



ORGANIC FARMERS ASSOCIATION

September 30, 2021

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

Docket ID: AMS-NOP-21-0038

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. OFA appreciates the opportunity to provide comments to the Board and the National Organic on several specific items on the agenda for your fall meeting.

Compliance, Accreditation, & Certification Subcommittee

Proposal: Letter to Secretary re: Climate Change initiatives

OFA appreciated the opportunity to provide feedback to the Board earlier this summer on a draft of a letter to Secretary Vilsack on this critical issue, as well as the Board including important points about making sure organic agriculture is properly recognized as a climate solution by USDA.

As you continue to communicate with the Secretary on this issue, we urge you to further emphasize the need for USDA action on several critical areas of NOP rulemaking and enforcement that will undermine the chance for organic to truly be climate-smart agriculture if they are not addressed:

- Origin of Livestock Rule
- Organic Livestock and Poultry Practices Rule

- Pasture Rule Enforcement
- Ensuring that Organic Farming is Soil-Based by Prohibiting Hydroponics
- Standards to Eliminate Incentives to Convert Native Ecosystems

Discussion Document: Oversight improvements to deter fraud: Modernization of organic traceability infrastructure

OFA appreciates the Board's work on this important topic. Dealing with fraud has been a top priority for OFA members since the organization's founding, and improving the ability of audits to identify fraudulent transactions is a necessary part of strengthened enforcement.

As the Board and the NOP consider what new systems will be necessary to increase the traceability of the organic supply chain, it will be important to ensure that any new requirements do not create additional burdens on farmers who already do a lot of recordkeeping to be certified organic. There must be flexibility for those producers who use paper-based systems due to difficulty accessing the internet or religious beliefs. Traceability requirements must also consider the different marketing structures of various commodities; tracing sales data for commodity corn is very different than tracing sales data for wholesale market vegetables. Any new traceability requirements must ensure that farms are not required to use specific software, technology or other services beyond certification in order to comply with traceability requirements. While some operations may choose to make these kinds of investments, we are very concerned about mandating specific technologies, products or third-party services that could be prohibitively expensive or otherwise not feasible for organic, diversified or small farms.

The evaluation of new requirements must include the potential economic impacts of traceability requirements such as the likelihood that buyers will impose certain traceability practices on their suppliers. And the NOP should also consider if technical assistance will be needed for farms or certifiers to comply with any new traceability requirements.

In addition to those general principles, we offer the following thoughts to the questions posed by the Board on this topic:

6. Are there additional areas that need to be considered for improvement to prevent fraud or react to fraud?

Yes. In addition to putting the Strengthening Organic Enforcement rule into effect as soon as possible, the NOP must:

- Continue to coordinate with other USDA agencies as well as U.S. Customs and Border Protection (CBP) to increase awareness of organic commodities that are likely to be imported (and the potential for fraud) and to leverage other agencies' inspection resources at ports of entry.

- Develop a set of investigative procedures that are triggered by import data, such as automatically starting an investigation when there is a significant surge in imports for a specific product category to determine if fraudulent activity is contributing to that increase and conducting an automatic investigation when a product entering a port has been certified or produced by an entity that is under investigation from another competent authority such as the EU.
- Address the recommendation from the USDA Office of Inspector General for improved coordination between the NOP, APHIS and CBP to ensure that APHIS officials at a port are notified about what to do if APHIS fumigates organic products with prohibited substances. The OIG called on the NOP to work with CBP to update the ACE system message sets to ensure that APHIS officials are notified of steps to take when organic agricultural imports are treated with NOP-prohibited substances and that importers are notified that treated organic products can no longer be sold, labeled, or represented as organic.
- Go beyond what is required by the Farm Bill for information captured by the CBP ACE system for organic imports. Information that the NOP should consider utilizing in addition to the new import certificate includes other types of documents that are widely used in commerce, such as bills of lading, insurance certificates and shipping manifests. For large bulk shipments of products such as grain, which are likely to contain the commingled production of many operations, having additional information could be critical in detecting fraud and preventing these shipments from entering commerce. As the NOP continues to improve its enforcement capacity, we urge the agency to consider expanding requirements about what information a broker, importer or other handler must provide to buyers at the time of import to include information about all of the operations that supplied the product in a commingled shipment.
- Fully implement recommendations from the OIG regarding equivalence agreements and trading partners. The agency should not restrict its relationship with governments of trading partners solely to standards setting activities. These governments are also providing oversight and accreditation of the organic sector in their countries, and the NOP and these trading partners should be collaborating on enforcement activities as well as data that could inform decisions about risk for fraud in international supply chains. A more expansive approach to the scope of the relationship with recognition or equivalency agreement countries would include the foreign governments' role as accreditors. If a country the United States has a trade relationship with has taken enforcement action against a certifier or certified operation, that information should be shared as part of the trade relationship. This could prevent unscrupulous operations or certifiers from using the United States as a destination for product they could no longer sell in another country due to an enforcement action. This communication needs to be ongoing, in real time, and public – not something that only occurs during a regular two-year review.

