

2023 SUPPORTING STATEMENT
National Organic Program; Organic Livestock and Poultry Standards
OMB NO. 0581-0293
(Final Rule)
JUSTIFICATION

1.Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Organic Foods Production Act of 1990 (OFPA), 7 U.S.C. 6501-6524, is the statute from which the Agricultural Marketing Service (AMS) derives authority to administer the National Organic Program (NOP). Under AMS, the NOP oversees standards for the production and handling of organically produced agricultural products (7 CFR part 205).

To address multiple recommendations provided to the USDA Secretary by the National Organic Standards Board (NOSB), the NOP is issuing rulemaking to amend its regulations. This Organic Livestock and Poultry Standards (OLPS) final rule clarifies and expands on existing USDA organic requirements to support consistent interpretation and enforcement of organic livestock standards. This rulemaking supports the intent of OFPA, “to assure consumers that organically produced products meet a consistent standard” and to “establish national standards” for products marketed as organic (7 U.S.C. 6501).

All certified organic operations must develop and maintain an organic system plan (OSP) to comply with the USDA organic regulations (7 CFR 205.201). The OSP must include a description of practices and procedures to be performed and maintained, including their performance frequency. Under this final rule, organic livestock and poultry operations are subject to new reporting requirements. The amendments to §§ 205.238, 205.239, 205.241, and 205.242 require livestock and poultry operations to provide in their OSP specific documentation related to their production practices—including minimum space requirements, outdoor access, preventive health care practices (e.g., physical alterations, euthanasia, parasite prevention plans), and humane transportation and slaughter practices.

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.

Organic inspectors, certifying agents, State organic programs, and AMS will use the information collected due to the final rule to verify that organic management practices meet the requirements of the USDA organic regulations and OFPA.

The collected information will enable inspectors, certifying agents, and State organic programs to make consistent certification decisions and facilitate fairness and transparency for

the organic producers and consumers participating in this market.

The collected information supports AMS' mission, program objectives, and management needs by enabling AMS to assess the efficiency and effectiveness of the NOP. This information informs AMS decisions when evaluating compliance with OFPA and the USDA organic regulations, administering the NOP, and establishing the cost of the USDA organic program. Finally, this information supports AMS's direct enforcement and response to noncompliances with the USDA organic regulations.

Currently, under the existing USDA organic regulations and information collection request, each operation must maintain and make available upon request, for five years, such records as are necessary to verify compliance (§ 205.103). Certifying agents and State organic programs must maintain records for five to 10 years, depending on the type of record (§ 205.510(b)), and 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 they report the findings to the certifying agent, who maintains the records of inspection.

Under the 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 as part of an organic system plan specific documentation of livestock and poultry living conditions, including permission of animals' natural behaviors, minimum space, outdoor access, health care practices (e.g., physical alterations, annual animal status updates, euthanasia), and animal handling and transport during slaughter.

Each certifier seeking to continue USDA accreditation for livestock will need to submit updated information documenting its business practices, including certification, enforcement procedures, recordkeeping procedures, and personnel qualifications per the new livestock and poultry requirements (§ 205.504). The rule's amendments will likely require certifiers to review and update the TM-10CG at the time of their accreditation renewal. Specifically, the rule may require updates/modifications to policies, procedures, and training for staff submitted with the form. 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 their certification review personnel and inspectors, and provide results of personnel performance evaluations and an internal review of their 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.

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.

AMS encourages operations, inspectors, certifiers, 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, maintaining business accounting records, and sending 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.

All certifying agents currently submit information to the NOP via the Organic Integrity Database website or e-mail. NOP audits of certification agencies have shown that all certifiers use electronic data creation, storage, and the internet. To minimize disruption to the normal business practices of the certifying agents, AMS permits certifying agencies to develop their own format for documenting how they and the operations they certify meet the new requirements of this rulemaking. AMS also permits certifying agencies to develop their own format for collecting information from certified operations.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

AMS has made every effort to contact appropriate programs within the USDA and other government agencies to ensure that the NOP is not duplicating information collection. For example:

- To verify animal transport, handling, and slaughter requirements of this rulemaking are met, NOP will accept records generated by other authorities.
- Much of the information NOP requires is routinely collected for tax purposes by other local, state, and federal governments and accepted in various forms (e.g., names and addresses), reducing the information collection burden on operations.
- Some local, state, or federal governments may require operators to report maps and other information collected in the operation's OSP.

