



National Organic Program
1400 Independence Avenue, SW
Room 2642-South, STOP 0268
Washington, DC 20250-0268

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MEMORANDUM TO THE NATIONAL ORGANIC STANDARDS BOARD

FROM: Jennifer Tucker, Ph.D.
Deputy Administrator
National Organic Program (NOP)

SUBJECT: Response to National Organic Standards Board Recommendations (Fall 2020 Meeting)

Background

This memorandum responds to recommendations the National Organic Standards Board (NOSB) made to the U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), National Organic Program (NOP) at its virtual meeting, which took place October 28-30, 2020.

Summary of Recommendations and AMS Responses

• **Petitioned Substances**

The NOSB recommended one amendment to the National List of Allowed and Prohibited Substances (National List) based on its review of a petition. The National List is a section of the USDA organic regulations that includes synthetic substances allowed in organic crop and livestock production, nonsynthetic substances prohibited in organic crop and livestock production, and non-organic substances allowed in organic handling.

Substance	Section of Organic Regulations	NOSB Recommendation
Paper (Plant Pots and Other Crop Production Aids)	Crops § 205.601	Returned to Crops Subcommittee.
Sodium Carbonate Lignin	Crops § 205.601	Classified as synthetic; not recommended for addition to the National List.

Substance	Section of Organic Regulations	NOSB Recommendation
Low-acyl Gellan Gum	Handling § 205.605(b)	Classified as synthetic; recommended for addition to the National List.
Fenbendazole	Livestock § 205.603	The NOSB did not recommend changes to the current listing.

AMS Response: AMS regularly publishes National List rules to implement NOSB recommendations. AMS plans to move forward with a proposed rule to address the NOSB’s recommendation for low-acyl gellan gum.

- **Research Priorities**

The NOSB recommended that integrated research be initiated that consider the whole farm system, recognizing the interplay of agroecology, the surrounding environment, and both native and farmed species of plants and animals. Building upon the [2019 list of research priorities](#), the NOSB revised many previous research priorities and added three new proposed research priorities in 2020:

Crops: Evaluation of Microbial Inoculants, Soil Conditioners, and Other Amendments

Crops: Pathogen Prevention

Crops: Climate Change

AMS Response: AMS is reviewing the NOSB’s recommendation and will share it with USDA research agencies as appropriate.

- **Ion Exchange Filtration**

The NOSB did not pass a recommendation related to the review of resins, membranes, and recharge materials used in ion exchange processes.

AMS Response: Ion exchange filtration is a known source of inconsistency among certifiers. NOSB work on this topic was prompted by that inconsistency, which remains in the absence of an NOSB recommendation. NOP will provide technical support to the NOSB for its continued work on this topic, including outreach to the U.S. Food and Drug Administration. In the meantime, certifiers may continue their ongoing practices.

- **Marine Macroalgae in Crop Fertility Inputs**

The NOSB recommended that NOP amend the listing for Aquatic Plant Extracts at § 205.601(j)(1) to include specific language stipulating prohibited harvest areas, prohibited harvest methods, and prohibited harvest practices in the interest of maintaining or improving native coastal ecosystems. Further, the recommendation proposes adding a listing to the prohibitions at § 205.602 reiterating that marine macroalgae is prohibited for use in crop production unless harvested according to the aforementioned standards.

AMS Response: AMS thanks the NOSB for all the work that went into this complex topic.

While the NOSB recommended amending the annotation for aquatic plant extracts, the public comments clearly conveyed that this action would be controversial. Therefore, NOP will focus on other rulemaking priorities at this time, including Origin of Livestock, Strengthening Organic Enforcement, and other items in this report.

- **Wild, Native Fish for Liquid Fish Products**

The NOSB recommended amending the listing for Liquid Fish Products at § 205.601(j)(8) to limit the fish source for these products to fish waste, bycatch, or invasive species. The NOSB also recommended adding definitions for “fish waste” and “bycatch” to § 205.2.

AMS Response: AMS is reviewing the NOSB’s recommendation to amend the annotation for liquid fish at § 205.601(j)(8) and addition of definitions to § 205.2 for rulemaking action.

- **List 4 Resolution**

The NOSB passed a resolution along with the recommendation to relist the references to EPA List 4 at § 205.601 and § 205.603. The resolution asks that the NOP (1) work with the NOSB to develop a viable alternative to EPA List 4 which would have minimal disruption on the organic industry, (2) provide ample time for reformulation of substances that do not meet the OFPA criteria for use in organic production, and (3) coordinate regularly with the NOSB on progress to develop an alternative to, and ultimately the removal of, the EPA List 4 listing.

AMS Response: With the support of the NOSB, AMS plans to move forward with an Advanced Notice of Proposed Rulemaking (ANPR) to discuss the policy options for resolving the outdated EPA List 4 listing. AMS is proposing to place this ANPR on the Spring 2021 Regulatory Agenda and plans to have this as a leading priority for NOP. While rulemaking is in progress, AMS will relist EPA List 4 in order to provide consistency and certainty for the organic industry.

