



Response to Comments

Substances Used in Post-Harvest Handling of Organic Products

This document summarizes comments submitted to the National Organic Program (NOP) in response to the draft guidance, “Substances Used in Post-Harvest Handling of Organic Products” (NOP 5023). The public was notified in a Federal Register notice ([79 FR 22886](#)) on April 25, 2014 of the availability of this draft guidance on the NOP website and solicited comments for sixty days.

- ***CHANGES MADE IN RESPONSE TO COMMENTS***

- 1) **Move the description of “further processing” activities from the definition of “post-harvest substances” to “post-harvest handling” or create a separate definition.** A few certifying agents expressed concern that the “further processing” activities when listed in the definition of “post-harvest *substances*” was inappropriate. Instead, they suggested the appropriate place for this list is within the “post-harvest *handling*” definition or in a separate definition for “further processing.” The NOP agrees the placement of this list was inappropriate and has moved the list to the definition of “post-harvest *handling*.”
- 2) **Integrate the description of post-harvest handling from the [NOP Handbook’s Organic System Plan \(OSP\) Template for Crop Production](#).** A number of commenters pointed out that the NOP should integrate the existing description of post-harvest handling as stated in the *Organic System Plan Template for Crop Production* found in the NOP Handbook. NOP agrees and incorporated the language, “activities that preserve the essential form of the product” into the definition of post-harvest handling in this guidance.
- 3) **Change to wording of section 3.6.1, Facility pest management, to indicate which sections of List are ‘consistent with the National List.’** The draft guidance stated that nonsynthetic substances and synthetic substances listed in 205.601 or 205.605 may be used in facilities, provided they are not restricted; however, section 205.603 should also be included. NOP agrees and has made this addition to the guidance, both in this section and in Appendix B.
- 4) **Section 3.6.4 should apply to both producers and handlers.** Commenters asserted that crops and livestock operations engaged in post-harvest handling within the confines of a facility are no less justified using § 205.271(d) than a handler or a processor. Commenters noted that the definition of handler at § 205.2 includes the phrase “producers who handle crops or livestock of their own production” and thus argued that the practices allowed under §205.271(d) are permitted for crop and livestock producers who handle their own products. The NOP agrees and has included the modified language of the re-numbered section 3.3.5 to include both producers and handlers.



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- 5) **Changes needed to Appendix A examples.** A few commenters requested changes to Appendix A, specifically 1) add more examples like boric acid, and 2) make changes to diatomaceous earth example. We have added boric acid and mouse bait as examples and modified the diatomaceous earth example.
- 6) **Post-harvest use of diatomaceous earth appears to conflict with Policy Section 3.2 because it has the restricted use on 7 CFR § 205.605(a): for use as a filter aid only.** Some commenters expressed concern about this policy because it states that substances on § 205.605 may be used for post-harvest handling of raw agricultural commodities, provided that there is no restriction limiting their use. The examples given in the Draft Guidance were ethylene or nitrogen gas. The commenters note that in Appendix A, diatomaceous earth is given as an example of an approved post-harvest material, but its specific restriction on 7 CFR § 205.605(a) is for use as a filter aid only. Diatomaceous earth is also considered a natural substance used in crop and livestock pest management. It is commonly used as a pest control substance in storage bins for grain and is regulated by EPA as a pesticide. We have modified the language of the re-numbered section 3.1 to indicate more clearly the various categories of substances allowed for post-harvest handling, including those nonsynthetic items used in crop production that are not restricted or prohibited at § 205.602.
- 7) **Correct examples 3 and 7 to reference § 205.271(c), not (d).** Several commenters suggested that examples for copper sulfate, narrow range oils, elemental sulfur, insecticidal soaps and ethanol and isopropyl alcohol should indicate that the use of these would comply with 205.271(c), not (d) since they are “consistent with the National List.” NOP agrees and has made this correction to the examples.
- 8) **Inert ingredients in facility pest management materials should not be reviewed for materials that do not come into contact with organic products.** One commenter pointed out that a compliance assessment of inert ingredients is not required for pest control materials permitted under § 205.271(d). NOP agrees that this was confusing and has clarified that this requirement is only for pest control materials permitted under § 205.271(c), not (d).
- ***CHANGES REQUESTED BUT NOT MADE***
- 1) **Guidance implications on 100% organic labeling category.** Several commenters requested clarification whether use of a substance in post-harvest handling in accordance with this guidance would exclude a raw agricultural product from the “100% organic” label category. This question was not addressed in the Draft Guidance, and is not in the scope of this document. The NOP anticipates publication of additional guidance to address questions related to the “100% organic” labeling category.
- 2) **Substances listed at § 205.601 should be allowed for post-harvest handling provided there is no annotation specifically restricting it.** Two commenters requested that NOP



make the interpretation that a lack of an annotation restricting post-harvest use implies that post harvest use is permitted. Commenters state that without this interpretation, commonly used substances such as chlorine, hydrogen peroxide and peracetic acid could no longer be used. The NOP disagrees. We believe it is reasonable to extend use of nonsynthetic items used in crop production to the post-harvest handling of raw agricultural commodities. However, according to the Organic Food Production Act (7 U.S.C. 6517(d)(2)), the Secretary may not approve additional exemptions for synthetic substances unless recommended by the NOSB. Examples given by commenters, such as chlorine, peracetic acid, hydrogen peroxide are all already allowed under §205.605 and thus are allowed in post-harvest handling.

- 3) **Strike the last sentence in the definition of “raw agricultural commodity” and add more examples.** A certifying agent suggested striking the last sentence in the definition of “raw agricultural commodity,” describing it as a regulatory requirement not belonging in the definition. The same certifier asked us to provide more examples. In addition, another commenter suggested including in the definition language to indicate that coloring or coating is considered processing. The NOP did not make changes to the definition in order to remain consistent with the FDA definition of raw agricultural commodity.
- 4) **Drop the reference to §205.271(d).** A non-profit organization asserted that §205.271(d) runs contrary to the Organic Foods and Production Act of 1990 (OFPA) and suggested that policy section 3.6.4 be deleted. Section 205.271(d) permits use of a synthetic substance not on the National List for facility pest management if the certifying agent reviews the substance, method of application, and confirms that measures are taken to prevent contact with organic products or ingredients. This comment requests a change in the regulation, which is outside the scope of this guidance. This guidance is meant to clarify the current regulations regarding substances that may be used for post-harvest handling as they relate to pest management.
- 5) **Change “Any EPA registered pesticide substance used in a facility pest application must be labeled for that use” to “Use of facility pest control materials must not violate label instructions.”** One commenter suggested changing the language to allow for off-label use when the label does not specify its use. We did not make this change because the OFPA (7 U.S.C 6519(c)(6)) requires that organic producers and handlers must meet all requirements of other U.S. laws, including the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.136 et seq.).