

removing the term algicides from 205.601(a). We agree that the use of disinfectants and sanitizers listed in § 205.601(a) should not be measured against the criteria in paragraphs 205.206 (a)–(d). Accordingly, we have amended the introductory text to exclude disinfectants and sanitizers. We disagree, however, with removing algicides from § 205.601(a). We recognize that there may be similar types of changes that could be made to improve the organization of the National List and the categories of materials and substances. Therefore, we will request that the NOSB begin work on addressing such organizational issues for inclusion in future rulemaking. One commenter asked that the final rule be written in plain English so that an average person will understand what is being said. We have made considerable efforts to write these regulations in plain English, but note that the regulations dealing with the National List are inherently difficult to understand because of their technical nature.

(a) As algicides, disinfectants and sanitizers, including irrigation cleaning systems—(3) Copper Sulfate. Two commenters opposed the addition of copper sulfate to the National List when it was published in December, 2000 and restated their opposition; one commenter cited problems with harmonization with European standards which do not allow the use of copper sulfate. USDA is currently engaged in discussions with the European Union (EU) concerning harmonization and mutual recognition of our respective standards for organic production and processing, and we believe these issues will be addressed in those discussions. Copper sulfate has been the subject of considerable debate and review at more than one NOSB public meeting, and the annotations restricting its use reflect an attempt by the NOSB to address all of the concerns raised regarding the use of copper sulfate in organic systems. Two commenters requested that the phrase “in aquatic rice systems” be added as it was stated in the NOSB recommendation. These two comments have merit and we have made the requested change.

(5) Ozone gas. No commenters opposed the addition of ozone gas.

(6) Peracetic acid. One commenter noted that many peracetic acid formulations contain small amounts of toxic stabilizer compounds, and that the National List should only be for formulations of this material that do not have synthetic stabilizers in them. However, we believe the NOSB understands the full nature of peracetic acid and its uses and made its

recommendation accordingly. The public is invited to petition the NOSB to reconsider any material at any time that new information becomes available. Such information should also be forwarded to the NOSB prior to its re-review of any materials on the National List before the sunset date of five years after being added to the List. One commenter asked that this paragraph be further amended to require that documentation be shown that alternatives including biocontrols have been tried. However, with the revision to the introductory text in this subsection, we believe the additional annotation is not necessary and the final rule remains as proposed.

(e) As insecticides (including acaricides or mite control)—(3) Copper Sulfate. The word “aquatic” will be added before the words “rice production” to be consistent with the revised wording in paragraph (a) (3).

(f) As insect attractants—Pheromones. Commenters pointed out that the word “attractants” may be somewhat inaccurate. Pheromones may also include mating disruption or other general confusion, not necessarily synonymous with attraction. We have amended the paragraph to state “as insect management.” We also received two comments urging a policy guidance statement be issued to clarify types of pheromones permitted as those that are EPA-exempt or EPA-registered without additional synthetic toxicants (unless those are also on the List) or those containing no List 1 or List 2 inerts. We will publish on our Web site such policy guidance.

(i) As plant disease control—(3) Hydrated lime. Numerous commenters pointed out that the annotation is incorrectly written in the current regulations. As currently written, the annotation reads “must be used in a manner that minimizes copper accumulation in the soil.” However, there is no copper in hydrated lime. The annotation referred to an earlier reference to “Bordeaux mixes” that are a combination of copper sulfate plus hydrated lime. Accordingly, we have deleted the annotation altogether as suggested by the commenters.

(7) Peracetic acid. Commenters pointed out that the proposed annotation referring to EPA approval is unnecessary, as the material is currently regulated by EPA and it is unnecessary to restate EPA’s status in the NOP regulation. These comments have merit and we have amended the annotation to read “for use to control fire blight bacteria.” And one comment opposed the addition of additional synthetic materials to the National List,

specifically, the addition of paracetic acid to section 205.601. The commenter raised concerns that the addition of synthetic materials to the National List could continue a disturbing trend of moving organic systems away from the basic principles of minimizing use and dependence on purchased inputs, especially synthetic substances. Congress recognized that synthetic materials might be necessary for organic production to develop and that is why the National List was created in the first place. Moreover, the process of adding a material to the National List is sufficiently rigorous that by itself, the process will provide a natural limit to the number of materials that may be added to the List.

(k) As plant growth regulators. No commenters opposed to the addition of “gas” behind “ethylene.”

(m) As synthetic inert ingredients as classified by the EPA, for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances—(2) EPA List 3—Inerts of unknown toxicity—for use only in passive pheromone dispensers. One commenter objected to the addition of any List 3 Inert unless a Technical Advisory Panel (TAP) review is conducted and the NOSB approved the substance for addition to the National List. However, we believe the annotation accurately reflects the NOSB’s understanding that in passive pheromone dispensers, the allowance of List 3 Inerts poses no significant harm to sustainable systems, including crops, soil, and water. Accordingly, no change is made to this provision.

Section 205.602 Nonsynthetic Substances Prohibited for Use in Organic Crop Production

No comments were opposed to the addition of calcium chloride.

The language in the proposed rule on sodium nitrate differs in two places, and may be misleading. The amendment to paragraph (g) should read: Sodium nitrate—unless use is restricted to no more than 20 percent of the crop’s total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.” Two commenters opposed the use of sodium nitrate in any amount, or for any crop production, and one of those commenters cited problems with harmonization with European standards for organic crop production. USDA is currently engaged in discussions with the European Union (EU) concerning harmonization and mutual recognition of our respective standards for organic production and processing, and we