

## Organic Trade Association's Spring 2022 National Organic Standards Board Report

On April 26-28, the National Organic Standards Board (NOSB) held its biannual public meeting via live online webinar. Complete meeting details and background, as well as full text of our submitted written comments, is available on the Organic Trade Association's [Spring 2022 NOSB meeting website](#).

### HIGHLIGHTS

#### **SPECIAL REPORTS:**

- **NOP** provided updates on rulemaking and prioritization of the backlog of NOSB Recommendations. [Read OTA's comments](#).
- **USDA** representatives provided updates on Climate-Smart Agriculture and the state of organic research. [Read about OTA's work](#).
- **Organic Seed Alliance** presented research results on the state of organic seed. [Read OTA's comments on increasing organic seed usage](#).

**PROPOSALS:** NOSB considered 7 proposals at this meeting: **3 PASSED**, **1 FAILED**, and **3 were referred back to subcommittee**.

**3 PASSED** (Referred to USDA for approval and implementation. Not effective until accepted by USDA and implemented through final action.)

- **Highly Soluble Nitrogen Fertilizer (Crops)** – proposal to limit fertilizers with low C:N to < 20% of crop need **is adopted** (15 Yes, 0 No)
- **Excluded Methods** – proposal to formalize status of cell and protoplast fusion in plant breeding **is adopted** (15 Yes, 0 No)
- **Public Comment Process** – proposal for minor updates to NOSB Policy and Procedure Manual **is adopted** (15 Yes, 0 No)

#### **1 FAILED**

- **Cetylpyridinium Chloride (Handling)** – petition for use as an antimicrobial treatment of poultry carcasses **is rejected** (0 Yes, 15 No)

#### **3 Sent Back to Subcommittee for further work:**

- **NOP Risk Mitigation Table** – proposal for procedures to mitigate conflicts of interest in the NOP accreditation of certifiers **is sent back to subcommittee**
- **Carbon Dioxide (Crops)** – petition for use in irrigation water treatment **is sent back to subcommittee**
- **Phosphoric Acid (Handling)** – petition expanded use for extracting target molecules from seaweed **is sent back to subcommittee**

**SUNSET REVIEWS:** NOSB discussed over 30 National List inputs that are scheduled for Sunset Review this year. NOSB will vote on whether these substances should remain on the National List at the Fall 2022 meeting.

**DISCUSSION DOCUMENTS:** NOSB considered 4 discussion documents at this meeting.

- **Tall Oil, Distilled** – petitioned for use as an inert ingredient crop and livestock pest control
- **2022 Research Priorities** – discussion on NOSB's annual list of research priorities for organic food and agriculture
- **Human Capital: NOSB Technical Support Initiative** – exploring opportunities to obtain outside assistance to help alleviate NOSB workload
- **Modernizing Organic Traceability Infrastructure** – exploring new requirements for reporting acreage on organic certificates and a universal bill of lading

## NOSB MEMBERS

This 15-person citizen advisory board brings together volunteers from around the United States. It is made up of four farmers/growers, two handlers/processors, one retailer, one scientist, three consumer/public interest advocates, three environmentalists, and one USDA accredited certifying agent. Welcome [new members](#) Liz Graznak, Dr. Dilip Nandwani, Allison Johnson, and Javier Zamora!



## NOP REPORT

Dr. Jenny Tucker, Deputy Administrator of the National Organic Program (NOP) provided an update on NOP activities and priorities.

- Rulemaking Updates
  - **Origin of Livestock (OOL)** Final Rule was published. Training for certifiers and operations will be available from the Organic Integrity Learning Center later this year.
  - **Organic Livestock and Poultry Standards (OLPS)** Proposed Rule was submitted to the White House Office of Management and Budget (OMB) in December 2022. NOP is working with OMB to support their review process.
  - **Strengthening Organic Enforcement (SOE)** Final Rule is in legal review (*an early step in USDA clearance process after it leaves the NOP*).
  - The Advance Notice of Proposed Rulemaking on **Inerts (List 3 & 4)** is in legal review.
  - USDA will proceed with the rulemaking process to prohibit **ammonia extracts** as recommended by the NOSB in its Fall 2021 Recommendation. USDA plans to advance those recommendations independently from NOSB's current work on Highly Soluble Nitrogen presented at this meeting.

