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## Notice

**To:** Stakeholders and Interested Parties  
**From:** Miles McEvoy, Deputy Administrator   
**Subject:** Sodium Nitrate Use in Organic Crop Production  
**Date:** Approved on September 11, 2012

This notice provides information to National Organic Program (NOP) certifying agents and organic producers regarding the use of sodium nitrate in compliance with the USDA organic regulations.

Sodium nitrate is currently listed on the National List of Allowed and Prohibited Substances (National List) at 7 CFR 205.602(g) as a prohibited nonsynthetic as follows:

Sodium nitrate—unless use is restricted to no more than 20 percent of the crop's total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.

While listed on the National List as a prohibited nonsynthetic, sodium nitrate can be used in organic production in accordance with its annotation. The annotation allows sodium nitrate to provide no more than 20 percent of the crop's total nitrogen requirement.

Due to the sunset provision in the Organic Foods Production Act of 1990 (OFPA), sodium nitrate will sunset from the National List on October 21, 2012. The sunset provision in OFPA requires the exemptions and prohibitions on the National List to be reviewed by the National Organic Standards Board (NOSB) every five years. For substances to remain on the National List and not sunset, the substances must be reviewed by the NOSB and renewed by the Secretary of Agriculture within the five year timeframe.

The NOSB reviewed sodium nitrate at its April 2011 meeting and recommended that sodium nitrate be renewed (relisted) without its annotation. This recommendation, if finalized, would prohibit the substance in its entirety. The NOP originally intended to address all of the materials due to sunset from the National List in 2012 (also called "Sunset 2012") in one proposed rule. However, this was not possible due to the significance of the removal of sodium nitrate's annotation. The NOP instead announced that it would address the NOSB's Sunset 2012 recommendation for sodium nitrate through a rulemaking action separate from other Sunset 2012 substances (77 FR 1996).



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A proposed rule regarding the use of sodium nitrate is forthcoming. The final rule for sodium nitrate will not become effective until after the sunset date for sodium nitrate passes, due to the length of time required for rulemaking. Therefore, there will be a period of time after October 21, 2012, when sodium nitrate is not present as a prohibited nonsynthetic on the National List.

We are issuing this notice as a reminder to organic producers and certifying agents of their continued obligation to comply with organic crop production standards during the time after sodium nitrate's sunset date (October 21, 2012) and prior to completion of rulemaking.

The use of any substance must comply with the USDA organic regulations. Organic producers must meet the requirements of 7 CFR 205.200 which states that production practices must maintain or improve the natural resources of the operation, including soil and water quality. Under 7 CFR 205.203(b), producers must manage crop nutrients and soil fertility through rotations, cover crops, and the application of plant and animal nutrients. Organic producers who use sodium nitrate need to ensure that the use of sodium nitrate is aligned with the requirements of 7 CFR 205.203(b).

Until October 21, 2012, organic producers must comply with the existing listing for sodium nitrate at section 205.602(g). After October 21, 2012, organic producers that use sodium nitrate will need to continue to comply with the soil fertility and crop nutrient management practice standard.

Any changes to a producer's Organic System Plan that may affect compliance with the USDA organic regulations must be submitted to the producer's certifying agency (205.400(f)). Organic producers that choose to start or increase use of sodium nitrate on their fields must inform their certifying agent before such changes take place; this ensures producers' continued compliance with the USDA organic regulations.

If you have any questions regarding this notice, you may contact the National Organic Program at 202-720-3252.

## References:

### § 205.2 Terms Defined

*Agricultural inputs.* All substances or materials used in the production or handling of organic agricultural products.

*National List.* A list of allowed and prohibited substances as provided for in the Act.

*Nonsynthetic (natural).* A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. 6502(21)). For the purposes of this part, nonsynthetic is used as a synonym for natural as the term is used in the Act.



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### **Organic Foods Productions Act (1990 as amended)**

7 U.S.C. Sec.6508, PROHIBITED CROP PRODUCTION PRACTICES AND MATERIALS

(B) SOIL AMENDMENTS.—For a farm to be certified under this title, producers on such farm shall not—

(2) use as a source of nitrogen: phosphorous, lime, potash, or any materials that are inconsistent with the applicable organic certification program.

7 U.S.C. Sec.6517, NATIONAL LIST

(e) SUNSET PROVISION.—No exemption or prohibition contained in the National List shall be valid unless the National Organic Standards Board has reviewed such exemption or prohibition as provided in this section within 5 years of such exemption or prohibition being adopted or reviewed and the Secretary has renewed such exemption or prohibition.

### **NOP Regulations (as amended to date)**

7 CFR §205.200 General.

The producer or handler of a production or handling operation intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must comply with the applicable provisions of this subpart. Production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation, including soil and water quality.

7 CFR §205.203 Soil fertility and crop nutrient management practice standard.

(a) The producer must select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.

(b) The producer must manage crop nutrients and soil fertility through rotations, cover crops, and the application of plant and animal materials.

(c) The producer must manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances.

Animal and plant materials include:

(1) Raw animal manure, which must be composted unless it is:

(i) Applied to land used for a crop not intended for human consumption;

(ii) Incorporated into the soil not less than 120 days prior to the harvest of a product whose edible portion has direct contact with the soil surface or soil particles; or

(iii) Incorporated into the soil not less than 90 days prior to the harvest of a product whose edible portion does not have direct contact with the soil surface or soil particles.



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(2) Composted plant and animal materials produced through a process that:

(i) Established an initial C:N ratio of between 25:1 and 40:1; and

(ii) Maintained a temperature of between 131 °F and 170 °F for 3 days using an in-vessel or static aerated pile system; or

(iii) Maintained a temperature of between 131 °F and 170 °F for 15 days using a windrow composting system, during which period, the materials must be turned a minimum of five times.

(3) Uncomposted plant materials.

(d) A producer may manage crop nutrients and soil fertility to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances by applying:

(1) A crop nutrient or soil amendment included on the National List of synthetic substances allowed for use in organic crop production;

(2) A mined substance of low solubility;

(3) A mined substance of high solubility: *Provided*, That, the substance is used in compliance with the conditions established on the National List of nonsynthetic materials prohibited for crop production;

(4) Ash obtained from the burning of a plant or animal material, except as prohibited in paragraph (e) of this section: *Provided*, That, the material burned has not been treated or combined with a prohibited substance or the ash is not included on the National List of nonsynthetic substances prohibited for use in organic crop production; and

(5) A plant or animal material that has been chemically altered by a manufacturing process: *Provided*, That, the material is included on the National List of synthetic substances allowed for use in organic crop production established in §205.601.

(e) The producer must not use:

(1) Any fertilizer or composted plant and animal material that contains a synthetic substance not included on the National List of synthetic substances allowed for use in organic crop production;

(2) Sewage sludge (biosolids) as defined in 40 CFR part 503; and

(3) Burning as a means of disposal for crop residues produced on the operation: *Except*, That, burning may be used to suppress the spread of disease or to stimulate seed germination.



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7 CFR §205.602 Nonsynthetic substances prohibited for use in organic crop production.

(g) Sodium nitrate—unless use is restricted to no more than 20 percent of the crop's total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.

**NOSB Recommendations**

April 29, 2011, NOSB Recommendation on Sunset Review – Sodium Nitrate. Available at the NOP web site: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5091717>.