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Important NOP Updates

The NOP has released several policy updates and requests for public comment on proposed rule changes over the past few months. In an effort to keep our clients up to date on the requirements for certification, and the opportunities for you to influence the development of standards, we are issuing this bulletin for your review.

Chlorine Clarification for All Clients

Final guidance has been published in the NOP Program Handbook that clarifies the use of chlorine under the NOP regulations including references to the Safe Drinking Water Act (SDWA), EPA and FDA. All previous requirements regarding chlorine use, including the requirement to test water at the point of discharge, are no longer applicable having been replaced by the new guidance explained below.

Crop Operations:

Residual chlorine levels in water that contacts crops pre-harvest, or that contacts soil after cleaning irrigation systems, can not exceed the maximum residual disinfectant limit under the SDWA which is 4ppm. Another example of chlorine used in the field that would be restricted to 4ppm is when water is used to rinse crops as they are harvested in the field.

Additionally, farmers may use chlorine products up to maximum labeled rates for disinfecting and sanitizing equipment or tools. No intervening event is necessary before equipment is used in contact with organic crops.

Product washed after it is harvested will be verified to the Handler standards and may require an additional potable water rinse. Please read below.

Livestock Operations:

Residual chlorine levels in the water in direct food or animal contact (for example, drinking water) should not exceed the maximum residual disinfectant limit of 4ppm under the SDWA.

Chlorine products may be used up to maximum labeled rates for sanitizing equipment or tools (including dairy pipelines and tanks). Label instructions should be followed regarding requirements for rinsing or not rinsing prior to the next use of the equipment.

Handler Operations:

Water used in direct post-harvest crop or food contact (including flume water to transport fruits or vegetables, wash water in produce lines, egg or carcass washing) is permitted to contain chlorine materials at levels approved by the Food and Drug Administration or the Environmental Protection Agency for such purpose. Rinsing the product with potable water that does not exceed 4ppm must immediately follow this permitted use. Chlorine levels should be monitored at the point of final rinse, and testing should be documented.

Water used as an ingredient in organic food handling should not exceed 4ppm. If using municipal water, not being further treated or chlorinated by your operation, it is unnecessary to test for chlorine levels.



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Chlorine materials may be used up to maximum labeled rates for disinfecting and sanitizing food contact surfaces and equipment. An intervening event or rinsing prior to food contact is not required unless mandated by the label use directions.

The requirements as written exactly by the NOP can be found in the NOP Program Handbook at <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090760>

For additional information about this guidance including the NOP thought process during its development and comments received, incorporated or rejected, please view the Notice to Stakeholders and Interested Parties document at <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090764&acct=nopgeninfo>

If you have any questions about how these new requirements effect your operation, please contact your QAI Certification Project Manager.

Periodic Residue Testing Program

The NOP has issued a proposed rule change for public comment. The proposal amends the organic regulations to make clear that accredited certifying agents must conduct periodic residue testing of agricultural products represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” Provisions in the proposed rule would require that certifying agents conduct periodic residue testing for a minimum of five percent of the operations they certify annually. This include raw and processed product for crops, handler and livestock operators.

QAI encourages our clients to read the proposal and submit public comments by June 29, 2011. The proposal can be located at www.regulations.gov. Search docket number AMS-NOP-10-0102; NOP-10-10 and follow instructions for submitting comments.

National Organic Standards Board

The USDA is seeking nominations to fill five vacancies for the organic advisory board in the following positions: organic producer, organic handler, consumer/public interest representative, scientist, and environmentalist. Serving on the board is a prestigious opportunity to help shape NOP policies and make recommendations on approved or prohibited materials in organic production. Written nominations, with cover letters and resumes, must be postmarked on or before July 17, 2011. For more information, please view the NOP press release at <http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateU&navID=&page=Newsroom&resultType=Details&dDocName=STELPRDC5090130&dID=146949&wf=false&description=USDA+Seeks+Nominations+for+National+Organic+Advisory+Board+&topNav=Newsroom&leftNav=&rightNav1=&rightNav2=>



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Methionine

Effective March 14, 2011, methionine was extended for use in organic poultry feed until October 1, 2012 with restricted maximum levels established. Following are the maximum levels of synthetic methionine per ton of feed: laying chickens – 4 pounds; broiler chickens – 5 pounds; turkeys and all other poultry – 6 pounds. The Federal Register notice documenting this rule change is available for review at <http://edocket.access.gpo.gov/2011/pdf/2011-5716.pdf>

Access to Pasture and Livestock Rule

We would like to remind our Livestock operators that the new livestock regulation commonly known as “the pasture rule” is fully implemented on June 17, 2011, and all previously certified operators must be able to demonstrate compliance from that point forward. Although primarily targeted at Livestock and Dairy operators, some sections of the new regulation are also applicable to our Poultry clients.

