

Formal Recommendation
From: National Organic Standards Board (NOSB)
To: the National Organic Program (NOP)

Date: November 2, 2017

Subject: Handling 2019 Sunset Substances

NOSB Chair: Tom Chapman

The NOSB recommends the following sunset substances be renewed:

Attapulgate
Bentonite
Diatomaceous earth
Nitrogen
Sodium carbonate
Acidified sodium chlorite
Carbon dioxide
Chlorine materials (calcium hypochlorite, chlorine dioxide, sodium hypochlorite)
Magnesium chloride
Potassium acid tartrate
Sodium phosphates
Casings
Pectin (non-amidated forms only)

The NOSB recommends the following sunset substances be removed from the National List:

Konjac flour

NOSB Vote: See below for votes and rationale supporting each recommendation.

Sunset 2019
NOSB Final Review
Handling Substances §§205.605(a), 205.605(b), 205.606
November 2017

Note: The materials included in this list are undergoing early sunset review as part of the November 18, 2016 [NOSB recommendation](#) on efficient workload re-organization.

As part of the National List sunset review process, the NOSB Handling Subcommittee has evaluated the need for the continued allowance for or prohibition of the following substances for use in organic handling.

Reference: 7 CFR 205.605 *Nonagricultural* (Nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”

§205.605(a) Nonsynthetics allowed:

[Attapulgite](#)

[Bentonite](#)

[Diatomaceous earth](#)

[Nitrogen](#)

[Sodium carbonate](#)

§205.605(b) Synthetics allowed:

[Acidified sodium chlorite](#)

[Carbon dioxide](#)

[Chlorine materials: calcium hypochlorite, chlorine dioxide, sodium hypochlorite](#)

[Magnesium chloride](#)

[Potassium acid tartrate](#)

[Sodium phosphates](#)

Reference: 7 CFR §205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.”

[Casings](#)

[Konjac flour](#)

[Pectin \(non-amidated forms only\)](#)

Attapulгите

Reference: 205.605(a) – as a processing aid in the handling of plant and animal oils.

Technical Report: [2010 TR](#)

Petition(s): [2009 Attapulгите](#)

Past NOSB Actions: [04/2011 NOSB recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

There was public support for re-listing attapulгите due to active use of the material by certified operators. A couple comments were made that, overall, the material does not appear to be in widespread use and may not be necessary for the industry. Based on the Subcommittee review and public comment, the NOSB finds attapulгите compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove attapulгите from §205.605(a) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Joelle Mosso

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Bentonite

Reference: 205.605(a)

Technical Report: [1995 TAP Kaolin Clay and Bentonite](#)

Petition(s): N/A

Past NOSB Actions: [04/1995 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

There was strong public support for the continued use of bentonite. Based on the Subcommittee review and public comment, the NOSB finds bentonite compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove bentonite from §205.605(a) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Joelle Mosso

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Diatomaceous earth

Reference: 205.605(a) - food filtering aid only

Technical Report: [1995 TAP](#)

Petition(s): N/A

Past NOSB Actions: [04/1995 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

There was strong public support for the continued use of diatomaceous earth. Based on the Subcommittee review and public comment, the NOSB finds diatomaceous earth compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove diatomaceous earth (DE) from §205.605(a) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Joelle Mosso

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Nitrogen

Reference: 205.605(a) - oil-free grades.

Technical Report: [1995 TAP](#)

Petition(s): N/A

Past NOSB Actions: [04/1995 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

There was strong public support for continued use of nitrogen. Based on the Subcommittee review and public comment, the NOSB finds nitrogen compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove nitrogen from §205.605(a) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Lisa de Lima

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Sodium carbonate

Reference: 205.605(a)

Technical Report: [1995 TAP](#)

Petition(s): N/A

Past NOSB Actions: [04/1995 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

There was public support for continued use of sodium carbonate. Based on the Subcommittee review and public comment, the NOSB finds sodium carbonate compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove sodium carbonate from §205.605(a) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Lisa de Lima

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Acidified sodium chlorite

Reference: 205.605(b) - Secondary direct antimicrobial food treatment and indirect food contact surface sanitizing. Acidified with citric acid only.

