

Notices

Federal Register

Vol. 70, No. 20

Tuesday, February 1, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 27, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_OIRA_Submission@OMB.EOP.GOV* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to

the collection of information unless it displays a currently valid OMB control number.

30-day Federal Register Notice

Forest Service

Title: Evaluation of the Environment Intervention Handbook.

OMB Control Number: 0596-NEW.

Summary of Collection: The Environmental Intervention Handbook is a tool for resource managers to address depreciative activities in recreation settings. The Forest Service (FS) and university researchers will contact recipients of a handbook designed to help managers reduce depreciative activities. Through those contacts they will evaluate the uses of the handbook, barriers to usage, and the need for the revision of the handbook or creation of supplementary materials. This will help the researchers improve their ability to provide information to natural resource managers on reducing activities like littering, vandalism, and other activities that cause damage. To gather this information, a mini-survey will be sent through the mail to all handbook recipients.

Need and Use of the Information: The information from the survey will be used by FS to evaluate the application and uses of the handbook, the need for revision of the handbook, and the need for additional tools or supplementary information to be used with the handbook. Without the proposed information collection, assessment of how the handbook was used, how well it worked, whether or not we need to revise it, and if we need to provide additional tools will not be known.

Description of Respondents: Individuals or households.

Number of Respondents: 50.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 27.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05-1797 Filed 1-31-05; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM-03-03]

National Organic Program: Development, Issuance, and Use of Guidance Documents

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice with request for comments.

SUMMARY: This notice sets forth the U.S. Department of Agriculture's (USDA) National Organic Program (NOP) procedures for the development, issuance, and use of guidance documents. This document is intended to make the NOP's procedures clearer to the public.

DATES: Comments must be submitted April 4, 2005.

ADDRESSES: Interested persons are invited to submit written comments on this notice using the following addresses:

- Mail: Richard H. Mathews, Associate Deputy Administrator, National Organic Program, USDA-AMS-TMP-NOP, 1400 Independence Ave., SW., Room 4008 South., Ag Stop 0268, Washington, DC 20250-0268.
- E-mail: *NOP.Guidance@usda.gov*. (Not case sensitive)
- Fax: (202) 205-7808.
- Internet: *http://www.regulations.gov*.

Procedures for Submitting Comments: Comments on this notice must be in writing and should be identified with the docket number TM-03-03. Comments should identify the topic and section number of this notice to which the comment refers. If you choose to comment, you should clearly indicate if you are for or against the notice or some portion of it and the reason(s) for your position. If you are suggesting changes to the notice, you should include recommended language changes, as appropriate, along with any relevant supporting documentation.

It is our intention to have all comments to this notice whether submitted by mail, e-mail, or fax, available for viewing on the NOP homepage. Comments submitted in response to this notice will be available for viewing at USDA-AMS, Transportation and Marketing Programs,

Room 4008-South Building, 1400 Independence Avenue, SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except for official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this notice are requested to make an appointment in advance by calling (202) 720-3252.

FOR FURTHER INFORMATION CONTACT:

Keith Jones, Team Leader, Program Development, National Organic Program, 1400 Independence Ave., SW., Room 4008-S, Ag Stop 0268, Washington, DC 20250-0268; Telephone: (202) 720-3252; Fax: (202) 205-7808; and e-mail: keith.jones@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Related Documents

We have published five notices related to this action in the **Federal Register**. The NOP final rule was published on December 21, 2000 (65 FR 80548). Two rules proposing to amend the NOP's National List were published on April 16, 2003 (68 FR 18566), and May 22, 2003 (68 FR 27941). Two final rules amending the NOP's National List were published on October 31, 2003 (68 FR 61987) and November 3, 2003 (68 FR 62215).

II. Statutory and Regulatory Authority

This notice is issued under the authority of the Organic Foods Production Act of 1990 (Act), as amended (7 U.S.C. 6501 *et seq.*).

