

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 205

[Docket No. AMS-TM-07-0062; TM-07-06]

RIN 0581-AC71

#### National Organic Program (NOP)— Proposed Amendments to the National List of Allowed and Prohibited Substances (Processing)

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule proposes to amend the Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) regulations to enact recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) during public meetings held May 6–8, 2002, in Austin, Texas, and March 27–29, 2007, in Washington, DC. Consistent with the NOSB recommendations, this proposed rule proposes to add 38 substances, along with any restrictive annotations, to the National List regulations.

**DATES:** Comments must be received by May 22, 2007.

**ADDRESSES:** Interested persons may comment on this proposed rule using any of the following procedures:

- Mail: Comments may be submitted by mail to Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, 1400 Independence Ave., SW., Room 4008-So., Ag Stop 0268, Washington, DC 20250.
- Internet: [www.regulations.gov](http://www.regulations.gov).
- Written comments on this proposed rule should be identified with the docket number AMS-TM-07-0062. Commenters should identify the topic and section number of this proposed rule to which the comment refers.
- Clearly indicate if you are for or against the proposed rule or some

portion of it and your reason for it. Include recommendation changes as appropriate.

- Include a copy of articles or other references that support your comments. Only relevant material should be submitted.

All comments to this proposed rule, submitted by any procedure, will be available for viewing at: [www.regulations.gov](http://www.regulations.gov). Comments submitted in response to this proposed rule will also be available for viewing in person at USDA-AMS, Transportation and Marketing, National Organic Program, Room 4008-South Building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except on official Federal holidays). Persons wanting to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720-3252.

**FOR FURTHER INFORMATION CONTACT:** Robert Pooler, Agricultural Marketing Specialist or Valerie Frances, NOSB Executive Director, National Organic Program, USDA/AMS/TM/NOP, Room 4008-So., Ag Stop 0268, 1400 Independence Ave., SW., Washington, DC 20250. Phone: (202) 720-3252.

#### 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 NOP regulations. On December 21, 2000, the Secretary established, within the NOP (7 CFR part 205), the National List regulations §§ 205.600 through 205.607. This National List identifies the synthetic substances that may be used and the non-synthetic substances that may not be used in organic production. The National List also identifies synthetic, non-synthetic and non-organic substances that may be used in organic handling. The OFPA and NOP regulations, in § 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, non-synthetic substance used in organic handling must also be on the National List.

Until recently, producers, handlers and certifying agents may have misinterpreted National List regulations § 205.606 to mean that any non-organic agricultural product which was determined by an accredited certifying agent to be not commercially available in organic form could be used in organic products, without being individually listed pursuant to the National List procedures. In January 2005, the First Circuit Court of Appeal's decision in *Harvey v. Johanns* found that such an interpretation is contrary to the plain meaning of the OFPA and held that 7 CFR 205.606 shall not be interpreted to create a blanket exemption to the National List requirements specified in §§ 6517 and 6518 of the OFPA (7 U.S.C. 6517–6518). Thereafter, consistent with the district court's final judgment and order, dated June 9, 2005, on July 1, 2005, the NOP published a notice regarding § 205.606 (70 FR 38090), and on June 7, 2006, published a final rule (71 FR 32803) revising § 205.606 to clarify that the section shall be interpreted to permit the use of a non-organically produced agricultural product only when the product has been listed in § 205.606 pursuant to National List procedures, and when an accredited certifying agent has determined that the organic form of the agricultural product is not commercially available. As a result, any non-organic agricultural substances that are being used in organic products that are not specifically listed in § 205.606 pursuant to National List procedures will render currently certified products in non-compliance when the district court's final order and judgment on *Harvey v. Johanns* becomes fully effective on June 9, 2007.

Under the authority of OFPA and the NOP regulations, the National List can be amended by the Secretary based upon proposed amendments developed by the NOSB through the National List petition process. This proposed rule proposes to amend the National List regulations to enact recommendations submitted to the Secretary by the NOSB during public meetings held May 6–8, 2002, and March 27–29, 2007. In these time periods, the NOSB has recommended that the Secretary add 38 substances to § 205.606, along with any restrictive annotations, to the National List regulations.

A 7-day comment period has been deemed appropriate to allow interested persons to respond to this proposed rule. Seven days is deemed appropriate because under the NOP regulations (7 CFR part 205.606) the allowed use of these 38 substances, pursuant to the district court's final order and judgment on *Harvey v. Johanns*, will expire on June 9, 2007. A 7-day comment period will help avoid lapses in the eligibility of the petitioned substances to be used in organic handling. Additionally, interested persons have already been provided with 30 days of public comment on these 38 substances in advance of the NOSB meetings held May 6–8, 2002, and March 27–29, 2007. The NOSB considered these comments during their reviews and concluded that the petitioners had provided sufficient evidence for adding these 38 substances to the National List. Final rulemaking to allow the use of these 38 petitioned substances, if adopted, should be completed before June 9, 2007. Any comments that are received timely will be considered before final determinations are made on these petitioned substances.

## II. Overview of Proposed Amendments

The following provides an overview of the proposed amendments to designated sections of the National List regulations.

