

## Spring 2017 NOSB Meeting

### AT-A-GLANCE SUMMARY OF PROPOSALS AND DISCUSSION DOCUMENTS

[Meeting Materials \(All Proposals and Discussion Documents\) \(pdf\)](#)

The Spring 2017 [National Organic Standards Board \(NOSB\) meeting](#) will be April 19-21 at the Sheraton Denver Downtown Hotel in Denver, CO.

The primary purpose of NOSB meetings is to provide an opportunity for organic stakeholders to give input on proposed NOSB recommendations and discussion items. The meeting is open to the public and participants are invited to submit written comments and/or provide oral comments during one of two sessions:

- Thursday, April 13, from 1 – 4 p.m. Eastern via **webinar**; (3-minute comment slot)
- Wednesday/Thursday, April 19- 20, at the **face-to-face meeting**; (3-minute comment slot)

**Commenters may only sign up for one comment slot.** [Reserve an Oral Comment Slot.](#)

The final deadline to submit written comments **and** sign up for oral comments is **Thursday, March 30, at midnight Eastern**. Submit comments via [Regulations.gov](#).

## SUMMARY OF MAJOR TOPICS

[2019 Sunset Review](#) (43 inputs under review, see the Sunset Survey section below)

### CROPS SUBCOMMITTEE

#### Strengthening the requirements for use of organic seed (proposal)

- **BACKGROUND:** The NOSB started soliciting public comment in 2016 on ways the organic seed guidance could and should be strengthened to achieve full compliance with the statements in the federal rule in §205.204 (a). This proposal addresses the main points brought up during both the public comment periods and the NOSB discussions of this and related topics. NOSB is recommending a regulatory change as well as several revisions to NOP's existing guidance (NOP 5029) for seeds, annual seedlings and planting stock used in organic crop production.
- **SUBCOMMITTEE PROPOSAL:** Summarizing: 1) amend the regulations at 205.204 to include improvement in sourcing and use of organic seed and planting stock must be demonstrated every year until full use of organic seed is achieved; 2) revise the NOP 5029 to specifically state that producers must avoid contamination from excluded methods in seed of at-risk crops; 3) revise NOP 5029 to specify that non-organic seed may be used only if the conventional replacement can be produced without the use of excluded methods; 4) revise NOP 5029 to specific that on-farm variety trials may be used to equivalency and non-organic seed can be used if organic seed cannot be sourced because of GMO contamination; 5) revise NOP 5029 record-keeping system to further address the number of sources that must be contacted (FIVE for at risk crops), the organic status

of the organic companies contacted and that producers must keep records of buyer's (contracted crop) attempts to source organic seed; and 6) revise NOP 5029 to specify that certifying agents may ask for a corrective action plan and require additional efforts be made with sufficient progress towards organic seed is not demonstrated.

- **SUBCOMMITTEE VOTE:** Motion to accept all additions as described in the proposal, to both the National Organic Program Regulation and the National Organic Program 5029 Guidance - **PASSED** unanimously - Yes: 9 No: 0 Abstain: 0 Absent: 0 Recuse: 0

### **Marine/algae listings on the National List (proposal)**

- See Handling Section Below

### **Bioponics/Hydroponics (discussion)**

- **BACKGROUND:** NOSB continues to work on the ongoing issue of the compatibility of hydroponic and containerized production with organic production standards at the upcoming meeting. In the fall 2016 meeting, the Crops Subcommittee had brought a proposal to allow hydroponic systems in organic production, which was tabled after public comments indicated it was yet not fully developed. However, NOSB did pass a resolution that indicated it was their intention to recommend prohibiting production systems based entirely on water substrates. Additionally, with five new Board members joining NOSB over the winter, it required the Crops Subcommittee to develop a discussion document on the subject with specific questions to stakeholders to consider.
- **SUBCOMMITTEE PROPOSAL:** The Crops Subcommittee has proposed definitions for aeroponics, hydroponics, and aquaponics in this discussion document, and recommended that these practices be prohibited in organic production by adding these defined terms to 7 CFR 205.105 (prohibited practices in organic production). Specifically, the Crops Subcommittee proposes the following definitions be used:

- **Aeroponics:** A variation of hydroponics in which plant roots are suspended in air and misted with nutrient solution.
- **Hydroponics:** The production of normally terrestrial, vascular plants in nutrient-rich solutions, or in a medium of inert or biologically recalcitrant solid materials to which a nutrient solution is added.
- **Aquaponics:** A recirculating hydroponic system in which plants are grown in nutrients originating from aquatic animal waste water, which may include the use of bacteria to improve availability of these nutrients to the plants. The plants improve the water quality by using the nutrients, and the water is then recirculated back to the aquatic animals.