III. Background

The preamble to the March 13, 2000, NOP notice (65 FR 13543-44) and the December 21, 2000, final rule (65 FR 80557) made several references to program manuals as a mechanism for further clarifying regulatory characteristics and expectations of the NOP. The NOP's goal is to use program manuals to enable reliably uniform regulatory decisions.

The guidance documents referred to in this notice are the specific documents that will comprise a program manual. The guidance documents will address, over time, each final rule section, as appropriate, and offer information, procedures, and protocols. Prior to the publication of this notice the NOP communicated with accredited certifying agents, their clients and program participants and the public on regulatory characteristics and expectations through the publication and dissemination of documents known as "policy statements" and through a

question and answer format (Q and A's). Issuance of policy statements and Q and A's was viewed by the NOP as a temporary step toward the publication of this notice. The guidance documents that would be implemented by this action will replace the existing policy statements and Q and A's.

These guidance documents will represent NOP's current thinking on a particular topic. Consistent with earlier statements in the proposed and final rule, they do not create or confer any rights for or on any person and do not operate to bind NOP or the public. An alternative approach may be used if such approach satisfies the requirements of the Act and its implementing regulations. NOP will be available to discuss alternative approaches to ensure that the alternative complies with the Act and its implementing regulations. However, because a guidance document represents the program's current thinking on the subject addressed in the document, NOP will take steps to ensure that its staff does not deviate from the guidance document without appropriate justification and appropriate supervisory concurrence.

The use of guidance documents to assist in developing uniform regulatory decisions is a standard government practice, and the NOP has reviewed examples of guidance documents from various Federal regulatory agencies. Additionally, we may use public meetings as a forum for input on the development and issuance of guidance documents as well as the format and scope of the program manual. Your comments on this notice will help AMS evaluate the potential effectiveness of the development, issuance, and use of guidance documents in ensuring uniform regulatory decisions.

Of course, if in developing program guidance, it appears that modifications or changes in the NOP regulations are required, such modifications would be made through notice and comment rulemaking.

IV. Overview of Procedures

A. Purpose

This "Good Guidance Practices" (GGP's) document sets forth NOP's general policies and procedures for developing, issuing, and using guidance documents. The purpose of this document is to help ensure that program guidance documents are developed with adequate public participation, that guidance documents are readily available to the public, and that guidance documents are not applied as binding requirements. The program

wants to ensure uniformity in the development, issuance, and use of guidance documents.

The purposes of guidance documents are to:

(1) Provide assistance to the regulated industry by clarifying requirements that have been imposed by the Act or its implementing regulations and by explaining how industry may comply with those statutory and regulatory requirements; and

(2) provide specific review and enforcement approaches to help ensure that NOP staff implements the program's mandate in an effective, fair, and consistent manner. Certain guidance documents may provide information about what the program considers to be the important regulatory characteristics of production and processing practices. Some may address appropriate certification protocols to verify adherence to statutory and regulatory requirements. Others may explain NOP's views on complex or controversial regulatory issues. Still others may address how to avoid enforcement actions.

This document represents the program's codification of best practices for developing, issuing, and using guidance documents. The NOP may issue additional/more detailed procedures to implement the general principles set forth herein.

B. Guidance Documents

The term "guidance documents" will refer to documents prepared by the NOP, for accredited certifying agents, their clients and program participants and the public that: (1) Relate to the production, handling, processing, labels, labeling and marketing information, certification, accreditation of certifying agents, the National List of Allowed and Prohibited Substances, State Organic Programs, fees, compliance, inspection and testing, reporting and exclusion from sale, compliance, adverse action appeals process and enforcement policies regarding agricultural products regulated under 7 CFR Part 205; (2) describe the program's policy and regulatory approach to an issue; or (3) establish inspection and enforcement policies and procedures. "Guidance documents" do not include documents relating to internal NOP procedures, program reports, general information documents provided to consumers, speeches, journal articles and editorials, media interviews, press materials, letters addressing enforcement or compliance actions, or other communications directed to individual persons or firms.

