



October 1, 2020

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National Organic Standards Board
USDA-AMS-NOP
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Washington, DC 20250-0268

Submitted via [Regulations.gov](https://www.regulations.gov).

RE: Docket # AMS-NOP-20-0041

NOSB Crops Subcommittee Proposal: Wild, native fish for liquid fish products

Dear NOSB members:

Thank you for the opportunity to provide comments on the NOSB Crops Subcommittee Proposal: Wild, native fish for liquid fish products. MOSA certifies approximately 2200 organic operations throughout the United States, including about 1900 operations with crops. Many of these certified operations use liquid fish products. With recent upgrades to our materials database, in addition to total inputs reviewed, we can now determine how many clients are using a given product on their operation. Presently, we have 128 inputs with “fish” in the name of the input. 81 of those are in use by clients, and 72 of those in use are crop fertility (CF) products.

We are also able to search for the common ingredients we would expect to see in inputs, but a good number of fish inputs do not have ingredients listed with these common, searchable terms. Individual inputs may contain more than one of the following ingredients:

- 36 total inputs in our database contain “liquid fish” as an ingredient. 24 are in use by clients as CF.
- 16 total inputs contain “fish hydrolysate.” 13 are in use by clients as CF.
- 63 total inputs contain “fish meal.” 14 are in use by clients as CF.
- Ten total inputs contain “fish oil.” One is in use by clients as CF.
- Four total inputs contain “fish solubles.” One is in use by clients as CF.

With the overlap in timeframe with the Strengthening Organic Enforcement comment period, we were unable to fully assess our capacity to verify the proposed annotation and definition for fish waste. This is the first time we are seeing proposed language for fish, and as such, we recommend that this proposal carry over until Spring 2021; more time to gather stakeholder input is needed. We also have a few questions that we would like to be answered in order for us to make a better assessment.

The annotation proposes to have certifiers verify the source of the fish for liquid fish products. This annotation is being proposed even though there are no species of wild, native fish harvested for this use, and the majority of products as reported in public comment come from fish byproducts. To echo our comments from the Spring 2020 meeting, “we do not see a need for NOSB to take further action at this time,” especially since there is not adequate information about the potential outcomes. We support the discussion and the idea that the organic industry could take up a proactive position; however, all the ramifications should be vetted before making such a significant shift in regulatory compliance determinations. And, as we also commented in Spring 2020, “we would like to see a unified, informed, balanced approach to addressing various marine biology concerns, across NOSB subcommittees.”

*Motion to amend Section 205.601(j)(8) as follows: (8) Liquid fish products—**sourced only from fish waste, bycatch, or invasive species**—can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.*

To be clear, this additional verification would only apply to liquid fish products. We read the discussion about potentially proposing a prohibition for §205.602, though we do not see that one is being made at this time. We do not support an addition to the prohibited list at this time without full understanding of the ramifications of such regulation. It is also not 100% clear which “fish” ingredients would be included. We believe that the intention is to only include fish hydrolysates, meal, and/or solubles according to the following discussion, but we would like to have specific ingredients stipulated. We also want to be clear on the type of verification that is required, and from whom. Do you mean that an affidavit from the farmer (i.e. producer) is satisfactory? Or by “producers” do you mean the manufacturer producing the fish input? Either way, we are not interpreting this to mean the source of the fish. If it’s this simple and the majority of products in production would comply, why would we ask farmers to jump through this hoop?

Public comment questioned how such an annotation could be verified. Because this annotation relates to easily identified ingredients—fish hydrolysates, meal, and/or solubles—an affidavit from producers attesting that the fish ingredients in their products are sourced from waste, bycatch/mortalities, and/or invasive species would be sufficient. Either the product does or does not contain fish products sourced from waste, bycatch, and/or invasive species. [emphasis added]

We also feel that any conversation here should continue in tandem with discussions on [fish oil](#). However, a current fish oil proposal has not come forward.

The suggested definition for fish waste is probably more problematic to verify than the annotation addition. This definition does not allow for waste from fish products processed for animal feed production, though the discussion notes that up to one-third of harvested fish is made into animal feed. The impact of this exclusion is unknown.

Motion to add the following definitions to Section 205.2 Terms defined: Fish waste. Waste or byproduct left over after market fish are processed for human consumption. [emphasis added]

Bycatch. Incidental or discarded catch that have no economic value, fish that must be discarded because of management regulations, or fish that are killed by fishing gear (mortality).

We have no concern with the proposed definition for bycatch.

As this conversation concludes, an adequate phase in period is necessary. This would be a significant change to certifiers' input review process. For the "fish" inputs listed in MOSA's database that are currently in use by clients, we estimate that it would take over 100 hours of work to request the information from manufacturers, and another 100+ hours to review the information submitted, assuming that it is indeed submitted. We currently re-review all inputs on a two to four year cycle and for the sake of efficiency would prefer to include verification of new requirements for fish into our re-review process. That could take up to four years to ensure that all inputs currently being allowed have been re-reviewed to the new requirements. However, if the review is as simple as a farmer signing an affidavit verifying source materials, we estimate that our time to make the appropriate updates would be cut in half, although we are unsure how verifying that fish wasn't harvested for animal feed would impact the re-review process. Even with this simple affidavit, we anticipate that we would need at least two years to fully implement the changes after publication of a final rule. Finally, we are unsure what penalty would be reasonable if a farmer uses an input that hasn't been fully verified to the new parameters. Would use of such an input render land uncertifiable for 36 months after use? MOSA would consider this as more of a minor issue that could be corrected.

In summary, we encourage that the proposal on wild, native fish for liquid fish products be carried over to Spring 2021 and brought back with a complete picture for all marine fish materials. We are uncomfortable with fish for crop production being held to a higher standard than fish for livestock production. Our preferred approach is NOSB cross-committee collaboration on related materials. We also would really appreciate the [petitioned substances page](#) be kept up to date with current documents for the public's consideration. It would be easier to follow conversations spread across several NOSB meetings with a single reference point.

Thank you for your work on this challenging and precedent setting issue.

Respectfully submitted,

The MOSA Certification Team