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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 205

[Document Number AMS–NOP–21–0042]

#### National Organic Program: 2021 and 2022 Sunset Review and Substance Renewals

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** 2021 and 2022 sunset review and renewals.

**SUMMARY:** This document announces the renewal of substances listed on the National List of Allowed and Prohibited Substances (National List) within the U.S. Department of Agriculture's (USDA) organic regulations. This document reflects the outcome of the 2021 and 2022 sunset review processes and addresses recommendations submitted to the Secretary of Agriculture (Secretary), through the USDA's Agricultural Marketing Service (AMS), by the National Organic Standards Board (NOSB).

**DATES:** Applicable September 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jared Clark, Standards Division, Telephone: (202) 720–3252; Fax: (202) 260–9151.

#### SUPPLEMENTARY INFORMATION:

##### Background

AMS administers the National Organic Program (NOP) under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6524). The regulations implementing the NOP, also referred to as the USDA organic regulations (7 CFR part 205), were published on December 21, 2000 (65 FR 80548) and became effective on October 21, 2002. Through these regulations, AMS oversees national organic standards for the production, handling, and labeling of organically produced

agricultural products. Since October 2002, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601–205.606.

The National List identifies the synthetic substances allowed to be used and the nonsynthetic substances prohibited from use in organic farming. The National List also identifies nonagricultural substances and nonorganic agricultural substances that may be used in organic handling. The OFPA and USDA organic regulations specifically prohibit the use of any synthetic substance in organic production and handling unless an exemption for using the synthetic substance is provided on the National List. Section 205.105 of the USDA organic regulations also requires that any nonorganic agricultural substance and any nonagricultural substance used in organic handling be listed as allowed on the National List.

The OFPA at 7 U.S.C. 6518 authorizes the NOSB, operating in accordance with the Federal Advisory Committee Act (§ 1 *et seq.*, 5 U.S.C. App.2), to assist in evaluating substances to be allowed or prohibited for organic production and handling and to advise the Secretary on the USDA organic regulations. The OFPA sunset provision (7 U.S.C. 6517(e)) also requires a review of all substances included on the National List within five years of their addition to or renewal on the list. During this sunset review, the NOSB considers any new information pertaining to a substance's impact on human health and the environment, its necessity due to the unavailability of wholly natural substances, and its consistency with organic production and handling. The NOSB subsequently votes on whether to remove a substance from the National List.

The Agricultural Improvement Act of 2018 amended the OFPA at 7 U.S.C. 6518(i)(2) to specify that any vote on a motion proposing to amend the National List requires  $\frac{2}{3}$  of the votes cast at a meeting of the NOSB at which a quorum is present to prevail. A substance remains on the National List unless an NOSB motion to remove that substance carries with  $\frac{2}{3}$  of votes cast, and the Secretary subsequently renews or amends the listing for the substance. The NOSB submits its sunset review and recommendations to the Secretary.

As delegated by the Secretary, AMS evaluates the sunset review and recommendations for compliance with the National List substance evaluation criteria set forth in OFPA at 7 U.S.C. 6518(m) and other federal statutes or regulations. AMS also considers public comments submitted during the sunset review process.

AMS published an updated sunset review process in the **Federal Register** on September 16, 2013 (78 FR 56811). In accordance with the sunset review process, AMS published notices in the **Federal Register** announcing the NOSB meetings and invited written public comments on the 2021 and 2022 sunset review of the substances included in Table 1 and Table 2 below. AMS also hosted oral public comment sessions to provide opportunities for public comment prior to NOSB meetings. Oral public comments were also heard at the start of the spring 2019 & 2020 and fall 2019 & 2020 NOSB meetings. At these public meetings, the NOSB reviewed substance listings scheduled to sunset from the National List and recommended that listings either be removed or remain on the National List. The NOSB's recommendations for sunset reviews completed in 2019 and 2020 can be found at <https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations/>.

