

Appendix A

Beyond Pesticides

National Organic Program (NOP) Fails to Carry Out National Organic Standards Board (NOSB) Recommendations

The *Organic Foods Production Act* (OFPA) establishes National Organic Standards Board (NOSB) to advise USDA in establishing the National Organic Program (NOP) and implementing the act.

In its NOSB Recommendations Library,¹ NOP categorizes its response to the recommendations of the NOSB as “closed,” “complete,” “in process,” or “on hold.” Here we examine these categories, all of which denote a lack of action by NOP on the recommendation. The categories of “closed” and “on hold” mean that the NOP has decided not to move ahead without delay in implementing the recommendation. We believe that NOP should only close or put on hold actions (with an announced extension and timeframe in the Federal Register) when the decision to do so is made in a transparent way with opportunity for public comment and final rulemaking.

Closed

What does this mean? According to Michelle Arsenault, Advisory Committee Specialist working with the NOSB, “closed” means “The NOP has no further plans for the substance/project. The NOP cannot/will not move forward with rulemaking at this time. Sometimes that’s because of the results of an economic analysis, which we are required to conduct. Or it might be because the recommendation was out of our Scope/authority at the USDA.”

Summary

NOP has “closed” several issues on which it has not completed action. In some cases (NL), there is an “interim rule” from 2012. In two cases, “Included in Proposed Rule for addition to the National List, but not in Final Rule due to public comments indicating availability of organic forms.” In the case of natamycin, “Classified as nonsynthetic; recommended for addition to the National List section §205.602 (list of prohibited nonsynthetic substances). NOP 19-01; Final Rule (85 FR 70431) 11/05/2020 did not add to §205.602.” But the final rule does state that NOP will not add it to §602. Why is it classified as “closed,” rather than “complete” if a decision has been made?

There is a long list of practice standards recommendations that have never made it to a proposed rule, including recommendations on apiculture, mushroom, pet food, several aquaculture, containers, and eliminating the incentive to convert native ecosystems to organic crop production.

For sunsets, the list of closed issues includes sodium nitrate, plus six recommendations to remove that were not followed by NOP: inulin-fructose enriched, Turkish bay leaves, whey

¹ <https://www.ams.usda.gov/sites/default/files/media/NOSBRecommendationsLibrary.pdf>.

protein concentrate, carrageenan, oxytocin, and sucrose octanoate esters. The last six were all subjects of a final rule.

Analysis

National List

The following are considered closed based on an interim rule of September 27, 2012:² arachidonic acid (ARA) from fungal oil, docosahexaenoic acid (DHA), choline, inositol, L-methionine, and taurine. The recommendations for listing came as a result of a correction of the interpretation of the “nutrient vitamins and minerals” listing, which refers to FDA regulations. Additional nutrients were covered in subsequent NOSB actions.

The additional nutrients, which were considered at the Fall 2012 meeting are: ascorbyl palmitate, beta carotene, lutein, lycopene, L-carnitine, and L-methionine. However, the recommendation to add taurine failed.³ None of these are on the National List because NOP side-stepped the nutrient vitamin and mineral issue that the NOSB sought to address. (The nutrient vitamin and mineral debacle deserves a separate treatment.) In the Federal Register notice, AMS (Agricultural Marketing Service) said:

Once the NOSB completes its review and has issued recommendations on all petitioned nutrients, the public will be able to more fully comment on the implications of correcting the FDA cross reference as proposed. For this reason, we are requesting comments through this interim rule. After consideration of comments submitted to both the proposed rule and this interim rule, AMS intends to issue a final rule that will address the proposed correction to the listing for nutrient vitamins and minerals on the National List. As previously noted, AMS would need to conduct separate rulemaking to codify the exemptions based on recommendations by the NOSB for any petitioned substance.

Therefore, consistent with the April 2011 NOSB recommendation, this interim rule continues the allowance for nutrient vitamins and minerals at section 205.605(b) as follows: “Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines for Foods.” This action enables the industry to continue with the status quo until additional public comments are received and a final rule is published. This action avoids the widespread disruption to the organic market that would occur if the allowance for any synthetic vitamins and minerals were to sunset (“expire”) from the National List on October 21, 2012.

Citrus hystrix and curry leaves

The table states, for both *Citrus hystrix* leaves and fruit and curry leaves, “Included in Proposed Rule for addition to the National List, but not in Final Rule due to public comments indicating availability of organic forms.” In fact, both were included in the proposed rule (78 FR 52100),

² 77 FR 59287.

³ <https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations/fall2012>.

and the final rule (79 FR 58655) stated reasons for not listing due to the availability of organic forms. Thus, reasons for AMS's decisions were given in the final rule.

AMS final rule:

Thirteen comments addressed the proposed allowance of two nonorganic ingredients in organic processing: Citrus hystrix, leaves and fruit, and curry leaves (*Murraya koenigii*). These substances were proposed to be added to section 205.606 of the National List based on two NOSB recommendations. Several comments opposed the allowance of any nonorganic ingredients in organic processing, including nonorganic Citrus hystrix and curry leaves. Several comments opposed the specific allowance of Citrus hystrix and curry leaves due to concerns about pesticide residues, particularly on imported ingredients, since the majority of production occurs outside of the United States. (One example cited: <http://english.doolnews.com/curry-leaf-laced-with-deadly-pesticides-kerala-news-10453-10453.html>.) One comment opposed the import of any food into the United States, which is outside of the scope of this action. One comment raised questions about whether these ingredients would be checked for pesticides, other substances, or evaluated for purity and another commenter raised questions on how the nonorganic ingredients were produced. One comment indicated that these plants are relatively easy to cultivate and that companies need to contact growers to see if they are willing to grow organic forms of these ingredients. One producer indicated that their farm produces organic curry leaves in Hawaii, but did not provide details on the amounts produced. Several comments raised questions about organic search requirements for commercial availability and claimed that allowing nonorganic ingredients would decrease the incentive for developing organic sources of these ingredients. Another comment supported the allowance of the nonorganic ingredients only under an alternative labeling program whereby the products would not be labeled as organic and only if the allowance of nonorganic ingredients met additional criteria. These additional criteria are beyond the scope of the USDA organic regulations.

After consideration of the comments, AMS has not amended section 205.606 to include Citrus hystrix and curry leaves. We noted a lack of comments in support of the proposed rule to allow these ingredients in organic handling. While an organic handler originally submitted the petition for these ingredients for review by the NOSB, no handlers commented on the need for nonorganic Citrus hystrix and curry leaves. In the absence of comments in support of their allowance, we have not determined at this time that these substances are necessary to the production or handling of an agricultural product, as required by section 6517 of OFPA; therefore, we have not added these substances to the National List.

