ORGANIC FARMERS ASSOCIATION

Organic Farmers Association
Written Comments to the National Organic Standards Board
Submitted April 16, 2025

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Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue SW
Room 2642-S, STOP 0268
Washington, DC 20250-0268

Docket # AMS-NOP-24-0081

Dear National Organic Standards Board Members,

The Organic Farmers Association (OFA) is led and controlled by domestic certified organic farmers, and only certified organic farmers determine our policies using a grassroots process. OFA appreciates the opportunity to provide comments to the Board and the National Organic Program on several specific items on the agenda for your spring meeting. We developed these comments based on group discussions in OFA workgroups, email comments from OFA members, and feedback from our annual policy survey.

BIG PICTURE

In addition to the comments on the agenda items specified in the meeting materials, OFA members urge the board to consider the issues below, which concern organic farmers.

Organic Swine

Organic market development is based on the integrity of the organic label, with clear, consistent, and meaningful production standards. OFA strongly supports the implementation of the Organic Livestock and Poultry Standards (OLPS). We agree with the desire to reduce multiple labels for producers, and agree that the organic standards should include animal welfare standards. While OLPS did an agreeable job of this for poultry and ruminants, it did not include the same comprehensive review of organic swine. Consumers are well aware of the negative animal welfare and environmental issues associated with non-organic confinement swine operations. While total confinement of organic hogs is not allowed under our current regulations, the NOP rule is weak on specific animal welfare issues as they apply to swine and does not keep up with other animal welfare labels organic swine producers are using to communicate their practices to their organic consumers. Issues such as lighting and ammonia monitoring indoors are essential for addressing health and welfare concerns, but are not mentioned in the current organic standards for swine. Physical alterations such as teeth trimming, ear notching, castration, and tail

docking are not addressed in a meaningful way. Indoor and outdoor stocking densities and management of the outdoor access areas are not part of our current rules for swine. All animal welfare oversight organizations active in the United States have specific rules addressing these issues and, thus, have stronger standards than organic. This results in an uneven playing field for organic producers who cannot rely on the NOP organic regulations to set consistent and meaningful standards concerning swine animal welfare and humane treatment, and they are left to pay for additional welfare labels. We must address the existing standards gaps to develop the organic pork market. **We request that the Livestock Subcommittee add the topic of swine management to its work agenda** to begin addressing these gaps, including but not limited to: ammonia tolerances, physical alterations, stock density, outdoor access provisions, and lighting in barns. **Prioritizing a NOSB producer panel of organic hog producers and organic consumer advocates or retailers would be a good start** to learn more about the issue and its priority for producers.

Building a Resilient Organic Community

The four principles of organic, as explained by the International Federation of Organic Agricultural Movements (IFOAM), provide a vision for how organic can improve the world we all share. Health, Ecology, Fairness, and Care are a roadmap for developing standards that bring organic benefits to all ecosystems and the humans who inhabit them. Through health, organic agriculture sustains and enhances the soil, plants, animals, and humans by recognizing that the well-being of one affects the fitness of all. Living, diverse ecosystems and their cycles should be sustained and emulated. With fairness, organic builds upon relationships that honor the right to a healthy environment and equal life opportunities for all. The fourth principle of care requires us to act with precaution and in a responsible manner to protect the well-being of current and future generations, the environment upon which we depend, and the animals under our care. Organic agriculture has taught us that healthy ecosystems rely upon recognizing and enhancing the indispensable contributions of all organisms in that system. The Organic Farmers Association wants all farmers interested in farming with organic practices to succeed and strives to incorporate their unique interests, essential viewpoints, and producer needs to build a healthy and vibrant community. **We encourage the National Organic Standards Board and the National Organic Program to make time and space to honor the four principles of organic in your work as a board.**

Global Organic Movement Consistency

OFA supports efforts to align U.S. organic standards with international organic regulations to ensure a consistent and equitable global marketplace. As the organic market continues its global expansion, U.S. organic standards must be consistent with our trade partners and international bodies such as IFOAM and CODEX. Alignment would benefit organic farmers by creating a level playing field and enhancing market access. **We request a new NOSB work agenda item comparing the differences between the NOP and our major trading partners, such as the**

EU, Canada, China, and Japan, as well as CODEX and IFOAM. This work benefits the work of the NOSB when making recommendations and aids the NOP when updating equivalency agreements with known U.S. organic community priorities. In addition, a closer working relationship with our global trading partners, addressing the issue of organic fraud, would be beneficial to all involved.

Strengthening Organic Enforcement Implementation

OFA appreciates the significant effort involved in implementing the SOE rule; however, concerns have been and continue to be raised by certified organic farmers regarding an increase in paperwork and certifier oversight on low-risk organic farm operations. The inconsistent implementation of these rules by certifiers across the nation has further exacerbated these challenges, particularly affecting small and mid-scale operations.