AMS has reviewed and accepted the NOSB's sunset review recommendations and is renewing the listings of the substances in Table 1 and Table 2. These renewals align with the NOSB's conclusions and have been reviewed by AMS against the OFPA criteria (7 U.S.C. § 6517(c)). AMS has determined that the substance allowances listed in this document continue to meet the requirements in OFPA at § 6517(c)(1)(A). The renewal of these substance allowances will allow for continued use by organic operations. AMS also has determined that the four prohibited nonsynthetic substances listed in this document—ash from manure burning, sodium fluoaluminate, arsenic, and strychnine—should remain prohibited, as recommended by the NOSB, because use of the substances continues to meet the criteria for prohibition at § 6517(c)(2)(A).

The NOSB also recommended to the Secretary the removal of several National List substances at the

conclusion of the sunset review.<sup>1</sup> These removals from the National List will be addressed in a separate notice and comment rulemaking and are not included in this document.

Table 1 lists the substance exemptions being renewed through this document that were reviewed by the NOSB in calendar year 2019. These specific substance allowances and

prohibitions continue as listed on the National List with a new sunset date of September 12, 2026.

TABLE 1—NATIONAL LIST SUBSTANCES RENEWED  
[Reviewed by NOSB in 2019]

Substance	Use conditions
§ 205.601 Synthetic substances allowed for use in organic crop production:	
Hydrogen peroxide .....	As described under § 205.601(a)(4).
Hydrogen peroxide .....	As described under § 205.601(i)(5).
Soaps, ammonium .....	As described under § 205.601(d).
Horticultural oils .....	As described under § 205.601(e)(7).
Horticultural oils .....	As described under § 205.601(i)(7).
Pheromones .....	As described under § 205.601(f).
Ferric phosphate .....	As described under § 205.601(h)(1).
Potassium bicarbonate .....	As described under § 205.601(i)(9).
Magnesium sulfate .....	As described under § 205.601(j)(6).
Hydrogen chloride .....	As described under § 205.601(n).
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production:	
Ash from manure burning .....	As described under § 205.602(a).
Sodium fluoaluminat .....	As described under § 205.602(g).
§ 205.603 Synthetic substances allowed for use in organic livestock production:	
Atropine .....	As described under § 205.603(a)(3).
Fenbendazole .....	As described under § 205.603(a)(23)(i).
Hydrogen peroxide .....	As described under § 205.603(a)(15).
Iodine .....	As described under § 205.603(a)(16).
Iodine .....	As described under § 205.603(b)(4).
Magnesium sulfate .....	As described § 205.603(a)(19).
Moxidectin .....	As described under § 205.603(a)(23)(ii).
Peroxyacetic/Peracetic acid .....	As described under § 205.603(a)(24).
Xylazine .....	As described under § 205.603(a)(30).
DL-Methionine .....	As described under § 205.603(d)(1).
Trace Minerals .....	As described under § 205.603(d)(2).
Vitamins .....	As described under § 205.603(d)(3).
§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s))”:	
Acids (Citric—produced by microbial fermentation of carbohydrate substances; and Lactic)	As described under § 205.605(a).
Calcium chloride .....	As described under § 205.605(a).
Enzymes .....	As described under § 205.605(a).
L-malic acid .....	As described under § 205.605(a).
Magnesium sulfate .....	As described under § 205.605(a).
Microorganisms .....	As described under § 205.605(a).
Perlite .....	As described under § 205.605(a).
Potassium iodide .....	As described under § 205.605(a).
Yeast .....	As described under § 205.605(a).
Activated charcoal .....	As described under § 205.605(b).
Ascorbic acid .....	As described under § 205.605(b).
Calcium citrate .....	As described under § 205.605(b).
Ferrous sulfate .....	As described under § 205.605(b).
Hydrogen peroxide .....	As described under § 205.605(b).
Nutrient vitamins and minerals .....	As described under § 205.605(b).
Peracetic acid/Peroxyacetic acid .....	As described under § 205.605(b).
Potassium citrate .....	As described under § 205.605(b).
Potassium phosphate .....	As described under § 205.605(b).
Sodium acid pyrophosphate .....	As described under § 205.605(b).
Sodium citrate .....	As described under § 205.605(b).
Tocopherols .....	As described under § 205.605(b).
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic”:	
Celery powder .....	As described under § 205.606(c).
Fish oil .....	As described under § 205.606(e).
Gelatin .....	As described under § 205.606(g).
Orange pulp (dried) .....	As described under § 205.606(n).
Seaweed, Pacific kombu .....	As described under § 205.606(r).
Wakame seaweed ( <i>Undaria pinnatifida</i> ) .....	As described under § 205.606(v).

