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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–18–0051; NOP–18–02]

RIN 0581 AD80

National Organic Program; Amendments to the National List of Allowed and Prohibited Substances per April 2018 NOSB Recommendations (Crops and Handling)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the National List of Allowed and Prohibited Substances (National List) section of the United States Department of Agriculture’s (USDA’s) organic regulations to implement recommendations submitted to the

Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB). This rule adds elemental sulfur for use as a molluscicide in organic crop production, adds polyoxin D zinc salt to control fungal diseases in organic crop production, and reclassifies magnesium chloride from an allowed synthetic to an allowed nonsynthetic ingredient in organic handling.

DATES: This final rule is effective November 22, 2019.

FOR FURTHER INFORMATION CONTACT: Valerie Frances, Standards Division, National Organic Program. Telephone: (202) 720–3252.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established the National List within part 205 of the USDA organic regulations (7 CFR 205.600 through 205.607). The National List identifies the synthetic substance allowances and nonsynthetic substance prohibitions in organic farming. The National List also identifies synthetic and nonsynthetic nonagricultural substances, and nonorganic agricultural substances that may be used in organic handling.

The Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501–6522) (OFPA), and § 205.105 of the USDA organic regulations specifically prohibit the use of any synthetic substance in organic production and handling unless

the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural and any nonagricultural substance used in organic handling be on the National List. Under the authority of OFPA, the National List can be amended by the Secretary based on recommendations developed by the NOSB. Since the final rule establishing the National Organic Program (NOP) became effective on October 21, 2002, USDA’s Agricultural Marketing Service (AMS) has published multiple rules amending the National List.

This final rule amends the National List to implement NOSB recommendations on three amendments to the National List that were submitted to the Secretary on April 27, 2018. The amendments in this final rule are discussed in the section on Overview of Amendments below.

II. Overview of Final Amendments

The following provides an overview of the amendments to designated sections of the National List regulations. The background information on each substance and the basis for the NOSB recommendation were addressed in the proposed rule (84 FR 4377) and are not included in this final rule. Table 1 summarizes the final changes to the National List based on these NOSB recommendations.

TABLE 1—FINAL AMENDMENTS TO THE NATIONAL LIST

Substance	National list section	Final rule action
Elemental sulfur .....	§ 205.601(h) .....	Add to National List.
Polyoxin D zinc salt .....	§ 205.601(i) .....	Add to National List.
Magnesium chloride .....	§ 205.605(b) to § 205.605(a) .....	Reclassify listing and move within National List.

The NOSB evaluated each substance by applying the OFPA substance evaluation criteria to determine if the substance is compatible with organic production and handling (7 U.S.C. 6517(c) and 6518(m)). For each substance, AMS reviewed the recommendation submitted to the Secretary to determine if the OFPA evaluation criteria had been appropriately applied and whether the addition to or amendment of the National List would not supersede other federal regulations. Our review determined that the substances

described in this final rule meet these conditions. Therefore, AMS accepted each NOSB recommendation and initiated this rulemaking.

AMS received thirteen comments on the proposed rule. After considering the received comments, AMS has determined that the addition of elemental sulfur and polyoxin D zinc salt to the National List for organic crop production and the reclassification of magnesium chloride from an allowed synthetic to an allowed nonsynthetic ingredient in organic handling will be finalized without change. Section E of

this final rule provides an overview of the public comments and AMS’s response to these comments.

§ 205.601 Synthetic Substances Allowed for Use in Organic Crop Production

This final rule adds two substances to § 205.601, synthetic substances allowed for use in organic crop production.

Elemental Sulfur

The final rule amends the National List to add elemental sulfur to § 205.601(h) for use as a molluscicide

bait to control slugs and snails. Table 2 illustrates the final rule action.

TABLE 2—FINAL RULE ACTION FOR ELEMENTAL SULFUR

Current rule ... Final rule action.	N/A. Add elemental sulfur to § 205.601(h) as slug or snail bait.
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This permits the use of elemental sulfur-based bait, providing an additional tool to organic producers to control slugs and snails when other required preventive measures have failed to provide sufficient control (§ 205.206(e)). Elemental sulfur is also on the National List for use in organic crop production as an insecticide (including mite control) in § 205.601(e); as plant disease control in § 205.601(i); as a plant or soil amendment in § 205.601(j); and in organic livestock production for treatment of livestock and livestock housing in § 205.603(b)(2).

