Wolf & Associates

THE ORGANIC SPECIALISTS

Following are the comments that Wolf & Associates submitted for the Spring 2024 NOSB meeting. We would love to hear your feedback!

Comments to the Certification, Accreditation, Compliance Subcommittee (CACS) regarding:

- Discussion Document: Residue Testing for a Global Supply Chain
- Discussion Document: Climate Induced Farming Risk and Crop Insurance
- Discussion Document: Organic Food System Capacity and Constraints
- Proposal: Opportunities in Organic - Improving Support for Organic Transition

Comments to the Crops Subcommittee regarding:

- Organic Standards Development
- Proposal: Carbon dioxide - petitioned
- Discussion Document: Compost
- Sunset Review - §§205.601 and 205.602

Comments to the Handling Subcommittee regarding:

- Organic Standards Development
- Sunset Review - §§205.605 and 205.606

Comment to the Materials Subcommittee regarding Inert Ingredients

Comment to the Livestock Subcommittee regarding Meloxicam petition

Comment regarding Commercial Availability

Comment Regarding the National List and Support for the NOSB

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THE ORGANIC SPECIALISTS

April 3, 2024

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-S, STOP 0268
Washington, DC 20250-0268

RE: Certification, Accreditation, Compliance Subcommittee (CACS)
Docket # AMS-NOP-23-0075

Dear NOSB Members,

We remain grateful for the generous offering of your time and attention from the National Organic Standards Board members who contribute to the betterment and advancement of the organic sector in so many ways. Thank you for tackling the many concerns and review of materials that fill your agenda. Our sector directly benefits from the efforts each of you offers to improve the community's standards and grow the organic sector with integrity. We would like to provide several comments regarding the work of the CAC Subcommittee.

Prior to delving into the items on the agenda, we would like to suggest that some of the issues fall beyond the intended domain of the CACS and even the NOSB. Residue testing is clearly relevant and appropriate for compliance and certification and, with respect to consistency, accreditation. Market capacity, risk-management and transition investments are critical issues for the whole organic community, but difficult for us to reconcile with NOSB's core responsibilities. We acknowledge that these issues have been brought to NOSB by stakeholders and the Board is doing what it can to respond. We also observe that there is a lack of other forums for the whole organic community to constructively process these topics. Therefore, the NOSB is filling a void that should be filled by other means or institutions. We would support the Board's acknowledgement of this situation and perhaps this would encourage the development of such evolution within the organic community.

With respect to all Discussion Documents, we look forward to digesting and commenting on each during the next few months and reading comments from other stakeholders. We also have included a few comments about specific elements of each Discussion Document that we have included below to further the collective conversation.

- Discussion Document: Residue Testing for a Global Supply Chain
- Discussion Document: Climate Induced Farming Risk and Crop Insurance
- Discussion Document: Organic Food System Capacity and Constraints
- Proposal: Opportunities in Organic - Improving Support for Organic Transition

Discussion Document: Residue Testing for a Global Supply Chain

We would like to provide some initial feedback about the Foundational Focus and Timing, and then some general comments.

- A "foundational" examination should commence with §205.670 itself. Paragraph (b) notably includes Excluded Methods and other classes of prohibited materials yet these lack guidance. Furthermore, questions arise concerning other types of contamination, such as PFOS.

- Demonstrably, residue testing plays a crucial role in fraud detection within the current global organic system; however, reliance on testing may diminish now that there is increased cross-agency collaboration between USDA, DHS, and Department of Commerce at various entry and lading points. Developments in risk assessment tools should also prove useful in coming years to better target scarce resources focused on such testing.

- Refinement and differentiation of program goals, such as verifying compliance, deterring fraud, and preventing contaminated/fraudulent products from entering organic supply chains, are essential. These goals require validation and clarity on priorities. For example, we consider it essential to recognize that the relevance of residue testing differs between produce and grains.

- From consumers' standpoint, the pesticide profile of products at retail might receive greater prioritization than field surveillance, as highlighted by Dr. Charles Benbrook's research on preventing acute instances versus average exposure.

- We believe it is imperative to emphasize the need for data. Assessments and potential improvements about residue testing policy are crippled without much more information about current practices and results. A thorough compilation, analysis, and audit of the entire residue testing portfolio system are necessary. Among other benefits, this would help with validation of the ACA Risk Matrix and help evolve that tool for formal adoption.

- NOSB should seek clarification on the implementation of §205.670(f) - public access to residue testing results. Transparency is a valid goal but how this is implemented remains murky. Does this require a Freedom of Information Act (FOIA) request? Again, a unified reporting format and compilation would greatly enhance transparancy. Regarding barriers to implementing residue testing programs within the organic supply chain, challenges such as the stream-of-commerce timing issues in relation to field testing need addressing. Increased in-store sampling, especially for acute or seasonally dynamic concerns, is essential to meet consumer needs.

- Addressing a lack of uniformity in residue testing systems among certifiers necessitates a standardized approach. This would be facilitated by establishing bulk lab contracts to reduce costs and ensure consistency in testing methods and sample handling.

- "Prevention of contamination" entails different considerations for industry and consumer needs. Integration with AMS' Pesticide Data Program (PDP) testing at the consumer level should be explored for better consumer protection and confidence.

Regarding the Questions for Stakeholders:

NOP 2610: Instruction Sampling Procedures for Residue Testing

1. Does this document instruction provide adequate information for certifiers and inspectors to collect samples in the field?

No, it does not. NOP 2610 (et seq) are germane only to sampling for testing of pesticide residues. 205.607(b) clearly includes testing for Excluded Methods and other types of prohibited materials. Sampling instructions should be expanded to cover these instances.

2. Are there areas pertaining to sample collection (sample size, when to collect samples, sample selection, etc.) that need to be developed or improved? Please provide suggestions.

We suggest following the guidance found in best practices adopted by accredited laboratories. Specific sampling, documentation, and testing methodologies could be recognized by the NOP/AMS/USDA if they so choose.

3. How can additional instruction or guidance on sample collection support the voracity [sic] of testing results so that adverse actions are more defendable?

We assume the intended word was 'veracity' instead of 'voracity'. See item 2 above.

NOP 2611: Instruction Laboratory Selection Criteria for Pesticide Residue Testing

1. Section 4.1 describes one type of residue screen that can be used for testing. What additional tests should b*e included in this section (e.g., heavy metals, synthetic solvents, fumigants, herbicides, etc.)? What should be the threshold for validating additional testing methodologies in this section to ensure results are actionable?*

We will need additional time to consider comments on this point.

2. Sections 4.2 and 4.3 describe laboratory selection criteria and suggested laboratory practices. Do either of these sections need to be updated to align with current best practices?

Emphatically, yes.

3. How can additional instruction or guidance on laboratory selection criteria and testing methodology support the voracity of testing results so that adverse actions are more defensible?

We will need additional time to consider comments on this point.

NOP 2611-1: Prohibited Pesticides for NOP Residue Testing

1. Does this list of prohibited substances provide value to certifiers in evaluating organic compliance?

2. How can this document be improved?

3. Would certifiers find value in developing a decision tree to determine which tests should be conducted depending on the commodity, geographical location, and position within the supply

chain? Please describe how a decision tree could assist certifiers with testing and compliance verification.

The ACA Risk Matrix (2019) seems from previous comments to be in use by some, but its validation status is unknown to us.

NOP 2613: Instruction Responding to Results from Pesticide Residue Testing

1. Section 5.3.3 describes how to respond to positive results when there is no EPA tolerance or FDA action level. Please describe experiences attempting to respond to results in this type of situation. How can this section be improved to facilitate and support sampling and testing for prohibited substances that do not have EPA tolerances or FDA action levels (e.g., synthetic solvents)?