The NOP has not found that this information is being collected through other means and therefore is not duplicated elsewhere.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize 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. USDA organic certification is a voluntary regulatory program. Small businesses or other small

entities affected by the information collection requirements of this rulemaking are not required to continue participation in the program. However, the NOP has made every effort to minimize this rule's information collection burden on small businesses and other small entities by conducting multiple economic analyses and considering various alternatives. NOP has implemented some changes in the final rule to minimize compliance and paperwork burden, including providing alternative stocking density metrics and adding flexibility to transport requirements. Based on our economic analyses, NOP does not believe the information collection required by this rule will have a significant economic impact on a substantial number of small entities.

Information collection processes are periodically reviewed to avoid unnecessary duplication by industry and public sector agencies. At the present time, there is no duplication between Federal agencies.

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 USDA would not be able to carry out the mandate of Congress as described in OFPA. OFPA includes direction that certified organic operations be inspected annually. 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 information updates after their initial application has been submitted. Certifying agents are encouraged to use or modify existing documents to meet the accreditation requirements 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.

No respondents associated with this information collection are required to report more than quarterly.

Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

No respondents associated with this information collection are required to respond in fewer than 30 days.

Requiring respondents to submit more than an original and two copies of any document.

No respondents associated with this information collection are required to submit more than an original and two copies of any document. Document types are described above in Item 2.

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

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.

Respondent information collected is not connected to a statistical survey.

Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

Respondents are not required to use statistical data classifications that have not been reviewed and approved by OMB.

That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.

No unsupported pledge of confidentiality is used in this information collection. Confidentiality is addressed in OFPA ([7 U.S.C. 6519\(a\)\(5\)](#)), which states:

§6519. Recordkeeping, investigations, and enforcement

(a) Recordkeeping

...

(5) Confidentiality

Except as provided in section 6506(a)(9) of this title, or as otherwise directed by the Secretary or the Attorney General for enforcement purposes, no officer, employee, or agent of the United States shall make available to the public any information, statistic, or document obtained from, or made available by, any person under this chapter, other than in a manner that ensures that confidentiality is preserved regarding—

- (A) the identity of all relevant persons (including parties to a contract); and*
- (B) proprietary business information.*

Certifying agents must also remain compliant with the USDA organic regulations ([7 CFR 205.501\(a\)\(10\)](#)), which incorporates additional certifying agent confidentiality requirements from OFPA ([7 U.S.C. 6515\(f\)](#)). The USDA organic regulations state:

§ 205.501 General requirements for accreditation.

(a) A private or governmental entity accredited as a certifying agent under this subpart must:

...

(10) Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (except for the Secretary or the applicable State organic program's governing State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations in this part, except:

(i) For information that must be made available to any member of the public, as provided for in § 205.504(b)(5);

(ii) For enforcement purposes, certifying agents must exchange any compliance-related information that is credibly needed to certify, decertify, or investigate an operation, including for the purpose of verifying supply chain traceability and audit trail documentation; and

(iii) If a certified operation's proprietary business information is compliance-related and thus credibly needed to certify, decertify, or investigate that operation, certifying agents may exchange that information for the purposes of enforcing the Act, but the information in question still retains its proprietary character even after it is exchanged and all of the certifying agents that are involved in the exchange still have a duty to preserve the confidentiality of that information after the exchange.

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 that require respondents to submit proprietary trade secret, or other confidential information. Confidentiality is addressed in OFPA ([7 U.S.C. 6519\(a\)\(5\)](#)), which states:

§6519. Recordkeeping, investigations, and enforcement

(a) Recordkeeping

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(5) Confidentiality

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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.

Responses to Public Comment

In the proposed rule (87 FR 48562, August 09, 2022), AMS invited comments from the public on the estimated reporting and recordkeeping burden required because of this rulemaking. Public comments relating to the paperwork burden generally indicated that the reporting and recordkeeping burdens were low and that the proposed changes should be implemented.

AMS's responses to comments on five specific questions posed by AMS follow.

First, AMS sought comments on:

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility.

(Comment) Two commenters indicated that the paperwork requirement associated with verifying transport times would be excessively burdensome for operations and also questioned if AMS had considered Department of Transportation (DOT) Hours of Service (HOS) regulations (49 CFR 385.1(k)(1)). AMS's complete response to this comment is discussed in more detail in TRANSPORT AND SLAUGHTER.

