

September 30, 2024

Ms. Michelle Arsenault
Advisory Board Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW
Room 2642-S Mail Stop 0268
Washington, DC 20250-0268

RE: AMS-NOP-24-0023-0005

Dear Ms. Arsenault:

On behalf of International Fresh Produce Association (IFPA), we respectfully submit the following comments on the upcoming Sunset Review of organic materials on the National List, in addition to specific discussion documents and proposals, listed in the Fall 2024 National Organic Standards Board (NOSB) Work Agenda.

IFPA emerged as a thought leader of the produce industry in 2022 after the merger of the Produce Marketing Association and United Fresh Produce Association. Today, IFPA represents over 2500 companies from across the global supply chain for fresh fruits and vegetables, including more than 500 companies with certified organic fresh fruit, vegetables, and flowers. IFPA works with all facets of the fresh produce industry and provides numerous services to its membership including, government advocacy, global engagement opportunities, food safety recommendations, the latest in fresh produce technology, supply chains, sustainability, marketing, industry relationships, and leadership. IFPA aims to increase fresh fruit and vegetable consumption, including organic produce, to improve the health and wellbeing of consumers.

The IFPA organics committee is made up of twenty-four leaders in the produce industry, who represent a wide array of organic fruits, vegetables, and other specialty crops, as well as types of operations, in many different growing regions. The Committee supports and guides IFPA's priorities in organic production and across the organic supply chain. Members of this organics committee inform the comments developed by IFPA in response to the proposals of the NOSB. These comments reflect the real-world impacts that NOSB decisions have on organically grown fresh produce.

The following comments reflect support for the continued use of certain §205.601 substances allowed in organic production on the National List and provide NOSB with input from the IFPA organics committee regarding solicited questions for stakeholder feedback on other NOSB petitions and considerations. The IFPA organics committee is committed to the use of organic substances used in organic production that do not harm human health or the environment; are necessary for organic production; and meet the highest standards of organic crop production. To that end, the data and information shared in these comments reflect those values and provide specific information regarding the use of those substances.

Furthermore, additional comments are included on specific topics in the fall work agenda. The feedback provided is of particular importance to IFPA organic growers and IFPA appreciates the opportunity for NOSB to carefully consider objective and science-based evidence throughout the decision-making process regarding the sunset process of allowed materials in organic production and other matters of importances to the National Organic Program.

Compliance, Accreditation, & Certification Subcommittee (CACS)

Residue Testing for a Global Supply Chain

The Compliance, Accreditation, & Certification Subcommittee (CACS) issued discussions in both Fall 2023 and Spring 2024 regarding Residue Testing for a Global Supply Chain (RTGSC) with the objective of maintaining effective verification tools to ensure integrity throughout the organic system. The NOSB is also seeking input on updates to guidance documents related to residue testing and how best to support the work of certifiers and inspectors who collect samples and analyze those results.

NOP 2610: IFPA remains committed to making sure certifiers have access to training to ensure that testing and sampling continue to be an important tool in the certification process. Certifiers should not only have adequate training but should also be well versed in the products they are sampling given the complexity of residue testing. In addition, certifiers should also be properly educated in residue sampling related to the chain of custody methodology, to safeguard accuracy and limit cross contamination. IFPA notes that it would also be helpful for certifiers to understand laboratory sampling guidelines given some facilities have specific considerations regarding sampling procedures (time, temperature, quantity, etc.). Additionally, as it relates to third party testing, IFPA recognizes the value of outsourcing the sampling due to high demand and increased workload by the certifiers due to SOE, as long as it does not increase costs, and third parties are properly accredited. IFPA recommends that NOP work to make sure any possible third parties contracted for sampling are working with expert laboratories with AOAC accreditation to develop standard operating procedures that boost confidence in the samples, chain of custody and labeling.

Additionally, IFPA recommends that any outsourced samples be done in lab from an approved state or federal list of accredited laboratories.

NOP 2611: IFPA maintains the QuEChERS methodology is effective for many analyses, and it is important any new methods are continually updated to a recognized AOAC lab method. Laboratories should be accredited and in good standing, and selected based upon who is providing the most accurate testing and should be in good standing with their accreditation. Additionally, laboratories must demonstrate required competencies and proficiencies in their verifications processes. In the event there is an expansion of testing beyond pesticides, the selection of laboratories should include updated competencies and proficiencies. Further, industry and regulatory collaboration remains vital to ensuring methodologies are approved in a timely manner.

