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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Doc. No. [AMS-NOP-16-0010; NOP-15-15]

National Organic Program: Request for an Extension of a Currently Approved Information Collection.

AGENCY: Agricultural Marketing Service, USDA

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension of the currently approved information collection National Organic Program (NOP) Reporting and Recordkeeping Requirements.

DATES: Comments received by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] will be considered.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments must be sent to Stacy Jones King, Agricultural Marketing Specialist, National Organic Program, AMS/USDA, 1400 Independence Ave., SW., Room 2642-S., Ag Stop 0268, Washington, DC 20250-0268 or by Internet: <http://www.regulations.gov>. Written comments responding to this notice should be identified with the document number AMS-NOP-16-0010; NOP-15-15. It is USDA's intention to have all comments concerning this notice, including names and addresses when provided, regardless of submission procedure used, available for viewing on the Regulations.gov (<http://www.regulations.gov>) Internet site. Comments submitted in response to this notice will also be available for viewing in person at USDA-AMS,

National Organic Program, Room 2642-South Building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to 12 noon and from 1:00 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this notice are requested to make an appointment in advance by calling (202) 720-3252.

FOR FURTHER INFORMATION CONTACT: Paul I. Lewis, Ph.D., Director, Standards Division, National Organic Program, USDA-AMS, 1400 Independence Ave., SW., Room 2642-So., Ag Stop 0268, Washington, D.C. 20250, Telephone: (202) 720-3252, Fax: (202) 205-7808.

SUPPLEMENTARY INFORMATION:

Title: National Organic Program.

OMB Number: 0581-0191.

Expiration Date of Approval: December 31, 2016.

Type of Request: Extension of a currently approved information collection.

Abstract: The Organic Foods Production Act of 1990 (OFPA) as amended (7 U.S.C. 6501 - 6522) mandates that the Secretary develop the NOP to accredit eligible State program's governing State officials or private persons as certifying agents who would certify producers or handlers of agricultural products that have been produced using organic methods as provided for in OFPA. The USDA organic regulation (7 CFR part 205): (1) established national standards governing the marketing of certain agricultural products as organically produced products; (2) assures consumers that organically produced products meet a consistent standard; and (3) facilitates interstate commerce in fresh and processed food that is organically produced.

Reporting and recordkeeping are essential to the integrity of the organic

certification system. They create a paper trail that is a critical element in carrying out the mandate of OFPA and NOP. They serve the AMS mission, program objectives, and management needs by providing information on the efficiency and effectiveness of the program. The information affects decisions because it is the basis for evaluating compliance with OFPA and NOP, for administering the program, for management decisions and planning, and for establishing the cost of the program. It supports administrative and regulatory actions in response to noncompliance with OFPA and NOP.

In general, the information collected is used by USDA, State program governing State officials, and certifying agents. It is created and submitted by State and foreign program officials, accredited certifying agents, organic inspectors, certified organic producers and handlers, those seeking accreditation or certification, and parties interested in changing the National List of Allowed and Prohibited Substances at sections 205.600 through 205.607. Additionally, it causes most of these entities to have procedures and space for recordkeeping.

USDA. USDA is the accrediting authority. USDA accredits domestic and foreign certifying agents who certify domestic and foreign organic producers and handlers, using information from the agents documenting their business operations and program expertise. USDA also permits States to establish their own state organic programs after the programs are approved by the Secretary, using information from the States documenting their ability to operate such programs and showing that such programs meet the requirements of OFPA and NOP.

States. States may operate their own organic programs. State officials obtain the Secretary's approval of their programs by submitting information to USDA documenting

their ability to operate such programs and showing that such programs meet the requirements of OFPA and NOP. The Secretary, or delegated representative, will review a State organic program not less than once during each 5-year period following the date of the initial program approval. To date, one State organic program is approved by USDA.

Certifying agents. Certifying agents are State, private, or foreign entities who are accredited by USDA to certify domestic and foreign producers and handlers as organic in accordance with OFPA and NOP. Each entity wanting to be an agent seeks accreditation from USDA by submitting information documenting its business operations and program expertise. Accredited certifying agents determine if a producer or handler meets organic requirements, using detailed information from the operation documenting its specific practices and on-site inspection reports from organic inspectors. Currently, there are 79 certifying agents accredited under NOP.

