

Fall 2020 National Organic Standards Board (NOSB) Meeting

The Organic Trade Association's Meeting Report

On October 28-30, the National Organic Standards Board (NOSB) held its biannual public meeting via live online webinar. 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 meetings also allow NOSB to receive updates from USDA's National Organic Program (NOP) on issues pertaining to organic agriculture. The full agenda for the meeting as well as all meeting materials are available on the Organic Trade Association (OTA) [fall 2020 NOSB meeting website](#). Full text of our submitted written comments are included on the website as well as more background information about the NOSB Meeting.

BY THE NUMBERS

This was the **58th** meeting of the National Organic Standards Board. Over the course of the three-day virtual meeting, NOSB considered **8** proposals, **5** discussion documents, and over **50** sunset materials. NOSB received approximately **779** written comments, and listened to **10** hours of oral testimony received from over **100** commenters during two public comment webinars prior to the meeting.

MEETING HIGHLIGHTS

The fall 2020 NOSB Meeting was conducted virtually, as was the previous meeting, due to the restrictions on travel and in-person gatherings imposed by the COVID-19 pandemic. The 30-day public comment period for this NOSB Meeting was completely overlapped by the 60-day comment period on NOP's [Strengthening Organic Enforcement Proposed Rule](#), the largest single piece of rulemaking since the organic regulations were first implemented. Unfortunately, this overlap meant that many stakeholders were challenged to fully engage in the analysis and comment process for many substantive items presented in the 175-page packet of NOSB discussion items and proposals for this meeting. Despite the challenges, organic stakeholders continued to represent strong and diverse voices to improve the organic standards. The Organic Trade Association is highlighting the following key outcomes and themes of the fall 2020 NOSB Meeting that are important to the ongoing work of our organization and the organic sector:

- **CALL FOR ACTION ON INERT INGREDIENTS IN PEST CONTROL:** The listing of EPA List 4 Inerts of Minimal Concern was up for Sunset Review at this meeting. This listing regulates the synthetic substances permitted as inactive ingredients or adjuvants formulated with allowed pesticide active ingredients for both crop and livestock pest control products. The referenced EPA List is no longer maintained by EPA, and NOP has not yet implemented the NOSB's previous 2015 recommendation to establish a new system for reviewing and identifying inert ingredients permitted for use in organic pest control products. Frustrated by the inaction of NOP, some NOSB members were prepared to vote *to remove* the listing as a strategy for prompting NOP action and response to this issue, hoping that their recommendation to prohibit wouldn't actually be carried out without implementing a replacement. Dr. Jenny Tucker of NOP even encouraged the vote to remove as it would set a deadline for NOP to implement the new system prior to the sunset expiration date of EPA List 4 in two years. Other NOSB members as well as many public commenters expressed opposition to such a vote that not only would be inconsistent Organic Foods Production Act criteria for decision-making during Sunset Review, but it would put at risk the prohibition of inert ingredients that are essential to formulating many critical pest control tools used by organic farmers if the listing was removed prior to the new system being in place. Dr. Tucker assured members that NOP would work hard to implement the new inert review system as soon as possible, regardless of how NOSB voted on the Sunset Review. Dr. Tucker explained that NOP had not previously been able to prioritize implementing the 2015 recommendation, but now is ready to dedicate the resources needed to advance a solution on this issue. Ultimately, NOSB voted *not to remove* EPA List 4 and *also*

unanimously passed a resolution calling for NOP action to develop and implement a viable alternative system for reviewing inert ingredients to replace the problematic current listing of EPA List 4 inerts. The full text of the resolution is provided in the Crop Subcommittee discussion section of this report. OTA shares the frustration with NOP failing to advance this and many other NOSB recommendation. By deciding to relist EPA List 4 inerts, NOSB made a genuine vote consistent with OFPA criteria and stakeholder comments, and avoided potentially severe unintended consequences that could have arisen from a recommendation to prohibit essential tools for organic farmers. Many stakeholders are not privy to the nuances of internal strategies about how a vote to prohibit inerts was intended to be a signal for an alternative action, and this could have created panic, confusion, and mistrust of the NOSB decision-making process. Nevertheless, there is still a critical need for NOP to take action to implement NOSB's outstanding recommendation to resolve the longstanding discrepancy in the listing of inerts on the National List. **More detail on Page 10.**

- **RESTRICTED SOURCING OF SEAWEED AND FISH FERTILIZERS:** NOSB passed the Materials Subcommittee's proposal for a new set of comprehensive seaweed harvest parameters that address locations, methods, timing, and bycatch. The Subcommittee's proposal incorporates these harvest parameters into two amendments to the National List: an annotation to the listing of aquatic plant extracts on §205.601(j), and a new listing at §205.602 (Prohibited Non-synthetics) to prohibit marine macroalgae unless produced in accordance with the annotation. Implementation of the proposal will hinge on NOP establishing a scientific task force to develop guidance and instruction on how to interpret and consistently implement the proposed harvest parameters. OTA has engaged on this NOSB work agenda item for over four years in support of continuous improvement in sustainable sourcing of seaweed for use in organic agriculture. The last time this topic was on the NOSB agenda was in fall 2019, with conflicting opinions from board members and stakeholders on a discussion document, and no clear path forward. No public proposal or discussion document was presented at the spring 2020 meeting, so the fall 2020 meeting is the first time that the specific annotation language was presented for public comment. Commenters admitted that it was difficult within the 30-day comment period to take in the totality of the lengthy proposal and the most complex annotations ever proposed to the National List. OTA's recommendation to send the proposal back to subcommittee is an assurance that the NOSB public process is upheld and that organic stakeholders, such as seaweed harvesters and organic farmers directly impacted by the proposal, have the opportunity to analyze the proposal and its impacts, provide constructive feedback, and have their feedback integrated in to the final annotation language. Committed to a transparent and inclusive process for developing and commenting on NOSB recommendations, OTA was compelled to submit a supplementary written comment to correct the record regarding email communications from February between one member of the NOSB Materials Subcommittee and one member of OTA staff that was being incorrectly considered by the Subcommittee to be a substitute for the public comment process. NOSB also passed a recommendation to limit the sources of fish used in fish fertilizers to only fish sourced from fish waste, bycatch or invasive species. This decision along with the marine macroalgae proposal represent a theme of NOSB broadening its evaluation of the environmental impacts of inputs used in organic agriculture, which can expand the positive impact that organic agriculture has on food system sustainability provided that stakeholders are given the opportunity to find consensus on regulatory language that meets sustainability goals, is practical to implement and enforce, and maintains access for organic farmers to critically important tools. **More detail on Page 15.**
- **SWEEPING REMOVAL OF INGREDIENTS FROM §205.606:** NOSB conducted its Sunset Review of 27 agricultural ingredients listed on §205.606 of the National List that may be used in non-organic form only when the organic form is not commercially available (quality, quantity, form). According to the Organic Foods Production Act, materials that have been placed onto the National List for use in handling should remain on the National List if: They are still essential to and compatible with organic production and handling practices; There are no commercially available alternative materials (natural, organic) or practices; and No new information has been submitted demonstrating adverse impacts on humans or the environment. Materials that are removed from §205.606 will be required to be certified organic and there will be no more allowance for non-organic forms if the organic form is not commercially available. At the fall 2020 meeting, NOSB voted to remove 12 substances from §205.606, including kelp, sweet potato starch, Turkish bay

leaves, whey protein concentrate, and 8 types of natural colors. This many removals would not have been expected based on the votes coming out of Subcommittee nor the public comments indicating necessity of many of the ingredients. A transparent and consistent thread between the public comments and NOSB's final vote was difficult to ascertain in several instances. In some cases, NOSB voted to remove substances without any substantive evidence of commercially available organic alternatives. OTA does not support voting a material off the National List to make a point, or to scare or drive incentive. NOSB's decisions must be transparent, non-arbitrary, and based on the best current information and in the interest of the organic sector and public at large. OTA will call on association members and affected stakeholders to weigh-in during next the public comment opportunity as these recommended removals make their way through the rulemaking process. **More detail on Page 13.**