C. Legal Effect of Guidance Documents

Guidance documents do not themselves establish legally enforceable rights or responsibilities and are not legally binding on the public or the program. Rather, they explain how the Act and its implementing regulations apply to certain regulated activities. However, because a guidance document represents the program's current thinking on the subject addressed in the document, the NOP will take steps to ensure that its staff does not deviate from the guidance document without appropriate justification and appropriate supervisory concurrence.

Alternative methods that comply with the Act and its implementing regulations are acceptable. If a regulated company or person wishes or chooses to use an approach other than that set forth in a guidance document, the NOP will, upon request, discuss with that company or person alternative methods of complying with the Act and its implementing regulations.

The NOP strongly encourages industry to discuss alternative approaches with the NOP before implementing them to avoid unnecessary or wasteful expenditures of resources.

D. Application of GGP's

NOP staff will adhere to these GGP's. Documents and other means of communication excluded from the definition of guidance should not be used to initially communicate new or different regulatory expectations not readily apparent from the Act or its implementing regulations to a broad public audience. Whenever such regulatory expectations are first communicated to a broad public audience, these GGP's should be followed. This does not limit the program's ability to respond to questions as to how an established policy applies to a specific situation or to questions about areas that may lack established policy. However, such questions may signal the need to develop guidance in that area.

E. Procedures for Developing Guidance Documents

NOP has adopted a two-level approach to the development of guidance documents. The procedures for developing a guidance document will depend on whether that guidance document is a "Level 1" guidance or a "Level 2" guidance. Level 1 guidance documents generally include guidance directed primarily to accredited certifying agents or other members of the regulated industry that set forth first

interpretations of statutory or regulatory requirements, changes in interpretation or policy that are of more than a minor nature, or address unusually complex or highly controversial issues. Level 2 guidance documents include all other guidance documents.

1. *Development of Level 1 Guidance Documents.* For Level 1 guidance documents, the program will solicit public input prior to implementation, unless: (1) There are significant regulatory justifications for immediate implementation; (2) there is a new statutory requirement, executive order, or court order that requires immediate implementation, and guidance is needed to help effect such implementation; or (3) the guidance presents a less burdensome policy that is consistent with the purposes of the Act and implementing regulations. In the latter situation, the program will solicit public input upon issuance/implementation.

For Level 1 guidance, the program will, at a minimum, solicit public input by (1) issuing a notice of availability of a draft of the guidance in the **Federal Register** and indicating its availability on the NOP home page and (2) posting the draft on the NOP home page or making the draft otherwise available. The notice of availability will provide information regarding how to obtain a copy of the draft guidance; hard copies of the draft will be available upon request. The program may use a single **Federal Register** notice of availability to solicit public input on several different draft guidance documents. For Level 1 guidance documents, the program also may hold a public workshop to discuss a draft and/or present a draft to the public when, for example, there are highly controversial or unusually complex issues. Guidance document notices and/or drafts will be posted on the NOP home page or will be accessible from there.

Because the program recognizes that it is important to solicit input prior to its decision to issue guidance and also, perhaps, during the development of a draft of a Level 1 guidance, the program is implementing various practices to obtain input at the earliest stages of Level 1 guidance document development. For example, these GGP's provide that the public will have an opportunity to comment on and suggest areas for guidance development or revision and to submit draft guidances for possible adoption by the program. (See the "Guidance Document Agenda" and "Guidance Proposal Policy" set forth below.)

In addition, NOP may solicit or accept early input on the need for new or

revised guidance or assistance in the development of particular guidance documents from interested parties such as the National Organic Standards Board, consumer groups, trade associations, public interest groups and the general public. The program may participate in meetings with these various parties to obtain each party's views on priorities for developing guidance documents. The program may also hold public meetings and workshops to obtain input from each interested party on the development or revision of guidance documents in a particular NOP subject area.

Comments submitted on draft Level 1 guidance documents will be submitted to the docket identified in the **Federal Register** notice and on the NOP home page. All comments will be available to the public for review. The program will review all comments. The program will make changes to the guidance document in response to comments, as appropriate.