However, AMS believes that the majority of issues raised by commenters that opposed the inclusion of curry leaves and Citrus hystrix do not uniquely apply to these ingredients when compared to other ingredients that are eligible for inclusion on section 205.606 of the National List. For example, demonstrating that an organic form is not commercially available is required prior to use of any nonorganic substance listed at

section 205.606. In addition, the use of imported ingredients listed at section 205.606 is allowed, provided that the ingredients comply with any food safety requirements under the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301-399) or the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136-136(y)) that apply to all food.

In addition, we specifically note that this action does not change the eligibility of processed products that are labeled "made with organic (specified ingredients or food group(s))" to contain nonorganic forms of Citrus hystrix or curry leaves, as allowed under section 205.304 of the USDA organic regulations. Handlers interested in using nonorganic forms of these ingredients continue to be eligible for the "made with organic (specified ingredients or food group(s))" label claim, provided that all other requirements under the USDA organic regulations are met.

Natamycin

AMS proposed ([84 FR 55866](#)), following the NOSB recommendation, that natamycin be listed on §205.602, nonsynthetic substances prohibited for use in organic crop production. In the final rule ([85 FR 70431](#)), AMS explains its decision not to list natamycin on §205.602:

In regards [sic] to natamycin, several public comments also presented research findings to challenge the conclusions that natamycin use in organic crop production would increase fungal resistance to antimicrobials, have negative environmental or human health impacts, and that a prohibition meets the OFPA criteria for prohibiting natural substances. AMS agrees that these research findings should be considered as part of the totality of the information considered on natamycin, and that the merits of those findings should be discussed as part of any regulatory action. AMS has not assessed the validity of the research findings presented in public comment, and AMS believes that the availability of this information warrants consideration before finalizing a prohibition on natamycin in organic production. As a result, AMS is not finalizing the proposed amendment to add natamycin as a nonsynthetic substance prohibited for use in organic crop production.

And

The information presented in public comments opposing the proposed actions should be assessed before any new proposal for regulatory action. AMS may invite additional input from the NOSB on these topics; the NOSB's work may include conducting further study of the information and potential impacts and risks presented in public comments. AMS will not continue rulemaking on these two substances [natamycin and blood meal with sodium citrate] unless the NOSB forwards a new recommendation(s) on these topics to AMS.

There are three comments in the docket in response to the proposed rule. The first is the National Organic Coalition's (NOC) comment, which gives evidence of natamycin's use in medicine and cites evidence of horizontal gene transfer in two of the affected pathogens. The

second is from the California Citrus Quality Council, which argues against conclusions of the Technical Report, but does not present any research in support of those arguments. The third is from the Biological Products Industry Alliance, which bases opposition to the proposed listing on conflating antibiotics with antimicrobials, claiming that the concerns about the former do not apply to the latter. These are all issues that had been considered by the NOSB and are not new.

Discussion—closed National List issues

The nutrients covered in the interim rule should not be considered “closed,” and neither should nutrient vitamins and minerals be considered “complete.” The NOSB undertook to clarify the issues around an obsolete regulatory reference. Rather than working with the NOSB to complete the job, NOP chose to perpetuate the obsolete reference. Instead of closing the door on nutrient vitamins and minerals, it should go back onto the NOSB workplan.

While we agree that *Citrus hystrix* and curry leaves should not be on §205.606, there needs to be a clear and fully explained process for handling recommendations when AMS receives information contradicting the NOSB decision. In the case of these two materials, the response—or lack thereof—to the proposed rule suggests that they do not meet the requirements for listing, so one of two options seems better than “closing” the case. First, having made the case as it did in the final rule, NOP could rule the issues “complete.” While OFPA does not address this case specifically, the “no additions” provisions does offer guidance—NOP may adopt regulations that are more stringent/restrictive than the NOSB recommendation, but not more lenient/looser than those the NOSB recommends. Alternatively, NOP could send them back to the NOSB for reconsideration.

In the case of natamycin, it does not appear that commenters to AMS have presented anything not considered by the NOSB. If that is true, then AMS should list natamycin on §602 as recommended by the NOSB. If there is new information, then the issue should be returned to the NOSB for reconsideration. The issue should not be labeled “closed,” with no likelihood of resolving the issue short of a petition.

Practice Standards

NOP has closed the files on several practice standards recommended by the NOSB, leading to a crisis in organic integrity. Of the practice standards recommendations classified as “closed,” six (not counting pet food) are livestock standards. They include four relating to aquaculture. The other closed livestock issues are apiculture (twice). Organic livestock and poultry practices (OLPP—four recommendations) have been moved to “in process.” The remaining practice standards classified as “closed” are mushroom production, removing handlers from the \$5000 exemption, pet food, container and greenhouse production, and eliminating the incentive to convert native land to organic production. Organic aquaculture is not possible without these standards. NOP has allowed labeling of “organic” pet foods, bee products, and mushrooms production through a jumble of standards—which is the very situation that OFPA was designed to correct. With the failure of NOP to implement rules on container and greenhouse

production, the production of fruits and vegetables in solutions of soluble nutrients passing as “organic” has grown without restraint.

Apiculture, pet foods, and mushrooms

NOP says, “Honey, mushrooms, and pet food may be certified to current production and handling standards and must comply with labeling requirements for organic products certified under these standards. Talk to your certifier for details.”⁴ Regarding apiculture standards, Harriet Behar, former chair of the NOSB, says, “[W]hile this does not affect many producers, it does affect organic integrity that we have a hodge-podge of various standards out there—all very different from each other. The NOP allows the USDA organic seal on organic honey, if it is certified by an accredited certifier. I know the rules were VERY close to being done at the end of the Obama administration. Also, there are numerous materials on the NL for organic apiculture, but no standards behind this material use.” The same comments apply to mushrooms and pet food—the hodgepodge of standards has an impact on organic integrity.

Native ecosystems

The recommendation to eliminate the incentive to convert native ecosystems to organic production would correct a serious problem in the regulations that cause potential organic farmers to choose destruction of native ecosystems over conversion of land that has been farmed nonorganically. Since the preservation of native ecosystems is important in combatting climate change, this recommendation is essential to promoting organic agriculture as a climate solution.

NOP gave this brief explanation for why they are not moving forward with Native Ecosystems: "NOP has not made this recommendation a regulatory priority. Provisions within this recommendation appear to contradict the wild crop standard which allows product harvested from unmanaged land to be certified as organic. Before proceeding with this recommendation, NOP would like to see significant support by the organic industry and Congressional action may be needed. AMS invites comments on this prioritization, including whether increased utilization of existing USDA programs could help meet some of the goals of this recommendation."

Contrary to NOP’s impression, the NOSB’s recommendation to protect native ecosystems does not contradict the wild crop standard. In fact, NOP worked with the NOSB to produce language allowing native ecosystems to be harvested. The recommendation requires that a native ecosystem retain "both dominant and characteristic plant species as described by established classifications of natural vegetation." Wild crop harvesting can achieve that by taking care to ensure that the "expected plant species and structure" that define the native ecosystem are not destroyed. The wild crop 205.207(b) standard supports the protection of native ecosystems because it requires that "harvesting or gathering will not be destructive to the environment."