This is causing significant problems for an increasing number of operators, compounded when ACAs take samples of non-saleable material during the season when the value of any analysis has uncertain or questionable utility. As analytical testing capabilities become increasingly sensitive, such findings will become prohibitively costly. UREC was designed to address unavoidable contaminants such as pesticide residues. The presence or absence of a specific crop on a pesticide label should have no bearing on a determination of UREC status.

2. Are additional sections within this instruction needing updating or improvement? Please provide suggestions.

Emphatically, yes. It needs amending relative to UREC, for excluded methods, and other prohibited materials classes.

Discussion Document: Climate Induced Farming Risk and Crop Insurance

Regarding the Questions for Stakeholders:

1. T-yields (Assigned yields when a producer doesn't have production history):

a. Would organic producers be open to using transitional yield history to accelerate t-yield replacement to build organic yield history faster?

We find this question confusing. If you intend to ask if a post-transition, certified grower will use their APH from the transition period instead of the county T-Yield, we think that a preference would still depend on the price/coverage offered. We would also think that the balance of the different baselines would vary +/- widely by region and crop.

b. Would "buy up" coverage above 85%, which is the current limit, to 120% be of interest to obtain more coverage?

Generally, yes, we believe most growers would prefer to be offered such, but their decision would still be a price vs. value calculation.

c. Suppose you have a currently approved production history (APH) for organic production. Would you be interested in having a percentage of that APH carried over to your transition or organic t-yields?

We find this question imprecise enough to be clear. Do you intend to mean a *conventional* APH? If so, the question makes more sense, but at what percentage reduction from your conventional APH? The actuarial data is going to encourage the providers to impose a heavy yield discount.

2. What other concerns remain?

a. The Discussion Document does not include recognition or analysis of a much more central concern: the very high Loss Ratio for the RMA organic portfolio overall. The Fall 2023 presentation by RMA Director of Product Administration & Standards is based on the "Summary of Business for Organic Production." See https://www.rma.usda.gov/-/media/RMA/SOB-Reports/SOB-Organics/2022organic.ashx?la=en

This ten-year compilation of federal crop insurance experience shows an average overall Loss Ratio (claims paid out/premiums paid in) of 1.71. The Summary includes comparison to "Conventional Experience Where Organic Insured". The overall conventional loss ratio shown is 0.96. The industry goal is always to keep the Loss Ratio under 1.0.

The trend is not improving over time. The national Loss Ratio for organic in 2022 was 2.05, the highest year on record.

The Summary of Business breaks down the experience by commodity, by state and by type of insurance product.

The Summary also includes experience for Transitional Producers. A ten-year average Loss Ratio of 1.57. Still a relatively small sample

Continued high Loss Ratios will continue to keep the price of organic crop insurance policies high. This is another level of data that is not included in the Summary but needs to be part of the analysis.

So, organic crop insurance overall is a steady loser for the insurance underwriters. This is a glaring problem that is unsustainable. We need to examine why this is so, and what can be done about it, in much greater detail. T-Yield calculations are a factor in the equation, but not necessarily the central issue for continued high loss ratios.

b. This document does not strongly follow the through-line of *climate-induced risk* and the relationship of that phenomenon to organic agriculture *per se.* Organic insurance is highly problematic, regardless of excess risk from climate change-induced extreme weather. Pursuing improved coverage for organic is still a baseline structural challenge, without getting to how the system could provide even better protection from climate risks. That said, organic systems offer the potential to be less climate-risk-liable than conventional systems, and this is the theme that NOSB should pursue. That is, the resilience of

(established) organic systems could be able to be a price-discount factor. We understand this is not a general consideration for the RMA/FCIC, and such a goal is hampered by the high loss ratios for RMA's organic customers in most years so far.

c. NOSB and MRP-AMS need to be more closely integrated and aligned with the education of agents and underwriters and have stronger channels of communication to be effective and productive.

d. NOSB needs to understand the statutory and operational roles and capacities of the Federal Crop Insurance Corporation (FCIC), which is distinct from *and governs* RMA itself. The organic sector needs sustained engagement and representation with FCIC and needs to identify opportunities for progress on that level.

Discussion Document: Organic Food System Capacity and Constraints

Regarding the Questions for Stakeholders:

These questions will no doubt generate many anecdotal responses that suggest diverse dynamics in different regions and supply segments. While these comments need to be considered and weighed appropriately, we contend that NOSB and AMS should be getting substantive and more wholistic data from ERS, and shortly from any information available through import data generated through SOE-related documentation requirements.

1. Are we retaining our existing organic acres and producers or are we experiencing overall loss of current organic producers?

Census data shows a slight decline in the number of producers in the years 2017-2022 (17,741-17,048) or a ~4% reduction. We would hope that a fairly straightforward analysis could be made of the Organic Integrity Database to corroborate or disconfirm this data.

See https://www.usda.gov/sites/default/files/documents/AOF-2024-Raszap-Skorbiansky.pdf, Slide 5.

2. Are existing organic producers expanding or contracting acres of organic production?

Undoubtedly both are true for varying regions, subregions, crop types and mixes, and so on. Answering this question in aggregate may be interesting, but it would not be actionable. Data would need to be generated at a granularity and specificity that would allow a meaningful action plan to be developed.

3. What additional infrastructure is needed to make organic supply chains more lean and more efficient?

We suggest that leanness and efficiency may not be the most important goals, and even if they are, the question begs a more important one, "Lean and efficient for whom"? Efficiency and leanness are often associated with linear systems, or systems which are encouraged to be more linear than they can be and maintain stability, in other words, to be sustainable.

Relevant models suggest that multivariate, dynamic, and interdependent systems are most stable and productive over time not when efficiency (or diversity of elements for that matter) are maximized, but when the maximum proportion of possible connections in a given system are realized; this is often framed in terms of 'connectance.'

We propose that a preferred question would be something akin to, "What infrastructure is needed to encourage, incentivize, and support the maximum number of supply chain relationships within a given region, sector, or community - broadly defined"?

We also note that this discussion should include supply chains supporting organic producers and those leading to markets for agricultural goods.

4. What organic processing capability do we need to establish?

We would again suggest looking at any available ERS data first, if any is available. We assume some data would be becoming available through the TOPP grantee network, though this is likely rudimentary now to help guide such decisions going forward. The answers will vary wildly by region and other factors, of course. We contend that the only broadly applicable answer to this question is: Processing capability that maximizes the proportion of possible connections in a given system. Each system requires its own analysis of the processing capability it needs.

In some reasons, vegetable cooling and distribution hubs are lacking, while in others meat slaughter and processing is needed.

Proposal: Opportunities in Organic - Improving Support for Organic Transition

In its current form, this document holds import, yet it falls short of constituting a developed or compelling strategy recommendation for USDA aimed at "maximizing the benefits of public investments." We fear the message will be received more as a statement of platonic ideals instead of a list of strategically important and effective priorities. While it does include certain urgent messages directed toward the USDA, they are somewhat obscured within the structure and form and should be articulated more forcefully and distinctly with practical suggestions and recommendations for implementation.

Immediate priorities center around critical specifics regarding initiatives already in progress or under consideration, such as NRCS, OMDG, TOPP, and RMA transitional insurance.

Although the proposal is in effect trying to chart a "U.S. Organic Plan for Transition," it diverges from the European model and lacks the depth required for such a designation. It neglects available analysis, failing to glean insights from comments or direct solicitations.

Most notably absent (a gap mirrored by USDA presently) is REE, particularly ERS. Comprehensive support for transition necessitates the inclusion of Research, Extension, Education, Science Careers, and Economic Data and Analysis.