- NOP Regulatory Priorities Listening Session
  - 572 written public comments were submitted in response to NOP’s call for comments on how to prioritize the backlog of NOSB Recommendations for organic practice standards ([Read OTA’s Comments](#)). Dr. Tucker provided some highlights:
    - **Strengthening Organic Seed Usage** – Many commenters ranked this as a high priority issue. NOP is aware of the concerns about low use of organic seed based on these comments and the new report from the Organic Seed Alliance. The comments provided very good historical feedback and information that will help NOP re-evaluate (i.e., elevate) this priority going forward.
    - **Hydroponics and Container Standards** – Many commenters ranked this as a high priority issue. There is a current lawsuit on hydroponics in the appeals phase, and the resolution of that case is likely to inform next steps and direction on this topic. Right now, NOP does not believe it has sufficient information to move directly to a proposed rule. Additional NOSB work may be needed.
    - **Eliminate Incentive to Convert Native Ecosystems to Organic Production** – Many commenters ranked this as a high priority issue. NOP understands the importance of issue, but also recognizes the significant challenges. Before proceeding with this recommendation, NOP needs like to see significant support from the organic industry, Dr. Tucker noted that congressional action may be needed due to lack of statutory authority and need for legislation prior to rulemaking.
  - *Next Steps:* NOP will re-review and update the status of outstanding NOSB Recommendations in the [NOSB Recommendations Library](#) based on what they learned from the public comments. NOP will keep the public informed of its updated priorities. NOP will also send memos to the NOSB to communicate about its rulemaking priorities and to explain why NOP may not move forward on an NOSB recommendation.
- NOP launched a new [Petitioned Substances Index](#) that organizes information relevant to substances that have been considered for addition to the National List.
- Dr. Tucker also prepared a pre-recorded report on the activities of NOP, which is available in the [Organic Integrity Learning Center](#) at Course “NOP-998 - NOP Presentations.” *Need a Free Account? [Sign up here](#).*

## SPECIAL REPORTS

**CLIMATE-SMART AGRICULTURE** – **Sean Babington**, USDA Senior Climate Advisor, and **Adam Chambers** of the Natural Resource Conservation Service each gave presentations on the important role of organic in USDA’s initiative to support climate-smart agriculture.

**NATIONAL INSTITUTE OF FOOD AND AGRICULTURE** – **Mat Ngouajio**, National Science Liaison, Institute of Food Production and Sustainability, provided an update on Organic Agriculture Research and Extension Initiative (OREI) and Organic Transitions (ORG) programs that support organic agriculture.

**ORGANIC SEED** – **Kiki Hubbard**, Organic Seed Alliance, presented a report on the [State of Organic Seed](#).

## **OUTCOMES OF NOSB AGENDA TOPICS (BY SUBCOMMITTEE)**

For background on all topics, please refer to the [OTA's Summary of Proposals](#). For full text of OTA's comments submitted in response to each proposal prior to the meeting, please download [OTA's Written Comments](#).

### **COMPLIANCE, ACCREDITATION, & CERTIFICATION SUBCOMMITTEE**

- **NOP RISK MITIGATION TABLE (PROPOSAL):** NOSB unanimously voted to send this topic back to the CAC Subcommittee for further work. Public comments indicated that the table does not cover all types of risks or conflicts of interest. Board members felt it important to spend more time with the information to make sure their review is thorough.
- **NOSB TECHNICAL SUPPORT INITIATIVE (DISCUSSION):** NOSB summarized public comments responding to the Subcommittee's questions posed in the discussion document. There is widespread agreement that NOSB members need help to manage the workload and technical information, and that such support is a critical to removing barriers for underrepresented persons serving on the Board. It is also critical that provision of such support is "squeaky clean" with transparency and avoids any bias or conflicts of interest.
- **MODERNIZATION OF SUPPLY CHAIN TRACEABILITY (DISCUSSION):** NOSB summarized public comments responding to the Subcommittee's questions posed in the discussion document. Comments were generally supportive of a potential new requirement to list acreage on organic certificates, provided that confidential business information is protected. Three certifiers are already doing this to some extent. There is some interest in waiting to see what final requirements are in the Strengthening Organic Enforcement rule to help certifiers make informed decisions about investing in database upgrades and new procedures. The discussion on a universal bill of lading yielded mixed responses from public commenters and NOSB members. There is interest in ensuring that any new requirements are applicable and fair to operations all sizes, all sectors, and all levels of technology access or lack thereof.

