



April 14, 2016

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2648-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-15-0085

RE: Crops Subcommittee – EPA List 4 on § 205.601(m) NPEs Annotation Change

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment to the Crops Subcommittee on its discussion document on EPA List 4 on § 205.601(m) Annotation Change.

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.

OTA supports the subcommittee in that Nonylphenol Ethoxylates (NPEs) should be prohibited for use as an inert ingredient in organic pest control materials. However, we disagree with the subcommittee that developing a recommendation to prohibit this specific class of inerts prior to shifting of inerts review from List 3 and 4 to the Safer Choice Program (SCP) is the best way to phase out their use in organic pest control materials.

The SCP has made it clear to organic stakeholders that NPEs do not meet the criteria for inclusion on the Safer Chemical Ingredient List (SCIL) and, therefore, will not be allowed in organic pest controls once List 4 inert ingredients are removed from the National List. OTA believes the best path forward in modernizing the review of inert ingredients used in organic pest controls is by focusing resources on implementing the SCP recommendation from the Fall 2015 NOSB meeting. To accomplish this, NOSB could consider advocating for all inerts on List 4 that do not currently appear on SCIL or are not specifically permitted for use in 25(b) minimum risk pesticides to be reviewed by SCP for inclusion on SCIL. This approach resembles what the subcommittee acknowledges was a successful way to move substances from List 3 to List 4 following the publishing of the Final Rule on organic production in 2000.

We do not agree that NOSB should choose to prohibit NPEs through rulemaking on a shorter timeline, when the industry has already been made aware that NPEs will not be permitted in the future, and significant rulemaking and collaborative efforts between NOP and EPA remain before the Fall 2015 NOSB recommendation on inerts can be fully implemented.

NPEs Will Be Prohibited

NOSB acknowledges in its discussion document that NPEs do not meet the SCIL criteria and SCP has already made that determination. This means that once the shift from List 4 to SCIL is implemented, NPEs will no longer be allowed. Putting forward an additional recommendation requesting rulemaking to prohibit NPEs on a separate timeline seems redundant and not the best use of NOP's resources. As mentioned above, significant amounts of work and collaboration remain for NOP and EPA prior to the full implementation of NOSB's Fall 2015 recommendation, and we question the wisdom of using their resources to pursue this particular rulemaking action.

Proposed 3-Year Phase Out Justification

It is unclear in the discussion document why the Crops Subcommittee "believes that a 3-year notice should be enough time to remove the most problematic inerts." It is difficult to ascertain how long reformulation, EPA approval, and organic approval will take for individual products when NOSB does not know what types or how many products might be affected. Finding and testing alternatives for pesticide products can take years, as can reformulation reviews by regulatory agencies. Suggesting that 3 years is adequate for product formulas to change without this critical input is not justified. Without this information from manufacturers, Accredited Certifying Agents (ACAs), and Material Review Organizations (MROs), NOSB should not establish arbitrary phase-out periods.

Requesting stakeholders submit this information to NOSB for consideration is problematic as well. Pesticide formulas are confidential, so it is unlikely that manufacturers will disclose whether NPEs are used in their products or how long it might take to reformulate with an alternative substance. ACAs and MROs may be able to provide NOSB with the number of products containing NPEs that have been approved, but that will not provide NOSB with an understanding of how disruptive to the industry the removal of a substance may be. The lack of information in the hands of NOSB regarding the impacts of removing NPEs does not support the proposed timeline for phase-out, and we do not believe this is the best way to update the inerts review process for organic pest control materials.

Moving to SCP and SCIL

As OTA commented for the Fall 2015 NOSB meeting, we believe that the best way to fully implement the recommendation and minimize disruptions to the industry is to conduct reviews of all List 4 Inert ingredients to SCIL. This work should begin immediately. By conducting these reviews now, manufacturers will know which products will and will not be permitted for use in future pesticide formulas. Additionally, it will alleviate the concern that some manufacturers have that their suppliers of inert ingredients will not obtain SCIL review because the organic compliant pest control material market is relatively insignificant to the suppliers of inert ingredients, and does not justify the cost of the SCIL review. Additionally, NOSB acknowledges in its discussion document that the fast-tracked review by EPA of List 3 inerts to List 4 following the Final Rule on organic production in 2000 minimized disruptions to the industry. OTA strongly supports taking a similar approach to fully implement the Fall 2015 NOSB recommendation on inerts, and we urge NOSB to consider ways it can recommend to NOP that this approach be taken.

Conclusion

OTA supports the eventual removal of NPEs from organic pest control materials. However, we feel NOSB's approach is not the best utilization of NOP's resources in accomplishing this goal. NOSB should

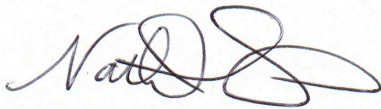
aim to reduce duplicative rulemaking actions, base its recommendations on sound data and input, and work to augment and support previous recommendations. OTA is concerned that this discussion document does not meet these goals due to the following factors:

- NPEs will not be permitted following the full implementation of NOSB's Fall 2015 recommendation, and organic stakeholders have already been made aware this will occur.
- It is unlikely that NOSB will receive adequate information from manufacturers, ACAs, and MROs to justify a specific phase-out timeline for NPEs.
- The most expedient and least disruptive way to move from List 4 to SCIL (and prohibit NPEs) is for EPA and NOP to fast-track reviews of these substances, so the industry knows what ingredients they will need to replace as soon as possible

We urge NOSB to table this discussion document and, instead, focus on developing recommendations that will support the full implementation of the Fall 2015 recommendation on inerts in organic pest control products.

Again, on behalf of our members across the supply chain and the country, OTA thanks NOSB for the opportunity to comment and for your commitment to furthering organic agriculture.

Respectfully submitted,



Nathaniel Lewis
Senior Crops and Livestock Specialist
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association