Analysis should encompass both quantitative data and qualitative case studies, assessing both successful endeavors and areas of inefficacy. Regional breakdowns detailing transition trends and differentiation by sector are imperative for a useful understanding.

Included in the first paragraph in the Background section:

> *Organic agriculture offers significant climate, health, and economic benefits for producers and consumers.*

We consider this to be a significant understatement and should be far more descriptive and extensive. This is a chance to assert several benefits in each area: climate, health, and economics and should be made robust and proud. We suggest that benefits to soil, soil quality, and soil health should be called out as an additional, specific area of benefit.

Included later in the section is the following comment:

> *In addition, many beginning producers and producers of color face heightened challenges related to language, cultural competency, and discrimination that must be addressed. Increasing diversity among organic producers and handlers could contribute to a stronger sense of inclusion and opportunities in organic.*

We suggest that this section should be more emphatic, particularly with respect to following through on commitments by Secretary Vilsack and President Biden in the areas of DEI and young farmer populations.

We also feel it important to note in this statement that the development of OTI proceeded without input from stakeholders, lacking any meaningful consultation. Moreover, it lacks clearly defined, measurable objectives. Despite these shortcomings, the organic non-profit sector has admirably stepped up to address the situation, striving to maintain momentum for USDA's investments. Their response encompasses a wide array of strategies aimed at diversifying U.S. organic production.

Of paramount concern here should be the absence of any discernible plan or USDA internal initiatives for analyzing the various components of OTI, either individually or collectively. This is deeply concerning to us, and we urge the NOSB to call attention to this point.

Additionally, the absence of a science-centric approach within OTI is concerning. This deficiency has not been adequately addressed by USDA to the stakeholder community. It is imperative that the NOSB direct its attention to this issue and advocate for its inclusion.

In the Regulatory Relevance section, we note the following:

> *One of the three primary purposes of the Organic Foods Production Act of 1990 (OFPA) is "to assure consumers that organically produced products meet a consistent standard," and the NOSB is charged with advising USDA on implementing this purpose.*

We do not understand the attempt to focus this discussion around the "consistent standard" purpose of OFPA. This seems like an odd approach given that many arguments in support of Diversity, Equity, and Inclusion (DEI), for just one example, suggest a departure from rigid consistency. Moreover, the purpose of assuring consistency does not inherently require market growth.

We believe this document would be more productive by asserting relevance to the third statutory purpose of OFPA (OFPA Sec. 2012(3)): "facilitate interstate commerce." We contend that this aspect holds greater significance in framing the discussion of market development.

While we generally support each of the four main areas identified by stakeholders and included in the Summary, some stand out as warranting additional attention. Our comments are included below.

1. Support economically viable opportunities in organic

a. Ensure strong integration of all elements of USDA's Organic Transition Initiative (OTI) and other federal and state resources to support organic, so opportunities and deadlines are communicated to all agencies and partners involved with OTI. For example, participants in the Transition to Organic Partnerships Program (TOPP) should receive and disseminate information about market grant and conservation program deadlines and the NOP Climate Smart Agriculture Crosswalk. (NOP, NRCS, T&M, USDA).

We suggest this needs to be worded with far more vigor. Integration across agencies is not happening effectively and this is deeply problematic for the organic industry at every level.

b. Identify and address barriers to organic transition, including assisting farmers with long-term access to land and capital. (NOP, ERS, USDA).

We assert that the barriers have been well identified for some time, and that what is needed is a well-defined, strategic, implementable plan.

c. Build consumer demand for organic by educating the public about what organic is and why it matters. Campaigns run through check-off programs (e.g., Got Milk?) are the type of promotion that organic producers would like to see. (NOP, USDA).

While we concur with the desire to build consumer demand, past experience suggests that campaigns for a check off program would need to be approached more carefully, comprehensively, cohesively, and strategically than past attempts.

d. Create stable markets for organic through public procurement (i.e. government food purchasing). (FNS, USDA).

We consider this to be the most substantive line item of the first section and deserves to be fleshed out far more thoroughly either in this process or a subsequent effort.

We also suggest an additional line item in this section to insist on an in-depth evaluation of the Organic Market Development Grants (OMDG) program, including analyses of submitted proposals (i.e., quality, information sufficiency, patterns of opportunity, etc.) and measurement of expected impacts to features such as new producers, jobs, investment multipliers, and replacement of imports.

2. ***Reduce costs of certification by offsetting costs that organic producers bear.***

   a. *Ensure the Organic Certification Cost-Share Program is administered consistently and predictably. (FSA)*

      If there is evidence that this is not being done currently, then this is important; otherwise, we suggest lowering this as a priority.

   b. *Pay producers for participation in training programs (both presenters/mentors and participants/mentees). (NOP)*

      We have no substantive comment to offer here.

   c. *Ensure the benefits of organic are acknowledged and compensated in programs that pay producers for public benefits they provide, like building healthy soil and ecosystem services. (NRCS)*

      We contend that among the line items in this section, this should be a top priority for NOSB to further develop and argue for.

   d. *Provide culturally appropriate, inclusive, and supportive certification services; adapt certification culture to the people and communities that certifiers serve. (NOP)*

      We support this general concept and believe articulating the specific ways in which the current programs and services fail to do so should be the first step in this direction.

3. ***Invest in relationship and trust building.***

   a. *Continue to work through organizations that producers already trust. (NOP, USDA)*
   b. *Provide funding early in processes to both resource organizations with demonstrated experience and capacity and build capacity at additional organizations. (NOP)*
   c. *Build organic-relevant capacity at all USDA agencies, and particularly those that directly interface with producers. (NRCS, FSA, RMA, USDA)*

      These are all appropriate sentiments and requests, though we feel compelled to note that insufficient capacity building within the USDA has been a generations-old challenge, but we recognize the need nonetheless to call attention to these needs.

4. ***Diversify and expand the organic community.***

   a. *Resource organizations that serve producers of color for a multi-year timeframe, including to support activities not directed specifically toward organic certification. (NOP, USDA)*
   b. *Actively educate farming communities on opportunities in and benefits of organic agriculture. (NOP, NRCS, USDA)*
   c. *Target outreach to organizations working on succession planning, to leverage organic to keep land in agriculture. (USDA)*

      We also suggest and additional line item in this section to actively support intense focus on southeastern U.S. organic production, particularly in crop production focused on

reducing imported organic goods, post-harvest handling and processing capacities, major initiatives highlighting Historically Black Colleges and Universities and other Minority-Serving Institutions.

Thank you for your consideration and willingness to use regulatory incentives to encourage more organic agriculture and conversion of ground to organic production.

Sincerely,
the Management Team of Wolf & Associates

Bill Wolf
Chief Executive Officer
and President

John Foster
Chief Operating Officer

Sue Wagner
Vice President
of Administration

The Wolf & Associates team has over 500 years of combined experience in the organic sector. We have served hundreds of farms and businesses with their organic production systems and regulatory compliance, both nationally and internationally. We have been involved in the founding of several key organic organizations including the Organic Trade Association, Organic Materials Review Institute, and the Organic Center. We are fiercely committed to continual improvement and to provide our clients and the organic sector with the tools to advance organic, environmental, and social practices.

Wolf & Associates

THE ORGANIC SPECIALISTS

April 3, 2023

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-S, STOP 0268
Washington, DC 20250-0268

RE: Crops Subcommittee
Docket # AMS-NOP-23-0075

Dear NOSB Members,

We remain grateful for the generous offering of your time and attention from the National Organic Standards Board members who contribute to the betterment and advancement of the organic sector in so many ways. Thank you for tackling the many concerns and review of materials that fill your agenda. Our sector directly benefits from the efforts each of you offers to improve the community's standards and grow the organic sector with integrity.

