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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2600

RIN 3209-AA21

#### Office of Government Ethics Organization and Functions Regulation; Clarifying Amendment

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; amendment.

**SUMMARY:** The Office of Government Ethics recently published in the **Federal Register** its final rule updated organization and functions regulation. This amendment clarifies one section of that updated regulation regarding the principal deputy role of OGE's General Counsel.

**EFFECTIVE DATE:** November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Horton, Attorney Advisor, Office of Government Ethics; telephone: 202-482-9300; TDD (Telecommunications Device for the Deaf and Speech Impaired): 202-482-9293; FAX: 202-482-9237.

**SUPPLEMENTARY INFORMATION:** Section 2600.103(c)(2) of OGE's recently updated organization and functions regulation as published at 68 FR 41681-41683 (July 15, 2003) provides that the OGE General Counsel serves as the principal deputy of the Director of OGE. This amendment to that section clarifies that OGE's General Counsel so serves, except as the OGE Director expressly provides by written delegation.

#### Matters of Regulatory Procedure

##### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment, and 30-day delay in effectiveness as to this clarifying

amendment to OGE's organization and functions regulation as recently revised. The notice, comment, and delayed effective date are being waived because this amendment concerns matters of agency organization, practice and procedure.

##### *Executive Order 12866*

In promulgating this clarifying amendment, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This amendment has not been reviewed by the Office of Management and Budget under that Executive Order, since it is not deemed "significant" thereunder.

##### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final regulatory amendment in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

##### *Regulatory Flexibility Act*

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this amendatory rulemaking will not have a significant economic impact on a substantial number of small entities.

##### *Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this amendatory rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

##### *Congressional Review Act*

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives, and General Accounting Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

## List of Subjects in 5 CFR Part 2600

Conflict of interests, Government employees, Organization and functions (Government agencies).

Approved: October 28, 2003.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2600 as follows:

## PART 2600—ORGANIZATION AND FUNCTIONS OF THE OFFICE OF GOVERNMENT ETHICS

■ 1. The authority citation for part 2600 continues to read as follows:

**Authority:** 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

■ 2. Section 2600.103 is amended by revising paragraph (c)(2) to read as follows:

### § 2600.103 Office of Government Ethics organization and functions.

\* \* \* \* \*

(c) \* \* \*

(2) The General Counsel is the principal deputy of the Director of OGE, except as the Director expressly provides by written delegation.

\* \* \* \* \*

[FR Doc. 03-27518 Filed 10-31-03; 8:45 am]

**BILLING CODE 6345-02-P**

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 20

#### Export Sales Reporting Requirements

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Export Sales Reporting Regulation to clarify certain agency interpretations relating to reporting obligations; adopts provisions incorporating new reporting technologies; and extends the time for submitting weekly reports. These changes will simplify the reporting requirements and ensure the accuracy of U.S. export sales reporting.

**EFFECTIVE DATE:** December 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tim Roche, Marketing Operations Staff, Stop 1025, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250-1025, or telephone at (202) 720-3274, or e-mail at *Tim.Roche@fas.usda.gov*.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12372**

This program is not subject to the provision of Executive Order 12372, which requires intergovernmental consultation with State or local officials (See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983).

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988. The provisions of this final rule will have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. This final rule will not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

**Executive Order 12866**

This final rule is issued in conformance with Executive Order 12866. It has been determined not significant by the Office of Management and Budget (OMB).

**Regulatory Flexibility Act**

This final rule should not have a significant economic impact on a substantial number of small entities. The time and expense of complying with this final rule is negligible. Data required under the final rule are routinely maintained during the normal course of export sales contracting business activity and changes made by this rule should ease any present reporting burdens. A copy of this final rule has been sent to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

**Paperwork Reduction Act**

This final rule does not impose any new reporting or record keeping requirements. The Department uses forms FAS-97, FAS-98, FAS-99, FAS-100, and an electronic reporting system for the collection of information. OMB has assigned control number 0551-0007 to these forms and has approved current collection through July 31, 2004. Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection

Coordinator, at (202) 720-2568 or e-mail at *Kimberly.Chisley@fas.usda.gov*.