7. Should the industry require the registration of land 36 months before certification?

Yes. In addition to allowing better mass balance audits that can detect fraud, this type of data could help current organic farms make better decisions about their markets if a large influx of organic product is likely to happen.

We urge the NOP to track acreage in transition by crop and region. But there will need to be some flexibility in how this data is collected and presented to avoid creating a burden for farmers. For example, for producers with a diversified crop mix, especially fruit and vegetable producers who may grow many varieties every year on small parcels of land, a streamlined way to estimate acreage will be needed to avoid creating a huge reporting burden for these operations. And some land that could be eligible for immediate certification (for example, pasture that has been sitting fallow) would not necessarily need to be registered three years before the farm planned to get this land certified. Finally, while information about how much land is in transition is worth tracking, we do not want any requirement to report this information to become so burdensome that it delays or interferes with a new organic operation's certification process.

And farmers have also expressed some concerns about how acreage data is presented in the database. One particular concern is whether buyers could access detailed acreage information about specific certified operations in the database, in order to gain an advantage in marketing negotiations. We suggest that the NOP consult with the USDA's National Agricultural Statistics Service about how that agency addresses such concerns in the course of conducting and reporting data from the Census of Agriculture. One potential method for addressing this problem could be to aggregate the acreage data by some regional area (such as the county level in the United States) to prevent an individual operation's acreage from being accessible in the database.

Crops Subcommittee

Proposal: Ammonia Extract – petitioned

OFA recently adopted a policy position on ammonia extract, which states:

“OFA supports prohibiting the use of ammonia extract for use in organic production because such use is incompatible with OFPA and good soil health practices.”

Therefore, we support the following Subcommittee motions:

Motion to add at §205.602, non-synthetic substances prohibited for use in organic crop production: Stripped Ammonia – created by separating, isolating and/or capturing ammonia or ammonium from an agricultural

feedstock or other natural source using methods such as, but not limited to, steam stripping, pressurized air, heat, condensation, and/or distillation.

Motion to add at §205.602, non-synthetic substances prohibited for use in organic crop production: Concentrated Ammonia – contains greater than 3% ammoniacal nitrogen and the total nitrogen content is predominately (i.e., >50%) in the ammonia or ammonium form.

Proposal: Kasugamycin - petitioned

OFA opposes the Subcommittee motion to add kasugamycin to the National List at §205.601(j)(4) for plant disease control. Antibiotics are not compatible with organic production. Using antibiotics in organic production is contrary to consumer expectations, as organic marketing commonly states that no antibiotics are allowed in organic production. Antibiotic resistance poses a serious threat to human health, and use of antibiotics in agriculture contributes to that threat.

Proposal: Sodium nitrate - petitioned by NOSB

OFA has a policy position on sodium nitrate that states:

Consistent with NOSB's April 2011 recommendation, the Organic Farmers Association SUPPORTS re-listing Sodium Nitrate on 7 CFR 205.602 without annotation. This rulemaking action would make sodium nitrate prohibited in organic farming and eliminate the use of this soluble, plant-available fertilizer, which circumvents natural nutrient cycling in organic soil management.