While "increased utilization of existing USDA programs may help meet some of the goals of this recommendation," such as better enforcement of the wild crop standard and the natural

⁴ <https://www.ams.usda.gov/rules-regulations/organic/labeling>.

resources biodiversity conservation standard, USDA's "sodsaver" provision, and similar "swampbuster" provision of the Farm Bill, they will not prevent conversion of native ecosystems before organic certification, which is when most of the destruction occurs.

Although organic production is much more protective of ecosystems than chemical-intensive production, *any* destruction of native ecosystems is damaging to biodiversity and a stable climate.

Sunset

NOP has closed the cases on seven sunset recommendations—the 2011 recommendation on sodium nitrate, three recommendations to remove materials from §205.606 (inulin-oligofructose enriched (IOE), Turkish bay leaves, whey protein powder), removal of carrageenan from §205.605(a), removal of oxytocin from §205.603, and removal of sucrose octanoate esters (SOEs) from §205.601 and §205.603.

Sodium nitrate

In 2011, the NOSB voted to change the annotation of sodium nitrate on §602 by removing the language allowing use up to 20% of the crop's total nitrogen requirement, which would make it totally prohibited. NOP did not address sodium nitrate in the same rulemaking as other sunsets, promising later action. In spite of a statement from Jenny Tucker, deputy administrator for the National Organic Program, at the Fall 2011 NOSB meeting that it was recognized by NOP at the time that based on the number of people using sodium nitrate, that it was known that it would have a significant economic impact that could prevent the listing as voted, at the Spring 2013 NOSB meeting, Miles McEvoy, then deputy administrator for the National Organic Program, said, "We have a sodium nitrate proposed rule that will be out this year. That's past due, as you all know. The sodium nitrate sunsetted or expired in October of last year, and so we're behind on that particular rulemaking docket." Mr. McEvoy stated in Spring 2014 that the sodium nitrate was still "in progress." In Spring 2015, Mr. McEvoy said,

Another topic that we get a lot of questions about is around sodium nitrate, which, if you look at 7 CFR 205.602, sodium nitrate is on the list of prohibited, nonsynthetic materials list. So, AMS has not renewed sodium nitrate on 205.602. That is one of the requirements under the sunset provision, is that the NOSB reviews and the Secretary renews substances. But, for sodium nitrate, we have not been successful at completing our renewal of sodium nitrate on the prohibited natural list. So, the listing is invalid, and it is no longer enforceable.

But what we say in our September 11th, 2012 notice, that any use of sodium nitrate must meet the soil fertility and crop nutrient standard and the natural resource standard. So, we are in the process of moving that September 11th, 2012 notice into the Program Handbook. We had envisioned, when we put out that notice in September of 2012, that this would be a very short period of time when this listing was invalid, but we have been unsuccessful at completing that process on sodium nitrate. So, that

September of 2012 notice is kind of the current status of sodium nitrate. We do plan to address this in the future, but that is the current status of sodium nitrate.

And in Fall 2015, Mr. McEvoy acknowledged, “And we do have one outstanding substance review substance that we have not addressed and that is sodium nitrate, which is still an outstanding item that the program needs to resolve.” In Spring 2016, he said, “There is an outstanding issue of sodium nitrate.” In Fall 2016, Mr. McEvoy said, “[W]e do have a plan to address sodium nitrate for 2017.” Then, for some time, NOP stopped talking about sodium nitrate. In Fall 2018, Paul Lewis of the program said in response to a question, “The sodium nitrate issue is a complicated issue. We've had conversation internally in the department about the issue overall, but there's really no movement on the issue at this time. That's really where we are on this issue.” Then there was no more from NOP until Spring 2020, when Dr. Tucker said, “So, sodium nitrate is not currently on the regulatory agenda.”

Thus, we had an “invalid listing” for sodium nitrate because NOP has not been able to act. As was made clear at the Fall 2021 NOSB meeting, the failure to act on sodium nitrate has also had broader impact as growers “stack” uses of soluble fertilizers. At that meeting, the NOSB voted to restore the listing of sodium nitrate, limiting the use to 20% of the crop’s total nitrogen requirement, and to prohibit the use of nonsynthetic ammonia extracts classified as stripped ammonia and concentrated ammonia. Therefore, there is now a reason to close the case on the 2011 recommendation, since subsequent recommendations have taken its place. Nevertheless, sodium nitrate remains an important example of NOP’s failure to act.

[Inulin-oligofructose enriched \(IOE\), Turkish bay leaves, and whey protein concentrate](#)

The NOSB voted to remove IOE, Turkish bay leaves, and whey protein concentrate at the Fall 2015 meeting. In the final rule, AMS rejected these decisions and relisted all three materials.⁵

The NOSB voted unanimously to remove IOE from §606, stating, “The NOSB found this inulin is available from organic sources. Oligofructose (Fructooligosaccharides) are listed separately. Therefore, the NOSB found this inulin is available as organic and no longer needs to be listed.” In the final rule, AMS stated,

AMS also received public comments opposing the proposed removal of inulin-oligofructose enriched from the National List. Comments acknowledged that there are organic or alternate forms of inulin available, such as inulin from organic agave and fructooligosaccharides, but explained that these are not equivalent to inulin-oligofructose enriched, which is sourced only from chicory root and provides unique functionality for use as a prebiotic in organic infant formula. The comments indicated that an adequate supply of organic chicory root is not commercially available.

⁵ [82 FR 31241](#).

The NOSB voted unanimously to remove Turkish bay leaves from §606, stating, “The NOSB found this material is available from organic sources and no longer needs to be listed.” In the final rule, AMS stated,

AMS received public comments which opposed the removal of Turkish bay leaves from the National List. These public comments stated that organic Turkish bay leaves are not available in the quantity or quality needed to meet organic handling needs. The comments explained that the different flavor profile of ground organic Turkish bay leaves would negatively impact finished products. Comments requested that AMS maintain the allowance for nonorganic Turkish bay leaves while suppliers pursue sources of organic Turkish bay leaves in sufficient quality and quantity to meet industry needs.

The NOSB voted unanimously to remove whey protein concentrate (WPC) from 205.606, stating, “The NOSB found this material is available from organic sources and no longer needs to be listed.” In the final rule, AMS stated,

AMS received public comment opposing the removal of whey protein concentrate from the National List. Whey protein concentrate is used as an ingredient in various products including bakery, confectionary, processed meat, infant formula, and dairy products. Public comments submitted indicated that whey protein concentrate is essential to organic processed products and is not commercially available in organic form at this time.

