

2019 SUPPORTING STATEMENT

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

OMB NO. 0581-0250

A. Justification

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

The 2002 (P.L. 107-171) and 2008 (P.L. 110-234), Farm Bills and the Consolidated Appropriations Act, 2016 (P.L. 114-113) amended the Agricultural Marketing Act of 1946 to require retailers to notify their customers of the country of origin of muscle cuts and ground lamb, chicken, and goat meat; wild and farm-raised fish and shellfish; perishable agricultural commodities; peanuts, pecans, and macadamia nuts; and ginseng. An interim final rule for mandatory Country of Origin Labeling (COOL) for fish and shellfish became effective on April 4, 2005. An interim final rule for the remaining covered commodities became effective on September 30, 2008. On January 15, 2009, a final rule was published for all covered commodities which became effective March 16, 2009. On May 23, 2013, a final rule was published to amend the definition of retailer and labeling requirements for meat muscle cut commodities derived from animals slaughtered in the United States. With the Consolidated Appropriations Act, 2016, Congress amended the Agricultural Marketing Act of 1946 to remove muscle cut beef and pork, and ground beef and pork commodities from COOL requirements. On March 2, 2016, AMS issued a final rule to remove mandatory COOL requirements for beef, pork, ground beef and ground pork to conform with the statute. Mandatory COOL requirements remain in full force and effect for all remaining covered commodities. Enforcement activities have been conducted since 2006 utilizing cooperative agreements established with State agencies as authorized by the statute. The previously approved information collection request expires on June 30, 2019.

2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.

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

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

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

3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.

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

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN ITEM 2 ABOVE.

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

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

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (domestic manufacturers and importers) as those having annual receipts of no more than \$7 million. Under these definitions, most manufacturers and importers that would be affected are considered small entities. We have estimated the number of respondents for this collection is

415,517 and we estimate that 300,342 (72%) are considered small businesses.

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

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

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

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

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

- **REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**
- **REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**
- **REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**
- **REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN 3 YEARS;**

- **IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS 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 DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR**
- **REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

8. **IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THESE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

As required by 5 CFR 1320.8(d) a 60-day notice for comments was published in the Federal Register on April 29, 2019, Vol. 84, No. 82, page 17994. No comments were received.

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

**MUST
EVERY 3
INFORMATION ACTIVITY
THERE MAY BE
PRECLUDE CONSULTATION IN A
CIRCUMSTANCES SHOULD BE**

**COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE
YEARS -- EVEN IF THE COLLECTION OF
IS THE SAME AS IN PRIOR PERIODS.
CIRCUMSTANCES THAT MAY
SPECIFIC SITUATION. THESE
EXPLAINED.**

The Agency is in continual contact with the following industry trade associations to gain better understanding of how retailers, suppliers, and producers handle and feel about the record requirements. The industry trade associations listed below represent the universe of industries, firms and establishments that have always been and continue to be subject to the COOL regulation. Accordingly, they are the same contacts that were listed in previous renewals of information collection requests.

Food Marketing Institute
2345 Crystal Drive, #800
Arlington, Virginia 22202
(202) 452-8444

National Fisheries Institute
7918 Jones Branch Drive, #700
McLean, Virginia 22102
(703) 524-8880

Produce Marketing Association
P.O. Box 6036
Newark, Delaware 19714
(302) 738-7100

National Grocers Association
1005 North Glebe Road, #250
Arlington, Virginia 22201
(703) 516-0700

The following industry consultations resulted in amended enforcement procedures since inception of the COOL regulation. AMS has not calculated the extent to which these amended procedures may have reduced the recordkeeping burden, and no adjustments have been made in recordkeeping hours as a result of these amendments.

Retail Review Procedural Amendments Not Previously Reported or Described in COOL ICR Submissions

In FY2014, the COOL Division held consultations with the Food Marketing Institute and the National Grocers Association to hear their members' concerns about COOL recordkeeping and information collection burdens. Two concerns raised included the time and expense for retail store facilities to gather records requested during retail reviews and the time required to respond to notices of noncompliance when a very few findings were cited.