(Response) In the final rule, AMS removed a proposed requirement for organic food and water after more than 12 hours of transport. Instead, the final rule requires that operations describe how animal welfare is maintained if transport time exceeds eight hours. The final rule continues to require that operations keep records of transport times. AMS disagrees with comments that claimed transport records would be excessively burdensome. AMS believes that long transport times for animals can negatively impact animal health and welfare if proper measures are not taken, and records are essential for certifiers to assess transport times. Furthermore, the rule does not specify or require an exact form or format for these records, to provide flexibility and reduce burden for producers to meet the requirement.

AMS also requested comments on:

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.

(Comment) A commenter indicated that implementation of the new requirements of this rulemaking will take longer than one year. AMS's response to this comment and other comments regarding the implementation timeline for this rulemaking is discussed in section IV. F, IMPLEMENTATION AND COMPLIANCE DATES. This commenter also indicated that the cost of this new burden will be higher than what was estimated in the proposed rule. They stated that this is because livestock inspectors collect more than the \$30.70 per hour rate reported in the

proposed rule. Finally, the commenter indicated that additional reporting and recording at annual organic inspections was not fully accounted for, implying that inspections will take longer than AMS estimated.

(Response) In the proposed rule, AMS estimated inspector wages and benefits by referencing data from the U.S. Bureau of Labor Statistics on Agricultural Inspectors (Standard Occupational Classification (SOC) code 45-2011), and average civilian employer compensation costs.^{84, 85} The commenter did not propose a different wage rate for inspectors that AMS could verify, nor did they suggest a different estimate of how long inspections will take to account for the new requirements. Therefore, AMS has not changed the methods used to estimate wages and benefits. However, in this final rule, AMS has updated the wages, benefits, and data on the number of operations (new, existing, and exempt), certifying agents, and inspectors to update the reporting and recordkeeping burden. The estimates of reporting and recordkeeping burden are discussed in sections *Summary of Reporting Burden* and *Summary of Recordkeeping Burden*.

Additionally, AMS asked for comments on, “Ways to enhance the quality, utility, and clarity of the information to be collected.”

(Comment) A commenter stated that AMS should reduce the paperwork burden on organic operations in areas where the reduction would not negatively impact animal welfare or overall compliance with the USDA organic regulations. The commenter did not state what portion(s) of the proposed reporting and recordkeeping requirements were unnecessary.

(Response) Under the PRA (44 U.S.C. 3501-3520) and in response to the comment, AMS has sought regulatory options that minimize paperwork burden. For example, AMS removed a specific requirement that would have required producers to keep detailed records related to lameness in a herd.

AMS also sought comments on:

Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

(Comment) A commenter stated that poultry stocking density definitions and standards should refer to the number of animals in addition to the weight. Other commenters also stated that requiring slaughter facilities to provide AMS with any noncompliance records or corrective actions issued by the USDA Food Safety and Inspection Service (FSIS) would be duplicative and unnecessary. They stated that FSIS inspectors are specifically trained to understand the Poultry Products Inspection Act (PPIA) and the Verification of Good Commercial Practices for Poultry, and therefore, FSIS should continue to oversee poultry slaughter, not AMS. Finally, they stated that requiring operations to report this information would possibly create jurisdictional issues between FSIS and AMS.

(Response) Organic slaughter requirements and AMS’s justification for these regulatory changes are described in section IV. E, TRANSPORT AND SLAUGHTER. As described in that section, organic certifying agents and inspectors are not expected to determine an organic slaughter

facility's compliance with these laws and regulations, as that is the responsibility of other government regulatory authorities (such as FSIS). However, organic slaughter facilities must provide records of noncompliance and corrective actions that resulted from FSIS regulatory and enforcement action. These FSIS records are a valuable source of information that certifying agents can use to determine an operation's compliance with the organic regulation and this rule's animal welfare requirements. AMS has not changed the estimation of reporting and recordkeeping burden for the new information collection requirements of this rulemaking based on these comments.

Finally, AMS requested comments on its estimates and assumptions:
AMS estimates that the total number of certified organic operations will grow by 5.6% annually, based on the increase in operations recorded in INTEGRITY during the last 12 months. Is this a reasonable and accurate projection of future growth, given the additional burdens imposed by this proposed rulemaking?

(Comment) A few commenters expressed concern with the estimated future growth presented in the proposed rule. One stated that the proposed changes will impose additional financial burdens with little benefits to organic poultry operations. Commenters expressed concern that the number of organic operations would decrease rather than increase.