### *Section 205.606 Nonorganically Produced Agricultural Products Allowed as Ingredients in or on Processed Products Labeled as "Organic"*

This proposed rule would amend § 205.606 of the National List regulations by adding the following substances:

#### Color Ingredients From Agricultural Products

Annatto extract color, (pigment CAS #1393–63–1). Annatto extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Annatto extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by the Food and Drug Administration (FDA) (21 CFR 73.30). Depending on the concentration used, annatto extract color adds a deep orange to light yellow color to foods. Annatto extract color is a liquid derived from physical or oil extraction of annatto seeds (*Bixaceae bixa orellana*). The major pigments in annatto extract color are classified as Carotenoids which are insoluble in water, partially soluble in ethanol, and soluble in vegetable oils. Fruit and vegetable

extracts containing Carotenoids are heat and light sensitive, but also display antioxidant properties that may be beneficial to human health.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding annatto extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of annatto extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated annatto extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that annatto extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of annatto extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow annatto extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Beet juice extract color, (pigment CAS #7659–95–2). Beet juice extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Beet juice extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.40). Depending on the beet source, concentration used and pH, beet juice extract color adds a yellow, red or pink color to foods. Beet juice extract color is a liquid derived from beets (*Amaranthaceae beta vulgaris*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The principle pigment in beet juice extract color is Betanin or beetroot red. This pigment is grouped in a class of pigments known as Betalains. These pigments are soluble in water, insoluble in ethanol, and are found only in a few plant families. Betalain pigments are well suited for use in low acid foods, complement Anthocyanin pigments in food coloring, and may have antioxidant capability that may be beneficial to human health.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding beet juice extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of beet juice extract color is considered commercially unavailable.

In this open meeting, the NOSB evaluated beet juice extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that beet juice extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of beet juice extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow beet juice extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Beta-Carotene extract color from carrots (CAS #1393–63–1). Beta-Carotene extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Beta-Carotene extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.95). Depending on the concentration used, Beta-Carotene extract color adds a deep orange to light yellow color to foods. Beta-Carotene extract color is a liquid derived from carrots (*Apiaceae daucus carota*) through physical extraction in vegetable oil. The final extract product is a dark orange viscous concentrate. The major pigments in Beta-Carotene extract color are Carotenoids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Beta-Carotene extract color from carrots to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Beta-Carotene extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated Beta-Carotene extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Beta-Carotene extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Beta-Carotene extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Beta-Carotene extract color from carrots as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Black currant juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Black currant juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Black currant juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, Black currant juice color adds a bright red to blue-purple color to foods. Black currant juice color is a liquid derived from black currant fruit (*Grossulariaceae ribes nigrum*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in Black currant juice color are classified as Anthocyanins which are soluble in water. Anthocyanins are polyphenolic natural pigments that are present in many plant species and frequently occur as glycosides in various combinations that produce colors such as orange, red, blue or purple. Fruit and vegetable extracts containing Anthocyanins are usually stable to UV light and temperature, but are sensitive to the presence of oxygen or metal ions such as iron or aluminum. Anthocyanin pigments may have increased color intensity and stability in moderately acidic solutions.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding Black currant juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Black currant juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated Black currant juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Black currant juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Black currant juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Black currant juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Black/Purple carrot juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Black/Purple carrot juice color was petitioned for use as a non-

organic agricultural ingredient in or on processed products labeled as "organic." Black/Purple carrot juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.300). Depending on the concentration used, black/purple carrot juice color adds a deep blue-purple-black color to foods. Black/Purple carrot juice color is a liquid extract derived from black or purple carrots (*Apiaceae daucus carota*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The pigments in black/purple carrot juice color are water soluble Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding black/purple carrot juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of black/purple carrot juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated black/purple carrot juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that black/purple carrot juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of black/purple carrot juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow black/purple carrot juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Blueberry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Blueberry juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Blueberry juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, Blueberry juice color adds a blue to red color to foods. Blueberry juice color is a liquid derived from blueberry fruit (*Vaccinium cyanococcus*) through physical extraction. The major pigments in Blueberry juice color are water soluble Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding Blueberry juice color to the National List for use in

organic handling as a non-organic agricultural ingredient when the organic form of Blueberry juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated Blueberry juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Blueberry juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Blueberry juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Blueberry juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Carrot juice color, (pigment CAS #1393-63-1). Carrot juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Carrot juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.300). Depending on the concentration used, Carrot juice color adds a deep organic to light yellow color to foods. Carrot juice color is a liquid derived from carrots (*Apiaceae daucus carota*) through physical extraction. The major pigments in Carrot juice color are Carotenoids.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding Carrot juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of Carrot juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated Carrot juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Carrot juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Carrot juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Carrot juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Cherry juice color, (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

Cherry juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Cherry juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used and solution pH, cherry juice color adds a pink to blue-red color to foods. Cherry juice color is a liquid derived from cherry fruit (*Prunus cerasus L.*) through aqueous and physical extraction. The major pigments in Cherry juice color are water soluble Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding cherry juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of cherry juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated cherry juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that cherry juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of cherry juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow cherry juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Chokeberry—Aronia juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Chokeberry—Aronia juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Chokeberry—Aronia juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, chokeberry—aronia juice color adds a bright red to blue-purple color to foods. Chokeberry—aronia juice color is a liquid derived from the chokeberry fruit (*Grossulariaceae ribes nigrum*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in chokeberry—aronia juice color are Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding chokeberry—aronia juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of chokeberry—aronia juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated chokeberry—aronia juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that chokeberry—aronia juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of chokeberry—aronia juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow chokeberry—aronia juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Elderberry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Elderberry juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Elderberry juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, elderberry juice color adds a bright red to blue-purple color to foods. Elderberry juice color is a liquid derived from elderberry fruit (*Adoxaceae sambucus nigra*) through aqueous and physical extraction. The major pigments in elderberry juice color are Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding elderberry juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of elderberry juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated elderberry juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that elderberry juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of elderberry juice color in organic

handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow elderberry juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Grape juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Grape juice Color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Grape juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.169). Depending on the concentration used, grape juice color adds a bright pink to deep red color to foods. Grape juice color is a liquid derived from grape fruit (*Vitaceae vitis vinifera*) through aqueous and physical extraction. The major pigments in grape juice color are Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding grape juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of grape juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated grape juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that grape juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of grape juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow grape juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Grape skin extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Grape skin extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Grape skin extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.170). Depending on the concentration used, grape skin extract color adds a pink to deep purple color to foods. Grape skin extract color is a liquid derived from grape fruit (*Vitaceae vitis vinifera*) through aqueous and physical extraction. Powder forms are

derived from drying extracts. The major pigments in grape skin extract color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding grape skin extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of grape skin extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated grape skin extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that grape skin extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of grape skin extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow grape skin extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Paprika color—dried powder and vegetable oil extract, (CAS #68917–78–2). Paprika color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Paprika color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.340 and 73.345). Depending on the concentration used, Paprika color adds a yellow orange to red orange color to foods. Paprika color is a ground dried powder or vegetable oil extracted liquid derived from *Capsicum peppers* (*Capsicum annuum L.*). The principle coloring components of paprika color are considered to be Carotenoids that are identified as Capsanthin and Capsorubin.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding paprika color, dried powder and vegetable oil extract, to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of paprika color, dried powder and vegetable oil extract, is considered commercially unavailable. In this open meeting, the NOSB evaluated paprika color, dried powder and vegetable oil extract, against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that paprika color, dried

powder and vegetable oil extract, is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of paprika color, dried powder and vegetable oil extract, in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow paprika color, dried powder and vegetable oil extract, as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Pumpkin juice color, (pigment CAS #127–40–2). Pumpkin juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Pumpkin juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.250). Depending on the concentration used, pumpkin juice color adds a yellow to orange red color to foods. Pumpkin juice color is a liquid derived from pumpkin fruit (*Concubita L.*) through physical extraction and effluent concentration. The major pigments in pumpkin juice color are Carotenoids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding pumpkin juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of pumpkin juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated pumpkin juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that pumpkin juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of pumpkin juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow pumpkin juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Purple potato juice color, (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Purple potato juice color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as

“organic.” Purple potato juice color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.260). Depending on solution pH and the concentration used, Purple potato juice color adds a pink to purple color to foods. Purple potato juice color is a liquid derived from purple potatoes (*Ipomoea batatas L.*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in purple potato juice color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding purple potato juice color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of purple potato juice color is considered commercially unavailable. In this open meeting, the NOSB evaluated purple potato juice color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that purple potato juice color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of purple potato juice color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow purple potato juice color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3). Red cabbage extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Red cabbage extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.260). Depending on the concentration used, red cabbage extract color adds a red or pink color to foods. Red cabbage extract color is a liquid derived from red cabbage (*Brassicaceae brissica oleracea*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in red cabbage extract color are Anthocyanins.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding red cabbage extract color to the National List for use in organic handling as a non-organic

agricultural ingredient when the organic form of red cabbage extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated red cabbage extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Red cabbage extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of red cabbage extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow red cabbage extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Red radish extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3). Red radish extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Red radish extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.260). Depending on the concentration used, red radish extract color adds a red to pink color to foods. Red radish extract color is a liquid derived from red radish (*Brassicaceae raphinus sativus*) through aqueous and physical extraction. Powder forms are derived from drying extracts. The major pigments in red radish extract color are water soluble Anthocyanins.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding red radish extract color to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of red radish extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated red radish extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that red radish extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of red radish extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow red radish extract color as a non-organically produced agricultural product allowed

as an ingredient in or on processed products labeled as "organic."

Saffron extract color (pigment CAS #1393-63-1). Saffron extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Saffron extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.500). Depending on the concentration used, saffron extract color adds a bright yellow to orange color to foods. Saffron extract color is a powder derived from stigmas of the Autumn Crocus blossoms (*Crocus sativus*) that are dried and ground. The predominant color pigment in saffron extract color is Crocin, a tetraterpene Carotenoid.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding saffron extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of saffron extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated saffron extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that saffron extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of saffron extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow saffron extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Turmeric extract color, (CAS #458-37-7). Turmeric extract color was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Turmeric extract color is used as a natural color additive in a variety of foods. Its use as a color additive in food products is regulated by FDA (21 CFR 73.600). Depending on the concentration used, turmeric extract color adds a bright yellow color to foods. Turmeric extract color is a liquid derived from the rhizomes of the plant *Curcuma longa*, a member of the ginger family *Zingiberaceae*, through physical extraction in vegetable oil. The major pigments in turmeric extract color are Curcuminoids which are reported to be strong antioxidants.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB

recommended adding turmeric extract color to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of turmeric extract color is considered commercially unavailable. In this open meeting, the NOSB evaluated turmeric extract color against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that turmeric extract color is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of turmeric extract color in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow turmeric extract color as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

#### Ingredients or Processing Aids From Agricultural Products

Casings, from processed intestines (no CAS #). Casings, from processed intestines was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Casings from processed intestines are used as sheaths in the manufacture of sausage and a variety of other meat products. Its use in the manufacture of meat products is regulated by the USDA (9 CFR parts 317 and 38). Casings are derived from processed intestines primarily from the bovine, ovine or porcine animal species. The justification for adding non-organic casings to the National List is based upon insufficient availability of processed intestines from organically produced animals.