Upon investigating the concern about producing records for a sample of products at the time of a retail review, the COOL Division found that fewer than 2% of all noncompliance findings related to recordkeeping prior to FY2014. Accordingly, verification of retailers' required maintenance of records was amended by eliminating the collection of up to five sample records at the initial store review. COOL-trained state employees contracted under Cooperative Agreements authorized by the statute review assigned store facilities for COOL compliance each year. These reviewers were instructed to interview the store representative by asking five questions to assess the retailer's compliance with COOL recordkeeping. Answers to the questions are recorded by the reviewer. No noncompliance is issued for the answers to the

interview questions and no records are requested or collected for Initial Retail Reviews. However, the statutory and regulatory recordkeeping responsibilities for retailers have not changed. Retailers are still required to maintain records for 1 year.

The COOL Division notifies each retail store in writing where there are findings of non-compliance. Prior to FY2014, all retailers that had at least one finding of noncompliance were sent a notice of noncompliance which required a written response. Beginning in FY2014 and thereafter, the COOL Retail Review Compliance Rating Scale was modified as follows. The following rating scale assesses COOL compliance for retail stores:

- a) Adequate: NC<4 AND NC as Percent of Commodity Count <5%
- b) Compliance Deficiency: NC ≥4 or NC as Percent of Commodity Count ≥5%
- c) Critical Weakness: NC>14 AND NC as Percent of Commodity Count ≥5%

Firms rated as adequate are considered COOL compliant, and no further action or documentation on their part is necessary. Firms rated compliance deficient and critical weakness are sent notices of noncompliance. In addition, stores rated as Critical Weakness are subject to a follow up review in the subsequent year. During follow up reviews, stores are required to produce records for five randomly selected products to demonstrate their compliance with recordkeeping requirements of the rule. By modifying the compliance rating system and store review procedures for initial and follow up reviews, the COOL Division has reduced the information collection burden on retailers, and focused limited resources to address those firms with a history of noncompliance.

Because of the amended rating system, the percentage of stores receiving notices of noncompliance requiring a written response declined from the 75% to 81% range in fiscal years 2009 – 2013 to the 66% to 71% range in fiscal years after 2014 (see Table 1).

**Table 1. COOL Notices of Noncompliance
(% of retail store reviews) by Fiscal Year.**

2009	77%
2010	75%
2011	78%
2012	81%
2013	79%
2014	68%
2015	66%
2016	71%
2017	69%

It is likely that the amended information collection procedures have reduced the average hourly burden for retailers previously reported, but erring on the side of caution, AMS has not amended its estimated hourly burden in this or any previous revision of an ICR. Since 2016, AMS has continued to hold regular communications with regulated firms, establishments and their trade associations during conferences, meetings, and other venues. Discussions have included questions posed to regulated entities concerning the operation and performance of administering

the COOL regulation, including the estimates of burden hours associated with the information collected from regulated firms. AMS has not been notified of any specific concerns with its estimated burden hours per recordkeeper.

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

No payments or gifts are provided to respondents.

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

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

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.

There are no questions of a sensitive nature in this information collection.

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

- INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCE IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOURS FOR CUSTOMARY AND USUAL BUSINESS PRACTICES.

- **IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEM 13 OF OMB FORM 83-I.**

This renewal submission reflects a total of 415,517 recordkeepers for 20,966,789 burden hours. Estimates of the recordkeeping burden have been summarized on the modified AMS-71 form that displays the number of recordkeepers and hours, and includes the wage data and estimated total cost calculations.

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

In general, the supply chain for each of the covered commodities includes agricultural producers or fish harvesters, processors, wholesalers, importers, and retailers. Imported products may be introduced at any level of the supply chain. Other intermediaries, such as auction markets, may be involved in transferring products from one stage of production to the next. The paperwork burden will be incurred by the number and types of firms and establishments listed in Table 9, which follows.

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

In estimating initial and maintenance recordkeeping costs, May 2018 wage rates and benefits published by the Bureau of Labor Statistics from the National Compensation Survey are used. For producers, it is assumed that the added work needed to initially adapt an existing recordkeeping system for country of origin and, if applicable, method of production information is primarily a bookkeeping task. This task may be performed by an independent bookkeeper, or in the case of operations that perform their own bookkeeping, an individual with equivalent skills. The Bureau of Labor Statistics (BLS) publishes wage rates for bookkeepers, accounting, and auditing clerks. It is assumed that this wage rate represents the cost for producers to hire an independent bookkeeper. In the case of producers who currently perform their own bookkeeping, it is assumed that this wage rate represents the opportunity cost of the producers' time for performing these tasks. The May 2018 mean wage rate is estimated at \$20.25 per hour (see Table 2). According to a Bureau of Labor Statistics, Press Release, December 14, 2018, titled Employer Costs for Employee Compensation – September 2018, employer fringe benefit costs (including social security, unemployment insurance, workers compensation, etc.) for civilian workers averaged 31.7% of the wage rate. This additional 31.7 percent has been added to the wage rate to account for total benefits. The estimate of this additional cost to employers is published by the BLS. The 2019 estimate is an overall decrease in the total initial costs for

producers since the previously approved information collection in 2016 due to a reduced number of producers.