We understand that the NOP has presented guidance to certifiers to be more "Sound and Sensible" in their certification activities and lessen certifiers' fears of losing NOP accreditation by handling different types of operations with different compliance verifications. We also understand that SOE directed certifiers to use a risk-based approach in its implementation and that the former NOP Director, Dr. Tucker, did not intend for small or mid-sized producers to feel an impact from the SOE rule.

A long-term organic farm, with no parallel production, and a history of commitment to and compliance with organic agriculture, should not be driven away from organic certification due to an extreme review of their documentation including keeping track of every seed planted on a vegetable farm or every bin or wagon having organic signage which results in a significant amount of time added to getting ready for, and during the annual inspection. The organic inspector should first assess the risk of the farm operation to determine the amount of scrutiny and spend their time verifying the farm's submitted Organic Systems Plan, with a review that the systems are in place to assure compliance with the law, with audits done in a practical way. We will provide more thoughts in our comments on this topic in response to the risk-based certification proposal.

Agroforestry and the 90/120 Day Rule

OFA farmers have identified a need to review the 90/120-day rule as it applies to agroforestry systems where livestock graze under fruit and nut trees. This rule, which dictates the period between the application of raw manure and the harvest of crops intended for human consumption, may not adequately reflect the realities of such integrated and indigenous farming systems, systems to which the standards owe their strong foundation. The risk of pathogens affecting this type of crop production is quite low compared to production that is grown in, on, or close to the ground where manure has been applied. The use of rotated poultry and small mammals through orchards can provide multiple benefits of insect and pest control, weed

management, and soil fertility improvement. Increasing biodiversity within a production system is a foundational organic principle, and the current raw manure restrictions could benefit from an update, reflecting both traditional and new agroforestry methods. **We believe livestock** should be allowed to graze less than 120 or 90 days before harvest **in orchards where the fruit does not have contact with soil, and we would like to see the NOSB put this topic on their work agenda to receive public comment.** Refining the standards to allow for agroforestry management could result in a more ecologically sound and workable standard for tree fruits, nuts, and perhaps brambles.

Under the Food Safety Modernization Act, the rules require that growers address manure use concerns by preventing direct contact with produce covered under their rule (basically anything typically eaten raw) during application of that manure and to minimize contact after application. The 120-day and 90-day requirements within the National Organic Program final rule are directly mentioned as a "recommendation" in the FSMA regulation. A review and clarification of the NOP rule, to allow for certain livestock in an orchard, where fruit on or near the ground is not harvested or sold, is needed. This would be useful not only to organic producers but all growers of tree and nut crops who wish to enhance the pest, disease, and fertility management of their growing systems.

In-Person NOSB Meetings

The twice-a-year National Organic Standards Board meetings are an important opportunity for all stakeholders involved in organic agriculture to meet in person and discuss issues of importance to our community. It benefits both the Board members and the organic community to interact in the same room, rather than on computer screens, and results in a more dynamic and effective meeting. We hope to see these in-person meetings return for the upcoming fall meeting and beyond, and include in-person public comments as part of the agenda. Because part of the benefit of in-person meetings is the opportunity to hear from the farmers in the region hosting the meeting, we also recommend that a third of the in-person comment slots be held for farmers and then released for other stakeholders if not filled on the registration deadline date.

Technical Report

In the last NOSB meeting, two NOSB members chose to present a "Technical Report" on a petitioned material that they researched and wrote themselves. By definition, technical reports are completed by an outside, third-party contractor, presenting scientific evidence that addresses the acceptability of a material petitioned for inclusion on the National List, based upon the Organic Food Production Act criteria. Moving forward, the National Organic Program and the National Organic Standards Board must clarify the definition of "Technical Report" for use by the NOSB through a modification of the NOSB Policy and Procedures Manual, to clarify these reports must be conducted by an outside, third-party contractor to reduce conflict of interest and ensure these reports are based on scientific review and process. NOSB members are placed on

the board to represent stakeholders, and come with an implicit bias, and cannot be expected to have the expertise nor the depth of research capabilities to bring forward the necessary information for the public and the NOSB to have an informed discussion nor a decision for new materials on the National List.

In addition, it is imperative that the technical report under consideration be provided to the public no later than 60 days before the NOSB meeting. Interested parties must have the opportunity to review the technical report and the NOSB's proposal in order to give their feedback during the NOSB public comment and before the Board votes at the meeting. **Please add to the NOSB work agenda, clarifying and strengthening the NOSB Policy and Procedures Manual's definition of "Technical Report."**

COMPLIANCE, ACCREDITATION, AND CERTIFICATION

Risk-based Certification Proposal

Organic is a growing sector of the U.S. agriculture system, with tremendous potential to address climate change, help family farms flourish, revive rural communities, and protect public health. The potential for economic viability for smaller farms has been a major strength of the organic sector and is an important component of creating a resilient domestic food supply. However, transitioning to and maintaining organic certification represents a significant investment of money and time spent on recordkeeping. The recordkeeping required can be burdensome for small farmers and, in some cases, deters small farms from transitioning to organic, including those already incorporating organic practices. In fact, research into the burden of certification paperwork on small-scale producers from 2013-2015 found that 73% of noncompliances administered by certifiers were for paperwork mistakes, and only 28% of noncompliances were for violations of the national organic standards.[1]

