



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-6455]

Agency Information Collection Activities; Proposed Collection; Comment Request; Consultation Procedures: Foods Derived From New Plant Varieties

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection pertaining to FDA consultation procedures for foods derived from new plant varieties, including information collection provisions in the guidance entitled, "Guidance on Consultation Procedures: Foods Derived From New Plant Varieties," and in Form FDA 3665 entitled, "Final Consultation For Food Derived From a New Plant Variety (Biotechnology Final Consultation)," which developers may use to prepare the final consultation in a standard format.

DATES: Submit either electronic or written comments on the collection of information by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The <https://www.regulations.gov> electronic filing system will accept comments

until 11:59 p.m. Eastern Time at the end of [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2017-N-6455 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Consultation Procedures: Foods Derived From New Plant Varieties." Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Consultation Procedures: Foods Derived From New Plant Varieties

OMB Control Number 0910-0704--Extension

This information collection supports FDA's consultation procedures for foods derived from new plant varieties, as discussed and included in Agency guidance, and in Form FDA 3665. We recommend that producers who use biotechnology in the manufacture or development of foods and food ingredients work cooperatively with FDA to ensure that products derived through biotechnology are safe and comply with all applicable legal requirements and have instituted a voluntary consultation process with industry. To facilitate this process, the Agency issued a guidance entitled, "Guidance on Consultation Procedures: Foods Derived From New Plant Varieties," which is available on our website at <https://www.fda.gov/FoodGuidances>. The guidance describes FDA's consultation process for the evaluation of information on new plant varieties provided by developers. The Agency believes this consultation process will help ensure that human and animal food safety issues or other regulatory issues (e.g. labeling) are resolved prior to commercial distribution. Additionally, such communication will help to ensure that any potential food safety issues regarding a new plant variety are resolved during development and will help to ensure that all market entry decisions by the industry are made consistently and in full compliance with the standards of the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

Since 1992, when FDA issued its "Statement of Policy: Foods Derived From New Plant Varieties" (the 1992 policy) (57 FR 22984, May 29, 1992), we have encouraged developers of new plant varieties, including those varieties that are developed through biotechnology, to consult with FDA during the plant development process to discuss possible scientific and regulatory issues that might arise. In the 1992 policy, we explained that under the FD&C Act developers of new foods (in this document food refers to both human and animal food) have a responsibility to ensure that the foods they offer to consumers are safe and in compliance with all requirements of the FD&C Act (57 FR 22984 at 22985).

Description of Respondents: Respondents to this collection of information include developers of new plant varieties intended for food use.

We estimate the burden of this collection of information as follows:

Table 1.--Estimated Annual Reporting Burden¹

Activity	Form FDA No.	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
Initial consultation	None	20	2	40	4	160
Final consultation	3665	12	1	12	150	1,800
Total						1,960

¹ There are no operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Initial Consultations

Initial consultations are generally a one-time burden, although a developer might return more than once to discuss additional issues before submitting a final consultation. As noted in the guidance, we encourage developers to consult early in the development phase of their products, and as often as necessary. Historically, firms developing a new genetically engineered plant variety intended for food use have generally initiated consultation with FDA early in the process of developing such a variety, even though there is no legal obligation for such consultation. These consultations have made FDA aware of foods and food ingredients before these products are distributed commercially and have provided FDA with the information necessary to address any potential questions regarding the safety, labeling, or regulatory status of the food or food ingredient. As such, these consultations have aided both industry and the Agency in exercising their mutual responsibilities under the FD&C Act.

We estimate that the Center for Veterinary Medicine and the Center for Food Safety and Applied Nutrition jointly received an average of 40 requests for initial consultations per year in the last 3 years via email, or written letter. Based on this information, we expect to receive no more than 40 annually for a total of 160 hours for initial consultations.

Final Consultations

Final consultations are a one-time burden. At some stage in the process of research and development, a developer will have accumulated the information that the developer believes is adequate to ensure that food derived from the new plant variety is safe and that it demonstrates compliance with the relevant provisions of the FD&C Act. The developer will then be able to conclude any ongoing consultation with FDA. The developer submits to FDA a summary of the safety and nutritional assessment that has been conducted about the genetically engineered food intended to be introduced into commercial distribution. We evaluate the submission to ensure that all potential safety and regulatory questions have been addressed. We have developed a form that prompts a developer to include certain elements in the final consultation in a standard format: Form FDA 3665 entitled, "Final Consultation for Food Derived From a New Plant Variety (Biotechnology Final Consultation)." The form and its elements that would be prepared as attachments to the form can be submitted in electronic format.

We base our estimate of the average time to prepare a submission on informal contact with firms that made one or more biotechnology consultation submission under the voluntary biotechnology consultation process. We estimate the average time to prepare a submission for final consultation to be 150 hours. With an estimated 12 annual submissions, the total will be 1,800 hours for final consultations.

The total estimated burden for this collection of information is 1,960 hours.

Dated: November 16, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

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