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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. # AMS-NOP-14-0012; NOP-14-03]

National Organic Program: Notice of Draft Guidance on Substances Used in Post-Harvest Handling of Organic Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of availability of draft guidance with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the availability of a draft guidance document intended for use by accredited certifying agents and certified operations and exempt operations that produce or handle certified organic products. The guidance document is entitled: Substances Used in Post-Harvest Handling of Organic Products (NOP 5023). This guidance document is intended to inform the public of the National Organic Program's (NOP) current thinking on this topic. The NOP is seeking comments on this draft guidance document.

DATES: To ensure that NOP considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written comments on the draft guidance by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written requests for hard copies of this draft guidance document to Melissa Bailey, Ph.D., Director, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop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 See the SUPPLEMENTARY INFORMATION section regarding electronic access to the draft guidance document.

Interested persons may submit comments on these draft guidance documents using the following procedures:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Comments may be submitted by mail to: Melissa Bailey, Ph.D., Director, Standards Division, 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-14-0012; NOP-14-03. 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 If you are suggesting changes to the draft guidance document, you should include recommended language changes, as appropriate, along with any relevant supporting documentation.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 Bailey, Ph.D., Director, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2646-So., Ag Stop 0268, Washington, DC 20250, Email: Melissa.bailey@ams.usda.gov; Telephone: (202) 720-3252; Fax: (202) 205-7808.

SUPPLEMENTARY INFORMATION:

I. Background

There is a section within the USDA organic regulations called the National List of Allowed and Prohibited Substances (National List) (7 CFR sections 205.600 through 205.607). This National List identifies the synthetic substances that are allowed and the nonsynthetic (natural) substances that are prohibited in organic production. Nonsynthetic (natural) substances are generally permitted to be used in organic production, unless they appear as prohibited nonsynthetics on the National List. The National List also identifies nonagricultural and nonorganic agricultural substances that may be used in organic handling. The Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501-6522), and USDA organic regulations (7 CFR section 205.105), specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 requires that any nonorganic agricultural and any nonsynthetic nonagricultural substance used in organic handling be on the National List.

This draft guidance describes the National Organic Program's (NOP) current thinking on the allowance of substances used in post-harvest handling activities such as washing, packing, and storage of organic products. There is no discrete section of the National List designated for substances used in these post-harvest handling activities; instead, the substances allowed for use in post-harvest handling appear in different sections of the National List (e.g., section 205.601 for crop production; section 205.605 for processing), or are nonsynthetic substances, and are therefore not included on the National List. This has led to confusion about the point at which crop production for unprocessed commodities ends, when processing starts, and which substances may be used for post-harvest activities that may occur on farm or in a processing facility.

This draft guidance provides information to all USDA-accredited certifying agents (certifiers) and certified and exempt organic operations on substances that may be used in post-

harvest handling of organic products. It clarifies: 1) what substances may be used; 2) the difference between post-harvest handling of raw agricultural crops and further processing; and 3) the provisions for facility pest management. This draft guidance also defines post-harvest substances. This draft guidance, once finalized, would clarify which substances may be used in post-harvest handling on organic farms and in processing facilities.

The NOP selected the topic for the draft guidance document announced through this notice in response to questions received from certifiers and organic operations. These stakeholders requested that the NOP clarify the requirements and limitations regarding the substances permitted in post-harvest handling. The NOP also discussed and received feedback on this topic at a training session for certifiers in Portland, Oregon, in February 2011.

The draft guidance is available from NOP on its website at <http://www.ams.usda.gov/nop>. Once finalized, final guidance would be available in “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 USDA organic regulations. The current edition of the Program Handbook is available online at <http://www.ams.usda.gov/nop>.

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 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. This draft guidance represents 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, NOP strongly encourages industry to discuss alternative approaches with 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.

III. 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: April 21, 2014

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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