At its March 27-29, 2007, meeting in Washington, DC, the NOSB recommended adding casings from processed intestines to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of casings is considered commercially unavailable. In this open meeting, the NOSB evaluated casings from processed intestines against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that casings from processed intestines is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of casings from

processed intestines in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow casings from processed intestines as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Celery powder (No CAS #). Celery powder was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” This substance is used on meat products to facilitate the natural curing of meat. Its general use in food products is regulated by FDA (21 CFR 182.10). When applied to meat products, celery powder provides a concentrated source of nitrate that is converted to nitrite by reacting with myoglobin, a component in the meat tissue. This curing process inhibits growth of undesirable microorganisms, retains color and preserves the flavors of meats. Celery powder is a light green powder obtained from processing celery plant tissue by cutting, grinding, drying, pulping, or similar processing of tissues as described under FDA (21 CFR 101.22).

At its March 27–29, 2007 meeting in Washington, DC, the NOSB recommended adding celery powder to the National List for use in organic handling as a non-organic agricultural ingredient when the organic form of celery powder is considered commercially unavailable. In this open meeting, the NOSB evaluated celery powder against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that celery powder is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of celery powder in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow celery powder as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Chia (*Salvia hispanica L.*) (no CAS #). Chia was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Chia is used as an ingredient in a variety of foods such as baked goods and beverages. Its use in food products is regulated by FDA (21 CFR 182.10). Chia is an annual herb grown in Central America, considered to be gluten free, provides both soluble and

insoluble dietary fiber, and is a good source of omega-3 fatty acids. In some regions, chia is primarily cultivated for its seeds which are known to have a high concentration of omega-3 fatty acids.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding chia to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of chia is considered commercially unavailable. In this open meeting, the NOSB evaluated chia against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that chia is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of chia in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow chia as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Dillweed oil, (CAS #8006–75–5). Dillweed oil was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Dillweed oil is used as a flavoring agent in organic dill pickle production. The flavor and aroma components of dillweed oil are attributed to substances classified as Monoterpenes—Carvone, Limonene and Phellandrene. Dillweed oil is a colorless to pale yellow or yellow clear liquid that is insoluble in water and its use in food products is regulated by FDA (21 CFR 184.1282). After harvest, the dillweed plant (*Anethum graveolens*) is steam distilled and the dillweed oil is collected in the condensate. This oil is then standardized to achieve the desired flavor properties.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding dillweed oil to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of dillweed oil is considered commercially unavailable. In this open meeting, the NOSB evaluated dillweed oil against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that dillweed oil is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation

regarding the use of dillweed oil in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow dillweed oil as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8). Fish oil was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Fish oil is used as an ingredient in a variety of foods such as baked goods, cereals, cheese products, and soups. Its use in food products is regulated by FDA (21 CFR 184). A primary purpose for adding fish oil as an ingredient to foods is to elevate the omega-3 fatty acid content of foods. Fish oil is a mixture of fatty acids with two omega-3 fatty acids, Eicosapentaenoic acid and Docosahexaenoic acid as the principle fatty acid components. It is a liquid that is extracted and refined from fish by-product sourced from high fat containing fish species such as salmon, tuna, anchovy and sardines.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding fish oil to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of fish oil is considered commercially unavailable. In this open meeting, the NOSB evaluated fish oil against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that fish oil is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of fish oil in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow fish oil as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Fructooligosaccharides (CAS #308066–66–2). Fructooligosaccharides was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Fructooligosaccharides is used as an ingredient in a variety of food products. Its use in food products is regulated by FDA (21 CFR 172.892). A primary purpose for adding fructooligosaccharides as an ingredient to foods is to serve as a bulking agent by providing prebiotic fiber to foods. Fructooligosaccharides are naturally present in several vegetables, fruits and



grains that may be components of standard diets. This substance is commercially produced by subjecting sucrose to heated fermentation with an *Aspergillus japonicus* derived enzyme. The inclusion of this non-digestible carbohydrate is thought to promote a more favorable intestinal microbial composition which may be beneficial to human health.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding fructooligosaccharides to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of fructooligosaccharides is considered commercially unavailable. In this open meeting, the NOSB evaluated fructooligosaccharides against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that fructooligosaccharides is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of fructooligosaccharides in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow fructooligosaccharides as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

**Galangal—frozen (no CAS #).**  
Galangal—frozen, was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Galangal is used as a flavoring ingredient in a variety of foods. Its use as an ingredient in food products is regulated by FDA (21 CFR 182.10). The essential oils (aroma components) and flavoring capacity of galangal varies with the source of galangal. Fresh or frozen galangal provides more of the aroma essential oils and flavoring capacity compared to dried galangal. Galangal is derived from knobby galanga rhizome or rootstock (*Alpinia galanga*, *Alpinia officinarum*). It is a ginger-like rootstock with an orange-brown or pale red surface and woody texture.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding frozen galangal to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of frozen galangal is considered commercially unavailable. In this open meeting, the NOSB evaluated frozen

galangal against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that frozen galangal is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of frozen galangal, in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow frozen galangal, as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

**Gelatin (CAS #9000–70–8).** Gelatin was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Gelatin is used as a stabilizer, thickener, or texturizer in a variety of foods. It can also be used as a processing aid such as a beverage clarifier, or as a protective coating or container for substances. Gelatin is considered to be a generally recognized as safe (GRAS) substance as provided by FDA (21 CFR 170). It can be manufactured from several different types of naturally derived collagen that is subjected to partial hydrolysis and extraction procedures. Gelatin is a heterogeneous mixture of high molecular weight water soluble proteins. It is a colorless, tasteless, odorless and considerably transparent substance that binds with water and swells to form a gelatinous product.