The USDA organic regulations require organic crop producers to describe practices to prevent and control pests in their organic system plan (OSP) (§ 205.201(a)(1)). In addition, producers must use preventive practices and physical and mechanical means to control pests before using an allowed synthetic substance, such as elemental sulfur. Finally, producers need to describe the conditions under which elemental sulfur may be used for slug and snail control in their OSP (§ 205.206(e)). Certifying agents must ensure that producers comply with these requirements.

#### Polyoxin D Zinc Salt

The final rule amends the National List to add polyoxin D zinc salt to control fungal diseases at § 205.601(i). Table 3 illustrates the final rule change.

TABLE 3—FINAL RULE ACTION FOR POLYOXIN D ZINC SALT

Current rule ... Final rule action.	N/A. Add polyoxin D zinc salt to § 205.601(i) as plant disease control.
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This permits the use of polyoxin D zinc salt in organic crop production. The USDA organic regulations require organic crop producers to describe practices to prevent and control crop diseases in their organic system plan (OSP) (§ 205.201(a)(1)). In addition, producers must use preventive practices and management practices, or nonsynthetic substances to suppress the spread of plant disease before using an allowed synthetic, such as polyoxin D

zinc salt. Finally, producers need to describe the conditions under which polyoxin D zinc salt may be used for disease control in their OSP (§ 205.206(e)). Certifying agents must ensure that producers comply with these requirements.

*§ 205.605 Nonagricultural (Nonorganic) Substances Allowed as Ingredients in or on Processed Products Labeled as “Organic” or “Made With Organic (Specified Ingredients or Food Group(s))”*

This final rule reclassifies magnesium chloride from an allowed synthetic ingredient in § 205.605(b) to an allowed nonsynthetic ingredient in § 205.605(a).

#### Magnesium Chloride

This final rule reclassifies magnesium chloride as a nonsynthetic substance that may be used in organic handling. It also removes the annotation that magnesium chloride must be “derived from sea water.” Table 4 illustrates the final rule change.

TABLE 4—FINAL RULE ACTION FOR MAGNESIUM CHLORIDE

Current rule ... Final rule action.	§ 205.605(b) Magnesium chloride—derived from sea water. Remove magnesium chloride from § 205.605(b) and insert magnesium chloride under § 205.605(a) without annotation.
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The primary uses of magnesium chloride in organic food processing are as a firming agent in tofu processing and as a source of the essential mineral magnesium in organic infant formula. Magnesium chloride is the simple salt of the halogen chlorine and the alkaline earth metal magnesium. Magnesium chloride can be derived from terminal lake brines, subsurface brine deposits, and mined mineral deposits, as well as seawater.<sup>1</sup> This substance is nonsynthetic when derived from natural sources and manufactured in a way that does not chemically change the substance (see § 205.2 definitions of *nonsynthetic (natural)* and *synthetic*). Guidance documents NOP 5033, *Classification of Materials*, and NOP 5033–1, the *Decision Tree for the Classification of Materials as Synthetic or Nonsynthetic*,<sup>2</sup> describe a procedure

<sup>1</sup> NOSB Recommendations 2018 Spring Meeting: <https://www.ams.usda.gov/sites/default/files/media/HSMagnesiumChlorideReclassRec.pdf>.

<sup>2</sup> NOP 5033 *Classification of Materials* & NOP 5033–1 *Decision Tree for the Classification of Materials as Synthetic or Nonsynthetic*: [https://www.ams.usda.gov/sites/default/files/media/Program%20Handbk\\_TOC.pdf](https://www.ams.usda.gov/sites/default/files/media/Program%20Handbk_TOC.pdf).

to classify materials as synthetic or nonsynthetic. This final rule prohibits the use of synthetic forms of magnesium chloride in organic handling.

