over the information. Additional members may be added as determined by the DHS Chief Security Officer. The DHS/CAP shall be chaired by the Chief Security Officer.

(e) If the requester files an appeal through the DHS/CAP, and the appeal is denied, the requester shall be notified of the right to appeal the denial to the Interagency Security Classification Appeals Panel (ISCAP) pursuant to section 5.3 of Executive Order 12958, as amended, and the rules issued by the ISCAP pursuant to section 5.3 of Executive Order 12958, as amended.

(f) Any individual who challenges a classification and believes that any action has been taken against him or her in retaliation or retribution because of that challenge shall report the facts to the Office of the Inspector General or other appropriate office.

(g) Nothing in this section shall prohibit a person from informally challenging the classified status of information directly to the original classification authority.

(h) Requests for review of classified material for declassification by persons other than authorized holders are governed by 6 CFR 7.31.

§ 7.31 Mandatory review for declassification requests.

(a) Any person may request that classified information be reviewed for declassification pursuant to the mandatory declassification review provisions of section 3.6 of Executive Order 12958, as amended. Such requests shall be sent to the Departmental Disclosure Officer, Privacy Office, 245 Murray Lane, SW., Building 410, Washington, DC 20528.

(b) The request must sufficiently describe the document or material with enough specificity to allow it to be located by the component with a reasonable amount of effort. When the description of the information in the request is deficient, the component shall solicit as much additional identifying information as possible from the requester. If the information or material requested cannot be obtained with a reasonable amount of effort, the component shall provide the requester, through the DHS Disclosure Officer, with written notification of the reasons why no action will be taken and of the requester's right to appeal.

(c) Requests for review of information that has been subjected to a declassification review request within the preceding two years shall not be processed. The DHS Disclosure Officer will notify the requester of such denial.

(d) Requests for information exempted from search or review under sections 701, 702, or 703 of the National Security Act of 1947, as added and amended (50 U.S.C. 431 through 433), or other provisions of law, shall not be processed. The DHS Disclosure Officer will notify the requester of such denial.

(e) If documents or material being reviewed for declassification under this section contain information that has been originally classified by another government agency, the reviewing authority shall notify the DHS Disclosure Officer. Unless the association of that organization with the requested information is itself classified, the DHS Disclosure Officer will then notify the requester of the referral.

(f) A DHS component may refuse to confirm or deny the existence, or non-existence, of requested information when its existence or non-existence, is properly classified.

(g) DHS components shall make a final determination on the request as soon as practicable but within one year from receipt. When information cannot be declassified in its entirety, components shall make reasonable efforts to redact those portions that still meet the standards for classification and release those declassified portions of the requested information that constitute a coherent segment.

(h) DHS components shall notify the DHS Disclosure Officer of the determination made in the processing of a mandatory review request. Such notification shall include the number of pages declassified in full; the number of pages declassified in part; and the number of pages where declassification was denied.

(i) The DHS Disclosure Officer shall maintain a record of all mandatory review actions for reporting in accordance with applicable Federal requirements.

(j) The mandatory declassification review system shall provide for administrative appeal in cases where the review results in the information remaining classified. The requester shall be notified of the results of the review and of the right to appeal the denial of declassification. To address such appeals, the DHS Disclosure Office shall convene a DHS Classification Appeals Panel (DHS/CAP). The DHS/CAP shall, at a minimum, consist of representatives from the Disclosure Office, the Office of Security, the Office of General Counsel, and a representative from the component having jurisdiction over the information. Additional members may be added as determined by the DHS Disclosure Officer. The DHS/CAP shall be chaired by the DHS Disclosure Officer.

(k) If the requester files an appeal through the DHS/CAP, and the appeal is denied, the requester shall be notified of the right to appeal the denial to the ISCAP pursuant to section 5.3 of Executive Order 12958, as amended, and the rules issued by the ISCAP pursuant to section 5.3 of Executive Order 12958, as amended.

Dated: October 8, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–21011 Filed 10–20–05; 8:45 am]

BILLING CODE 4410–10–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Number TM–05–02]

National Organic Program (NOP); Amendment to the National List of Allowed and Prohibited Substances (Livestock)

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 one recommendation submitted to the Secretary by the National Organic Standards Board (NOSB) on March 3, 2005. Consistent with the recommendation from the NOSB, this final rule revises the annotation of one substance on the National List, methionine, to extend its use in organic poultry production until October 21, 2008.

EFFECTIVE DATE: This rule becomes effective October 22, 2005.

FOR FURTHER INFORMATION CONTACT: Arthur Neal, Director of Program Administration, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established, within the NOP regulations [7 CFR part 205], the National List (§§ 205.600 through 205.607). The National List identifies synthetic substances that are allowed and nonsynthetic substances that are prohibited in organic crop and livestock production. The National List also identifies nonsynthetic and synthetic substances that are allowed for use in certified handling operations. 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. Since established, the National List has been amended twice, October 31, 2003 (68 FR 61987), and November 3, 2003 (68 FR 62215).

This final rule amends the National List to reflect one recommendation submitted to the Secretary by the NOSB on March 3, 2005. Based on their evaluation of a petition submitted by industry participants, the NOSB recommended that the Secretary amend § 205.603(d)(1) of the National List by revising the annotation of methionine, a feed additive, to extend its use in organic poultry production until October 21, 2008. The use of methionine in organic production was evaluated by the NOSB using the evaluation criteria specified in OFPA (7 U.S.C. 6517—6518).

