

A communication from the organic4um:  
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Eric Kindberg, Editor

#### COMMENTS ON SUBSTANCES BEING CONSIDERED BY THE NOSB FOR RECOMMENDATION TO THE SECRETARY FOR INCLUSION ON THE NATIONAL LIST.

The major and continuing concerns regarding the NOSB in this regard are:

1. The Board is not following an established protocol regarding committee and Board development of draft recommendations to the Secretary; and
2. The Board is not consistently following guidelines and procedures authorized by OFPA for petitioning, reviewing and evaluating substances considered for the National List.

In considering the petitioned substances for possible inclusion on the National List as indicated in the Board agenda, the procedures described in OFPA must be followed. Section 2118 and 2119 explain the guidelines and procedures the NOSB must follow in considering an exemption from section 2105 of OFPA. Sections 2118 and 2119 explain the method of securing an exemption from the all encompassing OFPA mandate in: "section 2105 NATIONAL STANDARDS FOR ORGANIC PRODUCTION. To be sold or labeled as an organically produced agricultural product under this title agricultural product shall

(1) Have been produced and handled without the use of synthetic chemicals, except as otherwise provided in this title."

OFPA directs the Board to "establish procedures under which persons may petition the Board for the purpose of evaluating substances for inclusion on the National List." As of this date, ten years after passage of OFPA by Congress, the Board has not established the petition process nor made a Federal Register announcement of the petition process, guidelines and

procedures to be used in by them in considering substances for inclusion on the National List.

Since the word "synthetic" plays such a significant role in section 2105, the OFPA definition is pivotal: "section 2103 (21) SYNTHETIC. The term "synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes."

#### REVIEW OF ACTIVE SYNTHETIC SUBSTANCES BEING CONSIDERED BY THE NOSB FOR USE ON CERTIFIED ORGANIC FARMS:

##### Crop Materials

Potassium Bicarbonate (only for control of crop disease)-non-synthetic potassium bicarbonate does not have to be petitioned for exemption. The petitioner should indicate whether the substance is a synthetic or not. There is no category of active synthetic substances open for exemption under OFPA section 2118(c)(1)(B)(i) for crop disease substances.

Amino Acids (for use in soil fertility management)-There is no category of active synthetic substances open for exemption under OFPA section 2118(c)(1)(B)(i) for soil fertility management.

Ethylene (only with activated charcoal for pineapple fruit induction)-There is no category of active synthetic substances open for exemption under OFPA section 2118(c)(1)(B)(i) for stimulating plant growth.

##### Livestock Materials

Glycerin (only as a topical antiseptic)-The petitioner has asked for glycerin used as an active synthetic substance to be considered under the section 2118(c)(1)(B)(i) category of livestock medicines. This is consistent with OFPA National List procedures.

Lanolin Crème (only as a topical antiseptic)-Unless, this petition is for a lanolin as an active synthetic substance, there is no need to petition the Board for consideration.

Phosphoric Acid (as a teat dip and a sanitizer)-These are two different uses. There should be two different petitions. The petitioner has not indicated what the sanitizers use or application is. A teat dip might fall into

section 2118 farm use category as a livestock medicine. The sanitizer might be encompassed in the section 2118 farm use category of an equipment cleanser.

**Amino Acids (as feed additives)**-All synthetic substances are prohibited in farm production of "organically produced" products unless they fall into a section 2118 farm use category. There is no section 2118 farm use category for feed additives. "Organically produced" amino acids can be used as feed additives.

**Chlorhexidine (as a teat dip)**-A teat dip might fall into section 2118 farm use category as a livestock medicine.

**Enzymes (as feed additives)**-All synthetic substances are prohibited in farm production of "organically produced" products unless they fall into a section 2118 farm use category. There is no section 2118 farm use category for feed additives. "Organically produced" enzymes can be fed to livestock.

**Parasiticides (such as Fenbendazole, Ivermectin and Levasole)**-Each active synthetic parasiticide must be petitioned by specific use or application (use on what livestock for what parasite.) It is consistent with OFPA to petition the active synthetic substance in a livestock parasiticides.

#### **REVIEW OF NON-SYNTHETIC, BUT NOT ORGANICALLY PRODUCED SUBSTANCES BEING CONSIDERED BY THE NOSB FOR USE ON CERTIFIED ORGANIC HANDLING OPERATIONS:**

Under the OFPA National List procedures, section 2118 and 2119, the only substances used by handling operations that are eligible for exemption are non-synthetic, but not organically produced substances used as ingredients in processed organically produced foods.

**Amino Acids**--all synthetic substances are prohibited from contacting or being part of an "organically produced" product.

**Plant and Yeast Enzymes**--non-synthetic, but not organically produced plant and yeast enzymes are appropriate to petition for exemption from OFPA's prohibition, provided they are specified as to use and application. Synthetic plant and yeast enzymes including derivatives of GMOs are not open to National List consideration.

**Ethylene (only for use on tropical dried fruit)**-naturally produced ethylene is appropriate to petition by use or application for exemption from OFPA's

prohibition. Appropriately, the petitioner states its use or application. Under OFPA, synthetic ethylene is not open for use on "organically produced" products.

Waxes (including shellac, beeswax and ammonium soaps)-naturally produced waxes are appropriate to petition for exemption from OFPA's prohibition, provided are specified as to use and application.

Magnesium Chloride (natural and refined)-non-synthetically produced magnesium chloride is appropriate to petition for exemption from OFPA's prohibition, provided the use or application is specified. Synthetic magnesium chloride is not open for exemption from prohibition.

Phosphoric Acid (as a sanitizer)-is a synthetic substance and as such not open for exemption from prohibition. Under OFPA, there are no categories of synthetic substances allowed to contact or be introduced by a certified handling operation as part of an "organically produced" processed food. There is no need to consider "sanitizers" for use in certified handling operations. FDA and State health departments designate allowed sanitizers. The authority of FDA and State health departments supersedes OFPA.

In considering inclusion of a substance on the National List, the Board is required by Section 2119 in (k) RESPONSIBILITIES OF THE BOARD.  
(2) NATIONAL LIST. The Board shall develop the proposed National List or proposed amendments to the National List for submission to the Secretary in accordance with section 2118.

to follow the National List procedures set out in Section 2118:

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(b) CONTENT OF LIST. The list established under subsection (a) shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c) (1) or each natural substance prohibited under subsection (c)(2).

(c) GUIDELINES FOR PROHIBITIONS OR EXEMPTIONS.

(1) EXEMPTION FOR PROHIBITED SUBSTANCES. The National List may provide for

the use of substances in an organic farming or handling operation that are otherwise prohibited under this title ONLY IF,

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling of the agricultural product because of unavailability of wholly natural substitute products; and  
(iii) is consistent with organic farming and handling,

(B.) the substance

(i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock parasiticides and medicines and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers;

(ii) is used in production and contains synthetic inert ingredients that are not classified by the Administrator of the Environmental Protection Agency as inerts of toxicological concern; or

(iii) is used in handling and is non-synthetic but is not organically produced; and

(C) the specific exemption is developed using the procedures described in subsection (d).

Best regards,

Eric