As a preface to our more specific comments, we encourage you to consider the context of organic standards development and how to optimize the FACA process:

1. The intent of the law and regulations is to review materials and practices for compatibility with organic agriculture while encouraging continuous improvement. As such, the National List should be viewed as a toolbox for practitioners, not a soapbox for attacking the integrity of the organic standards or scaring consumers with inaccurate information about the substances under discussion. The law and regulations do not assume that all synthetics are inherently evil, only that they need to be carefully reviewed against published and clearly transparent criteria. We encourage the NOSB to let the National List provide as many options as possible for producers to compete as effectively as possible in an overwhelmingly conventional environment.

2. While the NOSB is charged with making recommendations about what materials are added to, remain on, or removed from the National List, the certifying agencies accredited to perform the work of certification by the USDA are charged with addressing the use of such materials in the context of an operation's Organic System Plan (OSP). Certifiers are in the best position possible to assess the compliance of an operation as a whole, including use of National List materials. They should be relied upon to place the use of materials by any given operation in the context of not just that operation's OSP, but at least as importantly in the context of the whole of the practice standards, such as pest management provisions or

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commercial availability provisions. Please trust certification agents to exercise their judgment in determining the compliance of a material's use instead of trying to control certification policy through National List constraints.

General Comment

Among our core beliefs is that organic production methods need to be:

- Progressive—The organic system should allow for and adopt the most progressive tools that are compatible with organic principles and National List requirements.
- Integrated—Substances should be reviewed on their merits in the context of the entire regulation.

The list was not intended to be limited to a few materials that are only augmented if no other tools are available. The regulations delegate monitoring use of substances to the Accredited Certifying Agents (ACAs). In general, ACAs do an admirable job of ensuring substances are only used when necessary and in conjunction with the annotations and limitations of the category. Furthermore, in our collective observation of and work with thousands of certified operations, substances are not used willy-nilly, due in large part to the financial costs associated with inputs.

The criteria for evaluating materials are important, and the community would benefit from examining how the "essentiality" criterion is used. During the past 20 years, the working definition has shifted from something essential to some operations, to something essential for all. We'd like to get back to the original view. In other words, just because a substance isn't essential for ***all*** doesn't mean it isn't essential for ***some***, and the essentiality for some ought to be enough to list or keep a substance as allowed on the National List. In a farming and livestock context, we assert that a substance should be deemed essential if it allows new entrants into the organic producer community or allows existing organic producers to compete successfully with their non-organic counterparts.

Each substance—every one, without exception—must be used only in accordance with multiple limitations articulated in the practice standards. Certified organic operations—the producers and processors—need to claim what they believe is essential for their sites, their products, their conditions, and their challenges. ACAs are authorized by the federal government to assess and judge the veracity, accuracy, and essentiality of those claims. Doing so is a core function of ACAs; we encourage the NOSB to have faith in the ACAs to perform this function well.

In today's more robust enforcement environment, and with standards that are stronger and clearer than ever before, we need to encourage more organic acreage in the United States. Evaluating substances as part of a whole integrated system with diverse components and upholding the role of ACAs in evaluating organic operations will help us do that.

Proposal: Carbon dioxide - petitioned

Carbon dioxide's essentiality to photosynthesis is well known and understood, as we know the Subcommittee agrees. We understand that the Subcommittee does not believe that provision of additional CO_2 as air or soil enrichment is a necessity for organic crop production. While this may be the case in typical outdoor crop production environments, we contend that for some producers in controlled environments, CO_2 may be the limiting factor (through lower yields) keeping a producer from transitioning to organic production. In these cases, perhaps the allowance of supplemental CO_2—which would be produced and marketed in any event—could reduce synthetic nitrogen fertilizer use. We note that volatile nitrogenous compounds have a far greater impact as greenhouse gases than does CO_2. We also note that an albeit minor percentage of the CO_2 in the unamended air is of synthetic origin, so all organic crops are taking in synthetic CO_2 literally as we speak.

Discussion Document: Compost

We have reviewed the Subcommittee's list of questions and requests for information about numerous aspects of compost as it pertains to organic production and look forward to developing comments over the next term and providing to the Subcommittee and NOSB prior to the next meeting.

Sunset Review – Crops

Because we have observed the efficacy and utility of each of the following substances in organic production environment over many decades, Wolf & Associates (W&A) supports the renewal of the substances in Section 205.601:

- Hydrogen peroxide
- Soaps, ammonium
- Oils, horticultural
- Pheromones
- Ferric phosphate
- Potassium bicarbonate
- Magnesium sulfate
- Hydrogen chloride

Because we recognize that the benefits of the following materials are outweighed by the negative consequences of their use at this time, we support the continued listing of these substances in Section 205.602:

- Ash from manure burning
- Sodium fluoaluminate (mined)

Relative to the burning of manure, we disagree with prior NOP communication that biochar derived through pyrolysis of manure should be prohibited as is ash derived through the burning of manure. We contend that by definition, combustion and pyrolysis are inherently different processes by virtue of the presence or absence of oxygen, respectively, in said processes.

We thank you for your hard work and dedication to the integrity of the organic community.

Sincerely,
the Management Team of Wolf & Associates

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NOSB 2010-2015

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As a preface to our more specific comments, we encourage you to consider the context of organic standards development and how to optimize the FACA process:

1. The intent of the law and regulations is to review materials and practices for compatibility with organic agriculture while encouraging continuous improvement. As such, the National List should be viewed as a toolbox for practitioners, not a soapbox for attacking the integrity of the organic standards or scaring consumers with inaccurate information about the substances under discussion. The law and regulations do not assume that all synthetics are inherently evil, only that they need to be carefully reviewed against published and clearly transparent criteria. We encourage the NOSB to let the National List provide as many options as possible for producers to compete as effectively as possible in an overwhelmingly conventional environment.

2. While the NOSB is charged with making recommendations about what materials are added to, remain on, or removed from the National List, the certifying agencies accredited to perform the work of certification by the USDA are charged with addressing the use of such materials in the context of an operation's Organic System Plan (OSP). Certifiers are in the best position possible to assess the compliance of an operation as a whole, including use of National List materials. They should be relied upon to place the use of materials by any given operation in the context of not just that operation's OSP, but at least as importantly in the context of the whole of the practice standards, such as pest

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management provisions or commercial availability provisions. Please trust certification agents to exercise their judgment in determining the compliance of a material's use instead of trying to control certification policy through National List constraints.

General Comment

Among our core beliefs is that organic production methods need to be:

- Progressive—The organic system should allow for and adopt the most progressive tools that are compatible with organic principles and National List requirements.
- Integrated—Substances should be reviewed on their merits in the context of the entire regulation.

The list was not intended to be limited to a few materials that are only augmented if no other tools are available. The regulations delegate monitoring use of substances to the Accredited Certifying Agents (ACAs). In general, ACAs do an admirable job of ensuring substances are only used when necessary and in conjunction with the annotations and limitations of the category. Furthermore, in our collective observation of and work with thousands of certified operations, substances are not used willy-nilly, due in large part to the financial costs associated with inputs.

The criteria for evaluating materials are important, and the community would benefit from examining how the "essentiality" criterion is used. During the past 20 years, the working definition has shifted from something essential to some operations, to something essential for all. We'd like to get back to the original view. In other words, just because a substance isn't essential for ***all*** doesn't mean it isn't essential for ***some***, and the essentiality for some ought to be enough to list or keep a substance as allowed on the National List. In a farming and livestock context, we assert that a substance should be deemed essential if it allows new entrants into the organic producer community or allows existing organic producers to compete successfully with their non-organic counterparts.