- **ION EXCHANGE FILTRATION RAISES QUESTIONS ON FOOD CONTACT SUBSTANCES:** NOSB deliberated on a proposal on the use of ion exchange resins/membranes and recharge materials, and which ones need to be included on the National List. Longstanding NOP policy is that substances classified by FDA as food contact substances do not need to be on the National List. Naturally, the legal question of whether resins are classified as food contact substances and therefore outside the scope of NOSB's review became a subject of discussion. NOSB asked for guidance from NOP regarding legal status of resins, but NOP encouraged NOSB to make the determination as part of its proposal development process and submit a recommendation to NOP for further consideration. NOSB members also raised questions about the potential for degradation of resins into food after repeat use, prompting some members to suggest sending the proposal back to subcommittee so that further research on potential degradation could be compiled. Other members noted that many food contact substances pose a risk of degradation but fall outside of NOSB scope of review because they are not required to be included on the National List. Dr. Tucker of NOP provided some feedback to inform the Board discussion, primarily around the issue of certifier inconsistency and that NOP's next steps would likely be to issue an instruction in the NOP Handbook for certifiers based on the Board's proposal. The Board failed to get enough votes in favor of passing the motion to approve the Subcommittee's proposal (9-6), so the proposal will be sent back to subcommittee for further work. **More detail on Page 12.**

The Organic Trade Association is also highlighting the following issue that was not on the fall 2020 NOSB Meeting agenda but is still critical to the ongoing work of our organization and the organic sector:

- **BACKTRACKING ON ORIGIN OF LIVESTOCK RULE:** The organic community has long advocated for final rulemaking on Origin of Livestock to clarify and narrow the allowance to transition dairy animals into organic milk production as a one-time event. At the fall 2020 NOSB Meeting, Dr. Jenny Tucker of NOP announced that instead of moving to a final rule, NOP plans to rewrite and publish another proposed rule for public comment. Although NOP already reopened the comment period last year on the original 2015 proposed rule on Origin of Livestock, NOP says that legal complexities arose during legal review of the final rule and that a new proposed rule is needed to address issues including: 1) Regulatory unit (producer or operation), 2) Movement of transitioned cows, and 3) Whether the regulation falls within authority of the Organic Foods Production Act. In response to NOP's announcement, OTA and national groups sent a [letter](#) to USDA expressing our deep disappointment that USDA is ignoring the mandate from Congress in the FY20 Appropriations Bill to issue a final rule, a NOSB Resolution from fall 2018 to issue a final rule, and overwhelming public support of issuing a final rule that reflects the core policies of a one-time transition contained in the original proposed rule. From small family farms to some of the largest organic dairies and companies in the world, the organic dairy industry united to demand strong and consistent standards. The ongoing inaction by USDA to resolve the longstanding inconsistency in certifier enforcement of the origin of livestock regulations is exacerbating the economic disadvantage of dairy farmers on an uneven playing field and threatens the integrity of the organic sector. [\[Read more about OTA's advocacy on Origin of Livestock\]](#)

AT-A-GLANCE MEETING OUTCOMES

PROPOSALS: NOSB considered 8 proposals at this meeting. Of the proposals, **4 PASSED** (referred to USDA for approval and implementation).

- **Low Acyl Gellan Gum (Handling)** – proposal to allow in food processing as a gelling agent is **adopted**
- **Fish for Liquid Fish Fertilizers (Crops)** – proposal to restrict the harvesting of wild native fish used in fertilizers is **adopted**
- **Marine Macroalgae (Crops)** – proposal to restrict the harvesting of seaweed/kelp used in fertilizers is **adopted**
- **2020 Research Priorities** – proposal for organic research priorities is **adopted**
- **Sodium Carbonate Lignin (Crops)** – proposal to allow in crop production as a dust suppressant is **rejected**
- **Fenbendazole (Livestock)** – proposal to allow in poultry production as parasiticide for laying hens is **rejected**
- **Paper-Based Planting Aids (Crops)** – proposal to allow in crop production with restrictions on biobased content is **sent back to subcommittee**
- **Ion Exchange Filtration (Handling)** – proposal on the use of resins, membranes, and recharge materials is **sent back to subcommittee**

SUNSET REVIEWS: NOSB voted on over 50 currently allowed generic inputs. Of these, **12** are recommended for **REMOVAL** from the National List.

- **8 colors (Handling)** recommended for removal from §205.606: **Black currant** juice color; **Blueberry** juice color; **Carrot** juice color; **Cherry** juice color; **Grape** juice color; **Paprika** color; **Pumpkin** juice color; **Turmeric** extract color
- **4 other materials (Handling)** recommended for removal from §205.606: **Kelp**; **Sweet potato starch**; **Turkish bay leaves**; **Whey protein concentrate**
- **EPA List 4 Inerts:** recommended for renewal; NOSB also passed a **resolution** calling for NOP action to develop and implement a viable alternative system for reviewing inert ingredients to replace the problematic current listing of EPA List 4 inerts

DISCUSSION DOCUMENTS: NOSB considered 5 discussion documents at this meeting.

- **Ammonia Extract Fertilizers** – discussion on a petition to prohibit ammonia extract fertilizers
- **Biodegradable Biobased Mulch Film** – discussion of the allowance of biodegradable films that are not 100% biobased
- **Whey Protein Concentrate (Processing)** – discussion on a petition to prohibit this substance in food processing
- **Consent Agenda Calendar Voting** – discussion on whether to adopt a consent agenda voting procedure
- **Human Capital Management** – discussion on developing and retaining qualified organic inspectors and reviewers

OFFICER ELECTIONS: NOSB elected Steve Ela (Chair), Nate Powell-Palm (Vice Chair), and Mindee Jeffery (Secretary).

LOOKING FORWARD: The NOSB Panel Discussion on Sanitizers is scheduled for November 12 at 3:00p.m. Eastern. The Spring 2021 NOSB Meeting is tentatively scheduled for April 28-30, 2021, in Crystal City, Virginia.

NOSB MEMBERS

This 15-person citizen advisory board brings together volunteers from around the United States. It is made up of 4 farmers/growers, 2 handlers/processors, 1 retailer, 1 scientist, 3 consumer/public interest advocates, 3 environmentalists, and 1 USDA accredited certifier agent. Board composition for the Fall 2020 Meeting includes:



Steve Ela
 (producer)
 CHAIR



Emily Oakley
 (producer)



Jesse Buie
 (producer)
 SECRETARY



Nate Powell-Palm
 (producer)



Asa Bradman
 (environmentalist)



Rick Greenwood
 (environmentalist)



Wood Turner
 (environmentalist)



Dan Seitz
 (public interest)



A-dae Romero-Briones
 (public interest)



Sue Baird
 (public interest)



Kim Huseman
 (handler)



Jerry D'Amore
 (handler)



Mindee Jeffery
 (retailer)



Dave Mortensen
 (scientist)



Scott Rice
 (certifier)
 VICE CHAIR

Outgoing board members Emily Oakley, Jesse Buie, Dan Seitz, A-dae Romero-Briones, and Scott Rice have completed their five-year term on the Board. Dave Mortensen announced that he also will be leaving the board (although he had one more year left in his term) so that he can dedicate attention fully to his academic responsibilities. OTA sincerely thanks these Board members for the years of dedicated services on NOSB.

USDA announced five new NOSB members to fill the positions of outgoing board members. They will begin their five-year terms in January: Amy Bruch (producer), Logan Petrey (producer), Carolyn Dimitri (public interest), Brian Caldwell (public interest), and Kyla Smith (certifier).



Amy Bruch



Logan Petrey



Carolyn Dimitri



Brian Caldwell



Kyla Smith

USDA REPORT HIGHLIGHTS

Dr. Jenny Tucker, Deputy Administrator of the National Organic Program (NOP), prepared a pre-recorded report on the activities of NOP and also presented supplementary remarks live during the meeting. The full recorded presentation is available in the [Organic Integrity Learning Center](#) at Course “NOP-998 - NOP Presentations.” *Need a Free Account? [Sign up here.](#)* Dr. Tucker’s presentation focused on key program areas including Strong Organic Control Systems, Farm to Market Traceability, Robust Enforcement, Community Engagement, and Organization Updates. Several of the highlights are summarized below.

