



United States
Department of
Agriculture

Agricultural
Marketing
Service

1400 Independence Avenue, S.W.
Room 2646-S, Mail Stop 0268
Washington, D.C. 20250-0268

June 25, 2014

MEMORANDUM TO THE NATIONAL ORGANIC STANDARDS BOARD

FROM: Miles V. McEvoy
Deputy Administrator
National Organic Program (NOP)

A handwritten signature in blue ink, appearing to read "Miles V. McEvoy", with a large, stylized flourish at the end.

SUBJECT: Review of National List Petitions for Sodium Lactate and Potassium Lactate

The purpose of this memorandum is to request that the NOSB add to its workplan the review of two National List petitions that were submitted to the National Organic Program (NOP) in 2004.

On January 5, 2004, NOP received a combined petition for the substances sodium lactate and potassium lactate for use in organic handling. The petitions requested the addition of sodium lactate and potassium lactate to section 205.605 of the National List.

On January 22, 2004, the NOP notified the petitioner that the petitions were not necessary since the materials were formulated products derived from blending substances already included on the National List. NOP understands that interpretation is not consistent with previous NOSB Recommendations on classification of materials and there is some confusion in the organic industry regarding their regulatory status of these two materials as well as other lactate salts, such as calcium lactate. In response to these questions, NOP requests that the NOSB take up the petitions for sodium lactate and potassium lactate for consideration for inclusion on the National List.

Updated Petitions

Due to the time that has elapsed between the original submission in 2004 and this memo, NOP anticipates that the petitioner may want to revise their petition submissions to include any updated information that may be available. The original petition submission from 2002 is currently available on the NOP Web site at www.ams.usda.gov/NOPNationalList.

If NOP does not receive an amended petition by September 1, 2014, NOP requests that the NOSB move forward with the petitions as originally submitted in 2004.

Current Status and Next Steps

NOP understands that certified operations may have made business decisions regarding the use of these petitioned materials based on previous NOP correspondence at the time they were initially reviewed for eligibility. NOP does not expect operations to change their current business practices in response to this memo.



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If the NOSB recommends inclusion of the petitioned substances on the National List the NOP would address the NOSB recommendations through the rulemaking process.

If the NOSB determines that the petitioned uses do not meet the criteria under the Organic Foods Production Act for addition to the National List, NOP will instruct certified operations to phase-out their use of these materials. In this case, NOP would issue a notification after the NOSB's decision which would specify the timeframe for such a phase-out.

Attachments: NOP Letter – January 22, 2004



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STOP 0268 – Room 4008-S
1400 Independence Avenue, SW.
Washington, D.C. 20250-0200

VIA FACSIMILE AND POSTAL MAIL

January 22, 2004

Christopher Ely
Applegate Farms
10 County Lane Road
Branchburg, New Jersey 08876

Dear Mr. Ely:

Thank you for your petition of January 5, 2004 which requests the addition of Sodium lactate and Potassium lactate to the National Organic Program's (NOP) National List of Allowed and Prohibited Substances (National List).

Your petition is being returned because it requests action on a substance that meets the statutory requirements of the OFPA and its implementing regulations. The NOP has determined that your petition meets these requirements for the reasons listed below.

As confirmed by manufacturers, the materials Sodium lactate and Potassium lactate are formulated products derived only from substances that are presently included on the National List. Sodium lactate is manufactured from the blending of Sodium hydroxide (section 205.605(b)) and Lactic acid (section 205.605(a)). Potassium lactate is manufactured from a blending of Potassium hydroxide (section 205.605(b)) and Lactic acid. Accordingly, Sodium lactate and Potassium lactate do not have to be included on the National List to be used in organic handling.

Should you have any questions, I can be reached at (202) 702-3252.

Sincerely,

A handwritten signature in black ink that reads "Robert L. Pooler". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Robert Pooler
Agricultural Marketing Specialist
USDA National Organic Program

cc: NOSB
Accredited Certifying Agents
OMRI
OTA
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