**Background**

Section 602 of the Agricultural Trade Act of 1978, as amended, requires the reporting of information pertaining to contracts for export sale of certain specified agricultural commodities and other commodities that may be designated by the Secretary. In accordance with Sec. 602, individual weekly reports submitted shall remain confidential and shall be compiled and published in compilation form each week following the week of reporting. Any person who knowingly fails to make a report shall be fined not more than \$25,000 or imprisoned for not more than one year, or both. Regulations at 7 CFR part 20 implement the reporting requirements, and prescribe a system for reporting information pertaining to contracts for export sales.

Section 913(b)(1) of Public Law 106-78 requires implementation of an electronic system for reporting export sales information regarding beef. On October 11, 2001, the Department published a notice in the **Federal Register**, 66 FR 51922, requesting comments on an electronic reporting system that would be applicable to beef and all other commodities subject to the export sales reporting regulations. FAS received 15 comments, and all responses were in favor of electronic reporting. In response to specific suggestions in the comments: FAS has developed a function that will allow the user to view and print the information submitted electronically; in the event of technical difficulties, FAS will continue to accept alternative means of submitting reports; and a user ID, password and user manual will be mailed to each participating export firm. In addition, the user manual will be available on the ESR Online Web site: [https://ww2.fas.usda.gov/esr\\_rpt](https://ww2.fas.usda.gov/esr_rpt).

FAS will proceed to adopt the electronic reporting system as described in the October 11, 2001, **Federal Register** document. Additionally, exporters will have the option to satisfy their export sales reporting obligation represented by forms FAS-97, FAS-98, and FAS-100 through e-mail submission of ASCII comma delimited files. This may be of special significance to beef exporters that are required to report marketing of beef to the Agricultural Marketing Service (AMS) pursuant to 7 CFR part 59 (Livestock Mandatory Reporting).

This final rule also changes the time that weekly reports must be received by FAS from 5 p.m. each Monday to 11:59 p.m. Monday, thereby giving exporters

more time to submit the weekly report; specifies that information from daily reports will be made available to the public at 9 a.m. daily; and makes other non-substantive changes.

**List of Subjects in 7 CFR Part 20**

Agricultural commodities, Exports, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons set forth in the preamble, 7 CFR part 20 is amended as follows:

**PART 20—EXPORT SALES REPORTING REQUIREMENTS**

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** 7 U.S.C. 5712.

■ 2. Section 20.4 is amended by revising the first sentence of paragraph (c), revising the last sentence of paragraph (d), and revising paragraph (g) to read as follows:

**§ 20.4 Definitions.**

\* \* \* \* \*

(c) *Commodity.* Wheat and wheat flour, feed grains, oilseeds, cotton, rice, cattle hides and skins, beef, and any products thereof, and any other agricultural commodity the Secretary may designate. \* \* \*

(d) \* \* \* Country of destination shall be the ultimate destination of the export, and shall not be deemed to be the country through which any transshipment takes place.

\* \* \* \* \*

(g) *Exports for exporter's own account.* A transaction involving shipments made by the reporting exporter which are unsold at the time of export, shipments on consignment to selling agents of the reporting exporter for subsequent sale for the account of the reporting exporter, shipments by the reporting exporter that have not been allocated to any outstanding export sale, and shipments from the United States to any foreign country in bond for subsequent shipment to a third country.

\* \* \* \* \*

**§ 20.5 [Amended]**

■ 3. Section 20.5 is amended by removing the phrase "and ticker" after "press" in the second and third sentence.

■ 4. Section 20.6 is amended by removing the third and fourth sentences of paragraph (a) introductory text and adding five sentences in their place, adding the word "new" before "export" in the first sentence of each of paragraph (a)(1)(ii), (a)(2)(ii), and (a)(3)(ii), revising the first sentence of paragraph (k)(1), and revising the first sentence of paragraph (k)(2) to read as follows.

