

January 17, 2024

MEMORANDUM TO THE NATIONAL ORGANIC STANDARDS BOARD

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

SUBJECT: Response to National Organic Standards Board Recommendations
 (Fall 2023 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 meeting in Providence, Rhode Island from October 24-26, 2023. This memo also provides an update on NOP’s current and upcoming regulatory priorities.

Summary of Recommendations and AMS Responses

- **Petitioned Substances**

The NOSB reviewed three petitions to the National List of Allowed and Prohibited Substances (National List), 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. The NOSB did not recommend any amendments to the National List.

Substance	Section of Organic Regulations	NOSB Recommendation
Potassium Sorbate	Crops § 205.601	Classified as synthetic; the NOSB did not recommend adding this substance to the National List.
Magnesium Carbonate	Handling § 205.605	Presented for discussion only. The NOSB will review this petition at a future meeting.
Magnesium Carbonate Hydroxide	Handling § 205.605	Presented for discussion only. The NOSB will review this petition at a future meeting.

AMS Response: AMS thanks the NOSB for its continued work reviewing petitions.

- Oversight Improvements to Deter Fraud – Consistent Location Identification**
 The NOSB recommended that NOP advise certifiers to record consistent location information that can lead to global positioning system (GPS) coordinates of all applicants for certification and certified operations (parcels, production units, handling locations, etc.). Consistent location information would streamline inspection activities and allow easier internal information sharing among the operator, certifier, and inspectors.

AMS Response: AMS thanks the NOSB for its continued work on oversight improvements. NOP is currently exploring whether it can integrate this information into the Organic Integrity Database and how to communicate that information to certifiers and operations.

- 2023 Research Priorities**
 The NOSB recommended initiating integrated research that considers 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 2022 list, the NOSB organized crop priorities into “inputs,” “contaminants,” and “systems” categories; and added new research priorities.

AMS Response: AMS is reviewing the NOSB’s recommendation and will share it with USDA’s National Institute of Food and Agriculture and the Agricultural Research Service.

- Sunset Review - Not Recommended for Removal.** The NOSB completed its sunset review for the following substances currently scheduled to sunset in 2025. The Board did **not** recommend removing these substances; they will remain on the National List as substances allowed for use in organic production and handling.

Substance	National List Section	Scope
Alcohols: Ethanol	§ 205.601(a)(1)(i)	Crops
Alcohols: Isopropanol	§ 205.601(a)(1)(ii)	Crops
Sodium carbonate peroxyhydrate (CAS # 15630-89-4)	§ 205.601(a)(8)	Crops
Newspaper or other recycled paper, without glossy or colored inks	§ 205.601(b)(2)(i) & § 205.601(c)	Crops
Plastic mulch and covers	§ 205.601(b)(2)(ii)	Crops
Aqueous potassium silicate (CAS # 1312-76-1)	§ 205.601(e)(2) & § 205.601(i)(1)	Crops
Elemental sulfur	§ 205.601(e)(5), § 205.601(i)(10), & § 205.601(j)(2)	Crops
Lime sulfur	§ 205.601(e)(6) & § 205.601(i)(6)	Crops
Hydrated lime	§ 205.601(i)(4)	Crops
Liquid fish products	§ 205.601(j)(8)	Crops
Sulfurous acid (CAS # 7782-99-2)	§ 205.601(j)(11)	Crops

Substance	National List Section	Scope
Ethylene gas	§ 205.601(k)(1)	Crops
Microcrystalline cheesewax	§ 205.601(o)(1)	Crops
Potassium chloride	§ 205.602(e)	Crops
Alcohols: Ethanol	§ 205.603(a)(1)(i)	Livestock
Alcohols: Isopropanol	§ 205.603(a)(1)(ii)	Livestock
Aspirin	§ 205.603(a)(2)	Livestock
Biologics - Vaccines	§ 205.603(a)(4)	Livestock
Electrolytes	§ 205.603(a)(11)	Livestock
Glycerin	§ 205.603(a)(14)	Livestock
Phosphoric acid	§ 205.603(a)(25)	Livestock
Lime, hydrated	§ 205.603(b)(6)	Livestock
Mineral oil	§ 205.603(b)(7)	Livestock
Calcium carbonate	§ 205.605(a)(6)	Handling
Flavors	§ 205.605(a)(12)	Handling
Gellan gum (CAS # 71010-52-1)	§ 205.605(a)(13)	Handling
Oxygen	§ 205.605(a)(21)	Handling
Potassium chloride	§ 205.605(a)(23)	Handling
Alginates	§ 205.605(b)(3)	Handling
Calcium hydroxide	§ 205.605(b)(8)	Handling
Ethylene	§ 205.605(b)(14)	Handling
Glycerides (mono and di)	§ 205.605(b)(16)	Handling
Magnesium stearate	§ 205.605(b)(19)	Handling
Phosphoric acid	§ 205.605(b)(23)	Handling
Potassium carbonate	§ 205.605(b)(24)	Handling
Sulfur dioxide	§ 205.605(b)(35)	Handling
Xanthan gum	§ 205.605(b)(37)	Handling
Fructooligosaccharides	§ 205.606(g)	Handling
Gums (Arabic; Guar; Locust bean; and Carob bean)	§ 205.606(j)	Handling
Lecithin – de-oiled	§ 205.606(l)	Handling
Tamarind seed gum	§ 205.606(r)	Handling
Tragacanth gum (CAS # 9000-65-1)	§ 205.606(s)	Handling

AMS response: AMS thanks the NOSB for its review of these substances. AMS will prepare a Federal Register Notice to renew (i.e., relist) these materials on the National List for five additional years.

