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February 27, 2013

MEMORANDUM TO THE NATIONAL ORGANIC STANDARDS BOARD

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

SUBJECT: National Organic Standards Board Recommendations (October 2012)

This memorandum responds to recommendations made at the October 15 to 18, 2012 meeting of the National Organic Standards Board (NOSB) in Providence, Rhode Island. The NOSB recommended that the NOP:

- 1) Add biodegradable biobased mulch film to the National List of Allowed and Prohibited Substances (National List) at 7 CFR § 205.601(b)(2) as a synthetic material allowed in organic crop production with restrictions.
- 2) Add rotenone to § 205.602 as a prohibited natural substance in organic crop production.
- 3) Replace the language at § 205.601(m) and § 205.603(e) regarding inert ingredients used in pesticides, notify manufacturers of the forthcoming inerts review process, and collaborate with NOSB regarding the process for review of inert ingredients.
- 4) Add L-Methionine to § 205.605(b) for use in organic handling with a restriction.
- 5) Encourage USDA research agencies to prioritize funding for emerging organic research needs as recommended by NOSB on an annual basis.
- 6) Amend the NOSB Policy and Procedures Manual regarding the policy on public comments at NOSB meetings.

NOP DISCUSSION AND RESPONSE:

1. Add biodegradable biobased mulch film as an allowed synthetic in organic crop production with restriction.

In response to a petition, the NOSB recommended adding biodegradable biobased mulch film to §205.601 as follows:

- (b) As herbicides, weed barriers, as applicable.
- (2) Mulches.
- (iii) Biodegradable biobased mulch films to be reviewed meet the following criteria:
 - (A) Completely biodegradable as shown by:



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- 1) Meeting the requirements of ASTM¹ Standard D6400 or D6868 specifications, or of other international standard specifications with essentially identical criteria, i.e. EN² 13432, EN 14995, ISO³ 17088; and
- 2) Showing at least 90% biodegradation in soil absolute or relative to microcrystalline cellulose in less than two years, in soil, tested according to ISO 17556 or ASTM 5988;

- (B) Must be biobased with content determined using the ASTM D6866 method;
(C) Must be produced without organisms or feedstock derived from excluded methods;
and
(D) Grower must take appropriate actions to ensure complete degradation.

In addition, the NOSB recommended adding the following definition to “Terms Defined” at § 205.2 of the USDA organic regulations:

“Biobased: organic material in which carbon is derived from a renewable resource via biological processes. Biobased materials include all plant and animal mass derived from carbon dioxide recently fixed via photosynthesis, per definition of a renewable resource (ASTM).”

The NOSB also requested that the NOP develop guidance in consultation with NOSB regarding on-farm practices for best management of biodegradable mulch film to ensure complete degradation.

The NOP is reviewing these recommendations and plans to move forward with a proposed rule for public comment.

2. Add rotenone to § 205.602 as a prohibited natural substance.

At this meeting, the NOSB recommended that rotenone be added to § 205.602 of the National List as a prohibited natural substance for organic crop production, effective January 1, 2016. Rotenone was originally considered by the NOSB in 1994, as part of its special review of Botanical Pesticides before the USDA organic regulations were established. At that time, the NOSB did not recommend a restriction on the use of rotenone.

In its October 2012 recommendation, the NOSB noted that rotenone is a natural substance derived from plants, and was historically allowed in organic production. Rotenone is currently used by some foreign organic farmers and is allowed under the European organic standards, as well as the Codex Alimentarius Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods. There are currently no rotenone products registered in the United States for use on agricultural crops, and the U.S. Environmental Protection Agency (EPA) published cancellation orders stating that all existing stocks in the U.S. were exhausted as of August 11, 2012.⁴ However, the EPA

¹ ASTM International, formerly known as the American Society for Testing and Materials, develops international standards for different types of products (<http://www.astm.org>).

² EN refers to the European Committee for Standardization (<http://www.cen.eu>).

³ ISO is the International Organization for Standardization, the organization responsible for international management standards (<http://www.iso.org>).

⁴ 77 FR 59120, Sept. 26, 2012; 75 FR 48669, August 11, 2010; and 77 FR27164, May 9, 2012.



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has not revoked the tolerance exemption for rotenone, so some imported organic products may still be produced using this substance. The NOSB received comments from banana producers in other countries that rotenone is needed for pest control. In response to these comments, the NOSB recommended an extended phase-out period until January 1, 2016 to provide time for organic banana growers to develop alternatives for pest control.

