



April 3, 2024

National Organic Standards Board  
USDA – AMS  
1400 Independence Ave, SW  
Washington, DC 20250  
Docket # AMS-NOP-23-0075

National Organic Standards Board members:

The Ohio Ecological Food and Farm Association (OEFFA) is a grassroots coalition of over 1,850 farmers, gardeners, retailers, educators, and others who since 1979 have worked to build a healthy food system that brings prosperity to family farmers, safeguards the environment, and provides safe, local food. Certified organic farmers make up the bulk of our membership. OEFFA’s Certification program has been in operation since 1981. OEFFA certifies 1,100 organic producers and food processors in a twelve-state region, ensuring that these operations meet the standards established for organic products, and collaborates with partners such as the Accredited Certifiers Association and International Organic Inspectors Association to foster consistency and clarity both in the way we conduct ourselves, and in what we expect from producers and handlers we certify, as well as from our colleagues at the NOP and NOSB.

OEFFA employs education, advocacy, and grassroots organizing to promote local and organic foods, helping farmers and eaters connect to build a sustainable food system. We work collaboratively with groups such as the Organic Farmers Association, the National Organic Coalition, and the National Sustainable Agriculture Coalition to affect positive food systems change. We want to support OEFFA farmers and food businesses in their efforts to protect organic integrity and educate their communities about its benefits, its rigor, and its strong values of transparency and continuous improvement.

We thank you for your service to the organic community, and we respectfully offer the following comments:

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## BIG PICTURE

### FIELD AND GREENHOUSE CONTAINER PRODUCTION

Soil is the foundation of organic agriculture. This principle is enshrined in the Organic Foods Production Act (OFPA 6513), throughout the USDA organic regulations [7 CFR 205.2, .200, .203, .205(a) and in the proposed Organic Livestock and Poultry Practice Standards 205.2, .241(c)(2)], and in the global organic movement.<sup>1</sup> After the NOP issued a noncompliance to a certifier for quoting OFPA in its explanation of why it would not certify hydroponics, certifiers banded together to issue a Position Statement: Organic Agriculture is Soil-Based.<sup>2</sup> The position statement has received over 900 endorsements from farmers, consumers, environmental groups and other organic stakeholders including 10 accredited certifiers. The strong support for this position statement, in addition to the number of public comments to NOSB last April regarding the topic, is a clear message that stakeholders want consistent enforcement of organic standards that clearly describe soil-based production practices and do not include hydroponics.

In its July 6, 2023 memo to the NOSB, the NOP expressed willingness to move forward with discussion of greenhouse and container standards. These standards are long overdue and urgently needed to increase consistency among certifiers and provide a fair playing field for farmers. The six certifiers who developed the Position Statement have already worked to align our policies on greenhouse and container production, but without standards we cannot achieve consistency across the industry. **Please add “Field and Greenhouse Container Production” back to the NOSB work agenda and lead our community in a discussion of this essential topic.** The future of organic integrity depends upon it.

Soil in organic agriculture is not a “wedge issue”; rather, it is foundational to all that we do. Organic agriculture was conceived as a counterpoint to chemical agriculture, and from its inception in the writings of Sir Albert Howard and others – and its roots in indigenous agricultural systems around the world – it has always been about fostering healthy soil to support a living ecosystem of species that synergistically support food production in addition to providing a suite of ecosystem services. This is not a critique of growing food in containers, but such practices are very simply not aligned with the most basic principles of *organic* agriculture. Hydroponic systems also do nothing for soil carbon sequestration, one of the most significant “climate-smart” aspects of organic practices.

Because aeroponic, hydroponic, and crops grown to maturity in containers do not comply with OFPA 6513(b)(1), and because there is significant inconsistency in the way these forms of production are being handled by organic certifiers presently, **we again urge the board to call for a moratorium on the certification of new aeroponic operations, hydroponic operations, and crops grown to maturity in containers** until we can utilize our existing NOSB and rulemaking process to move forward with greater consistency.

## RACIAL EQUITY

We thank the Board and NOP for investments toward racial equity, including in the TOPP program (especially the partnership between Florida Organic Growers and Tuskegee University), Organic Market Development Grants (reduced cost share for underserved farmers and ranchers), and DEIA resources and other diversity-focused efforts in the NOP Human Capital Initiative.

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<sup>1</sup> <https://www.ifoam.bio/our-work/what/soil>; <https://www.ifoam.bio/sites/default/files/2021-06/organicsinaction.pdf>, p.45 – Hydroponic Production not in line with Organic Principles

<sup>2</sup> <https://action.oeffa.org/soil/>

But the work is nowhere near done. The percentage of Black farmers nationally dropped from 1.34% in 2017 to 1.24% in 2022, while the number of white farmers slightly increased from 96.1% to 96.3%. The 2022 Census of Agriculture data show an overall decrease in farmers of color, with an 8.1% decrease in Black farmers and a 3.4% decrease in Indigenous farmers. This points to the regularly highlighted needs of BIPOC communities in NOSB-related work – to quote an OEFFA-certified BIPOC farmer, the “disproportionate consequences for minority producers.” Many of these considerations are described in the report by ACA/IFOAM/IOIA/NOC/OFA in 2022, “DEI Resources for Organic Professionals.”<sup>3</sup> We ask the NOSB to look at rules that could help small producers and no longer create systemic exclusion of these producers from the National Organic Program. And we ask the NOSB to consider consequences for minority farmers throughout its work, when weighing all proposals, petitions, and the Sunset process. Through collective liberation we can overcome challenges that affect BIPOC and small-scale white farmers. We look forward to seeing more work on racial equity in the coming years.

## NOSB AGENDA ITEM: SWINE MANAGEMENT

OEFFA welcomes the recently published Organic Livestock and Poultry Standards and looks forward to their swift implementation. That said, it is clear there is more work to do in the development of standards that relate to the production and processing of swine. We have heard there isn’t much market for organic pork – perhaps this is because when a consumer wants humane handling, they buy other eco labels that have higher standards than organic pork. Most consumers choose the organic label so they know exactly what goes into the product that they’re buying – but that’s not the case for pork because organic swine production standards are insufficiently detailed, failing to address such concerns as ammonia levels, light in housing, and ear notching. **We request that the Livestock Subcommittee add the topic of swine management to its work agenda to begin addressing the gaps in the existing standards.**

## FARMER ENGAGEMENT IN NOSB PROCESS

A well-functioning process is informed by farmers, organic businesses, the scientific and environmental communities as well as the general public, which is reflected in NOSB representation. Farmers are the key linchpin in the organic industry and their voice should be held as paramount. This is the reason that OEFFA, for years, advocated for a variable meeting time to ensure that we are hearing a diversity of farmer voices throughout the country and throughout the year. Farmers are incredibly busy, especially in the spring and fall when the NOSB meetings are held. We understand that the National Organic Program will not make any meeting time adjustments. This necessitates the seeking of alternatives. For years, these included gathering producers together, when we have the meeting materials in time to have a meaningful discussion, to review agenda items and get their feedback both to inform our comments and to encourage them to sign up for an oral comment slot. OEFFA producers have historically been the greatest number of farmer oral commentators.

We greatly appreciate the willingness of some board members to discuss agenda items with farmer working groups as appropriate. This provides an important alternative for the board to not only hear from farmers and ranchers during less busy times, but also to ask questions and engage in meaningful dialogue to inform their discussion documents and positions. However, this essential dialogue cannot rest solely on the availability and willingness of individual board members, nor should it be exclusive to those organizations that take time and have the resources to set up roundtables. **We ask the board to institutionalize farmer listening sessions outside of the two regular semi-annual public comment periods. Listening sessions should be a standard part of the board’s annual work and should be entered into the public record.** A summer listening session could inform the board’s consideration of discussion documents before they become proposals. A winter listening session could be used to inform and help prioritize the board’s agenda for the coming year,

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<sup>3</sup> <https://organicfarmersassociation.org/wp-content/uploads/2022/10/DEI-Resources-for-Organic-Professionals-Project-Report-FINAL-09.30.pdf>

bringing the NOSB's work into better alignment with farmer needs.