At its May 6–8, 2002, meeting in Austin, Texas, the NOSB recommended adding gelatin to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of gelatin is considered commercially unavailable. In this open meeting, the NOSB evaluated gelatin against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA, assessed its commercial availability, received public comment, and concluded that gelatin is consistent with OFPA evaluation criteria and not commercially available in organic form. Therefore, in response to the NOSB recommendation regarding the use of gelatin in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow gelatin as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

**Hops (*Humulus lupulus*).** Hops was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as

“organic.” Hops are a primary ingredient used in brewing beer. Several varieties of hops are used in the manufacture of beer products. Although the final brewing product is regulated by the Bureau of Alcohol, Tobacco & Firearms, hops are processed and packaged according to FDA (21 CFR 110), *Current Good Manufacturing Practice in Manufacturing, Packing or Holding Human Food*. As used for the brewing process, hops form varieties include whole hops, hop pellets, hop powder pellets, modified hop powder pellets or hops extract. Hops contribute unique flavors and aroma to brewing, and may serve as a natural stabilizer. While hops are grown in diverse agricultural regions, hop varieties vary in flavor and aroma characteristics, and are selected based upon the unique characteristics contributed to brewing. Due to these unique characteristics that are contributed to a specific brewing process, brewers cannot interchange hop varieties should a selected variety be commercially unavailable without significant changes in the final product.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding hops to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of hops is considered commercially unavailable. In this open meeting, the NOSB evaluated hops against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that hops is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of hops in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow hops as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

**Inulin, oligofructose enriched, (CAS #9005–80–5).** Oligofructose enriched inulin was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Oligofructose enriched inulin is used as an ingredient in a variety of foods. It is considered to be a GRAS substance and its use in food products is regulated by FDA (21 CFR 172.892). A primary purpose for adding oligofructose enriched inulin as an ingredient to foods is to add soluble dietary fiber, and provide texture and consistency to food products. Oligofructose enriched inulin is derived



from inulin which is a polymer of naturally occurring oligosaccharide produced in many types of plants. Inulin is extracted from the root of the chicory plant (*Cichorium intybus*) by a hot water diffusion process. Subsequently, the extracted inulin is partially enzymatically hydrolyzed to yield oligofructose enriched inulin. The hydrolyzate is dried to a powder for application in foods. Enzyme hydrolyzation reduces the chemical chain length of the oligosaccharide polymer resulting in varying functional properties between inulin and the oligofructose enriched form. The shorter polymer chain length increases polymer solubility and facilitates product texture and consistency.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding oligofructose enriched inulin to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of oligofructose enriched inulin is considered commercially unavailable. In this open meeting, the NOSB evaluated oligofructose enriched inulin against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that oligofructose enriched inulin is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of oligofructose enriched inulin in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow oligofructose enriched inulin as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Konjac flour (CAS #37220–17–0). Konjac flour was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Konjac flour is used as an ingredient in foods as a gelling agent, stabilizer, thickener, fat replacer, and similar technological functions. Its use as an ingredient in non-meat food products is regulated by FDA (21 CFR 170) and its use in meat products is regulated by USDA Food Safety Inspection Service (FSIS) (9 CFR 381). Konjac flour is a dried powder derived from aqueous and physical extraction of the glucomannan polysaccharide (mannose and glucose units) from ground elephant yam (*Amorphophallu*) tuber (root). The polysaccharide in konjac flour has a large molecular weight and can have a high rate of

hydration leading to increased viscosity of foods when included as an ingredient. The degree of water gelling with konjac flour is a function of the presence of acetyl groups within the glucomannan molecule. De-acetylation of the molecule in the presence of a weak base allows formation of stable gels.

At its May 6–8, 2002, meeting in Austin, Texas, the NOSB recommended adding konjac flour to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of konjac flour is considered commercially unavailable. In this open meeting, the NOSB evaluated konjac flour against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA, assessed its commercial availability, received public comment, and concluded that konjac flour is consistent with OFPA evaluation criteria and not commercially available in organic form. Therefore, in response to the NOSB recommendation regarding the use of konjac flour in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow konjac flour as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Lemongrass, frozen (no CAS #). Lemongrass, frozen was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Frozen lemongrass is used as a distinct citrus flavoring agent in a variety of foods. Its use in food products is regulated by FDA (21 CFR 182.10). The flavor component of frozen lemongrass is attributed to an oil substance classified as a Terpenoid, Citral, also known as Lemonal. Lemongrass (*Cymbopogon citratus*) is an aromatic plant with long slender blades grown in warm temperate and tropical regions. When added to foods, the edible portion of the plant is usually sliced or bruised to release the lemongrass oil. Dried/powdered lemongrass sources may not provide the flavor potential as either fresh or frozen lemongrass.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding frozen lemongrass to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of frozen lemongrass is considered commercially unavailable. In this open meeting, the NOSB evaluated frozen lemongrass against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability,