Table 2. May 2018 Occupational Employment Statistics Survey Estimates

Occupation Title	Mean Hourly Wage	Mean Employer costs for benefits (31.7%)	Mean Hourly Burden
Bookkeeping, Accounting, and Auditing Clerks	\$20.25	\$6.42	\$26.67
Information and Record Clerks	\$17.19	\$5.45	\$22.64
Farmworkers and Laborers, Crop, Nursery, and Greenhouse	\$12.72	\$4.03	\$16.75
Farmworkers, Farm, Ranch, and Aqua-cultural Animals	\$13.87	\$4.40	\$18.27
Sources: Bureau of Labor Statistics, Department of Labor, https://www.bls.gov/oes/tables.htm Bureau of Labor Statistics, Press Release, December 14, 2018. Employer Costs for Employee Compensation – September 2018. USDL-18-1941.			

There are approximately 64,531 firms yearly that are subject to COOL which would need to establish a record collection system (see Table 3a). Since the information collection requirement for the COOL regulations was part of the initial rule, established firms should not have any additional fees establishing a system record keeping system.

Table 3a. Estimated Costs Associated with Paperwork Burden

Initial Recordkeeping Costs:						
Category of Respondents	Respondents (count)	Estimated Hours	May 2018 Mean Wage rate	Total Benefits estimated @31.7%	Cost to Employer	Total
Producers	59,993	4 hours	\$20.25 / hour	\$6.42 / hour	\$26.67 / hour	\$ 6,399,873
Handlers, Processors & Wholesalers	2,717	29 hours / set up for recordkeeping			\$1,310	\$ 3,559,270
New Retailers	1,821	29 hours / set up for recordkeeping			\$1,310	\$ 2,385,510
Sub-Total: Initial Recordkeeping	64,531	371,574 Hours				\$12,344,653

Initial Recordkeeping Costs

With respect to initial recordkeeping costs, it is believed that most producers currently maintain many of the types of records that would be needed to substantiate country of origin and, if applicable, method of production claims. However, producers do not typically record or pass along country of origin information and, if applicable, method of production information to

subsequent purchasers. Therefore, producers will incur some additional incremental costs to record, maintain, and transfer country of origin and, if applicable, method of production information to substantiate required claims made at retail. Because much of the necessary recordkeeping has already been developed during typical farm, ranch, and fishing operations, it is estimated that the incremental costs for producers to supplement existing records with country of origin and, if applicable, method of production information will be relatively small per firm. Examples of initial or start-up costs would be any additional recordkeeping burden needed to record the required country of origin and, if applicable, method of production information and transfer this information to handlers, processors, wholesalers, or retailers via records used in the normal course of business.

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

The Label Cost Model Developed for FDA by RTI International is used to estimate the cost of including additional country of origin and, if applicable, method of production information to an operation's records. It is assumed that limited information, one-color redesign of a paper document will be enough to comply with the rule's recordkeeping requirements. The number of hours required to complete the redesign is estimated to be 29 with an estimated cost at \$1,310 per firm. While the cost will be much higher for some firms and lower for others, it is believed that \$1,310 represents a reasonable estimate of average cost for all firms. The recordkeeping cost estimate for 2019 decreased due to fewer producers and wholesalers, and reduced current hourly wage rates reported by BLS compared to the data used in the 2016 supporting statement.

Storage and Maintenance Costs

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

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

of origin and, if applicable, method of production information.