- **Staffing:** NOP has 60 staff members currently, including a newly hired National List Manager and several agriculture economists.
- **Accreditation Activities:** NOP staff are continuing to conduct accreditation audits of certification agencies using safety protocols in response to the coronavirus pandemic. NOP auditors have conducted 39 virtual audits since March 2020. In total, USDA accredits 77 organic certifiers worldwide and 15 new certifiers have submitted applications for accreditation. One certifier has been suspended and two have entered settlement agreements. USDA has processed 47 reinstatements and completed 448 investigations.
- **Import Oversight:** NOP is using quantitative tools to monitor emerging risks to the organic market. International trade data, market intelligence, and yield analyses are regularly monitored by NOP staff agricultural economists and used to enhance oversight of complex supply chains, expand farm-to-market traceability, flag suspicious activity and other fraud indicators, and initiate surveillance. Organic import volumes as reported in the Global Agricultural Trade System (GATS) are regularly monitored for sudden spikes. NOP also conducts yield analysis for various country-commodity pairs to identify suspicious production volumes. Yields are deemed feasible if the organic yield ratio (reported organic yield / organic yield baseline) is close to 1. NOP continues to participate in the Interagency Organic Working Group with members of Customs and Border Protection (CBP) and APHIS to monitor organic compliance of imports. The working group is working to program and launch the new electronic NOP Import Certificate system. Also, the group has successfully submitted an application to the Patent and Trademark Office to trademark the USDA Organic seal, which will help support stronger protections of the seal. NOP has also joined the CBP Commercial Targeting Analysis Center to work along with other agencies to increase oversight of organic imports.
- **International Equivalence Arrangements:** USDA’s new agreement with Taiwan became effective on May 30, 2020. The agreement with Japan was expanded to include livestock products effective on July 16, 2020. If EU accepts an extension to the implementation date of its new organic regulations, the US-EU equivalency arrangement will extend through 2026.
- **Livestock Compliance:** NOP continues to conduct focused audits on organic livestock operations to evaluate compliance with pasture practice standards and other livestock requirements through unannounced inspections by highly trained federal livestock auditing staff. Due to the pandemic, auditors conducted desk audits and reviewed satellite imagery. The focus area in 2020 was on the temporary confinement of ruminant animals. For 2021, the focus area will be on cattle sales activity. A new Dairy Compliance training is now available in the Organic Integrity Learning Center.
- **Strengthening Organic Enforcement Rulemaking:** NOP received over 1,500 comments on the Strengthening Organic Enforcement Proposed Rule published earlier this year. Next, NOP will review the public comments, evaluate policy options to respond to public comments, and determine changes to be written into the final rule.
- **National List:** NOP is planning rulemaking actions to implement NOSB Recommendations for the National List of Allowed and Prohibited Substances.
 - This year: Final Rule for Fall 2018 Recommendations (Blood Meal with Sodium Citrate, Natamycin, and Tamarind seed gum)
 - This year: Proposed Rule for Fall 2019 Recommendations (Fatty Alcohols, Potassium Hypochlorite, Dairy Cultures)
 - Next spring: Final Rule for Spring 2019 Recommendations (Oxalic Acid, Pullulan, Collagen Gel)

- **Origin of Livestock Rulemaking:** Last year NOP reopened the comment period on the original 2015 proposed rule on Origin of Livestock and had hoped to issue a final rule this year. However, NOP announced that as the final rule moved through legal clearance, specific legal complexities became clear and NOP determined that the rule needs to be rewritten to address legal questions and concerns so that the final rule will be legally enforceable. Therefore, NOP plans to develop a second proposed rule that will address issues including: 1) Regulatory unit (producer or operation), 2) Animal movement (of transitioned cows), and 3) Whether the regulation falls within authority of the Organic Foods Production Act.
- **Looking Ahead to 2021:** NOP's main objectives for 2021 are organized in to 4 priority areas.

1. Strong Control Systems

- Design and implement risk-based audit and accreditation program
- Implement pilot phase of the organic import certificate
- Design data analytics strategy and create dashboards for surveillance, enforcement, and education activities
- Engage with trade partner governments to strengthen control systems under trade arrangements

2. Robust Enforcement

- Resolve 75% of incoming complaints and inquiries within 12 months and appeals within 6 months
- Collaborate with key partners to advance high-impact or high-risk investigations
- Conduct region-focused surveillance efforts
- Continue livestock compliance program, expanding use of technology monitoring tools and scope of visits

3. Develop the Standards

- Review comments submitted on Strengthening Organic Enforcement Rule, incorporate feedback and submit final rule for clearance
- Achieve a legally defensible and enforcement final rule on Origin of Livestock
- Complete rulemaking actions on the National List
- Appoint qualified individuals to NOSB and host two NOSB meetings

4. Engagement

- Partner with Customs & Border Protection on organic imports and data sharing
- Expand offerings in the Organic Integrity Learning Center
- Implement an outreach program on organic import certificates
- Host stakeholder engagement events; Develop agency partnerships in Human Capital and Trade Systems

SPECIAL REPORT FROM CUSTOMS AND BORDER PROTECTION: Ms. Lea-Ann Bigelow, Director of the Interagency Collaboration Division at the U.S. Customs and Border Protection (CBP) Office of Trade. Ms. Bigelow, who serves as the CBP representative on the Interagency Organic Working Group, provided a presentation at the NOSB Meeting to update organic stakeholders on the work of CBP as it related to organic enforcement at the border. Agriculture is 1 of 7 priority trade issues (PTI) within CBP. Organic, as the fastest-growing sector of agriculture, is a majority priority within the Agriculture PTI. CBP has two front lines of enforcement of imported products. First is the physical inspection by CBP agricultural specialist personnel. Second is the Automated Commercial Environment (ACE) system as the technology enabling for single window for trade. CBP is working with NOP to implement the electronic processing of NOP Import Certificates. CBP invites NOSB as a stakeholder partner in developing fact sheets to help educate organic stakeholders on interacting with the CBP ACE system.

DISCUSSION ON AGENDA TOPICS (BY SUBCOMMITTEE)

COMPLIANCE, ACCREDITATION, & CERTIFICATION SUBCOMMITTEE

- **HUMAN CAPITAL MANAGEMENT (DISCUSSION):** Human capital (i.e. human capacity or stewardship of expertise, skills and knowledge) is generally considered one of the most important intangible asset that contributes value to an organization or community. NOSB presented a discussion document in response to a [memo](#) from NOP requesting that the Board facilitate a public discussion related to Human Capital Strategy for Organic Inspectors and Reviewers across several dimensions including: Strategic Workforce Planning, Talent Management (Pipeline Development; Recruitment and Matching, Performance Management and Evaluation), and Professional Support and Educational Infrastructure. Many stakeholders submitted public comments on this topic, highlighting a potential and imminent crisis concerning an adequate number of qualified, trained and ready inspectors. Many of the suggestions provided in public comment will require substantial Program resources and funding and long-term planning (e.g. a credentialing system, an inspector cooperative, or a central database of inspectors and evaluations). Data collection was also identified as a need (e.g. how many inspectors are out there, the ratio of inspectors to certified operations, the range of inspector compensation, and geographic location of inspectors). NOSB members are eager to continue this important conversation over future NOSB meetings, and may consider splitting the large topic into more approachable portions.