Each substance—every one, without exception—must be used only in accordance with multiple limitations articulated in the practice standards. Certified organic operations—the producers and processors—need to claim what they believe is essential for their sites, their products, their conditions, and their challenges. ACAs are authorized by the federal government to assess and judge the veracity, accuracy, and essentiality of those claims. Doing so is a core function of ACAs; we encourage the NOSB to have faith in the ACAs to perform this function well.

In today's more robust enforcement environment, and with standards that are stronger and clearer than ever before, we need to encourage more organic acreage in the United States. Evaluating substances as part of a whole integrated system with diverse components and upholding the role of ACAs in evaluating organic operations will help us do that.

Sunset Reviews

We have observed the efficacy and utility of each of the following substances in organic production environment over many decades, Wolf & Associates (W&A) supports the renewal of the substances in Section 205.605(a):

- Acids, Citric & Lactic
- Calcium chloride
- Enzymes
- L-Malic acid
- Magnesium sulfate
- Microorganisms
- Perlite
- Potassium iodide
- Pullulan
- Yeast

Responses to substance-specific questions from the Subcommittee:

- *Calcium chloride*: We do not have reliable information to respond to the question of synthetic/non-synthetic status of the calcium chloride used in product formulations.
- *Enzymes*: We do not know of ancillary substances accompanying enzymes in product formulations which should be specifically prohibited for use due to concerns about excluded methods. We assume that certifying agents are appropriately screening non-organic ingredients for compliance with all criteria in §205.105.
- *Magnesium sulfate*: We are aware of use in tofu and beer production and in mineral supplement products.
- *Perlite*: While alternatives exist for some uses of perlite as a filtering material, the broad utility and availability of perlite, combined with its functional predictability make it an essential tool for many food processing applications.
- *Pullulan*: Our understanding is that pullulan is able to be produced through means that are consistent with organic handling standards but there is no market demand for the higher cost material. Organic pullulan capsules could transform label claims for encapsulated organic products, though mechanical limitations of pullulan capsules run on some encapsulation machines will limit the scale of applicability until equipment specifications can be developed for high volume encapsulation machines.

We have observed the efficacy and utility of each of the following substances in organic production environment over many decades, W&A supports the renewal of the substances in Section 205.605(b):

- Activated charcoal
- Ascorbic acid
- Calcium citrate
- Collagen gel
- Ferrous sulfate
- Hydrogen peroxide

- Nutrient vitamins & minerals
- Peracetic acid/Peroxyacetic acid
- Potassium citrate
- Potassium phosphate
- Sodium acid pyrophosphate
- Sodium citrate
- Tocopherols

Responses to substance-specific questions from the Subcommittee:

- *Activated charcoal*: While alternatives exist for some uses, the broad utility and availability of activated charcoal, combined with its functional predictability make it an essential tool for many food processing applications.
- *Ascorbic acid*: Our understanding is that ascorbic is able to be produced through means that are consistent with organic handling standards but there is no market demand for the higher cost material.
- *Calcium citrate* is a preferred form of calcium in some formulations where pH constraints are critical and/or where there is a need or desire to avoid sulfates.
- *Collagen gel*: We are aware of at least one organic livestock operation selling cow hides for the purpose of extracting medical grade collagen, though the collagen is not certified organic, and the end product is not collagen gel.
- *Ferrous sulfate*: Prior to removal as a stand-alone listing, we would ask that certifiers inquire with any certified operations who have included the substance in OSP to confirm that no other uses are at risk of becoming prohibited.
- *Hydrogen peroxide*: While it may have some effect on some microorganisms in some circumstances, we understand that it does not provide adequate sanitizing activity against pathogens in the majority of food processing environments in a manner that is sufficient to comply with food safety mandates of various agencies under which manufacturers must operate.
- *Tocopherols*: Our understanding is that tocopherols are able to be produced through means that are consistent with organic handling standards but there is no market demand for the higher cost material. We favor consideration of the addition of a commercial availability clause to call attention to the opportunities in research and development of organic products. The OID lists no sources of organic tocopherol.

We have observed the efficacy and utility of each of the following substances in organic production environment over many decades, W&A supports the renewal of the substances in Section 205.606:

- Celery powder
- Fish oil
- Gelatin
- Orange pulp, dried
- Seaweed, Pacific kombu
- Wakame seaweed (*Undaria pinnatifida*)

Responses to substance-specific questions from the Subcommittee:

- *Celery powder*: We are aware of notable differences in nitrate levels in organic vs. non-organic forms of celery powder, making the former less desirable for some applications of the product.
- *Gelatin*: Securing and maintaining segregation of organic source materials has often been cited as the main contributing factor to insufficient supply, in addition to the ability to use non-organic forms at low levels in product formulations.
- *Orange pulp, dried*: Securing and maintaining segregation of organic source materials has often been cited as the main contributing factor to insufficient supply, in addition to the ability to use non-organic forms at low levels in product formulations.
- *Seaweed, Pacific kombu*.*
- *Wakame seaweed* (*Undaria pinnatifida*).*

*Regarding the two seaweeds listed above, we suggest that you refer to the transcripts from the Fall 2019 meeting in Pittsburgh, when these substances were last voted on. We noted an apparent divergence of positions between allowing non-organic seaweed in organic food products (by inclusion on 205.606) and yet voting to require organic seaweed in seaweed extracts (aquatic plant extracts). At that meeting, the board voted to continue listing kombu and wakame without consideration that other species are equivalent and available in organic form.

We recognize that kombu and wakame are not necessarily appropriate for all food and feed applications. We urge the Board to consider all facets and impacts of commercial availability when deliberating on these two 606 agenda items. Where an organic seaweed species is commercially available and where such an alternate species is an acceptable alternative to Pacific kombu or wakame, the organic form should be required. We suggest the consideration of the development of instructions to assist certifiers in such determinations, not just about seaweed, but regarding other equivalent species.

Individually or collectively, we have observed the efficacy and utility of each of these substances in organic handling environments over many decades.

As part of our normal business operations, we make it a priority to listen for and seek out new information that impacts the use of National List materials. We are unaware of new, reputable, and compelling information indicating there has been a substantive change in their:

1. negative impacts to human health or the environment;
2. necessity due to availability of more desirable alternatives;
3. consistency with organic handling priorities.

Thank you for your hard work and dedication to the integrity of the organic community.

Sincerely,
the Management Team of Wolf & Associates

Bill Wolf
Chief Executive Officer
and President

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Wolf & Associates

THE ORGANIC SPECIALISTS

April 3, 2024

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
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RE: Materials Subcommittee – Inert Ingredients
Docket # AMS-NOP-23-0075

Dear NOSB Members,

We are grateful for the generous volunteer time given to this work by our National Organic Standards Board. Thank you for tackling the challenging questions that fill your agenda. Our sector benefits from the efforts each of you offers to improve the community's standards and grow the organic sector with integrity. We support the arduous effort to build consensus across stakeholders on this complex issue.

We appreciate that the Materials Subcommittee (MS) has posed questions for stakeholders for the Spring 2024 meeting in the hopes of finding a pathway forward regarding the regulation of inert ingredients.

