.38	42		55,180
201.102(c)(4)	2	Manager	84.27	188 ^a		31,685
	4	Manager	84.27	42		14,157
	1	Lawyer	131.38	42		5,518
201.102(c)(5)	1	Manager	84.27	188 ^a		15,843
201.102(d)(1)(2)(i)	30	Manager	84.27	27 ^b	90 ^c	61,432
	8	Administrative	41.71	27 ^b	90 ^c	8,108
	22	Information Tech	92.91	27 ^b	90 ^c	49,667
201.102(d)(1)(2)(ii)-(v)	60	Manager	84.27	42	5 ^d	10,618
	16	Administrative	41.71	42	5 ^d	1,401
	44	Information Tech	92.91	42	5 ^d	8,584
201.102(d)(3)	20	Manager	84.27	42	5 ^e	3,539
	5	Administrative	41.71	42	5 ^e	438
	15	Information Tech	92.91	42	5 ^e	2,927
201.102(d)(4)	6	Manager	84.27	42		21,236
	2	Administrative	41.71	42		3,504
201.102(d)(5)	0.5	Manager	84.27	42		1,770
	0.5	Administrative	41.71	42		876
201.102(f)(1)(2)	40	Manager	84.27	42		141,572
	20	Lawyer	131.38	42		110,360
	10	Administrative	41.71	42		17,518
	10	Information Tech	92.91	42		39,020
201.102(g)(1)(2)	1	Manager	84.27	42		3,539
	1	Administrative	41.71	42		1752
201.102(i)(2)	1	Manager	84.27	42		3539
	1	Lawyer	131.38	42		5518
Total Cost						689,063 ^f

^a AMS estimated a manager's time required for each of the 188 broiler complexes rather than the

42 live dealer firms.

b 201.102(d)(1)(i) only applies to live poultry dealers that process more than 2 million pounds of poultry per week.

c Reduces estimated costs by 10 percent to exclude the 5 percent for the estimated proportion of growers that require upgrades to poultry housing and 5 percent for the estimated proportion of growers that enter a contract for the first time.

d Estimates costs for the 5 percent of the growers that require upgrades to poultry housing and enter into contracts for the first time.

e Estimates costs for the 5 percent of the growers that require upgrades to poultry housing.

f Total may not sum due to rounding.

Table 2 provides the details of the estimated ongoing costs of providing disclosure documents required in § 201.102. Table 2 is laid out the same as Table 1. AMS subject matter experts provided estimates in the second column of the average amount of time that would be necessary for each live poultry dealer to meet each of the elements listed in the “Regulatory Requirements” column. Estimates for the value of the time are from U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics released May 2022. Wage estimates are marked up 41.82 percent to account for benefits. The “Adjustment” column allows for estimation of costs that will only apply to a subset of the poultry growers or to the live poultry dealers. Expected costs for each “Regulatory Requirement” and are listed in the “Expected Cost” column. Summing the values in the “Expected Cost” column provides the total expected costs for producing and distributing the disclosure documents associated with § 201.102 on an ongoing basis.

Table 2. Expected Ongoing Direct Costs Associated with § 201.102 (Table shown on following page)

Regulatory Requirement	Number of Hours Required for Each LPD	Profession	Expected Wage (\$)	Number of LPDs / Number of Contracts	Adjustment (percent)	Expected Cost (\$)
201.102(a) (1)	0.08	Evenly distributed among management, administrative, and information tech.	72.96 ^a	19,417	74.72 ^b	88,212
201.102(a) (2)	0.08	Evenly distributed among management, administrative, and information tech.	72.96 ¹	19,808	5 ^c	6,022