CROPS SUBCOMMITTEE

- **PAPER PLANT POTS AND OTHER PAPER-BASED PRODUCTION AIDS (PROPOSAL):** Paper planting pots have been petitioned for inclusion on the National List as an allowed input. Paper pots and other growing container and production aids are used to support seeding, growing and/or transplanting in the field and are intended to remain in the soil. The Crops Subcommittee has worked diligently over several meetings to craft an annotation that captures the detailed composition metrics of paper-based planting aids that meet the needs of organic producers and product manufacturers, while complying with Organic Food Production Act criteria for the National List. Public comments received on this meeting's proposal provided additional technical details that continue to be helpful in advancing the language towards consensus and accuracy. Generally, there was agreement to remove specific review criteria for pesticides from the annotation as unnecessary, duplicative, and potentially confusing. NOSB members continued to discuss the appropriateness of allowing virgin paper in these formulations, and it was acknowledged that virgin paper is essential to structural integrity of these products, and a prohibition could be revisited in the future as technology advances and alternatives are available. NOSB agreed that it was worth spending time to get the annotation language right prior to sending it on to NOP for rulemaking, so NOSB voted in favor of a motion to send it back to subcommittee for further work (9-4-1). [\[Read OTA's Spring 2020 comments on Paper Based Planting Aids\]](#)
- **WILD, NATIVE FISH FOR LIQUID FISH FERTILIZER (PROPOSAL):** Liquid fish products are permitted as fertilizers in organic production. Synthetic pH adjusters (sulfuric, citric or phosphoric acid) are permitted to lower the pH to 3.5, per the annotation on §205.601(j). The Crops Subcommittee presented a proposal that would restrict the sources of fish used in liquid fish fertilizers to only fish sourced from fish waste, bycatch, or invasive species. The proposal would also add new definitions for fish waste and bycatch to the regulations. Public comments were mixed, some in support of the restrictions as a means to protect marine ecosystems, and some questioning the impacts of the restrictions of the availability of important fertility tools for organic farmers. Some commenters opposed the annotation as written and suggested it be revised to include waste from livestock feed. Other

commenters suggested specific language to clarify the proposed definitions. Certifiers commented with questions about verification procedures and suggested a lengthy implementation period. [\[Read OTA's Fall 202 comments on Fish Fertilizer\]](#)

The Crops Subcommittee decided to integrate non-substantive edits suggested in the public comments in to the proposed definitions (see underlined text below in Motion 2).

Motion 1: Amend the listing of liquid fish products at §205.601(j)(8) as follows (bold text is new):

- Liquid fish products – **sourced only from fish waste, bycatch, or invasive species** – can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.

Motion 2: Add the following definitions to §205.2 Terms defined:

- ***Fish waste.* Waste or byproduct left over after market food fish are processed for human consumption (such as skins, frames, and viscera).**
- ***Bycatch.* Incidental or discarded catch that have ~~no~~ low economic value, fish that must be discarded because of management regulations, or fish that are unintentionally killed by fishing gear (mortality).**

Subcommittee leaders explained that a listing on §205.602 was not pursued (as it was for marine macroalgae in the Materials Subcommittee) because it would have required much more time and resources to research to construct an appropriate restriction for all non-synthetic fish-based farm inputs. Questions about impact to supply of fertilizer is expected to be addressed by USDA during rulemaking which should include an economic impact analysis. NOSB voted 15-0 in favor of the first motion, and 13-1-1 on the second motion. There was a bit of discussion in between the two motions because some NOSB members wanted to send the proposal back to subcommittee for further work on responding to stakeholders' suggestion to include livestock feed waste streams, and to honor public commenters who said they had not had enough time to analyze and understanding the impact. A motion to send the proposal back to subcommittee failed (5-10). Crops Subcommittee members warned against sending it back to subcommittee because the prohibition of livestock feed waste was the intent, not an oversight, of the Subcommittee's proposal and should not need to be revisited. To allow livestock feed waste would be to open it up so broadly to almost negate the purpose of the annotation to restrict fish sources and reduce impact on broader fishery ecosystems.

- **SODIUM CARBONATE LIGNIN (PROPOSAL):** Sodium carbonate lignin has been petitioned for addition to the National List at §205.601(j)(4) for allowance in fertilizer as a dust suppressant. This substances results from a paper pulping process that uses sodium carbonate and sodium hydroxide to extract lignin. Few comments were received from public stakeholders, some in support and some in opposition to the substance's allowance in crop production. Crops Subcommittee members brought forward a proposal to prohibit its use because there is already a listing for lignin sulfonate on the National List for this use. NOSB voted unanimously to reject the petition (15-0).
- **2022 SUNSET REVIEWS:** NOSB voted unanimously to relist Soap-based algicide/demosser, Ammonium carbonate (for use as bait in insect traps), Insecticidal soap, Vitamin D3 (rodenticide), Lignin sulfonate (chelating agent, dust suppressant), and Sodium silicate (floating agent in post-harvest handling). NOSB voted unanimously to relist Arsenic and Strychnine on §205.602 as prohibited substances [\[Read OTA's Fall 2020 comments on Crop Sunset Review\]](#). NOSB renewed the listing of aquatic plant extracts, although 3 members abstained from the vote due to reservations about how soon

NOP would implement the NOSB's other proposal to add an annotation for seaweed harvest parameters to this listing (see separate agenda item on Marine Macroalgae in the Materials Subcommittee) [[Read OTA's comments on Aquatic Plant Extracts](#)]. EPA List 4 inerts was relisted but not without intense discussion and split opinion on how to address the problematic nature of the EPA List 4 being outdated and obsolete (see below for more detail) [[Read OTA's Fall 2020 comments on Inerts](#)].

EPA List 4 Inerts of Minimal Concern

The Sunset Review of EPA List 4 Inerts was a focal point of discussion throughout the NOSB meeting. This listing regulates the synthetic substances permitted as inactive ingredients or adjuvants formulated with allowed pesticide active ingredients for both crop and livestock pest control products. The referenced EPA List is no longer maintained by EPA, and NOP has not yet implemented the NOSB's previous 2015 recommendation to establish a new system for reviewing and identifying inert ingredients permitted for use in organic pest control products. The 2015 Recommendation includes a roadmap for NOP, NOSB, and EPA to work together to use the EPA Safer Choice Program as a framework for establishing an inert ingredient review system for inerts in organic pest controls, as well as referencing other relevant EPA Lists for the least toxic inert ingredients. Frustrated by the inaction of NOP on the NOSB's 2015 recommendation, the Crops Subcommittee put forward a proposal to *remove* the listing as a strategy for prompting NOP to respond to this issue. This proposed action prompted widespread comments from stakeholders, panicking that essential tools for organic farmers could become prohibited. The rulemaking process for implementing a new system for inert review is lengthy and unlikely to be in place prior to the sunset expiration date for EPA List 4. Commenters also expressed concern that NOSB would take this risky action just to send a message to NOP, and warned of potentially devastating unintended consequences to the reputation of NOSB and the organic sector as whole.

During the NOSB meeting deliberations, Crops Subcommittee members explained that they had assurance from NOP that a vote to delist EPA List 4 would not actually result in prohibition of these ingredients and that NOP was willing to prioritize and work on this issue this year. Dr. Tucker of NOP confirmed that NOP will prioritize this issue and could publish an Advanced Notice of Proposed Rulemaking as soon as Spring 2021 to begin the process. Dr. Tucker also confirmed that an NOSB vote to delist would be a strong message and would impose a deadline on NOP to complete implementation of a new system, stating several times that "nothing inspires like a deadline and nothing is as scary." Dr. Tucker assured the Board that NOP would not pursue rulemaking to remove EPA List 4 without a replacement, and if NOP was unable to implement the new system in time for the EPA List 4 sunset expiration date, NOP could issue a renewal notice of the current listing.

NOSB members appreciated Dr. Tucker's assurances but were skeptical considering that so many other NOSB recommendations have been passed and gone unaddressed by NOP. Members were concerned about the optics of this strategy, considering that many stakeholders would not be privy to these internal agreements and would just see the mere fact that NOSB is voting to prohibit essential tools for farmers, which may cause panic among organic farmer stakeholders. The move could also be seen as inconsistent Organic Foods Production Act criteria for decision-making during Sunset Review. Still, other members felt that the timing was right to make a bold move to vote to delist inerts to send a strong message to NOP that the Board is unwilling to continue renewing the listing for which their previous recommendation for improvement had been unaddressed for so long. Dr. Tucker assured members that NOP would work hard to implement the new inert review system as soon as possible, regardless of how NOSB voted on the Sunset Review.

Ultimately, NOSB voted (9-6) to *not to remove* EPA List 4, meaning that the listing will remain in the National List for another Sunset Review cycle, assuring the uninterrupted allowance of these ingredients for formulating critical pest control tools used by organic farmers. However, NOSB still wanted

to send a strong message to NOP that action is critically important on this issue. NOSB presented the following resolution that was passed unanimously by the Board –

In voting to relist EPA List 4 Inerts of Minimal Concern, the NOSB recognizes the vital importance of the substances included in this listing to the organic industry. However, in referencing a list that is no longer maintained, using a list on which no new substances can be added, and not allowing for review of individual or groups of materials, the use of List 4 ingredients on the National List is problematic and outdated. The NOSB recognizes that a viable program allowing for the review and use of these substances must be created before this listing can be removed. Therefore, the NOSB asks that the National Organic Program do the following:

1) Work with the NOSB to develop a viable alternative process that allows for the review of many of the substances presently on EPA List 4 and has minimal disruption to the organic industry;

2) For substances that do not meet OFPA criteria for listing, work to provide a sufficient period for industry to change formulations and receive regulatory approval for the new formulations;

3) Coordinate regularly with the NOSB on progress to develop an alternative to the EPA List 4 Inerts of Minimal Concern that allows for stakeholder input and the removal of the reference to EPA List 4 inerts on the National List.