### **CROPS SUBCOMMITTEE**

- **HIGHLY SOLUBLE NITROGEN FERTILIZERS (PROPOSAL):** NOSB unanimously voted in favor of the motion to add at §205.105: "Nitrogen fertilizers with a C: N ratio of 3:1 or less, including those individual components of a blended fertilizer formulation, are limited unless use is restricted to a cumulative total use of 20% of crop needs." This proposal addresses materials that fall outside the definition of ammonia extracts that NOSB addressed last meeting. NOSB members recognized concerns from commenters about potential recordkeeping burdens for farmers and that certifiers will have a significant role in evaluating whether inputs in a farm's Organic System Plan would be subjected to this restriction.
- **CARBON DIOXIDE (PROPOSAL):** NOSB unanimously voted to send this topic back to the Crops Subcommittee for further work. Public comments were mixed, with some questioning the need for synthetic sources and others recommending a requirement that it be manufactured strictly from a byproduct. There are also questions about the petitioner's specific intended use as a plant or soil amendment.

- **CROPS 2024 SUNSET REVIEW (DISCUSSION):** NOSB summarized public comments for each material undergoing sunset review.
  - **Herbicidal Soaps** – No concerns with relisting.
  - **Biodegradable Biobased Mulch Film** – Last year, NOSB passed a recommendation to change the annotation. This year’s sunset review should be straightforward given there has already been so much discussion on this material.
  - **Boric Acid** (structural pest control) – NOSB may look at a limited scope Technical Report to get information about gel forms.
  - **Sticky Traps/Barriers** – This is a benign material that is widely supported.
  - **Elemental Sulfur** (slug and snail bait) – Most comments supported relisting.
  - **Copper for Disease Control** (fixed copper, copper sulfate) – There were no comments that supported removal, however most commenters do want to see these materials phased out over time provided alternatives are available. NOSB has asked for an updated Technical Report.
  - **Polyoxin D Zinc Salt** (disease control) – This material is an alternative to copper for disease control. Support for relisting.
  - **Humic Acids** (plant/soil amendment) – Widely used and supported.
  - **Micronutrients** (boron, zinc, copper, iron, manganese, molybdenum, selenium, and cobalt) – Majority comments in favor of relisting.
  - **Vitamins C and E** – No concerns with relisting.
  - **Squid Byproducts** (fertilizer) – No concerns with relisting.
  - **Lead Salts** (prohibited) – No concerns with relisting as prohibited.
  - **Tobacco Dust** (prohibited) – No concerns with relisting as prohibited.

## HANDLING SUBCOMMITTEE

- **CETYLPIRIDINIUM CHLORIDE (PROPOSAL):** NOSB unanimously voted against the petition to allow CPC due to a number of concerns, including: quaternary ammonia compounds have historically been prohibited in organic; adding another synthetic sanitizer to the National List; use of propylene glycol as an ancillary ingredient; and concern about the potential for residues on poultry skin. There are also potential human health concerns and a lack of necessity for the material by organic poultry processors.
- **PHOSPHORIC ACID (PROPOSAL):** NOSB unanimously voted to send this topic back to the Handling Subcommittee for further work. Public comments did not directly respond to questions posed in NOSB’s proposal and there is a need for more information about how target materials extracted with this substance will be used in organic food processing.
- **HANDLING 2024 SUNSET REVIEW (DISCUSSION):** NOSB summarized public comments for each material undergoing sunset review.
  - **Attapulgit** (clarifying aid) – Support for relisting, with potential future discussions around types of allowable treatments.
  - **Bentonite** (clarifying aid) – Support for relisting, with potential future discussions around types of allowable treatments.
  - **Diatomaceous Earth** (filtering aid) – Overwhelming support for relisting.
  - **Magnesium Chloride** (tofu coagulation; nutrient) – Most comments in support of relisting, with some suggesting a future annotation to limit use in situations that are not consistent with organic principles such as color enhancement.

