

**Formal Recommendation by the
National Organic Standards Board (NOSB)
to the National Organic Program (NOP)**

Date: 5-23-2012
Subject: List 3 Inert Ingredients: Listing at § 205.601 for Sunset 2013
Chair: Barry Flamm

The NOSB hereby recommends to the NOP the following: §205.601

Rulemaking Action x
Guidance Statement
Other x

Statement of the Recommendation (Including Recount of Vote):

First Motion:

Be it Resolved,

It is the understanding of the NOSB that the NOP is committed to expediting the review of all inert ingredients as soon as possible and will support the NOSB in creating a plan for inerts review and accompanying workplan for the crops committee to complete this work.

Committee Vote

Moved: Jay Feldman Second: Zea Sonnabend
Yes 15 No 0 Abstain 0 Absent 0 Recuse 0

Second Motion:

[The italicized text indicates amendments to the regulatory language. Deleted text is indicated with a strike-through line.]

List: 205.601 Synthetic substances allowed for use in organic crop production.
(m) As synthetic ~~inert~~ *other* ingredients ~~not as~~-classified by the Environmental Protection Agency (EPA) *as active ingredients*, for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

2) Inert ingredients exempt from the requirement of a tolerance under 40 CFR 180.1122 that were formerly on EPA List 3 in passive polymeric dispenser

products may be used until October 21, 2017.

Committee Vote

Moved: Jay Feldman Second: Zea Sonnabend
Yes 15 No 0 Abstain 0 Absent 0 Recuse 0

Third Motion:

§ 205.2 Terms defined.

Passive polymeric dispenser products. *Solid matrix dispensers delivering pheromones through volatilization only at rates less than or equal to 150 grams active ingredient (AI)/acre/year that are placed by hand in the field and are of such size and construction that it is readily recognized and retrievable. [59 FR 7368, March 30, 1994.] To be removed as a definition when 205.601(m)2(a) and (b) expire.]*

Committee Vote

Moved: Jay Feldman Second: Harold Austin
Yes 15 No 0 Abstain 0 Absent 0 Recuse 0

Fourth Motion:

Committee Backup Vote to Relist:

List: 205.601 Synthetic substances allowed for use in organic crop production.

(m) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

(2) EPA List 3—Inerts of unknown toxicity—for use only in passive pheromone dispensers.

Committee Vote

Moved: Jay Feldman Second: Zea Sonnabend
Yes 15 No 0 Abstain 0 Absent 0 Recuse 0

Rationale Supporting Recommendation (including consistency with OFPA and NOP):

The board voted unanimously to set a date of October 21, 2017 for the expiration of the listing for List 3 Inert Ingredients in Passive Pheromone Dispensers, defined passive pheromone dispensers, and adopted a motion that establishes the board's understanding of previous intent and future expectation that inert ingredients must be reviewed, given long delays and the Environmental Protection Agency's discontinuance of its inerts listing..

Section 6517(c)(1)(B)(ii) of the Organic Foods Production Act of 1990 (OFPA)

authorizes the National Organic Standards Board (NOSB) to establish a National List of approved and prohibited substances that may include synthetic inert ingredients that are not classified by the Administrator of the EPA as “inerts of toxicological concern.”

OFPA

OFPA, in establishing the National List (§2118, 7 U.S.C. 6517), creates a list of exemptions for prohibited substances in organic production and handling and in so doing lists the categories of substances that must be reviewed by the NOSB if they are to be listed:

7 USC 6517(c)(1) Exemption for Prohibited Substances.

The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this chapter only if

(B) the substance

(ii) is used in production and contains synthetic inert ingredients that are not classified by the Administrator of the Environmental Protection Agency as inerts of toxicological concern

Committee Vote:

Moved: __ Jay Feldman __ **Second:** __ Zea Sonnabend __

Yes: _15_ **No:** __ **Abstain:** __ **Absent:** __ **Recusal:** __