

National Organic Program
U.S. Department of Agriculture, Agricultural Marketing Service
OMB# 0581-New
“Market Development for Mushrooms and Pet Food” Proposed Rule
Supporting Statement for a new Information Collection Request

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The Organic Foods Production Act of 1990 (OFPA), as amended ([7 U.S.C. 6501 - 6524](#)), authorizes the Secretary of Agriculture to establish the National Organic Program (NOP) and accredit certifying agents to certify that farms and businesses meet national organic standards. The purpose of OFPA is to: (1) establish national standards governing the marketing of certain agricultural products as organically produced products; (2) assure consumers that organically produced products meet a consistent standard; and (3) facilitate interstate commerce in fresh and processed food that is organically produced ([7 U.S.C. 6501](#)).

On March 11, 2024, the U.S. Department of Agriculture’s (USDA) Agricultural Marketing Service (AMS) published the “Market Development for Mushrooms and Pet Food” proposed rule ([89 FR 17922](#)) related to mushroom production practices and organic pet food handling under the USDA organic regulations ([7 CFR part 205](#)). AMS took this action to increase uniformity in organic mushroom production practices and organic pet food handling and reduce organic certification discrepancies between certifying agents. The proposed rule would clarify how the existing organic crop standards apply to mushroom production and establish organic pet food as a processed product that must follow existing organic handling requirements. Additionally, the rule would specify organic requirements for unique aspects of mushroom production like substrate, compost, and spawn and allows synthetic taurine to be used in organic pet food handling. This rulemaking would support 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, including current organic mushroom production and organic pet food handling operations, must develop and maintain an organic system plan (OSP) to comply with the USDA organic regulations. OMB previously approved information collection requirements associated with the OSP under OMB control number 0581-0191. As a result of this proposed rule, currently certified organic mushrooms and pet food operations and certifying agents would need to verify continued compliance of their organic system plans (OSPs) with the proposed rule. While the proposed rule would amend the USDA organic regulations to codify existing organic practices, certified organic operations and certifying agents may need to make minor adjustments to the existing recordkeeping and reporting practices to maintain compliance.

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, operations, and AMS will use the information collected to verify that organic management practices meet the requirements of the USDA organic regulations and OFPA.

The rule's amendments will likely require certifiers to review and update the TM-10CG at the time of accreditation renewal. Specifically, the rule may require updates/modifications to policies, procedures, and training for staff submitted with the form.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e. g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The NOP is primarily a paperless office, and certifying agents submit information to NOP electronically using email.

Organic mushroom and pet food operations submit information to their certifying agent (electronically or otherwise to allow for maximum flexibility). These organic operations have established information submission relationships with their certifying agent. The certifying agent then submits information to the NOP electronically, through their established relationships with NOP Accreditation Division staff (Accreditation Managers assigned to each certifying agent) and the Organic Integrity Database.

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.

We have made every effort to contact appropriate sources within USDA and outside sources to ensure that we are not duplicating information collection within the OSPs. Records of the production of organic mushrooms and pet food are being kept by organic operations and certifying agents already, and the proposed rule only seeks to clarify the requirements for production of these organic products. The NOP has not found that this information is being collected through other means, and therefore the information is not duplicated elsewhere. We encourage organic operations, certifying agents, inspectors, and foreign government respondents to the NOP to reduce their paperwork burden by incorporating the requirements efficiently.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB form 83-i, describe the methods used to minimize burden.

Most of the businesses in the organic industry, including pet food manufactures and mushroom producers, are small businesses. AMS has sought to ensure that this rule is based on existing practices and incorporates the expertise of current organic mushroom producers and pet food manufacturers to minimize both collection and economic burdens. The NOP has made every

effort possible to develop performance standards with a range of practices, and to accept the required documents in a reasonable, logical fashion. In particular, this rule seeks to reference existing practices in the organic mushroom and pet food industries to minimize burden.

6. Describe the consequences 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 were not conducted or were 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.