AMS concluded,

In consideration of the new information presented in public comments, AMS has determined that nonorganic forms of Turkish bay leaves, inulin-oligofructose enriched, and whey protein concentrate are essential to organic production and handling and should remain on the National List. The USDA organic regulations may allow the use of nonorganic substances that are not commercially available in organic form, quality, or quantity, and are necessary to organic handling. As with other substances in section 205.606 of the National List, organic handlers are permitted to use the nonorganic substance only if the organic substance is not commercially available. Handlers will need to demonstrate, and certifiers will need to verify, that the organic substance is not available in the form, quality or quantity needed. Further, any member of the public may petition to remove an agricultural substance from the National List if an organic substance becomes commercially available.

Carrageenan

At the Fall 2016 NOSB meeting, the board voted 10-3, with one abstention and one absent, to remove carrageenan from §605(a). In its decision document, the NOSB said:

Because there was intense scrutiny about carrageenan, each OFPA criteria was reviewed carefully and all public comment was acknowledged. Here are the results of that evaluation:

OFPA criteria at 7 CFR 6518(m)

- (1) The potential of such substances for detrimental chemical interactions with other materials used in organic farming systems; not applicable.
- (2) The toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment; no concerns were found about the substance and its breakdown in the environment.
- (3) The probability of environmental contamination during manufacture, use, misuse, or disposal of such substance; there may be negative impacts on the environment from harvesting wild seaweed. Indications are that most of this species of seaweed is now farmed, and some farming methods are more sustainable and ecologically sound than others. It appears that it might be possible for the seaweed to be farmed organically, and this might improve the environmental footprint. Additionally, there are several ways to manufacture the carrageenan from seaweed. Some of these would result in a non-synthetic version, while at least one method might be considered a synthetic extraction.
- (4) The effect of the substance on human health; The research indicating that there may be negative health effects on all humans in terms of inflammation, glucose intolerance, or tumors does not seem to be replicated in the large body of scientific literature. There are many anecdotal reports of sensitivity to carrageenan in foods from individuals in public comments. These concerns have not been studied in the literature, however they are acknowledged. This was not seen as a primary reason to remove carrageenan since it is listed on the labels as a food ingredient.
- (5) The effects of the substance on biological and chemical interactions in the agroecosystem; No concerns noted except as above in (3).
- (6) The alternatives to using the substance in terms of practices or other available materials; an extensive list was prepared of all the food product categories in which carrageenan is used. In most of the product types there are versions that are currently being sold that do not contain carrageenan. These often contain other types of gums such as gellan, guar, or xanthan. Products for vegetarians where carrageenan is used in place of gelatin will be the most difficult to produce without it, but the majority of NOSB members were not concerned about this class of products being impacted.
- (7) Its compatibility with a system of sustainable agriculture; A majority of NOSB members believed that this ingredient is not compatible with sustainable agriculture because it is so controversial and they wanted to invoke the Precautionary Principle. Also invoked were the NOSB Guidance on Compatibility from the Appendix of the NOSB Policy and Procedures Manual that poses this factor (out of 12) for consideration, "Does the substance satisfy expectations of organic consumers regarding the authenticity and integrity of organic products?"

In its final rule, AMS announced that it was relisting carrageenan, saying:

The NOSB recommended removing one substance, carrageenan, and completed its sunset review for the 16 other substances. The NOSB recommended removing carrageenan because they determined that alternative materials, such as gellan gum, guar gum, or xanthan gum, are available for use in organic products.

AMS has reviewed NOSB's sunset review document and decided to renew all 17 substances, including carrageenan. AMS found sufficient evidence in public comments to the NOSB that carrageenan continues to be necessary for handling agricultural products because of the unavailability of wholly natural substitutes (§ 6517(c)(1)(ii)). Carrageenan has specific uses in an array of agricultural products, and public comments reported that potential substitutes do not adequately replicate the functions of carrageenan across the broad scope of use. Therefore, carrageenan continues to meet the OFPA criteria for inclusion on the National List.

Oxytocin

In 2017, the NOSB voted to remove oxytocin from the National List, but NOP refused to make the change, which was the subject of a proposed rule August 24, 2021. In a final rule published February 28, 2022, NOP stated that it is relisting oxytocin. While NOP cited some comments supporting its action in the final rule, it did not justify relisting a synthetic material contrary to the recommendation of the NOSB—and hence contrary to OFPA's "no additions" clause (§6517(d)(2)).

Oxytocin is a hormone and, even if rarely used, it leaves organic dairy farmers open to valid criticism that they can still use hormones. Oxytocin may be a good treatment for prolapsed uterus, but alternative treatments are also available. Paul Dettloff's *Alternative Treatments for Ruminant Animals* lays out a procedure that uses some organically approved treatments and does not require oxytocin for a successful outcome. He uses a mixture of warm water and aloe vera with a tincture to induce uterine contractions. He says, "They usually breed back and won't prolapse the next time."

Prolapse should be a rare occurrence. Past comments have shown the annotation to be vague and that oxytocin was misused, to help cows let down their milk. Comments cited by NOP confirm this use. Cows can become dependent on it for let-down. It is a hormone, and even though its use is intended to be limited, allows a use of hormone in organic dairy, which is contrary to consumer expectations.

Sucrose Octanoate Esters (SOEs)

The NOSB voted to remove SOEs, which are synthetic, from the National List based on a lack of efficacy and availability of more effective alternatives, leading to a judgment that SOEs are not essential, as required of a material for listing on the National List. While NOP cited some comments supporting its action in the final rule, it did not address the reasoning of the NOSB or justify relisting a synthetic material contrary to the recommendation of the NOSB—and hence contrary to OFPA's "no additions" clause (§6517(d)(2)).

Sunset discussion

These sunset cases offer good examples of USDA’s challenge to the authority of the NOSB. It is the unquestioned role of the NOSB to examine materials for inclusion on the National List in light of the criteria in OFPA. In the cases of carrageenan and oxytocin, it is especially clear that NOP is challenging the NOSB’s judgment, and not deciding based on new evidence. The NOSB was careful to be clear about how it had examined the evidence for and against the listing of carrageenan. While less explicit in the cases of IOE, Turkish bay leaves, and whey protein concentrate, the NOSB did weigh evidence cited by AMS—some of which, like the lack of organic chicory, is ludicrous.

Furthermore, why are these cases considered “closed”—that is, an issue on which “NOP cannot/will not move forward with rulemaking at this time”? Could it have to do with NOP’s view that sunseting a material is an action, while keeping it on the list is not? To the contrary, we read sunset to mean that coming off a list is the norm and relisting the action.

Discussion: “Closed”

The category “closed” is used when NOP chooses not to follow NOSB recommendations. It is accompanied by a lack of transparency and often a failure to justify actions. Decisions concerning the National List are the undisputed purview of the NOSB and certainly should not be “closed” unilaterally by NOP.

