

National Organic Standards Board
Crops Subcommittee
Discussion Document - EPA List 4 on §205.601(m) Annotation Change
February 2, 2016

Introduction

The Crops Subcommittee is working towards a solution to reviewing the inerts that were formerly on EPA List 4 by collaborating with the EPA Safer Choice Program (SCP) (formerly Design for the Environment Program). The NOSB supported a [recommendation](#) to change the existing listing for inert ingredients at its October 2015 meeting. An additional annotation change is proposed for posting (but not voting) so that all stakeholders can be aware of an impending proposal for a change to the listing.

Background

For background here are the final two paragraphs of the EPA List 4 Sunset Review:

The Crops Subcommittee (CS) fully agrees with the frustration over how long it is taking to implement the NOSB recommendation to review inerts. We sincerely hope that the vote to proceed will be taken soon so that the program to work with the Safer Choice Program can begin in 2016. Once it begins, the inerts manufacturers will have to submit their products to Safer Choice to be reviewed. This will clearly favor those inerts that have the best chance of being approved, because the ones that are not likely to be approved will not apply until absolutely forced to do so. The CS believed that it would be better to put some of the inerts categories that are unlikely to end up on the SCIL list on notice sooner than the very end of the whole SCP project so that they could start moving towards reformulation sooner rather than later. That is why we requested a Technical Report for [nonylphenol ethoxylates](#) (NPEs) and are considering Technical Report requests for other categories that will not pass the SCP. We are doing this with the expectation that there will be a long period of time before full implementation of this program, so that everyone doesn't complain at the end that there wasn't enough notice.

The accompanying annotation discussion proposal to remove NPEs from organic products has one clear message from the NOSB: START REFORMULATING NOW! The change will definitely not be sudden, but it is clear that eventually NPEs will not be allowed in organic. Unless all stakeholders communicate this in their messaging to their constituents, this will bog down the change even further.

Discussion: Proposal to Prohibit NPEs

As stated above, if the goal is to get NPEs out of organic products without disrupting the tools that organic farmers use we need to give as much notice as possible. No matter how we approach it companies will likely object about not having enough notice and time. They did the same thing when List 3 was first prohibited. The 2000 Final Rule establishing the organic regulations allowed an 18-month period for compliance with the new prohibition on List 3 inerts, and the EPA cooperated by fast-tracking some chemicals that were on List 3 to move to List 4. This proved to be enough time for products to either be reformulated or get re-classified. In the end, only a few products came off the list and these were soon replaced by acceptable organic alternatives.

One of the biggest challenges, however, is reaching the formulators and suppliers of the products that need to be reformulated. We are requesting input from the public on how to reach this group of stakeholders so that there is plenty of notice.

Both the information in the TR and the comments from the public were clear that NPEs are a group that we should attempt to remove from organic products. Because this is a discussion document the Crops Subcommittee has not prepared a checklist at this time, but readers are encouraged to read the 2015 [Technical Report](#) on NPEs for the details.

The Crops Subcommittee believes that a 3-year notice should be enough time to remove the most problematic inerts. If the NOSB waits until all the other inerts are reviewed through the SCP process to announce which ones are prohibited it will take a lot longer. For NPEs, Crops has chosen to put forth a discussion document on a proposed annotation to make the public aware of its intention. The document will circulate until fall of 2016, at which time the NOSB will vote on it. Expect another 18 months for rule change with a comment period and perhaps a grace period in the rule as there was for List 3 inerts. This would be 3 to 4 years at least. So why not start now?

The Proposed Annotation change for discussion is as follows:

§205.601(m) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances. Except for inerts from the group known as Nonylphenol Ethoxylates.

Discussion Questions

1. Is the timeline outlined above enough time to reformulate products?
2. For Accredited Certification Agencies and Materials Review Organizations: how many products that you approve contain NPEs and can you characterize the generic categories that they fall into?
3. Please provide suggestions for outreach to the parties affected by this change.

Motion to approve this discussion document for posting, and work in conjunction with the Livestock Subcommittee on the proposal.

Motion by Zea Sonnabend
Seconded by Harold V. Austin, IV
Yes: 7 No: 0 Abstain: 0 Absent: 0 Recuse: 0

Approved by Zea Sonnabend, Subcommittee Chair, to transmit to NOSB February 2, 2016