NOP Regulatory Priorities Summary

NOP has continued to advance key rulemaking actions. Since the Spring 2023 NOSB Meeting, NOP has published the following rules:

- A National List correction removing whey protein concentrate on [May 25, 2023](#).
- A final rule on Organic Livestock and Poultry Standards (OLPS) on [November 2, 2023](#).
- A notice to extend and revise the National Organic Program's previously approved information collection on [November 21, 2023](#).

NOP's current regulatory priorities include:

- Continuing to develop and roll out external-facing communications and training materials on [Strengthening Organic Enforcement](#) (SOE), [Origin of Livestock](#) (OOL), and [Organic Livestock and Poultry Standards](#) (OLPS). Working with certifiers and trade on the implementation of SOE is of particular focus, as this rule has many provisions to protect organic integrity across supply chains. NOP is investing significant resources to conduct outreach and to update its control systems to effectively implement the rule.
- Parts of the [National Organic Program Handbook: Guidance and Instructions for Accredited Certifying Agents and Certified Operations](#) are being updated as a result of publishing and implementing SOE. The NOP is actively working towards revising portions of the Handbook to align with changes that SOE made to the USDA organic regulations.
- The Market Development proposed rule to create organic standards for mushrooms and pet food. The proposed rule is currently in review within USDA.
- Continuing work on a proposed rule to address the NOSB's Fall 2021 and Spring 2022 recommendations related to nitrogen fertilizers in crop production. In accordance with [section 6517\(2\)](#) of the Organic Foods Production Act (OFPA), the NOP must consult with Health and Human Services and the Environmental Protection Agency (EPA) to prohibit a natural substance from organic production. NOP is awaiting input from the EPA regarding this substance before implementing this recommendation. We will prioritize this action once we receive feedback from EPA.
- Working with NOSB to determine future rulemaking options on Inert Ingredients in Pesticides for Organic Production. In a [June 23, 2023 memo](#), the NOP asked the NOSB to finalize a recommendation for rulemaking by the Fall 2024 meeting.

In addition to these rules, the NOP is continuing to research and discuss the following topics raised by the community as priorities of interest.

- **Consumer-Facing Educational Materials:** NOP is developing a toolkit of consumer-facing materials that retailers and others can display throughout their stores and online

marketplaces to raise awareness of the organic label and its attributes. The graphics and messaging focus on NOP's process of regulating, enforcing, and tracing organic products across the supply chain.

- **Containers/Hydroponics:** This topic continues to be a priority for many stakeholders, who note that inconsistent certification and enforcement has caused confusion among the certifier and producer communities. Now that litigation related to this topic has closed, AMS continues to discuss possible next steps on this topic.

Rules on apiculture and aquaculture are currently listed as long-term action items on the Office of Management and Budget (OMB) [Fall 2023 Unified Regulatory Agenda](#). The NOP does not currently have a timeline for initiating these rules.

NOP will continue to keep the community updated with advances in rule writing using the following methods:

- Regular program updates to NOSB presented during the biannual, public meetings. These updates are also posted in the [Organic Integrity Learning Center](#);
- Sending memorandums to the NOSB following each public Board meeting. These are also posted on the [NOP web site](#);
- Regular updates to the existing [NOSB Recommendations Library](#) document that is posted on the AMS website, with explanations of changes where appropriate; and
- The OMB [Unified Regulatory Agenda](#), issued twice a year, lists rules that the Administration plans to advance.

NOP thanks the community, the Board, and stakeholders for their valuable input into its work and priorities, NOP looks forward to continued collaboration to develop new standards and protect the integrity of the organic seal.

Summary

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

AMS thanks Francie Tolle (Director of the Product Administration & Standards Division at the USDA Risk Management Agency) for presenting an update on the Federal Crop Insurance program at the meeting. AMS also thanks the Transition to Organic Partnership Program (TOPP) participants that presented information about organic agriculture in the Northeast region of the United States, including: Diana Kobus, Dr. Kaia Shivers, Devon Cornia, Teresa Downey, Laura Davis, Chris Grigsby, Theodore Tomao, Jeremy Pelletier, Brent Wills, Spencer Moss, and Nicole Dehne.

AMS thanks Nate Powell-Palm for serving as the Chair of the NOSB, Mindee Jeffery for serving as Vice Chair, and Amy Bruch for serving as Secretary. AMS congratulates Kyla Smith on her appointment as Chair, Amy Bruch for her appointment as Vice Chair, and Nate Lewis on his appointment as Secretary.