received public comment, and concluded that frozen lemongrass is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of frozen lemongrass in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow frozen lemongrass as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Orange shellac, unbleached (CAS #9000–59–3). Unbleached orange shellac was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Unbleached orange shellac is used principally as a coating agent and as a glazing or polishing agent on fruits and vegetables. It may also be used as a color diluent or as an ingredient for the glazing of confectionary products. Its use as an ingredient or processing aid is regulated by FDA (21 CFR 184). Unbleached orange shellac is a hard, durable, amorphous resin that is semi-impermeable to water. It is used in combination with other ingredients in coatings on fruits and vegetables to limit water loss and reduce gas exchange (natural ethylene) resulting from fruit or vegetable ripening. Unbleached orange shellac is a mixture of resins derived from secretions of the Lac insect (*Laccifer lacca Kerr*) that are collected from resiniferous trees and bushes, and further processed to yield shellac.

At its May 6–8, 2002, meeting in Austin, Texas, the NOSB recommended adding unbleached orange shellac to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of unbleached orange shellac is considered commercially unavailable. In this open meeting, the NOSB evaluated unbleached orange shellac against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA, assessed its commercial availability, received public comment, and concluded that unbleached orange shellac is consistent with OFPA evaluation criteria and not commercially available in organic form. Therefore, in response to the NOSB recommendation regarding the use of unbleached orange shellac in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow unbleached orange shellac as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Pepper, chipotle chile (no CAS #). Chipotle chile pepper was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Its use in food products is regulated by FDA (21 CFR 182.1). Chipotle chile pepper is used as a flavoring agent in a variety of food products. Chipotle chile peppers are smoke dried jalapeno chile peppers (*Capsicum annuum*) that are allowed to mature on the vine from a green to a red color. After harvest, the red chile peppers are slowly dried and smoked. Chipotle chile peppers are considered to have a sweet, smoky flavor with a strong degree of "hotness" or spiciness. Spiciness is a function of the concentration of Capsicum, a chemical that stimulates thermoreceptor nerve endings in the skin. Authentic chipotle chile peppers are produced primarily in Mexico. Chile pepper varieties that are produced in other regions reportedly provide less flavoring or different flavoring.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding chipotle chile pepper to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of chipotle chile pepper is considered commercially unavailable. In this open meeting, the NOSB evaluated chipotle chile pepper against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that chipotle chile pepper is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of chipotle chile pepper in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow chipotle chile pepper as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Rice starch, unmodified (CAS #977000–08–0). Unmodified rice starch was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Unmodified rice starch is affirmed for use as an ingredient in a variety of foods through its inclusion on the FDA's "Everything" Added to Food in the United States (EAFUS) list which is a list of ingredients that can be added directly to food that are either approved as food additives or affirmed as GRAS (21 CFR 182). Primary functions attributed to using unmodified rice

starch as an ingredient in foods is as a thickener, stabilizer and gelling agent. Unmodified rice starch is derived from alkali treated (Sodium hydroxide, National List, § 205.605(b)) pulverized rice grain that is subsequently wet milled and centrifuged to separate the rice starch from the rice protein. Unmodified rice starch is a white powder, with a neutral taste and odor, and small particle size. These attributes are reportedly not available from other thickening agents that are presently included on the National List in either §§ 205.605 or 205.606.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding unmodified rice starch to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of unmodified rice starch is considered commercially unavailable for two years. In this open meeting, the NOSB evaluated unmodified rice starch against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that unmodified rice starch is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of unmodified rice starch in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow unmodified rice starch as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic" for two years from May 15, 2007.

Sweet potato starch, for bean thread production only (no CAS #). Sweet potato starch was petitioned for use only in the production of bean thread noodles as a non-organic agricultural ingredient in or on processed products labeled as "organic." Sweet potato starch is used as an ingredient for use in the manufacture of bean thread noodles used in Asian cuisine. Its use in food products is regulated by FDA (21 CFR part 182). A primary purpose for adding sweet potato starch as an ingredient for bean thread noodle production is to provide texture and neutral flavor in noodle products. Many varieties of noodle products exist as a result of differences in processing, starch source and composition, and cultural cuisine preferences. In general, starches are produced by grinding a starch rich plant source followed by wet separation techniques. Dry starch is a white powder, with a neutral taste and flavor, and is relatively insoluble in cold

water. Under suitable temperatures, starch can absorb a large volume of water and, depending upon its chemical composition (acetyl groups in the starch polysaccharide polymers), starch has a significant capacity to gel. Variations in starch gelling capacity contribute to variations in noodle product quality. Sweet potato starch is derived from sweet potatoes (*Ipomea batatas*), which can be grown in a variety of climates. Although there is significant organic sweet potato production, starch from organic sweet potatoes used for bean thread noodle products is considered to be limited due to a lack of available organic sweet potatoes to process for the sweet potato starch.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding sweet potato starch to the National List for use in organic handling for use in bean thread production only as a non-organic agricultural ingredient where the organic form of sweet potato starch is considered commercially unavailable. In this open meeting, the NOSB evaluated sweet potato starch against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that sweet potato starch for use in bean thread noodle production only is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of sweet potato starch for bean thread production only in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow sweet potato starch for use only in bean thread noodle production as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as "organic."

