

with OMRI to produce a comprehensive generic list of substances permitted for organic production. The objective is to produce a draft guidance document, called the Permitted Substances List (PSL), to clarify which commonly available generic substances are allowed for use in organic crop production, according to USDA regulations at 7 CFR Part 205.

Although some international organic regulations already have in place this type of “positive” list, NOP regulations have historically retained different types of material lists for different modes of organic production. The guidance is intended to provide clarity for producers, handlers, certifiers, and other entities involved in the organic industry to help improve the speed and consistency of materials approval.

Two other significant efforts due out in 2012 are guidance on the “Classification of Materials” based on NOSB’s April 2010 Final Recommendation (PDF) and a NOSB policy on the evaluation of “other

ingredients.” OTA expects the Classification of Materials Guidance to coordinate and/or eventually become a component of the guidance describing the criteria and protocols for material review in general. The Classification of Materials Guidance on its own will provide specifics on how to determine the synthetic/non-synthetic and agricultural/non-agricultural classification of a material.

NOSB’s policy on “other ingredients” is being developed in response to a request from NOP. The policy, expected to be completed for NOSB’s spring 2012 meeting, will describe the review and approval process for ingredients and processing aids (referred to as “other ingredients”) that are used during the manufacturing of an allowed non-organic ingredient. Historically, NOP, certifiers and the organic trade have allowed “other ingredients” unless they are specifically prohibited by an annotation, as is the case with natural flavors where synthetic solvents, carriers and preservatives are

prohibited. NOP’s memo requests that NOSB develop a policy specifying which “other ingredients” are allowed in substances listed under § 205.605.

The most effective way to ensure consistency among MROs is to ensure that all such organizations are operating by a consistent set of review protocols and procedures. The critical component of credible oversight is the accreditation or formal assessment and recognition of third-party MROs by NOP. A new accreditation scope for material review will be historical, and its complicated and long-term nature may make many stakeholders uncomfortable, particularly organizations in the early stages of building a material review program. However, comprehensive NOP oversight of materials review is essential to the continuing success of the program, and will be necessary to address the more challenging legal issues that can put the entire organic supply chain at risk.

In conclusion, 2012 promises to be the year of material review.

California clarifies new organic input regulations

By Bill Wolf

Bill Wolf is the OTA representative serving on the CDEFA Organic Inputs Subcommittee. He is President of Wolf, DiMatteo + Associates.

All fertilizers sold in California and claiming compliance for use by organic producers must now be registered, approved, and inspected annually by the California Department of Food and Agriculture (CDEFA). This far-reaching oversight of Organic Input Materials (OIM) is being phased in as part of California Assembly Bill 856 (AB 856) passed in late 2009. AB 856 revised the state’s fertilizer laws, authorizing the OIM program and strengthening CDEFA’s enforcement authority in response to reported fraudulent organic fertilizers.

The discovery of liquid organic fertilizers spiked with synthetic nitrogen that defrauded organic farmers was initially addressed by NOP in February 2009, requiring

inspection of all liquid fertilizers containing more than 3 percent nitrogen. California’s new law goes even further, requiring inspection of every organic fertilizer and compost facility annually.

A 13-member advisory group was appointed in June 2010 by California’s Secretary of Agriculture to help CDEFA implement the complex new requirements of AB 856. On Jan. 27, 2012, CDEFA

unveiled new regulations as to who must register, summarized its report to the legislature on OIM implementation, and reported on progress with registration and inspections to the OIM

subcommittee of the Fertilizer Inspection Advisory Board. This advisory group is made up of composters, certifiers, fertilizer manufacturers, and trade groups, including OTA. For its part, OTA is advocating for sensible regulations that protect the integrity of organic without harming organic farmers or legitimate input suppliers, while avoiding

Continued on Page 10

“We recommend that CDEFA add to its regulations that the definition of Organic Input Materials applies only to products of companies who make the claim that their products meet the NOP rule; recognize in-state and out-of-state inspections from other NOP-accredited or recognized parties; recognize material reviewers currently recognized by the NOP (i.e. OMRI, WSDA); consider the Organic Systems Plan as a model for input producers to maintain their records; adjust the fee structure to base it on per formula, not per label; and make clarifications on processes, as noted above, for implementing AB 856.”

—OTA’s March 1, 2011, public comment to AB 856 draft regulations

GOVERNMENT AFFAIRS

redundant reviews and inspections (see OTA's March 2011 comment).