Organic handlers who use magnesium chloride must ensure that the product is a nonsynthetic, compliant form of this substance prior to use. Certifying agents must also verify that the magnesium chloride used is compliant with the nonsynthetic classification. Information about the source of the magnesium chloride and its manufacturing process could provide sufficient details to determine compliance.

#### III. Related Documents

On January 17, 2018, a Notice was published in the **Federal Register** (83 FR 2373) announcing the spring 2018 NOSB meeting. One purpose of the meeting was to deliberate on recommendations on current substances on the National List, and substances petitioned as amendments. The proposal to add elemental sulfur for use as a molluscicide in organic crop production, add polyoxin D zinc salt to control fungal diseases in organic crop production, and reclassify magnesium chloride from an allowed synthetic to an allowed nonsynthetic ingredient in organic handling was published in the **Federal Register** (84 FR 4377) on February 15, 2019. Additional information on or about the substances in this final rule, including petitions, technical reports, and NOSB recommendations, is available on the AMS website at <https://www.ams.usda.gov/rules-regulations/organic/national-list>.

#### IV. Statutory and Regulatory Authority

The OFPA authorizes the Secretary to make amendments to the National List based on recommendations developed by the NOSB. Sections 6518(k) and 6518(n) of the OFPA authorize the NOSB to develop recommendations for submission to the Secretary to amend the National List and establish a process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. Section 205.607 of the USDA organic regulations permits any person to petition to add or remove a substance from the National List. The current petition procedures for amending the National List published in the **Federal Register** (81 FR 12680, March 10, 2016) can also be accessed through the NOP Program Handbook on the NOP website at <https://www.ams.usda.gov/rules-regulations/organic/handbook>.

### *A. Executive Orders 12866 and 13771, and Regulatory Flexibility Act*

This final rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) has designated as not a significant regulatory action under Executive Order 12866. Consequently, this action does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) sets size criteria for each industry described in the North American Industry Classification System (NAICS) to delineate which operations qualify as small businesses.<sup>3</sup> The SBA has classified small agricultural producers that engage in crop and animal production as those with average annual receipts of less than \$750,000. Handlers are involved in a broad spectrum of food production activities and fall into various categories in the NAICS Food Manufacturing sector. The small business thresholds for food manufacturing operations are based on the number of employees and range from 500 to 1,250 employees, depending on the specific type of manufacturing. Certifying agents fall under the NAICS subsector, "All other professional, scientific and technical services." For this category, the small business threshold is average annual receipts of less than \$15 million.

AMS has considered the economic impact of this final rulemaking on small agricultural entities. Data collected by the USDA National Agricultural Statistics Service (NASS) and the NOP indicate most of the certified organic production operations in the U.S. would be considered small entities. According

to the 2017 Census of Agriculture, 18,166 organic farms in the U.S. reported sales of organic products and total farm gate sales in excess of \$7.2 billion.<sup>4</sup> Based on that data, organic sales average \$400,000 per farm. Assuming a normal distribution of producers, we expect that most of these producers would fall under the \$750,000 sales threshold to qualify as a small business.

According to the NOP's Organic Integrity Database, there are 18,137 certified handlers in the U.S.<sup>5</sup> The Organic Trade Association's 2018 Organic Industry Survey has information about employment trends among organic manufacturers. The reported data are stratified into three groups by the number of employees per company: Less than 5; 5 to 49; and 50 plus. These data are representative of the organic manufacturing sector and the lower bound (50) of the range for the larger manufacturers is significantly smaller than the SBA's small business thresholds (500 to 1,250). Therefore, AMS expects that most organic handlers would qualify as small businesses.

The USDA has approximately 78 accredited certifying agents who provide organic certification services to producers and handlers. The certifying agent that reports the most certified operations, nearly 3,500, would need to charge approximately \$4,200 in certification fees in order to exceed the SBA's small business threshold of \$15 million. The costs for certification generally range from \$500 to \$3,500, depending on the complexity of the operation. Therefore, AMS expects that most of the accredited certifying agents would qualify as small entities under the SBA criteria.

The economic impact on entities affected by this rule would not be significant. The effect of this rule would allow the use of additional and widely available substances in organic crop or livestock production and organic handling. This action would increase regulatory flexibility and would give small entities more tools to use in day-to-day operations. AMS concludes that the economic impact of this addition, if any, would be minimal and beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule would not have a significant economic impact on a substantial number of small entities.