Table 3b. Estimated Costs Associated with Paperwork Burden						
Storage & Maintenance Costs						
Category of Respondents	Respondents (count)	Estimated Hours	May 2018 Mean Wage Rate	Total Benefits estimated @31.7%	Cost to Employer	Total
Livestock: Lamb /Goat Producers	92,974	12 hours / year	\$13.87 / hour	\$4.40 / hour	\$18.27 / hour	\$ 20,380,038
Farm-Raised Fish & Shellfish Producers	4,562	4 hours / year	\$13.87 / hour	\$4.40 / hour	\$18.27 / hour	\$ 333,332
Wild Fish Harvesters	2,449	4 hours / year				\$ 2,194,610
Chicken	32,751	4 hours / year				\$ 164,105
Fruit & Vegetable Producers	140,606	4 hours / year				\$ 9,421,862
Ginseng, Peanut, Macadamia Nut & Pecan Producers	26,622	4hours / year				\$ 1,783,913
<i>Sub-Total Producers</i>	299,964	1,943,648 Hours				\$ 34,277,861
Handlers, Processors, & Wholesalers (less livestock processing & slaughtering)	9,251	52 hours / year				\$ 10,890,647
Livestock Processing & Slaughtering	4,332	1040 hour / year				\$101,996,070
<i>Sub-Total Processors</i>	13,583	4,986,332 Hours				\$ 112,886,717
Retailers	37,439	365 hours / year				\$309,370,398
Sub-Total: Storage & Maintenance Establishments	350,986	20,595,215 Hours				\$456,534,976
TOTAL BURDEN	415,517	20,966,789	50.46			\$468,879,629
			Hours (average)			

It is expected that fish farmers and livestock producers will incur higher costs to maintain country of origin (and for fish farmers, method of production information), compared to wild fish harvesters, chicken, fruit, vegetable, ginseng, peanut, macadamia nut, and pecan producers. Wild fish, chicken, fruits, vegetables, ginseng, peanuts, and macadamia nuts are generally harvested once and then shipped by the producer to the first handler. In contrast, farm-raised fish and livestock can and often do move through several geographically dispersed operations prior to sale for processing or slaughter. Farm-raised fish and livestock may be acquired from other countries by United States producers, which may complicate the task of tracking country of origin and, if applicable, method of production information. Because animals are frequently sorted and regrouped at various stages of production and may change ownership several times prior to slaughter, country of origin information will need to be maintained on animals as they move through their lifecycle. Thus, it is expected that the recordkeeping burden for farm-raised fish farmers and livestock producers will be higher than for producers of other covered commodities. It is estimated that these producers on average will require an additional 12 hours a year, to maintain country of origin and, if applicable, method of production records (see Table 3b).

It is assumed that farm labor will primarily be responsible for maintaining country of origin information at producers' enterprises. May 2018 wage rates and benefits published by the Bureau of Labor statistics from the National Compensation Survey are used to estimate average farm wage rates. Assuming 12 hours of labor per year for livestock and farmed fish operations and 4 hours per year for all other operations, the total estimated burden hours are lower in 2019 than they were in 2016 due to fewer producers reported by the 2017 Agricultural Census than were reported by the 2012 Agricultural Census and slightly lower wage rates and fringe benefits percentage reported by BLS in 2018 versus 2015.

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

Except for livestock processing and slaughtering establishments, the maintenance burden hours for country of origin and, if applicable, method of production recordkeeping is estimated to be 52 hours per year per establishment. For this part of the supply chain, the recordkeeping activities are on-going and are estimated to require an additional hour a week. It is expected, however, that livestock processing and slaughtering enterprises will experience a more intensive recordkeeping burden. These enterprises disassemble carcasses into many individual cuts, each of which must maintain its country of origin identity. In addition, businesses that produce ground lamb and goat, products may commingle product from multiple origins, which will require some monitoring and recordkeeping to ensure accurate labeling and to substantiate the country of origin information provided to retailers. Maintenance of the recordkeeping system at these establishments is estimated to total 1,040 hours per establishment, or 20 hours per week. Maintenance activities will include inputting, tracking, and storing country of origin and, if applicable, method of production information for each covered commodity. Since this is mostly

an administrative task, the cost is estimated by using the May 2018 BLS wage rate from the National Compensation Survey for administrative support occupations.

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

The total maintenance recordkeeping costs for all enterprises are thus estimated at \$456,534,976. The decrease in estimated maintenance recordkeeping costs is due to decreases in the number of establishments and decreases in mean hourly burden wage rates.

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

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

- **IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A**

**SAMPLE OF RESPONDENTS
DAY PRE-OMB SUBMISSION
USE EXISTING ECONOMIC OR**

**(FEWER THAN 10), UTILIZE THE 60-
PUBLIC COMMENT PROCESS AND**

**REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE
RULEMAKING CONTAINING THE INFORMATION
COLLECTION, AS APPROPRIATE.**

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

The COOL Subchapter of the Agricultural Marketing Act of 1946 states,
The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person (7 USC §1638a. (d) (2) (B)).