- **AMMONIA EXTRACT (DISCUSSION):** Ammonia extract has been petitioned for inclusion on the National List as a prohibited input in organic crop production. Synthetic ammonia fertilizers are already prohibited, and this petition will challenge the allowance of non-synthetic forms, such as those derived from anaerobic digestion of plant and animal feedstocks, as potentially being in conflict with Organic Foods Production Act criteria for natural inputs to be compatible with principles of organic farming. A third-party technical review is in development. The Crops Subcommittee presented a discussion document to solicit stakeholder input on a series of questions about the ability to distinguish synthetic ammonia sources from non-synthetic sources through testing, the impacts on soil health, and other questions about the classification and other issues related to ammonia extract. Many public comments were submitted in response to the discussion document. Commenters in support of ammonia extract cited the environmental benefits of reusing animal waste as feedstocks, while comments in opposition cited potential for fraud and questioned appropriateness of using high solubility fertilizers in organic production.
- **BIODEGRADABLE BIOBASED MULCH (DISCUSSION):** Biodegradable biobased mulch film is currently listed on the National List of allowed materials for crop production as a weed barrier and a key alternative to non-recyclable plastic mulch. However, no commercially available products meet the regulatory terms of allowance such as being 100% biobased. The Crops Subcommittee reissued its previous discussion document with questions for stakeholder feedback regarding a potential future annotation amendment that would allow biodegradable biobased mulch films that are not 100% biobased. Many public comments were submitted in support of resolving the regulatory discrepancy that has been preventing these products from being used as a better alternative to non-recyclable plastic mulch. The other NOSB topic on paper pots (see above) is helping to provide a path forward

for how to set quantitative limits on biobased and biodegradability materials used in crop production. NOSB members seemed generally agreeable to lowering the percentage of biobased content if it could lead to an overall reduction in plastic mulch. The Subcommittee plans to bring forward a proposal at the next NOSB meeting in Spring 2021 to explore the option of less than 100% biobased content that will likely align with the proposal for biobased content for paper pots. [\[Read OTA's Spring 2020 comments on biodegradable biobased mulch\]](#)

HANDLING SUBCOMMITTEE

- **LOW ACYL GELLAN GUM (PROPOSAL):** Low acyl gellan gum (CAS# 71010-52-1) has been petitioned for inclusion on the National List at §205.605(b) as a synthetic substance. Low acyl gellan gum is used as a gelling agent in various food formulations and in a hard and soft gel capsules. Gellan gum, in a high acyl form as a non-synthetic substance, is already included on the National List at 205.605(a). The Handling Subcommittee supported the proposal to add Low acyl gellan gum to the National List at §205.605(b). This substance provides distinct functional properties and poses negligible impact to human health or the environment. Public comments were mostly in agreement with the Subcommittee proposal and supported the addition to the National List. The substance as a vegetarian alternative to other substances on the National List was especially compelling to supportive NOSB members. Although technically the high and low acyl forms are not distinctive from each other, the substances are classified differently according to NOP classification definitions as non-synthetic and synthetic and therefore need to be listed on separate sections of the National List. NOSB voted unanimously (14-0 with 1 abstention) to add low acyl gellan gum to the National List.
- **ION EXCHANGE FILTRATION (PROPOSAL):** Ion exchange filtration is a food processing technique used to facilitate removal of impurities from a liquid using a chemical exchange process. NOSB presented a proposal at this meeting in response to a [memo](#) from NOP requesting that NOSB provide recommendations related to ion exchange filtration and the use of ion exchange resins/membranes and recharge materials. The proposal was informed by a [Technical Report](#) commissioned by NOSB. The Subcommittee's proposal aligns with the current practice in use by a majority of certifiers: recharge materials used to recharge ion exchange resins must be on the National List if they are used in the processing of organic product, and the resins and membranes, classified as food contact substances, do not need to be reviewed or included on the National List. A number of public comments were submitted, most of which are in support of the proposal while some commenters suggest that resins also should be added to the National List. The FDA regulatory status of resins as food contact substances was the subject of some comments, considering that NOP policy is that substances classified by FDA as food contact substances do not need to be on the National List. Some commenters raised questions about the potential for degradation of resins into food after repeat use. This prompted further discussion by Board members during the meeting, and members favored sending the proposal back to subcommittee so that further research on potential degradation could be compiled. Other NOSB member believed that more critical aspect of this issue is the legal question of the regulatory status of resins under FDA policy, and that efforts should be directed at NOP to clarify this legal issue prior to delving into research on degradation. Other members noted that many food contact substances pose a risk of degradation but fall outside of NOSB's scope of review because they are not required to be included on the National List. Dr. Tucker of NOP provided some feedback to inform the Board discussion, primarily around the issue of certifier inconsistency, and that NOP's next steps would likely be to issue an instruction in the NOP Handbook for certifiers based on the Board's proposal. Board members proceeded to vote on a motion to approve the proposal, agreeing that a "yes" vote would adopt the proposal and include in the cover letter of the proposal that a legal opinion is needed on food contact substances, and a "no" vote means the topic stays on the NOSB agenda for further work, primarily around the question of resin degradation. The Board failed to get enough votes in favor of

passing the motion to approve the Subcommittee's proposal (9-6), so the proposal will be sent back to subcommittee for further work. [\[Read OTA's Fall 2020 comments on Ion Exchange\]](#)

- **2022 SUNSET REVIEWS:** NOSB reviewed 8 non-agricultural substances listed on §205.605 and voted unanimously to relist them all: Kaolin (anticaking agent), Sodium bicarbonate (leavening agent), Wood Rosin (fruit wax), Ammonium bicarbonate (leavening agent), Ammonium carbonate (leavening agent), Calcium phosphates (leavening agent), Ozone (disinfectant), and Sodium hydroxide (caustic bath for pretzels). [\[Read OTA's Fall 2020 comments on 205.605 Sunset Review\]](#)

NOSB reviewed 27 agricultural substances (18 of which are natural colors) listed on §205.606 for allowance only when organic versions are not commercially available. [\[Read OTA's Fall 2020 comments on 205.606 Sunset Review\]](#)

Of the 18 colors, 10 were relisted and 8 were recommended for removal. Numerous public comments were submitted on colors although most comments referred to colors generally and only about 20% of commenters responded to individual colors. In addition to submitted public comment, the Handling Subcommittee also conducted outreach to industry to inquire about availability of organic forms to help determine whether the listings at 205.606 for non-organic alternatives were still necessary. The evidence and justification used by the Subcommittee to assess commercial availability varied throughout the review of the 18 colors. In some cases (e.g. Black/purple carrot juice), the Subcommittee summarized that there were no new comments received and used this as justification to relist. However, in other cases, (e.g. Cherry juice color), the Subcommittee said that no new comments (or that comments were "lackluster") were a reason to *remove* the listing. After the NOSB voted on several colors, one NOSB member voiced a concern about the inconsistency and prompted a useful discussion about the challenges of assessing commercial availability. Ultimately, 8 colors were recommended for removal.

- **Remove:** Black currant juice color; Blueberry juice color; Carrot juice color; Cherry juice color; Grape juice color; Paprika color; Pumpkin juice color; Turmeric extract color.
- **Relist:** Beet juice extract color; Beta-carotene extract color; Black/purple carrot juice color; Chokeberry, aronia juice color; Elderberry juice color; Grape skin extract color; Purple sweet potato juice color; Red cabbage extract color; Red radish extract color; Saffron extract color. All of these colors except saffron were relisted by unanimous vote.

4 additional substances on §205.606 were recommended for removal.

