

GUIDANCE
Guidance Statement

From time to time, NOP issues program guidance for certifying agents, producers, and processors, concerning issues that arise related to the National Organic Standards as published in 7 CFR Part 205. These guidance statements are organized according to sections of the regulation, but may also be found under broad heading topics of: crops, livestock, handling/processing, labeling, and the National List. NOP welcomes input from interested parties. You may reach us by mail or fax at: National Organic Program/Rm 4008 South Bldg. 14th & Independence Avenue, Washington, DC 20250; fax (202) 205-7808.

Topic(s): National Organic Program Scope¹

Issue(s): We are often asked about the eligibility of various products for organic certification. As global trade in organic products has increased and as markets for organic products continue to grow, many producers and processors are interested in obtaining organic certification for “nontraditional” products.

Answer: As we discuss below, the Organic Foods Production Act (OFPA) provides coverage for crops, livestock, and the products derived from them. OFPA does not extend to products over which USDA has no regulatory authority (see below for such products as personal care, health care products, fertilizers and their related products). And while OFPA provides coverage for products that are defined as agricultural by the Act, no standards have yet been developed for aquatic animals or for pet foods. Other agricultural products which are covered may need additional standards for their unique production and handling requirements (see below for mushroom, apiculture, greenhouse, and hydroponic operations).

What OFPA Says:

6501 Purposes:

It is the purpose of this chapter to establish national standards governing the marketing of certain agricultural products as organically produced products.

6502 Definitions:

Agricultural Product. The term “agricultural product” means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption.

Livestock. The term “livestock” means any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other nonplant life.

What the Preamble Says:

Final Rule page 80556 (2) Additional NOP standards for specific production categories. Many commenters asked that the NOP include in the final rule certification standards for apiculture, greenhouses, mushrooms, aquatic species,

¹ This statement supercedes a statement published on May 2, 2002, concerning the range of products eligible for certification and labeling under the National Organic Program (NOP) standards. The NOP is authorized by the Organic Foods Production Act of 1990 (OFPA) (7 USC 6501) and implementing regulations are contained in 7 CFR Part 205.

culinary herbs, pet food, and minor animal species (e.g., rabbits) food. The NOP intends to provide standards for categories where the Act provides the authority to promulgate standards. During the 18-month implementation period, the NOP intends to publish for comment certification standards for apiculture, mushrooms, greenhouses and aquatic animals. These standards will build upon the existing final rule and will address *only the unique requirements necessary to certify these specialized operations* [emphasis added].

We have not addressed the labeling of pet food within this final rule because of the extensive consultation that will be required between USDA, the NOSB, and the pet food industry *before any standards on this category could be considered* [emphasis added].

Final Rule page 80557 (3) Standards for Cosmetics, Body Care Products, and Dietary Supplements. A few commenters asked that the NOP include in the final rule certification standards for cosmetics, body care products, and dietary supplements. Producers and handlers of agricultural products used as ingredients in cosmetics, body care products, and dietary supplements could be certified under these regulations. Producers and handlers of these ingredients might find an increased market value for their products because of the additional assurance afforded by certification. The ultimate labeling of cosmetics, body care products, and dietary supplements, however, is outside the scope of these regulations.

Final rule page 80557 (6) Nonedible Fibers Products in the NOP. Some commenters asked the NOP to clarify the certification status of fibers such as cotton and flax. The final rule allows for certification of organically produced fibers such as cotton and flax. However, the processing of these fibers is not covered by the final rule. Therefore, goods that utilize organic fibers in their manufacture may only be labeled as a “made with ****” product; e.g., a cotton shirt labeled “made with organic cotton.”

What the Standards Say:

205.2 Terms Defined. Agricultural product – Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption.

Certified operation – A crop or livestock production, wild crop harvesting or handling operations, or portion of such operation that is certified by an accredited certifying agent as utilizing a system of organic production or handling as described by the Act and the regulations in this part.

Livestock – Any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other nonplant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products. (Please note that this definition will be amended to bring it into compliance with OFPA.)

Guidance: This guidance is consistent with OFPA and the NOP regulations. Because OFPA does not extend to cover nonagricultural products, and because USDA has no regulatory authority over such products, producers of the following

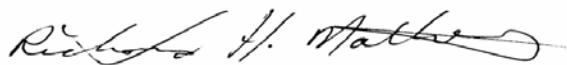
products are not eligible to seek certification under the National Organic Program:

- Personal care products, body care products, cosmetics, and other related products. These products are under the labeling and regulatory jurisdiction of the Food and Drug Administration (FDA) and may also be affected by applicable State laws;
- Dietary supplements, over-the-counter (OTC) medicines or health aids, and other related products. Like personal care products, these products are covered by FDA and possible State laws;
- Fertilizers, soil amendments, manure, and related products. These are also covered by applicable State laws. Although there are no NOP standards for labeling these products as organic, there are explicit NOP standards regarding their use in certified organic operations.
- Fish and seafood, farm-raised or wild-caught. Although OFPA provided coverage for aquatic organic standards, NOP has not developed any standards for proposal to the public for comment.
- Pet foods. Although OFPA provided coverage for pet foods organic standards, NOP has not developed any standards for proposal to the public for comment.

The products listed above may not display the USDA organic seal and may not imply that they are produced or handled to the USDA NOP standards. Consumers should be aware that the use of labeling terms such as “100% organic,” “organic,” or “made with organic ingredients” on these products may be truthful statements. But these statements do not imply that the product was produced in accordance with the USDA NOP standards nor that the producer is certified under the NOP standards.

Operations producing the products listed above that use labeling or other market information that implies or states that the products are in compliance with the USDA NOP standards, or products that carry the USDA seal, have until October 21, 2005, to use existing supplies of labels and packaging. Failure to comply with this requirement may result in an enforcement action.

Regarding mushrooms, apiculture and honey, greenhouse operations and greenhouse products, and hydroponic agriculture: as the language in the preamble suggests, these products may be certified to the existing NOP regulations which will be amended in future rulemaking to cover any unique production and handling requirements. We have received recommendations from the NOSB and, to ensure uniform certification among USDA accredited certifying agents, we will publish at the earliest possible date through notice and comment rulemaking any additional standards needed for these commodities. Interested parties are invited to consult with the NOP in preparation for the proposed rulemaking.



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April 13, 2004
Date Approved