<sup>4</sup> U.S. Department of Agriculture, National Agricultural Statistics Service. 2017 Census of Agriculture. <https://www.nass.usda.gov/Publications/AgCensus/2017/index.php>.

<sup>5</sup> Organic Integrity Database: <https://organic.ams.usda.gov/Integrity/>. Accessed on May 31, 2019.

### *B. Executive Order 12988*

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This final rule is not intended to have a retroactive effect. Accordingly, to prevent duplicative regulation, states and local jurisdictions are preempted under the OFPA from creating programs of accreditation for private persons or state officials who want to become certifying agents of organic farms or handling operations. A governing state official would have to apply to USDA to be accredited as a certifying agent, as described in section 6514(b) of the OFPA. States are also preempted under sections 6503 through 6507 of the OFPA from creating certification programs to certify organic farms or handling operations unless the state programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 6507(b)(2) of the OFPA, a state organic certification program that has been approved by the Secretary may, under certain circumstances, contain additional requirements for the production and handling of agricultural products organically produced in the state and for the certification of organic farm and handling operations located within the state. Such additional requirements must (a) further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

In addition, pursuant to section 6519(c)(6) of the OFPA, this final rule would not supersede or alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, respectively, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

### *C. Paperwork Reduction Act*

No additional collection or recordkeeping requirements are imposed on the public by this final rule.

<sup>3</sup> U.S. Small Business Administration regulations: [https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5;node=13%3A1.0.1.1.17%3E13.1.121\\_1104](https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5;node=13%3A1.0.1.1.17%3E13.1.121_1104).

Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, Chapter 35.

#### *D. Executive Order 13175*

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on tribal governments and will not have significant tribal implications.

#### *E. Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### *F. Comments Received on Proposed Rule AMS-NOP-18-0051; NOP-18-02*

During a 60-day comment period that closed on April 16, 2019, AMS received 13 comments on proposed rule AMS-NOP-18-0051. Two of these comments incorrectly discussed amendments not related to this proposed rule and therefore are not discussed. Of the remaining 11 comments, 3 were from trade or farmers' associations, 1 was from a membership-based advocacy group, 1 was from an accredited certifying agent, and 6 were from unaffiliated commenters. The received comments can be viewed at <https://www.regulations.gov/> by searching for the document AMS-NOP-18-0051.

#### *AMS General Response to Comments on Amendments to § 205.601*

Organic crop producers must describe their management practices to prevent specific pest infestations and plant diseases, and the specific conditions under which the use of the allowed synthetic materials may be necessary in their OSP (§§ 205.201(a)(1) and 205.206(e)). The USDA organic regulations require that the producer first use mechanical or physical methods or nonsynthetic materials to control pests and plant diseases. When these are not sufficient, organic producers may use synthetic materials that are listed as allowed on § 205.601 and specified in their OSP. In addition, nonsynthetic and allowed synthetic materials must be used as specified on their material safety data sheet (MSDS) and product label. Certifying agents must ensure that the preventive mechanical and physical practices and the nonsynthetic materials along with the conditions for when synthetic material use is necessary are all described in the producer's OSP.

Certifying agents must also verify that the preventive mechanical and physical practices and the nonsynthetic materials to address the target problems were implemented prior to the use of the synthetic material (§ 205.206(e)).

#### *Comments Received on the Addition of Elemental Sulfur to § 205.601 for Use as Slug and Snail Bait*

AMS received nine public comments regarding the proposed addition of elemental sulfur to § 205.601 as an allowed synthetic substance for use in crop production. Five of these comments supported the proposed addition, while four of the comments opposed it.

The comments supporting the proposed use of elemental sulfur cited the substance's proven effectiveness as a molluscicide. Several commenters argued that the proposed use of elemental sulfur is essential to organic agriculture because typical organic farming practices (*e.g.*, reduced tillage and mulching) support slug and snail populations. Supporting commenters also noted that allowing elemental sulfur as slug and snail bait would be consistent with the current organic regulations, which allow its use as a soil amendment and insecticide.