The arbitrary disregard for NOSB practice recommendations seems to have the greatest impact on organic integrity.

List of Closed Recommendations

National List

Year	Date	Substance/ Recommendation	Action	Status	Notes
2011	12/2/2011	Docosahexaenoic acid (DHA)	Rulemaking	Closed	Interim Rule (77 FR 59287) 09/27/2012.
2011	12/2/2011	Arachidonic acid (ARA) from Fungal oil	Rulemaking	Closed	Interim Rule (77 FR 59287) 09/27/2012.
2012	5/25/2012	Citrus hystrix leaves and fruit - §205.606	Rulemaking	Closed	Included in Proposed Rule for addition to the National List, but not in Final Rule due to public comments indicating availability of organic forms.

2012	5/25/2012	Curry leaves - §205.606	Rulemaking	Closed	Included in Proposed Rule for addition to the National List, but not in Final Rule due to public comments indicating availability of organic forms.
2012	5/25/2012	Inositol - §205.605	Rulemaking	Closed	Interim Rule (77 FR 59287) 09/27/2012.
2012	5/25/2012	Choline - §205.605	Rulemaking	Closed	Interim Rule (77 FR 59287) 09/27/2012.
2012	10/17/2012	L-Methionine - §205.605	Rulemaking	Closed	Interim Rule (77 FR 59287) 09/27/2012.
2013	4/11/2013	Taurine	Rulemaking	Closed	NOSB recommended addition to 205.603 as a feed additive for use in pet food, only. Proposed Rule not published; not active on Regulatory Agenda.
2017	4/21/2017	L-methionine - §205.605(b)	Rulemaking	Closed	Recommendation to classify as non-agricultural, synthetic. Recommended for listing at §205.605(b).
2018	10/26/2018	Natamycin	Rulemaking	Closed	Classified as nonsynthetic; recommended for addition to the National List section §205.602 (list of <i>prohibited</i> nonsynthetic substances). NOP 19-01. Final Rule (85 FR 70431) 11/05/2020 did

					not add to §205.602.
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Practice

Year	Date	Substance/ Recommendation	Action	Status	Notes
2001	9/15/2001	Apiculture Standards	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2001	10/17/2001	Removing Handlers from the \$5000 exemption	Rulemaking	Closed	Handlers not removed.
2001	10/17/2001	Mushroom Practice Standard	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2007	3/29/2007	Final Recommendation on Aquaculture	Rulemaking	Closed	Proposed Rule not published; listed as Long-Term Action on Regulatory Agenda.
2008	11/19/2008	Pet Food	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2008	11/19/2008	Aquaculture – Net Pens and Related Issues	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2008	11/19/2008	Aquaculture – Fish Oil and Fish Meal & Related Issues	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2009	11/5/2009	Molluscan Shellfish (Bivalves)	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2010	4/29/2010	Production Standards for Terrestrial Plants in Containers and Enclosures (Greenhouses)	Rulemaking	Closed	Insufficient information for rulemaking; Task Force established in 2015 - NOSB did not pass subsequent proposal to prohibit hydroponics.
2010	10/28/2010	Apiculture	Rulemaking	Closed	Proposed Rule not published; not active on Regulatory Agenda.
2018	4/27/2018	Eliminating the incentive to convert native ecosystems to organic crop production	Recommendation	Closed	Not on Regulatory Agenda; to move forward, would need to assess statutory authority and economic impact. Not currently a program priority.

Sunset

Year	Date	Substance/ Recommendation	Action	Status	Notes
2011	4/29/2011	Sodium nitrate	Rulemaking	Closed	§205.602. NOP Notice 12-1.
2015	10/29/2015	Inulin-oligofructose enriched	Rulemaking	Closed	Recommendation to remove from the National List §205.606. Not removed. NOP 16-03. Final Rule (82 FR 31241) 07/06/2017.
2015	10/29/2015	Turkish bay leaves	Rulemaking	Closed	Recommendation to remove from the National List §205.606. Not removed. NOP 16-03. Final Rule (82 FR 31241) 07/06/2017.
2015	10/29/2015	Whey protein concentrate	Rulemaking	Closed	Recommendation to remove from the National List §205.606. Not removed. NOP 16-03. Final Rule (82 FR 31241) 07/06/2017.
2016	11/18/2016	Carrageenan	Rulemaking	Closed	Recommendation to remove from the National List §205.605. Not removed. NOP 17-05. Final Rule (83 FR 14347) 04/04/2018.
2017	11/2/2017	Oxytocin	Rulemaking	Closed	Recommendation to remove from the National List §205.603. NOP 19-03. Proposed Rule (86 FR 47242) 08/24/2021. Final rule (87 FR 10930) published 2/28/2022; effective 3/30/2022. Contrary to NOSB recommendation, a synthetic.
2018	10/25/2018	Sucrose octanoate esters	Rulemaking	Closed	Recommendation to remove from the National List §205.601 and 205.603. NOP 19-03. Proposed Rule (86 FR 47242) 08/24/2021. Final rule (87 FR 10930) published 2/28/2022; effective 3/30/2022. Contrary to NOSB

					recommendation, a synthetic.
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On Hold

What does “On Hold” mean? Michelle Arsenault says, “Action being taken by USDA or another agency, work should hold pending action. I think Inerts was on hold, and after consulting with the EPA NOP is moving ahead with an ANPR (advanced notice of proposed rule).”

National list recommendations that are on hold are the Spring 2016 recommendation on ancillary substances—definition, criteria for compliance, review—and the recommendations on ammonia extracts from Fall 2021.

Practice standards recommendations on hold include several related to excluded methods and/or seeds. Also on hold are aeroponics production systems prohibited from organic, clarifying “emergency” for use of synthetic parasiticides in organic livestock production, marine macroalgae in crop fertility inputs, and wild native fish for liquid fish products.

National List

Two National List recommendations are listed as “on hold”—ancillary substances and ammonia extracts.

Ancillary Substances

The Spring 2016 recommendation Ancillary Substances Procedure Proposal is on hold.⁶ This recommendation includes a definition of “ancillary substance,” criteria used to review ancillary substances that can be used by both the NOSB in initial review and ACAs in subsequent verifications, and procedures for the NOSB to follow for those materials that may have ancillary substances to be reviewed. It is not a recommendation to list something on the National List, but a process for exempting ancillary substances from the requirement to be on the National List. The definition and criteria do belong in the regulations, but the procedures for the NOSB to follow belong in the Policy and Procedures Manual.

NOSB action on ancillary substances arose as a result of a request from NOP.⁷ This was the second recommendation on the topic. The first recommendation was made by the NOSB at the Spring 2013 meeting.⁸ NOP categorizes it as “complete,” based on the NOP response to NOSB April 2013 recommendations, which was:

⁶ <https://www.ams.usda.gov/sites/default/files/media/HS%20Ancillary%20Substance%20Proposal%20NOP.pdf>.

