



BEYOND PESTICIDES

701 E Street, SE ■ Washington DC 20003
202-543-5450 phone ■ 202-543-4791 fax
info@beyondpesticides.org ■ www.beyondpesticides.org

September 21, 2021

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-21-0038

Re. CS: Sodium nitrate

These comments to the National Organic Standards Board (NOSB) on its Fall 2021 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 concur with the Crop Subcommittee's statement of the problem concerning the listing of sodium nitrate:

As part of the 2012 sunset review, the NOSB reviewed sodium nitrate at its April 2011, meeting and recommended that it be relisted, but without the annotation limiting its use. In other words, the NOSB voted to keep sodium nitrate on the National List with a complete prohibition on its use. During the rulemaking process, the NOP received comments about the economic significance of complete prohibition, which delayed rulemaking. While that rulemaking was supposed to be forthcoming, it was never developed nor passed.

Currently the listing for sodium nitrate is in limbo. It was never renewed on the National List as a prohibited substance with or without the annotation limiting its use. While the wording remains on the National List, the listing is considered invalid. Therefore, sodium nitrate use is not restricted to 20% of a crop's total N needs since the listing was not renewed during the 2012 sunset process. It can also be argued that at

this time sodium nitrate should not even appear on the National List since it was never officially renewed.

However, we disagree with the proposed remedy for this situation. While OFPA §6517(d)(2), which states that USDA may not permit the use of synthetic substances not approved by the NOSB, does not apply to sodium nitrate, a nonsynthetic substance, §6517(d)(1), which says that the National List must be “based on” the recommendations of the NOSB, does apply. Instead of backing away, the NOSB should renew its recommendation of 2012 and insist that the listing of sodium nitrate as approved by the board be reinstated, put into regulations, and enforced.

The critical function of the NOSB asserting its statutory duty to review substances allowed and prohibited in organic production and process is central to public trust in the organic label. Trust in the marketplace is key to what has driven and continues to drive the growth of organic. While the NOSB cannot control a USDA that refuses to comply with the intent of the law and weakens NOSB positions by allowing substances that the Board has recommended prohibiting, the NOSB must continue to carry out its due diligence and reaffirm the importance of its positions.

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
tshistar@gmail.com