Before providing our answers to the questions posed by the Materials Committee, please allow us to share some important information about the inerts dilemma and its impacts as well as solutions for you to consider:

- Organic acreage in the U.S. is dramatically out of proportion with U.S. demand. US organic acreage is 2% of global organic acreage but 46% of organic retail sales. One reason is because organic farming is harder in this country than anywhere else, partially because of the more stringent controls we have placed on the pest control tools available under NOP. As a result, organic farmers in the US are being denied access to the best pest control choices;
- Organic imports continue to outcompete and overpower US growers because they are not constrained by our NOP inerts limitations, especially when they are certified under equivalency agreements or certified to NOP by foreign certifiers.
- Over the last 20 years we have seen numerous input formulators stop attempting to provide organic-compliant pest control products. Some gave up and went out of business. Others simply focused on the larger non-organic market with their innovative biologicals. And others

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are selling their products to organic growers outside the U.S., where the inerts issue is not scrutinized in the same way.

- Registrants of pesticides need regulatory predictability. It takes many years to perform the tox testing, obtain efficacy data, and EPA and CA EPA registrations. Formulations can't simply change formulations. It takes 6 months to a year for EPA to respond to Biopesticide registration applications.

- There are now a number of more useful and more benign inerts used by biological product formulators and but can't be used in organic compliant products. These better inerts (carriers, stabilizers, wetting agents) were not even available when List 4 was last updated in 2004.

- Lists 3 & 4 were always intended to be temporary documents for use by EPA in reviewing all inerts and eliminating those bad actors.

- One pathway not specifically included in the four regulatory change options is to list all EPA inerts on 605.601 and simultaneously list specific groups of those inerts on 605.602 as prohibited. This is not a perfect solution but would begin to open the gates and should be considered. Don't allow the perfect to block the progress toward the good.

We ask that NOSB members and the community bear in mind that few substances are truly inert, and while many substances found in pesticide formulations may not be considered as active ingredients, many have impacts to the environment beyond those of the active ingredients themselves. The simple fact is that reviewing all the substances defined as "inerts" under current EPA definitions is not practical at this time. Let's move forward now with increasing the availability of new biocontrols by modernizing the lists. Later, we can apply the principle of continuous improvement to "inerts" review as resources become available.

We urge the National Organic Standards Board and the National Organic Program to build this consensus as quickly as possible, even if the solution is imperfect. Lack of resolution of this issue has been hampering – and continues to hamper – the development of far preferable pest control products that would more closely align with the principals of organic agriculture. We continue to hear this directly from pest control manufacturers, formulators and R&D professionals. They are highly averse to developing products –especially advanced biological products - for use in certified organic systems because of the regulatory contradictions for inert ingredients.

Another reminder we offer is that if a primary goal is to increase organic production globally, then we need to optimize the process, speed, and efficiency by which production tools are made available to organic producers. Included in these toolboxes are pesticidal products whose active and synthetic ingredients must endure a gauntlet approval processes under EPA, then additional scrutiny under OFPA/NOP requirements. Even if and when they are added to the National List, they still need to be approved by the ACA who oversees compliance in the context of the OSP. We believe it's a fair point to call out that this level of scrutiny is unprecedented and extremely fine-grained. With this reminder, we suggest that perhaps we should be collectively focused on the forest more than any single tree.

Spring 2024 Stakeholder Questions

1. Please provide feedback on the format and analysis of Appendix A. The Board will use this to comprehend the practical impact the various options will have on the number of substances that would need to be added to the National List based on the corresponding option (e.g. if all inerts are listed individually or that would be allowed under various subsets of EPA regulations depending on the option)?

-Appendix A is not easy to use but is workable. A legend describing the various 40 CFR sections would be helpful. There are 828 substances in the whole spreadsheet.

-It is helpful to see if and how substances in the 2004 Lists 4 A&B map to certain current EPA categories of inerts in 40 CFR.

-Appendix A includes non-synthetic substances (at the request of the subcommittee) but these are not flagged in any way in the spreadsheet. It would be more helpful if these could be isolated for separate analysis.

-The number of columns which contain only one item makes the format unwieldy. Likewise, the fact that some substances can appear in more than one column. (828 substances listed, 1441 boxes checked in the whole spreadsheet).

-The analysis so far consists of totals for each sub-category. These totals illustrate the complexity of adapting EPA's current CFR categories of inerts. Some examples:

- The largest total (264 or 32%) is for "Materials in List 4 which do not appear in 40 CFR." This confirms that adaptation of 40 CFR can only be a partial solution. Further analysis is needed to see how many of the 264 are considered "in use" by the Materials Review Organizations. And then, how many of those are non-synthetic?

- The next largest total (257 or 31%) is for 40 CFR 810.910, a broad category of substances titled "Inert ingredients used pre- and post- harvest exempt from the requirement of a tolerance." This categorization does not, in itself, seem to map very directly to "not of toxicological concern" so it is yet to be decided if CFR 40 is viable for NOP adaptation. If so, it remains a significant task to determine what part of this CFR 40 is viable for NOP adaptation.

- The third largest category (171 or 21%) is for 40 CFR 152.25 (a category containing both *minimum risk pesticides* and *inerts allowed for use in minimum risk pesticides*), titled "Exemptions for pesticides of a character not requiring FIFRA regulation." These materials are determined by EPA to "pose little to no risk to human health or the environment" but otherwise are not evaluated by EPA. Superficially, this category seems to be conducive for adaptation by NOP but would still require scrutiny of specific substances. Adding to the complexity, the inerts part of §152.25 makes references back to a number or sections in Part 180, listed separately in the spreadsheet.

2. What areas of expertise should the MS consider when inviting speakers to subcommittee meetings in order to obtain the fullest and most accurate understanding of this topic?

We suggest including the Organic Labeling Liaison of the Biopesticides and Pollution Prevention Division of the EPA, Chris Pfeifer.

We also suggest including an experienced biopesticide formulation expert. Keith Jones, the Executive Director of the Biological Products Industry Association should be able to provide some recommendations.

3. Please provide feedback on whether the list of inert ingredients currently in use (see Appendix A), is accurate.

We are not in a position to speak definitively on this item.

4. Does the potential reduction in the number of substances the Board must review outweigh the inflexibility associated with the option to develop a single, external list of allowed inert ingredients?

We do not believe this is an apt description in that the Board could continue to have the flexibility to review any substances allowed through inclusion of a list of EPA's making and recommend prohibition of any of them at any time if there is a reason to question the EPA's categorization as being "not of toxicological concern".

5. Would designation of a specific entity responsible for maintaining the single external list of allowed inert ingredients change stakeholder's opinions of this option?

We believe that doing so would further cloud the issue and slow down product innovation and progress that has already been hampered for too long. In general, we favor a streamlined approach to inclusion on the National List that optimizes influence by the National Organic Standards Board and that reduces redundancy of evaluation efforts. Furthermore, we support the recommendation to defer to existing EPA assessments and regulatory references as a baseline "positive list" of allowances and having NOSB concentrate on building a list of exceptions (prohibitions).

Having provided our answers to the questions posed, we do want to flag for further clarification the actual regulatory authority over inerts granted to NOP in the Organic Food Production Act (OFPA). We understand the exemption for inerts from the regular National List process (codified in 205.601 (m)) to be reliant on OFPA section 6517 (c) (1) (B) (ii) which allows for exempting inerts determined by EPA to be "not of toxicological concern". Since this terminology is no longer in use by EPA, we feel there is uncertainty about NOP's ability to fashion an alternative exemption from the standard National List process. We think the organic community may need to be prepared for seeking Congressional action to allow for an alternative approach.

Lastly, we'll delve a little deeper into the regulation of inerts in organic production worldwide. While we do not intend to minimize the legitimate concerns that many rightly have about the presence of inert ingredients in pesticide formulations used in a compliant manner in organic production under the NOP, we feel the need to note the following oft-overlooked fact. Under the many equivalency agreements or recognition arrangements in place with multiple jurisdictions...the EU, Canada, Japan, UK, Switzerland, South Korea, and others, organic goods of

all kinds are produced with inputs with inert ingredients, though the terminologies vary from place to place, there are many functional equivalents to what we call 'inerts'.

