



BEYOND PESTICIDES

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

Reject Sec. 10104 (e) National Organic Standards Board S. 3042 Senate Farm Bill

Background

The Organic Foods Production Act (OFPA) incorporates language that ensures that the process for allowing synthetic chemicals in organic production, handling, and processing is very rigorous. This meets a public expectation that food labeled organic is subject to a higher degree of scrutiny than food produced in the conventional market. This distinguishes food labeled under OFPA from food produced with pesticides registered under the pesticide law, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

National List of Allowed and Allowed and Prohibited Substances

If synthetic materials are allowed in organic production, they, by law, are subject to a no adverse effects standard, a cradle-to-grave analysis, a determination of essentiality (necessity) of the material, and a sunset clause that subjects allowed synthetics to a rigorous reevaluation every five years. This time-limited sunset contains a default assumption that continued allowance of the synthetic substance will not be permitted unless the NOSB votes decisively to recommend its continued allowance, to the Secretary of Agriculture.

OFPA implements a belief that growers will continue to adopt methods not dependent on outside inputs –that there would be continuous improvement. At the same time, the NOSB’s deliberations on the allowance of a synthetic substance is informed by new science as it emerges and is reviewed in Technical Review documents prepared for the NOSB. This process, by design, contrasts dramatically with the allowance of pesticides under FIFRA, where, once a decision is made to allow a chemical with relatively little public oversight and input, it is extremely difficult, or virtually impossible, to reverse that decision without serious political or public pressure –typically as a result of a crisis event or litigation.

The continued allowance of a synthetic chemical is subject to the same rigorous review that was conducted when the substance was first permitted on the National List, which requires that two-thirds of the board must vote to list. As intended by Congress, this review process repeats at the end of a five-year cycle, when the board again must vote by two-thirds to relist the synthetic chemical.

A Change in NOSB Process will Weaken Oversight of Synthetic Chemicals in Organic

This Senate Farm Bill provision brings uncertainty to the five-year sunset process and undermines a basic tenet of the law. Without this sunset provision, synthetic materials may remain on the National List, and attempts to introduce alternative materials and find new creative management practices will be disincentivized.

The Senate provision [Section 10104(e) National Organic Standards Board] may seem like it does not do anything (changes in law always do something, whether intended or not): “Any vote on a motion proposing to amend the national list shall be considered to be a decisive vote that requires 2 /3 of the votes cast at a meeting of the Board at which a quorum is present to prevail.” A likely interpretation of this provision is that any change to the National List is an amendment to the list (or amends the national list) requiring a 2/3 vote to make a change – whether taking the synthetic off or putting it on the National List— whereas OFPA as written has been historically implemented with the default assumption that synthetic materials come off the list after five years unless the board votes decisively (2/3) to keep it on the list.

This NOSB process has worked for two decades to help grow the organic sector to a \$53 billion industry with public trust in a rigorous review process. With the erosion of this basic tenet of the law under the Senate Bill provision, consumer trust in the USDA organic label is seriously threatened by an increasing allowance of synthetic chemicals in organic food production.