II. Overview of Amendment

The following provides an overview of the amendment made to § 205.603 of the National List:

Section 205.603 Synthetic Substances Allowed for Use in Organic Livestock Production

This final rule revises current paragraph (d)(1) of § 205.603 as follows:

DL-Methionine, DL-Methionine-hydroxyl analog, and DL-Methionine-hydroxyl analog calcium (CAS #—59–51–8; 63–68–3; 348–67–4)—for use only in organic poultry production until October 1, 2008.

Methionine was petitioned for its continued use as a synthetic feed additive in organic poultry operations. Methionine is a colorless or white crystalline powder that is soluble in water. It is classified as an amino acid and considered to be an essential amino acid that is regulated as an animal feed nutritional supplement by the Food and Drug Administration (21 CFR 582.5475).

The NOSB, at its February 28–March 3, 2005, meeting in Washington, DC, received and evaluated public comment on the petition to extend the use of methionine in organic poultry production beyond October 21, 2005. The NOSB concluded that methionine is consistent with the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA; however, the NOSB maintained that non-synthetic alternatives must be developed during the additional extension on the use of synthetic methionine in organic poultry diets. Therefore, the NOSB recommended methionine be added to the National List for use only in organic poultry production until October 1, 2008, so that the organic poultry industry could continue its research to develop non-synthetic alternatives for the use of synthetic methionine.

In response to the NOSB recommendation regarding the use of DL-Methionine in organic livestock production, this action amends § 205.603(d)(1) of the National List regulation as follows:

DL-Methionine, DL-Methionine-hydroxyl analog, and DL-Methionine-hydroxyl analog calcium (CAS #—59–51–8; 63–68–3; 348–67–4)—for use in organic poultry production until October 1, 2008.

III. Related Documents

Two notices were published regarding the meeting of the NOSB and its deliberations on the recommendation and substance petitioned for amending the National List. The substance and recommendation included in this final rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 66 FR 48654, September 21, 2001, and (2) 70 FR 7224, February 11, 2005, (Methionine). The proposed rule change was published for comment in the **Federal Register** on July 29, 2005, 70 FR 43786. The substance and recommendation in this final rule were initially submitted for proposed rulemaking in the **Federal Register** Notice, 68 FR 18556, April 16, 2003, and added to the National List as final rule in the **Federal Register** Notice, 68 FR 61987, October 31, 2003.

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 National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (65 FR 43259, July 13, 2000) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

A. Executive Order 12866

This action has been determined to be non-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 final rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under § 2115 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 § 2115 (b) of the OFPA (7 U.S.C. 6514 (b)). States are also preempted under §§ 2104 through 2108 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 § 2108(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 § 2120(f) of the OFPA (7 U.S.C. 6519(f)), this final 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 2121 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 and has determined that this final rule would have an impact on a substantial number of small entities. However, AMS has determined that the impact on entities affected by this final rule would not be significant. The effect of this final rule would be to allow the use of additional substances in agricultural production and handling. This action would relax the regulations published in the final rule and would 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, the 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 $6,000,000 and small agricultural producers are defined as those having annual receipts of less than $750,000.

The U.S. organic industry at the end of 2001 included nearly 6,600 certified crop and livestock operations, including organic production and handling operations, producers, and handlers. These operations reported certified acreage totaling more than 2.34 million acres, 72,209 certified livestock, and 5.01 million certified poultry. Data on the numbers of certified handling operations are not yet available, but likely number in the thousands, as they would include any operation that transforms raw product into processed products using organic ingredients. Growth in the U.S. organic industry has been significant at all levels. From 1997 to 2001, the total organic acreage grew by 74 percent; livestock numbers certified organic grew by almost 300 percent over the same period, and poultry certified organic increased by 2,118 percent over this time. Sales growth of organic products has been equally significant, growing on average around 20 percent per year. Sales of organic products were approximately $1 billion in 1993, but reached $15 billion in 2004. In addition, since the implementation of OPFA on October 21, 2002, 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

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, the existing information collection requirements for the NOP are approved under OMB number 0581–0181. No additional collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act, or OMB's implementing regulation at 5 CFR part 1320.

E. Discussion of Comments Received

Thirteen (13) comments were received on the proposed revision to extend the use of synthetic methionine in organic poultry production until October 21, 2008. Commenters included poultry producers, poultry processors, consumers, a poultry nutritionist, a certifying agent, and a feed industry organization. The majority of the comments were in support of the proposed revision. One commenter, however, opposed extending the use of synthetic methionine and questioned the need to provide the industry with three years to identify a nonsynthetic alternative. The commenter suggested that a nonsynthetic alternative could be identified in a shorter time period. We have taken this commenter's position into consideration, and based on the research updates, public testimonies, and comments received from other sectors of the industry, we believe that three years is a reasonable time-period to complete research to identify nonsynthetic alternatives to using synthetic methionine in organic poultry production.

Pursuant to 5 U.S.C. 553, it found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the use of methionine will expire for organic poultry operations on October 21, 2005.

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 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 205.603 is amended by revising paragraph (d)(1) to read as follows:

§ 205.603 Synthetic substances allowed for use in organic livestock production.

* * * * *

(d) * * *

(1) DL-Methionine, DL-Methionine-hydroxyl analog, and DL-Methionine-hydroxyl analog calcium (CAS #—59–51–8; 63–68–3; 348–67–4)—for use in organic poultry production until October 1, 2008.

* * * * *

Dated: October 18, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–21166 Filed 10–19–05; 10:37 am]

BILLING CODE 3410–02–P