We believe it's worth noting that these global partners have elected to focus their attention in directions other than inert or inactive ingredients used in organic production in their jurisdictions. We assume that their leadership is no less committed to the safety and wellbeing of their constituents or to the environment. We also assume that their regulatory agencies are at least as able as ours to undertake their regulatory duties, so we find it notable that we in the US organic sector spend far more energy on this than do other competent authorities regulating organic production and products.

Moreover, the authorities who developed and approved these arrangements have determined that such differences are not substantive. If that were not the case, then there would be specific set-asides to this effect. We offer that the degree to which our public discourse has delayed the delivery of far superior products because of the inert question may in fact be counterproductive in a larger context of pesticide reduction.

Thank you for your hard work and dedication to the integrity of the organic community, and we look forward to further dialogue.

Sincerely,
the Management Team of Wolf & Associates

Bill Wolf Chief Executive Officer and President	John Foster Chief Operating Officer	Sue Wagner Vice President of Administration

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Wolf & Associates
THE ORGANIC SPECIALISTS

April 3, 2024

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-S, STOP 0268
Washington, DC 20250-0268

RE: Livestock Subcommittee
Docket # AMS-NOP-23-0075

Dear NOSB Members,

Thank you in advance for your valuable work to review an upcoming petition. We are commenting about meloxicam, a substance that is being petitioned for inclusion on §205.603 of the National List. We recommend that meloxicam be added to the National List as quickly as possible.

In full disclosure, we have been retained by the petitioners to assist in the request for the addition of this substance to the National List. We agreed to help with this petition because we believe meloxicam is a necessary tool for organic livestock care. Availability of meloxicam will ensure that the organic dairy sector can meet consumer expectations by maintaining the highest standards of animal welfare.

While the NOSB is not reviewing this substance during the Spring 2024 meeting, we understand the Livestock Committee received the petition from the NOP in February, and we hope that this petition will come up for discussion and voting at the earliest possible opportunity. Accordingly, we are providing these comments hoping they will help advance that process.

We consider horn disbudding a necessary practice in the livestock sector in order to protect the animals, farmers, farmworkers, and visitors from injuries that can occur when cows are permitted to grow horns. Because of the limited substances available for use in organic production, thermal disbudding is the only type used in organic operations. Most producers we are familiar with try to complete disbudding by the time calves are between 4 – 8 weeks of age.

Animal welfare concerns in the disbudding process are paramount. As more research has been conducted on animal welfare in the disbudding process, industry practice has shifted towards using two forms of pain medication during the process, a short-term numbing agent and a longer-acting pain reliever. This is especially true for disbudding that happens after 4 weeks of age. Many animal welfare standards have shifted towards requiring the use of two forms of pain medication.

Lidocaine is the go-to short action pain relief in the disbudding process, but there is no good option available to organic producers for a second, longer acting form of pain relief and we believe

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this causes undue pain and stress for the animals. Given that organic producers are more likely to be disbudding calves in the 4-8 week window, when it is becoming increasingly common for animal welfare standards to require a second form of pain relief, we believe it is important that the organic standards be revised to ensure that organic dairy farmers have the tools they need to uphold animal welfare when appropriate and regardless of how close they are to a veterinarian.

Meloxicam is much more effective and easier to administer than other limited options for pain relief that are currently available to organic dairy producers. It is long-acting and provides pain relief to organic calves after the lidocaine has ceased working. Once a veterinarian has provided a prescription, meloxicam can also be easily administered by the producer, eliminating the need to wait for a veterinarian to schedule a visit to the farm. For operations far from veterinary services, this allowance is a critical feature to allow producers to provide the best possible care for the animals in their charge.

Meloxicam is also widely used by humans for pain relief, minimizing any concerns that the use of this substance in organic dairy calves could have negative implications for human health. We also have seen no evidence of environmental harm caused by this substance, and none is reported in the literature, as the petition clearly notes.

On this and other determining criteria, the petitioners endeavored to provide the Board with information well beyond the minimum required. We believe that the petition and its Appendices contain all the information that would be requested in a TR. The petition included exhaustive details in the Appendices and did so in an effort to expedite and facilitate your deliberation process, given our assertion that each month that passes causes unnecessary pain and suffering for the livestock under organic management both in the U.S. and internationally.

We believe the addition of meloxicam to the National List at §205.603 as a synthetic substance allowed for use in organic livestock production, under the OFPA category Livestock parasiticides and medicines, is an important move for ensuring optimal animal welfare on organic operations. We would be happy to respond to any additional requests for information on this topic and look forward to continuing the conversation with the members of the NOSB at your convenience.

Thank you for your consideration and willingness to use regulatory incentives to encourage more organic agriculture and conversion of ground to organic production.

Sincerely,
the Management Team of Wolf & Associates

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THE ORGANIC SPECIALISTS

April 3, 2024

Ms. Michelle Arsenault
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RE: Comments Regarding the National List
Docket # AMS-NOP-23-0075

Dear NOSB Members,

We remain grateful for the generous dedication of time and attention from every National Organic Standards Board member who has contributed to the process and growth of the sector. Thank you for tackling the challenging questions and concerns that fill your agenda. Our sector benefits from the efforts each of you offers to improve the community's standards and grow the organic sector with integrity.

In order to facilitate that growth, we want to highlight a strategy and encourage like-minded stakeholders to reach out to make it happen.

§205.605 & Commercial Availability

We continue to urge the National Organic Standards Board to recommend applying the commercial availability clause to the entirety of the substances on §205.605. We already have this feature via annotation for flavors, yeast, collagen gel, and indirectly in the listing for silicon dioxide.

There are substances on §205.605 that have the potential to be produced agriculturally and organically, though innovative processes will no doubt be needed. Adding a regulatory incentive will help drive commercialization of those products. During public testimony at the Spring 2023 meeting, we were asked to provide a list of possible substances, which included the following:

Citric and Lactic Acids	Microorganisms	Carbon dioxide
Agar-agar	Pullulan	Cellulose
Plant and animal enzymes	Tartaric acid	Collagen gel
Carrageenan	Waxes	Glycerides (mono and di)
Flavors	Yeast	Nutrient vitamins & minerals
Gellan gum	Alginates	Tocopherols
L-Malic acid	Ascorbic acid	Xanthan gum

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We have seen recent advancements in food science and technology that demonstrate the ability to produce a certified organic version for some items on §205.605. Consider flavors as an example. We noted last fall that there are two additional certified organic flavor bases—ethyl acetate and benzaldehyde—on the market, a positive change driven by the commercial availability clause. These two are widely used keys commonly used in flavor formulating. Imagine the impact if commercial availability was applied to all the other potentially organic substances on §205.605.

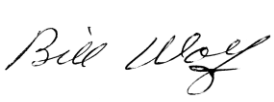
We understand that in the short term this change could cause a burden for operators, accredited certifying agents, inspectors, and other industry participants, but this change would encourage the development of additional organic products in the long term. We believe that the long-term benefits for the sector are worth the additional work in the short term. Having additional regulatory incentives to develop these ingredients will provide new markets for organic crops for and for these new supply chains.

To facilitate this goal, we are still seeking like-minded stakeholders to contact us to participate in this endeavor.

As we have for two years, we continue to encourage the development of a unified database to list and promote the commercial availability status of organic items on the list, whether they are seeds, food ingredients, or items previously unavailable in agricultural form. Having such a unified reference (or Registry) would prevent duplication of effort among stakeholders, including ACAs, promote consistency in the application of the regulation, encourage ingredient innovation, and show product developers (and their CFO's) where there are market opportunities, thereby encouraging additional organic agricultural production.