Finally, we ask again for **meeting materials to be published as early as possible ahead of each NOSB meeting**. The current schedule of releasing materials just four weeks before written comments close makes it very difficult for farmers to have meaningful input on discussions based on the newest information. As a simple matter of timing, much of OEFFA's dialogue with farmers is based on what we *anticipate* the Board will propose, rather than what the Board has *actually* most recently proposed. Given more time, we could compile more useful feedback from farmers relative to the Board's questions to stakeholders, and we could collect that feedback from a larger number of farmers. This would only serve to enhance the NOSB's understanding of issues and the quality of dialogue.

## GLOBAL ORGANIC MOVEMENT CONSISTENCY

Just as the US organic regulatory system benefits from consistency of interpretation and application, the international organic movement benefits from increased consistency across national organic programs. There are a few materials in which there is a lack of consistent practice in the US system, which conflicts with our trade partners, organic neighbors, IFOAM interpretations, and CODEX regulations. Bringing our program into greater concert with foreign organic programs and the global movement may enable an equivalency arrangement with Mexico, which could provide a valuable export market to US organic growers. We appreciate the Board's ongoing attention to this matter when reviewing each material both at initial petition and at Sunset, and we agree that we should bring our standards into greater concert with the global organic movement.

## ENFORCEABILITY OF REGULATIONS

A flurry of new regulations are being rolled out these days – Origin of Livestock, Strengthening Organic Enforcement, Organic Livestock & Poultry Standards, and now proposed Mushroom and Pet Food standards. We welcome these actions by NOP upon the recommendations of NOSB! However, we have also struggled with implementation of the rules, with varying interpretations and in some cases significant confusion among certifiers based on how the rules are worded, and what is (or isn't) addressed in the Preamble to each. In some cases, final rules have significant differences from their proposed versions; unfortunately, some of these differences have made them harder to implement and enforce. Although certifiers are agents of the Secretary, we are not treated as partners by NOP; we are given feedback on our interpretations of the regulations only when NOP disagrees with them. Training provided by NOP does not always provide consistent information among different instances of training and answers given to different certifiers. Operations should not be able to receive significantly different answers from certifiers about how a particular statute is interpreted; these inconsistencies lead to certifier-shopping as operations seek a more favorable answer.

The public feedback process between the making of an NOSB recommendation and the publishing of a final rule is long and complex, with multiple iterations of comment periods, and we hesitate somewhat to ask for any longer or more complex process. However, when regulations are worded or framed in a way that is difficult to enforce, it defeats the whole purpose of OFPA. Therefore, **we ask NOP to consider adding a step before publishing final rules in cases where the final rule differs from the proposed rule, to share the regulatory language with certifiers and receive feedback on its enforceability as written**. As agents of USDA and the bodies ultimately responsible for enforcing USDA regulations, it is appropriate for certifiers to have an opportunity to point out areas where the regulatory language is confusing, conflicting, or does not make sense practically. This extra review should **not** be used to allow certifiers to influence the overall content of the rule, such as implementation timeline or the requirements therein; these types of comments are already made during the existing public comment process, and rightfully belong to the public. It should serve only the

very specific purpose of vetting the regulatory language for completeness and practical ease of interpretation and enforceability. NOP could then make adjustments to the regulatory text if appropriate, and/or provide additional information in the Preamble to illustrate the meaning and intent of the text.

## CERTIFIER CONTACT PAGE FACILITATED BY NOP

During the NOP-ACA Training in January 2024, NOP suggested that they would make a certifier contact page on the NOP website where operations seeking a certifier could enter their contact information, and NOP would forward that operation contact information to certifiers who sign up to receive it. OEFFA appreciates the NOP's recognition that many new operations will be seeking certifiers due to SOE and their offer to facilitate those connections. However, we have serious concerns with NOP linking operations with specific certifiers using any metrics other than coverage region and accredited scopes, both of which are publicly available on the Organic Integrity Database (OID). Any additional criteria NOP might use, such as their assessment of a certifier's capacity to accommodate new operations or a certifier's suitability for particular production types, would be subjective and would constitute serious overreach and a breach of NOP's impartiality. NOP must be impartial among certifiers, in order to maintain the integrity of the USDA organic program as a whole. Remaining neutral is essential to having a meaningful accreditation process. **The NOP should refer operations to the publicly available Organic Integrity Database.** As more operations continue to use that platform, the Certifier Search feature in OID must remain up to date and accessible.

## COMPLIANCE, ACCREDITATION, AND CERTIFICATION

### DISCUSSION DOCUMENT: ORGANIC AND CLIMATE-SMART AGRICULTURE – CLIMATE INDUCED FARMING RISK AND CROP INSURANCE

We thank the CACS subcommittee and the full Board for delving into a critical topic for organic farmers: the ability to secure effective risk protection on par with non-organic farmers across the country. This is a very comprehensive examination of the subject matter as it relates to organic producers.

The considerable investment by American taxpayers who subsidize close to 64% of farm insurance policies is formative for the entire food and agricultural system. This program, to a large extent, helps decide who will have the capacity to weather the storms of the marketplace and the impact of increasingly frequent weather extremes. As such a major investment in agriculture, it is critical that risk management tools are available to all producers, of all commodities, in all areas of the country, in a fair and accessible manner.

Risk management is a topic that OEFFA farmers have devoted significant time and attention to over many years. In the run up to the 2023 Farm Bill process we gathered key organic farmer leaders to identify what issues and concerns they have experienced with the crop insurance program and develop suggestions for improving the program generally, and for organic growers specifically. A summary of those recommendations can be found in OEFFA's Crop Insurance Platform (<https://action.oeffa.com/crop-insurance-platform/>) which includes clear steps to make the program fair, functional, and informed. To answer the Board's questions below, we again asked OEFFA farmers for their input; we provide their answers below (with light editing for clarity) and some additional notes from previous conversations.

**1a. Would organic producers be open to using transitional yield history to accelerate t-yield replacement to build organic yield history faster?**

“Yes, perhaps, but only for my first time ever going organic. Once I have an organic APH [Approved Production History] established, why would I want/need to use my transition yields? My operational APH can often be used for new organic fields in the same county.”

Using transitional yield history to accelerate t-yield replacement may be most relevant or useful for operations farming land in multiple counties.

**1b. Would “buy up” coverage above 85%, which is the current limit, to 120% be of interest to obtain more coverage?**

“I don’t think I’d be in favor of that; it (120%) also sounds expensive.”

We note that some farmers may be in favor of a higher limit when dealing with high-value organic crops because the cost differential between conventional and organic could be higher in those instances.

**1c. Suppose you have a currently approved production history (APH) for organic production. Would you be interested in having a percentage of that APH carried over to your transition or organic t-yields?**

“How are t-yields used if I already have an APH for my operation in a given county?”

**2. What other concerns remain?**

“My number one concern remains being allowed to insure by Enterprise Unit by Practice Type (organic vs conventional vs transitional) without having to create a second entity. The questions above have some secondary value, but this is my highest priority AND it can be supported across multiple organizations who are lobbying legislators. Enterprise by Practice Type gives all farmers more MPCl [Multi Peril Crop Insurance] risk protection options.”

We also received feedback regarding the recently-released Transitional Production Plan – Crops (TPP), which USDA has touted as an easy-to-use means for producers transitioning to organic production to apply for crop insurance and other government programs. While we applaud the efforts of the NOP and RMA to lower barriers to crop insurance for transitioning producers, the comments we received from producers, as well as our own review of the document, suggest more work is needed. Here are a couple of responses from OEFFA farmers:

“I briefly looked at this template and it is basically the same as an OSP. I’m not sure why a producer wouldn’t just fill out a regular OSP with their certifier?”

“I reviewed the document and feel that it would be most beneficial to just fill out the OSP. That way new producers can get familiar with the form.”