NOP 2611-1: IFPA appreciates the NOSB discussion draft proposing various decision tree examples to use to determine which tests should be used and when they should be used. IFPA members utilize the following decision tree, as described in the Spring 2024 comments, when addressing detection of a residue, which aligns with the NOSB example # 3 in the Fall Agenda draft:

- Receive a notice of detection;
- Verify lab result, methods, date of test, and authorized signature to determine how actionable the residue testing may be;
- Review the material and brand name association products, comparing the specific crop type effected;
- Confirm if the material is allowed in organic production;
- Confirm the EPA tolerance level and the amount of detected material;
- Initiate a trace to determine the grower, ranch, lot, facility, and shipping locations;
- Place the product on hold as applicable; and
- Review the grower application records to determine source and whether the material is permitted in the effected crop.

NOP 2613: IFPA continues to work with EPA and FDA on the process for establishing and updating tolerances and action levels outside of common pesticides. When a commodity or group does not have an established EPA tolerance or an FDA Action Level, a science-based assessment should be established to try and determine a level; however, if no tolerance can be established for that crop, then the crop should not be established as organic. Further, if certifiers receive results from third parties with unknown sampling methodologies, the product will not be received as organic without verification of accredited method used. IFPA recommends that if residue testing detects a prohibited material above 0.01 ppm, the certifier must notify the operation that the product may not be sold as organic and issue a non-compliance.

Consistency in Organic Seed Use

The NOSB is seeking to better understand the current state of organic seed including an examination of commercial availability of organic seed, tools to increase commercially organic seed, and methods for better enforcement of the requirements for commercial availability. IFPA appreciates NOSB seeking input on organic seed availability and compliance with NOP standards. IFPA members do not find it difficult to comply with the current organic standards for seed use given the flexibility to use conventional untreated seed as an alternative when an organic seed is unavailable or not a viable option. While compliance and current requirements take administrative time, the biggest challenge is a lack of new market development of viable organic seed.

All seed for growing specialty crops have a degree of difficulty and it can be challenging to find the right type of seed or varietal that grows in a particular condition. In most situations, organic seed is not available in the quality or quantity needed to keep up with demand for organic produce. Additional challenges with organic seed include germ rates, vigor, variety, weeds seed, viral pressure, and the input costs to grow, clean, and segregate seed during cleaning, handling, and storage of the seed.

IFPA members would find it extremely challenging to comply with an updated organic rule that requires all seed to be organic or a certain portion of seed to be organic because current organic seed is not widely available in the quantities needed by growers. In addition, there are issues with organic seed quality, which can be contaminated by weeds, and the costs of organic seed is 3-10 times higher than costs of conventional seed that is not treated.

According to the meeting materials, the European Union (EU), has issued a new regulation EC No 2018/848, regarding use of non-organic seed, which will be phased out completely by January 1, 2037. The new regulation will restrict nonorganic seeds from use in place of organic seed varieties that are fully commercially available. Under the current conditions, it would be nearly impossible for organic produce growers to comply with the seed requirements imposed by the E.U. due to a lack of market availability and unpredictable organic seed on the market. IFPA welcomes the opportunity to continue discussing the research and market development needs to improve organic seed quality and quantity in the commercial market.

Climate Induced Farming Risk and Crop Insurance

IFPA members appreciate NOSB recognition of how critical risk management and insurance options are, given they are tailored to the specific risks generated through organic production. IFPA producers find that low enrollment in crop insurance can be attributed to a few factors, such as lacking in accurate data for product creation and the cost of insurance compared to expected payouts, which discourages enrollment. However, producers are interested in creation of a crop insurance policy when certain considerations are made around quality and condition terms, and

how prices are set. Failure to make coverage equitable to conventional products will result in less accessibility of organics for consumers. As NOSB has acknowledged, there is inherent risk in growing organically, and not making insurance equitable is creating a barrier.

Organics may need a different price setting mechanism and different definitions of crop failure than row crops. There would also have to be a definition on what “quality” means, since there is a difference in how the product arrives, versus having a USDA inspection and make a claim.

IFPA supports the creation of a crop insurance program for organic producers, given that it factors in industry feedback and does not create additional burden for growers. IFPA would like to continue discussion and considerations around crop insurance proposals.

Risk-based Certification

The Fall Agenda is seeking comment on risk-based certification, a new topic for discussion, but an issue the organic community is familiar with. Knowing and understanding risk assessment and evaluation can be a good business practice; however, it must be recognized that there is risk as it relates to fraud and risk as it relates to production and organic integrity. For example, IFPA members emphasize that drift is not fraud.