(Response) AMS disagrees with the comment that this rulemaking will have little benefit on organic poultry operations. This rule clarifies and expands on regulations to support consistent interpretation and enforcement of organic livestock and poultry standards. The final rule specifies requirements for outdoor space (per bird), access to outdoor space from poultry houses (exit areas), and indoor thresholds for ammonia gas. The rule also elaborates on the current standards (7 CFR 205.239) related to situations that warrant temporary confinement of animals, among other requirements.

AMS investigated the concern that organic operations will decrease and reevaluated the data used to estimate the growth of the organic livestock industry. In the proposed rule, data on overall organic operations was used to calculate an estimated growth rate. In response to comments, AMS refines the data in this final rule to focus on organic livestock operations. AMS searched organic livestock operations listed in the Organic Integrity Database on January 01, 2022, and January 01, 2023.⁸⁶ Based on this data—5,445 certified livestock operations in 2022 and 5,883 certified livestock operations in 2023—AMS changes the estimated future growth of organic livestock operations to eight percent (8%). AMS has updated the estimated reporting and recordkeeping burden accordingly. The estimated reporting and recordkeeping burden is discussed in sections *Summary of Reporting Burden* and *Summary of Recordkeeping Burden*.

Public Comments Conclusion

The estimated reporting and recordkeeping burden for the new information collection requirements of this rulemaking are summarized in the sections *Summary of Reporting Burden* and *Summary of Recordkeeping Burden* below. In general, public comment received did not dispute AMS's estimate of the information collection reporting and recordkeeping burden presented in the proposed rule.

In the proposed rule, AMS estimated that new and current organic operations would need four hours to incorporate the new reporting and recordkeeping requirements of this rulemaking into their OSPs (including one-time preparation of all practices, procedures, and information necessary to comply with these new requirements). AMS made changes in this final rule that decrease required reporting and/or recordkeeping related to lameness and increased the frequency of ammonia monitoring (see sections on Livestock Care and Production Practices Standard and Avian Living Conditions). However, AMS does not believe these changes will substantially affect the time operations need to incorporate the new requirements into their OSPs. Tables 1 and 2 describe the reporting and recordkeeping burden in more detail.

AMS has updated the following data used to estimate reporting and recordkeeping burden:

1. Wage and benefit data from the U.S. Bureau of Labor Statistics, Organization for Economic Co-Operation and Development (OECD), and the World Bank.
2. Number of new, existing, and exempt organic operations.
3. Number of domestic and foreign livestock inspectors and certifying agents.

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 consulted with the USDA Food Safety Inspection Service (FSIS) and the Animal Plant Health Inspection service (APHIS), and it maintains a working relationship with potentially affected regulatory agencies to ensure compliance 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 receive public comment on issues of concern to the industry, to discuss the suitability of the USDA organic regulations to those concerns, and ultimately to make recommendations to the Secretary about potential amendments to the organic regulations. The suggested amendments may include adding or removing substances from the National List of Allowed and Prohibited Substances or rulemaking that changes organic practice standards. Over the period of 1994 to 2011, the NOSB held public meetings and made nine recommendations for AMS regarding livestock welfare. These recommendations incorporated input from the livestock industry experts, public-interest groups, and academia.

In addition, the Organic Trade Association (OTA), based in Brattleboro, Vermont, encourages and assists all sectors of organic stakeholders to provide public comment on all federal register dockets and NOSB meetings, and to participate in 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

During the rule’s comment period, AMS received specific comments on information collection from representatives of the groups expected to be impacted by the rule, as noted above. These groups included organic producers, accredited certifying agents, and various industry associations. AMS will consult with representatives of these impacted groups after three years to ensure the accuracy of the information collection.

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 reenumeration 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.

Respondents are provided confidentiality assurance on documents (i.e., requests that they may temporarily vary from the organic standard due to an extenuating circumstance) they may submit to AMS through their certifying agent. As agents accredited by AMS, certifying agents (along with all government employees and government contractors) are considered an “agent of the United States” and are held to the confidentiality statues in the OFPA ([7 U.S.C. 6519\(a\)\(5\)](#)), which states:

§6519. Recordkeeping, investigations, and enforcement

(a) Recordkeeping

...

