

December 21, 2021

**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 2021 Meeting)

**Background**

This memorandum responds to recommendations from the National Organic Standards Board (NOSB) to the U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), National Organic Program (NOP) at its virtual meeting, which took place October 19 – 21, 2021.

**Summary of Recommendations and AMS Responses**

• **Petitioned Substances**

The NOSB reviewed seven petitions and recommended two amendments to the National List of Allowed and Prohibited Substances (National List). The National List is a section of the USDA organic regulations that includes synthetic substances allowed in organic crop and livestock production, natural (nonsynthetic) substances prohibited in organic crop and livestock production, and non-organic substances allowed in organic handling.

Substance	Section of Organic Regulations	NOSB Recommendation
Chitosan – plant disease control	Crops § 205.601	Classified as synthetic; Not recommended for addition to the National List.
Cow manure derived biochar annotation	Crops § 205.602	Classified as nonsynthetic; the NOSB did not recommend annotating the listing of ash from manure burning at § 205.602(a) to allow cow manure derived biochar.

Substance	Section of Organic Regulations	NOSB Recommendation
Stripped Ammonia (originated from an ammonia extract petition)	Crops § 205.602	Classified as nonsynthetic; Recommended for addition to the National List as a prohibited substance.
Concentrated Ammonia (originated from an ammonia extract petition)	Crops § 205.602	Classified as nonsynthetic; Recommended for addition to the National List as a prohibited substance.
Restriction on fertilizers with carbon-to-nitrogen ratio of 3:1 or less (originated from an ammonia extract petition)	Crops § 205.203(f)	Returned to Crops Subcommittee for additional work.
Kasugamycin	Crops § 205.601	Classified as synthetic; Not recommended for addition to the National List.
Hydronium	Crops § 205.601	Classified as synthetic; Not recommended for addition to the National List.
Carbon Dioxide	Crops § 205.601	Returned to Crops Subcommittee for additional work
Zein	Handling § 205.605	Not recommended for addition to the National List.

**AMS Response:** AMS regularly publishes National List rules in response to NOSB recommendations. Regarding the recommendations to prohibit stripped ammonia and concentrated ammonia, AMS will wait until the Spring 2022 meeting, when the Board considers and votes on the final motion, before reviewing these recommendations. This will ensure that stakeholder feedback and market considerations are addressed within a single process by the program.

These natural substances remain allowed while the Board continues its work, and while AMS subsequently considers next steps. AMS reminds certifiers that they must always consider site-specific circumstances when reviewing material use on organic operations, as the USDA organic regulations require that organic operations maintain or improve soil and water quality.

- **Research Priorities**

The NOSB recommended that integrated research be conducted and that such research consider the whole farm system and recognize the interplay of agroecology, the surrounding environment, and both native and farmed species of plants and animals. Building upon the [2020 list of research priorities](#), the NOSB revised many previous research priorities and added three new research priorities in 2021:

Livestock: Efficiency of natural parasiticides and methodologies in poultry.

Livestock: Evaluation of natural alternatives to DL-methionine.

Handling: Research into occupational health risks associated with chlorine use in processing environments.

**AMS Response:** AMS is reviewing the NOSB's recommendation and will share it with USDA research agencies.

- **Biobased Biodegradable Mulch Film**

The NOSB recommended amendment of the allowance for biodegradable biobased mulch film (BBMF). The recommended change would relax the biobased content requirement for BBMF (from 100% to 80%) and add a requirement for producers to select the BBMF with the highest biobased content, if several versions are commercially available.

**AMS Response:** AMS is reviewing the Board's recommendation to amend the listing for biodegradable biobased mulch film at § 205.601(b)(2)(iii) and to revise definitions at § 205.2.

- **Sodium Nitrate**

The NOSB recommended reinstatement of the listing for sodium nitrate on the National List to restrict use of sodium nitrate to no more than 20% of a crop's total nitrogen requirement. During the Board's last sunset review in 2011, the Board voted to fully prohibit sodium nitrate. AMS did not initiate rulemaking to remove sodium nitrate from the National List but also did not renew sodium nitrate (i.e. issue a new sunset date), therefore sodium nitrate has not appeared on the Board's sunset review schedule. Reinstatement would affirm the substance's status on the National List, establish a sunset date for the substance, and return sodium nitrate to the Board's sunset review work agenda.

**AMS Response:** AMS is reviewing the Board's recommendation to reinstate the listing for sodium nitrate at § 205.602(h).