- Whey protein concentrate (nutritional enrichment) was unanimously voted to be removed. Organic dairy companies submitted comments for whey protein concentrate confirming that there is enough organic supply to meet industry demand, indicating that a listing on 205.606 was no longer needed.
- Turkish bay leaves (flavor development) were also unanimously voted to be removed, thereby requiring organic forms.
- Sweet Potato Starch (texturizer for bean threads) was voted for removal (11-3-1) although NOSB stated that they received almost no public comments on it.
- Kelp (thickener/dietary supplement) was voted for removal (11-4). Most of the discussion on this item was around the term "kelp" being ambiguous and covering a very broad range of seaweeds making it difficult to determine which species actually are being used in food processing. In alignment with other marine macroalgae topics on this agenda, NOSB members felt compelled to remove the 205.606 listing thereby requiring certified organic forms of kelp and resulting in stronger protections for marine ecosystems.

5 additional substances were recommended for relisting on §205.606:

- Carnauba wax (fruit wax), Inulin-oligofructose enriched (dietary fiber), Orange shellac (fruit and veg coating), and Glycerin (solvent) were all recommend for relisting.
 - Cornstarch (thickener) was relisted but only by a slim majority (6 to remove, 9 relist) due to some disagreement about whether the listing of organic forms in the Organic Integrity Database was sufficient to meet the form, quality and quantity needs of organic industry.
- **WHEY PROTEIN CONCENTRATE (DISCUSSION):** Whey protein concentrate has been petitioned for removal from the National List. This substance currently is listed at §205.606 and is also undergoing Sunset Review at this meeting. NOSB had already conducted its Sunset Review and voted to remove the listing (see above), therefore no further action was needed on this petition.

LIVESTOCK SUBCOMMITTEE

- **FENBENDAZOLE (PROPOSAL):** Fenbendazole is a parasiticide currently allowed in organic production for emergency treatment for dairy and breeder stock and fiber-bearing animals under the restrictions at §205.603(a)(23). A petition was been submitted to expand its use in laying hens and replacement chickens intended to become laying hens. NOSB commissioned a limited scope technical report to focus on the specific petitioned use of fenbendazole in poultry. The results of the [Technical Report](#) informed the Livestock Subcommittee’s deliberation on the substance. Public comment submitted for the fall 2020 NOSB meeting indicated some concern from consumers about the residues that may remain in the egg. Organic poultry producers had varied comments, some absolutely must have it as an emergency treatment for protecting animal welfare, while others say they do well without it. During NOSB deliberation, one member who serves as an organic inspector questioned organic poultry operations throughout the past year about parasite levels and found that organic layers are overall doing well and producers have not received consumer complaints about worms in eggs. Although some NOSB members said they are usually supportive of producers having tools for managing animal health issues when preventive practices are not effective, the necessity for this particular tool does not appear to be warranted. The concerns from consumers about residues in eggs also gave pause to NOSB members. NOSB members were considering whether they wanted to add an extra withdrawal period for use in organic flocks to alleviate consumers’ concern with the residues in eggs, and even questioned producers about what they would do with eggs if there was an 8-day withdrawal period after treatment when eggs couldn’t be sold as organic. Ultimately, the Board did not feel compelled to send it back to subcommittee to work on developing a withdrawal period, and proceeded to near unanimous vote to reject the petition (14-1). The petitioned use of Fenbendazole remains prohibited. [\[Read OTA’s Fall 2019 comments on Fenbendazole\]](#)
- **2022 SUNSET REVIEWS:** NOSB voted to relist all of the livestock substances that were up for Sunset Review at this meeting: Butorphanol (anesthetic); Flunixin (analgesic/anti-inflammatory); Magnesium hydroxide (antacid/laxative); Poloxalene (emergency bloat treatment); Formic acid (pesticide in beehives); Excipients; EPA List 4 inerts; and Strychnine (prohibited). All votes were unanimous in support of relisting except for EPA List 4 inerts. For further discussion of the vote on relisting EPA List 4 inerts, please see the Crops Subcommittee section above. [\[Read OTA’s Fall 2020 comments on Livestock Sunset Review\]](#)

MATERIALS SUBCOMMITTEE

- **RESEARCH PRIORITIES 2020 (PROPOSAL):** Since adopting its Research Priorities Framework in 2012, NOSB has presented an annual list of research priorities for organic food and agriculture. The priorities are proposed by NOSB's Livestock, Crops, Handling, and Materials/GMO Subcommittees and are revisited and updated each year to ensure accurate reflection of existing need for new knowledge. Public comments were robust, in support of the research priorities while also providing helpful updates on active research that is underway on many of the subject areas listed in the proposal. NOSB members discussed also adding in elements of education and social issues in to future iterations of these research priorities. NOSB voted unanimously to adopt the proposed research priorities. [[Read The Organic Center's Fall 2020 comments on NOSB Research Priorities](#)]
- **MARINE MACROALGAE IN CROP FERTILITY INPUTS (PROPOSAL):** Marine macroalgae such as kelp and other seaweeds are commonly used in the manufacture of crop production inputs such as fertilizers and soil conditioners. NOSB has been working for several years on a work agenda item to prevent potential negative impacts to marine ecosystems from macroalgae harvesting. The last time this topic was on the NOSB agenda was in fall 2019, with conflicting opinions from board members and stakeholders on a discussion document, and no clear path forward. No public proposal or discussion document was presented at the spring 2020 meeting, so the fall 2020 meeting is the first time that the specific annotation language was presented for public comment. The Materials Subcommittee proposed a set of comprehensive harvest parameters that address locations, methods, timing, and bycatch. The Subcommittee's proposal would incorporate these harvest parameters into two amendments to the National List:

- 1) Amend the listing of aquatic plant extracts at §205.601(j)(1) as follows (bold text is new):

Aquatic plant extracts (other than hydrolyzed) – Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount use is limited to that amount necessary for extraction. **Harvest Parameters - Prohibited harvest areas: established conservation areas under federal, state, or local ownership, public or private, including parks, preserves, sanctuaries, refuges, or areas identified as important or high value habitats at the state or federal level. Prohibited harvest methods: bottom trawling and harvest practices that prevent reproduction and diminish the regeneration of natural populations. Harvest practices should ensure that sufficient propagules, holdfasts, and reproductive structures are available to maintain the abundance and size structure of the population and its ecosystem functions. Harvest timing: repeat harvest is prohibited until biomass and architecture (density and height) of the targeted species approaches the biomass and architecture of undisturbed natural stands of the targeted species in that area. Bycatch: must be monitored and prevented, or eliminated in the case of special status species protected by U.S. Fish and Wildlife Service or National Marine Fisheries Service.**

- 2) Create a new listing at §205.602 (Prohibited Non-synthetics) to prohibit marine macroalgae unless produced in accordance with the following annotation (identical to that proposed for 205.601(j)(1))

Marine macroalgae (seaweed) – unless harvested in accordance to the following parameters: Non-commercial harvests for whole and unprocessed seaweed are exempt from these parameters. Harvest Parameters - Prohibited harvest areas: established conservation areas under federal, state, or local ownership, public or private, including parks, preserves, sanctuaries, refuges, or areas identified as important or high value habitats at the state or federal level. Prohibited harvest methods: bottom trawling and harvest practices that prevent reproduction and diminish the regeneration of natural populations. Harvest practices should ensure that sufficient propagules¹⁰, holdfasts, and reproductive structures are available to maintain the abundance and size structure of the population and its ecosystem functions. Harvest timing: repeat harvest is prohibited until biomass and architecture (density and height) of the targeted species approaches the biomass and architecture of undisturbed

natural stands of the targeted species in that area. Bycatch: must be monitored and prevented, or eliminated in the case of special status species protected by U.S. Fish and Wildlife Service or National Marine Fisheries Service.

If the proposal for the two amendments passes, intended next steps will be:

- NOP would form a scientific task force to address areas of concern raised by harvesters and processors, provide recommendation for guidance on interpretation and implementation, and if needed, any suggestions for clarifying the annotation language. The Proposal cover letter would spell out the specific areas raised in public comment that need attention.
- NOP would take the recommendations from the scientific task force to draft guidance.
- The Proposal would go through rulemaking.
- Final rule would have a 5-year phase-in period. In total, this is an 8- to 10-year process.