(5) Confidentiality

Except as provided in section 6506(a)(9) of this title, or as otherwise directed by the Secretary or the Attorney General for enforcement purposes, no officer, employee, or agent of the United States shall make available to the public any information, statistic, or document obtained from, or made available by, any person under this chapter, other than in a manner that ensures that confidentiality is preserved regarding—

(A) the identity of all relevant persons (including parties to a contract); and

(B) proprietary business information.

Certifying agents must also remain compliant with the USDA organic regulations ([7 CFR 205.501\(a\)\(10\)](#)), which incorporates additional certifying agent confidentiality requirements from OFPA ([7 U.S.C. 6515\(f\)](#)). The USDA organic regulations state:

§ 205.501 General requirements for accreditation.

(a) A private or governmental entity accredited as a certifying agent under this subpart must:

...

(10) Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (except for the Secretary or the applicable State organic program's governing State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations in this part, except:

(i) For information that must be made available to any member of the public, as provided for in § 205.504(b)(5);

(ii) For enforcement purposes, certifying agents must exchange any compliance-related information that is credibly needed to certify, decertify, or investigate an operation, including for the purpose of verifying supply chain traceability and audit trail documentation; and

(iii) If a certified operation's proprietary business information is compliance-related and thus credibly needed to certify, decertify, or investigate that operation, certifying agents may exchange that information for the purposes of enforcing the Act, but the information in question still retains its proprietary character even after it is exchanged and all of the certifying agents that are involved in the exchange still have a duty to preserve the confidentiality of that information after the exchange.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No requested information is of a sensitive nature or commonly considered private. 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. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

THE STATEMENT SHOULD:

1. 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.

2. 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.

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

Five respondent types—certified organic, applicants for organic certification, 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 domestic¹ and foreign² wages and benefits.^{3,4}

1 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.

2 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>.

3 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>

4 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

For the 7,346 reporting and recordkeeping respondents, the total information collection for both reporting and recordkeeping is 113,934 hours with 40,348 total responses, 5.49 responses per respondent, and 2.82 hours per response at a total burden cost of \$4,929,563 for both reporting and recordkeeping. Estimates of the burden of collection of information have been summarized on the AMS 71 Grid (supplementary document).

Reporting Burden

Total All Reporting Burden Cost: \$4,287,105

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 hours per respondent.

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

Estimated Number of Reporting Respondents: 6,663

Estimated Number of Reporting Responses: 33,194

Estimated Total Reporting Burden on Respondents: 100,310 hours

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

AMS estimated a total of 6,663 reporting respondents, with 33,194 total responses (in the first year of implementing the new reporting requirements, after which there are no additional responses), and an overall burden of 100,310 reporting hours. AMS estimated 15 burden hours per respondent, costing \$643 per respondent and \$4,287,105 for all respondents. The data used to estimate reporting burden is displayed in more detail in Table 1.

Organic Operations. AMS estimated a total of 6,412 reporting respondents, with 12,824 total responses (in the first year of implementing the new reporting requirements, after which there are no additional responses), and an overall burden of 38,472 reporting hours. AMS estimated eight burden hours per respondent, costing \$377 per respondent, and \$2,414,924 for all respondents. The data used to estimate reporting burden is displayed in more detail in Table 1.

Accredited Certifying Agents. AMS estimated a total of 58 reporting respondents, with 13,766 total responses (in the first year of implementing the new reporting requirements, after which there are no additional responses), and an overall burden of 35,229 hours. AMS estimated 607 burden hours per respondent, costing \$25,927 per respondent and \$1,503,778 for all respondents. The data used to estimate reporting burden is displayed in more detail in Table 1.

certifying agents. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

Inspectors. AMS estimated a total of 192 reporting respondents, with 6,604 total responses (in the first year of implementing the new reporting requirements, after which there are no additional responses), and an overall burden of 13,784 hours. AMS estimated 72 burden hours per respondent, costing \$1,919 per respondent, and \$368,308 for all respondents. The data used to estimate reporting burden is displayed in more detail in Table 1.

State Organic Programs. AMS estimated a total of one reporting respondent, with one response (in the first year of implementing the new reporting requirements, after which there are no additional responses), an overall burden of two hours, resulting in a total cost of \$95 to the respondent. The data used to estimate reporting burden is displayed in more detail in Table 1.

