



ORGANIC FARMERS ASSOCIATION

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October 1, 2020

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP, 1400 Independence Ave. SW
Room 2642-S, Mail Stop 0268
Washington, DC 20250-0268

Re: Docket No. AMS-NOP-20-0041-0001

Dear National Organic Standards Board Members,

The Organic Farmers Association is led and controlled by domestic certified organic farmers and only certified organic farmers determine our policies using a grassroots process. We believe organic farmers were instrumental in creating our successful organic market and must be leaders in directing its future.

OFA supports the work of the National Organic Standards Board and we know that you play a crucial role in maintaining the integrity of the USDA organic label. We appreciate the opportunity to provide comments to the Board and the National Organic Program on general issues impacting organic farmers, as well as several specific items on the agenda for your meeting.

Issues Impacting Organic Farmers

We support NOSB recommendations moving forward to rulemaking or guidance in a timely manner, and we urge the NOP to continue to prioritize its regulatory efforts that are critical to the integrity of the organic label.

Dairy

We were disappointed that the NOP did not meet the deadline set by Congress for finalizing a rule on origin of organic livestock. We urge the program to work quickly to address this longstanding gap in the organic standards and level the playing field for organic dairy farms who are already meeting the intent behind the organic label. We urge the NOP to work quickly and intently to finish the origin of organic livestock rule that so many dairy farmers urgently

need. We also encourage the NOP to be transparent with the organic community about the status of the rule. We urge you to include the following provisions in a rule on origin of livestock:

- A producer as defined by the USDA NOP may transition bovine dairy animals into organic production only once.
- A producer is eligible for this transition only if they convert an entire established non-organic dairy operation to organic production at the same geographic location within a defined 12-month period. Once that transition has started, other non-organically certified animals cannot be added to the herd.
- This transition must occur over a continuous 12-month period prior to production of milk or milk products that are to be sold, labeled, or represented as organic.
- A producer must not transition any new bovine dairy animals into organic production after the end of the 12-month transition period.
- A producer is not eligible for the exemption if it has been used by a Responsible Connected person who has 20% or more ownership share in their legal entity.
- The certifying entity will file an organic system plan prior to the start of transition and the transition process is overseen by the certifier as part of their accountability.
- Transitioned animals must not be sold, labeled, or represented as organic slaughter stock or organic bovine dairy animals.
- If organic management of the dairy animal, starting at the last third of gestation or at any other time it has been organic, is interrupted, the animal cannot be returned to organic certification.
- Split bovine conventional and organic milking herds at the same location should be prohibited.
- Once the regulation is finalized all entities should be required to immediately meet the requirements of the Final Rule.

We also urge the NOP to continue to focus on compliance with the pasture rule, with an emphasis on higher risk operations including those on the margins of the 30 percent dry matter intake rule and dairies with 1,000 or more milking and dry cows.

Container and Greenhouse Operations

OFA continues to be concerned about the consequences for the integrity of the organic label as a result of the NOP and NOSB moving forward to allow organic hydroponics without clarity on how this type of production complies with the Organic Foods Production Act. We are also troubled by inconsistent interpretation of NOP guidance on the practices that can be used in container and greenhouse operations.

This summer, OFA, the National Organic Coalition and the Accredited Certifiers Association conducted a survey of USDA-accredited certification agencies to determine the amount of

consistency in how certifiers interpret the standards for transition within greenhouses, hoop houses, hydroponic and indoor operations.

The goals of the survey were to:

1. Inform the work of the ACA's working group, which is focused on the June 3rd, 2019 NOP memo on Land-based Production Affecting Greenhouse and Container Production.¹ The working group intends to begin creating guidelines in the coming weeks and months to address inconsistencies and identify best practices in three-year transition period requirements.
2. Use the aggregated data we have collected to inform the NOP and NOSB, identify where there is a lack of uniform interpretation, and request their review and clarification.
3. Ultimately the goal of the survey is to bring all certifiers into alignment in this area so that together we uphold high organic integrity and provide uniform interpretation of the organic standards.

Thirty-four certification agencies responded, and their responses indicate a wide range of interpretations about how long these operations must wait after the application of a prohibited substance and whether split operations can be certified. We presented 20 different scenarios and only two – an operation with plants grown in the ground (while in a structure like a greenhouse or hoop house) and certification of the outdoor access area for poultry – showed strong consensus on what transition time is required after application of a prohibited substance. Other scenarios yielded split results, indicating that different certifiers have different interpretations and application of the standards. We have attached a summary of the survey results with this comment.

The survey results show that certifiers need more clarity from the NOP. We are encouraged that the ACA working group is focused on this issue this fall, and we encourage the NOP to work collaboratively with them and provide clarity for certifiers on this regulatory question.

Organic Certification Cost Share

OFA members are extremely concerned about the decision by the Farm Services Agency to cut 2020 reimbursement levels for the organic certification cost share program to 50 percent, with a maximum reimbursement of \$500 per scope (down from the long-standing level of 75 percent or \$750 per scope.) This cut in the program leaves organic operations – who had been planning on being reimbursed for their certification costs at the same level as previous years – burdened with an unplanned expense, in the midst of a period of economic stress caused by the pandemic.