CDFa has clarified OIM scope, agreeing to only require registration of fertilizers and soil amendments that claim compliance for use in organic farming. Low-risk inputs such as manures sold or traded between neighbors and organic farming by-products such as rice hulls would not be required to register. Previously, CDFa had indicated that every fertilizing input used on organic farms must be registered. OTA, CCOF, and the subcommittee had indicated that only products claiming compliance should be registered under the law (see OTA's 2011 comment).

OIM registration costs \$500 per product for a two-year license and includes NOP compliance review similar to an OMRI Listing, as well as annual inspection of the final manufacturing site. By the end of 2011, CDFa had approved 161 of 375 applications and expects to receive another 400 this year. Inspections in California are being performed by CDFa's staff at no cost. Out-of-state inspection agreements and costs are still being worked out.

Although the advisory group has been successful in getting CDFa to limit the OIM definition and adjust its fee structure, CDFa currently will not cede its authority on material review to other Material Review Organizations (MROs). CDFa has said that this is because AB 856 did not give it the authority to recognize other MROs, and the National Organic program does not yet have consistent oversight of MROs.

Meanwhile, CDFa has not formally responded to the USDA's letter of July 12, 2011 but is working with NOP. The letter provided guidance as to how the OIM program can be recognized by USDA as an NOP Materials Review Program. To be approved by NOP, its OIM program must obtain ISO 65 accreditation, confirm it is part of the State Organic Program and NOP's authority to audit, and clarify how

complaints, appeals and discrepancies with other materials review programs will be resolved.

The next meeting of the OIM Subcommittee is scheduled for June.

NOSB news

The National Organic Standards Board (NOSB) held its fall public meeting in Savannah, GA, Nov. 29 – Dec. 2, 2011. The complete transcript of this meeting has been posted on the National Organic Standards Board website. The meeting was also filmed for the first time, and the webcast (usda.granicus.com/MediaPlayer.php?publish_id=3) is now available. To read OTA's report on all NOSB recommendations, including discussion and examples of public comment, go to OTA's online *NOSB Report*.

During the NOSB meeting, National Organic Program (NOP) Deputy Administrator Miles McEvoy announced the new NOSB members whose five-year terms were to begin Jan. 24:

- Harold V. Austin IV, Handler
- Carmela Beck, Producer
- Tracy Favre, Environmentalist
- Jean Richardson, Ph.D., Consumer/Public Interest
- Andrea (Zea) Sonnabend, Scientist.

The next NOSB meeting will be held May 21–24 in Albuquerque, NM, at the Hotel Albuquerque at Old Town. NOP has also announced that the fall 2012 NOSB meeting will be held in Providence, RI, Oct. 16–19 at the Providence Biltmore. Additional information will soon be posted on the NOSB website.

Proposed rule

The National Organic Program (NOP) published a proposed rule in the Feb. 6 *Federal Register* to revise the annotation for methionine. The proposed rule, which reflects the NOSB recommendation submitted to the Secretary on April 29, 2010, would reduce the maximum levels of

methionine currently allowed in organic poultry production after Oct. 1, 2012.

The current allowance for synthetic methionine, which expires Oct. 1, allows four pounds per ton of feed for laying chickens, five pounds per ton of feed for broiler chickens, and six pounds per ton of feed for turkeys and other poultry. The proposed rule would permit organic poultry producers to use synthetic methionine after Oct. 1, at the following maximum levels:

- two pounds per ton of feed for laying and broiler chickens
- three pounds per ton of feed for turkeys and all other poultry.

NOP also proposes to correct the Chemical Abstract Service (CAS) numbers in the current listing for synthetic methionine and seeks public comment on these changes. It proposes to delete the CAS numbers for D—Methionine (CAS #63–68–3) and L—Methionine (CAS #348–67–4), since only the racemic mixture of DL—Methionine (CAS #59– 51–8) is used in commercial poultry feed. It also proposes to amend the specified CAS numbers to include CAS #583–91–5 for DL—Methionine hydroxy analog, and CAS #s 4857–44–7 and 922–50–9 for DL—Methionine hydroxy analog calcium.

In the proposed rule, NOP recognizes that the Methionine Task Force submitted a new petition for revised maximum allowable levels of synthetic methionine on April 8, 2011.

NOP anticipates that NOSB will consider this petition at its spring meeting. In the meantime, NOP said it is necessary to move forward issuing this proposed rule to address the April 2010 NOSB recommendation and prevent any gap in the allowance of synthetic methionine in the diets of organic poultry due to the current expiration date.

The comment deadline is April 6. For further information, contact Gwendolyn Wyard, OTA's Associate Director for Organic Standards & Industry Outreach. ■