OFA farmers are interested in policy changes that would ease the burden of recordkeeping on small, low-risk operations such as small farms with a history of compliance and a simple supply chain, and focus organic certification agency resources to oversight and fraud prevention measures of higher-risk operations with long and complex supply chains over multiple countries and certifiers. Using risk assessment to shift the bulk of oversight and additional record-keeping requirements to high-risk operations would allow NOP and individual certification agencies to use their resources most effectively. This focus would keep certification affordable for low-risk operations and maintain a Sound and Sensible approach to recordkeeping.

This NOSB proposal appears to provide a good approach for providing consistency between certifiers as they modify their approach to organic certification to be "risk-based." Many

[1] Carter, D., Adams, I., Wright, S., & Scott, T. (2022). Appraising the administrative burden of USDA organic certification: A descriptive analysis of Notice of Noncompliance data. *Journal of Agriculture, Food Systems, and Community Development*, 11(2), 235–242. https://doi.org/10.5304/jafscd.2022.112.020

certifiers and their inspectors felt their accreditation and livelihoods could be negatively impacted by the implementation of SOE unless they were very detailed in their certification oversight. This led to a one-size-fits-all approach. Numerous small and mid-scale organic farmers are being asked to implement extreme tracking, labeling, and recordkeeping activities, oftentimes when it does not make practical sense to do so.

While this document moves organic certification in the direction it needs to go, there are still some areas that need improvement. Certifiers and inspectors need to be flexible in how they verify compliance with the regulations, using the Organic System Plan as their roadmap. There need not be three different records present to verify every detail of the operation if something is part of the OSP, and there is one document present that verifies that activity or input; that should be sufficient when inspecting a low-risk operation.

Organic inspection can oftentimes be half the cost of organic certification fees. Prioritizing making organic inspection risk-appropriate, efficient, and cost-effective for producers will be a positive improvement. Staff expansion and turnover within organic certification highlight a need for consistent and sufficient training for these organic professionals so they learn how to appropriately assess risk, as well as what documents are sufficient for verification across different commodities and scales of production. When an inspector spends 80% of their time buried in their computer, writing their report on-site, and requesting to see every invoice or every seed packet, this will not improve the organic integrity of the operation. If an operator has something to hide from the inspector, it is much easier to modify a piece of paper to show numerous cultivations than it is to explain a weed-free cornfield when the inspector notices the cultivator is rusty and sitting in the tall grass at the edge of the field.

Spending time talking with the operator and reviewing the fields and animals provides the organic inspector with a better sense of the commitment the farmer has to comply with the rules, rather than going through the field activity book or seed listings. The documents are important not only for the inspector but also to aid the operator in their management from year to year, tracking which activities and inputs are most beneficial in their system. When the documentation has this dual purpose, for the inspector to audit and as a historical record for the farmer's decision-making, it is more likely that the farmer will keep good documentation, and these records will illustrate how well the organic system plan is being implemented. OFA encourages further work on inspection and review to focus more on the activities being done at the operation versus the paperwork. In short, a balance of records verification with observational and interview techniques will yield the best inspection results.

Residue Testing for Global Supply Chain Guidance Proposal

OFA congratulates the NOSB on this proposal, full of clear and appropriate improvements to the current residue testing guidance documents. Many of the technical points listed on testing and sampling protocols are not areas where farmers have first-hand knowledge, but this document includes many common-sense activities that would result in samples that would be able to verify compliance and would stand up to legal challenge. We especially like section 5(b), which aids certifiers in developing their risk-based sampling program, including production and marketing issues that could lead to fraudulent organic sales.

OFA also liked the proposal's approach on which pesticides should be tested, recognizing that the list should be flexible to deal with the most-used pesticides that could be found on specific crops of concern and allowing for changes over time. Adding solvents, fertilizers, and more to the testing regime adds more avenues for tracking compliance with organic regulations.

Thank you for revising the Unavoidable Residual Environmental Contamination (UREC) definition and the discussion on this important area, where farmers, even with their best efforts, might have contaminated crops from the rain or other unavoidable residues of prohibited substances in their environment.

Overall, we would need more time to delve deeply into this well-researched and detailed proposal, but after a few readings, the proposal appears to be comprehensive and offers a greatly improved road map for the NOP and certifiers in their approach to residue testing. Thank you!

Discussion Document: Residue Testing for a Global Supply Chain-Regulation Review

This document delves into areas where most farmers do not have first-hand knowledge, but we appreciate the depth of thought put into the summary and questions for certifiers to improve and target their residue testing protocols. There is much to digest in this document, but we do have a few comments on the proposed questions.