Public comments received on the annotations were a mix of those in support of the parameters, those with concerns and reservations about the substance of the annotation language and/or the process of developing the annotation language, and others without a specific opinion on the annotation but had general concerns about how the restrictions would impact the supply of important seaweed fertilizers for farmers. Commenters also indicated that they had not had enough time to analyze the full proposal or the annotation language as this is the first time that public stakeholders are seeing the annotation language. During the public comment webinar, NOSB asked questions of OTA regarding email communications from February between one member of the NOSB Materials Subcommittee and one member of OTA staff which NOSB members may have been incorrectly considering to be a substitute for the public comment process. Committed to a transparent and inclusive process for developing and commenting on NOSB recommendations, OTA was compelled to submit [a supplementary written comment](#) to correct the record.

Despite this annotation being presented for the first time and commenters admitting to not having enough time to take in the lengthy proposal and complex annotations, the Subcommittee felt that it did not receive any constructive feedback in the public comments that would warrant incorporation into the annotation and that general concerns over interpretation can be addressed by the scientific task force through guidance and instructions. NOSB members praised the Subcommittee's work on developing the proposal and most members support the direction of the proposal as an important step towards protecting marine ecosystems and continuous improvement in organic systems. Two members specifically identified the need for tribal and native communities to have a role in informing the task force's work on providing guidance and interpretation, as subsistence seaweed harvesting is an important part of tribal communities. Hesitation was expressed about the processing of moving forward with an annotation when stakeholders have commented that they need more time to analyze and understanding the implications of the proposal on their livelihoods. One member also expressed the challenges of relying on guidance that is not legally enforceable by certifiers. The Subcommittee points to the existing regulatory standard for organic wild crop production as an example of broad and vague requirements for which the interpretation is supported by guidance. The Subcommittee warned against sending it back to Subcommittee for further work because they would risk losing stakeholders support, they don't believe they received any comments that identified specific changes needed to the annotation that would warrant any additional consideration, and board member turnover after this meeting would require starting from scratch. The Subcommittee strongly urged the Board to vote in favor of the proposal at this meeting and that all voices can be heard through the scientific task force process. The Board proceeded to vote 13-2 in favor of the proposal. [\[Read OTA's Fall 2020 comments on Marine Macroalgae\]](#) [\[Read OTA's supplementary comment on Marine Macroalgae following the Fall 2020 public comment webinar\]](#)

- ASSESSING CLEANING & SANITATION MATERIALS (PANEL):** Substances for cleaning, sanitation, and disinfection are listed on the National List across the crop, livestock, and handling scopes, and are reviewed by NOSB when these substances are petitioned and/or are undergoing Sunset Review. Last year NOSB created a work agenda item to better support consistent NOSB assessment of these materials in terms of essentiality and as well as evaluate them under the OFPA and NOP regulatory criteria for the National List. An Expert Panel is planning an expert panel on November 12 at 3:00 p.m. Eastern. [Click here to watch the panel discussion on Zoom.](#) [\[Read OTA's Spring 2019 comments on Cleaners and Sanitizers\]](#)

POLICY DEVELOPMENT SUBCOMMITTEE

- CONSENT CALENDAR VOTING (DISCUSSION):** The Policy Development Subcommittee presented a discussion document that explores the use of a consent agenda for grouping and voting on Sunset items that are similar to save time at the NOSB meetings. Few public comments were received on this item (1 in favor and 1 against), so the NOSB plans to revisit for additional discussion at the next NOSB meeting. NOSB members were generally in favor of efficiency improvements but were concerned that individual materials would not get individual attention, and wanted assurance that any member of NOSB could request to break items out of the consent agenda for individual review.

2020 FALL NOSB VOTING CHART

15 voting members were present at this meeting. Unless otherwise noted below, there were no abstentions or recusals. Recommendations are not effective until accepted by USDA and implemented through rulemaking. Two-thirds majority is needed to pass motions, except that a simple majority is needed to refer proposals back to subcommittee.

SUBCOMMITTEE	AGENDA ITEM	MOTION & FULL BOARD VOTE	OUTCOME AND NEXT STEPS
CROPS	Paper Based Crop Planting Aids (Petition)	Motion to refer proposal back to Subcommittee. 9 Yes, 4 No, 1 Abstain. Motion passes.	The proposal will be referred back to Subcommittee for further work.
CROPS	Wild, Native Fish for Fertilizer Production	Motion to amend the listing of liquid fish products at §205.601(j)(8) to add "sourced only from fish waste, bycatch, or invasive species" 15 Yes, 0 No. Motion passes. Motion to add definitions for <i>fish waste</i> and <i>bycatch</i> to §205.2. 13 Yes, 1 No, 1 Abstain.	PASSED: The proposal is accepted and a recommendation for amending the National List will be referred to USDA.
CROPS	Sodium Carbonate Lignin (Petition)	Motion to add sodium carbonate lignin to §205.601(j)(4). 0 Yes, 15 No. Motion fails.	FAILED: No change to National List.

SUBCOMMITTEE	AGENDA ITEM	MOTION & FULL BOARD VOTE	OUTCOME AND NEXT STEPS
HANDLING	Low Acyl Gellan Gum (Petition)	Motion to add low acyl gellan gum to §205.605(b). 14 Yes, 0 No, 1 Abstain. Motion passes.	PASSED: The petition is accepted and a recommendation for addition of substance to the National List will be referred to USDA.
HANDLING	Ion Exchange Filtration	Motion to approve the proposal on ion exchange filtration. 9 Yes, 6 No. Motion fails.	The proposal will be referred back to Subcommittee for further work.
LIVESTOCK	Fenbendazole (Petition)	Motion to amend the listing at §205.603(a)(23)(i) to include Fenbendazole for use in laying hens or replacement chickens intended to be laying hens. 1 Yes, 14 No. Motion fails.	FAILED: No change to National List. The petitioned use of Fenbendazole remains prohibited.
MATERIALS	Research Priorities	Motion to adopt the proposal on 2020 NOSB Research Priorities. 15 Yes, 0 No.	PASSED: The proposal is accepted and will be referred to USDA.
MATERIALS	Marine Macroalgae in Crop Fertility Inputs	Motion to adopt the proposal on marine macroalgae. 13 Yes, 2 No. Motion passes.	PASSED: The proposal is accepted and will be referred to USDA.
CROPS & LIVESTOCK	Inerts Resolution	Motion to adopt resolution on EPA List 4 Inerts. 15 Yes, 0 No. Motion passes	PASSED: The resolution is adopted and will be referred to USDA.

National List References: §205.601 = allowed synthetics for crops / §205.602 = prohibited non-synthetics for crop / §205.603 = allowed synthetics for livestock / §205.604 = prohibited non-synthetics for livestock / §205.605(a) = allowed non-agricultural non-synthetics for processing/handling / §205.605(b) = allowed non-agricultural synthetics for processing/handling / §205.606 = allowed agricultural for processing/handling

SUNSET REVIEWS

SUBCOMMITTEE	AGENDA ITEM	SUBCOMMITTEE MOTION & VOTE	REMOVE/RELIST
CROPS	Hydrogen peroxide (Sunset)	Motion to remove from §205.601(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	Soap-based algicide/demossers (Sunset)	Motion to remove from §205.601(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	Ammonium carbonate (Sunset)	Motion to remove from §205.601(e). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	Insecticidal soaps (Sunset)	Motion to remove from §205.601(e). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	Vitamin D3 (Sunset)	Motion to remove from §205.601(g). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	Aquatic plant extracts (Sunset)	Motion to remove from §205.601(j). 0 Yes, 12 No, 3 Abstain. Motion fails	RELIST: Remains on National List
CROPS	Lignin sulfonate (Sunset)	Motion to remove from §205.601(j). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List