⁷ <https://www.ams.usda.gov/sites/default/files/media/NOSB%20Memo%20Request%20for%20Clarification%20of%20Other%20Ingredients.pdf>.

⁸ <https://www.ams.usda.gov/sites/default/files/media/NOP%20Handling%20Final%20Rec%20Ancillary%20Substances.pdf>.

The NOP has reviewed the NOSB's recommendation and supports a review of these ancillary substances according to OFPA requirements. The NOP also agrees that the review does not require these substances to be individually listed on the National List, and reiterates that the NOP could communicate any restrictions or prohibitions in an annotation for the generic substance or in published guidance regarding permitted substances for organic handling.

At the April 2013 meeting, the NOP stated its concerns with NOSB recommending changes to listings or addition of annotations to substances on the National List during sunset review. This concern would also apply to any recommendation to address ancillary substances through an annotation as part of the NOSB's sunset review. Therefore, the NOP is coordinating with the NOSB Handling Subcommittee to determine the best timing for conducting ancillary substance reviews.

Discussion of ancillary substances

There are several issues with this recommendation. First, as explained above, it is misclassified as a National List recommendation. Second, it is a clarification of a previous recommendation that NOP claims is "complete," based on NOP's response to the 2013 recommendation. However, as noted in the 2016 recommendation, attempts by the Handling Subcommittee to follow through with the recommendation have not been successful. The perspective raised by many commenters—that the policy of treating ancillary substances as if they are not ingredients required by OFPA to be listed for the specific use is contrary to the law—has been routinely disregarded.

Although we did not support the ancillary substances proposals, NOP raised an important issue in bringing the question to the NOSB. "Ancillary substances" continue to be added to organic processed foods without review. Placing the issue on indefinite hold means that the integrity of organic processed foods continues to be questionable. The whole issue should be returned to the NOSB for reconsideration.

Ammonia Extracts

At the Fall 2021 meeting, the NOSB considered three motions to limit the use of highly soluble nitrogen fertilizers. The first two passed—to add to §205.602:

- Stripped Ammonia – created by separating, isolating and/or capturing ammonia or ammonium from an agricultural feedstock or other natural source using methods such as, but not limited to, steam stripping, pressurized air, heat, condensation, and/or distillation; and
- Concentrated Ammonia – contains greater than 3% ammoniacal nitrogen and the total nitrogen content is predominately (i.e., >50%) in the ammonia or ammonium form.

The third, to add to §205.203(f), the following, was referred back to the Crops Subcommittee: "Nitrogen products with a C:N ratio of 3:1 or less, including those that are components of a blended fertilizer formulation, are limited to a cumulative total use of 20% of crop needs."

NOP says, “NOP will not take action until the NOSB votes on the final motion of the proposal, which was sent back to Subcommittee at the Fall 2021 meeting.” The Crops Subcommittee is currently considering options for adding the final limitation to the regulations.

Practice

Excluded Methods

Among the practice standards that have been placed “on hold” are recommendations regarding excluded methods and genetic integrity:

- 2015 Prevention Strategy Guidance for Excluded Methods
- 2016 Excluded Methods Terminology
- 2017 Excluded Methods Terminology
- 2018 Excluded Methods Determinations
- 2018 Strengthening the organic seed guidance (NOP 5029)
- 2019 Excluded Methods Determinations (April 2019)
- 2019 Strengthening the organic seed guidance (NOP 5029)
- 2019 Excluded Method Vaccines in Organic Livestock Production
- 2019 Excluded Methods: Induced Mutagenesis and Embryo Transfer in Livestock
- 2019 Genetic Integrity Transparency of Seed Grown on Organic Land

Genetic integrity and the definition of excluded methods are areas where organic principles conflict with overall USDA policies, which encourage the use of genetically engineered crops. Organic growers and consumers, on the other hand, feel very strongly about these issues, and the lack of USDA action to complete these recommendations is a threat to organic integrity and the organic label.

Others

Other practice standards recommendations that are listed as “On Hold” are:

- 2017 Aeroponics production systems prohibited from organic certification
- 2018 Clarifying “emergency” for use of synthetic parasiticides in organic livestock production
- 2020 Marine Macroalgae in Crop Fertility Inputs.
- 2020 Wild, Native Fish for Liquid Fish Products

Aeroponics production systems prohibited from organic certification

At the Fall 2017 meeting, the NOSB considered a number of motions related to non-soil-based practices. Motions to prohibit aquaponics, hydroponics, and container culture in organic production failed, but the motion to prohibit aeroponics passed 14-0, with one abstention. NOP responded: “Aeroponic systems were described by the NOSB as systems that do not require soil or a root-zone medium. In these systems, the roots are suspended in midair, and the roots are regularly sprayed with water that contains water-soluble nutrients. . . . AMS is reviewing the

NOSB's recommendation." There is no justification given for placing the recommendation "on hold."

Clarifying "emergency" for use of synthetic parasiticides in organic livestock production

At the Spring 2018 meeting, the NOSB addressed a need to clarify the allowance of parasiticides in §205.238(b) by recommending a definition of "emergency treatment for parasite control in breeding, dairy, and fiber-bearing animals" and specifying that parasiticides may be used only under such conditions. Failing the implementation of this recommendation, there is no restriction on the use of parasiticides in breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are to be sold, labeled, or represented as organically produced; dairy animals; and fiber bearing animals.

Marine Macroalgae in Crop Fertility Inputs

The board recommended an annotation to marine macroalgae used as crop fertility inputs at 205.601(j)(1) aquatic plant extracts to provide parameters on harvesting addressing conservation areas, bottom trawling, protecting reproduction of the population and ecosystem functions, biomass and architecture, and bycatch. It also recommended adding to §602 a prohibition of using marine macroalgae unless meeting the same parameters, with an exception for non-commercial harvest. NOP said, "While the NOSB recommended amending the annotation for aquatic plant extracts, the public comments clearly conveyed that this action would be controversial. Therefore, NOP will focus on other rulemaking priorities at this time."

Wild, Native Fish for Liquid Fish Products

The NOSB recommended amending the listing for Liquid Fish Products at § 205.601(j)(8) to limit the fish source for these products to fish waste, bycatch, or invasive species. The NOSB also recommended adding definitions for "fish waste" and "bycatch" to § 205.2. NOP responded that it is reviewing the NOSB's recommendation.

Sunset

No sunset recommendations are on hold.

Discussion: On Hold

If "on hold" means "Action being taken by USDA or another agency, work should hold pending action," then we should ask what action is pending for each of these recommendations. In no case except ammonia extracts can we discern a pending action that should affect the implementation of the recommendation. What these recommendations do have in common is a reflection of organic values—values that may not be held by the "conventional" agriculture stakeholders of USDA. Such values reflect the higher standards to which the organic community expects organic production and processing to be held. It seems to be difficult for USDA to prioritize such issues.

