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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–21–0042]

National Organic Program: 2021 and 2022 Sunset Review and Substance Renewals

AGENCY: Agricultural Marketing Service, USDA.

ACTION: 2021 and 2022 sunset review and renewals.

SUMMARY: This document announces the renewal of substances listed on the National List of Allowed and Prohibited Substances (National List) within the U.S. Department of Agriculture's (USDA) organic regulations. This document reflects the outcome of the 2021 and 2022 sunset review processes and addresses recommendations submitted to the Secretary of Agriculture (Secretary), through the USDA's Agricultural Marketing Service (AMS), by the National Organic Standards Board (NOSB).

DATES: Applicable September 12, 2021.

FOR FURTHER INFORMATION CONTACT: Jared Clark, Standards Division, *Telephone:* (202) 720–3252; *Fax:* (202) 260–9151.

SUPPLEMENTARY INFORMATION:

Background

AMS administers the National Organic Program (NOP) under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6524). The regulations implementing the NOP, also referred to as the USDA organic regulations (7 CFR part 205), were published on December 21, 2000 (65 FR 80548) and became effective on October 21, 2002. Through these regulations, AMS oversees national organic standards for the production, handling, and labeling of organically produced agricultural products. Since October 2002, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601–205.606.

The National List identifies the synthetic substances allowed to be used and the nonsynthetic substances prohibited from use in organic farming. The National List also identifies nonagricultural substances and nonorganic agricultural substances that may be used in organic handling. The OFPA and USDA organic regulations specifically prohibit the use of any synthetic substance in organic production and handling unless an exemption for using the synthetic substance is provided on the National List. Section 205.105 of the USDA organic regulations also requires that any nonorganic agricultural substance and any nonagricultural substance used in organic handling be listed as allowed on the National List.

The OFPA at 7 U.S.C. 6518 authorizes the NOSB, operating in accordance with the Federal Advisory Committee Act (§ 1 *et seq.,* 5 U.S.C. App.2), to assist in evaluating substances to be allowed or prohibited for organic production and handling and to advise the Secretary on the USDA organic regulations. The OFPA sunset provision (7 U.S.C. 6517(e)) also requires a review of all substances included on the National List within five years of their addition to or renewal on the list. During this sunset review, the NOSB considers any new information pertaining to a substance's impact on human health and the environment, its necessity due to the unavailability of wholly natural substances, and its consistency with organic production and handling. The NOSB subsequently votes on whether to remove a substance from the National List.

The Agricultural Improvement Act of 2018 amended the OFPA at 7 U.S.C. 6518(i)(2) to specify that any vote on a motion proposing to amend the National List requires ⅔ of the votes cast at a meeting of the NOSB at which a quorum is present to prevail. A substance remains on the National List unless an NOSB motion to remove that substance carries with ⅔ of votes cast, and the Secretary subsequently renews or amends the listing for the substance. The NOSB submits its sunset review and recommendations to the Secretary. As delegated by the Secretary, AMS evaluates the sunset review and recommendations for compliance with the National List substance evaluation criteria set forth in OFPA at 7 U.S.C. 6518(m) and other federal statutes or regulations. AMS also considers public comments submitted during the sunset review process.

AMS published an updated sunset review process in the **Federal Register** on September 16, 2013 (78 FR 56811). In accordance with the sunset review process, AMS published notices in the **Federal Register** announcing the NOSB meetings and invited written public comments on the 2021 and 2022 sunset review of the substances included in Table 1 and Table 2 below. AMS also hosted oral public comment sessions to provide opportunities for public comment prior to NOSB meetings. Oral public comments were also heard at the start of the spring 2019 & 2020 and fall 2019 & 2020 NOSB meetings. At these public meetings, the NOSB reviewed substance listings scheduled to sunset from the National List and recommended that listings either be removed or remain on the National List. The NOSB's recommendations for sunset reviews completed in 2019 and 2020 can be found at *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations/.*

AMS has reviewed and accepted the NOSB's sunset review recommendations and is renewing the listings of the substances in Table 1 and Table 2. These renewals align with the NOSB's conclusions and have been reviewed by AMS against the OFPA criteria (7 U.S.C. § 6517(c)). AMS has determined that the substance allowances listed in this document continue to meet the requirements in OFPA at § 6517(c)(1)(A). The renewal of these substance allowances will allow for continued use by organic operations. AMS also has determined that the four prohibited nonsynthetic substances listed in this document—ash from manure burning, sodium fluoaluminate, arsenic, and strychnine—should remain prohibited, as recommended by the NOSB, because use of the substances continues to meet the criteria for prohibition at § 6517(c)(2)(A).

The NOSB also recommended to the Secretary the removal of several National List substances at the

conclusion of the sunset review.[1] These removals from the National List will be addressed in a separate notice and comment rulemaking and are not included in this document.

Table 1 lists the substance exemptions being renewed through this document that were reviewed by the NOSB in calendar year 2019. These specific substance allowances and prohibitions continue as listed on the National List with a new sunset date of September 12, 2026.