The current list of prohibited materials in the NOP handbook does not cover all of the persistent or current pesticides used in non-organic agriculture. The pesticide 2,4-Dichlorophenoxyacetic acid (2,4-D), which has been used in the past and is currently used on its own or in formulations with other pesticides, is not always included in the pesticide screenings done by laboratories. Our trading partners in Europe have been known to test for this substance. OFA requests that the NOSB work with the NOP to update the NOP handbook and include the flexibility for continuous improvement and incorporation of new substances based on use in non-organic agriculture and certifier communications detailing where the list should be improved.

OFA supports informing downstream supply chain recipients when known non-compliant products have been discovered and released into the chain of custody. It is important that

livestock producers are aware of fraudulent organic feeds since the health of their animals is reliant on valid organic crops. OFA is concerned that there could be unintended consequences if there were nationwide consumer warnings on an organic product that might have one ingredient with an elevated residue of a prohibited product, and the damage this might do to the trust of the organic label in the marketplace. Any of these consumer items still in wholesale warehouses, however, could be recalled.

Determining the liability that the buyer of a noncompliant product might wish to place on a seller of a noncompliant product is very complicated, depending on what testing was done and whether the contamination was intentional. OFA needs more time to consider this issue.

UREC Definition Change

Unavoidable Residual Environmental Contamination (UREC). Background levels of ~~naturally occurring or synthetic chemicals~~ prohibited substances and excluded methods that are ~~present in the soil or present in organically produced agricultural products that are below established tolerances~~ not caused by actions taken by organic farmers and ranchers and are, hence, typically beyond the control of certified organic operations.

OFA agrees with the sentiment of the proposed change to the UREC definition; however, there could be an issue, such as PFAS found in the groundwater and then in the milk of cows who drink that water, that should not allow that milk to be labeled as organic. This is an actual example where PFAS-laden sewage sludge was applied to the land before the organic farmer owned the farm, and under this definition, that milk could still be sold as organic. However, regulatory agencies did step in and prohibit the sale of that milk under any label. To protect the integrity of the organic label, everyone in the supply chain needs to work towards providing what consumers expect so that consuming organic foods does not cause negative health effects.

Having some tolerance levels may be useful here. It is a sad commentary that we need to even discuss the pervasive nature of toxic materials in our environment and how many of them we might need to accept due to no fault of the organic farmer.

It is understood that there are substances with no EPA tolerances, posing a challenge for farmers and certifiers alike, and finding a solution to this tricky problem will need more discussion. When there is contamination found, OFA prefers investigative strategies that do not economically burden nor interfere significantly with the work of the organic farmer.

CROPS

Pear Ester- Petitioned

OFA supports the listing of pear ester as a "pheromone", but only with an annotation that restricts for use only in traps with no contact with soil or crops. It is understood that while technically this is a kairomone and not a pheromone, it is still an attractant used in insect management. We request that the NOSB clarify that kairomones and pheromones that are identical to natural kairomones are the only types that are allowed. In the allowance of this synthetic material, it should be identical to the ones that naturally occur and not be a novel form produced through irradiation, genetic manipulation, or other means. The Technical Report on this material discussed that it can be used in multiple ways, in traps and sprayed in orchards or fields. These sprays are microencapsulated with polyamides, and this material is discussed as having negative effects on humans, avian, and aquatic life. The millions of polyamide particles being dispersed at the time of spray application of the pear ester are detrimental to the environment and the greater ecosystem. Pear esters should not be allowed in their spray form.

Compost Production for Organic Agriculture Proposal

While OFA appreciates that this proposal is meant to clarify and retain the oversight the NOSB has on materials used in organic production, **we do not agree that synthetics should be considered an allowed feedstock for organic-compliant compost.** We have followed the BPI petition that asked the NOP to change the definition of allowed compost feedstocks directly and avoid the NOSB process of review. OFA thanks the NOP for bringing this question to the NOSB for full public discussion and its placement on the NOSB work agenda. However, this proposal could be broader than just compost feedstocks and clarify the regulatory role of the NOSB in their partnership with the NOP when developing standards and managing the National List of Approved and Prohibited Substances.

<u>Suggested proposal:</u>

All additions or subtractions to the National List of Allowed and Prohibited Substances, as well as any change to the regulatory language of the NOP Final Rule, are a partnership between the National Organic Standards Board and the Agricultural Marketing Service's National Organic Program. All entities that wish to see a change to the National List or regulations are required to go through the NOSB petition or public comment process, as described in the Organic Food Production Act of 1990 and the National Organic Program petition process.

<u>Discussion: Synthetic Compostable Polymers</u>

OFA is concerned that the NOSB may be moving forward without the necessary caution when considering synthetics and specifically "compostable" polymers as organic-compliant compost feedstocks. The organic community has seen how our caution against the use of sewage sludge on organic land has served us well. No one knew about PFAS in the mid-1990s, but we did

know about drugs, heavy metals, and other contaminants that were not researched fully enough for the organic community to accept them. There was pressure for organic to accept sewage sludge, very much like the pressure we are getting today, to participate in solving the issue of how to get rid of this waste. Agriculture has been the dumping ground for both municipal and industrial waste for many decades, and most of these materials have eventually been shown to be toxic at worst and problematic at best. While we recognize that green waste going into landfills is a municipal waste problem, it is one that organic agriculture has not caused.