Regulatory Requirement	Number of Hours Required for Each LPD	Profession	Expected Wage (\$)	Number of LPDs / Number of Contracts	Adjustment (percent)	Expected Cost (\$)
201.102(a)(3)	0.08	Evenly distributed among management, administrative, and information tech.	72.96 ¹	19,808	5 ^d	6,022
201.102(b)	0.5	Manager	84.27	42		1,770
	0.5	Administrative	41.71	42		876
201.102(c)(1)-(3)	1	Manager	84.27	42		3,539
	1	Administrative	41.71	42		1,752
	1	Lawyer	131.38	42		5,518
201.102(c)(4)	0.5	Manager	84.27	188 ^e		7,921
	1	Manager	84.27	42		3,539
	0.5	Lawyer	131.38	42		2,759
201.102(c)(5)	0.5	Manager	84.27	188 ^e		7,921
201.102(d)	0.17 (10 min.)	Administrative	41.71	188 ^e		1,307
201.102(d)(1)(2)(i)	15	Manager	84.27	27 ^f	90 ^g	30,716
	3	Administrative	41.71	27 ^f	90 ^g	3,041
	6	Information Tech.	92.91	27 ^f	90 ^g	13,546
201.102(d)(1)(ii)-(v)	30	Manager	84.27	42	5 ^h	5,309
	6	Administrative	41.71	42	5 ^h	526
	12	Information Tech.	92.91	42	5 ^h	2,341
201.102(d)(2)	10	Manager	84.27	27	5	1,770
	2	Administrative	41.71	27	5	175
	4	Information Tech	92.91	27	5	780

Regulatory Requirement	Number of Hours Required for Each LPD	Profession	Expected Wage (\$)	Number of LPDs / Number of Contracts	Adjustment (percent)	Expected Cost (\$)
201.102(d)(3)	10	Manager	84.27	42	5 ⁱ	175
	2	Administrative	41.71	42	5 ⁱ	780
201.102(d)(4)	0.25	Manager	84.27	42		885
	0.25	Administrative	41.71	42		438
201.102(f)(1)(2)	20	Manager	84.27	42		70,787
	5	Lawyer	131.38	42		27,590
	3	Administrative	41.71	42		15,609
	4	Information Tech.	92.91	42		5,255

Regulatory Requirement	Number of Hours Required for Each LPD	Profession	Expected Wage (\$)	Number of LPDs / Number of Contracts	Adjustment (percent)	Expected Cost (\$)
201.102(g)	0.25	Administrative	41.71	188 ⁵		1,960
Total Cost						319,206 ^j

a \$71.80 is the average of the average wages for poultry processing managers, administrative professionals, and information technology staff at \$84.27, \$41.71, and \$92.91 respectively.

b 74.72 is the percentage of the existing poultry grower contracts that are expected to come up for renewal each year. It includes all flock-to-flock and single year contracts as well as longer term contracts that are expected to expire within a year.

c Estimates cost for the 5 percent of the growers that require upgrades to poultry housing.

d Estimates costs for only the 5 percent of growers that that enter contract for the first time.

e AMS estimated a manager’s time required for each of the 188 broiler complexes rather than the 42 live dealer firms.

f 201.102(d)(1)(i) only applies to live poultry dealers that process more than 2 million pounds of poultry per week.

g Reduces estimated cost by 10 percent to exclude the 5 percent for the estimated proportion of growers that require upgrades to poultry housing and 5 percent for the estimated proportion of growers that enter a contract for the first time.

h Estimates cost for the 5 percent of the growers that require upgrades to poultry housing and enter into contracts for the first time.

i Estimates cost for the 5 percent of the growers that require upgrades to poultry housing.

j Total may not sum due to rounding.

Table 3 below provides the details of the estimated one-time, first-year costs of providing disclosure documents required in § 201.104. Like the previous tables, AMS subject matter experts provided estimates in the second column of the average amount of time that would be necessary for each live poultry dealer to meet each of the elements listed in the “Regulatory Requirements” column. Values in the “Expected Wage” column are taken from U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics released May 2022. Wage estimates are marked up 41.82 percent to account for benefits. The number of LPDs is the number of live poultry dealers that filed annual reports with AMS for their 2021 fiscal years. “Expected Cost” is the estimate of the cost of each “Regulatory Requirement.” Summing the “Expected Cost” column provides the total expected first-year, one-time costs for setting-up and producing the disclosure documents associated with § 201.104. (Table shown on following page)