IFPA believes a uniform and consistent approach may be difficult to implement and enforce and that the NOP should be nimble if incorporating more risk mitigation measures into organic standards. If the new measures result in less audits and improved equity, that has the potential to be an added benefit. IFPA generally supports, incorporating new definitions of oversight, management, and vulnerability in Section 205.2 and believes these new definitions may be helpful.

Crops Subcommittee (CS)

Compost Production for Organic Agriculture

Regarding the use of compostable polymers in composting material, IFPA members support biodegradability metrics of compost production for organic agriculture. As written in the Spring 2024 comment, IFPA members agree that compost should be made up of plant and animal matter, in addition to newspaper and recycled paper, which is included on the National List as indicated by NOSB. IFPA appreciates NOSB’s continued evaluation of metrics for compost production and supports that it continues to be evaluated until there is a consensus on the best decision. IFPA also notes, that additional annotations on uses for these products could create more barriers to approval by certifiers, as third-party certification would have to verify the ink on these substances and would need evidence of health and environmental impact.

IFPA also underscores that there is more agreement needed in biodegradability percentages in organic compost, and the percentage must be achievable for producers. IFPA members reiterate our position from our Spring 2024 comment: cautioning against any effort to try to modify the regulations on compost to require that they can only come from *organic* plants or animals. Doing so would jeopardize the availability of produced compost for the organics industry

Carbon dioxide

IFPA appreciates the NOSB further consideration of use of carbon dioxide (CO₂) use in organic production and applauds the NOSB for requesting a technical report to outline its impact on growing indoors. IFPA respectfully requests that NOSB accept an annotation to §205.601(j) that would allow the substance to be sourced as a byproduct for use in organic production. As mentioned in the spring 2024 comments, IFPA supports the use of carbon dioxide, especially in controlled environment production, where CO₂ use helps to increase yield. In addition, the summer season is the only time that CO₂ is required for some CEA producers in certain regions resulting in a limited-use methodology for use of the substance. CO₂ is a valuable tool for organic greenhouses because relying on indoor CO₂ levels is not a precise way to control the production environment. IFPA encourages NOSB to continue its evaluation of use of CO₂ and appreciates the consideration of its use in greenhouse and CEA production.

Pear Ester

In September of 2023, the NOP received a petition to add pear ester, a synthetic semiochemical material to the National List as an allowable tool used in crop production. According to the meeting materials, pear ester was previously allowed for use in organic production as a synthetic pheromone until it was correctly reclassified as kairomone. A kairomone is a chemical signal produced by plants or other organisms that convey communication between two or more different species. IFPA respectfully requests that NOSB consider the petition to add pear ester to the National List and supports inclusion of its use in organic production. The use of pear ester is particularly important to mating disruption, which is a critical element of integrated pest management in organic orchards, especially against the Codling Moth. Pear ester products have a unique ability to trap and attract both male and female moths, while pheromone-based products only trap males. Pear ester-based monitoring tools give organic growers more and better options for determining when and where to spray organic pesticides thus reducing the number of sprays to manage codling moth and limiting the potential loss of fruit due to the related damage. IFPA growers have found that pear ester is deemed safe and that using it significantly reduces damage to fruits and nuts.

National List Sunset Review 2026 Crops Subcommittee

Hydrogen Peroxide

IFPA maintains the position of alignment with NOSB that hydrogen peroxide is consistent with the Organic Foods Production Act (OFPA) and is not being recommended for removal from the National List. Members within IFPA utilize Hydrogen Peroxide for many areas within organic production, such as controlling fire blight in organic apples and pears, as well as irrigation system sanitation, managing pests, and as a disinfectant. IFPA members agree that the use of hydrogen peroxide is critical without the ability to use antibiotics, as it can be broken down in the environment and does not have residual effects.

Ammonium Soaps

IFPA supports the continued listing of ammonium soaps at § 205.601(d). IFPA membership utilizes ammonium soaps to deter wild animals that can damage fruit trees and irrigation infrastructure. Growers are also aware to use the label recommendations to prevent any drifting. Workers are also required to take safeguards with provided protective measures to prevent skin and eye irritation over long-term use.

Horticultural Oils

Given the importance of horticultural oils as an essential tool for organic crop production, IFPA supports their continued listing at both § 205.601(e) and § 205.601(i), as they are a safe way to control disease without the toxic properties that other solutions have. For example, some growers utilize oils to control mites, pear psylla, leafhoppers, apple aphid, and other pests, and without them, would have difficulty ensuring adequate crop production.