<sup>1</sup> National Organic Program; Proposed Amendments to the National List of Allowed and

Prohibited Substances (2022 Sunset). AMS–NOP–19–0106 (both 2019 mtgs and 2020 mtgs).

Table 2 lists the substance exemptions being renewed through this document that were reviewed by the

NOSB in calendar year 2020. These specific substance allowances and prohibitions continue as listed on the

National List with a new sunset date of March 15, 2027.

TABLE 2—NATIONAL LIST SUBSTANCES RENEWED

[Reviewed by NOSB in 2020]

Substance	Use conditions
§ 205.601 Synthetic substances allowed for use in organic crop production:	
Soap-based algicide/demossers .....	As described under § 205.601(a)(7).
Ammonium Carbonate .....	As described under § 205.601(e)(1).
Soaps, insecticidal .....	As described under § 205.601(e)(8).
Vitamin D <sub>3</sub> .....	As described under § 205.601(g).
Aquatic plant extracts .....	As described under § 205.601(j)(1).
Lignin sulfonate .....	As described under § 205.601(j)(4).
Sodium silicate .....	As described under § 205.601(l).
EPA List 4 .....	As described under § 205.601(m)(1).
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production:	
Arsenic .....	As described under § 205.602(b).
Strychnine .....	As described under § 205.601(i).
§ 205.603 Synthetic substances allowed for use in organic livestock production:	
Butorphanol .....	As described under § 205.603(a)(5).
Flunixin .....	As described under § 205.603(a)(12).
Magnesium hydroxide .....	As described under § 205.603(a)(18).
Poloxalene .....	As described under § 205.603(a)(26).
Formic acid .....	As described under § 205.603(b)(3).
EPA List 4 .....	As described under § 205.603(e)(1).
Excipients .....	As described under § 205.603(f).
§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production:	
Strychnine .....	As described under § 205.604(a).
§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s))”:	
Kaolin .....	As described under § 205.605(a).
Sodium bicarbonate .....	As described under § 205.605(a).
Waxes .....	As described under § 205.605(a).
Ammonium bicarbonate .....	As described under § 205.605(b).
Ammonium Carbonate .....	As described under § 205.605(b).
Calcium phosphates .....	As described under § 205.605(b).
Ozone .....	As described under § 205.605(b).
Sodium hydroxide .....	As described under § 205.605(b).
§ 205.606 Nonorganically produced agricultural ingredients allowed as ingredients in or on processed products labeled as “organic”:	
Carnauba wax .....	As described under § 205.606(a).
Beet juice extract color .....	As described under § 205.606(d)(1).
Black/purple carrot juice color .....	As described under § 205.606(d)(4).
Chokeberry, aronia juice color .....	As described under § 205.606(d)(8).
Elderberry juice color .....	As described under § 205.606(d)(9).
Grape skin extract color .....	As described under § 205.606(d)(11).
Purple sweet potato juice color .....	As described under § 205.606(d)(14).
Red cabbage extract color .....	As described under § 205.606(d)(15).
Red radish extract color .....	As described under § 205.606(d)(16).
Saffron extract color .....	As described under § 205.606(d)(17).
Glycerin .....	As described under § 205.606(h).
Inulin-oligofructose enriched .....	As described under § 205.606(j).
Orange shellac-unbleached .....	As described under § 205.606(o).
Cornstarch (native) .....	As described under § 205.606(s)(1).

Authority: 7 U.S.C. 6501–6524.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

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