Commenters opposed to the use of elemental sulfur as a molluscicide stated that the substance can be harmful to farmworkers and that overuse could lead to acidification of soil and water. Several commenters noted that most elemental sulfur production is a byproduct of oil and natural gas refining. One commenter also had concerns that using elemental sulfur to control slugs and snails could inadvertently harm beneficial organisms.

#### *AMS Response to Comments on the Addition of Elemental Sulfur to § 205.601 for Use as Slug and Snail Bait*

AMS disagrees with comments opposed to the use of elemental sulfur in organic crop production as a molluscicide. Elemental sulfur was assessed according to the OFPA criteria (7 U.S.C. 6518(m)). AMS determined that elemental sulfur used as a molluscicide meets the OFPA evaluation criteria, when used as labeled. There is a long history of review and managed allowance of elemental sulfur for a variety of uses in organic crop production. Organic producers must maintain or improve soil and water quality (§ 205.200). Further, organic producers must first use mechanical or physical methods or nonsynthetic materials to control pests and plant diseases. When these are not

sufficient, organic producers may use an allowed synthetic, such as sulfur, under the conditions described in their OSP (§ 205.206(e)). Any use of nonsynthetic or allowed synthetic materials must be as specified on the material safety data sheets (MSDS) and product labels to prevent injury to humans, animals, plants, and nontarget and beneficial insects, and detrimental impacts on soil health and air or water quality. Producers should monitor their soil pH and health with appropriate soil tests as needed, or as requested by a certifying agent. The requirements in the USDA organic regulations and the application instructions on the MSDS and product labels support the use of sulfur as a molluscicide in a manner that is safe for human health and the environment.

#### *Comments Received on the Addition of Polyoxin D Zinc Salt to § 205.601 as Plant Disease Control*

AMS received nine public comments regarding the addition of polyoxin D zinc salt to § 205.601 for plant disease control. Three of the comments supported the proposed addition of this substance, and six opposed its addition.

Comments in support of the proposed addition of polyoxin D zinc salt referenced the material's effectiveness at controlling plant pathogenic fungi, as well as the material's unique mode of action. It does not kill fungi, but instead prevents growth. Commenters argued that polyoxin D zinc salt is needed in organic agriculture as an alternative form of plant disease control and cited the material's history of safe use in foreign and domestic conventional agriculture. Additionally, two commenters noted that concerns regarding possible harmful impacts on soil-borne fungi and beneficial insects caused by or resulting from the use of polyoxin D zinc salt were adequately addressed by the technical reports and petitions reviewed by the NOSB.

Comments opposed to the use of polyoxin D zinc salt cited an EPA report that noted moderate toxicity to freshwater invertebrates. A commenter stated that there are alternative products and practices other than polyoxin D zinc salt available for plant disease control. A commenter raised concern that the broad-spectrum mode of action of polyoxin D zinc salt may harm beneficial soil-borne fungi and insects such as pollinators. The same commenter also was also concerned that the material may degrade slowly and accumulate in soil.

#### AMS Response to Comments on the Addition of Polyoxin D Zinc Salt to § 205.601 for Plant Disease Control

AMS disagrees with comments opposed to the use of polyoxin D zinc salt in organic crop production. As stated in the 2017 technical report, polyoxin D zinc salt prevents the growth of fungi rather than destroying them. In addition, studies on macro-invertebrates, including pollinators and earthworms, indicated no or little toxic effects. While the soil half-life from aerobic microbial metabolism could be upwards to 15.9 days, photolytic degradation from sunlight was observed as soon as 1.6 days in spring conditions, and generally within 2–3 days, especially in alkaline soil. Consequently, polyoxin D zinc salt has not been found to accumulate or persist in soil. Polyoxin D zinc salt was assessed according to the OFPA criteria (7 U.S.C. 6518(m)). AMS determined that the use of polyoxin D zinc salt for plant disease control meets the OFPA evaluation criteria.