- **Sunset Review - Recommendations for Removal**

The NOSB recommended that eleven substances be removed from the National List at § 205.606. All substances are currently due to sunset on March 15, 2022, apart from Turkish Bay Leaves and Whey Protein Concentrate, which are due to sunset on June 27, 2022. For a full list of sunset dates, see [NOP 5611 National List Sunset Dates](#).

Substance	Section of Organic Regulations	NOSB Recommendation
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Substance	Section of Organic Regulations	NOSB Recommendation
Black Currant Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Blueberry Juice Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Carrot Juice Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Cherry Juice Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Grape Juice Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Paprika Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Turmeric Color	Handling § 205.606	Recommended for removal from § 205.606(d)
Kelp	Handling § 205.606	Recommended for removal from § 205.606
Sweet Potato Starch	Handling § 205.606	Recommended for removal from § 205.606
Bay Leaves	Handling § 205.606	Recommended for removal from § 205.606
Whey Protein Concentrate	Handling § 205.606	Recommended for removal from § 205.606

AMS Response: AMS is reviewing the Board’s recommendations to remove the above substances from § 205.606 of the National List. The next step is for AMS to publish a proposed rule for public comment, which would inform any final action.

- **Sunset Review - Not Recommended for Removal.** The NOSB completed its sunset review of the following substances (listed below). The Board did not recommend removing these substances from the National List.

Substance	National List Section	Use
Soap-based algicides/demossers	§ 205.601(a)(7)	Crops
Ammonium carbonate	§ 205.601(e)(1)	Crops
Soaps, insecticidal	§ 205.601(e)(8)	Crops
Vitamin D3	§ 205.601(g)	Crops
Aquatic plant extracts	§ 205.601(j)(1)	Crops
Lignin sulfonate	§ 205.601(j)(4)	Crops
Sodium silicate	§ 205.601(l)	Crops
EPA List 4 – Inerts of minimal concern	§ 205.601(m)(1)	Crops
Arsenic	§ 205.602(b)	Crops
Strychnine	§ 205.602(i)	Crops
Butorphanol	§ 205.603(a)(5)	Livestock
Flunixin	§ 205.603(a)(12)	Livestock
Magnesium hydroxide	§ 205.603(a)(18)	Livestock
Poloxalene	§ 205.603(a)(26)	Livestock
Formic acid	§ 205.603(b)(3)	Livestock
EPA List 4 – Inerts of minimal concern	§ 205.603(e)(1)	Livestock

Excipients	§ 205.603(f)	Livestock
Strychnine	§ 205.604(a)	Livestock
Kaolin	§ 205.605(a)	Handling
Sodium bicarbonate	§ 205.605(a)	Handling
Waxes – nonsynthetic (Wood resin)	§ 205.605(a)	Handling
Ammonium Bicarbonate	§ 205.605(b)	Handling
Ammonium carbonate	§ 205.605(b)	Handling
Calcium phosphates (monobasic, dibasic, and tribasic)	§ 205.605(b)	Handling
Ozone	§ 205.605(b)	Handling
Carnauba wax	§ 205.606(a)	Handling
Beet juice extract color	§ 205.606(d)(1)	Handling
Beta-carotene extract color	§ 205.606(d)(2)	Handling
Black/purple carrot juice color	§ 205.606(d)(4)	Handling
Chokeberry, aronia juice color	§ 205.606(d)(8)	Handling
Elderberry juice color	§ 205.606(d)(9)	Handling
Grape skin extract color	§ 205.606(d)(11)	Handling
Pumpkin juice color	§ 205.606(d)(13)	Handling
Purple sweet potato juice color	§ 205.606(d)(14)	Handling
Red cabbage extract color	§ 205.606(d)(15)	Handling

Red radish extract color	§ 205.606(d)(16)	Handling
Saffron extract color	§ 205.606(d)(17)	Handling
Glycerin	§ 205.606(g)	Handling
Inulin-oligofructose enriched	§ 205.606(j)	Handling
Orange shellac - unbleached	§ 205.606(o)	Handling
Starches - Cornstarch	§ 205.606(s)(1)	Handling

AMS response: AMS thanks the NOSB for its review of these substances due to sunset. The next step is for AMS to publish a Federal Register Notice relisting these materials.

Summary

AMS acknowledges and sincerely appreciates the many hours NOSB provided in developing its recommendations. AMS supports NOSB’s vital role in representing the diversity of the organic community and ensuring organic integrity.

AMS thanks Steve Ela for his continued service as NOSB Chair and thanks Jesse Buie and Scott Rice for their service as part of the NOSB leadership team this past year.

AMS thanks five NOSB members whose terms end in January 2021: A-dae Briones, Jesse Buie, Emily Oakley, Scott Rice, and Dan Seitz. AMS also thanks Dave Mortensen, who departed after the conclusion of the Fall 2020 meeting, for his service to the board. The program appreciates the dedication and hard work and wishes the departing members well.