The Crops Subcommittee asks for comments on these definitions, and whether they adequately address the intent of the Board to prohibit entirely water-based systems, additional aspects of hydroponic production that should be considered in a future proposal, and questions related to containerized production, which will be addressed in a future discussion document and proposal by the Crops Subcommittee.

- **NEXT STEPS:** Motion to accept the discussion document on aeroponics/hydroponics/aquaponics (Yes: 6 No: 0 Abstain: 2 Absent: 1 Recuse: 0). NOSB will discuss the document and comments received from public, and continue to work towards a proposal for the fall 2017 meeting.

## LIVESTOCK SUBCOMMITTEE

### **Definition of “emergency treatment” for livestock (discussion)**

- **BACKGROUND:** Synthetic parasiticides are allowed for use in organic livestock production only on dairy animals not destined for organic slaughter and only under emergency situations. There have been ongoing discussions surrounding what conditions must exist for a situation to be considered “emergency” and therefore justifying use of synthetic parasiticides.
- **NEXT STEPS:** The Livestock Subcommittee has produced a discussion document that attempts to develop parameters around the emergency treatment of dairy animals. The goal is to recommend USDA develop guidance around emergency treatment, so certifiers are creating a level playing field when determining whether use of synthetic parasiticides is justified. This discussion document is at a preliminary stage, and NOSB is seeking comments from stakeholders regarding whether or not a definition is necessary, how it should be defined, and how certifiers can evaluate “emergency situations” on the farm.

## CACS SUBCOMMITTEE

### **Performance Evaluation of Inspector (NOP 2027) (proposal)**

- **BACKGROUND:** In 2013, USDA released instruction to certifiers (NOP 2027) that required every inspector to be evaluated while conducting an inspection every year. Certifiers have raised concerns to NOSB regarding the cost and burden of this requirement and potential negative impact it could have on organic in the marketplace over time. NOSB presented a discussion document on the topic in the fall 2016 meeting and received public comments.
- **SUBCOMMITTEE PROPOSAL:** The Compliance, Accreditation, and Certification Subcommittee presents a summary of comments received in response to their previous discussion document on this topic and a summary of the costs, challenges, and benefits of the instruction to certifiers regarding inspector evaluations. The Subcommittee supports NOP’s efforts to ensure that inspections are conducted by qualified inspectors who are regularly reviewed. However, they also provide a series of recommendations to amend instruction to certifiers on inspector qualifications. IN particular, the Subcommittee recommends that inspectors be evaluated once every three years or more frequently when concerns have been raised about the individual inspector’s work.
- **SUBCOMMITTEE VOTE - PASSED:** Unanimous vote to approve that NOP 2027 be revised to incorporate [Subcommittee] recommendations (Yes: 6 No: 0 Abstain: 0 Absent: 1 Recuse: 0)

### **Eliminating the incentive to convert native ecosystems to organic farms (discussion)**

- **BACKGROUND:** The organic regulations require that all organic land be free of prohibited substances for 36 months prior to production of an organic crop. There is growing concern that producers can meet this requirement by converting native land (i.e. land that has never been farmed) to agricultural production. Anecdotal accounts indicate that producers in the arid west may be converting native habitat to organic production, which raises questions about whether this practice meets the overall intent of organic production, which includes maintaining and improving natural ecosystems. This concern does not extend to land coming out of Conservation Reserve Program (CRP), as that land had previously been farmed.
- **NEXT STEPS:** The Subcommittee developed a discussion document on this issue aimed at eliminating incentives to convert native ecosystems to organic production and request feedback

from organic stakeholders on how to accomplish this goal. The discussion document includes references to foreign organic standards, which prohibit this practice in some manner, and presents potential pathways to prohibit this practice through recommendations for rulemaking. The Subcommittee also requests feedback on ways to disincentive conversion of native ecosystems outside of rulemaking.

