4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2021-N-1112]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Interstate Shellfish Dealer's Certificate and Participation in the National Shellfish Sanitation Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to https://www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review--Open for Public Comments" or by using the search function. The OMB control number for this information collection is 0910-0021. Also include the FDA docket number found in brackets in the heading of this document.

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: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Interstate Shellfish Dealer's Certificate and Participation in the National Shellfish Sanitary Program

OMB Control Number 0910-0021--Extension

Under section 243 of the Public Health Service Act (42 U.S.C. 243), FDA is required to cooperate with and aid State and local authorities in the enforcement of their health regulations and is authorized to assist States in the prevention and suppression of communicable diseases. Under this authority, FDA participates with State regulatory agencies, some foreign nations, and the U.S. molluscan shellfish industry in the National Shellfish Sanitation Program (NSSP).

The NSSP is a voluntary, cooperative program to promote the safety of molluscan shellfish by providing for the classification and patrol of shellfish growing waters and for the inspection and certification of shellfish dealers. Each participating State and foreign nation monitors its molluscan shellfish production and issues certificates for those dealers that meet the State or foreign shellfish control authority's criteria. Each participating State and nation provides a certificate of its certified shellfish dealers to FDA on Form FDA 3038, "Interstate Shellfish Dealer's Certificate" (available at https://www.fda.gov/media/72094/download). FDA uses this information to publish the "Interstate Certified Shellfish Shippers List (ICSSL)," a monthly comprehensive listing of all molluscan shellfish dealers certified under the cooperative program (available at https://www.fda.gov/food/federalstate-food-programs/interstate-certified-shellfish-shippers-list). If FDA did not collect the information necessary to compile this list, participating States would not be able to identify and prevent the distribution in the United States of shellfish processed by uncertified dealers. Consequently, the NSSP would not be able to control the distribution of uncertified and possibly unsafe shellfish in interstate commerce. Without the ICSSL, the effectiveness of the NSSP would be nullified. The ICSSL is also used to identify U.S. shellfish dealers eligible to obtain health certificates and export to certain countries or regions.

FDA has been collecting information to construct the ICSSL since 2001. FDA is seeking to add one new data field to Form FDA 3038, the "FDA Establishment Identifier" (FEI number). The FEI number is a unique number assigned by FDA to identify FDA-regulated facilities. FDA will explore whether the FEI can be used to retrieve data on shellfish dealers from existing FDA systems, which could reduce the number of required data elements that firms have to submit on Form FDA 3038.

The information collection also includes providing certain documents demonstrating compliance with the NSSP. When a competent authority in another country conducts an evaluation to determine whether the U.S. food safety control measures for molluscan shellfish are equivalent to their system of controls, the competent authority may require FDA to provide information and records demonstrating compliance with the provisions of the NSSP. Only those firms that comply with the NSSP would be permitted to export molluscan shellfish to a country whose competent authority determined that the U.S. system of controls is equivalent to their own controls. FDA uses this information to support the export of U.S. shellfish to countries whose competent authorities have determined the U.S. system of food safety controls to be equivalent to their own system of controls by demonstrating that the exporter is in compliance with the U.S. system of controls specified in the NSSP.

For example, to implement the European Commission's (EC) determination that the U.S. system of food safety controls for raw bivalve molluscan shellfish is equivalent to the European Union's (EU) system of controls, the EC is requiring FDA to provide documentation collected from NSSP-participating shellfish control authorities with firms seeking to export raw molluscan shellfish to the EU. This documentation includes, but is not limited to:

- a list of growing areas with an Approved classification;
- the most recent sanitary survey for each growing area with an Approved classification; and
- the most recent inspection report for each firm seeking to export shellfish to the EU.

Some competent authorities may require additional information to conduct an equivalence assessment or to implement an equivalence determination, or both. We plan to provide respondents with information about the specific documentation that is required for each equivalence assessment. For those competent authorities that recognize the U.S. system as equivalent, additional documentation may be needed to implement that determination.

Description of Respondents: Respondents to this collection are participating State and local regulatory agencies and foreign nations.

In the *Federal Register* of November 4, 2022 (86 FR 60840), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

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

Table 1.--Estimated Annual Reporting Burden[1]

Activity	Form FDA No.	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
Submission of Interstate Shellfish Dealer's Certificate	3038	40	57	2,280	0.10 (6 minutes)	228
Submission of Other Records Related to Participation in the NSSP	N/A	13	1	13	0.25 (15 minutes)	3.25
Total						231.25

[1] There are no capital costs or 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. This estimate is based on our experience with this information collection and the number of certificates received in the past 3 years, which has remained constant.

Dated: May 2, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

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