2. *Development of Level 2 Guidance Documents.* For Level 2 guidance, the NOP will provide an opportunity for public comment upon issuance. Unless otherwise indicated, the guidance will be implemented upon issuance. The availability of new Level 2 guidance documents should be posted on the NOP home page as each guidance is issued. The program will publish a list in the **Federal Register** of all new Level 2 guidance documents issued during any quarter. The list of guidance documents will not be published following any quarter in which no guidance document was issued.

The NOP may, at its discretion, solicit comment before implementing a Level 2 guidance document. The NOP will review all comments and may make changes to the guidance in response to comments, as appropriate.

3. *Comments on Guidance Documents In Use.* For all guidance documents comments will be accepted at any time. Comments on the guidance documents in use should be submitted to NOP at the address identified in the guidance. Guidance may be revised in response to such comments, as appropriate.

4. *Authorization Policy.* All drafts of Level 1 guidance documents that are made available for public comment will be signed by the Deputy Administrator, Transportation and Marketing Programs. All final versions of Level 1 guidance documents will receive the sign-off by the Associate Administrator, AMS. All Level 2 guidance documents will receive the sign-off of the Associate Deputy Administrator, NOP.

5. *Guidance Document Agenda.* The NOP will update all existing policy

statements and Q and A's to the guidance format using the standard elements listed in this notice as soon as possible. On a semi-annual basis, the NOP will publish in the **Federal Register** and on the NOP home page possible topics for guidance document development or revision during the next year. At that time, the NOP will specifically solicit input from the public regarding these and additional ideas for new guidance documents or guidance document revisions or priorities. The NOP is not bound by the list of possible topics—*i.e.*, it is not required to issue every guidance document on the list and it is not precluded from issuing guidance documents that are not included on the list.

6. *Guidance Proposal Policy.* If a member of the public wishes to propose one or more topics for new guidance or guidance revisions, or to propose one or more draft guidance documents for adoption by NOP, that person should submit the proposal to the NOP. The submission should include a statement regarding why new or revised guidance is necessary. The statement should clearly and completely address the scope of the issue, its effect on accredited certifying agents, their clients and program participants and/or the public, and how a guidance document would enable reliably uniform regulatory decisions.

If the NOP agrees that the proposed topic should be covered by a guidance document, it will develop a guidance document in accordance with these GGP's. If the NOP agrees that a guidance document should be updated/revised, it will develop a revision in accordance with these GGP's. If the submitter has proposed a draft of the guidance document that the NOP agrees can form the basis for a guidance document, the NOP will follow the GGP's for issuing and implementing a guidance document based on that proposed draft.

7. *Review and Revision of Guidance Documents.* The NOP intends to review existing guidance documents on a regular basis. As part of the "Guidance Proposal Policy," an individual may request review or revision of a particular guidance document on the basis that it is no longer current. Such requests should be accompanied by an explanation of why the guidance is out of date and how it should be revised. The NOP will review such requests to determine if the guidance document at issue needs to be updated/revised. The NOP will, when appropriate, update or revise that guidance document in accordance with these GGP's. In addition, when significant changes are made to an applicable statute or

regulation, the NOP will, on its own initiative, review and, as appropriate, revise guidance documents relating to that changed statute or regulation.

F. Standard Elements

1. *Nomenclature.* All guidance documents will include: (a) the umbrella term "guidance", (b) information that identifies the NOP as having produced the document, and (c) the regulatory activity to which and/or the persons to whom the document applies. In practice, the majority of guidance documents issued will be called "guidance for industry."

2. *Statement of Nonbinding Effect.* All guidance documents will include language such as this guidance represents the NOP's current thinking on this topic. This guidance is designed to assist interested parties in complying with the requirements of the Organic Foods Production Act of 1990 (OFPA) and its implementing regulations. It does not create or confer any rights for or on any person and does not operate to bind the NOP or the public. You may use an alternative approach if the approach satisfies the requirements of OFPA and its implementing regulations. Before adopting an alternative approach, the NOP strongly encourages industry to discuss any alternative approach with the NOP in order to avoid unnecessary or wasteful expenditures and to ensure the proposed alternative approach complies with OFPA and its implementing regulations.

