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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS-NOP-16-0003; NOP-15-09]

National Organic Program; Notice of Availability of National List Petition Guidelines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) National Organic Program (NOP) is announcing the availability of NOP 3011, National List Petition Guidelines. These guidelines apply to petitions that request an amendment to the NOP's National List of Allowed and Prohibited Substances (National List). The National List identifies the synthetic substances that may be used and the nonsynthetic substances that may not be used in organic production. The National List also identifies the non-organic substances that may be used in organic handling. The National List Petition Guidelines are based upon the May 2, 2014, recommendations of the National Organic Standards Board and modify the information to be included in a petition. This notice also clarifies the information to be submitted for all types of petitions that request amendments to the National List. This notice and NOP 3011 replace the previous petition guidelines that were published in the Federal Register on January 18, 2007 (72 FR 2167).

DATES: *Effective Date:* The petition guidelines announced by this notice of availability are effective on [INSERT DATE 1 DAY AFTER THE PUBLICATION OF THIS NOTICE].

ADDRESSES: Petitions should be submitted to National List Manager, USDA-AMS-NOP, 1400 Independence Avenue, SW., Room 2642-So., Ag Stop 0268, Washington, DC 20250-0268 or via email to nosb@ams.usda.gov. Electronic submission by email is preferred.

FOR FURTHER INFORMATION CONTACT: National List Manager, National Organic Program, 1400 Independence Avenue, SW., Room 2642-South, STOP 0268; Washington, DC 20250-0268; Telephone (202) 720-3252; Fax: (202) 205-7808.

SUPPLEMENTARY INFORMATION:

I. Background

The Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 et seq.), authorizes the establishment of the National Organic Program including the National List of Allowed and Prohibited Substances (National List). This National List identifies the synthetic substances that may be used and the nonsynthetic substances that may not be used in organic production, and also identifies the non-organic substances that may be used in organic handling. The OFPA and USDA organic regulations, in section 205.105, specifically prohibit the use of any synthetic substance for organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any non-organic, nonsynthetic substance used in organic handling must also be on the National List. Since the USDA organic regulations became effective on October 21, 2002, the National List has been amended through rulemaking by the National List Petition Process and the National List Sunset Process. The guidelines contained in this notice apply only to the National List Petition Process.

The ability for any person to petition to amend the National List is authorized by the OFPA (7 U.S.C. 6518(n)) and the USDA organic regulations, in section 205.607. This authorization provides that any person may petition the National Organic Standards Board (NOSB) for the purpose of having a substance evaluated by the NOSB for recommendation to the Secretary for inclusion on or removal from the National List. The NOSB is authorized to

review petitions under specified evaluation criteria in OFPA (7 U.S.C 6518(m)), and forward recommendations for amending the National List to the Secretary.

At its April 29 - May 2, 2014, public meeting in San Antonio, Texas, the NOSB issued two recommendations concerning the National List petition process. This notice announces the availability of revised petition guidelines which are based upon these NOSB recommendations.

II. NOSB Recommendations

Confidential Business Information

The NOSB issued a recommendation at its April 29 – May 2, 2014, public meeting addressing the inclusion of confidential business information (CBI) in petitions.¹ The NOSB recommended that the National List petition process be revised to eliminate the provision for confidential business information. The NOSB indicated the importance of transparency in the petition process, the right of the public to fully know the materials included in or on certified organic products, and the potential for an untenable administrative burden of management of CBI. AMS has reviewed the recommendation and has accepted the recommendation. The updated petition guidelines do not contain the previous provision that allowed for the submission of confidential business information by petitioners.

Update of Petition Process

The NOSB also issued a recommendation at its April 29 – May 2, 2014, public meeting that addressed other changes to the petition and technical review process.² The NOSB recommended several updates to clarify how to submit complete petitions, explain to petitioners

¹ NOSB Recommendation, Confidential Business Information in Petitions, May 2, 2014. Available on the NOP Web site at <http://www.ams.usda.gov/sites/default/files/media/NOP%20Materials%20Final%20Rec%20Confidential%20Business%20Info.pdf>.

² NOSB Recommendation, Update of the Petition and Technical Review Process, May 2, 2014. Available on the NOP Web site at <http://www.ams.usda.gov/sites/default/files/media/NOP%20Materials%20Final%20Rec%20Update%20on%20Petition%20and%20TR%20Process.pdf>.

what to expect in the petition process, make the review process for the NOSB clearer and more consistent, and provide transparency about these processes to the public. AMS has reviewed the recommendation and has updated the current guidelines to align with the NOSB recommendation. Updates in the NOSB recommendation that pertain to parts of the NOSB Policy and Procedures Manual and Technical Review Process will be addressed through separate actions. The changes affecting the National List petition guidelines include the following: 1) requesting the petitioners indicate the OFPA category for substances used in organic production; 2) abbreviated requirements for petitions that request a change to annotations for substances already listed; 3) elimination of references to Confidential Business Information; 4) clarification of requirements for petitions requesting the addition, removal, or amendment of an annotation for a listed substance; and 5) other language changes for clarity. As part of the revision to the petition guidelines, NOP has also included within NOP 3011 answers to common questions about the petition process, such as the role of the NOP, role of the NOSB, and the criteria used to evaluate petitions.

III. Availability of National List Petition Guidelines

The procedure document titled “National List Petition Guidelines” (NOP 3011) is now available from the NOP through “The Program Handbook: Guidance and Instructions for Certifying Agents 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/>.

IV. Electronic Access

Persons with access to Internet may obtain the petition guidelines at the NOP's Web site at <http://www.ams.usda.gov/nop>. Requests for hard copies of the petition guidelines 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: March 3, 2016.

Elanor Starmer,
Acting Administrator,
Agricultural Marketing Service.
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