Turkish bay leaves (no CAS #). Turkish bay leaves were petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as "organic." Turkish bay leaves are used as a flavor agent in a variety of foods such as vegetables, meats and soups. Its use as an ingredient in food products is regulated by FDA (21 CFR 182.10). Sourced from the Evergreen Bay Laurel tree grown in the Mediterranean region, Turkish bay leaves, after harvest, are dried under a specific process to enhance flavor and reduce bitterness. Dried bay leaves have lower concentrations of the bay leaf oil that provides the flavoring to foods. The leaf oil provides a sweet, lemony flavoring. Other varieties of Bay leaves

provide different flavor profiles that may be too bitter, astringent and pungent compared to Turkish bay leaves.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Turkish bay leaves to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of Turkish bay leaves is considered commercially unavailable. In this open meeting, the NOSB evaluated Turkish bay leaves against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Turkish bay leaves is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of Turkish bay leaves in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Turkish bay leaves as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Wakame seaweed (*Undaria pinnatifida*) (no CAS #). Wakame seaweed was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Wakame seaweed is affirmed for use as an ingredient in Asian cuisine foods such as soups and salads. Its use in food products is regulated by FDA (21 CFR 182.10). Wakame seaweed is harvested from the coasts of Japan, Korea and China. After harvest the seaweed is washed, rinsed with a salt solution to extend shelf life, cut and dried. As an ingredient, Wakame seaweed provides a unique flavor and texture to Asian foods. Substitution of other seaweed species provides a different texture and flavor profile to foods.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Wakame seaweed to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of Wakame seaweed is considered commercially unavailable. In this open meeting, the NOSB evaluated Wakame seaweed against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Wakame seaweed is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in

response to the NOSB recommendation regarding the use of Wakame seaweed in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow Wakame seaweed as a non-organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

Whey protein concentrate, (no CAS #). Whey protein concentrations of 35% and 80% was petitioned for use as a non-organic agricultural ingredient in or on processed products labeled as “organic.” Whey protein concentrate is used as an ingredient in a variety of foods. Its use in food products is regulated by FDA (21 CFR 184.1979c). A primary purpose for adding whey protein concentrate as an ingredient to foods is to provide texture and consistency to foods. Whey protein concentrate can be used as a fat replacer when added to foods as it mimics some properties of fat. Whey is a liquid by-product of cheese manufacture. Removing the water from whey provides powdered whey protein concentrate. Protein content of whey protein concentrate can vary from 25 percent to 89.9 percent protein with milk fat content of whey protein concentrate at or below 10 percent. Whey protein concentrate is a white to cream color powder with little or no flavor and a pH that cannot exceed 7.0. Organic cheese manufacturers reportedly divert whey by-product to more lucrative markets than currently exist with the manufacture of whey protein concentrate, thus availability of whey by-product from organic cheese processing is considered to be very limited.

At its March 27–29, 2007, meeting in Washington, DC, the NOSB recommended adding Whey protein concentrate up to 80% to the National List for use in organic handling as a non-organic agricultural ingredient where the organic form of whey protein concentrate is considered commercially unavailable. In this open meeting, the NOSB evaluated whey protein concentrate against evaluation criteria established by 7 U.S.C. 6517 and 6518 of the OFPA and NOP criteria (72 FR 2167) on commercial availability, received public comment, and concluded that Whey protein concentrate is consistent with OFPA evaluation criteria and NOP commercial availability criteria. Therefore, in response to the NOSB recommendation regarding the use of whey protein concentrate in organic handling, the Secretary proposes to amend § 205.606 of the National List regulations to allow whey protein concentrate as a non-

organically produced agricultural product allowed as an ingredient in or on processed products labeled as “organic.”

### III. Related Documents—FR Notices

Two notices were published regarding the meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this proposed rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 67 FR 19375, April 12, 2002, (Gelatin, Konjac flour, Orange shellac); (2) 72 FR 10971, March 12, 2007, (Casings, Celery powder, Chia (*Salvia hispanica* L.), Colors—from agricultural products: Annatto extract; Beet juice; Beta-carotene extract; Purple carrot juice; Black currant juice; Blueberry juice; Carrot juice; Cherry juice; Chokeberry/Aronia juice; Elderberry juice; Grape juice; Grape skin extract; Paprika; Pumpkin juice; Purple potato juice; Red cabbage extract; Red radish extract; Saffron; Turmeric; Dillweed oil, Fish oil, Fructooligosaccharides, Galangal—frozen, Hops, Inulin—oligofructose enriched, Lemongrass—frozen, Pepper—chipotle chile, Rice starch, Sweet potato starch, Turkish bay leaves, Wakame seaweed (*Undaria pinnatifida*), and Whey protein concentrate).

### IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (72 FR 2167) can be accessed through the NOP website at <http://www.ams.usda.gov/nop>.

#### A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

#### B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new

and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under section 6514 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 6514(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under sections 6503 through 6507 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 6507(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 6519(f) of the OFPA (7 U.S.C. 6519(f)), this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 6520 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic

certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this proposed rule would not be significant. The effect of this proposed rule would be to allow the use of additional substances in agricultural production and handling. This action would modify the regulations to provide small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$6,500,000 and small agricultural producers are defined as those having annual receipts of less than \$750,000. This proposed rule would have an impact on a substantial number of small entities.

Based upon USDA's Economic Research Service and AMS data compiled between 2001 to 2005, the U.S. organic industry at the end of 2005 included nearly 8,500 certified organic crop and livestock operations, plus more than 2,900 handling operations.