## **HANDLING SUBCOMMITTEE**

### **Petition to allow L-Methionine in Handling (proposal)**

- **PETITION:** Petitioned by Nature's One for use in nutritionally complete pediatric formulas labeled as organic or "made with." It is an essential amino acid, which cannot be synthesized by the human body.
- **SUBCOMMITTEE PROPOSAL:** Classified as synthetic. Motion to add L-Methionine to §205.605(b), as petitioned: allowed in or on nutritionally complete enteral pediatric formulas labeled "organic" or "made with organic (specific ingredients)" with the annotation, "for use in nutritionally complete pediatric enteral formulas based on soy protein".
- **SUBCOMMITTEE VOTE - PASSED:** Unanimous vote to add L-Methionine to the National List (Yes: 9 No: 0 Abstain: 0 Absent: 0 Recuse: 0)

### **Petition to allow Short DNA Tracers in Handling (proposal)**

- **PETITION:** Petitioned by Safe Tracers for addition to 205.605(b) as a synthetic for an improved method for traceability and simplification of recordkeeping. The DNA tracers are added to the food.
- **SUBCOMMITTEE PROPOSAL:** The Handling Subcommittee recommends that the petitioned material, short DNA tracers, not be added to the National List as it fails the "Essentiality & Availability" criteria. Additionally, the use of short DNA tracers would not simplify or change current recordkeeping practices by producers.
- **SUBCOMMITTEE VOTE - FAILED -** Unanimous vote to not add synthetic short DNA Tracers to the National List (Yes: 0 No: 6 Abstain: 0 Absent: 2 Recuse: 0)

### **Tocopherols – Annotation change (proposal)**

- **BACKGROUND:** Tocopherols are currently classified on the National List as a synthetic substance. However, tocopherols are derived from plant oils and non-synthetic forms are available. Organic forms are potentially available as well. To encourage industry to source non-synthetic and organic forms, the Handling Subcommittee is proposing an annotation change.
- **SUBCOMMITTEE PROPOSAL:** The Handling Subcommittee proposes to CHANGE the annotation of the listing of tocopherols at §205.605(b) of the National List: "Derived from vegetable oil when rosemary extracts are not a suitable alternative TO: to the following annotation – "Derived from plant oils. Non-synthetic or organic tocopherols are to be used when commercially available."
- **SUBCOMMITTEE VOTE – PASSED** (Yes: 8 No: 0 Abstain: 1 Absent: 0 Recuse: 0)

### **Marine/algae listings on the National List (proposal)**

- **BACKGROUND:** During the recent Sunset Review of almost 200 National List items, NOSB & the public noted that the listings of (9) marine materials includes overlap in species and lack scientific

clarity. A discussion document was posted for the fall 2016 meeting and commenters recommended that Latin binomials be added where possible, or by Class, and that NOP clarify the listing of “kelp” used in organic production and if marine materials should be classified as agricultural or non-agricultural.

- **SUBCOMMITTEE PROPOSAL:** 1) \*Motion to annotate the marine algae listings with specific information on Latin binomials for crops and handling; 2) Motion to recommend that NOP develop guidance to clarify the term “kelp” as used in organic production and wild harvesting.
- **SUBCOMMITTEE VOTE - PASSED:** The Subcommittee (Crops and Handling) unanimously passed both motions (Yes: 9 No: 0 Abstain: 0 Absent: 0 Recuse: 0)

\*Motion to annotate the marine algae listings as follows, shown in underline:

**§205.605 Non-agricultural (non-organic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food groups)).”**

(a) *Non-synthetics allowed:*

Acids (Alginic; ...). Derived from brown seaweeds, class Phaeophyceae

Agar-agar. Derived from red seaweeds, class Rhodophyceae

Carrageenan. Derived from red seaweeds, class Rhodophyceae.

(b) *Synthetics allowed:*

Alginates. Derived from brown seaweeds, class Phaeophyceae.

**§205.606 Non-organically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.”**

(d) Colors derived from agricultural products - must not be produced using synthetic carriers and solvent systems or any artificial preservative.

(2) Beta-carotene extract color derived from carrots or algae (pigment CAS 1393-61-1).

Derived from greenalgae, class Chlorophyceae.

(l) Kelp – for use only as a thickener and dietary supplement. Derived from *Macrocystis pyrifera*, *Laminaria digitata*, *Laminaria saccharina* and *Laminaria cloustoni*.

(t) Seaweed, Pacific Kombu, derived from *Laminaria japonica*, class Phaeophyceae

(x) Wakame Seaweed (*Undaria pinnatifida*).

**§205.601 Synthetic substances allowed for use in organic crop production**

In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production: Provided that use of such substances does not contribute to contamination of crops, soil, or water...

(j) As plant or soil amendments.