“I thought the paperwork to formally declare transitional status would be a little lighter than a complete OSP. On the bright side, a lot of the work here could be copy/pasted when it comes time for full certification. Definitely a benefit to not having totally different documents, and this establishes a higher bar like RMA wanted to declare transitional [status]... but I think a bit simplified, toned down middle ground could be found that would be a bit less daunting for those considering [transitioning].”

In addition to observing that the new TPP is not substantially simpler than a full Organic System Plan, we note that the open-ended questions may be less self-explanatory than questions certifiers have developed in their OSP templates. Over the years, we have put a lot of thought into refining both the phrasing of the questions we ask in our OSP and the prompts and examples we give, both to eliminate confusing questions and to suss out required information using plain language. The TPP may work well for operations in their first year of transition who have not yet picked a certifier, but it will be less useful for those who are closer to applying for certification and for whom using the certifier's OSP template during transition will set up a smooth first year of certification. Additionally, as we have noted in the past, requiring transitioning operations to fill out a TPP or OSP runs counter to the goal of improving the accessibility of government programs to support farmers during risky and challenging times.

## DISCUSSION DOCUMENT: OVERSIGHT TO DETER FRAUD: RESIDUE TESTING IN A GLOBAL SUPPLY CHAIN

We are excited to discuss broadening the list of substances certifiers regularly test for – and eagerly anticipate guidance for what to do with positive results. We would greatly appreciate a list of additional substances, especially if that list includes information about the highest-risk crops or products to test for each substance or set of substances. This would help us focus our surveillance efforts more effectively, especially for handled or processed products. Broadening the list to include solvents, fumigants (particularly those used at the borders), conventional fertilizers, herbicides, and other prohibited substances used in conventional food production would give us more useful tools without increasing the burden of testing.

An added benefit to establishing thresholds for additional substances is that operations could refer to the guidance for their own internal testing as well. For example, we have had operations fog a building (with no organic products in it) and ask how soon they can put organic products back inside. We don't have best practices for these situations, so generally we refer to label directions if those exist. Operations may want to refer to test result guidelines even when executing approved plans to use fumigants or other prohibited materials.

Residue testing is an important tool for identifying threats to organic integrity, including potential fraud, because it provides quantitative as well as qualitative answers to certain questions about whether contamination has occurred. However, it also has important limitations. Most importantly, residue testing alone often does not determine the source of contamination, particularly when levels of contamination are low. For example, a low level of glyphosate contamination in the northwest corner of an organic field indicates that somebody nearby sprayed glyphosate; it does not indicate whether that somebody was to the north of the field, the west of the field, or the certified farmer themselves. To figure out the source of contamination – and therefore, the appropriate corrective action and compliance consequences – the certifier must consider site-specific conditions such as prevailing winds, topography, and (for direct application to the field) other physical evidence of spraying such as yellowed/dead weeds. This example is a relatively simple one, and many situations are more complicated. Low levels of GMO contamination in a sample of organic ground corn collected from a feed mill could come from pollen drift at any number of fields, managed by any number of farmers; it could come from a small quantity of fraudulent "organic" corn mixed into a large bin with a much larger quantity of actual organic corn; it could even come from GMO-contaminated seeds that were purchased and sold – in good faith – as organic. Multi-ingredient products and long supply chains introduce additional complexities, especially where fumigants, solvents, and other pest control and processing aids are concerned. Finally, if a positive sample raises questions about the source of contamination, additional testing may be needed; the timing for this can pose logistical challenges both with regard to how products move through a supply chain and because many prohibited substances dissipate over time.

The comment from the public supporter calling for more vigorous testing implies that our current program is weak and our guard porous; that contaminated and fraudulent products are entering organic supply chains which could be caught or deterred if only we tested more widely. We question this premise. Very rarely has OEFFA had a positive result from a test



for pesticides even while sampling hundreds of the highest risk products from our highest risk operations over the years. In fact, most grain producers in our network have their crops tested by their buyers. GMO is the one area where we pick up positives, and even here, our investigations almost always discover an accident. Twenty years of testing have not uncovered true fraud or snared a single cheater. Meanwhile, sample testing remains a very expensive inspection tool. In light of the negligible results we get from testing, we are not inclined to expand the amount of testing that certifiers conduct; 5% of operations annually is an adequate amount. This amount has value as a deterrent for possible fraudulent activities and allows us to prevent contaminated products from entering the marketplace in situations where contamination has occurred.

Additionally, because residue testing is required to be at the certifier's expense [205.670(c)] rather than passing the cost to the inspected operation, increased testing frequency would increase the cost of certification across the board. Already our industry faces rising costs of certification which threaten to drive out increasing numbers of small farmers. We must be judicious in the activities we use for enforcement to ensure that certification remains accessible to small, diversified operations, and not concentrate too many of our efforts on the most costly activities.

Due to these complexities, it is essential that certifiers follow procedures that result in actionable results from a positive residue test. It is also important for us to avoid over-reliance on this tool, both due to the limitations mentioned above and so that we can stay in concert with the process-based structure and intent of the organic standards and OFPA.

## **Answers to NOSB's Questions for Stakeholders**

### **NOP 2610: Instruction Sampling Procedures for Residue Testing**

#### **1. Does this document instruction provide adequate information for certifiers and inspectors to collect samples in the field?**

In general, this document provides sufficient instruction for sampling procedures.

#### **2. Are there areas pertaining to sample collection (sample size, when to collect samples, sample selection, etc.) that need to be developed or improved?**

We note that the guidance advises sample collectors to collect a single sample from a single location and we agree that this is best practice. For example, if we want to test whether a 20-foot mowed grass buffer between organic and conventional soybeans is sufficient, we would collect a sample from the row of organic beans closest to the buffer. An aggregated sample that includes beans from right next to the buffer and further into the field may demonstrate that the buffer is inadequate (if it tests positive for herbicide/pesticide) but will tend to have a lower level of contamination due to dilution of the contaminant; if the sample contains mostly beans from further into the field, residue may even be undetectable despite the buffer actually being insufficient. Samples taken from bins or other storage areas commonly are already aggregated from multiple fields on the farm, increasing the challenge of identifying the contamination source; samples collected from storage containers are therefore more important to collect from a single container and not mix additional containers. However, there may be situations where it is useful to take multiple samples from a single location – for example, multiple samples from different distances from an inadequate buffer could illustrate how much larger the buffer needs to be. Multiple samples could also help to pinpoint sources of contamination – such as testing multiple loads of grain that are being milled into livestock feed, when the feed itself has shown contamination and further investigation is needed. Due to the cost of sample testing, certifiers should not be expected to collect multiple samples of a crop or product as a general practice unless additional funding is provided, so that the costs of sampling do not overly increase certification fees for all operations.

**3. How can additional instruction or guidance on sample collection support the veracity of testing results so that adverse actions are more defensible?**

Collecting samples in the presence of a person responsibly connected to the operation, sealing the sample in a tamper-evident manner, and maintaining a clear chain-of-custody paper trail are most beneficial for supporting the veracity of testing results, in our experience. A sample from a single location is more actionable than a composite sample, for the reasons stated above.

**NOP 2611: Instruction – Laboratory Selection Criteria for Pesticide Residue Testing**

**1. Section 4.1 describes one type of residue screen that can be used for testing. What additional tests should be included in this section (e.g., heavy metals, synthetic solvents, fumigants, herbicides, etc.)? What should be the threshold for validating additional testing methodologies in this section to ensure results are actionable?**

Guidance for testing additional types of materials would expand the “toolbox” of certifier responses to high-risk situations and suspected fraud. We support the suggestions to include synthetic solvents, fumigants, and herbicides in the list of substances to test for, and in guidance for lab selection. Tests for residues of prohibited livestock drugs (hormones, antibiotics, or synthetics) would also be helpful.

We have mixed feelings on heavy metal testing. Metals such as chromium, copper, cadmium and arsenic may indicate contamination from treated lumber, a real possibility at some farms. These and other metals like lead or mercury can linger in soil for longer than three years and may be allowed in organic crops if the contaminated soil has gone through a full three-year transition. Testing for long-lasting contaminants may open additional questions about what qualifies as land suitable for organic production, questions the current organic standards are not prepared to address.