Table 1: Summary of Reporting Burden						
Organic operations	Number of respondents^{5,6}	Total reporting hours	Average respondent hours	Wage + benefits^{7,8,9,10,11,12}	Average respondent costs	Total reporting costs
Certified livestock operations - new and existing - Domestic	5,334	42,673	8	\$49.40	\$395	\$2,108,048
Certified livestock operations - new and existing - Foreign	1,078	8,623	8	\$35.59	\$285	\$306,875
<i>Operations total</i>	6412	51296	8		\$377	\$2,414,924
USDA	Number of	Total	Average	Wage + benefits	Average	Total

5 USDA NOP OID: Organic Integrity Database, <https://organic.ams.usda.gov/integrity/>.

6 USDA NASS: Surveys of organic operations report that operations exempt from certification make up 11.5% of certified organic operations. *Census of Agriculture, 2014 Organic Survey. Updated April 2016.* <https://agcensus.library.cornell.edu/wp-content/uploads/2012-Organic-Survey-ORGANICS.pdf>.

7 U.S. BLS Inspectors: Bureau of Labor Statistics. Mean hourly wage for Agricultural Inspectors (Standard Occupational Classification (SOC) code 45-2011) was \$22.80. *Occupational Employment and Wage Statistics. "May 2021 National Occupational Employment and Wage Estimates United States."* Published May 2021. https://www.bls.gov/oes/current/oes_nat.htm#top.

8 U.S. BLS Benefits: Bureau of Labor Statistics. Domestic benefits were reported at 31 percent of total average civilian employer compensation costs. *Economic News Release. Employer Costs for Employee Compensation Summary. "EMPLOYER COSTS FOR EMPLOYEE COMPENSATION - December 2022."* USDL-23-0488. Published March 17, 2023. <https://www.bls.gov/news.release/ecec.nr0.htm>.

9 World Bank – Foreign wages: The data reports that GDP per capita for OECD member countries is 70.1% of U.S. GDP in 2021. Accessed March 22, 2023. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

10 U.S. BLS Operations: Bureau of Labor Statistics. Mean hourly wage for Farmers, Ranchers, and Other Agricultural Managers (Standard Occupational Classification (SOC) code 11-9013) was \$37.71. *Occupational Employment and Wage Statistics. "May 2021 National Occupational Employment and Wage Estimates United States."* Published May 2021. https://www.bls.gov/oes/current/oes_nat.htm#top.

11 OECD – Foreign benefits: The source of foreign benefit rates is based on the average Organization for Economic Co-Operation and Development (OECD) member countries tax wedge rate of 34.58% in 2021. Accessed March 22, 2023. <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>.

12 U.S. BLS Certifiers and State Organic Programs (SOP): Bureau of Labor Statistics. Mean hourly wage for Compliance Officers (Standard Occupational Classification (SOC) code 13-1041) was \$36.45. *Occupational Employment and Wage Statistics. "May 2021 National Occupational Employment and Wage Estimates United States."* Published May 2021. https://www.bls.gov/oes/current/oes_nat.htm#top.

accredited certifiers	respondents	reporting hours	respondent hours		respondent cost	reporting costs
Certifiers - Domestic	36	21,866	607	\$47.75	\$29,003	\$1,044,101
Certifiers - Foreign	22	13,363	607	\$34.40	\$20,894	\$459,677
<i>Certifiers total</i>	<i>58</i>	<i>35229</i>	<i>607</i>		<i>\$25,927</i>	<i>\$1,503,778</i>
Inspectors	Number of respondents	Total reporting hours	Average respondent hours	Wage + benefits	Average respondent cost	Total reporting costs
Inspectors - Domestic	113	8,555	76	\$29.87	\$2,257	\$255,529
Inspectors - Foreign	79	5,228	66	\$21.57	\$1,433	\$112,778
<i>Inspectors total</i>	<i>192</i>	<i>13784</i>	<i>72</i>		<i>\$1,919</i>	<i>\$368,308</i>
State Organic Programs	Number of respondents	Total reporting hours	Average respondent hours	Wage + benefits	Average respondent cost	Total reporting costs
State Organic Programs	1	2	2	\$47.75	\$95	\$95
<i>State Organic Programs total</i>	<i>1</i>	<i>2</i>	<i>2</i>		<i>\$95</i>	<i>\$95</i>
Total reporting burden - all respondents	6663	100310	15		\$643	\$4,287,105

Recordkeeping Burden

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 7,346 reporting and recordkeeping respondents, the total information collection for both reporting and recordkeeping is 113,934 hours with 40,348 total responses, 5.49 responses per respondent, and 2.83 hours per response at a total burden cost of \$4,929,563 for both reporting and recordkeeping. Estimates of the burden of collection of information have been summarized on the AMS 71 Grid (supplementary document).