In addition, like all synthetic materials allowed for use in organic agricultural production per § 205.601, organic crop producers must describe their management practices to prevent specific pest infestations and plant diseases, and the specific conditions under which the use of polyoxin D zinc salt may be necessary in their OSP (§§ 205.201(a)(1) and 205.206(e)). The USDA organic regulations require that the producer first use mechanical or physical methods or nonsynthetic materials to control pests and plant diseases. When these are not sufficient, organic producers may use polyoxin D salt as described in their OSP. Nonsynthetic and allowed synthetic materials must be used as specified on their material safety data sheet (MSDS) and product label to prevent injury to humans, animals, plants, and nontarget and beneficial insects, and detrimental impacts on soil health and air or water quality. Producers should monitor their soil pH and health with appropriate soil tests as needed, or as requested by a certifying agent.

#### Comments Received on the Addition of Magnesium Chloride to § 205.605 as an Ingredient in or on Processed Products

AMS received eight public comments regarding the proposed reclassification of magnesium chloride as a nonsynthetic allowed for use in processed organic products. Commenters broadly supported the proposed reclassification, stating that many nonsynthetic forms of magnesium chloride are commercially available.

One commenter was opposed to the reclassification of magnesium chloride; however, no substantive reason for the opposition was given.

Two commenters who supported reclassifying magnesium chloride as a nonsynthetic for use in handling also raised concerns that this reclassification would allow its use in organic crop production without restriction. They cautioned against future rulemaking allowing the use of magnesium chloride in crop production, citing concerns that chloride can accumulate in the soil and that this would allow the application of magnesium as an instantly available micronutrient, which are contrary to organic production practices. Both commenters requested that AMS ask the NOSB to consider prohibiting the use of nonsynthetic forms of magnesium chloride in organic crop production by listing it on § 205.602.

#### AMS Response to Comments on Magnesium Chloride

AMS disagrees with commenters that allowing nonsynthetic magnesium chloride for organic handling affects use of magnesium chloride in organic crop and livestock production. Nonsynthetic forms of magnesium chloride have always been allowed for organic crop and livestock production because magnesium chloride is not specifically prohibited at either § 205.602 or § 205.604. Furthermore, this final rule does not alter the definition of the terms “synthetic,” “nonsynthetic (natural),” or “chemical change” in the USDA organic regulations (§ 205.2). Commenters who are concerned about the allowance of nonsynthetic forms of magnesium chloride in organic crop or livestock production can petition the NOSB to consider prohibiting at § 205.602 or § 205.604.

#### F. General Notice of Public Rulemaking

This final rule reflects recommendations submitted by the NOSB to the Secretary to add two substances to the National List and to reclassify one substance on the National List.

#### List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Archives and records, Crops, Imports, Labeling, National List, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, subpart G is amended as follows:

#### PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for part 205 continues to read as follows:

**Authority:** 7 U.S.C. 6501–6522.

■ 2. Amend § 205.601 by revising paragraph (h) and adding (i)(11) to read as follows:

#### § 205.601 Synthetic substances allowed for use in organic crop production.

\* \* \* \* \*

(h) As slug or snail bait.

(1) Ferric phosphate (CAS # 10045–86–0).

(2) Elemental sulfur.

(i) \* \* \*

(11) Polyoxin D zinc salt.

\* \* \* \* \*

■ 3. Amend § 205.605 as follows:

■ a. In paragraph (a), add in alphabetical order an entry for “Magnesium chloride”; and

■ b. In paragraph (b), remove “Magnesium chloride—derived from seawater”.

The addition reads as follows:

#### § 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”

\* \* \* \* \*

(a) \* \* \*

Magnesium chloride.

\* \* \* \* \*

Dated: October 17, 2019.

**Bruce Summers,**  
Administrator, Agricultural Marketing Service.

[FR Doc. 2019–23035 Filed 10–22–19; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 9 CFR Parts 201, 202, and 203

[Doc. No. AMS–FGIS–18–0073 FR]

#### Reorganization and Transfer of Regulations; Correction

**AGENCY:** Agricultural Marketing Service; Farm Service Agency; Grain Inspection, Packers, and Stockyards Administration; USDA.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Agricultural Marketing Service is making correcting amendments pertaining to a final rule that appeared in the **Federal Register** on August 30, 2019. The final rule