TABLE 1—NATIONAL LIST SUBSTANCES RENEWED

[Reviewed by NOSB in 2019]

Substance	Use conditions
§ 205.601 Synthetic substances allowed for use in organic crop production:	
Hydrogen peroxide	As described under § 205.601(a)(4).
Hydrogen peroxide	As described under § 205.601(i)(5).
Soaps, ammonium	As described under § 205.601(d).
Horticultural oils	As described under § 205.601(e)(7).
Horticultural oils	As described under § 205.601(i)(7).
Pheromones	As described under § 205.601(f).
Ferric phosphate	As described under § 205.601(h)(1).
Potassium bicarbonate	As described under § 205.601(i)(9).
Magnesium sulfate	As described under § 205.601(j)(6).
Hydrogen chloride	As described under § 205.601(n).
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production:	
Ash from manure burning	As described under § 205.602(a).
Sodium fluoaluminate	As described under § 205.602(g).
§ 205.603 Synthetic substances allowed for use in organic livestock production:	
Atropine	As described under § 205.603(a)(3).
Fenbendazole	As described under § 205.603(a)(23)(i).
Hydrogen peroxide	As described under § 205.603(a)(15).
Iodine	As described under § 205.603(a)(16).
Iodine	As described under § 205.603(b)(4).
Magnesium sulfate	As described § 205.603(a)(19).
Moxidectin	As described under § 205.603(a)(23)(ii).
Peroxyacetic/Peracetic acid	As described under § 205.603(a)(24).
Xylazine	As described under § 205.603(a)(30).
DL-Methionine	As described under § 205.603(d)(1).
Trace Minerals	As described under § 205.603(d)(2).
Vitamins	As described under § 205.603(d)(3).
§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)):''	
Acids (Citric—produced by microbial fermentation of carbohydrate substances; and Lactic)	As described under § 205.605(a).
Calcium chloride	As described under § 205.605(a).
Enzymes	As described under § 205.605(a).
L-malic acid	As described under § 205.605(a).
Magnesium sulfate	As described under § 205.605(a).
Microorganisms	As described under § 205.605(a).
Perlite	As described under § 205.605(a).
Potassium iodide	As described under § 205.605(a).
Yeast	As described under § 205.605(a).
Activated charcoal	As described under § 205.605(b).
Ascorbic acid	As described under § 205.605(b).
Calcium citrate	As described under § 205.605(b).
Ferrous sulfate	As described under § 205.605(b).
Hydrogen peroxide	As described under § 205.605(b).
Nutrient vitamins and minerals	As described under § 205.605(b).
Peracetic acid/Peroxyacetic acid	As described under § 205.605(b).
Potassium citrate	As described under § 205.605(b).
Potassium phosphate	As described under § 205.605(b).
Sodium acid pyrophosphate	As described under § 205.605(b).
Sodium citrate	As described under § 205.605(b).
Tocopherols	As described under § 205.605(b).
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic:''	
Celery powder	As described under § 205.606(c).
Fish oil	As described under § 205.606(e).
Gelatin	As described under § 205.606(g).
Orange pulp (dried)	As described under § 205.606(n).
Seaweed, Pacific kombu	As described under § 205.606(r).
Wakame seaweed (*Undaria pinnatifida*)	As described under § 205.606(v).

[1] National Organic Program; Proposed Amendments to the National List of Allowed and Prohibited Substances (2022 Sunset). AMS–NOP–19–0106 (both 2019 mtgs and 2020 mtgs).

Table 2 lists the substance exemptions being renewed through this document that were reviewed by the NOSB in calendar year 2020. These specific substance allowances and prohibitions continue as listed on the National List with a new sunset date of March 15, 2027.

TABLE 2—NATIONAL LIST SUBSTANCES RENEWED

[Reviewed by NOSB in 2020]

Substance	Use conditions
§ 205.601 Synthetic substances allowed for use in organic crop production:	
Soap-based algicide/demossers	As described under § 205.601(a)(7).
Ammonium Carbonate	As described under § 205.601(e)(1).
Soaps, insecticidal	As described under § 205.601(e)(8).
Vitamin D_3	As described under § 205.601(g).
Aquatic plant extracts	As described under § 205.601(j)(1).
Lignin sulfonate	As described under § 205.601(j)(4).
Sodium silicate	As described under § 205.601(l).
EPA List 4	As described under § 205.601(m)(1).
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production:	
Arsenic	As described under § 205.602(b).
Strychnine	As described under § 205.601(i).
§ 205.603 Synthetic substances allowed for use in organic livestock production:	
Butorphanol	As described under § 205.603(a)(5).
Flunixin	As described under § 205.603(a)(12).
Magnesium hydroxide	As described under § 205.603(a)(18).
Poloxalene	As described under § 205.603(a)(26).
Formic acid	As described under § 205.603(b)(3).
EPA List 4	As described under § 205.603(e)(1).
Excipients	As described under § 205.603(f).
§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production:	
Strychnine	As described under § 205.604(a).
§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)):''	
Kaolin	As described under § 205.605(a).
Sodium bicarbonate	As described under § 205.605(a).
Waxes	As described under § 205.605(a).
Ammonium bicarbonate	As described under § 205.605(b).
Ammonium Carbonate	As described under § 205.605(b).
Calcium phosphates	As described under § 205.605(b).
Ozone	As described under § 205.605(b).
Sodium hydroxide	As described under § 205.605(b).
§ 205.606 Nonorganically produced agricultural ingredients allowed as ingredients in or on processed products labeled as ''organic:''	
Carnauba wax	As described under § 205.606(a).
Beet juice extract color	As described under § 205.606(d)(1).
Black/purple carrot juice color	As described under § 205.606(d)(4).
Chokeberry, aronia juice color	As described under § 205.606(d)(8).
Elderberry juice color	As described under § 205.606(d)(9).
Grape skin extract color	As described under § 205.606(d)(11).
Purple sweet potato juice color	As described under § 205.606(d)(14).
Red cabbage extract color	As described under § 205.606(d)(15).
Red radish extract color	As described under § 205.606(d)(16).
Saffron extract color	As described under § 205.606(d)(17).
Glycerin	As described under § 205.606(h).
Inulin-oligofructose enriched	As described under § 205.606(j).
Orange shellac-unbleached	As described under § 205.606(o).
Cornstarch (native)	As described under § 205.606(s)(1).

Authority: 7 U.S.C. 6501–6524.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

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