We at OEFFA do not have the scientific expertise to validate testing methodologies, and instead rely heavily on the guidance document. We appreciate the perspectives of others in the organic community who do have this expertise, such as Beyond Pesticides, Consumer Reports, and the Center for Food Safety (all of whom contributed to the National Organic Coalition’s (NOC) comments).

**NOP 2611-1: Prohibited Pesticides for NOP Residue Testing**

- 1. Does this list of prohibited substances provide value to certifiers in evaluating organic compliance? &**
- 2. How can this document be improved?**
- 3. Would certifiers find value in developing a decision tree to determine which tests should be conducted depending on the commodity, geographical location, and position within the supply chain? Please describe how a decision tree could assist certifiers with testing and compliance verification.**

OEFFA sends approximately a third of our collected samples each year to be tested for all the chemicals on the 2611-1 list. NOP 2611-1 provides an impressive list of prohibited substances, which wows the farmers who read it in their results letters. But the list can certainly use an overhaul. Common herbicides such as glyphosate, 2,4-D, and dicamba do not currently appear on the list. Meanwhile, the list does include older chemicals, such as DDT and analogs, which are very unlikely to be accessible to most NOP-certified organic farmers since they are banned in the United States. The list should be analyzed line by line to determine which items have any real chance of being used on a farm today. Obsolete listings should be taken off the list; the herbicides mentioned above, and additional common conventional farm inputs, should be added instead. Because USDA Organic standards are used internationally and other countries have different rules for which agricultural chemicals can be used, it would be useful to certifiers to have multiple versions of the list: one for the United States, one for Mexico, etc., or a decision tree for ensuring that only commercially- and legally-available substances are tested for in each region.

## **NOP 2613: Instruction – Responding to Results from Pesticide Residue Testing**

- 1. Section 5.3.3 describes how to respond to positive results when there is no EPA tolerance or FDA action level. Please describe experiences attempting to respond to results in this type of situation. How can this section be improved to facilitate and support sampling and testing for prohibited substances that do not have EPA tolerances or FDA action levels (e.g., synthetic solvents)?**

Most of our experiences responding to positive results with no EPA or FDA tolerance/action level come from GMO testing, which makes up approximately a third of our residue tests each year. It is, unfortunately, pretty common for tested crops to have some small percentage of genetically modified genetics, but we have never seen enough of a trait to indicate a willful violation. It can be challenging to respond to positive results because the contamination could have come from pollen drift (or pollinators) or from the originally-planted seeds; only if the farmer still has leftover seed on hand can the latter be proven. Meanwhile, pollen can drift much further than any reasonable buffer and be carried a mile or more by pollinators, so adjusting buffer width is rarely an adequate response and instead we look for planting to be staggered from neighbors so that crops will not flower simultaneously. We understand there is some inconsistency in how certifiers respond to GMO results; since the organic regulations don't mention GMO testing, we don't have a clear way to deal with it. Guidance from NOP would be appreciated, but GMO presence must be addressed in the NOP standards.

Some additional nuances to consider include:

- Evaluating residues of materials that are prohibited by themselves but could be used as “inert” or ancillary ingredients in allowed input materials, or as processing aids in those inputs. For instance, synthetic solvents would not be allowed directly on organic products, but they could exist in the formulations of allowed input materials; the manufacturer might state that the solvent evaporates but there could occasionally be residue. An example is sodium lauryl sulfate, a common inert ingredient (and allowed as an inert) but also used as an active pesticide; we could not distinguish if a residue of sodium lauryl sulfate resulted from use as an allowed inert or a prohibited active. Another example is hexane, which is used to extract soybean oil; manufacturers say it all evaporates because it is so volatile, but if any remained it would be a prohibited residue. EPA List 4 “inerts” such as castor oil are allowed in pesticide formulations but cannot be directly used on organic crops. To ensure compliance with input restrictions, it may make sense to include such synthetic substances on the list of materials to test for – but if they are included, it will be necessary to set tolerance thresholds that account for their inclusion in allowed inputs.
- There are many materials prohibited in organic production that do not have EPA tolerances established. It will be essential for NOSB and/or NOP to propose action levels when EPA does not have a tolerance limit. Action levels established for the organic industry could also be set below the EPA threshold; we note that the US EPA sets higher tolerances for many substances than its peers in the European Union, for example.
- Because EPA and FDA regulatory tolerances are based on the part of a plant consumed by humans and we strive to conduct tests in a manner that will have actionable results, we generally test the edible portion of a crop only. Testing inedible portions would not give actionable results because there are no regulatory thresholds for contamination of inedible plant parts. However, by restricting our testing to the edible portion of a crop, we are restricting our view of contamination and missing a lot of potential drift (for example testing corn kernels which are unlikely to have pesticide residue rather than testing the husk and stalk which would be directly exposed to any drift). It would be a substantial amount of work to develop thresholds for contamination of non-edible plant parts by all relevant substances, but doing so would improve our ability to test whether certified organic land is adequately protected from contamination.
- If no tolerance threshold is established by EPA or NOP, it will be essential for guidance to describe compliance outcomes for detection of the material. Guidance may be “items with no tolerance limit cannot be excluded from

sale,” or the reverse, “items with no tolerance limit must be excluded from sale when any residue is detected.” Even better than guidance would be amending 205.671 to include direction for excluding sale of things without an EPA threshold.

**2. Are additional sections within this instruction needing updating or improvement? Please provide suggestions.**

Enforcement based on testing gets tricky when looking at a process-based system. For example, if a multi-ingredient product tests positive for a prohibited fumigant, there may be many lots of ingredients to test and the contamination could have occurred multiple steps back in the supply chain prior to the product arriving at the operation where the sample is taken. For another example, if a positive result comes from a previous residue from a shipping container rather than a fraudulent or fumigated product, we might want to exclude the product from sale but not pursue adverse action. At NOP training this year, we learned that NOP can see every shipment that enters the U.S. – but unlike certifiers, they don’t know which entities are involved in the import/export. It would be very useful for certifiers and the NOP to have access to the same information as each other so we can connect the dots; this would help both with following up on positive residue results and for supply chain audits under SOE. Additional guidance for responding to results from complex supply chains would be appreciated, including how many steps in a supply chain to investigate, thresholds for action, and appropriate compliance consequences.

We also have some bigger-picture suggestions for improving responses to residue results. We would be interested in NOP serving as a central point for positive residue test information. Reporting all positive results to NOP (but not negative results) would not be a huge burden given our experience has been that very few positive results arise. NOP could then aggregate that data and provide certifiers with quarterly or annual summaries of trends in which commodities are most frequently reporting positive results, where those results occur, and which substances are most frequent contaminants. That communication from NOP could then feed back into certifier risk assessments and decisions of what to sample. Moreover, such data collection could be used for additional initiatives in the organic industry, beyond certifier residue testing, including thinking more broadly about common sources of contamination, and taking proactive steps and developing strategies to mitigate or prevent future contamination. NOP 2613 could include instructions for participating in such reporting and information sharing, which would be useful to all participating certifiers even if participation was not mandatory.

## DISCUSSION DOCUMENT: ORGANIC FOOD SYSTEM CAPACITY AND CONSTRAINTS

We appreciate the Board’s consideration of this topic, including both listening to stakeholders at the last meeting and thinking proactively about ways to improve the food system for all. To answer the Board’s questions:

**1. Are we retaining our existing organic acres and producers or are we experiencing overall loss of current organic producers?**

As with conventional farming, OEFFA has seen farmers leaving farming altogether, particularly those who have aged out. However, organics has a lower average age as a whole at 52.7 while the average age of all farmers is 58.1. It is clear from this that younger farmers want to go organic. Particular to organic, there have also been farmers who have chosen to continue farming but surrender organic certification. Common reasons for not continuing certification have been the price of certification, recordkeeping, and paperwork burdens; the implementation of SOE has only increased the burdens of paperwork and prices. Two other issues cited by farmers leaving the organic industry are the inconsistent interpretation of standards among certifiers and a loss of integrity in the organic label. We have also seen some poultry and other meat animal producers surrender certification due to lack of certified slaughter facilities nearby.