Additionally, on May 10, 2011, the USDA announced there would be no changes made to the ruminant slaughter stock requirements other than those currently published in the new Pasture Rule. Public comments had been requested, received and reviewed. The NOP has written a summary of the comments received and explains the rationale behind a decision to retain the current requirements. That explanation is available at <http://1.usa.gov/FinalRuleRuminant>

Requirements for the Pasture Rule, including supporting information to help you implement your compliant system plan, are still available on the NOP website for your review at <http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=PastureRulemakingNOPNationalOrganicProgramHome&rightNav1=PastureRulemakingNOPNationalOrganicProgramHome&topNav=&leftNav=&page=NOPAccessToPasture&resultType=&acct=nopgeninfo>

Parasiticides Fenbendazole and Moxidectin

Two new parasiticides are being proposed for addition to the National List for organic Livestock production. Both Fenbendazole and Moxidectin were previously recommended by the NOSB for addition to the National List of allowed materials with restrictions.

Fenbendazole would be added to the National List allowing use of the applicable form of Fenbendazole among breeder stock for beef and dairy cattle, goats, and swine, provided it is not administered during the last third of gestation and lactation for progeny that will be sold as organic. The proposed rule would also allow the use of the applicable form of Fenbendazole for turkeys.

Moxidectin would be added to the List for control of internal parasites only.

Clients who want to see these materials added for use in organic production are encouraged to submit public comment in support of this proposed rule change by July 5, 2011. More information including how to submit comments is available at <http://www.ams.usda.gov/AMSv1.0/ams.printData.do?template=printPage&navID=&page=printPage&dDocId=STELPRDC5090729&dID=148739&wf=false&docTitle=National+Organic+Program+Invites+Comments+to+Proposed+Amendments+to+the+National+List>



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Nutrient Vitamins and Mineral

On April 14, 2011, the FDA issued a memo answering NOP questions regarding 21CFR104.20, the annotation to the nutrient vitamins and minerals listing on the National List. The memo clarifies the difference between accessory nutrients, essential nutrients and infant formula nutrients - all of which have been approved by the USDA with limitation.

At the NOSB meeting April 26-29, the NOP presentation on nutrient vitamins and minerals confirmed that 104.20 only allows for nutrients listed under 21CFR 101.9 to be added to food (including organic food) but does not include “accessory” nutrients such as DHA, ARA, L-Carnitine, Taurine, etc. Furthermore, the FDA suggested that 21CFR107.100 and 107.10 are the appropriate regulatory references for infant formula fortification.

In 2006 the NOP approved the use of some accessory nutrients (those commonly found in infant formula and milk) based on an interpretation of the National List 205.605(b) and previous NOSB recommendations. However, in 2008 the NOP made a contradictory decision that lutein ester did not fall under the fortification policy because it was not listed on 104.20(d). Furthermore, the NOP recognized during their presentation that many certified operations made business decisions based on these previous NOP decisions and they plan to provide a transition time for businesses to reformulate and bring their products into compliance.

At the recent April meeting the NOSB board was given the opportunity to make two recommendations. The first important decision was to relist nutrients vitamins and minerals with the current annotation reference of 104.20 as part of their standard Sunset process. The Board voted to relist as-is which ensures vitamins under 104.20 and 101.9 (due to the FDA clarification) will continue to be allowed in organic production. The second board recommendation could have been to amend the current annotation to one that identified specific lists and/or CFR references of nutrients allowed in organic production. During the discussion period, the NOP presented the board with the option of referencing specifically 101.9, 107.100 and 107.10 as lists of nutrients they would be comfortable with at this time. The NOSB did not take a vote to amend the current annotation and instead will revisit this topic at the next meeting in October.

All indications from the NOP suggest that “accessory nutrients” such as DHA, ARA, taurine, L-carnitine, all amino acids, etc, must be petitioned to the NOSB for review and that the NOP is going to allow operators to continue using previously approved accessory nutrients (e.g. DHA, ARA) while those petitions work their way through the process. There is no guarantee the petitions submitted will be approved and products currently using accessory nutrients may need to be reformulated in the future.

Given the information communicated by the NOP, clients who have been previously approved to use specific accessory nutrients approved by the NOP may continue to do so for their existing product lines until further guidance is issued. However, QAI will not approve the addition of “accessory nutrients” (those not on 101.9 or 107.100 for infant formula) to new types of products trying to gain certification and enter the organic market for the first time without explicit permission from the NOP. The FDA memo to the NOP can be viewed at <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090415>



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NOP Program Handbook

Once again we would like to remind our clients of the importance of staying current on all NOP requirements by visiting the NOP website frequently including the NOP Program Handbook page.

Additional guidance has been issued recently on Wild Crop Harvesting; Compost and Vermicompost; Comingling and Contamination Prevention and many more certification requirements. You can find all this information at: NOP Program Handbook Page: www.ams.usda.gov/AMSv1.0/NOPProgramHandbook NOP Website: www.ams.usda.gov/NOP

If you would like to discuss any of the information contained within this QAI bulletin please contact your QAI Certification Project Manager.