List

National List

Year	Date	Substance/ Recommendation	Action	Status	Notes
2016	4/27/2016	Ancillary substances - definition, criteria for compliance, review procedure	Guidance	On Hold	
2021	10/21/2021	Ammonia Extract	Rulemaking	On Hold	Classified as non-synthetic. Recommendation to add natural stripped and concentrated ammonia extracts to the National List §205.602. NOP will not take action until the NOSB votes on the final motion of the proposal, which was sent back to Subcommittee at the Fall 2021 meeting.

Practice

Year	Date	Substance/Recommendation	Action	Status	Notes
2015	10/29/2015	Prevention Strategy Guidance for Excluded Methods	Guidance	On Hold	
2016	11/18/2016	Excluded Methods Terminology	Recommendation	On Hold	
2017	11/2/2017	Aeroponics production systems prohibited from organic certification	Recommendation	On Hold	
2017	11/2/2017	Excluded Methods Terminology	Recommendation	On Hold	
2018	4/27/2018	Clarifying “emergency” for use of synthetic parasiticides in organic livestock production	Rulemaking	On Hold	Recommended specific additions to the National List at §205.2 (Definitions) and §205.238(b)

2018	10/26/2018	Excluded Methods Determinations	Recommendation	On Hold	
2018	10/26/2018	Strengthening the organic seed guidance (NOP 5029)	Guidance	On Hold	Developing training for Organic Integrity Learning Center.
2019	4/26/2019	Excluded Methods Determinations (April 2019)	Recommendation	On Hold	
2019	4/26/2019	Strengthening the organic seed guidance (NOP 5029)	Guidance	On Hold	Developing training for Organic Integrity Learning Center.
2019	10/25/2019	Excluded Method Vaccines in Organic Livestock Production	Rulemaking	On Hold	
2019	10/25/2019	Excluded Methods: Induced Mutagenesis and Embryo Transfer in Livestock	Recommendation	On Hold	
2019	10/25/2019	Genetic Integrity Transparency of Seed Grown on Organic Land	Recommendation	On Hold	
2020	10/30/2020	Marine Macroalgae in Crop Fertility Inputs.	Recommendation	On Hold	
2020	10/30/2020	Wild, Native Fish for Liquid Fish Products	Recommendation	On Hold	

Sunset

[None.]

In Process

National List

Among the “in process” issues, List 4 “Inerts” stands out. The NOSB has repeatedly expressed frustration with the failure of NOP to follow through on recommendations that would address the unacceptable reliance on a reference to outdated and flawed lists considered invalid 17 years ago. Although NOP classifies this as “in process,” we have yet to see any progress at all. NOP states, “Advance Notice of Proposed Rulemaking (ANPR) (AMS-NOP-21-0008) pending.”

Practice

Four of the recommendations classified as “closed” in June 2021 are now classified as “in process.” All currently have the notation, “NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.”

OLPP

The OLPP is critical to consumer trust in organic poultry products. As stated by the NOSB in Spring 2021,

The National Organic Standards Board recognizes that consumers’ trust of the organic label and industry growth depends on the strength and consistent application of the organic regulations. NOSB has an integral role in advising USDA in its promulgation of these voluntary standards and strives to seek consensus among organic stakeholders in its recommendations to USDA and the secretary. The Organic Livestock and Poultry Practices rule, finalized in 2017 and subsequently withdrawn in 2018, was based on a unanimous NOSB recommendation to USDA in 2011. The NOSB recommendation was the product of a decade of public NOSB meetings, lengthy discussions, public comment periods and consultation from organic producers, processors, consumers, and the veterinary and scientific community. Both the NOSB recommendation and the final rule issued by Secretary Vilsack in 2017 defined appropriate requirements for space, density and outdoor access in organic poultry production. Support for this rule has been expressed through public comment by major and growing organic brands. The rule is supported by organic producers, consumers, the industry, and the NOSB. The policy received over 120,000 supportive comments in the federal register representing over 99% of commenters. The NOSB stands by its 2011 recommendation to USDA on the organic livestock and poultry practices policy questions.

Comments from Harriet Behar are also relevant: “I have done a few fairly large (20,000 bird houses) organic inspections this year, and the indoor and outdoor sq ft requirements are sorely needed. Some organic egg buying companies have put in some animal welfare standards, which is helpful, but does not promote consistency, nor a level playing field on what the organic label means when on organic poultry products. Organic hog production was not addressed in OLPP, specifically outdoor access, and when I tried to get it on the work agenda, I was told that since OLPP was vacated, that hog outdoor access was not important enough to work on.”

Sunset

Only one sunset recommendation remains to be completed. Eighteen were completed by a final rule issued February 28, 2022. Of the nineteen sunsets that were in process before that final rule, four were from 2017, one from 2018, and two from 2019. The remaining 12 are from 2020. The one that remains is from 2019 and was addressed in a proposed rule published in the Federal Register on March 25, 2021 (86 FR 15800). While it is not unreasonable for sunset recommendations from 2020 to be addressed in a proposed rule the following year, the four-

year delay for the 2017 recommendations is not reasonable and creates confusion in the following round of sunsets.

More seriously, NOP renewed the listing of two synthetic materials of the 18 despite NOSB recommendations to the contrary. This violates OFPA §6517(d)(2), which states, “The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or Proposed Amendments to the National List.”

List

In this list, the meaning of “in process” is clarified with highlights according to what has been done: Action Pending Proposed Rule Other Nothing.

National List

Year	Date	Substance/ Recommendation	Action	Status	Notes
2015	10/29/2015	Annotation Change - EPA List 4 on 205.601(m), and 205.603(e)	Rulemaking	In Process	Recommendation to update and amend listings and annotations on the National List §205.601(m) and §205.603(e). NOP 21-01. Advance Notice of Proposed Rulemaking (ANPR) (AMS-NOP-21-0008) pending.
2020	10/30/2020	Low acyl gellan gum	Rulemaking	In Process	Classified as nonagricultural, synthetic; recommended for addition to the National List section §205.605(b). NOP 21-02. Proposed Rule (AMS-NOP-21-0060) pending.
2021	4/30/2021	Paper-based crop planting aid	Rulemaking	In Process	Classified as synthetic; definition recommended for addition to §205.2; recommended for addition to the National List §205.601(p). NOP 21-02. Proposed Rule (AMS-NOP-21-0060) pending.
2021	10/21/2021	Biodegradable biobased mulch films	Rulemaking	In Process	Recommendation to amend the listing at §205.601. Definition recommended for addition to Terms Defined §205.2.
2021	10/21/2021	Fish oil	Rulemaking	In Process	Recommendation to amend the listing at §205.606.