## 2. Are existing organic producers expanding or contracting acres of organic production?

In common with conventional production, OEFFA has seen many operations add land; 19% of OEFFA-certified operations requested certification of newly-organic land in 2023. However, we do not track land that is taken out of organic production or no longer being farmed, nor do we track the overall number of acres our farmers have in production from year to year beyond verifying that the land is eligible for organic crop production. **With the expanded use of OID, OEFFA encourages the NOP to track the data collected there to better understand the challenges facing the industry.**

## 3. What additional infrastructure is needed to make organic supply chains more lean and more efficient?

- 1) Grain facilities. More local facilities would reduce the distance and time required to get grain to handlers or feed to livestock operations.
- 2) Milk pickup. The industry is not set up for all milk producers to have access to a pick up route.
- 3) Materials. The commercial availability of certain materials in organic form (such as those subject to commercial availability at 205.606) has not kept pace with the demand.

## 4. What organic processing capability do we need to establish?

Slaughterhouses. The number of slaughterhouses in Ohio has decreased in the past couple of years. Surrendered operations often state that it is not worthwhile to certify due to the paperwork and segregated processing streams relative to the amount of organic meat available to process. As a result, many livestock farms don't sell their animals/meat as organic because there is not a facility close enough, or the wait time to schedule slaughter is too long. If the nearest slaughterhouse is across state lines, it might not be USDA certified for interstate sales, as smaller slaughterhouses may not be equipped to deal with the added paperwork and inspection burden that entails.

The PRIME Act (H.R. 2814) could help increase the availability of slaughterhouses by reducing federal inspection requirements for custom meat processors, who would be able to process animals and sell in retail packaging without USDA inspection, but sales would only be intrastate and subject to state laws. This could improve market access and perhaps nudge small producers to get certified. But even if the bill passes, more attention and efforts need to be made in this area.

## PROPOSAL: IMPROVING SUPPORT FOR ORGANIC TRANSITION

We appreciate the CACS committee's consideration of support for transitioning operations. OEFFA has a long history of offering support to transitioning (and organic) farmers through educational programs and resources, workshops, our annual conference, direct one-on-one educational support, connecting transitioning or beginning organic farmers with experienced farmer mentors, and providing transitional verification services. We were thrilled to learn of USDA's investment in organic transition support through the Organic Transition Initiative (OTI) and Transition to Organic Partnership Program (TOPP) and we have been pleased to see additional initiatives related to marketing. **Thank you for your synthesis of stakeholder feedback from the fall meeting and for making clear and actionable requests to the various USDA agencies.** We are grateful for your continued attention to these issues and will simply note some comments from OEFFA farmers related to support for organic transition (lightly edited for clarity):

- For urban growers who have lots of small properties and produce small quantities, certification is too costly individually. We're interested in some sort of grower group certification or raising the exemption cap from \$5,000 annually.

- Cost share is only useful after your first year of certification – during the first year, you have to pay all certification costs up front before you have any organic income. There is interest in certifiers more directly receiving cost share funds so that first-time applicants don't have to pay up front.
- We believe in what we're doing, we don't see organic as marketing tool. Large organic agencies find it easy to skimp, follow the letter but not the spirit of the law. One example, egg production – for big operations, there are little doors but hens never go out. A few years ago, my organic inspector was shocked to see hens “really on pasture”; his uncle had a chicken house with thousands of hens and a tiny door. I'm competing with people like that. It's hard to compete.
- I'm an 8-year certified operation and handler – niche crops, herbs for herbal tea. I think that area [outdoor access for poultry] is one that consumers are becoming savvy to. Because those organic animal welfare regulations aren't what people expect, it's diluting the organic label on every product.
- Conventional farming has had so much money behind it for so long. Consumers would choose us all the time if not for the messages that it's too expensive and doesn't matter. For me, the certification fee isn't a problem, it helps me access markets that support us and reflect our commitments. We could have a much bigger market if we had similar resources to conventional.

**Providing support for organic transition includes working towards clear and consistent standards for all operations and production types. Luckily, regulatory consistency supports existing organic farms and handlers as well.**

## CROPS

### PROPOSAL: CARBON DIOXIDE - PETITIONED

*§205.601(j) - plant or soil amendment*

OEFFA does not support the petition to add carbon dioxide as an allowed synthetic material for crop production. We agree with the classification of this material as synthetic. However, there are nonsynthetic sources (such as fermentation) and it is not essential to greenhouse production. Additionally, greenhouse production standards should be established before adding materials to the National List for that purpose. Finally, we would also like to emphasize that organic production should not be an outlet for fossil fuel by-products nor an avenue for the fossil fuel industry to greenwash itself.

### DISCUSSION DOCUMENT: COMPOST PRODUCTION FOR ORGANIC AGRICULTURE - PETITIONED

*§205.2, §205.203*

OEFFA does not support these petitioned changes to the compost standards. First, we would like to point out that the inclusion of a synthetic material in any aspect of organic production requires the particular substance to be added to the National List through the petition process. Compostable synthetic materials should be petitioned individually (just like paper) with full technical reports which include review of additives (which often includes PFAS) as well as conditions required for full biodegradation and the impacts of the end products of this degradation. The allowance of an entire class of materials based on an external organization's definition or approval of a product is not in line with the organic standards.

Second, with regards to the actual materials which compose the broad range of compostable products, this petition would create potential for contamination of organic land. We do not believe that composting is sufficient to convert these

products into non-toxic substances that can be utilized by plants and soil organisms. Microplastic particles as well as residues of these polymers are extremely likely to persist in the soil and potentially migrate to aquatic systems. Many "compostable" products marketed to consumers also contain intentionally added PFAS that may be necessary for the proper function of the products and would persist in the finished compost. As public awareness and concern regarding the prevalence of PFAS in the natural environment and human bodies increases, we fear that creating an approved avenue for intentionally added PFAS to enter organic farms would dramatically undermine consumer confidence in the organic label. This could have devastating impacts on organic farm viability. Indeed, we have already seen well documented cases in Maine where farmers experienced existential threats to their farm businesses due to PFAS contamination through no fault of their own. Technical reviews of compost feedstocks should address the presence and types of additives, including how those additives break down during composting and any environmental effects.

Finally, this petition essentially provides a new outlet for post-consumer single-use waste material. This is not in line with organic ideals, as we do not want to be the outlet for practices that contribute to continued environmental degradation. Many of the bioplastics will rely on conventional corn which has its own negative footprint. Further, this could pave the way for increased use of plastic mulches which could be formulated to meet the ASTM methods mentioned in the petition.

### **Response to questions:**

1 & 2. We understand that the current standards are based on studies of what composting methods are sufficient to reduce pathogens to an acceptable level. We do not believe that a strict C:N ratio is necessary for producing suitable compost. Other methods beyond the current standards may be sufficient to reduce pathogens as well; any approved methods should be supported by peer-reviewed studies conducted both at industrial- and farm-level composting scales, as applicable to the composting methods. We also are concerned that compostable materials defined by the ASTM methods in this petition will not break down to a substance that is available to plants and non-toxic for plants and soil biota.

5. Any synthetic compost feedstock materials must be reviewed individually regardless of the wording of the compost standards, as under NOP standards all synthetic substances used in organic crop production must be included on the National List. "Compost feedstocks" would be an improvement in terminology since it would encompass natural sources of minerals that could be included in compost products. The definition of compost feedstocks should not include an allowance for synthetic materials that are not also petitioned to the National List.

6. The concept of 'de minimis' should not apply to ingredients intentionally added to a product, nor should it apply to contamination present in synthetic materials that are intentionally added.

7. The National List can include broad classes and individual substances, but 'compostable products' is too broad to be considered as a class as there is no defining chemical or biological trait shared by all products that could conceivably be composted, unlike other classes of materials that are included on the National List.

