



April 11, 2017

Mr. Robert Pooler
National Organic Program, Standards Division
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-16-0052

RE: National Organic Program (NOP): Sunset 2017 Amendments to the National List

-DRAFT- OTA MEMBERS ONLY

Dear Mr. Pooler:

Thank you for the opportunity to provide comment on this proposed rule to amend the National List of Allowed and Prohibited Substances (National List) to reflect the 2017 Sunset Review recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board (NOSB) on October 29, 2015. The proposed rule, if accepted as written, would amend the National List to remove eleven substances allowed as inputs used in organic production (farming) or as ingredients in or on processed products labeled as “organic.” The amendment for the eleven substances as proposed would be effective on the current sunset date of each input (June 27, 2017).

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. Its members include growers, shippers, processors, certifiers, farmers’ associations, distributors, importers, exporters, consultants, retailers and others. OTA’s Board of Directors is democratically elected by its members. 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:

NOP’s proposal to remove the following substances from National List is consistent with the information OTA collected through an electronic survey process conducted during the 2015 Sunset Review process and during this comment period:

- **Crops, Synthetic (205.601(a):** Lignin Sulfonate
- **Livestock, Synthetic (205.603(a):** Furosemide
- **Handling, Synthetic (205.605(b):** Magnesium Carbonate
- **Handling, Agricultural (205.606):** Chia, Dillweed Oil, Frozen Galangal, Frozen Lemongrass and Chipotle Chile Peppers

We are requesting further consideration of whey protein concentrate, Turkish bay leaves (ground) and Inulin-oligofructose enriched.

OTA's comments to NOSB on its Sunset Review process are shaped through a survey process we conduct where as an electronic survey is created for each input under review. The surveys are made available to every NOP certificate holder and include 7-10 questions addressing the necessity (farm and livestock) or essentiality (handling) of the National List input under review. The names of the companies submitting the information are confidential (not disclosed to OTA). To ensure wide distribution of the surveys beyond OTA membership, OTA works with Accredited Certifying Agencies (ACAs) and OMRI to distribute the survey links to all of their clients as well as to targeted clients they know are using the inputs under review. OTA also works through its Farmers Advisory Council (FAC¹) to help assist in distribution to NOP certified farmers.

Since the time OTA's surveys were conducted in 2015 and after the NOSB comment period closed, OTA received new information informing us that the following ingredients recommended for removal from § 205.606 are both essential to organic processed products and not commercially available in organic form:

- Turkish bay leaves (specifically the ground form)
- Whey protein concentrate
- Inulin-oligofructose enriched (CAS # 9005-80-5).

OTA supports removing items from the National List provided they are no longer necessary or essential because of the availability of natural or organic alternatives. Based on the new information received, OTA respectfully requests that NOP consider the comments received from industry addressing the lack of organic alternatives for whey protein concentrate, Turkish bay leaves (ground) and Inulin-oligofructose enriched.

In closing, OTA requests that the final rule specify a **12-month implementation period** from the date the final rule is released. Regardless of the extensive review and public comment period the National List items underwent in 2015, OTA remains realistic about the ability to reach each every single organic certificate holder during the NOSB Sunset Review process as well as during this proposed rule comment period. Many certified operators may be unaware of the proposed rule, and they will not become aware of the changes until a final rule is released and they are notified of the change by their certifier. To allow industry adequate time to comply with the changes, we respectfully request a **12-month implementation period** from the date a final rule is released.

At a minimum, reformulating a product typically includes sourcing and testing alternative ingredients, establishing product specifications, research and development on the reformulated product, NOP certification review and approval, quality and cost analysis, consumer product trials, market analysis, and product launch. Relabeling, at a minimum, includes label design, nutritional analysis and food nutrition facts development, regulatory compliance review, and approval. This process typically takes one to two years.

¹ OTA's Farmers Advisory Council was established in 2013 to formalize two-way communication between OTA and member producers as well as regional organic producer organizations across the United States. Through dialog and input, FAC gives organic farmers a voice to directly influence OTA's policy, and provides an avenue for OTA to share information and advocacy work with this stakeholder group.

OTA believes a 12-month implementation phase should provide affected entities with the time needed to comply with the changes once companies are notified of a final ruling.

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

Respectfully submitted,



Gwendolyn Wyard
Vice President, Regulatory and Technical Affairs
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association