Organic crop and livestock operations reported certified acreage totaling more than 4.05 million acres of organic farm production. Total number of organic crop and livestock operations increased by more than 18 percent from 2001 to 2005, while total certified acreage more than doubled during this time period. AMS estimates that these trends continued through 2006 and will be higher in 2007.

U.S. sales of organic food and beverages have grown from \$1 billion in 1990 to an estimated \$14 billion in 2006. Organic food sales are projected to reach \$23.8 billion for 2010. The organic industry is viewed as the fastest growing sector of agriculture, currently representing 2 percent of overall food and beverage sales. Since 1990, organic retail sales have historically demonstrated a growth rate between 20 to 24 percent each year. This growth rate is projected to decline and fall to a rate of 5 to 10 percent in the future.

In addition, USDA has accredited 99 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP web site, at <http://www.ams.usda.gov/nop>. AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

#### D. Paperwork Reduction Act

Under the OFPA, no additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

#### E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted to the Secretary by the NOSB. The 38 substances proposed to be added to the National List were based on petitions from the industry. The NOSB evaluated each petition using criteria in the OFPA and NOP criteria on commercially availability published in the **Federal Register**, (72 FR 2167). Because these substances are critical to organic

production and handling operations, producers and handlers should be able to use them in their operations as soon as possible. A 7-day period for interested persons to comment on this rule is provided. Interested persons have already been provided with 30 days of public comment on these 38 substances in advance of the NOSB meetings held May 6–8, 2002 and March 27–29, 2007. The NOSB considered these comments during their reviews and concluded that the petitioners had provided sufficient evidence for adding these 38 substances to the National List. Since many producers, handlers and certifying agents may have misinterpreted National List regulations § 205.606 to mean that any non-organic agricultural product that was not commercially available in organic form could be used in organic products without being individually listed on the National List, these 38 substances currently are being used in organic products. These 38 substances will be prohibited for use in organic products beginning June 9, 2007, unless they are added to the National List. Loss of the use of any of these products would disrupt the trade of food products currently being labeled as “organic”. Therefore, the continued allowed use of these products as ingredients in foods labeled as “organic” is necessary to prevent possible significant business disruption for organic producers and handlers. AMS believes that a 7-day period for interested persons to comment on this proposed rule is appropriate.

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

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

For the reasons set forth in the preamble, 7 CFR part 205, Subpart G is proposed to be amended 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. 6501–6522.

2. Section 205.606 is revised to read as follows:

**§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.”**

Only the following nonorganically produced agricultural products may be

used as ingredients in or on processed products labeled as “organic,” only in accordance with any restrictions specified in this section, and only when the product is not commercially available in organic form.

(a) Casings, from processed intestines.

(b) Celery powder.

(c) Chia (*Salvia hispanica*).

(d) Colors derived from agricultural products.

(1) Annatto extract (pigment CAS #1393–63–1)—water and oil soluble.

(2) Beet juice (pigment CAS #7659–95–2).

(3) Beta-carotene (CAS #1393–63–1) derived from carrots.

(4) Black currant juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(5) Black/Purple carrot juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(6) Blueberry juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(7) Carrot juice (pigment CAS #1393–63–1).

(8) Cherry juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(9) Chokeberry—Aronia juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(10) Elderberry juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(11) Grape juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(12) Grape skin extract (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(13) Paprika (CAS #68917–78–2)—dried, and oil extracted.

(14) Pumpkin juice (pigment CAS #127–40–2).

(15) Purple potato juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(16) Red cabbage extract (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(17) Red radish extract (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(18) Saffron (pigment CAS #1393–63–1).

(19) Turmeric (CAS #458–37–7).

(e) Dillweed oil (CAS #8006–75–5).

(f) Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8)—stabilized with organic ingredients or only with ingredients on the National List, §§ 205.605 and 205.606.

(g) Fructooligosaccharides (CAS #308066–66–2).

(h) Galangal, frozen.

(i) Gelatin (CAS #9000–70–8).

(j) Gums—water extracted only (Arabic; Guar; Locust bean; and Carob bean).

(k) Hops.

(l) Inulin—oligofructose enriched (CAS #9005–80–5).

(m) Kelp—for use only as a thickener and dietary supplement.

(n) Konjac flour (CAS #37220–17–0).

(o) Lecithin—unbleached.

(p) Lemongrass—frozen.

(q) Orange shellac—unbleached (CAS #9000–59–3).

(r) Pectin (high-methoxy).

(s) Peppers (Chipotle chile).

(t) Starches.

(1) Cornstarch (native).

(2) Rice starch, unmodified (CAS #977000–08–0)—for use in organic handling until [date two years after effective date of final rule].

(3) Sweet potato starch—for bean thread production only.

(u) Turkish bay leaves.

(v) Wakame seaweed (*Undaria pinnatifida*).

(w) Whey protein concentrate.

Dated: May 10, 2007.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 07–2388 Filed 5–10–07; 2:51 pm]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07–06–011]

RIN 1625–AA09

#### Drawbridge Operation Regulations; Little River (S–20) Bridge, Atlantic Intracoastal Waterway Mile 347.3, Horry County, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its notice of proposed rulemaking concerning the proposed change to the regulation of the Little River (S–20) Bridge. The requested change was to place a twenty minute regulation on the bridge in lieu of “on demand”. The withdrawal is based on limited vessel openings, comments received from the public, and the addition of a new high level fixed bridge within close proximity of the draw bridge which should help alleviate traffic congestion.