Total All Recordkeeping Burden Cost: \$642,458

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average two hours per respondent.

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

Estimated Number of Recordkeeping Respondents: 7,154

Estimated Total Recordkeeping Burden on Respondents: 13,624 hours

AMS estimated a total of 7,154 recordkeeping respondents (in the first year of implementing the new recordkeeping requirements, after which there are no additional responses). AMS estimated two burden hours per respondent and 13,624 total burden hours for all respondents, costing \$90 per respondent and \$642,458 for all respondents. The data used to estimate the recordkeeping burden is displayed in more detail in Table 2.

Organic Operations. AMS estimated a total of 7,095 recordkeeping respondents (in the first year of implementing the new recordkeeping requirements, after which there is no additional recordkeeping). AMS estimated two burden hours per respondent and 13,507 total burden hours for all respondents, costing \$90 per respondent and \$637,459 for all respondents. The data used to estimate the recordkeeping burden is displayed in more detail in Table 2.

Accredited Certifying Agents. AMS estimated a total of 58 recordkeeping respondents (in the first year of implementing the new recordkeeping requirements, after which there are no additional responses). AMS estimated two burden hours per respondent and 116 total burden hours for all respondents, costing \$85 per respondent and \$4,952 for all respondents. The data used to estimate the recordkeeping burden is displayed in more detail in Table 2.

State Organic Programs. AMS estimated a total of one recordkeeping respondent (in the first year of implementing the new recordkeeping requirements, after which there are no additional responses), an overall burden of one hour, resulting in a total cost of \$48 to the respondent. The data used to estimate the recordkeeping burden is displayed in more detail in Table 2.

Table 2: Summary of Recordkeeping Burden						
Organic operations	Number of respondents	Total recordkeeping hours	Average respondent hours	Wage + benefits	Average respondent costs	Total recordkeeping costs
Certified livestock operations - new and existing - Domestic	5,334	10,668	2	\$49.40	\$99	\$527,012
Certified livestock operations - new and existing - Foreign	1,078	2,156	2	\$35.59	\$71	\$76,719
Exempt livestock operations (11.5% of certified)	683	683	1	\$49.40	\$49	\$33,728

<i>Operations total</i>	7095	13507	2		\$90	\$637,459
USDA accredited certifiers	Number of respondents	Total recordkeeping hours	Average respondent hours	Wage + benefits	Average respondent costs	Total recordkeeping costs
Certifiers - Domestic	36	72	2	\$47.75	\$95	\$3,438
Certifiers - Foreign	22	44	2	\$34.40	\$69	\$1,514
<i>Certifiers total</i>	58	116	2		\$85	\$4,952
State Organic Programs	Number of respondents	Total recordkeeping hours	Average respondent hours	Wage + benefits	Average respondent costs	Total recordkeeping costs
State Organic Programs	1	1	1	\$47.75	\$48	\$48
<i>State Organic Programs total</i>	1	1	1		\$48	\$48
Total recordkeeping burden - all respondents	7154	13624	2		\$90	\$642,458

13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

The hourly burden estimate resulting from this information collection is described in Item 12. There is no other annual cost burden to respondents for recordkeepers to describe here as there are no capital and start-up costs associated with this information collection.

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.

There is no (a) capital and start-up cost estimated or (b) operation maintenance or service purchasing cost associated with this information 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. To meet these requirements, certified operations already have methods in place to update their OSPs and certifying agents have existing systems and procedures to collect, audit, and store these records.

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.

Burden estimates and their associated cost are described in Item 12. AMS does not expect a wide range of recordkeeping or reporting burden due to this collection of information.

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. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

AMS does not expect any documents submitted due to the final rule to impact the existing annualized cost of conducting business at AMS or the NOP. We estimate the current annual cost to operate the NOP at approximately \$12 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 reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

This is a new collection.

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

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."

A. Certification Statement

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

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

This information collection does not employ statistical methods.

2. Describe the procedures for the collection of information including:

- Statistical methodology for stratification and sample selection,
- Estimation procedure,
- Degree of accuracy needed for the purpose described in the justification,

- **Unusual problems requiring specialized sampling procedures, and**
- **Any use of periodic (less frequent than annual) data collection cycles to reduce burden.**

This information collection does not employ statistical methods.