## **2026 SUNSETS**

### **Hydrogen Peroxide**

*§ 205.601(a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems. (4) Hydrogen peroxide; § 205.601(i) As plant disease control (5) Hydrogen peroxide.*

OEFFA supports the continued listing of hydrogen peroxide.

## Oils, horticultural

*§ 205.601(e) As insecticides (including acaricides or mite control). (7) Oils, horticultural—narrow range oils as dormant, suffocating, and summer oils.*

*§ 205.601(i) As plant disease control. (7) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.*

OEFFA supports the continued listing of horticultural oils as they are an essential tool for some organic producers. We encourage research into alternative substances as we support less reliance on petroleum products for organic production.

## Pheromones

*§ 205.601(f) As insect management. Pheromones.*

OEFFA supports NOC's comments on pheromones.

## Ferric Phosphate

*§ 205.601(h) As slug or snail bait. (1) Ferric phosphate (CAS #s 10045-86-0).*

OEFFA supports the relisting of ferric phosphate as it is currently an essential tool for slug and snail control. We note that some formulations may contain EDTA as an "inactive" ingredient (see NOC's comments), illustrating the importance of reviewing "inert" pesticide ingredients in detail.

## Magnesium Sulfate

*§ 205.601(j) As a plant or soil amendment. (6) Magnesium sulfate—allowed with a documented soil deficiency.*

OEFFA supports the continued listing of magnesium sulfate. It is a commonly used and essential magnesium source that is more readily available to plants and does not have a significant impact on pH, unlike nonsynthetic magnesium sources such as dolomitic limestone.

## HANDLING

### PETITION: MAGNESIUM CARBONATE and MAGNESIUM CARBONATE HYDROXIDE

*§ 205.605(b)*

OEFFA does not support the addition of magnesium carbonate and magnesium carbonate hydroxide to the National List. This material is not essential to organic handling and has nonsynthetic alternatives. We agree with the classification as synthetic.

### PETITION: RYE POLLEN EXTRACT

*§ 205.606*

OEFFA does not support the petition to add rye pollen extract to the National List. There should be adequate capacity to obtain this material from organic sources.



## 2025 SUNSETS

### Acids – Citric, Lactic

*§ 205.605(a) Nonsynthetics allowed (1) Acids (Citric – produced by microbial fermentation of carbohydrate substances; and Lactic).*

OEFFA supports the continued listing of citric and lactic acids, and also supports NOC's comments requesting the NOSB to review fermentation processes and allowed sources of citric, lactic and other acids produced through fermentation, which also may include substrates obtained from crops produced with excluded methods.

### Calcium chloride

*§ 205.605(a) Nonsynthetics allowed (7) Calcium chloride.*

OEFFA supports the continued listing of calcium chloride. We do not certify many handlers who use calcium chloride, but for crop use, we have obtained process descriptions from manufacturers to confirm that calcium chloride was produced nonsynthetically from a brine process.

### Enzymes

*§ 205.605(a) Nonsynthetics allowed (11) Enzymes—must be derived from edible, nontoxic plants, nonpathogenic fungi, or nonpathogenic bacteria.*

OEFFA supports the continued listing of enzymes. We rely on manufacturers' attestations that excluded methods are not used in the production of these materials. Most enzymes we review are for use in dairy products. Ancillary ingredient sources are a concern for many substances at 205.605, and we request that the board takes up ancillary ingredients for review again, building on the 2016 proposal. We also support NOC's comments on clarifying products of fermentation.

### Microorganisms

*§ 205.605(a) Nonsynthetics allowed (19) Microorganisms—any food grade bacteria, fungi, and other microorganism.*

OEFFA supports the continued listing of microorganisms, which are essential for our cheese producers. We rely on manufacturers' attestations that excluded methods are not used in the production of these materials. Ancillary ingredients sources are a concern for many substances at 205.605, and we request that the board takes up ancillary ingredients for review again, building on the 2016 proposal.

### Yeast

*§ 205.605(a) Nonsynthetics allowed (30) Yeast—When used as food or a fermentation agent in products labeled as "organic," yeast must be organic if its end use is for human consumption; nonorganic yeast may be used when organic yeast is not commercially available. Growth on petrochemical substrate and sulfite waste liquor is prohibited. For smoked yeast, nonsynthetic smoke flavoring process must be documented.*

OEFFA supports the continued listing of yeast. We also eagerly anticipate the development and refinement of standards for mushrooms and other fungi, including yeast, so that eventually all yeasts will be able to be produced organically and this listing will be obsolete.

## Ascorbic acid

*§ 205.605(b) Synthetics allowed (6) Ascorbic acid.*

OEFFA supports the continued relisting of ascorbic acid, as we have operations who depend on it as a preservative for processed food items.

## Collagen gel

*§ 205.605(b) Synthetics allowed (13) Collagen gel—as casing, may be used only when organic collagen gel is not commercially available.*

OEFFA supports the continued listing of collagen gel but would be interested to see research into the potential supply of collagen from organic sources.

## Hydrogen peroxide

*§ 205.605(b) Synthetics allowed (17) Hydrogen peroxide.*

OEFFA supports the continued listing of hydrogen peroxide. It is used extensively by our certified operations and is an essential compound for maintaining sanitary conditions with less impact on environmental and human health than other sanitizers. We do allow for this material to be used in direct contact with certified products.

## Nutrient vitamins and minerals

*§ 205.605(b) Synthetics allowed (20) Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines for Foods.*

OEFFA supports the continued listing of nutrient vitamins and minerals and we find the annotation enforceable, although we have not seen operations request to use these materials in ways other than for nutritional fortification. We do have concerns that some certifiers may not be applying the required level of scrutiny to ensure they are always being used this way. We do not have any particular substances that are a concern to us at this time and we allow ancillary ingredients in these substances in accordance with the 2016 NOSB recommendation.

## Peracetic acid/Peroxyacetic acid

*§ 205.605(b) Synthetics allowed (22) Peracetic acid/Peroxyacetic acid (CAS # 79-21-0)—for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces.*

OEFFA supports the continued listing of peracetic acid as an essential tool for maintaining sanitary food handling conditions. Please refer to our comments on peracetic acid under Livestock. There is question as to the line between livestock use and handling with regards to robotic milking equipment and clarification on the allowed use of peracetic acid in this situation would be helpful for certifiers and producers.

## Sodium citrate

*§ 205.605(b) Synthetics allowed (31) Sodium citrate.*

OEFFA supports the continued listing of sodium citrate and we are unaware of any concerns with this material outside of the general discussion of citric acid.

## LIVESTOCK

### 2026 LIVESTOCK SUNSET REVIEWS

#### Atropine

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (3) Atropine (CAS #-51-55-8)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires: (i) Use by or on the lawful written order of a licensed veterinarian; and (ii) A meat withdrawal period of at least 56 days after administering to livestock intended for slaughter; and a milk discard period of at least 12 days after administering to dairy animals.*

OEFFA supports the continued listing of atropine as it is an essential emergency medical treatment with no alternative.

#### Hydrogen Peroxide

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (15) Hydrogen peroxide.*

OEFFA supports the continued listing of hydrogen peroxide as an essential disinfectant and sanitizer that has minimal health and environmental concerns.

#### Iodine

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (16) Iodine.*

*§ 205.603(b) As topical treatment, external parasiticide or local anesthetic as applicable. (4) Iodine.*

OEFFA supports the continued listing of iodine, but cannot comment fully on question 1 since we have not seen the recent Technical Report. Technical reports referred to in NOSB meeting materials should be made available to the public by the time the meeting materials are published, so that we can comment most effectively based on the most recent information. We do see that most products that formulate with NPE's also have an NPE-free version, so it would likely have minimal impact if our operations needed to transition to NPE-free products. Alkylphenol ethoxylates (APE's) should also be considered with NPE's and the annotation should include whether these are allowed as well.