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

- 14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COST, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATION EXPENSES (SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF), AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.**

AMS deployed an effective surveillance and enforcement program. A primary component of the enforcement program involves surveillance activities performed by State governments. This has required AMS to enter into cooperative agreements with each State and transfer enough funds to cooperating State agencies to conduct the surveillance activities. The estimated current annual costs are as follows:

Retail Store Surveillance Reviews and Supplier for COOL Compliance and Enforcement	
2,900 / year x \$600 / Review	\$1,740,000
600 / year x \$800 / Follow-up Reviews	\$ 480,000

Sub-Total (Primarily paid to States)	\$2,220,000
Administration-Salary and Benefits	
12 Staff Years x 114,225 (average)	\$1,370,700
Miscellaneous Costs	
Rent / utilities / phones	
Departmental assessments / travel	
Printing / equipment	\$ 406,300
Total annual cost to the Government to maintain this regulation:	\$3,997,000

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

Table 4 displays comparisons between the estimated recordkeeping burden hours reported in the ICR approved in 2016 (Previous Burden) and the burden hour estimates contained in the current revision (New Burden).

Reg. No.	Reason	Previous Burden	New Burden	Difference	Type of Change
<i>Set-Up & Maintenance (Recordkeeping)</i>					
7 CFR §60.400 a & b; 7 CFR §65.500 a & b	Producers (Reduced number of producers, NASS 2017 Census of Agriculture)	392,396	239,972	-152,424	Adj.
7 CFR §60.400 a & b; 7 CFR §65.500 a & b	Intermediaries (Reduced number of wholesalers, 2016 County Business Patterns; NASS 2015 Survey Data;)	122,438	78,793	-43,645	Adj.
7 CFR §60.400 a & c; 7 CFR §65.500 a & c	Retailers (Increased estimate for number of retailers initiating COOL compliance systems.)	29,667	52,809	+23,142	Adj.
<i>Storage & Maintenance (Recordkeeping)</i>					
7 CFR §60.400 a & b; 7 CFR §65.500 a & b	Livestock & Fish & Shellfish (Decreased burden due to fewer producers.)	2,667,924	1,133,936	-1,533,988	Adj.
7 CFR §60.400 a & b; 7 CFR §65.500 a & b	Chicken, Wild Fish & Shellfish, Fruit & Vegetable, Ginseng, Peanut, Pecan and Macadamia Nut Producers (Decreased burden due to	1,072,680	809,712	-262,968	Adj.

	fewer producers.)				
7 CFR §60.400 a & b; 7 CFR §65.500 a & b	Handlers, Processors & Wholesalers (Decreased burden due to lower estimated number of processors.)	953,732	481,052	-472,680	Adj.
7 CFR §65.500 a & b	Livestock Processing & Slaughtering (Increased burden due to higher estimated number of livestock - lamb & goat - processing.)	2,880,800	4,505,280	+1,624,480	Adj.
7 CFR §60.400 a & c; 7 CFR §65.500 a & c	Retailers (Minor decrease in burden due to fewer retailer establishments.)	13,829,850	13,665,235	-164,615	Adj.
TOTALS		21,949,487	20,966,789	-982,698	Adj.

According to a July 2018 Government Accounting Office Report (Paperwork Reduction Act: Agencies Could Better Leverage Review Processes and Public Outreach to Improve Burden Estimates - GAO-18-381), there were math errors in the 2016 COOL ICR supporting statement. GAO found that, “AMS did not follow its stated assumptions in calculating burden hours and respondent time costs, resulting in overestimation of hours and underestimation of costs. Total hours were overestimated by 171,444 hours” (p18).

Furthermore, GAO reported their findings showed that, “AMS did not consistently apply its stated assumptions about the average burden time per response in the development of respondent time costs estimates, resulting in underestimated costs presented to the public. Actual cost estimate would have been approximately \$463.2 million, or 104.5 million higher than the largest maintenance recordkeeping cost estimate in the supporting statement.”

In compiling the current 2019 supporting statement for renewal of the previously approved information collection, AMS has included multiple levels of review to check and verify the accuracy of its source data and calculations reported above to assure that corrective actions have been taken so that the errors identified by the GAO Report are not repeated.

16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.

Information obtained under this information collection is not published.

17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL OF THE INFORMATION COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.

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

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

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

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods were not employed in this information collection analysis.