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;

Respondents associated with this information collection are required to retain records for more than three years. However, this is not a new requirement associated with this information collection. Respondents associated with this information collection are subject to record retentions mandated by the OFPA [[7 U.S.C. 6519\(a\)](#)] and the USDA organic regulations (7 CFR 205.103 and 205.510). These record retentions are covered in the currently approved information collection package for the NOP (OMB #0581-0191). These existing record retentions include the following:

- A. Certified organic livestock operations must maintain, for no less than 5 years, records concerning the production or handling of certified organic agricultural products [[7 CFR 205.103\(b\)\(4\)](#)].

- B. Certifying agents must maintain, for no less than 10 years, records concerning the activities of the certifying agent [[7 CFR 205.510\(b\)](#)].

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 be 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; or

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:

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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.

AMS published a proposed rule and request for public comment in the Federal Register on March 11, 2024, on page 17322 ([89 FR 17922](#)). The 60-day notice regarding paperwork impacts is embedded in the proposed rule and provides stakeholders an opportunity to comment on the accuracy of the information collection request. The 60-day comment period ends on May 10, 2024. AMS asked four specific information collection request questions asked in the proposed rule:

1. 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.

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.*
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.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The NOP regularly sends email bulletins, the “[Organic Insider](#)”, to members of the public who are subscribed to “[GovDelivery](#)” updates from AMS. Through this bulletin, NOP submitted a request to comment on the proposed rule to over 75,000 subscribers on the publication of the proposed rule on March 11, 2024.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As described in Item 8 above, AMS will reach out to over 75,000 subscribers asking for public comment on this information collection through NOP’s Organic Insider email bulletin. After approval, this new information collection will be merged with currently approved information collection package for the NOP (OMB #0581-0191). Consultation with representatives of those from whom information is to be obtained will occur once every three years as the NOP renews the information collection package and seeks public comment in that process.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration 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 statutes 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 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.

No questions in this information collection are of a sensitive nature or are commonly considered private. AMS considers this information necessary to collect in order meet the requirements of the USDA organic regulations and OFPA. USDA organic certification is a voluntary program, therefore, certified organic operations consent to sharing requested information by applying for or maintaining certification.

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.

This burden estimate accounts for certified organic mushroom operations and certified organic pet food handling operations updating OSPs, certifiers reviewing updated OSPs, and certifiers training inspectors to comply with the proposed rule.

Number of Respondents: 543

Frequency of Response: 1 time only

Annual hour burden: 851

The 543 respondents include 308 certified organic operations (272 mushroom operations and 36 pet food operations), 51 certifying agents, and 184 inspectors.

Certified organic operations

AMS estimated that 308 certified organic mushroom and organic pet food handling operations may need to update their OSPs to comply with the proposed rule.¹

¹ USDA. Organic Integrity Database. <https://organic.ams.usda.gov/IntegrityPlus/Search.aspx>. To obtain the relevant data, search for “mushroom” and “pet, dog, canine, cat, feline” in the

AMS estimated that each certified organic mushroom and pet food handling operations will require one (1) response of one (1) reporting hour to update their OSPs. AMS estimates that each respondent would require no additional recordkeeping hours as these operations already have and store OSPs. This results in a total annual hour burden of 308 hours for certified organic mushroom and pet food handling operations across 308 responses.

Certifying agents

AMS estimated that 51 certifying agents will need to review OSPs from certified organic mushroom and pet food handling operations.²

AMS estimated that on average, certifying agents will require one (1) response of one (1) reporting hours to review OSPs for each organic mushroom production and pet food handling operations they certify, resulting in a total of 308 hours over 308 responses. Additionally, AMS estimates each certifying agent will require one (1) response of one (1) hour to provide training to staff and inspectors on the new requirements. AMS estimates that each respondent would require no additional recordkeeping hours as these operations already have and store OSPs. This results in a total annual hour burden of 359 hours for certifying agents.

Inspectors

AMS estimated that 184 organic inspectors need to receive training on the proposed rule.³

AMS estimated that each organic inspector will require one (1) response of one (1) reporting hour to receive training on the proposed rule. AMS estimates that each respondent would require no additional recordkeeping hours. This results in a total annual hour burden of 184 hours for organic inspectors across 184 responses.

These estimates are covered in further detail in the accompanying OMB form 83-i and AMS 71 Grid spreadsheet.