Table 3. One Time First-Year Costs Associated with § 201.104

Regulatory Requirement	Number of Hours Per LPD	Profession	Expected Wage (\$)	Number of LPDs	Expected Cost (\$)
201.104(a)	2	Manager	84.27	42	7,079
	4	Administrative	41.71	42	7,007
	2	Information Technology	92.91	42	7,804
201.104(b)	5	Manager	84.27	42	17,696
	2	Administrative	41.71	42	3,504
	18	Information Technology	92.91	42	70,237
201.104(c)	8	Manager	84.27	42	28,314
	5	Administrative	41.71	42	8,759
	22	Information Technology	92.91	42	85,845
Total Cost					236,244^a

^a Total may not sum due to rounding.

Table 4 below provides the details of the estimated ongoing costs of providing disclosure documents required in § 201.104. AMS subject matter experts provided estimates in the second column of the average amount of time that would be necessary for each live poultry dealer to meet each of the elements listed in the “Regulatory Requirements” column. They also provided the expected number of tournaments per plant. The number of poultry processing plants was tallied from the annual reports that live poultry dealers file with AMS. Values in the “Expected Wage” column were found in U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics released May 2022. Wage estimates are marked up 41.82 percent to account for benefits. Multiplying across the row provides the “Cost” for each “Regulatory Requirement,” and summing the “Cost” column provides the total expected costs for producing and distributing the disclosure documents associated with § 201.104 on an ongoing basis. (Table shown on following page)

Table 4. Ongoing Expected Costs Associated with § 201.104

Regulatory Requirement	Hours	Profession	Number of Plants	Number of Tournaments per Plant	Weeks in a Year	Avg. Wage (\$)	Cost (\$)
201.104(b)	0.1	Evenly distributed among management, administrative, and information tech.	228	1.35	52	72.96 ^a	96,291
201.104(c)	0.1	Evenly distributed among management, administrative, and information tech.	228	1.35	52	72.96 ^a	96,291
Total Cost							192,582

^a \$72.96 is the average of the average wages for poultry processing managers, administrative professionals, and information technology staff at \$84.27, \$41.71, and \$92.91 respectively.

The cost to live poultry dealers engaged in the production of broilers for compliance with the reporting and recordkeeping requirement of final § 201.102 is expected to be \$1,008,269 in the first year, and \$236,244 in subsequent years.

The cost to live poultry dealers regarding reporting Poultry Grower Ranking Systems Records as required under § 201.104 is expected to be \$236,244 in the first year and \$192,582 in subsequent years.

The combined costs to live poultry dealers for these two regulations are \$1,437,096 in the first year, and \$511,788 in subsequent years. The total hours estimated for the live poultry dealers to create, produce, distribute, and maintain these documents are 17,205 in the first year, and 6,615 in subsequent years.

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

- **THE COST ESTIMATE SHOULD BE SPLIT INTO TWO COMPONENTS: (a) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER ITS EXPECTED USEFUL LIFE); AND (b) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE**

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

- **IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.**
- **GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE: (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

There are no capital/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.

There are no additional actual costs the agency will incur as a result of implementing the information collection.

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

This is a new form being used by our Live Poultry Dealers to provide the required disclosure information as required by our updated and new regulations. There is no previous reporting to compare.

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.

There are no plans to publish the information obtained through this collection. Packers and Stockyards Division personnel will only view the data provided by the Live Poultry Dealer to their respective growers if it is part of a review of information completed on subject entities.

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.

When OMB approves the collection, AMS will add the appropriate expiration date that appears on the Notice of Action completing the approval and renewal.

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

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-1."

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 OMB 83-1 IS CHECKED "YES", THE FOLLOWING DOCUMENTATION SHOULD BE INCLUDED IN THE SUPPORTING STATEMENT TO THE EXTENT THAT IT APPLIES TO THE METHODS PROPOSED.