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March 28, 2022

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW
Room 2648-S, Mail Stop 0268
Washington, DC 20250-0268

Docket ID # AMS-NOP-21-0087

Re. CS: Highly Soluble Nitrogen Fertilizers

These comments to the National Organic Standards Board (NOSB) on its Spring 2022 agenda are submitted on behalf of Beyond Pesticides. Founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers, and farmworkers, Beyond Pesticides advances improved protections from pesticides and alternative pest management strategies that reduce or eliminate a reliance on pesticides. Our membership and network span the 50 states and the world.

We thank the Crops Subcommittee (CS) for its thoughtful and thorough consideration of this petition on ammonia extracts and the comments (including ours) that have been submitted on it. The discussion of ammonia extracts and soil health at Fall 2021 NOSB meeting was wide-ranging and demonstrated the importance of this issue to the organic community. The CS proposal summarizes information from a wide range of sources and relates it to the criteria in the Organic Foods Production Act (OFPA). We will not repeat that information, but include it by reference.

As stated in our previous comments, we support the prohibition of ammonia extracts, as recommended by the NOSB in its Fall 2021 meeting. An earlier version of this proposal to limit highly soluble nitrogen fertilizers was considered at that time and sent back to the CS for further work. We support the resulting proposal. In its response to the Fall 2022 meeting, NOP said, "Regarding the recommendations to prohibit stripped ammonia and concentrated ammonia, AMS will wait until the Spring 2022 meeting, when the Board considers and votes on the final motion, before reviewing these recommendations. This will ensure that stakeholder feedback and market considerations are addressed within a single process by the program."

While we urge the NOSB to pass this proposal, we do not believe that OFPA permits NOP to delay rulemaking on National List recommendations based on its desire to consolidate

comments. The National List is the uncontested purview of the NOSB, and the NOSB has made its recommendations on ammonia extracts based on extensive input from the organic community. OFPA directs, “The National List established by the Secretary shall be based upon a proposed national list or proposed amendments to the National List developed by the National Organic Standards Board.” Therefore, regardless of the outcome of the vote on this proposal, NOP must proceed with rulemaking to list stripped ammonia and concentrated ammonia on §205.602.

We support adding to §205.203(e) or §205.105 a ceiling of 20% of crop needs on the use of nitrogen products with a C:N ratio of 3:1 or less, including those individual components of a blended fertilizer formulation. Limiting the total of all nitrogen products with a C:N ratio of 3:1 to at most 20% of crop needs is consistent with OFPA §6513(b)(1), “An organic plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.”

Although we believe that §205.203(e) is the logical place to put a restriction that is not a specific material (which would go in §205.602), we have some concerns that some certifiers do not apply §205.203 to all operations. It must be made clear that the restriction does apply to all certified operations, including hydroponic and containerized systems. That clarity could be provided by adding language to §205.203—preferably in a way that clearly applies to all subsections—or by adding this restriction to §205.105. Since NOP may not respect the recommendation with respect to placement, the recommendation must be clear in its narrative section that the restriction applies to all operations and that it is important that any application of highly soluble nitrogen fertilizer be tied to the organic systems plan in which such fertilizers play a minimal role.

Finally, over time, improvements to this proposal may be considered. Guidance may clarify the role of highly soluble nitrogen fertilizers in an organic system. However, in spite of complications of implementation—which are addressed by the CS—the proposal and pathway to implementation are clear.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Shistar".

Terry Shistar, Ph.D.
Board of Directors