Pheromones

IFPA supports NOSB's position that pheromones are compliant with OFPA criteria and the recommendation to maintain its listing on the National List. Many growers believe that pheromones are critical in controlling specific pests, like moths and leafrollers, in a way that is non-toxic to humans and the environment.

Ferric Phosphate

IFPA remains supportive of efforts by NOSB to research the impacts of chelating agents within ferric pheromones but supports the continued listing of the substance given its effectiveness in treating snails and slugs. Producers have used ferric phosphate to control snails and slugs, protecting vegetable and berry products. Other options are not easily available, making ferric phosphate the most accessible and affordable option for organic growers.

Potassium Bicarbonate

Although IFPA members have utilized alternative materials for disease control on mildews and fungus, potassium bicarbonate remains the most effective tool for achieving the desired result for disease management and thus is still needed in farming operations. More specifically, it has been used to prevent against powdery mildew, anthracnose, fire blight, and for sanitation. Many organic tree fruit growers rely on potassium bicarbonate to prevent against disease and russetting.

Magnesium Sulfate

Given that there are not readily available non-synthetic alternatives or treatments, IFPA supports the continued listing of magnesium sulfate at § 205.601(j). Magnesium sulfate is important to protect the health of berries and vegetables, as a soil amendment, and as a management tool for controlled environment agriculture in tree and fruit production.

Handling Subcommittee (HS)

Potassium Phosphate

According to the NOSB meeting materials, potassium phosphate is currently allowed on the National List under USDA organic regulations 7 CFR 205.605(b)(28). The NOSB is considering a petition that would expand the use of potassium phosphates in organic products. Since potassium phosphate is already an approved substance on the National and current research suggests that it is safe to use, IFPA does not see a problem with allowing for other types of potassium phosphates to be approved as well. As NOSB continues to explore use of additional potassium phosphates, IFPA members look forward to learning more about this issue.

Materials Subcommittee (MS)

Inert Ingredients in Pesticide Products

IFPA appreciates the consideration and deliberation of the NOSB to remove and replace the NOP-recognized EPA Lists 3 & 4 referenced in organic regulations related to inert ingredients. IFPA applauds the NOSB for prioritizing this complex issue and for relying on EPA staff and specialists to contribute to the discussion. As NOSB seeks additional feedback on how to address ingredients, IFPA welcomes the opportunity to provide input on the classification of inert ingredients that the NOSB has narrowed down to two options.

Of the two options posed by the NOSB for feedback, IFPA strongly supports option 2, which would reference a subset of EPA regulations in combination with an initial list of prohibited inert ingredients. IFPA is concerned that listing every single inert ingredient, as described under option 1, would be overwhelming for NOSB and could jeopardize the sunseting process. IFPA believes that option 2 will leverage toxicological expertise at EPA, without giving up decision making

authority by the NOP, as advised by the NOSB. It is IFPA's understanding that no elements in option 2 would limit the ability of the NOSB to vote on additional exceptions in the future and the five-year sunset review of inert ingredients would entail reviewing the EPA list to account for updates or changes to the EPA classifications, determinations, or additional assessments of inert ingredients allowed in pesticide products. IFPA believes that option 2 still allows manufacturers, suppliers, and producers to file a petition to the NOSB to allow or remove an inert ingredient on a case-by-case basis, while maintaining flexibility in formulation of pest management tools for crops and regions that meet a clear standard determined by EPA.

In addition, IFPA recommends continuing research to determine the most effective inert ingredient options that enable organic growers to grow organically while maintaining organic integrity. IFPA also suggests that there be intentional messaging around option 2, if implemented, to ensure growers transitioning to organic understand the relationship between EPA and NOP and the role that NOSB has in determining the use of inert ingredients.

Conclusion

As IFPA continues to represent a broad range of organic specialty crop producers, we appreciate the opportunity to comment and strongly encourage the NOSB to consider fresh produce growers when considering their votes on the continued use of certain §205.601 substances in organic production. IFPA growers continue to rely on these substances for various crops, growing regions, and production methods in organics.

We urge the NOSB to consider these recommendations to the NOP with an understanding of the unique needs of organic growers, the variety of crops, the differences in geographical regions, and challenges faced by producers all over the U.S., given increased input costs and extreme weather events. Organic growers must continue to access these critical listed substances to combat pests and produce crops in a variety of scenarios.

We appreciate your consideration of these comments in support of the fresh produce industry.

Sincerely,

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