



# CCOF

Advancing organic agriculture through certification, education, advocacy, and promotion.

December 20, 2022

Jared Clark  
Standards Division  
National Organic Program  
USDA – AMS – NOP  
1400 Independence Avenue, SW  
Washington, DC 20250

**Re: CCOF Comment on the Advance Notice of Proposed Rulemaking on Inert Ingredients in Pesticides for Organic Production; Docket Number AMS-NOP-21-0008**

Dear Mr. Clark:

California Certified Organic Farmers (CCOF) appreciates the opportunity to comment on the Advance Notice of Proposed Rulemaking on Inert Ingredients in Pesticides for Organic Production. CCOF is a farmer-led nonprofit representing more than 4,400 organic farms, ranches, processors, and retailers across North America. Our mission is to advance organic agriculture for a healthy world through certification, education, and advocacy.

CCOF evaluated options for updating references to inert ingredients in the USDA regulations on organic production against the criteria that the option must align with the Organic Food Production Act (OFPA), minimize disruption to grower access to critical tools, and be pragmatic to implement. We collaborated with the Organic Trade Association (OTA) on our comment.

**CCOF Recommendation:**

In alignment with OTA, CCOF recommends the National Organic Program (NOP) permit all the following as a Positive List of allowed inert ingredients.

- Inert ingredients at 40 CFR 152.25(f) Table 2 (“Inert Ingredients Permitted in Minimum Risk Pesticide Products”);
- Inert ingredients at 40 CFR 180 Subpart D (“Exemptions from Tolerances”), limited only to substances with an allowance as an inert ingredient and that are used in accordance with the conditions of EPA’s approval as an inert ingredient; and
- Inert ingredients at 40 CFR 180.1122 (“Inert ingredients of semiochemical dispensers; exemptions from the requirement of a tolerance”), limited only for use in passive pheromone dispensers.

In addition, we recommend the NOP create a Negative List for individual exceptions to the Positive List.

**Recommendation Details:**

The National Organic Standards Board (NOSB) should conduct a categorical review to evaluate and justify baseline allowance under OFPA and formalize a recommendation to add the categorical listing to the National List. The category to be reviewed is the Positive List and categorical review should occur at each Sunset Review. This process is modeled on the listing of Excipients at 205.603(f), which includes a single review of a categorical listing that covers multiple materials.

NOSB should also develop and recommend the Negative List of exceptions to the Positive List that NOP publishes as a prohibited list in regulation. We recommend NOSB identify inert ingredients to be considered for the Negative List based

on NOSB-initiated proposals and received petitions. NOSB should develop criteria and an expedited process for submitting and evaluating petitions to prohibit specific inert ingredients. Finally, we recommend that the NOP publish the final rule with the initial Negative List at the same time as the Positive List to avoid a gap between publishing what is permitted and specific prohibitions.

**Rationale:**

CCOF's recommendation aligns with OFPA, minimizes disruption for organic producers, and is pragmatic to implement. This recommendation satisfies the OFPA requirement at 7 U.S.C. 6517(c)(1)(B)(ii) that inert ingredients not be classified by the EPA as "inerts of toxicological concerns," as the EPA review process for all food-use inert ingredients includes a robust evaluation of toxicity and exposure risk. In addition, our recommendation requires NOSB to conduct a categorical review of EPA-approved inert ingredients against the other criteria under OFPA at 7 U.S.C. 6517(c)(1)(A) and 6518(m).

Our recommendation minimizes industry impact by continuing to allow substances that are currently in-use and legally permitted under EPA's current framework. This concept also opens space for formulators to innovate with inert ingredients that have not previously been allowed due to the static nature of the obsolete EPA List 4.

Finally, CCOF's recommendation is pragmatic and efficient by deferring to existing EPA assessments and regulatory references as a baseline for the Positive List while also requiring NOSB to build a Negative List of exemptions. We agree with many in the organic industry that the current NOSB petition process is likely ill-suited to review all individual inert ingredients currently in use. By requiring a categorical review of the Positive List and individual review of the Negative List, we anticipate a manageable workload for NOSB.

Thank you for your consideration of CCOF's recommendation.

Sincerely,



Rebekah Weber, Policy Director

cc: April Vasquez, Chief Certification Officer, CCOF Certification Services, LLC