Our conversations with FSA after they announced the reduced reimbursement level have been very disturbing, and indicate that the agency used incorrect numbers in its communications

¹ <https://www.ams.usda.gov/sites/default/files/media/2019-Certifiers-Container-Crops.pdf>

with Congress about the status of funding for this program. And delays in preparing the program for 2020 applications meant that the news about the funding shortfall came so late that it will be a challenge to fix the problem this year. We understand that the NOP and AMS no longer administer this program. But we urge the program to reach out to FSA to try to better understand how this problem occurred this year and how to prevent it in the future. We see the NOP as an important advocate for organic agriculture within the USDA and ask you to support organic farmers by helping to maintain a strong organic certification cost share program.

Issues on the NOSB Meeting Agenda

Crops Subcommittee: Proposal – Paper (Plant pots and other crop production aids) – petitioned

The issue of paper pots is on the agenda for the NOSB because this is a tool that is critical to many small farms that depend on this product. Therefore, we appreciate the Board's efforts to address this need and clarify the status of paper on the national list. OFA supports this proposal.

Crops Subcommittee: Discussion Document – Biodegradable biobased mulch annotation change

In the discussion document, the Board requests feedback from the organic community on several questions relating to the environmental characteristics of these products, their compatibility with organic standards and whether they are vital tools for any operations. We appreciate that this material has been a source of discussion for the Board for a long time and that there are proponents of this product in organic production. But we will note that as part of our policy development process this year, a proposal was submitted to support the consideration of biodegradable biobased mulch by the NOSB, and this proposal was not adopted by OFA. This is not a priority issue for the organic farmer community, and we encourage you to focus on the organic issues that are most important and necessary to organic farmers, the backbone of the label.

Handling Subcommittee: Discussion Document - Whey protein concentrate - petitioned for removal

OFA supports the intent of the discussion document to remove whey protein concentrate from the National List. As indicated in the petition submitted to NOSB and in public comments, there is adequate organic whey protein concentrate available and non-organic whey protein concentrate should no longer be allowed in certified organic products.

Livestock Subcommittee: Proposal - Fenbendazole - petitioned

OFA opposes the subcommittee motion to “amend the listing for fenbendazole to include: Fenbendazole-for use in laying hens or replacement chickens intended to be laying hens at 7 CFR §205.603 (23)(i).” We have several concerns about the proposal to allow fenbendazole in laying hens or replacement chickens with no withdrawal time, especially without the completion of a definition of what constitutes an emergency use.

Organic consumers have long looked to organic products as a way to avoid exposure to veterinary drugs or other residues. Allowing the use of this parasiticide without a withdrawal time could lead to residue in eggs or laying hens that end up as slaughter stock. Undermining consumers’ expectations for organic products by allowing residues in one product can put the credibility of the entire label in jeopardy. In addition to our concern about residue, we also feel that fenbendazole is not a product widely requested by certified organic farmers raising laying hens, as reflected in testimony by numerous certification agencies at the spring meeting. Management changes should be encouraged on farms where fenbendazole is requested rather than allowing a parasiticide as a band-aid for an overarching management problem.

We are also concerned that allowing this use will trigger producers who do not use fenbendazole to feel compelled to communicate this to their customers through additional label claims. A better approach than this constant escalation of claims that need to be provided on top of organic certification is to have strong organic standards for all products, that don’t require any extra communication to concerned consumers.

The debate over the necessity of allowing the use of fenbendazole also illustrates the need for the NOP to finish the Organic Livestock and Poultry Practices rule. Public comment on this issue has shown a wide range of opinion over the necessity of this treatment and the OLPP could be a way to ensure that organic standards require all producers to use practices that maximize bird health and prevent disease.

Materials Subcommittee: Discussion Document – NOSB Research Priorities 2020

OFA supports the efforts of the Board to highlight specific topics for research that will advance organic production. Specifically, we would like to emphasize the need for research into the following topics on the 2020 list:

Livestock

- 1. Evaluation of methionine in the context of a system approach in organic poultry production.*
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- 3. Organic livestock breeding for animals adapted to outdoor life and living vegetation.*

Both of these research priorities would help to support organic livestock production that meets high standards for animal welfare and reduces the reliance on confinement methods that do not meet consumer expectations for organic.

Crops

12. Elucidate practices that reduce greenhouse gas emissions and that contribute to farming systems resilience in the face of climate change.

OFA members are concerned about climate change and have been documenting the impacts of a changing climate on their farms for decades. Recent severe weather events have offered a more forceful reminder that the climate is changing. The role of organic methods in addressing climate change and better tools for organic farmers to adapt to changing conditions should be top priorities for research.

Coexistence with GE and Organic Crops

5. Testing for fraud by developing and implementing new technologies and practices.

Making sure that the NOP can develop and enforce strong regulations that are capable of detecting and preventing fraud in organic supply chains is a top priority for OFA. Fraud in organic supply chains not only impacts farmers who follow the rules but are undercut by those who do not, but it also puts the reputation of the entire organic label at risk. Research into new testing methods that can provide better tools for detection and enforcement should be a top priority.

Thank you for your consideration of these comments.

Sincerely,



Kate Mendenhall
Director