- **Lithothamnion**

The NOSB recommended that lithothamnion be classified as a nonagricultural substance that is ineligible for organic certification as a wild crop. The recommendation responds to an AMS request for assistance in resolving a discrepancy between certifiers.

**AMS Response:** AMS plans to write a memo to certifiers explaining the classification. AMS thanks the Board for their work on this topic.

- **Non-organic Fish Oil Annotation**

The NOSB recommended revising the current allowance for non-organic fish oil in processed products. The recommended annotation would require certification against a third-party sustainability standard. Additionally, the recommended annotation would require fish oil be produced only from fishing industry by-product (i.e., waste from primary catch processing). Fish oil from bycatch (i.e., non-target marine animals caught during fishing) would be prohibited.

**AMS Response:** As noted during the NOSB meeting, AMS has concerns about the viability of referring to third-party standards that are not subject to the Administrative Procedure Act (APA), including public participation and due process. As such, AMS does not plan to act on this recommendation at this time; the NOSB may reconsider the topic in the future if it wishes to consider alternatives that are better supported under the APA.

- **Climate Change Letter to the Secretary**

The NOSB voted to send a letter to Secretary Vilsack regarding climate change initiatives. This letter outlines benefits to the climate inherent in organic production, including reduced greenhouse gas emissions, increased carbon sequestration, and the resilience of organic agriculture in the face of a changing climate. This letter also includes direct responses to several points in the Secretary's 90-day progress report.

**AMS Response:** AMS thanks the Board for their work on this letter and will deliver it to the Secretary on the Board's behalf. AMS will continue to collaborate with the Board on climate-smart agriculture agenda topics.

- **Sunset Review – Recommendations for Removal**

The NOSB did not recommend the removal of any substances from the National List.

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

Substance	National List Section	Use
Copper sulfate	§ 205.601(a)(3) & § 205.601(e)(4)	Crops
Ozone gas	§ 205.601(a)(5)	Crops
Peracetic acid	§ 205.601(a)(6) & § 205.601(i)(8)	Crops
EPA List 3 – Inerts of unknown toxicity	§ 205.601(m)(2)	Crops
Chlorine materials – calcium hypochlorite, chlorine dioxide, hypochlorous acid, sodium hypochlorite	§ 205.601(a)(2)	Crops
Magnesium oxide	§ 205.601(j)(5)	Crops
Calcium chloride	§ 205.602(c)	Crops
Rotenone	§ 205.602(f)	Crops
Activated charcoal	§ 205.603(a)(6)	Livestock
Calcium borogluconate	§ 205.603(a)(7)	Livestock
Calcium propionate	§ 205.603(a)(8)	Livestock
Chlorine materials – calcium hypochlorite, chlorine dioxide, hypochlorous acid, sodium hypochlorite	§ 205.603(a)(10)	Livestock
Kaolin pectin	§ 205.603(a)(17)	Livestock
Mineral oil	§ 205.603(a)(20)	Livestock
Nutritive supplements	§ 205.603(a)(21)	Livestock

Propylene glycol	§ 205.603(a)(27)	Livestock
Sodium chlorite, acidified	§ 205.603(a)(28) & (b)(10)	Livestock
Zinc sulfate	§ 205.603(b)(12)	Livestock
Agar-agar	§ 205.605(a)	Handling
Animal enzymes	§ 205.605(a)	Handling
Calcium sulfate – mined	§ 205.605(a)	Handling
Carrageenan	§ 205.605(a)	Handling
Glucono delta-lactone	§ 205.605(a)	Handling
Tartaric acid	§ 205.605(a)	Handling
Cellulose	§ 205.605(b)	Handling
Chlorine materials – calcium hypochlorite, chlorine dioxide, hypochlorous acid, sodium hypochlorite	§ 205.605(b)	Handling
Potassium hydroxide	§ 205.605(b)	Handling
Potassium lactate	§ 205.605(b)	Handling
Silicon dioxide	§ 205.605(b)	Handling
Sodium lactate	§ 205.605(b)	Handling

**AMS response:** AMS thanks the NOSB for its review of these substances. AMS plans to announce the renewal of the substances in a Federal Register Notice.

### **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 Nate Powell-Palm



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and Mindee Jeffery for their service as part of the NOSB leadership team this past year.

AMS thanks three NOSB members whose terms end in January 2022: Sue Baird, Asa Bradman, and Steve Ela for their service to the Board. The program appreciates the dedication and hard work and wishes the departing members well.