



BEYOND PESTICIDES

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September, 2024

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW
Room 2648-S, Mail Stop 0268
Washington, DC 20250-0268

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Docket ID # AMS-NOP-24-0023

Re. MS: “Inert” ingredients

These comments to the National Organic Standards Board (NOSB) on its Fall 2024 agenda are submitted on behalf of Beyond Pesticides. Founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers, and farmworkers, Beyond Pesticides advances improved protections from pesticides and alternative pest management strategies that eliminate a reliance on pesticides. Our membership and network span the 50 states and the world.

Beyond Pesticides supports option #1 for listing synthetic “inert” ingredients in pesticide products used in organic production. (Note: we believe that the description “organic pesticide products” should be avoided since such products are “organic” neither in the chemical sense nor in the sense of being certified organic.) Option #1 is in alignment with our previous comments. (See attachment.) We stress—what the NOSB members know—that “inert” ingredients typically make up the majority of a product formulation’s ingredients and, therefore, account for significant exposure to farmers, people, and the environment. We would like those previous comments to be considered as part of these comments as well.

Option #2, while it appears to be simpler, would in fact be more complicated to carry out and would not ensure that the approved “inerts” meet OFPA criteria.

Option #1 should be adopted.

The evaluation of individual so-called “inert” synthetic ingredients in products used in organic production is not optional. It is required by law.¹

The listing motion should identify initial sunset dates. We support the grouping of chemicals. We agree with the suggestions stated by the MS:

We suggest staggering the reviews of these groups over a 5-year period, with those that may have problematic items being reviewed earlier. For instance, the alkylphenol group or some members of the emulsifiers and surfactant group may be removed from the list after initial review. We expect the first sunset review of each group to be most difficult, requiring research assistance. . . . Subsequent reviews may require less work.

We would not limit research assistance to that of a “food technologist,” since input from an ecologist, soil scientist, or toxicologist might also be useful.

We agree with the MS, “This process is transparent and allows the NOSB to apply NOP standards to inerts, which go beyond the requirements of the EPA for approval. It strengthens the integrity of the process and allows for innovation since substances not on the National List can be petitioned for inclusion.”

Option #2 should be rejected.

Option #2 does not ensure that OFPA criteria are met.

EPA explains that a tolerance for a pesticide active ingredient or “inert” ingredient is “the amount of pesticide residues that can remain in or on food or feed commodities as the result of a pesticide application. A tolerance is the maximum residue level of a pesticide (usually measured in parts per million, or ppm) that legally can be present in food or feed.” “According to 40 CFR 180.900, an exemption from a tolerance shall be granted when it appears that the total quantity of the pesticide chemical in or on all raw agricultural commodities for which it is useful under conditions of use currently prevailing or proposed will involve no hazard to human health.”²

On the other hand, OFPA requires that in approving synthetic materials for use in organic production, the Secretary determine that the material:

- (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 the unavailability of wholly natural substitute products; and*
- (iii) is consistent with organic farming and handling;*³

¹ The Organic Foods Production Act (OFPA), §6517 allows the use of a synthetic substance in organic production only if it is listed on the National List “by specific use or application” based on a recommendation by the NOSB, following procedures in OFPA.

² <https://www.epa.gov/pesticide-registration/pesticide-registration-manual-chapter-11-tolerance-petitions>.

³ §6517(c)(1)(A).

Furthermore,

In evaluating substances considered for inclusion in the proposed National List or proposed amendment to the National List, the Board shall consider—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effect of the substance on human health;

(5) the effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.⁴

Thus, exemption from the requirement of tolerance, which considers only health effects of residues in food and feed, cannot substitute for the application of all OFPA criteria. It assumes that “inerts” that have been granted an exemption from tolerance from EPA meet OFPA criteria, rather than demonstrating that they do.

Option #2 is actually more difficult to implement in accordance with the law.

Option #2 requires that all “inerts” with an exemption from tolerance be reviewed at once in the sunset cycle, since there is no separation of groups as in Option #1. The review process is less transparent, requiring the NOSB to not only affirm EPA’s judgment as to health impacts of residues, but also evaluate environmental effects, necessity, and compatibility of all “inerts” at once.

The MS states,

The efficiency gained by aligning with EPA does come with tradeoffs, however. NOSB will not evaluate and vote on each individual inert ingredient allowed in organic pesticide formulas, and some stakeholders will view this unfavorably. There is also a concern related to the potential difficulty in adding to the list of exceptions in the future as new science reveals additional substances that should not be permitted in organic pesticide formulas.

If the NOSB does not evaluate each “inert,” it will not be fulfilling its responsibilities as cited above. Exceptions cannot be identified without periodic review. In short, Option #2 simply continues the policy of deferring to EPA’s judgment, which is known—and acknowledged by the

⁴ §6518(m)

MS in view of the stated exceptions of APEs and PFAS—to be inadequate for implementing the organic program.

Conclusion

We urge the NOSB to adopt Option #1 and the NOP to implement it immediately.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Shistar".

Terry Shistar, Ph.D.
Board of Directors

Attachment: Beyond Pesticides Spring 2024 comments on “inert” ingredients