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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM-06-09]

Request for an Extension of and Revision to 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 intention to request approval from the Office of Management and Budget, for an extension of and revision to the currently approved information collection National Organic Program (NOP) Record Keeping Requirements.

DATES: Comments received by December 18, 2006 will be considered.

Additional Information or Comments: Contact Toni Strother, National Organic Program, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 4008-So., Ag Stop 0268, Washington, DC, 20250, telephone (202) 720-3252, fax (202) 205-7808.

SUPPLEMENTARY INFORMATION:

Title: National Organic Program.

OMB Number: 0581-0191.

Expiration Date of Approval: May 31, 2007.

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

Abstract: The Organic Foods Production Act of 1990 (OFPA) as amended (7 U.S.C. 6501 *et seq.*) mandates that the Secretary develop a 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. This regulation: (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, peer review panel members, accredited certifying agents, organic inspectors, certified organic producers and handlers, those seeking accreditation or certification, and parties interested in changing the National List. Additionally, it necessitates that all of these entities 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 organic certification 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 certification 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 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, two State organic certification programs have been approved by USDA. The initial burden for each State organic certification program is an average of 40 hours or if calculated at a rate of \$32 per hour (rounded up to the next dollar) \$1,280. State organic certification programs require reporting and recordkeeping burdens similar to those required by the NOP. The average annual burden for States are 55 hours or if calculated at a rate of \$32 per hour (rounded up to the next dollar) \$1,760.

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, submitting information documenting its business operations and program expertise. Accredited 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. Initial estimates were based on 59 entities applying for accreditation (13 State certifiers, 36 private entities, 10 foreign entities). The initial burden for each State certifier was an average of 695 hours or if calculated at a rate of \$27 per hour (rounded up to the next dollar) \$18,765. The initial burden for each private or foreign entity was 700 hours or if calculated at a rate of \$27 per hour (rounded up to the next dollar) \$18,900. Currently, 95 certifying agents (16 State certifiers, 39 private entities, 40 foreign entities) have been accredited. The AMS anticipates receiving approximately, 3 new applications per year. Accredited certifying agents submit annual updates with an annual burden, for each certifying agent, of an average of 11 hours or if calculated at a rate of \$32 per hour (rounded up to the next dollar) \$352.

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 certified, agents have to make their records available for inspection and copying by authorized representatives of the Secretary (§ 205.501(a)(9)). The 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 (§ 205.5 10(b)).

Organic inspectors. Inspectors, on behalf of certifying agents, conduct on-site inspections of certified operations and operations applying for certification. They determine whether or not certification should continue or be granted and report their findings 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. Estimates: 293 inspectors (147 certifying agents and their employees, 146 individual contractors). The annual burden for each inspector is an average of 1 hour or if calculated at \$32 per hour (rounded up to the next dollar) \$32.

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, repackagers, or packers. Some handlers are part of a retail operation that processes organic products in a location other than the premises of the retail outlet.

The OFPA requires certified operators to maintain their records for 5 years. We estimate: 19,400 total operators (14,253 certified and 5,147 exempt), including 17,150 producers (12,176 certified and 4,974 exempt) and 2,250 handlers (1,977 certified and 273 exempt). The annual recordkeeping burden for each certified operator is an average of 5 hours or if calculated at \$32 per hour (rounded up to the next dollar) \$160.

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.

Research studies have indicated that operations using product labels containing the term "organic" handle an average of 20 labels annually and that there are about 1,977 handlers with the term organic on their label. An estimate of the time needed to develop labels for products sold, labeled, or represented as "100 percent organic," "organic," "made with organic (specified ingredients)," or which use the term organic to modify an ingredient in the ingredients statement is included. Also included is the time spent deciding about use of the USDA seal, a State emblem, or the seal, logo, or other identifying marks of a private certifying agent (§§ 205.300–205.310). Because the labeling requirements are in addition to Food and Drug Administration and Food Safety and Inspection Service requirements, the burden measurement does not include the hours necessary to develop the entire label. For purposes of calculating the burden, it is estimated that each handler develops 20 labels annually. Estimates: 1,977 certified handlers. The annual burden for each certified handler is an average of 1 hour per product label times 20 product labels per handler or if calculated at a rate of \$32 per hour (rounded up to the next dollar) \$640.

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. Estimates: 25 interested parties may petition the NOSB. The annual burden for each interested party

is an average of 104 hours or if calculated at \$32 per hour (rounded up to the next dollar) \$3,328.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.74 hours per response.

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

Estimated Number of Respondents: 16,095.

Estimated Number of Responses: 365,343.

Estimated Number of Responses per Respondent: 22.7.

Estimated Total Annual Burden on Respondents: 635,697.

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. Comments may be sent to: Mark A. Bradley, Associate Deputy Administrator, National Organic Program, USDA-AMS-TM-NOP, 1400 Independence Ave., SW., Room 4008-S0., Ag Stop 0268, Washington, DC 20250 or via the Internet at: Paperwork@usda.gov, or by fax at: (202) 205-7808. All comments received will be available for public inspection during regular business hours at the same address. Also, all comments to this notice will be available for viewing on the NOP homepage at <http://www.ams.usda.gov/nop>.

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: October 10, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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