Technical Report: [2008 TAP](#), [2013 TR for Livestock](#)

Petition(s): [2006 Sodium Chlorite, Acidified](#)

Past NOSB Actions: [2009 NOSB recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

Public comment regarding acidified sodium chlorite was mixed. Those in support stated that this is an essential tool in the fight against food borne pathogens. Those opposed to relisting stated that the NOSB should do a comprehensive review of sanitizers. The NOSB believes a review of that scope is beyond that of the sunset review process. Based on the Subcommittee review and public comment, the NOSB finds acidified sodium chlorite compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove acidified sodium chlorite (ASC) from §205.605(b) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Ashley Swaffar

Seconded by: Lisa de Lima

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Carbon dioxide

Reference: 205.605(b)

Technical Report: [1995 TAP](#); [2006 TAP](#)

Petition(s): [2005 Carbon Dioxide](#)

Past NOSB Actions: [10/1995 NOSB minutes and vote](#); [2007 NOSB Committee recommendation](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)

NOSB Review:

There was strong public support for the continued use of carbon dioxide. Based on the Subcommittee review and public comment, the NOSB finds carbon dioxide compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove carbon dioxide from §205.605(b) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Lisa de Lima

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Chlorine materials

Reference: 205.605(b) Chlorine materials - disinfecting and sanitizing food contact surfaces, *Except*, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite).

Technical Report: [2006 TR - Handling](#)

Petition(s): N/A

Past NOSB Actions: [10/1995 NOSB minutes and vote](#); [04/2006 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)

NOSB Review:

Public comment regarding chlorine materials was mixed. Those in support stated that this is an essential material required for food safety and necessary for proper sanitation. Those opposed to relisting stated that the NOSB should do a comprehensive review of sanitizers. The NOSB believes a review of that scope is beyond that of the sunset review process. Based on the Subcommittee review and public comment, the NOSB finds chlorine materials compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove chlorine materials from §205.605(b) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Ashley Swaffar

Seconded by: Joelle Mosso

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Magnesium chloride

Reference: 205.605(b) – derived from sea water.

Technical Report: [1995 TAP](#); [2016 TR](#)

Petition(s):N/A

Past NOSB Actions: [10/1995 NOSB minutes and vote](#); [10/1999 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/22

[Subcommittee Review](#)

NOSB Review:

There was strong public support for the continued use of magnesium chloride. Based on the Subcommittee review and public comment, the NOSB finds magnesium chloride compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove magnesium chloride from §205.605(b) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Lisa de Lima

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Potassium acid tartrate

Reference: 205.605(b)

Technical Report: [1995 TAP](#); [2017 TR](#)

Petition(s): N/A

Past NOSB Actions [10/1995 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)

NOSB Review:

There was strong public support for the continued use of potassium acid tartrate. Based on the Subcommittee review and public comment, the NOSB finds potassium acid tartrate compliant with OFPA criteria, and does not recommend removal from the National List. The NOSB also passed a proposal separate from the sunset review to reclassify potassium acid tartrate from 205.605(b) to 205.606.

NOSB Vote:

Motion to remove potassium acid tartrate from §205.605(b) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Steve Ela

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Sodium phosphates

Reference: 205.605(b) - for use only in dairy foods.