There is an abundance of compost feedstocks from plant and animal materials that are not contaminated by plastics, carbon black, and other synthetics. The organic community needs to safeguard organic land and water from nano- and microplastics, carcinogens, and forever chemicals whenever possible. There is research showing that U.S. citizens have nano and micro plastics in their bodies, and we all know how environmental pollutants have led to cancers and many other health problems in our communities. Organic land should be a refuge from these materials, not only because they negatively affect people, but also the soil biome as well as mammals, birds, reptiles, and all of the other creatures with whom we share our earth.

The allowance of synthetic paper in compost feedstocks and as a mulch should be revisited at the next sunset with a critical eye. This is not the same material now as it was when it was first placed on the National List. It is good for paper to contain a significant amount of recycled materials to lessen the need for virgin pulp, derived from cutting down our forests. However, that makes it more difficult to track if colored inks or glossy papers were incorporated into the paper allowed under organic regulations for incorporation into soil. If paper was not allowed as a compost feedstock, nor as a mulch, unless it could be shown not to contain polymers, inks, etc., this would not lessen the availability of high-quality compost for organic producers to purchase.

In answer to the questions, the annotation for paper will need an upgrade at the next sunset, probably to not allow any recycled material in it unless it can be shown to only contain cellulose with no additives. Allowing polymers to be incorporated into organic fields has a wide range of risks, discussed above. The current prohibition on compostable polymers must stay in place to protect organic land from both known and unknown toxic materials. The small plastic fruit labels could be considered UREC, but we would like to see continued research on less problematic labels and labeling systems of produce. If organic does not accept green waste-based compost that could contain polymers, there are still many outlets for this compost outside the organic farming community. One of the compost panelists from Monterey, California, stated this at a previous NOSB meeting. The NOSB should consider these polymers a significant risk to the health of organic soil, the environment where it may be used, and to the humans who work the land and eat the food where that compost was incorporated. Every care should be taken to lessen the UREC in organically approved compost, with verifiable oversight of all of the components in the compost feedstocks. The National Organic Coalition comments

have more detail with scientific references concerning the environmental and human health impacts of these polymers.

Crop Sunsets
§205.601 Sunsets: Synthetic substances allowed for use in organic crop production

Potassium hypochlorite
OFA supports relisting Potassium hypochlorite. We appreciate the NOSB's consideration of an improved annotation that requires only the use of environmentally friendly chlorine production methods. Since the review of the national list items includes reviewing the manufacture, use, and disposal of each item, having an annotation that requires the manufacturer to be environmentally friendly is within the regulatory requirements of your review and approval. We look forward to seeing this item on a future NOSB work agenda.

Soap-based algicides/demossers
OFA supports relisting soap-based algicides/demossers.

Ammonium carbonate
OFA would like to see the current annotation of this material, no contact with crops or soil, also applied to pear esters. OFA supports the relisting of this material as currently annotated.

Soaps, insecticidal
OFA supports the relisting of this material, as it is used extensively by many farmers.

Sucrose octanoate esters
OFA supports the relisting of this material for use in crop production. Please see our comments on this material in the livestock sunset discussion.

Vitamin D3
Vitamin D3 is an environmentally superior product to the non-approved anticoagulant rodent baits, and OFA supports its relisting. It is well known that it does not negatively affect scavenger birds that feed upon the dead or sick rodents that have consumed Vitamin D3.

Aquatic plant extracts
While the NOP has declined to implement previous NOSB recommendations addressing some of the negative environmental impacts of aquatic plant harvesting, we owe it to ourselves to continue to build upon the work of previous boards on this important topic. We encourage the NOSB to keep monitoring this issue, and if stakeholders bring forward concerns, the Board should review this issue again. OFA does not yet have a position on this material because there was not enough time between the release of this docket and the writing of our comments to

answer the question about possible annotation changes and their rationale. Since annotations are not typically taken up during the sunset discussions, we agree to put a possible annotation on the NOSB work agenda, and we can provide comments for the next meeting. We agree that the fortification beyond the nutrients present in the aquatic plants themselves needs to be reviewed and managed within the organic regulations through an annotation on the National List. We feel that guidance should be given to certifiers on what is meant by "not allowing hydrolyzed" aquatic plant extracts to provide for consistency on what is allowed and what is not.

Lignin sulfonate

OFA supports relisting since it is still unique in its properties for specific uses, and there are no alternatives.

Fatty alcohols (C6, C8, C10, and/or C12)

OFA does not yet have a position on this material and would like to hear more from organic farmers regarding fatty alcohols. It is unclear if they still need this product to remain on the National List. Unfortunately, the timeframe for public comment was too short for us to have this information in our written public comment.