3. *Absence of Mandatory Language.* Because guidance documents are not binding, mandatory words such as "shall," "must," "require," and "requirement" are inappropriate unless they are being used to describe or discuss a statutory or regulatory requirement. Before a new guidance is issued, it will be reviewed to ensure that mandatory language has not been used, except to describe or discuss a statutory or regulatory requirement.

4. *Other Standard Elements.* Each guidance document will include the dates of issuance, date of effect and latest revision. Documents that are being made available for comment will include a "draft" notation. When a guidance supersedes another guidance document, the new guidance document will identify the document that it is superseding. Superseded documents that remain available for historical purposes will be stamped or otherwise identified as superseded. All guidance documents will include a cover sheet that is modeled after the example in Appendix A attached to this document.

G. NOP Implementation of GGP's

1. *Education.* All current and new NOP employees involved in the development, issuance, or application of guidance documents will be provided a copy of and directed to review the program's GGP's. The program will conduct additional training of employees involved in the development and use of guidance documents that will describe in more detail how to develop and use guidance documents under these GGP's. This training will emphasize the principles set forth in section III, above, regarding the legal effect of guidance documents.

The program also will educate the public about the legal effect of guidance. These GGP's and the statement of the nonbinding effect of guidance that will be included in every future guidance document and on the comprehensive list of guidance documents (discussed in section VIII below) will help to educate the public about the legal effect of guidance. The NOP staff will take the opportunity to state and explain the legal effect of guidance when speaking to the public about guidance documents.

2. *Monitoring.* The NOP will monitor staff's use of guidance documents. As part of this process, NOP will monitor the development and issuance of guidance documents to ensure that these GGP's are being followed. In addition, NOP will spot-check the use of guidance documents to ensure that they are not being applied as binding requirements. Finally, NOP will spot-check the use of documents and communications that are not defined as guidance, such as warning letters and speeches, to ensure that these documents are not being used to initially express a new regulatory expectation to a broad public audience.

Three years after these GGP's have been implemented; the program will perform an internal review to determine whether these GGP's have been successful in achieving NOP's goal in issuing them. The internal review will determine whether the GGP's are ensuring: (1) Adequate public participation in the development of guidance, (2) that guidance documents are readily available to the public and (3) that guidance documents are not being applied as binding requirements. The internal review will also examine the results of the program's monitoring efforts as well as the number and results of appeals relating to the development and/or use of guidance documents.

H. Dissemination/Availability to Public

A comprehensive list of all current guidance documents will be maintained on the NOP home page. New guidance documents will be added to the list within 30 days of issuance. NOP will publish the comprehensive list in the **Federal Register** annually. NOP will publish a **Federal Register** notice that lists all guidance documents that were issued during any quarter and all guidance documents that have been withdrawn during the same quarter. Publication will not occur following any quarter in which no guidance document was issued or withdrawn.

The guidance document list will include the name of each guidance document, the document issuance/effective/revision dates, and information to obtain copies of the document. The list will be organized by NOP and will group guidance documents by their intended users and/or the regulatory activities to which they apply. The list also will include (properly identified) draft documents being made available for public comment.

The NOP will be responsible for maintaining a comprehensive set of guidance documents and making those guidance documents available to the public. All guidance documents made available will be included on the comprehensive list. To the extent feasible, guidance documents will be made available electronically (e.g., on the NOP home page). The NOP will make all guidance documents available in hard copy, upon request.

I. Appeals

These GGP's should foster the development and use of guidance documents consistent with NOP's intended goal of regulatory decisions that will be reliably uniform throughout the world. Nevertheless, an effective appeal mechanism is needed to address instances in which the GGP's may not have been followed or the GGP's fail to achieve their purpose. The NOP will provide an opportunity for appeal by a person who believes that GGP's were not followed in issuing a particular guidance document or who believes that a guidance document has been treated as a binding requirement.