Technical Report: [2001 TAP](#); [2016 Phosphates](#)

Petition(s): 1995 N/A, [2001 Sodium Phosphate](#)

Past NOSB Actions: [10/1995 NOSB minutes and vote](#); [10/2001 NOSB minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)

NOSB Review:

Public comment regarding sodium phosphates was mixed. Those in support stated that sodium phosphate is essential in organic cheese products, including liquid and powdered forms. Specifically, the material acts as an emulsifier and stabilizer for shelf stable cheese products. Those opposed to relisting did so based on human health concerns and lack of essentiality. The subcommittee review concluded that since there are 4 phosphates on the National List at 205.605(b), no single phosphate food additive or ingredient can be implicated as an isolated risk factor. Additionally, the 2016 Technical Report on sodium phosphates was inconclusive regarding human health impacts. Specifically, it indicated that small amounts of sodium phosphates may not cause human health problems, but long term cumulative impacts are not fully understood. Based on the Subcommittee review and public comment, the NOSB finds sodium phosphates compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove sodium phosphates from §205.605(b) based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Lisa de Lima

Seconded by: Tom Chapman

Yes: 3 No: 12 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Casings

Reference: 205.606(a) casings, from processed intestines

Technical Report: N/A

Petition(s): [2006 Petition](#)

Past NOSB Actions: [04/2007 NOSB recommendation](#); [10/2010 NOSB sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Added to NL effective 06/21/07 ([72 FR 35137](#)); Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)**NOSB Review:**

There was strong public support for the continued use of casings. Some commenters encouraged the industry to examine the barriers to the availability of organic casings and raised the concern about the need to incentivize production of organic casings. Based on the Subcommittee review and public comment, the NOSB finds casings compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove casings from §205.606 based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: none

Motion by: Lisa de Lima

Seconded by: Tom Chapman

Yes: 1 No: 14 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed

Konjac flour

Reference: 205.606(n) Konjac flour (CAS # 37220-17-0).

Technical Report: None

Petition(s): [2001 Petition](#)

Past NOSB Actions: [05/2002 NOSB minutes \(determined to be agricultural\)](#); [10/2010 NOSB sunset recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: 2007 Interim Rule ([72 FR 35137](#)); Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)

NOSB Review:

There was extremely limited public support for the continued use of konjac flour. One trade organization noted this from a member: "Currently in use. It's a primary ingredient, not a thickener, and we are not aware of organic alternatives." During oral public comment, the trade organization was asked for specific information regarding the use of konjac or whether it is currently being used in a certified organic product, no data was provided.

During discussion by the whole board at the Fall 2017 meeting, one board member shared that konjac is currently used to produce an organic mochi rice-based dessert. However, the board did not received evidence that the organic supply of konjac flour is insufficient to meet the demand of organic processors. Based on the Subcommittee review and public comment, the NOSB does not find konjac flour compliant with OFPA criteria, based on lack of essentiality and recommends removal from the National List.

NOSB Vote:

Motion to remove konjac flour from §205.606 based on the following criteria in the Organic Foods Production Act (OFPA) Section 2118 (c)(1)(A)(ii): essentiality.

Motion by: Scott Rice

Seconded by: Ashley Swaffar

Yes: 11 No: 4 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion passed

Pectin

Reference: 205.606(s) Pectin (non-amidated forms only).

Technical Report: [1995 TAP](#); [2009 TR](#); [2010 supplemental TR](#); [2015 TR](#) (limited scope)

Petition(s): [2005 Petition – low methoxy pectins](#)

Past NOSB Actions: [04/1995 minutes and vote](#); [11/2005 sunset recommendation](#); [10/2010 NOSB recommendation](#); [10/2015 sunset review](#)

Recent Regulatory Background: Sunset renewal notice 2017 ([82 FR 14420](#))

Sunset Date: 03/15/2022

[Subcommittee Review](#)

NOSB Review:

There was strong public support for the continued use of pectin. Board discussion noted the desire for the development of an organic pectin and discussed how this production could be incentivized but also noted the lack of commercial availability. Based on the Subcommittee review and public comment, the NOSB finds pectin compliant with OFPA criteria, and does not recommend removal from the National List.

NOSB Vote:

Motion to remove pectin from §205.606 based on the following criteria in the Organic Foods Production Act (OFPA) and/or 7 CFR 205.600(b) if applicable: None

Motion by: Tom Chapman

Seconded by: Ashley Swaffar

Yes: 0 No: 15 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion failed