

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 205

[Docket Number TM-02-03]

RIN 0581-AC19

#### National Organic Program; Amendments to the National List of Allowed and Prohibited Substances

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) to reflect recommendations submitted to the Secretary by the National Organic Standards Board (NOSB). Technical corrections have also been included in this final rule to clarify specific sections of the National List and adequately reflect previous NOSB recommendations. Consistent with recommendations from the NOSB, this final rule would: add ten substances, along with any restrictive annotations, to the National List, revise the annotations of two substances, and make eight technical revisions.

**EFFECTIVE DATE:** This rule becomes effective November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Richard H. Mathews, Program Manager, National Organic Program, Telephone: (202) 720-3252; Fax: (202) 205-7808.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 21, 2000, the Secretary established, within the National Organic Standards (NOS) (7 CFR part 205), the National List (§§ 205.600 through 205.607). The National List is the Federal list that identifies synthetic substances and ingredients that are

allowed and nonsynthetic (natural) substances and ingredients that are prohibited for use in organic production and handling. Since established, the National List has not been amended. However, under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB.

This final rule amends the National List to reflect recommendations submitted to the Secretary by the NOSB from June 6, 2000 through October 20, 2002. Between the specified time period, the NOSB has recommended that the Secretary add ten substances to §§ 205.601 through 205.603 of the National List based on petitions received from industry participants. These substances were evaluated by the NOSB using the criteria specified in OFPA (7 U.S.C. 6517 and 6518) and the NOS. The NOSB also recommended that the Secretary revise the annotations of two substances included within sections 205.602 and 205.605.

The NOSB has recommended that the Secretary add additional substances to sections 205.603 and 205.605 which have not been included in this final rule but are under review and, as appropriate, will be included in future rulemaking.

In addition to the amendments made based on June 6, 2000 through October 20, 2002, NOSB recommendations, this final rule also makes technical revisions to specific sections of the National List that provide clarity and adequately reflect the intent of the paragraphs identified within those sections.

##### II. Overview of Amendments

The following provides an overview of the amendments made to designated sections of the National List:

##### *Section 205.601 Synthetic Substances Allowed for Use in Organic Crop Production*

This final rule amends the introductory paragraph of § 205.601 by adding language to clarify that synthetic substances used in crop production must be used in a manner which does not contribute to contamination of crops, soil, or water. The amendment further clarifies that synthetic substances, except those in paragraphs (c), (j), (k), and (l), may only be used when the provisions of § 205.206(a)

through (d) prove insufficient to prevent or control the target pest.

This final rule amends paragraph (a) of § 205.601 (as algicide, disinfectants and sanitizers, including irrigation cleaning systems) by adding the following materials:

*Copper Sulfate*, for use as an algicide, is limited to one application per field during any 24-month period.

Application rates are limited to those which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.

*Ozone Gas*, for use as an irrigation system cleaner only; and

*Peracetic acid*, for use in disinfecting equipment, seed, and asexually propagated planting material.

Paragraph (a) is further amended by correcting the spelling of the word "demisters" contained in subparagraph (a)(4) to "demossers."

This final rule amends paragraph (e) of § 205.601 by adding the following material:

*Copper Sulfate*, for use as tadpole shrimp control in rice production, is limited to one application per field during any 24-month period.

Application rates are limited to levels which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.

This final rule amends paragraph (f) by changing "As insect attractants" to "As insect management."

This final rule amends paragraph (i) of § 205.601 (as plant disease control) by adding the following substance:

*Peracetic acid*, for use to control fire blight bacteria.

Paragraph (i) is further amended by removing the annotation contained in subparagraph (i)(3).

This final rule revises paragraph (k) of § 205.601 (as plant growth regulators) by inserting the word "gas" behind "ethylene" to be consistent with the June 2000 NOSB recommendation for the substance. Section 205.601(k) now reads "As plant growth regulators—Ethylene gas, for regulation of pineapple flowering."

This final rule revises paragraph (m) of § 205.601 by inserting a new subpart (2) as follows:

(2) EPA List 3—Inerts of unknown toxicity—for use only in passive pheromone dispensers.