As a general matter, a person with a dispute involving a guidance document should begin with the supervisor of the person applying the guidance document. If the issue cannot be resolved at that level, the matter should be brought to the next level. This process would continue on up the chain of command. If a matter is unresolved at the level of the Associate Deputy

Administrator, NOP, the Deputy Administrator for Transportation and Marketing Programs or the Administrator of AMS may be asked to become involved.

The language below will be inserted into and made part of the program manual for the National Organic Program.

National Organic Program Good Guidance Practices

What Are Good Guidance Practices?

Good guidance practices (GGP's) are the National Organic Program's (NOP) policies and procedures for developing, issuing, and using guidance documents.

What Is a Guidance Document?

A guidance document is a document prepared by the NOP for accredited certifying agents, their clients and program participants, and the public that describe the NOP's current interpretation of or policy on a regulatory issue. Guidance documents include, but are not limited to:

- Documents related to the production, handling, labels, labeling and market information, certification, accreditation of certifying agents, the National List of Allowed and Prohibited Substances, State Organic Programs, fees, compliance, inspection and testing, reporting and exclusion from sale, compliance, adverse action appeals process and enforcement policies regarding agricultural products regulated under the National Organic Program;
- Documents that describe NOP's policy and regulatory approach to an issue; or
- Documents that establish inspection and enforcement policies and procedures.

Guidance documents do not include documents that relate to internal NOP procedures, program reports, general information documents provided to consumers or agriculture and food professionals, speeches, journal articles and editorials, media interviews, press materials, letters regarding enforcement or compliance actions, memoranda of understanding, or other communications directed to individual persons or firms.

What Other Terms Have a Special Meaning?

Level 1 guidance documents include guidance documents that set forth initial interpretations of statutory or regulatory requirements; set forth changes in interpretation or policy that are of significance; include complex issues; or cover highly controversial issues. Level

2 guidance documents are guidance documents that set forth existing practices or minor changes in interpretation or policy. Level 2 guidance documents include all guidance documents that are not classified as Level 1. The term "you" refers to all affected parties outside of NOP.

Are You or NOP Required To Follow a Guidance Document?

No. Guidance documents do not establish legally enforceable rights or responsibilities. They do not legally bind the public or NOP. You may choose to use an approach other than the one set forth in a guidance document. However, your alternative approach must comply with all applicable Federal and State statutes and regulations. NOP is willing to discuss an alternative approach with you to ensure that your alternative complies with all applicable Federal and State statutes and regulations. However, although guidance documents are not legally binding, they represent the NOP's current thinking. Therefore, NOP employees may depart from guidance documents only with appropriate justification and supervisory concurrence.

Can NOP Use Means Other Than a Guidance Document To Communicate New Program Policy or a New Regulatory Approach to a Broad Public Audience?

The program may not continually use documents or other means of communication that are excluded from the definition of guidance document to informally communicate new or different regulatory expectations to a broad public audience. These GGP's must be followed whenever regulatory expectations that are not readily apparent from the Statute or regulations are first communicated to a broad public audience. These GGP's do not limit the NOP's ability to respond to questions as to how an established policy applies to a specific situation or to questions about areas that may lack established policy.

How Can You Participate in the Development and Issuance of Guidance Documents?

You can provide input on guidance documents that NOP is developing under the procedures described below under the heading "What are NOP's procedures for the developing and issuing guidance documents?" You may also suggest areas for guidance document development. Your suggestions should address why a guidance document is necessary, should

clearly and completely address the scope of the issue, its effect on accredited certifying agents, their clients and program participants and/or the public, and how a guidance document would enable reliably uniform regulatory decisions. You may also submit drafts of proposed guidance documents for NOP to consider. When you do so, you should mark the document "Guidance Document Submission" and send it to: USDA/AMS/TMP/NOP, 1400 Independence Ave., SW., Room 4008 South, Ag Stop 0268, Washington, DC 20250-0268. NOP may designate an electronic e-mail address for the purpose of receiving comments on guidance documents. At any time, you may suggest that NOP revise or withdraw an already existing guidance document. Your suggestion should address why the guidance document should be revised or withdrawn and, if applicable, how it should be revised. Annually, NOP will publish, both in the **Federal Register** and on its Web site, a list of possible topics for future guidance document development or revision during the next year. You can comment on this list (*e.g.*, by suggesting alternatives or making recommendations on the topics that NOP is considering). To participate in the development and issuance of guidance documents through one of these mechanisms described above, you should contact the program. If NOP agrees to draft or revise a guidance document, you can participate in the development of that guidance document under the procedures described below.