2021	10/21/2021	Lithothamnion	Recommendation	In Process	Classified as nonagricultural and ineligible for certification as organic as a wild crop.
2021	10/31/2021	Sodium nitrate	Rulemaking	In Process	Recommendation to reinstate listing on the National List §205.602.

Practice
Scroll down.

Year	Date	Substance/ Recommendation	Action	Status	Notes
2002	5/8/2002	Clarification on Poultry Access to Outdoors	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2003	4/29/2003	Origin of Livestock (OOL)	Rulemaking	In Process	NOP 11-04. Proposed Rule (80 FR 23455) 04/28/2015. Public comment period reopened 10/01/2019. NOP 21-04. Public comment period reopened 05/12/2021. Origin of Livestock (OOL) Final Rule (AMS-NOP-11-0009) pending.
2009	11/5/2009	Animal Welfare	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2011	12/2/2011	Animal Welfare and Stocking Rates	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2011	12/2/2011	Animal Handling and Transport to Slaughter	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2011	12/2/2011	Inspector Qualifications-Guidance	Rulemaking	In Process	Partially addressed by NOP 2027, revised Mar 2017. Also addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2013	4/11/2013	Calculating Percentage Organic in Multi-Ingredient Products	Guidance	In Process	NOP draft Guidance 5037. Also addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2014	5/2/2014	Retail Compliance and Certification	Rulemaking	In Process	Clarification of requirements for excluded and exempt operations. Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2017	11/2/2017	Excluded operations in the supply chain (uncertified handlers)	Rulemaking	In Process	Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.

2018	4/27/2018	Inspector qualifications	Rulemaking	In Process	Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2018	10/26/2018	Developing Criteria for Risk-Based Accreditation Oversight	Resolution	In Process	Accreditation Division developing pilot program.
2018	10/26/2018	Training and Oversight of Inspector and Certification Review Personnel	Rulemaking	In Process	Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2020	10/30/2020	EPA List 4 Inerts Resolution	Resolution	In Process	NOP 21-01. Advance Notice of Proposed Rulemaking (ANPR) (AMS-NOP-21-0008) pending.
2021	4/30/2021	Human Capital Management: Strategies for Recruitment and Talent Management - Organic Inspectors and Reviewers	Guidance	In Process	05/03/2021 Organic Insider: Human Capital Capacity Building Initiative - request for proposals. Proposals received and awarded in October 2021. https://www.ams.usda.gov/press-release/organic-human-capital-capacity-building-projects-announced?auHash=jswwqapHQqiUaOVJSDEv3rjqEZX6hH4dtiYo94pq8SA
2021	4/30/2021	Ion Exchange Filtration Materials	Recommendation	In Process	NOP response memo to NOSB sent August 2021. NOP requests the NOSB's recommendation(s) on whether resins should be listed on the National List.
2021	10/21/2021	2021 NOSB Research Priorities	Recommendation	In Process	Recommendation adopted. Shared with USDA's Ag Research Service (ARS) and National Institute of Food and Ag (NIFA) program leaders and incorporated into the request for Proposals: Organic Transitions.
2021	10/21/2021	Climate Change Letter to the Secretary	Resolution	In Process	Acknowledged. NOP will forward to the Secretary on behalf of the NOSB.

Year	Date	Substance/ Recommendation	Action	Status	Notes
2002	5/8/2002	Clarification on Poultry Access to Outdoors	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2003	4/29/2003	Origin of Livestock (OOL)	Rulemaking	In Process	NOP 11-04. Proposed Rule (80 FR 23455) 04/28/2015. Public comment period reopened 10/01/2019. NOP 21-04. Public comment period reopened 05/12/2021. Origin of Livestock (OOL) Final Rule (AMS-NOP-11-0009) pending.
2009	11/5/2009	Animal Welfare	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2011	12/2/2011	Animal Welfare and Stocking Rates	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2011	12/2/2011	Animal Handling and Transport to Slaughter	Rulemaking	In Process	NOP 15-06. Organic Livestock and Poultry Practices (OLPP) Final Rule withdrawn (83 FR 10775) 03/13/2018. NOP 21-06. Organic Livestock and Poultry Standards (OLPS) Proposed Rule (AMS-NOP-21-0073) pending.
2011	12/2/2011	Inspector Qualifications-Guidance	Rulemaking	In Process	Partially addressed by NOP 2027, revised Mar 2017. Also addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2013	4/11/2013	Calculating Percentage Organic in Multi-Ingredient Products	Guidance	In Process	NOP draft Guidance 5037. Also addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2014	5/2/2014	Retail Compliance and Certification	Rulemaking	In Process	Clarification of requirements for excluded and exempt operations. Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2017	11/2/2017	Excluded operations in the supply chain (uncertified handlers)	Rulemaking	In Process	Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.

2018	4/27/2018	Inspector qualifications	Rulemaking	In Process	Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2018	10/26/2018	Developing Criteria for Risk-Based Accreditation Oversight	Resolution	In Process	Accreditation Division developing pilot program.
2018	10/26/2018	Training and Oversight of Inspector and Certification Review Personnel	Rulemaking	In Process	Addressed in Strengthening Organic Enforcement (SOE) Proposed Rule (85 FR 47536) 08/05/2020.
2020	10/30/2020	EPA List 4 Inerts Resolution	Resolution	In Process	NOP 21-01. Advance Notice of Proposed Rulemaking (ANPR) (AMS-NOP-21-0008) pending.
2021	4/30/2021	Human Capital Management: Strategies for Recruitment and Talent Management - Organic Inspectors and Reviewers	Guidance	In Process	05/03/2021 Organic Insider: Human Capital Capacity Building Initiative - request for proposals. Proposals received and awarded in October 2021. https://www.ams.usda.gov/press-release/organic-human-capital-capacity-building-projects-announced?auHash=jswwqapHQqiUaOVJSDEv3rjqEZx6hH4dtiYo94pq8SA
2021	4/30/2021	Ion Exchange Filtration Materials	Recommendation	In Process	NOP response memo to NOSB sent August 2021. NOP requests the NOSB's recommendation(s) on whether resins should be listed on the National List.
2021	10/21/2021	2021 NOSB Research Priorities	Recommendation	In Process	Recommendation adopted. Shared with USDA's Ag Research Service (ARS) and National Institute of Food and Ag (NIFA) program leaders and incorporated into the request for Proposals: Organic Transitions.
2021	10/21/2021	Climate Change Letter to the Secretary	Resolution	In Process	Acknowledged. NOP will forward to the Secretary on behalf of the NOSB.

Sunset

Year	Date	Substance/ Recommendation	Action	Status	Notes
2019	10/25/2019	Dairy cultures	Rulemaking	In Process	Recommendation to remove from the National List §205.605. NOP 19-05. Proposed Rule (86 FR 15800) 03/25/2021.