(1) Aquatic plant extracts (other than hydrolyzed) derived from brown seaweeds, class *Phaeophyceae*. –Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount use is limited to that amount necessary for extraction.

**Ancillary substances for cellulose (proposal)**

- **BACKGROUND:** Ancillary substances are intentionally added to a formulated generic handling substance on the National List. These substances do not have a technical or functional effect in

the finished product, and are not considered part of the manufacturing process that has already been reviewed by NOSB. While some of these substances are removed or consumed in processing, some may remain in the final product in tiny amounts. NOSB is directed to review the ancillary substances used in substances on the National List. While the ancillary substances used in cellulose were approved during the recent Sunset Review, there were several additions identified through the second comment period that are brought forward in this proposal.

- **SUBCOMMITTEE PROPOSAL:** Motion to accept this document in support of, or to restrict the use of, the following ancillary substances or categories of substances in cellulose, as shown in the above chart and/or text of this document.
- **SUBCOMMITTEE VOTE - PASSED** – (Yes: 7 No: 0 Abstain: 0 Absent: 2 Recuse: 0)

### **Discussion document on the use of BPA in packaging (discussion)**

- **BACKGROUND:** Bisphenol A (BPA) is used in the manufacturing of polycarbonate plastics and epoxy resins and used in the lining of cans and other packaging for food. BPA is a known endocrine disruptor, and several studies demonstrate that BPA leaching out of the linings of cans results in wide exposure by human populations. NOSB has released a discussion document to gather information on whether changes are needed in the regulations to ensure that harmful substances such as BPA do not come in contact with organic food. The Handling Subcommittee is asking whether BPA should be prohibited, how much is used for organic food, and what kinds of packaging, what alternative materials and practices are being used by organic processors, what factors are prohibiting more products from using alternatives, and if there are specific categories where BPA should be allowed. A technical report is also in progress.
- **NEXT STEPS:** The Subcommittee voted to unanimously pass the motion to accept the BPA discussion document. Public comments will be considered at the topic discussion at the spring 2017 meeting.

### **2019 SUNSET REVIEW (Reviewed in 2017)**

NOSB will be discussing several generic materials currently included on the National List to determine whether these substances should continue to be listed or should be removed from the National List.

- **For crop production:** Chlorine materials, Soap-based herbicides, Biodegradable bio-based mulch film, Boric acid, Sticky traps/barriers, Copper sulfate, Fixed coppers, Humic acids, Micronutrients, Vitamins, Lead salts, Tobacco dust
- **For livestock production:** Chlorine materials, Chlorhexidine, Glucose, Oxytocin, Tolazoline, Copper sulfate, Lidocaine, Procaine
- **For processing and handling:** Attapulgate, Bentonite, Diatomaceous earth, Nitrogen, Sodium carbonate, Acidified sodium chlorite, Carbon dioxide, Chlorine materials, Magnesium chloride, Potassium acid tartrate, Sodium phosphates, Casings, Konjac flour, Pectin

It is critical that NOSB hear from certified farmers and handlers **prior to the Spring 2017 NOSB meeting** on whether these inputs are essential and/or necessary for organic production, or whether there are other effective natural or organic alternatives available.

To help facilitate a robust comment process, OTA has created a [survey system for collecting feedback](#) from certified farms and processors. These electronic surveys can be used to submit feedback on each individual input currently under NOSB review. Each survey is CONFIDENTIAL, and contains about 10 short questions that will take an estimated five minutes to complete.

**IMPORTANT!** NOSB will be **VOTING** on the 2019 Sunset inputs at the fall 2017 meeting. Feedback will be given to NOSB during the spring meeting to inform NOSB's vote at the fall 2017 meeting and ultimately help decide whether or not the inputs will continue to be allowed in organic production and processing.

### **Mission and Structure of NOSB**

The [National Organic Standards Board](#) was created through the Organic Foods Production Act, a subsection of the 1990 Farm Bill. The Board is charged with the task of assisting the Secretary of Agriculture on which substances should be allowed or prohibited in organic farming and processing. This 15-person citizen advisory board brings together volunteers from around the United States. It is made up of four farmers/growers, two handlers/processors, one retailer, one scientist, three consumer/public interest advocates, three environmentalists, and one USDA accredited certifying agent.

### **Contact OTA staff**

#### [Gwendolyn Wyard](#)

Vice President of Regulatory and Technical Affairs  
(503) 798-3294

#### [Nathaniel Lewis](#)

Farm Policy Director  
(360) 388-6422