What Are NOP's Procedures for Developing and Issuing Guidance Documents?

Before NOP prepares a draft of a Level 1 guidance document, NOP can seek or accept early input from individuals or groups outside the program. For example, NOP can do this by participating in or holding public meetings and workshops. After NOP prepares a draft of a Level 1 guidance document, NOP will publish a notice in the **Federal Register** announcing that the draft guidance document is available. NOP will then post the draft guidance document on the NOP website and make it available in hard copy on request and invite your comment on the draft guidance document. To submit your comments, see the paragraph "How should you submit comments on a guidance document?" below. After NOP prepares a draft of a Level 1 guidance document, NOP can also hold public meetings or workshops or present the draft guidance document to an advisory committee for review. After

providing an opportunity for public comment on a Level 1 guidance document, NOP will review all comments received and prepare the final version of the guidance document incorporating suggested changes when appropriate. NOP will then publish a notice in the **Federal Register** announcing that the guidance document is available, post the guidance document on the NOP website and make it available in hard copy on request, and implement the guidance. After providing an opportunity for comment, NOP may decide that it should issue a revised draft of the guidance document. In this case, NOP will follow the applicable steps listed in the paragraph describing how NOP develops and issues guidance documents. NOP will not seek your comment before it implements a Level 1 guidance document if NOP determines that prior public participation is not feasible or appropriate. When public participation is determined infeasible or inappropriate, NOP will prepare a guidance document, publish a notice in the **Federal Register** announcing that the guidance document is available on request, post the guidance document on the NOP website and make it available in hard copy, immediately implement the guidance document; and invite your comment when it issues or publishes the guidance document. If NOP receives comments on the guidance document, NOP will review those comments and revise the guidance document when appropriate. If a version is revised, the new version will be placed on the NOP website.

Procedures for Developing and Issuing Level 2 Guidance Documents.

After NOP prepares a Level 2 guidance document, NOP will post the guidance document on the NOP website and make it available in hard copy on request, immediately implement the guidance document, unless indicated otherwise when the document is made available, and invite your comment on the Level 2 guidance document. If NOP receives comments on a Level 2 guidance document, NOP will review those comments and revise the document if appropriate. If revised, the new version will be placed on the NOP website. You may comment on any guidance document at any time, using the procedures described below. NOP will revise guidance documents in response to your comments when appropriate.

How Should You Submit Comments on a Guidance Document?

If you choose to submit comments on any guidance document, you must send your comments to: USDA/AMS/TMP/NOP, 1400 Independence Ave., SW, Room 4008 South, Ag Stop 0268, Washington, DC 20250-0268. NOP may designate an electronic e-mail address for the purpose of receiving electronic comments on guidance documents. Comments should identify the docket number on the guidance document, if such a docket number exists. For documents without a docket number, the title of the guidance document should be included. Comments will be available to the public in accordance with NOP's public comment access policy.

What Standard Elements Must NOP Include in a Guidance Document?

A guidance document must include the term "guidance" and identify that NOP is issuing the document. The guidance document must identify the activity to which and the people to whom the document applies. The document must prominently display a statement of the document's nonbinding effect and include the date it is issued as well as its effective date. The document should note if it is a revision to a previously issued guidance and identify the document being replaced, and contain the word "draft" if the document is a draft guidance. Guidance documents will not use mandatory language such as "shall," "must," "required," or "requirement," unless NOP is quoting from existing statutory or regulatory requirements. (Note that draft guidance documents that are the product of international negotiations may not follow these standard elements, however, any final guidance document issued according to this provision must contain these standard elements described in this paragraph.)