Sodium silicate

OFA is interested in seeing the questions posed by the Crops Subcommittee to assess its continued placement on the National List. Is this material still being used based on changes to the fruit and alternative processing methods and substances? OFA does not yet have a position on this material. We will reach out to our membership to also receive some feedback, but the timeframe for public comment was too short for us to have this information in our written public comment.

EPA List 4 Inerts

It would be necessary to relist as written since it is unknown when the rulemaking on inerts will be completed, and it is necessary to have some inserts available for organically approved pest management materials. OFA continues to support the first option provided in the proposal from fall 2024, which provides for complete oversight of the inerts used in organic production, rather than having lowered oversight as proposed in option two.

Paper

As the manufacture of paper has changed over the years and more recycled papers are included in paper products, this has tended to introduce more synthetic materials, including PFAS, plastics, and other unwanted materials in greater percentages. Since the paper pots currently use virgin paper, as allowed under this listing for paper production aids, the risk is less with that type of "ingredient" in these production aids. Please see our discussion on compost feedstocks above for our thoughts on the use of paper as a compost feedstock. Unwanted nano and microplastics

are creeping into the materials used in and on organic land, and it is our responsibility to use the precautionary principle when allowing materials that present a clear and present risk. At this time, the paper production aids appear to present less of an issue than recycled paper that might be used as a compost feedstock and spread over all of the acreage of an organic farm. We are very lucky that the public pushed for the nonuse of sewage sludge on organic land in the original final rule implemented in 2002. We did not know of the presence of PFAS, and we have seen how that has been very damaging to organic farmers whose land was contaminated before they even purchased it by the spreading of sewage sludge, but they have since lost that land due to the presence of PFAS. OFA does not feel these production aids, due to the use of virgin paper and the site-specific use instead of widespread incorporation, compared to compost on a field. OFA supports the continued listing at this time and encourages the manufacturers of these paper products to seek out less synthetic materials as they continue to modify their offerings to organic producers. The NOSB should be monitoring the evolution of these materials to track that they contain fewer synthetic materials over time, instead of more.

§205.602 Sunsets: Nonsynthetic substances prohibited for use in organic crop production:

Arsenic and Strychnine
Both of these materials should remain on the prohibited nonsynthetic substance list.

HANDLING

Ethylene- annotation change
While good cold storage conditions on a small scale can provide for long-term storage of onions and potatoes, at larger-scale operations, the expansion of the use of ethylene for these root crops may be useful. OFA supports this change.

Handling sunsets
OFA supports the relisting of all of the handling sunset items.

LIVESTOCK

Iodine annotation change
OFA supports this annotation change and thanks the NOSB and NOP for moving forward with this update to the iodine listing. However, if the NOSB does pass this proposal, the work agenda item for improving the iodine listing should remain open to address the use of Octylphenol Ethoxylates. The European Union considers both NPEs and OPEs together and sees them as being equal in their negative effects. The National Organic Coalition comments go into a deeper discussion on this material with citations providing more information. OFA encourages the

NOSB to continue work in this area to cover all of the materials that might need to be excluded from iodine products.

Livestock Sunsets
§205.603 Sunsets: Synthetic substances allowed for use in organic livestock production:

Butorphanol
OFA does not yet have a position on this material. It has come to our attention that there are issues with the use of butorphanol, with a risk of residue when used in ruminants producing milk and meat products for human consumption. We would like the NOSB to review the current withholding period between the use and sale of the organic meat or milk to make sure that the risk of possible residues is zero. The last Technical Advisory Panel for butorphanol was in 2002, and it is time for a new Technical Report, with a focus on residues in milk and meat using new data that has been collected over the past 23 years. Please also see our comments regarding Technical Reports.

Flunixin
OFA supports the relisting of flunixin to provide a pain management tool for organic animals.

Magnesium hydroxide
OFA supports the relisting of this material with the current annotation, but agrees with the Livestock subcommittee that it is probably time for an updated Technical Report since the last one was in 2007. There is always new information available, and the NOSB should be kept informed of any possible changes to this material as it relates to the OFPA criteria for synthetic substances allowed on the National List. Please also see our comments regarding Technical Reports.

Oxytocin
OFA opposes the relisting of this synthetic material. The NOSB voted to remove Oxytocin in 2020. The AMS chose not to act on the previous NOSB recommendation for removal. The reasons that the NOSB originally voted to remove this material still exist, and as currently listed, producers could use this routinely, which is not acceptable**.** The AMS, in their response to not removing it from the list, correctly notes that the FDA currently only allows this to be used under the order of a veterinarian, and therefore, they decided it did not need to be noted as an annotation in the NOP regulation. OFA reminds the NOSB and NOP that other regulations may change, and that if organic wishes to see this restriction remain, it should be annotated clearly in our organic regulation.

The OFA National Dairy Workgroup notes this material should only be used in emergency situations, restricting its use to complications related to labor and postpartum survival

immediately after the birth of their young. This material has the potential to be used in a way that does not meet the OFPA by increasing milk production.