Thank you for your consideration and willingness to use regulatory incentives to encourage more organic agriculture and conversion of ground to organic production.

Sincerely,
the Management Team of Wolf & Associates



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April 3, 2024

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RE: Comments Regarding the National List and Support for the NOSB
Docket # AMS-NOP-23-0075

Dear NOSB Members,

We remain grateful for the generous offering of time and attention from the National Organic Standards Board members who contribute so much to this public-private process. Our sector benefits from the efforts each of you offers to improve the community's standards and grow the organic sector with integrity. Thank you for tackling some challenging questions and issues facing us all.

Herein we provide some overarching comments we hope will inform deliberations of Board members and may inform policy considerations of the Program. To start, we believe strongly that organic production methods need to be a progressive, integrated system that allows for and adopts the most progressive tools available that are in alignment with organic principles, the regulation as a whole, and National List criteria.

The National List

The National List was not intended to be limited to a select few materials that are only added if a certain percentage of crop producers, livestock and poultry managers or handlers go on record as needing them. Nowhere in the preamble, law, regulation, or guidance is expressed the need to limit the length of the National List, nor is there any suggestion that synthetic substances which meet the strict criteria for inclusion should be minimized. Further, it was never the expectation that all organic operations have or will have equal access to all resources and tools, whether on the National List or otherwise. With that in mind, please consider the following issues and concepts in your decisions:

1. Essentiality is a pivotal criterion for decision making. When deliberating, please remember that any given material need not be essential for ***everyone*** to be essential for ***someone*** to successfully manage an organic operation. The unprecedented diversity of organic operations around the world almost certainly guarantees that although materials may be unnecessary in one place, the United States for example, those same materials may be critically important for other places without equal access to alternatives we enjoy in the United States. Additionally, being able to use

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any single material may be the difference between the success and failure of their organic enterprise for a single operation. We owe it to each organic producer, irrespective of where on Earth they the opportunity have to farm, raise, or produce their goods, to optimize the chances for their success in the environments and supply chain conditions in which they find themselves.

The regulations delegate monitoring use of materials to the Accredited Certifying Agents (ACAs). In general, ACAs do an admirable job of ensuring substances are only used when necessary and in conjunction with the annotations and limitations of the category, and as outlined in operations' Organic System Plans (OSPs). We urge you to trust the system already in place wherein the ACA reviewing the OSP can make the best determination of essentiality for a given operator.

2. Limiting the list or making it shorter should not be an objective of the Board. The National List is a toolbox for organic producers and handlers of many kinds, scales, and layers of complexities. An operating assumption—to the extent it exists— is unwarranted, and we believe over time it disincentivizes conversion of land to organic production practices.

3. The needs of the community of producers, growers, ranchers, handlers, and others who have the arduous and often thankless job of providing quality organic food for all of us should take priority in National List decisions, with consideration of all stakeholders in the system.

4. We need to encourage more organic acreage in the United States and beyond. We need to optimize the pathways through which valuable tools can be made available to certified operations, especially crops, livestock, and poultry operations. Legitimate, informed, and grounded discussions of essentiality are critical in the determination of eligibility for inclusion of a synthetic substance on the National List. Arguing over hyperbolae, irrelevant minutiae or inapplicable nuances of essentiality harms organic producers by prohibiting what could be essential tools to those who need them most.

We find it unlikely to say the least, that a small group of activated stakeholders with no practical knowledge of farming practices, constraints, limits, headwinds, or costs could speak coherently about what materials are essential for farming, for example, or in the manufacturing of fruit purees., for another example.

When a substance <u>can</u> comply with the requirements for approval, we all should do everything we can to get that substance into the hands of the operators who are struggling each day to get their goods to market.

Please recall that each substance—every one, without exception—must be used only in accordance with multiple limitations articulated in the practice standards. Certified organic operations—the producers and processors—need to claim what they believe is essential for their sites, their products, their conditions, and their challenges as described in their OSPs. ACAs are authorized by the federal government to assess and judge the veracity, accuracy, and essentiality of those claims. Doing so is a core function of ACAs; we encourage the NOSB to have faith in the ACAs to perform this function well.

5. Although public comments can be useful in gathering some information and understanding a general response to some of the issues, the *number* of comments alone received is - in and of itself - a flawed metric of actual value or future value of a material. Putting too much emphasis on the very limited comments received during the 30-day public comment period is dangerous and is not in the best interests of the organic community. We ask the Board to consider a broad

range of situations in which a material *might* be used if it were available for use by certified operators. For example, a material could be of use in the future to a yet unknown stakeholder group, or useful due to a change in weather or environmental conditions, or by those just starting out as organic operators, or by those who are not operating with the tools available in the U.S. These players deserve a chance to get in the game, convert ground to organic production and join us; we should be encouraging those wishful participants at every chance.

6. The NOP review process is unique among all country standards in the way we recommend, review, and permit the use of materials in organic production and handling. When looking to international sources to get a sense of relative acceptance or rejection of a material, please insist that the language used accurately reflects the context within which other entities think about these materials. Without that precision, the information is misleading.

For example, CODEX is not a standard but a guideline, and even as a guideline, materials rarely are reviewed and updated. IFOAM provides guidelines, not standards, and those guidelines were conceived as suggestions for other entities in developing their own standards. The EU and Canadian organic schemes and regimes manage the use of materials differently that the NOP. Under the Japan Agriculture Standard (JAS) sanitizers would never be reviewed as NOP does because food safety mandates and regulatory agencies have different control rubrics over food systems there.

In the absence of adequate context to understand organic regulatory systems around the world, using language such as "Entity ABC does not specifically list Material XYZ" could register as meaning something to the effect of "Entity ABC has reviewed this in a manner similar to NOP or ACA reviews and it is determined that Material XYZ should not be allowed." Most often the latter interpretation is a false one, and one that can be easily avoided.

7. A material's inclusion on the National List is in no way an allowance for wanton use of it, despite many commenters' assertions or implications to the contrary. These comments often speak of that material as if there were no practice standards at all, and as if there were no accreditation or certification system in place that is robustly assessed and accredited, respectively.

Every allowed material on the National List *must* (not may) be used in the context and limitations of any annotations and any practice standards for crops, livestock, and handling. No material is ever used without being scrutinized in the context of the OSP of the certified operation.

Please do not unnecessarily limit operators' access to necessary tools to grow the organic industry with integrity. We need to do everything we can to encourage more organic acreage in the US. Overall, today's standard is demonstrably stronger and more stringent than yesterday's—and far more restrictive than before 2002, despite unsubstantiated opinions to the contrary.

Organic food and agriculture comprise a painfully small fraction of the food and agriculture total, nationally and globally. Our work should focus on increasing the organic percentage of the total, giving producers and handlers the tools they need, and doing so while maintaining organic integrity at the highest level possible.

Thank you for your diligence, patience, hard work and dedication to the integrity of the organic community.

Sincerely,
the Management Team of Wolf & Associates

Bill Wolf
Chief Executive Officer
and President

John Foster
Chief Operating Officer

Sue Wagner
Vice President
of Administration

The Wolf & Associates team has over 500 years of combined experience in the organic sector. We have served hundreds of farms and businesses with their organic production systems and regulatory compliance, both nationally and internationally. We have been involved in the founding of several key organic organizations including the Organic Trade Association, Organic Materials Review Institute, and the Organic Center. We are fiercely committed to continual improvement and to provide our clients and the organic sector with the tools to advance organic, environmental, and social practices.