- **Nitrogen** (packaging, propellant) – All comments in favor of relisting.
- **Sodium Carbonate** (leavener, pH regulator) – All comments in favor of relisting. Some questioned the classification as nonsynthetic.
- **Acidified Sodium Chlorite** (sanitizer) – No objections to relisting.
- **Carbon Dioxide** (storage aid, carbonation) – No objections to relisting.
- **Sodium Phosphates** (dairy processing) - Most comments in support of relisting. Some requested an annotation that would limit use.
- **Casings** (for sausage) – Ongoing concerns about sourcing consistency and sufficient supply of organic alternatives.
- **Pectin** (gelling agent) – Support for relisting. Ongoing concerns about sourcing consistency and sufficient supply of organic alternatives.
- **Potassium Acid Tartrate** (cream of tartar) – Most comments in support of relisting.

## LIVESTOCK SUBCOMMITTEE

- **LIVESTOCK 2024 SUNSET REVIEW (DISCUSSION):** NOSB summarized public comments for each materials undergoing sunset review.
  - **Chlorhexidine** (surgical antimicrobial; teat dip) – Majority of comments support relisting.
  - **Glucose** (ketosis treatment) – All comments support relisting.
  - **Tolazoline** (sedative reversal) – Most comments are supportive of relisting and no substitutes were identified.
  - **Copper Sulfate** (hoof treatment) – Overall, comments are supportive.
  - **Elemental Sulfur** (external pest control) – Most comments are supportive of relisting. One opposing comment did not identify effective alternatives.
  - **Lidocaine** (topical anesthetic) – Support for relisting. Considered an important tool for animal welfare.

## MATERIALS SUBCOMMITTEE

- **EXCLUDED METHODS (PROPOSAL):** NOSB unanimously voted in support of the proposal to formalize status of cell and protoplast fusion in plant breeding under the NOP definition of excluded methods. Commenters widely expressed support for the proposal. One commenter asked for a clarification in the definition to replace “recombinant DNA technology” with “**in vitro nucleic acid technologies**” so as to be more comprehensive (include RNA in addition to DNA) and more effective in keeping up with new technologies. This revision is also consistent with CODEX. NOP clarified this revision is a technical correction and can be made without going back to the Subcommittee. NOSB proceeded to vote in favor of the follow language:
- Cell Fusion:
  - The NOSB recommends NOP add Cell Fusion to the table of Excluded Methods when the donor and the recipient cells are outside taxonomic plant families and/or when either is derived using techniques of in vitro nucleic acid technologies with notes on the exception for use when donor and recipient cells are within the same taxonomic plant families.
  - The NOSB recommends that Cell Fusion and be added to the table of Allowed Methods with notes limiting the use to when the donor and recipient cells are within taxonomic plant families, and neither are derived from techniques of in vitro nucleic acid technologies.

- Protoplast Fusion:
  - The NOSB recommends NOP add Protoplast Fusion to the table of Excluded Methods when either the donor or the recipient cells are outside taxonomic plant families and/or when either is derived using techniques of in vitro nucleic acid technologies with notes on the exception for use when donor and recipient cells are within the same taxonomic plant families.
  - The NOSB recommends that Cell Fusion and be added to the table of Allowed Methods with notes limiting the use to when the donor and recipient cells are within taxonomic plant families, and neither are derived from techniques of in vitro nucleic acid technologies.
- **DISTILLED TALL OIL (DISCUSSION):** NOSB summarized the complexities of reviewing this petition for an inert ingredient. The material is being petition as an inert ingredient, yet there are no current regulations for how to evaluate inerts. The current regulations refer to outdated and obsolete EPA List 3 and 4 and NOP is concurrently pursuing rulemaking to update the regulations for evaluating inerts. The Subcommittee will need to have a discussion with NOP to determine if there is a path forward. NOSB is also questioning whether or not this material actually functions as an inert.
- **2022 RESEARCH PRIORITIES (DISCUSSION):** NOSB summarized public comments received on the proposed research priorities and will integrate feedback into a final proposal for vote at the next meeting.

## POLICY DEVELOPMENT SUBCOMMITTEE

- **PUBLIC COMMENT PROCESS (PROPOSAL):** NOSB unanimously voted in support of proposed revisions to the Policy and Procedures Manual as presented below (strikeout = removed text; **bold** = new added text):

### E. PUBLIC COMMENT

The NOP and NOSB encourage public comment and work collaboratively to increase opportunities for greater participation by a broad range of people, employing various modes of communication and modern technology whenever possible. **Individuals are encouraged to submit written comments and may also** present oral comment at either a pre-meeting electronic webinar or at the in-person NOSB meeting.