In addition, the discussion in the Federal Register by AMS on why the NOSB removal recommendation was not implemented stated "*Its use is not permitted on a routine basis (i.e., as protocol). Instead, it is available for emergency situations and severe complications in the immediate postpartum (following birth of the young) period. It may not be administered to increase an animal's milk production (volume) or for milk letdown.* **OFA would like the annotation on this material to state this restriction as well.** When an organic operator looks at the National List, they are not aware of this discussion from 2/28/2022 in the Federal Register, and not every certification reviewer would know of it as well. The likelihood that this material would be used routinely and longer than needed, based upon the current annotation, is very high. It has been noted in the past that some operations have chosen to use it routinely on all first-calf heifers, since "they all tend to have post-parturition issues". The regulations must be transparent and understandable as written.

Further, the livestock subcommittee notes that hormones are not typically allowed in USDA organic production. The Organic Food Production Act of 1990 states in SEC. 2110. (7 U.S.C. 6509) ANIMAL PRODUCTION PRACTICES AND MATERIALS. (c) (3) that organic producers "*shall not use growth promoters and hormones on such livestock, whether implanted, ingested or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of such livestock."*

Since there is a risk that it could be used to stimulate production, a time frame should be included in the recommendation. It should also be noted that it is not only used on dairy cows but on other mammalian livestock, including swine, sheep, goats, horses, and beef cattle. There are alternative treatments that have been developed and used successfully on organic dairy cattle in the United States since many of the organic dairy companies choose to use the "no hormones used" label on their retail packages. NOP organic cow dairy producers have developed both preventative measures and natural remedies, as well as the use of uterine massage, to deal with milk let down, retained placenta, and other issues where oxytocin might be used. We are not sure how often oxytocin might be used in other species, and if there have been treatments developed that are as effective for these other species as they are for dairy cows. This is an area where more research is needed, but OFA feels the annotation suggested below would still allow for it to be used in other species.

OFA believes that the current annotation is woefully inadequate to meet the letter of the law as well as the parameters discussed in the AMS Federal Register when it was relisted over NOSB objection.

Therefore, **OFA asks the NOSB and NOP to put this item on the work agenda to improve the oxytocin annotation to read:**
Administered only under the lawful written or oral order of a licensed veterinarian. For emergency use only in post parturition therapeutic applications, no longer than 5 days post-birthing.[2]

Poloxalene
OFA supports the relisting of this substance if the organic community shows this product is being used and is still needed. The management of ruminant animals on pasture over time continues to improve, and we are unsure if this material is still necessary. We look forward to hearing more from the organic community on this material.

Formic acid
OFA supports the relisting of this material and would like the NOSB to work with the NOP on the implementation of the 2010 apiculture recommendations. Without clear standards and cultural requirements for honeybee management, these materials do not have a clear context in the NOP pest management hierarchy of using cultural, mechanical, and biological approaches before the use of national list synthetic materials. This material is used extensively and has no negative impacts on the environment, nor humans, when used as directed. There are herbal treatments used, but they are not as effective as formic acid in the control of the varroa mite. In addition, there are numerous off-label uses of synthetic tick control medications that are sometimes used for non-organic hives. Retaining this mostly benign, effective synthetic on the National List encourages both organic and nonorganic hobby beekeepers to use this over other, more dangerous treatments.

Sucrose octanoate esters
OFA would like to encourage the NOSB and NOP to take up adding apiculture standards to the USDA organic regulations. This material, along with oxalic and formic acid, is used only in apiculture production. Without clear standards and cultural requirements for honeybee management, these materials do not have a clear context in the NOP pest management hierarchy of using cultural, mechanical, and biological approaches before the use of national list synthetic materials. There are USDA-accredited certifiers who certify honey and other bee products as organic, with inconsistent standards between them for forage zones, hive management, and other aspects specific to apiculture. When the organic label is allowed in one area with inconsistent requirements, the integrity of the organic label is lowered. The 2010 NOSB recommendation on organic apiculture remains a solid recommendation that the NOP could implement, and this NOSB could do a short review to make sure there are no improvements to be made to keep them in harmony with other international apiculture standards. Harriet Behar, one of the OFA staff, is a beekeeper and does not see this material being used in current beekeeping and would like the

[2] This recommendation comes directly from the OFA National Dairy Workgroup.

NOSB to review its essentiality before relisting it again. She has used it in the past, and it is miserable to apply for both the operator and for the bees, and is not as effective as formic or oxalic acid.

EPA List 4 Inerts

It would be necessary to relist as written since it is unknown when the rulemaking on inerts will be completed, and it is necessary to have some inerts available for organically approved pest management materials. OFA continues to support the first option provided in the proposal from fall 2024, which provides for complete oversight of the inerts used in organic production, rather than having lowered oversight as proposed in option two.