SUBCOMMITTEE	AGENDA ITEM	SUBCOMMITTEE MOTION & VOTE	REMOVE/RELIST
CROPS	Sodium silicate (Sunset)	Motion to remove from §205.601(l). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	EPA List 4 Inerts of Minimal Concern (Sunset)	Motion to remove from §205.601(m). 6 Yes, 9 No. Motion fails.	RELIST: Remains on National List. <i>See Inerts Resolution, above.</i>
CROPS	Arsenic (Sunset)	Motion to remove from §205.602. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
CROPS	Strychnine (Sunset)	Motion to remove from §205.602. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	Butorphanol (Sunset)	Motion to remove from §205.603(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	Flunixin (Sunset)	Motion to remove from §205.603(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	Magnesium hydroxide (Sunset)	Motion to remove from §205.603(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	Poloxalene (Sunset)	Motion to remove from §205.603(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	Formic acid (Sunset)	Motion to remove from §205.603(b). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	EPA List 4 Inerts of Minimal Concern (Sunset)	Motion to remove from §205.603(e). 6 Yes, 9 No. Motion fails.	RELIST: Remains on National List <i>See Inerts Resolution, above.</i>
LIVESTOCK	Excipients (Sunset)	Motion to remove from §205.603(f). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
LIVESTOCK	Strychnine (Sunset)	Motion to remove from §205.604. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Kaolin (Sunset)	Motion to remove from §205.605(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Sodium bicarbonate (Sunset)	Motion to remove from §205.605(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Wood rosin (Sunset)	Motion to remove from §205.605(a). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Ammonia bicarbonate (Sunset)	Motion to remove from §205.605(b). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Ammonia carbonate (Sunset)	Motion to remove from §205.605(b). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List

SUBCOMMITTEE	AGENDA ITEM	SUBCOMMITTEE MOTION & VOTE	REMOVE/RELIST
HANDLING	Calcium phosphates (Sunset)	Motion to remove from §205.605(b). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Ozone (Sunset)	Motion to remove from §205.605(b). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Sodium hydroxide (Sunset)	Motion to remove from §205.605(b). 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Carnauba wax (Sunset)	Motion to remove from §205.606. 3 Yes, 11 No, 1 Abstain. Motion fails.	RELIST: Remains on National List
HANDLING	Beet juice extract color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Beta-carotene extract color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Black currant juice color (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Black/purple carrot juice color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Blueberry juice color (Sunset)	Motion to remove from §205.606. 13 Yes, 2 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Carrot juice color (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Cherry juice color (Sunset)	Motion to remove from §205.606. 14 Yes, 0 No, 1 Absent. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Chokeberry, aronia juice color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Elderberry juice color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Grape juice color (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Grape skin extract color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List

SUBCOMMITTEE	AGENDA ITEM	SUBCOMMITTEE MOTION & VOTE	REMOVE/RELIST
HANDLING	Paprika color (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Pumpkin juice color (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Purple sweet potato juice color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Red cabbage extract color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Red radish extract color (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Saffron extract color (Sunset)	Motion to remove from §205.606. 1 Yes, 14 No. Motion fails.	RELIST: Remains on National List
HANDLING	Turmeric extract color (Sunset)	Motion to remove from §205.606. 11 Yes, 4 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Glycerin (Sunset)	Motion to remove from §205.606. 2 Yes, 13 No. Motion fails.	RELIST: Remains on National List
HANDLING	Inulin-oligofructose enriched (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Kelp (Sunset)	Motion to remove from §205.606. 11 Yes, 4 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Orange shellac, unbleached (Sunset)	Motion to remove from §205.606. 0 Yes, 15 No. Motion fails.	RELIST: Remains on National List
HANDLING	Cornstarch, native (Sunset)	Motion to remove from §205.606. 6 Yes, 9 No. Motion fails.	RELIST: Remains on National List
HANDLING	Sweet potato starch (Sunset)	Motion to remove from §205.606. 11 Yes, 3 No, 1 Absent. Motion passes	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Turkish bay leaves (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.
HANDLING	Whey protein concentrate (Sunset)	Motion to remove from §205.606. 15 Yes, 0 No. Motion passes.	REMOVE: A recommendation for removal of substance from the National List will be referred to USDA.

LOOKING AHEAD TO SPRING 2021 MEETING

The Spring 2021 NOSB Meeting is tentatively scheduled for April 28-30, 2021 in Crystal City, Virginia. Work agenda topics are listed below. Highlight items are expected to be presented as proposals for vote rather than discussion.

SUBCOMMITTEE	SPRING 2021 NOSB WORK AGENDA TOPIC
CACs	Human Capital Management – evaluating options for developing and retaining qualified organic inspectors and reviewers
Materials	Excluded Methods – evaluating new technologies against existing definition of excluded methods
Materials	Tall Oil, Distilled – petition to allow as an inert ingredient in crop and livestock pest controls
Materials	NOSB 2021 Research Priorities – evaluating research priorities for the organic food and agriculture sector
Crops	Paper (Pots and other production aids) – petition for use as crop production aid (including paper pots and seed tapes)
Crops	Chitosan – petition for use as crop disease control and as coagulant for fertilizer
Crops	Biochar – petition for use of cow-manure derived biochar as a soil amendment
Crops	Ammonia extract – petition to prohibit ammonia extract fertilizers
Crops	Kasugamycin – petition to allow for control of fire blight disease
Crops	Biodegradable biobased mulch film – proposal to amend current definition and restrictions
Crops	Hydronium – petition for use as pH adjuster in the production of dehydrated manure fertilizers
Handling	Cetylpyridinium chloride (CPC) – petition for use as an antimicrobial processing aid for poultry processing
Handling	Phosphoric acid – petition to allow for use as a pH adjuster for extractions of plants of the Lamiaceae family
Handling	Zein – petition for use as a processing aid and glaze in food handling
Handling	Fish oil – prohibition of fish caught directly for the sole use of its oil and from species and regions that are overfished or exploited
Handling	L-Malic acid – reclassification as synthetic
Handling	Ion exchange filtration – evaluation of current uses and continued allowance in organic handling
Handling	Whey protein concentrate – petition to remove from §205.606 thereby requiring only organic forms
Livestock	Chitosan – petition for use as processing aids in the production of livestock feed
Crops 2022 Sunset Reviews	Copper sulfate (algicide, tadpole shrimp control, disease control), Oxone gas (irrigation system cleaner), Peracetic acid (disinfectant, disease control), EPA List 3 Inerts (passive pheromone dispensers), Calcium chloride (foliar spray for physiological disorders), Chlorine materials: Calcium hypochlorite, Chlorine dioxide, Hypochlorous acid, Sodium hypochlorite (sanitizer, disinfectant), Magnesium oxide (viscosity control in humates)
Livestock 2022 Sunset Reviews	Activated charcoal (adsorbent), Calcium borogluconate (milk fever treatment), Calcium propionate (milk fever treatment), Chlorine materials: Calcium hypochlorite, Chlorine dioxide, Hypochlorous acid, Sodium hypochlorite (sanitizer, disinfectant), Kaolin pectin (adsorbent, antidiarrheal, and gut protectant), Mineral oil (intestinal compaction treatment), Nutritive supplements (injectable vitamins and minerals), Propylene glycol (ketosis treatment), Acidified sodium chloride (teat dip), Zinc sulfate (hoof treatment)

<p>Handling 2022 Sunset Reviews</p>	<p>Agar-Agar (gelling agent, emulsifier, thickener), Animal enzymes (catalysis for biological processes, e.g. rennet for cheese production), Calcium sulfate (tofu coagulant), Carrageenan (gelling agent, emulsifier, thickener), Glucono delta-lactone (tofu coagulant), Tartaric acid (acidulant), Cellulose (regenerative casings, anti-caking agent, filtering aid), Chlorine materials: Calcium hypochlorite, Chlorine dioxide, Hypochlorous acid, Sodium hypochlorite (sanitizer, disinfectant), Potassium hydroxide (pH adjuster), Silicone dioxide (defoamer), Potassium lactate (antimicrobial agent, pH regulator), Sodium lactate (antimicrobial agent, pH regulator)</p>
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About the Organic Trade Association’s NOSB Report: As a service to its members, the Organic Trade Association attends National Organic Standards Board meetings. The *NOSB Report*, a member publication, summarizes the meeting and provides an overview of the agenda topics, public commentary, and key decisions made by NOSB. The items included in this report represent recommendations that NOSB developed and reviewed at its meetings. If accepted by the Board, recommendations pass to the National Organic Program, which determines the final form of the NOSB recommendations. Our members are alerted to steps in rulemaking through our *News Flash* or other member communications.

The Organic Trade Association’s **NOSB Report Archives** are available on our website. Please contact [Gwendolyn Wyard](#), OTA’s Vice President of Regulatory and Technical Affairs, or [Johanna Mirenda](#), OTA’s Farm Policy Director, for more information.