Administrative costs for reporting, disclosure of information, and recordkeeping vary among certifying agents. Factors affecting costs include the number and size of clients, the categories of certification provided, and the type of systems maintained.

When an entity applies for accreditation as a certifying agent, it must provide a copy of its procedures for complying with recordkeeping requirements (§ 205.504(b)(3)). Once accredited, agents have to make their records available for inspection and copying by authorized representatives of the Secretary (§ 205.501(a)(9)). USDA charges certifying agents for the time required to do these document reviews. Audits require less time when the documents are well organized and centrally located.

Recordkeeping requirements for certifying agents are divided into three categories of records with varying retention periods: (1) records created by certifying agents

regarding applicants for certification and certified operations, maintain 10-years, consistent with OFPA's requirement for maintaining all records concerning activities of certifying agents; (2) records obtained from applicants for certification and certified operations, maintain 5-years, the same as OFPA's requirement for the retention of records by certified operations; and (3) records created or received by certifying agents regarding accreditation, maintain 5-years, consistent with OFPA's requirement for renewal of agent's accreditation (§ 205.510(b)).

Organic inspectors. Inspectors, on behalf of certifying agents, conduct on-site inspections of certified operations and operations applying for certification. They report the findings from their inspection to the certifying agent. Inspectors are the agents themselves, employees of the agents, or individual contractors. We estimate that about half are certifying agents or their employees and half are individual contractors. Individuals who apply for positions as inspectors submit to the agents information documenting their qualifications to conduct such inspections. According to International Organic Inspectors Association (IOIA), there are at least 250 inspectors currently providing services.¹

Producers and handlers. Producers and handlers, domestic and foreign, apply to certifying agents for organic certification, submit detailed information documenting their specific practices, provide annual updates to continue their certification, and report changes in their practices. Producers include farmers, livestock and poultry producers, and wild crop harvesters. Handlers include those who transport or transform food and include millers, bulk distributors, food manufacturers, processors, or packers. Some handlers are part of a retail operation that processes organic products in a location other

¹ Not all inspectors are members of IOIA.

than the premises of the retail outlet. Based upon AMS NOP's 2015 List of certified organic operations, there are approximately 31,000 certified operations globally². Based on past growth of the industry, AMS estimates the addition of 1,900 new certified organic operations a year. In addition, AMS estimates that there are 7,650 producers exempt from certification, but who must still maintain records pursuant to section 205.101(c).

Administrative costs for reporting and recordkeeping vary among certified operators. Factors affecting costs include the type and size of operation, and the type of systems maintained.

AMS believes that operations using product labels containing the term "organic" handle an average of 20 labels annually. Based upon AMS NOP's 2015 List of certified organic operations, there are over 13,100 certified organic handlers. For each certified handler, AMS estimates that the average annual burden to develop product labels with organic claims is one hour per product label times 20 product labels per handler. The annual burden will be lower for smaller operations and higher for large operations that produce a significant volume of organic processed product.

Interested parties. Any interested party may petition the National Organic Standards Board (NOSB) for the purpose of having a substance evaluated for recommendation to the Secretary for inclusion on or deletion from the National List. Based on the number of petitions received in the past, AMS estimates 25 parties petitioning the NOSB to amend the National List in a given year. The annual burden for each interested party to prepare a complete petition is an average of 30 hours.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4.79 hours per response.

² AMS NOP 2012 List of certified organic operations. Available at: <http://apps.ams.usda.gov/nop/>

Respondents: Producers, handlers, certifying agents, inspectors and State, Local or Tribal governments and interested parties.

Estimated Number of Respondents: 31,329.

Estimated Number of Responses: 1,007,189.

Estimated Number of Responses per Respondent: 32.15.

Estimated Total Annual Burden on Respondents: 4,826,189.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) 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.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Authority: 7 U.S.C. 6501-6522

Dated: March 22, 2016

Elanor Starmer
Administrator
Agricultural Marketing Service

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