Excipients

OFA has seen comments from certifiers that the current annotation and implementation of the allowance of excipients in organic livestock drugs and biologics is not as clear as it could be to promote consistency. Having one certifier allow a drug or biologic and a different certifier not allow it breeds inconsistency, encourages farmers to move from certifier to certifier, and is confusing when farmers share information between each other on what is allowed or not. OFA does not yet have a position on this material and we encourage the NOSB to look more deeply into where the certifier inconsistencies are and work to improve the annotation or propose an "instruction to certifiers" so farmers, ranchers, veterinarians, and suppliers are all using the same criteria when approving, using, or marketing livestock inputs with these excipients.

§205.604 Sunsets: Nonsynthetic substances prohibited for use in organic livestock production:

Strychnine- OFA supports listing this as a prohibited nonsynthetic in organic livestock production.

MATERIALS

Research Priorities

OFA requests that the NOSB add the following to the Research Priorities:

Crops: Regional seed variety trials

Land grant universities, private companies, and regional groups should be supported with grants to encourage more organic seed and planting stock trials. Home gardeners would also be interested in learning more about the beneficial characteristics of organic seeds and planting stock available and adapted to their regions. The Southeast region of the United States is known to have very few regionally adapted organic seeds to their regions, and therefore tends to use nonorganic seed at a higher rate than other regions.

Crops: Seed breeding specifically for use as cover crops

In organic no-till, rye is grown through the winter and terminated by rolling or mowing when it starts to shed pollen to create a deep mulch for planting the main crop. Having a high biomass and early maturing variety would aid this organic production system. This issue is specifically addressed in the current research priority list. However, oats, soybeans, peas, fava beans, clovers, vetches, japanese millet, sorghum sudan and more are all grown specifically as cover crops and seed characteristics for all of these crops could be improved to provide more benefits when used as a cover crop, to add to the seed we now can obtain to grow a cash crop.

Crops: Systems or Plastic Use

Long-term use of landscape fabric under containers: Since container production relies on liquid fertility inputs and those containers remain on landscape cloth in the same location for 10 years or more, what happens to the soil under that woven landscape cloth? Is there an imbalance of soil nutrients? Is the soil compacted or in good condition because there has not been tillage? Once the landscape cloth is removed, is there any special remediation that needs to be done to this soil to grow crops in it? How does long-term use of landscape cloth affect biodiversity both above and below the soil?

POLICY DEVELOPMENT

Sunset Review Efficiency

OFA does not support the premise nor the end result of the subcommittee's discussion document on this issue.

NOSB subcommittee members are persons who have experience and a stakeholder interest in that specific subcommittee. This subcommittee discusses each item on its docket, bringing its ideas to the larger board and the public for discussion and, eventually, a vote.

The dynamics of the Board tend to push non-committee members to accept the work of the subcommittee and not question the viewpoint or the comprehensive nature of the review. In order to have a congenial atmosphere on the Board, individual board members do not typically challenge the work in great detail, especially if they do not feel they have the same knowledge or experience as subcommittee members. This “peer pressure” would become even more pronounced and stifle discussion if this consent agenda were to be adopted.

While farmers may feel the need for a material on the crops subcommittee, the NOSB member in the consumer, environmentalist, or scientist seat may have a very different opinion and bring important information to the full board discussion. This diversity of opinions is the same for the stakeholders who make up the large pool of public commenters at each meeting. The NOSB works so well because the full board has a range of stakeholders with unique perspectives, and

each one is just as important as the other. The current system with two votes on each material, encourages each Board member to participate fully in the final decision and not be shy to bring forward the viewpoints and needs of their particular stakeholder community.

If the NOSB adopts the consent agenda protocol of this discussion document, transparency in decision-making would be greatly reduced for the general public since much of the discussion is done in the private subcommittee meetings. Public commenters would also lose an opportunity to weigh in on a specific material since robust discussion at the second meeting before the vote would be discouraged. While not common, there have been materials at sunset that have been recommended by the subcommittee for removal or relisting, which changed at the second meeting based upon new information brought forward by an NOSB member not on the subcommittee and/or public commenters. This change of vote was not anticipated after the first meeting's discussion and illustrates that more review of a material by the full Board is better than less.

Future NOSB subcommittee members rely upon the Board discussions and public input from previous sunset reviews when developing their proposals. There are times when an alternative to the synthetic is not available at one sunset but has been mentioned in a comment. This stimulates the subsequent subcommittee in the future to determine if that alternative has been developed or how far along it might be. Having only one robust discussion per material is insufficient since the public cannot be expected to be fully engaged at every meeting, and having two opportunities to chime in on a material results in a more well-rounded discussion.

While discussions may be considered "inefficient", they are essential in retaining trust in the organic label. Organic farmers are paying attention to these discussions and tend to embrace the regulation when they both understand how the decisions were made and have meaningful access to providing their point of view through public comment. The past few meetings have ended early, and finding ways to lessen NOSB meeting time does not seem to be a critical issue.

Thank you for your commitment to the integrity of organic, your attention to the diverse perspectives of the organic community, and your deliberations resulting in high-quality documents. You are appreciated.

Sincerely,

Kate Mendenhall
Executive Director