#### Magnesium Sulfate

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (19) Magnesium sulfate.*

OEFFA supports the continued listing of magnesium sulfate as a medical treatment. We are unaware of nonsynthetic alternatives, and we have no concern with this material since it is also allowed as a mineral additive in feed.

## Fenbendazole

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (23) Parasiticides—prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period for breeding stock. Allowed for fiber bearing animals when used a minimum of 36 days prior to harvesting fleece or wool that is to be sold, labeled, or represented as organic. (i) Fenbendazole (CAS #43210-67-9)— milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for: 2 days following treatment of cattle; 36 days following treatment of goats, sheep, and other dairy species*

OEFFA supports the continued listing of fenbendazole. We require operations to have an emergency plan for parasite treatment in their OSP and a plan to prevent parasite infestation. We do not generally see consistent use or repeat use of parasiticides among our operations. We have not specifically requested fecal tests to confirm parasite load, although some operations may do this as part of their emergency plan. We have seen emergency parasite treatments used in goats and sheep of all ages, and in young cattle.

## Moxidectin

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (23) Parasiticides—prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period for breeding stock. Allowed for fiber bearing animals when used a minimum of 36 days prior to harvesting of fleece or wool that is to be sold, labeled, or represented as organic. (ii) Moxidectin (CAS #113507-06-5)— milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for: 2 days following treatment of cattle; 36 days following treatment of goats, sheep, and other dairy species*

See comments for Fenbendazole.

## Peroxyacetic/Peracetic Acid

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (24) Peroxyacetic/peracetic acid (CAS #-79-21-0)—for sanitizing facility and processing equipment.*

OEFFA supports the continued listing of peracetic acid, and we request the board take into consideration how it is being used with modern milking equipment. We have had several requests from dairy operators to use peracetic acid formulations to sanitize the brushes used in robotic milking machines. The brushes are used to clean the teats and are then treated with a disinfecting solution between animals. We have been informed by the manufacturer that peracetic acid is the most effective disinfectant especially in the presence of dirt and manure. The annotation for peracetic acid indicates it is for sanitizing equipment, and therefore we have prohibited use in a manner where it would contact the animal (such as on the wet, disinfected brushes in the robotic milking machine). However, unlike phosphoric acid the peracetic acid annotation does not specifically prohibit direct contact with organic livestock. We would like to have clarification on the allowed use of this substance in milk production as we are likely to see these types of milking systems become more common and will need to work with operations and manufacturers to ensure sanitary milking practices.

## Tolazoline

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (29) Tolazoline (CAS #-59-98-3)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the*

*AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires: (i) Use by or on the lawful written order of a licensed veterinarian, and; (ii) Use only to reverse the effects of sedation and analgesia caused by Xylazine; and, (iii) A meat withdrawal period of at least 8 days after administering to livestock intended for slaughter; and a milk discard period of at least 4 days after administering to dairy animals*

## Xylazine

*§ 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable. (30) Xylazine (CAS #-7361-61-7)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires: (i) Use by or on the lawful written order of a licensed veterinarian, and; (ii) A meat withdrawal period of at least 8 days after administering to livestock intended for slaughter; and a milk discard period of at least 4 days after administering to dairy animals.*

OEFFA supports NOC's comments for tolazoline and xylazine.

## DL-methionine

*§ 205.603(d) As feed additives. (1) DL-Methionine, DL-Methionine—hydroxy analog, and DL-Methionine—hydroxy analog calcium (CAS #'s 59-51-8, 583-91-5, 4857-44-7, and 922-50-9)—for use only in organic poultry production at the following pounds of synthetic 100 percent methionine per ton of feed in the diet, maximum rates as averaged per ton of feed over the life of the flock: Laying chickens—2 pounds; broiler chickens—2.5 pounds; turkeys and all other poultry—3 pounds.*

OEFFA supports the continued listing of methionine. We would like to see more research on nonsynthetic alternatives and consideration of allowing nonorganic sources of feed strictly for the purpose of methionine supplementation. Insects and brewer's grain may be able to provide sufficient amounts of methionine to the diet, but there are no standards for raising organic insects and leftover brewer's grains are not widely available in organic form. Since we are currently enforcing a vegetarian diet for organic poultry, we believe that the standards should be updated to allow other nonsynthetic feed sources to provide supplemental methionine. This could include allowance of slaughter by-products, nonorganic insects, and the development of standards for raising organic insects. We would also request the board to look into the tiered approach of the Canadian system. Allowance of nonsynthetic sources would ease the burden of tracking methionine intake, which is extremely difficult for smaller growers to track.

Response to Questions #2 & 3: Methionine is the main nutritional barrier that we see among our operations. We would like to see the NOP follow suit with EU and Canada and put natural sources into the standards as the first option before synthetic methionine can be used.

## Trace Minerals

*§ 205.603(d) As feed additives. (2) Trace minerals, used for enrichment or fortification when FDA approved.*

OEFFA supports the continued listing of trace minerals. While some minerals have nonsynthetic sources, they may not be available to all operations and may not be as physiologically active. Synthetic mineral sources are needed to provide adequate nutrition to captive animals to allow them to thrive and support their immune systems in a production system that does not use antibiotics and hormones. NOP 5030 indicates that ancillary ingredients in single vitamin or mineral formulations are allowed without further review, which allows some synthetic materials not on the National List to be found in organic livestock feed additives, as well as nonorganic agricultural products used as carriers. We would like to see

further research into the necessity of this allowance and if there are sufficient sources of vitamins and minerals on the market that do not contain synthetic materials that would otherwise be prohibited.

## Vitamins

*§ 205.603(d) As feed additives. (3) Vitamins, used for enrichment or fortification when FDA approved*

OEFFA supports the continued listing of vitamins. Our comments for trace minerals can also be applied to synthetic vitamins. If there are synthetic vitamins produced with excluded methods, we would want to see more research on the effect that removing them would have on vitamin availability and animal health. Since these are allowed as injectable medical treatments, they should remain available for use in feed to potentially avoid the need for medical interventions.

## MATERIALS

### PROPOSAL – TECHNICAL REVIEW TEMPLATE UPDATES

This revised template does an excellent job of ensuring that Technical Reviews address the National List evaluation criteria listed at 205.600 and commercial availability considerations for 205.606. The additional questions about excluded methods and ancillary ingredients will add helpful context to questions we ask during material reviews. We have only one suggestion: in the Handling/Processing template, question (E) under Data Required – add something along the lines of “List the ancillary substances and describe their purposes or the reason for their inclusion.” We thank the Board for overhauling this template to be both more useful to materials reviewers and better in sync with the Board’s needs.

### INERT INGREDIENTS IN PESTICIDES

OEFFA has worked in collaboration with NOC to discuss the background and implications of the question of inert ingredients in pest control products and we support NOC’s comments on this topic. Here we will share our specific suggestions on how to handle these materials, as well as comments on some of the proposed methods put forward in the NOP’s June 2023 memo “Work Agenda Request: Inert Ingredients in Pesticide Products.” Answers to the Board’s questions to stakeholders are throughout our comments here.

We strongly recommend that all synthetic inert ingredients be named on the National List to remain in compliance with OFPA. This would also provide a clear guideline for certifiers and materials review organizations and ensure that these materials receive due consideration as with all allowed synthetics to maintain confidence in the Organic label. Many consumers of organic food would be horrified to learn that some pesticides containing endocrine disruptors are allowed in organic production, as is currently the case due to the current reliance on EPA lists 3 and 4. The substances included as “inert” ingredients in pesticide formulations are not, in fact, all inert. It is essential to consumer confidence in the organic label – and to the organic movement’s own integrity – that all substances used in organic crop production be properly vetted according to the National List criteria. **Outsourcing this consideration and approval process does not comply with the law, but we want to support the Board in having a manageable amount of research to conduct for sunset reviews.**

According to an analysis of Appendix A by Beyond Pesticides, there are only 137 synthetic substances on EPA lists 3 and 4 that are currently in use in products allowed for organic production. Appendix A helpfully lists which substances are in use in organic input materials, but it does not distinguish between synthetic and nonsynthetic (natural) materials. Nonsynthetic materials do not need to be added to the National List, nor given a Sunset review, because they are already allowed generically in organic crop production (unless petitioned for inclusion at 205.602). Beyond Pesticides and our partners at NOC have helpfully laid out a proposed hierarchy and schedule for sunset reviews of these 137 materials,

starting with the most toxic and tackling the least harmful last. We believe this workload would be manageable for the NOSB, particularly if we follow the suggestion to group materials by chemical type, which would allow them to be grouped in Technical Reviews as well. Further, NOP could provide research assistance to NOSB in this matter.

