



Billing code 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. # AMS-NOP-11-0073; NOP-11-14]

National Organic Program: Notice of Draft Guidance for Accredited Certifying Agents, Certified Operations, and Non-Certified Handlers of Certified Organic Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of availability with request for comments.

SUMMARY: The National Organic Program (NOP) is announcing the availability of a draft guidance document intended for use by accredited certifying agents, certified operations and non-certified handlers of certified organic products. The draft guidance document is entitled as follows: Handling Bulk, Unpackaged Organic Products (NOP 5031).

This draft guidance document is intended to inform the public of NOP's current thinking on this topic. The NOP is seeking comments on this draft guidance document. A notice of availability of final guidance on this topic will be issued upon its final approval. Once finalized, this guidance document will be available from the NOP through "The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations". This Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the NOP regulations. The current edition of the Program Handbook is available online at <http://www.ams.usda.gov/nop> or in print upon request.

DATES: To ensure that NOP considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written comments on the draft guidance by

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written requests for hard copies of this draft guidance document to Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop 0268, Washington, DC 20250–0268. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

Interested persons may comment on this draft guidance document using the following procedures:

Internet: <http://www.regulations.gov>.

Mail: Comments may be submitted by mail to: Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop 0268, Washington, DC 20250–0268.

Written comments responding to this request should be identified with the document number AMS-NOP-11-0073; NOP-11-14. You should clearly indicate your position and the reasons for your position. If you are suggesting changes to the draft guidance document, you should include recommended language changes, as appropriate, along with any relevant supporting documentation.

USDA intends to make available all comments, including names and addresses when provided, regardless of submission procedure used, on www.regulations.gov and at USDA, AMS, NOP, Room 2646-South building, 1400 Independence Ave., SW., Washington, D.C., from 9 a.m. to noon and from 1 to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South building to view comments from the public to this notice are requested to make an appointment by calling (202) 720-3252.

FOR FURTHER INFORMATION CONTACT: Melissa R. Bailey, Ph.D., Director, Standards Division, National Organic Program (NOP), USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2646-So., Ag Stop 0268, Washington, DC 20250-0268, Telephone: (202) 720-3252, Email: NOP.guidance@ams.usda.gov, or visit the NOP website at: www.ams.usda.gov/nop.

SUPPLEMENTARY INFORMATION:

I. Background

The NOP selected the topic for the draft guidance announced through this notice in response to a recommendation issued by the National Organic Standards Board (NOSB) in October 2010. On October 28, 2010, the NOSB finalized a recommendation requesting that the NOP clarify the requirements and limitations of 7 CFR § 205.101(b) of the NOP regulations.¹ This section of the regulations addresses the conditions that a handling operation must meet in order to be excluded from the organic certification requirements of Part 205. The NOSB recommended that NOP issue guidance to clarify how these conditions apply to handlers of bulk, unpackaged organic products. The NOP is responding to this recommendation by issuing draft guidance to outline the types of handling operations that are or are not excluded from organic certification. The draft guidance proposes that brokers, traders or distributors of bulk, unpackaged organic commodities or livestock are not excluded from certification and, therefore, must be certified organic operations.

II. Significance of Guidance

This draft guidance document is being issued in accordance with the Office of Management and Budget (OMB) Bulletin on Agency Good Guidance Practices (GGPs) (January

¹ NOSB Recommendation: Clarifying Limitations of § 205.101(b). Issued on October 28, 2010. Accessible on the NOP website at: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5087789&acct=nosb>

25, 2007, 72 FR 3432-3440).

The purpose of GGPs is to ensure that program guidance documents are developed with adequate public participation, are readily available to the public, and are not applied as binding requirements. The draft guidance, when finalized, will represent the NOP's current thinking on the topic. It does not create or confer any rights for, or on, any person and does not operate to bind the NOP or the public. Guidance documents are intended to provide a uniform method for operations to comply that can reduce the burden of developing their own methods and simplify audits and inspections. Alternative approaches that can demonstrate compliance with the Organic Foods Production Act (OFPA), as amended (7 U.S.C. 6501-6522), and its implementing regulations are also acceptable. As with any alternative compliance approach, the NOP strongly encourages industry to discuss alternative approaches with the NOP before implementing them to avoid unnecessary or wasteful expenditures of resources and to ensure the proposed alternative approach complies with the Act and its implementing regulations.

Electronic Access

Persons with access to Internet may obtain the draft guidance at either NOP's website at <http://www.ams.usda.gov/nop> or <http://www.regulations.gov>. Requests for hard copies of the draft guidance documents can be obtained by submitting a written request to the person listed in the ADDRESSES section of this Notice.

Authority: 7 U.S.C. 6501-6522.

Dated: January 30, 2012

Robert C. Keeney
Acting Administrator
Agricultural Marketing Service

[FR Doc. 2012-2377 Filed 02/02/2012 at 8:45 am; Publication Date: 02/03/2012]