**§ 20.6 Submission of reports.**

(a) \* \* \* If the reporting exporter determines that the report forms cannot be received in the office specified in “20.10 by the time specified in paragraph (k) of this section, the exporter shall transmit the information contained in the report forms by the use of FAX, telephone, or electronic submission. The required form must be subsequently submitted in accordance with § 20.6(k)(2). Exporters have the option to submit the weekly reports using an electronic reporting system (forms 97e, 98e, and 100e) which may be accessed via a secured Internet website. Reporting exporters should contact the Export Sales Reporting staff to obtain passwords and access to the Internet reporting site. Exporters also have the option of satisfying the requirements of Forms FAS–97, FAS–98, and FAS–100 by submitting ASCII comma delimited files via e-mail to the ESR mailbox at [esr@fas.usda.gov](mailto:esr@fas.usda.gov).

\* \* \* \* \*

(k) *Manner and time of reporting—(1) Manner.* An original of all report forms, other than electronic forms and ASCII comma delimited files, must be filed with the office specified in § 20.10.

\* \* \*

(2) *Time of filing reports.* Information required to be reported weekly (either via fax, telephone, or electronically) must be received in the office specified in § 20.10 no later than 11:59 p.m. eastern time, on each Monday or such other time as may be approved in advance by that office. \* \* \*

■ 5. Section 20.7 is amended by revising the third sentence of the paragraph to read as follows:

**§ 20.7 Confidentiality of reports.**

\* \* \* Information from daily reports filed by exporters will be made available to the public on the following business day at 9 a.m., eastern time. \* \* \*

**§ 20.10 [Amended]**

■ 6. Section 20.10 is amended by adding the phrase “FAX: (202) 690–3270 or (202) 690–3273” after “office”.

Signed at Washington, DC, on October 22, 2003.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 03–27590 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–10–P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 205**

[Docket Number TM–03–02]

RIN 0581–AC27

**National Organic Program; Amendments to the National List of Allowed and Prohibited Substances**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Department of Agriculture’s (USDA) National List of Allowed and Prohibited Substances (National List) to reflect recommendations submitted to the Secretary by the National Organic Standards Board (NOSB). Consistent with recommendations from the NOSB, this final rule adds four substances, along with any restrictive annotations, to the National List, and revises the annotation of one substance.

**EFFECTIVE DATE:** This rule becomes effective November 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** Richard H. Mathews, Program Manager, National Organic Program, Telephone: (202) 720–3252; Fax: (202) 205–7808.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 21, 2000, the Secretary established, within the National Organic Standards (NOS) [7 CFR part 205], the National List (§§ 205.600 through 205.607). The National List is the Federal list that identifies synthetic substances and ingredients that are allowed and nonsynthetic (natural) substances and ingredients that are prohibited for use in organic production and handling. Since established, the National List has not been amended. However, under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB.

This final rule amends the National List to reflect recommendations submitted to the Secretary by the NOSB from November 15, 2000, through September 17, 2002. Between the specified time period, the NOSB has recommended that the Secretary add five substances to § 205.605 of the National List based on petitions received from industry participants. These substances were evaluated by the NOSB using the criteria specified in OFPA (7 U.S.C. 6517 and 6518) and the

NOS. The NOSB also recommended that the Secretary revise the annotation of one substance included within § 205.605.

The NOSB has recommended that the Secretary add additional substances to §§ 205.605 and 205.606 that have not been included in this final rule but are under review and, as appropriate, will be included in future rulemaking.

**II. Overview of Amendments**

The following provides an overview of the amendments made to designated sections of the National List:

**§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”**

This final rule amends paragraph (a) of § 205.605 by adding animal enzymes—without Lysosyme, calcium sulfate—mined, and glucono delta-lactone. This final rule also amends paragraph (b) of § 205.605 by adding cellulose.

This final rule revises current paragraph (b) of § 205.605 by amending an annotation to read as follows:

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process.

**III. Related Documents**

Eight 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 final rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 65 FR 64657, October 30, 2000, (Animal enzymes); (2) 66 FR 10873, February 20, 2001, (Calcium sulfate); (3) 66 FR 48654, September 21, 2001, (Cellulose, and Potassium hydroxide); and (4) 67 FR 54784, August 26, 2002, (Glucono delta-lactone, and Tetrasodium pyrophosphate).

**IV. Statutory and Regulatory Authority**

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary, at § 6517(d)(1), 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 onto or deletion from the