One suggestion in the June 2023 memo was to allow inert ingredients in products that are registered with the EPA. There are a few problems we see with this approach. First, the EPA does not allow for public comments on actual materials, as the NOSB does, which removes stakeholder participation that is crucial to approval of other allowed synthetic materials. Second, this would not cover or allow FIFRA 25b materials listed at 40 CFR 152.25(f), which are generically accepted as “minimum risk” by EPA but are not registered. Lastly, the EPA sets tolerances higher than many other countries, so we do not have trust in this approach to protect organic integrity.

An alternative approach was to develop another external list. This is the situation we are trying to move away from, and the memo mentions that it is unclear how this would be created or maintained. This would be marginally, if at all, better than the current EPA List 3 and 4 in that it might have a more current starting point, but will eventually suffer from the same problem of obsolescence as the EPA lists.

Any functional approach to this problem will require a staggered approach to make it manageable for all involved in its implementation and to limit disruption to certified operations and manufacturers. We offer the following suggestions:

- Two possible approaches to adding the substances to the National List:
  - Allow EPA Lists 3 and 4 allowances to remain active until all allowed substances are added to the National List; Stakeholder comments can be used to prioritize the addition or review of certain substances, leading to a staggered addition to the National List, and therefore a staggering of sunset reviews.
    - Ideally, substances would be prioritized for review and addition to the List based on their level of concern, with suspected carcinogens and other substances of toxicity to humans or the environment reviewed first. This would shorten the timeframe in which any problematic material would continue to be allowed, while letting lower-risk materials be evaluated later.
  - Alternatively, all of the known inerts on Lists 3 and 4 that are in use now could be added to the National List and then reviewed during their sunset reviews, which would be set up in a similarly staggered manner according to priority from stakeholder feedback.
- Two possible locations on the National List to add these substances:
  - 205.601 – this would most closely resemble the functionality of the current listings, including the current 5-year sunset cycle that applies to everything in this section.
  - 205.607 – create a new section just for pest control inert ingredients. Having a separate section of the standards dedicated to inerts would allow the sunset review criteria to be adjusted to make the process more efficient and less burdensome. For example, substances could have an 8- or 10-year sunset cycle instead of a 5-year cycle, so that each year would have a shorter list of substances to review.
  - In either location, substances could be broken into categories based on chemical type that would allow for multiple substances to be included in the same Technical Report, significantly reducing the sunset review burden. NOC has suggested a grouping of synthetics based on chemical structure, with natural substances as their own group (natural substances from Lists 3 and 4 are already automatically allowed in pesticide formulations unless listed as prohibited at .602).

Individual substances could still be prohibited from an allowed category, as is the case with some current annotations on the National List.

NOSB should request stakeholder comments on how to categorize and group inerts that are currently in use, and then how to prioritize review of each group. It is our preference to create a new section at 205.607 with a longer sunset cycle to minimize the impact to NOSB of reviewing more materials and because this section is relevant to livestock and handling pesticides as well as crop pesticides. **We ask the NOSB to adopt a recommendation that:**

- 1. Starts with a motion to delist inerts from 205.601(m); and**
- 2. Builds on the List 3 recommendation that was passed but not implemented, adding a section that lays out the schedule for sunsets of the List 4 inert materials known to be used in organic production.**

## RESEARCH PRIORITIES

OEFFA supports the NOSB research priorities and appreciates the Board's ongoing work on this topic. We know there is interest from many sectors in eliminating the use of plastics in organic agriculture and to begin doing that work we are still in need of biodegradable bio-based mulch research that will facilitate effective product development and implementation. This is a tremendous business opportunity, and we hope to see progress on the research to facilitate that development soon.

OEFFA co-facilitates the Ohio Organic Farmer Researcher Network along with Ohio State University and Central State University. The network continues to prioritize **on-farm research in addition to university research station trials**. On-farm research grounds the trial in farmer experiences and the site-specific context of the work that is necessary for identification of needs and optimal solutions. On-farm research can facilitate ongoing communication between farmers and researchers as questions are posed and requests for letters of support and commitment are secured. Please emphasize these partnerships as having merit in the world of organic research, especially since organic farmers have achieved so much with such a comparatively small investment of USDA research dollars over time.

We previously requested **the development of scientific methodology to assess and quantify soil biological activity in an accurate and accessible manner for on-farm use**. As we advocate for the prioritization of organic management systems in addressing the climate crisis, it will be critical that we have the tools and processes to assess the many benefits of holistic and synergistic management approaches. While we know there is no one tool that will provide all of the data on soil health that we need, we would appreciate some assessment of the tools out there and how organic producers can start to collect critical soil health data.

Please also include holistic analysis of conventional and organic management system greenhouse gas impacts. If we are to continue to move the USDA in support of organic agriculture, we need to show the data illustrating the climate benefits of these systems. Organic agriculture is a climate-smart practice and needs to be recognized at the USDA as such.

We also support NOC's comments proposing the addition of a racial inclusivity and equity research priority under the General section.

Finally, we will reiterate the importance of research into natural alternatives to dL-methionine. As this substance has come up again for Sunset, we are no closer to a valid framework for adjusting the annotation or removing the substance from the National List that will work for the organic livestock industry as a whole.

We have not had an update from NIFA since the spring 2022 NOSB meeting. Please schedule another meeting for 2024 so



that we can better understand how NOSB research priorities relate to the NIFA research priorities, what has been acted upon and what remains. This regular communication would best serve the organic community and research institutions writ large.

## POLICY DEVELOPMENT SUBCOMMITTEE

### POLICIES & PROCEDURES MANUAL UPDATES

We appreciate the Board's attention to detail in updating the PPM to better match current practices. That said, we have some concerns with two of the updates and the practices they describe.

First, an update was made to say that meeting transcripts will be made available to the public. The reference to recordings was removed, and no timeline was listed for how promptly after a meeting the transcript would be published. It is our experience that transcripts are often published well after the meeting ends, and not much ahead of the next semiannual meeting. This gives little time for stakeholders to review them prior to comment due dates for the next meeting and does not consider the accessibility for diverse individuals who may want to participate in the comment process. In addition, while transcripts are easily searchable and it is very helpful to have meeting comments and discussions in writing, nuances of tone are completely lost. **We ask that the Board and NOP consider making recordings of the meetings available to the public including the transcripts.** This would provide maximal accessibility of the information to stakeholders. It would also be possible to make the recording available nearly instantaneously after the meeting ends, giving stakeholders much more time to review it before the next meeting comes along.

We also have a concern with the redesignation in 2022 of four seats from "representative" to "Special Government Employee (SGE)." We recognize that the Board did not make this decision, and that since all seats are appointed by USDA Secretary, none of them are fully democratic. However, this change is significant to the essential functioning of the NOSB. Under OFPA, NOSB exists to listen to and represent stakeholders throughout the organic industry and movement. The difference between the classifications is that "representatives" represent a portion of industry or other organic stakeholders, whereas SGEs are now explicitly representing the government, contrary to the purpose of the NOSB.

Organic stakeholders are more likely to lose faith in the NOSB if meetings, transcripts, or NOSB members themselves are less accessible. Please consider ways to uphold the integrity of NOSB and increase stakeholder involvement, rather than diminishing them.

On behalf of the Ohio Ecological Food and Farm Association and OEFFA Certification,



Milo Petruziello, Policy Director



Sal Pinkham, Certification Program Manager