The NOP intends to consult with EPA regarding the status of rotenone's tolerance exemption and any plans to revoke its exemption. The NOP also plans to gather additional information about rotenone's current use in organic production before moving forward on the NOSB recommendation.

3. Policy and Procedures for Review of "Inert" Ingredients in Pesticide Formulations

The USDA organic regulations permit certain "inert" (other) ingredients formerly classified by EPA as "List 4" (or, in the case of pheromones, "List 3") for use with active ingredients permitted in organic production. The EPA has discontinued this system of classifying inert ingredients and now regulates all inert ingredients individually by granting residue tolerances, or exemptions from tolerance, as published in the Code of Federal Regulations (40 CFR Part 180).

The NOSB recommended that prior to October 21, 2017, the obsolete references to EPA "Lists" currently found in § 205.601(m) (synthetic inerts allowed in organic crop production) and § 205.603(e) (synthetic inerts allowed in organic livestock production) be replaced with specific approved synthetic inert ingredients. The NOSB also described a plan for continued collaboration with the Inerts Working Group, which includes representatives from the NOP. The Inerts Working Group intends to finalize the process by which groups of inert ingredients will be reviewed by the NOSB Crops Subcommittee and the details of how Technical Reports will be prepared.

In order to assist the NOSB's plan for reviewing inert ingredients, the NOP intends to conduct a public notification and comment process, including:

- notification to the public of inert ingredients known to be in use in organic production;
- notification to the public of the NOSB's review plan, including the groupings of inert ingredients for which NOSB will conduct its review; and
- a request for public comments regarding any other inert ingredients currently used in organic production that are not identified in the list provided by the NOP.

When the NOSB has completed their review process for inerts currently permitted in organic production, the NOP will then consider any recommendation(s) made by the Board for specific amendments to the language at § 205.601(m) and § 205.603(e). The NOP believes that any changes to these sections of the National List would be best addressed in conjunction with any outcomes of the NOSB inerts review.

NOTE: At the October 2012 meeting, the NOSB also discussed a specific inert ingredient, EDTA, as part of its deliberations regarding a petition requesting removal of ferric phosphate, an active ingredient used for slug and snail control, from the National List. (The petition to remove ferric phosphate was not recommended by the NOSB.) In the context of the inerts review procedures discussed above, the NOP notes that the continued allowance of individual inert ingredients, including EDTA, will be best addressed through the process established by the Inerts Working Group, rather than as incidental aspects of reviewing petitions for non-inert substances.



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4. Add L-methionine to § 205.605(b), for use in soy-based infant formula only.

The NOSB recommended that L-methionine be allowed as a synthetic substance in soy-based infant formulas. The NOSB discussed that this substance is an essential amino acid that cannot be synthesized by the body, and is lacking in soy-based infant formula. The NOSB did not identify an alternative non-synthetic source for supplementation of soy-based formulas. The NOSB acknowledged that L-methionine is needed in soy-based infant formula to meet U.S. Food and Drug Administration (FDA) requirements for protein quality in infant formula.

The NOP is currently considering this recommendation as part of its broader work to clarify the allowance for nutrients vitamins and minerals at § 205.605(b) in organic processed products.

5. Organic Research Priorities

The NOSB adopted a Framework to Establish Research Priorities in May 2012. At the October 2012 meeting, the NOSB identified a wide range of research priorities, including: whole farm systems organic research, copper sulfate used for rice production, alternatives to antibiotics in crop production, alternatives to synthetic methionine, safety and alternatives of carrageenan as a food additive, impact of aquaculture systems in the environment (waste, diseases, parasites, fish escapes). The diversity of issues identified by NOSB will require a range of research program approaches.

The NOP will communicate this list to USDA research agencies (including the Agricultural Research Service and the National Institute of Food and Agriculture) and propose a consultation process between NOP and the relevant research program managers to explore the most cost-effective and timely actions in response to the various items.

6. Amend the NOSB Policy and Procedures Manual regarding policy on public comments at NOSB meetings

The NOSB recommended a number of changes to the Policy and Procedures Manual to update the procedures for public comment at NOSB meetings. The NOP supports these changes and will assist the NOSB in revising the document.

7. Summary

The NOP recognizes and sincerely appreciates the number of hours each NOSB member volunteers each month during their five-year term. The NOP especially acknowledges the contributions of the Board Chair Barry Flamm, who joined the NOSB on January 24, 2008, attended his last meeting as a NOSB member in October and served diligently in his role as environmental representative.

We look forward to continuing to facilitate all of your important work in a collaborative manner to protect organic integrity from farm to table.