



September 29, 2022

Ms. Michelle Arsenault  
National Organic Standards Board  
USDA-AMS-NOP

**Docket:** AMS-NOP-22-0042

**RE: Crops Subcommittee – Biodegradable Biobased Mulch Film (Sunset)**

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the National Organic Standards Board (NOSB) Crops Subcommittee's Sunset Review of Biodegradable Biobased Mulch Film.

The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing organic businesses across 50 states. Our members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

### **Summary of OTA's Position**

- OTA supports NOSB's efforts to identify and advance regulatory solutions for allowing Biodegradable Biobased Mulch Film as an alternative to plastic mulch.
- OTA **supports the renewal** of Biodegradable Biobased Mulch Film during this sunset review to allow time to implement NOSB's Fall 2021 Recommendation for rulemaking, which was just added to the USDA Unified Agenda. Removal of the listing during sunset review is premature and could hinder momentum on research and development for allowable products that comply with the NOSB's Fall 2021 Recommendation.

### **Background**

Biodegradable biobased mulch film is currently listed on the National List of allowed materials for crop production as a weed barrier. The final rule to add this substance to the National List was published September 30, 2014, in response to an NOSB Recommendation in fall 2012.

The National Organic Program (NOP) published a Policy Memo in January 2015 to specify that biodegradable biobased mulch films must not contain any non-biobased content (i.e., no petroleum). NOP rescinded the Policy Memo in October 2019, but the requirement for 100% biobased content remains in effect as it is articulated in the preamble to the final regulations adding this material to the National List.

However, products that might meet the 100% biobased requirement are either not biodegradable or are not used in production due to brittleness or other production issues. Most biodegradable mulch films only contain about 20% biobased content (or less); the remaining portion is petroleum-derived. Therefore, there

are no commercially viable products on the market that meet the NOP requirement for 100% biobased content. Since this conflict arose, the topic has returned to the NOSB work plan for possible resolution.

A [Technical Report](#) was commissioned in 2016 to evaluate the long-term biodegradability of petroleum-derived biodegradable mulch films and was inconclusive due to limited research available at the time. NOSB has continued to track new research by commissioning an expert panel at the spring 2016 NOSB Meeting. NOP also commissioned a [new report](#) from Michigan State University, which was made available in October 2019. A [discussion document](#) was presented at the spring 2020 meeting, and [reissued](#) in fall 2020, with questions for stakeholder feedback regarding a potential future annotation amendment that would allow biodegradable mulch films that are not 100% biobased. In the meantime, NOSB has renewed this listing at Sunset Review to allow time to identify a suitable solution. A [proposal](#) was presented in spring 2021 that proposed a minimum requirement of 80% biobased content and that 100% be required if and when these materials become available, but that proposal was sent back to the subcommittee for further work.

In fall 2021 a revised [proposal](#) was presented to amend the definition of biodegradable biobased mulch film to allow products that are at least 80% biobased. NOSB narrowly voted (10-4) to pass the proposed amendment and additional language to add to the proposal that encourages continuous improvement beyond 80% if commercially available, which NOP approved as a non-substantive amendment.

The complete [final recommendation](#) passed by the NOSB at the fall 2021 meeting to amend the annotations for biodegradable mulch at §205.2 and §205.601 as shown below (bold text added):

- § 205.2 *Biodegradable biobased mulch film*. A synthetic mulch film that meets the following criteria:
  - (1) Meets the compostability specifications of one of the following standards: ASTM D6400, ASTM D6868, EN 13432, EN 14995, or ISO 17088 (all incorporated by reference; see §205.3);
  - (2) Demonstrates at least 90% biodegradation absolute or relative to microcrystalline cellulose in less than two years, in soil, according to one of the following test methods: ISO 17556 or ASTM D5988 (both incorporated by reference; see §205.3); and
  - (3) Must be **at least 80%** biobased with content determined using ASTM D6866 (incorporated by reference; see §205.3).
- §205.601(a)(2)(iii) Biodegradable biobased mulch film as defined in §205.2. Must be produced without organisms or feedstock derived from excluded methods. **When greater than 80% biobased biodegradable plastic films become commercially available, producers are required to use them, given that they are of the appropriate quality, quantity, and form.**

## OTA Position

OTA supports NOSB's efforts to identify and advance regulatory solutions for allowing Biodegradable Biobased Mulch Film as an alternative to plastic mulch. Across the organic industry, organic businesses are exploring options for reducing plastic throughout their value chains, from on-farm uses to retail packaging. The approval of biodegradable mulch is an opportunity to encourage the development of technologies that can reduce pollution in a manner that is compatible with organic principles.



OTA **supports the renewal** of Biodegradable Biobased Mulch Film on the National List. This is a necessary step to allow time to implement NOSB’s recommendation for rulemaking to amend the annotations for biodegradable mulch at §205.2 and §205.601. The NOSB’s Recommendation from Fall 2021 has only just been added to the Office of Management and Budget’s Spring 2022 Unified Agenda of Regulatory Actions<sup>1</sup> (RIN: 0581-AE16), which is an important indicator of regulatory progress. Additional time is needed for USDA to publish the proposed rule, take public comments, and complete the rulemaking process.

We recognize that delisting of Biodegradable Biobased Mulch Film would not remove tools in use by farmers because there are no currently available products that meet the current regulatory criteria. However, the NOSB stated in its Fall 2021 Recommendation, “commenters noted that it is possible that materials meeting the proposed annotation could be made in the near future.” We are concerned that premature removal of the listing during sunset review will hinder momentum on research and development for allowable products in the future.

In closing, OTA strongly encourages NOSB to renew the listing of Biodegradable Mulch Film on the National List. Premature removal would be a disservice to the many years of effort on behalf of organic producers, researchers, and manufacturers and other stakeholders working towards solutions and alternatives to unrecyclable plastic mulch.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Standards Board for the opportunity to comment, and for your commitment to furthering organic agriculture.

Respectfully submitted,

Johanna Mirinda  
Farm Policy Director  
Organic Trade Association

cc: Tom Chapman, CEO  
Organic Trade Association

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<sup>1</sup> <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202204&RIN=0581-AE16>