#### **Comments** Before Public Meetings:

##### *Written comment:*

All members of the public are encouraged to submit public comment in writing according to the Federal Register Notice. Written submissions allow NOSB members the opportunity to read comments in advance, eliminate or decrease the need for paper copies to be distributed during the meeting, and allow each NOSB member to review and analyze data and information well ahead of the public meeting and possible voting.

**Commenters shall refrain from including personal attacks or remarks that might impugn the character of any individual.**

##### *Oral Comments*

Oral comments: **Individuals may present oral comment at either a pre-meeting electronic webinar or at the in-person NOSB meeting.** May be received via a virtual meeting/webinar. Public notice of such electronic meetings will be included in the Federal Register notice announcing the public meeting. Such electronic pre-meetings may allow individuals more time to present their data or information, reduce the need to attend the public meeting in person, reduce our carbon footprint, and give the NOSB more time to absorb the information. Such electronic meetings shall be recorded and made available to the public and to NOSB members.

## LOOKING FORWARD

The [Fall 2022 NOSB Meeting](#) is scheduled for October 25-27 in Sacramento, CA. Work agenda topics are listed below.

SUBCOMMITTEE	ACTION	FALL 2022 NOSB WORK AGENDA TOPIC
Crops	Vote	<b>Carbon Dioxide</b> – petition for use as an irrigation water pH adjuster
Crops	Vote	<b>Potassium hydroxide</b> – petition
Crops	Vote	<b>Potassium sorbate</b> – petition
Crops	Vote	<b>2024 Sunset Reviews:</b> Herbicidal Soaps; Biodegradable biobased mulch film; Boric acid (structural pest control); Sticky traps/barriers; Elemental sulfur (slug and snail bait); Copper for disease control (fixed copper, copper sulfate); Polyoxin D zinc salt (disease control); Humic acids (plant/soil amendment); Micronutrients (boron, zinc, copper, iron, manganese, molybdenum, selenium, and cobalt); Vitamins C and E; Squid byproducts (fertilizer); Lead salts (prohibited); Tobacco dust (prohibited)
Handling	Vote	<b>Phosphoric acid</b> – petition to allow for use as a pH adjuster for extractions of plants of the Lamiaceae family
Handling	Vote	<b>Peroxylic Acid (PoLA)</b> – petition for use as an antimicrobial processing aid for meat and poultry products
Handling	Discussion	<b>L-Malic Acid Reclassification</b>
Handling	Vote	<b>Ion Exchange Filtration</b>
Handling	Vote	<b>2024 Sunset Reviews:</b> Attapulgate (clarifying aid); Bentonite (clarifying aid); Diatomaceous earth (filtering aid); Magnesium chloride (tofu coagulation; nutrient); Nitrogen (packaging, propellant); Sodium carbonate (leavener, pH regulator); Acidified sodium chlorite (sanitizer); Carbon dioxide (storage aid, carbonation); Sodium phosphates (dairy processing); Casings (for sausage); Pectin (gelling agent); Potassium acid tartrate (cream of tartar)
Livestock	Vote	<b>2024 Sunset Reviews:</b> Chlorhexidine (surgical antimicrobial; teat dip); Glucose (ketosis treatment); Tolazoline (sedative reversal); Copper sulfate (hoof treatment); Elemental sulfur (external pest control); Lidocaine (topical anesthetic)
Materials	Vote	<b>Excluded Methods, Fall 2022</b>
Materials	Vote	<b>Distilled Tall Oil</b> – petitioned for use as an inert ingredient crop and livestock pest controls
Materials	Vote	<b>2022 Research Priorities</b> – discussion on NOSB’s annual list of research priorities for organic food and agriculture
PD	Vote	<b>Policy and Procedure Manual Updates</b>
CACS	Vote	<b>NOP Risk Mitigation Table</b> – proposal for procedures for mitigating conflicts of interest in the NOP accreditation of certifiers
CAC	Vote	<b>Organic and Climate-Smart Agriculture</b> – responding to memo from NOP
CAC	Vote	<b>Human Capital: NOSB Technical Support Initiative</b> – obtaining outside assistance for NOSB to help alleviate some of the workload
CAC	Vote	<b>Oversight improvements to deter fraud: Modernization of organic traceability infrastructure</b> – exploring new requirements for reporting acreage on organic certifications and a universal bill of lading