



## **Agricultural Marketing Service**

### **7 CFR Part 205**

**[Doc. No. AMS-NOP-22-0063]**

**RIN 0581-AE13**

## **Rescinding National Organic Program; Market Development for Mushrooms and Pet Food**

**AGENCY:** Agricultural Marketing Service (AMS), Department of Agriculture (USDA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** AMS is proposing to rescind the rule and regulations issued on December 23, 2024, titled, “National Organic Program; Market Development for Mushrooms and Pet Food.”

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted through the Federal eRulemaking portal at <https://www.regulations.gov> and should reference the docket number and the date and page number of this issue of the *Federal Register*. AMS strongly prefers comments to be submitted electronically. However, written comments may be submitted (i.e., postmarked) via mail to: Erin Healy, Director, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW, Room 2642-So., Ag Stop 0268, Washington, DC 20250-0268.

*Instructions:* All comments should include the docket number (AMS-NOP-22-0063), and/or the Regulatory Information Number (RIN 0581-AE13) for this rulemaking. You should clearly indicate the topic and section number of this proposed rule to which your comment refers, state your position(s), offer any recommended language change(s), and include relevant information and data to support your position(s) (e.g., scientific,

environmental, manufacturing, industry, or industry impact information, etc.). All comments and relevant background documents posted to <https://www.regulations.gov> will include any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Erin Healy, Director, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW, Room 2642-So., Ag Stop 0268, Washington, DC 20250-0268; Telephone: 202-720-3252, Email: [Erin.Healy@usda.gov](mailto:Erin.Healy@usda.gov).

**SUPPLEMENTARY INFORMATION:** AMS is proposing to rescind the rule issued on December 23, 2024, National Organic Program; Market Development for Mushrooms and Pet Food, via 89 FR 104367, amending 7 CFR part 205. The rule proposed for rescission amended the USDA organic regulations to clarify standards for organic mushrooms and organic pet food. AMS proposes to rescind this rule in full and seek comments on all aspects of that proposal.

### **Procedural Matters**

#### **Executive Orders 12866 and 13563**

As with the rule (89 FR 104367) proposed for rescission, this rule does not meet the criteria of a “significant regulatory action” under Executive Order 12866, as amended by Executive Orders 14215 and 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders.

This regulation is not an Executive Order 14192 regulatory action.

#### **Regulatory Flexibility Act**

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, 5 U.S.C. 601 *et seq.*), agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). In the final rule (89

FR 104367), AMS concluded and certified that the rule would not have a significant economic impact on a substantial number of small entities and therefore did not conduct a regulatory flexibility analysis. Similarly, this proposed recission rule will only have minor impacts on small entities engaged in organic mushroom operations and pet food producers. This proposed recission of the rule is expected to have a beneficial effect on these small entities, lowering costs related to paperwork burden and otherwise allowing operators and producers to continue to engage in beneficial and often industry-standard practices without additional regulatory costs. The same is true for certifying agents that certify organic mushroom or pet food operations.

### **Unfunded Mandates Reform Act**

This proposed rule does not contain Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local and Tribal governments, or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### **Executive Order 13175**

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. AMS has assessed the impact of this proposed rule on Indian Tribes and determined that this rule would not have Tribal implications that require consultation under Executive Order 13175.

### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule is deregulatory and so would not impose any additional information collection requirements; rather, it would reduce future collection requirements by removing reporting burdens.

### **E-Government Act Compliance**

The Department is committed to complying with the E-Government Act, 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### **Executive Order 13132; Federalism Summary Impact Statement**

The proposed rule is deregulatory and has little effect on States and local governments, so AMS anticipates that this rule will not have implications for federalism. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required. States and local governments are invited to comment if they believe a federalism summary is necessary.

### **NEPA**

AMS believes this proposed rule, if finalized, would not have a reasonably foreseeable significant effect on the quality of the human environment. AMS invites the public to comment on the impact of the proposed agency action.

### **List of Subjects in 7 CFR Part 205**

Administrative practice and procedure, Agricultural commodities, Agriculture, Animals, Archives and records, Fees, Imports, Labeling, Livestock, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth above, AMS proposes to amend 7 CFR part 205 as follows:

**PART 205—NATIONAL ORGANIC PROGRAM**

1. The authority citation for 7 CFR part 205 continues to read as follows:

**Authority:** 7 U.S.C. 6501-6524.

2. Amend § 205.2 by:

a. Revising the definitions of “Compost” and “Crop”;

b. Removing the definitions for “Mushroom”, “Mushroom mycelium”, “Mushroom spawn”, “Mushroom spawn media”, “Mushroom substrate”, “Pet”, and “Pet food”; and

c. Revising the definition of “Wild crop”.

The revisions read as follows:

**§ 205.2 Terms defined.**

\* \* \* \* \*

*Compost.* The product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil. Compost must be produced through a process that combines plant and animal materials with an initial C:N ratio of between 25:1 and 40:1. Producers using an in-vessel or static aerated pile system must maintain the composting materials at a temperature between 131 °F and 170 °F for 3 days. Producers using a windrow system must maintain the composting materials at a temperature between 131 °F and 170 °F for 15 days, during which time, the materials must be turned a minimum of five times.

\* \* \* \* \*

*Crop.* Pastures, cover crops, green manure crops, catch crops, or any plant or part of a plant intended to be marketed as an agricultural product, fed to livestock, or used in the field to manage nutrients and soil fertility.

\* \* \* \* \*

*Wild crop.* Any plant or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.

\* \* \* \* \*

**§ 205.210 [Removed and Reserved]**

3. Remove and reserve § 205.210.

**§ 205.270 [Amended]**

4. Amend § 205.270 by removing and reserving paragraph (d) .

5. Amend § 205.601 by revising paragraphs (i) introductory text and (j)

introductory text to read as follows:

**§ 205.601 Synthetic substances allowed for use in organic crop production.**

\* \* \* \* \*

(i) As plant disease control.

\* \* \* \* \*

(j) As plant or soil amendments.

\* \* \* \* \*

**§ 205.605 [Amended]**

6. Amend § 205.605 by removing paragraph (b)(36) and redesignating paragraphs (b)(37) and (38) as paragraphs (b)(36) and (37), respectively.

**Bruce Summers,**

*Administrator,*

*Agricultural Marketing Service.*

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