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.

There is no form associated with this information collection. How information is reported is explained in further detail above in Item 2.

Provide estimates of annualized cost to respondents for the hour burdens for

“Certified Products” field. Accessed May 9, 2023

² Some certifiers may certify both pet food and mushroom operations but are counted as separate entities in this column.

³ This estimate is based on data from the International Organic Inspectors Association Membership Directory, available at: <https://www.ioia.net/member-directory>.

collections of information, identifying and using appropriate wage rate categories.

The estimated annual cost to respondents for the hour burden for this collection of information is estimated to be \$36,673.37. These estimates are covered in further detail in the “Summary Tables” and “Respondents” pages of the accompanying AMS 71 Grid spreadsheet. The Summary Tables (1, 2, and 3) are included below.

TABLE 1				
USDA Certified Operations (Mushroom Producers and Pet Food Handlers) Reporting Burden				
Respondent Categories	Number of Respondents	Wage + Benefits	Total Reporting Hours	Total Costs
USDA Certified Producers & Handlers - Domestic	260	\$52.18	260	\$13,565.64
USDA Certified Producers & Handlers – Foreign	48	\$38.04	48	\$1,825.91
USDA Organic Operations – All	308		308	\$15,391.55

TABLE 2				
USDA Certifying Agents (Certifying Mushroom Producers and Pet Food Handlers) Reporting Burden				
Respondent Categories	Number of Respondents	Wage + Benefits	Total Reporting Hours	Total Costs
USDA U.S.-Based Certifiers – Mushrooms	31	\$47.93	247.21	\$11,848.04
USDA Foreign-Based Certifiers – Mushrooms	8	\$34.94	64.79	\$2,229.18
USDA U.S.-Based Certifiers – Pet food	8	\$47.93	32	\$1,533.69
USDA Foreign-Based Certifiers – Pet food	4	\$34.94	16	\$559.09
USDA Certifiers – All	51*		359	\$16,170.00

*Some certifiers may certify both pet food and mushroom operations but are counted as separate entities in this column.

TABLE 3				
Inspectors Reporting Burden				
Respondent Categories	Number of Respondents	Wage + Benefits	Total Reporting Hours	Total Costs
USDA U.S.- based Inspectors	123	\$30.52	123	\$3,754.35

USDA Foreign based inspectors	61	\$22.25	61	\$1,357.47
USDA Inspectors – All	184		184	\$5,111.82

TABLE 4: Total Reporting Burden	Total Number of Reporting Respondents	Total Reporting Hours - All	Total All Costs
Summary of Tables 1, 2, & 3	543	851	\$36,673.37

13. Provide an estimate of the total annual cost burden to respondents for recordkeepers resulting from the collection of information. Do not include the cost of any hour burden shown in items 12 and 14.

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 would 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.

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.

This information collection does not require the purchase of equipment or services.

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 does not expect any information submitted to AMS to impact the existing annualized cost of conducting business at AMS or the NOP.

15. Explain the reason for any program changes or adjustments reported in items 13 or 14 of the OMB form 83-i.

This is a new collection.

16. For collections of information whose results would 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.

AMS does not plan to publish data obtained through this information collection. However, the NOP frequently updates the organic industry on the activities of the program at annual certification agency training (not open to the public) and at biannual National Organic Standards Board [the NOP's Federal Advisory Committee (FACA)] meetings. AMS may share summaries of variances reviewed at these events. No complex analytical techniques will be used. If published, AMS would share information such as, how many requests were received in a certain timeframe and how many requests were granted. No confidential information would be 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.

18. Explain each exception to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submissions" of OMB form 83-i.

AMS is not claiming any exceptions to the certification statement identified in Item 19 of the OMB form 83-i.

In Item 19 (Certification for Paperwork Reduction Act Submissions) of OMB 83-i, AMS certifies that the collection of information encompassed by this request complies with 5 CFR 1320.9. The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - i. Why the information is being collected;
 - ii. Use of information;
 - iii. Nature of response (voluntary, required for a benefit, or mandatory);
 - iv. Nature and extent of confidentiality; and
 - v. Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.