Who, Within NOP, Can Approve Issuance of Guidance Documents?

The NOP will have written internal procedures for the approval of guidance documents. Those procedures will ensure that issuance of all documents is approved by appropriate NOP and AMS staff.

How Will NOP Review and Revise Existing Guidance Documents?

The NOP will periodically review existing guidance documents to determine whether they need to be changed or withdrawn. When significant changes are made to an applicable statute or regulation, NOP will review and, if appropriate, revise

guidance documents relating to the change in statute or regulation. Also, as discussed above, you may at any time suggest that NOP revise a guidance document.

How Will NOP Ensure That NOP Staff Is Following These GGP's?

All current and new NOP employees involved in the development, issuance, or application of guidance documents will be trained regarding the program's GGP's. NOP will monitor the use of guidance documents by NOP staff to ensure that GGP's are being followed in the absence of an approved alternative approach.

How Can You Get Copies of NOP Guidance Documents?

NOP will make copies available in hard copy on request and through the NOP website.

How Will NOP Keep You Informed of the Guidance Documents That Are Available?

NOP will maintain on its website a list of all current guidance documents. New documents will be added to this list within 30 days of issuance. Annually, NOP will publish in the **Federal Register** its comprehensive list of guidance documents. The comprehensive list will identify documents that have been added to the list or withdrawn from the list since the previous comprehensive list. NOP's guidance document lists will include the name of the guidance document, issuance and revision dates, and information on how to obtain copies of the document.

What Can You Do If You Believe That Someone at NOP Is Not Following These GGP's?

If you believe that someone at NOP did not follow the procedures in this section or that someone at NOP treated a guidance document as a binding requirement, you should contact that person's supervisor. If the issue cannot be resolved, you should contact the next highest supervisor. If you are unable to resolve the issue, you may ask the Deputy Administrator for Transportation and Marketing Programs, or the Administrator of AMS to become involved.

Dated: January 26, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05-1748 Filed 1-31-05; 8:45 am]

BILLING CODE 3410-02-P

Administrator will determine within 40 days whether or not imports of shrimp contributed importantly to a decline in domestic producer prices of more than 20 percent during the marketing year period beginning January 2003 through December 2003. If the determination is positive, all shrimp producers in Mississippi will be eligible to apply to the Farm Service Agency for technical assistance at no cost and for adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT:

Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720-2916, e-mail: trade.adjustment@fas.usda.gov.

Dated: January 12, 2005.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 05-1749 Filed 1-31-05; 8:45 am]

BILLING CODE 3410-10-P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the Gollott's Oil Dock and Icehouse, Inc., Biloxi, Mississippi, for trade adjustment assistance. Gollott's represents Mississippi shrimpers. The

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA).

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD DECEMBER 17, 2004-JANUARY 21, 2005

Firm name	Address	Date petition accepted	Product
C & M Technologies Group, Inc.	51 South Walnut Street, Wauregan, CT 06387	12/27/2004	Wire, cable and cable assemblies.
Leonardi Manufacturing Co., Inc.	2728 Erie Drive, Weedsport, NY 13166 ...	12/27/2004	Metal stamped and press brake formed brackets and frames for automobiles and air conditioning units, and metal handbag and luggage frames.
Adcor Industries, Inc.	234 South Haven Street, Baltimore, MD 21224	1/10/2005	Machinery and spare parts for the bottling industry.
Bernier Cast Metals, Inc.	2626 Hess Street, Saginaw, MI 48601	1/12/2005	Sand cast metal products, i.e. bearings and housings.
All Service Plastic Molding, Inc.	3365 Obco Court, Dayton, OH 45413	1/14/2005	Injection molded plastic parts, i.e. cases, boxes and plastic parts and accessories for automobiles.
Holcombe Armature Company	905 Rockmart Road, Villa Rica, GA 30180	1/21/2005	Starter motor and generator armatures for automotive and other internal combustion engine applications.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently,

the United States Department of Commerce has initiated separate investigations to determine whether

increased imports into the United States of articles like or directly competitive with those produced by each firm