Therefore, we support the Subcommittee's motion to reinstate the listing of sodium nitrate at 7 CFR 205.602(g) - prohibited nonsynthetic: Sodium nitrate - unless use is restricted to no more than 20 percent of the crop's total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.

While this motion is not the full prohibition of sodium nitrate that OFA's policy seeks, it is an interim step to ensure that sodium nitrate is not allowed for unlimited use because of the current confusion over the status of this material on the National List. Sodium nitrate should undergo sunset review every five years just like all other National List materials.

Materials Subcommittee

Proposal: Research Priorities 2021

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 following topics on the 2021

list because they align with research needs that have been highlighted through our policy priority setting process:

Livestock:

1. Determine the efficiency of natural parasitocides and methodologies, including but not limited to, nutritional programs, use of herbs, essential oils, homeopathic remedies, Diatomaceous Earth, and the genetic pool of laying hens in controlling *A. galli* and *H. gallinarum* in laying and replacement chickens intended to become hens.
2. Evaluate natural alternatives to DL-Methionine in a system approach for organic poultry feed program.
3. Evaluate ways to prevent and manage parasites in livestock, examining breeds, geographical differences, alternative treatments, and pasture species.
4. Research and develop livestock breeding programs resulting in livestock that are adapted to outdoor life and living vegetation.

Crops:

2. Conduct whole farm ecosystem service assessments to determine the economic, social, and environmental impact of farming systems choices.
4. Develop cover cropping practices that come closer to meeting the annual fertility demands of commonly grown organic crops.
5. Development of systems-based plant disease management strategies are needed to address existing and emerging plant disease threats.
7. Strategies for the prevention, management, and control of invasive insects and weeds.
8. Factors impacting organic crop nutrition, and organic/conventional nutrition comparisons.
11. More research, extension, and education are needed to fully understand the relationship between on-farm biodiversity and pathogen presence and abundance.
12. Elucidate practices that reduce greenhouse gas emissions and that contribute to farming systems resilience in the face of climate change.

Coexistence with GE and Organic Crops:

3. Develop, then implement, methods of assessing the genetic integrity of crops at risk to quantify the current state of the organic and conventionally produced non-GMO seed.
4. Techniques for preventing adventitious presence of GE material in organic crops, and evaluation of the effectiveness of current prevention strategies.
5. Testing for fraud by developing and implementing new technologies and practices.

Policy Development Subcommittee

Discussion Document: Public comment process

OFA appreciates the Board's consideration of ways to make sure there is a fair process for organic stakeholders to share their input at public meetings.

1. *Should the Board move to an entirely virtual format for oral comments the week before in-person meetings or maintain the pre-pandemic format of hearing oral comments, both virtually prior to the in-person meeting as well as in-person at the public NOSB meeting?*

The virtual format for oral comments does present an important opportunity for organic farmers to provide comments to the Board without having to take the time away from farming and expense to travel to an in-person meeting. If the Board shifts to entirely virtual format for oral comments, we urge you to increase the amount of time available for comments to ensure that the Board receives the same number of comments that the current system provides.

3. *Restrictions due to the pandemic aside, would the availability of a live-stream meeting discourage in-person attendance?*

Live-streaming the Board meetings would increase the likelihood that organic farmers can observe the meetings. The current schedule of the meetings during the busy spring and fall farming seasons make it difficult for most organic farmers to ever make the trip to see a Board meeting.

4. *Is the practice of scheduling multiple oral comments by a single organization (such as a business/company/non-profit/trade group) inherently unfair? Is there a path by which the Board can field multiple areas of expertise from a single organization, while*

balancing the limits of time, fairness, and the importance of receiving a wide range of stakeholder feedback?

It is very frustrating for groups like OFA who try to encourage organic farmers to participate in the oral comment process when the available slots are completely filled up before the registration deadline. Therefore, we do think it is appropriate for the Board to consider some adjustment to the rules for how the comment slots are assigned. But this must be done carefully to avoid unintended consequences that would limit important input to the Board. We suggest:

- Basing any limit on how many comment slots one organization can sign up for on both the organization and the specific topic. It is frequently necessary for organizations to have multiple people provide comments in order to cover all of the topics on the agenda that the organization seeks to provide input on. But it is reasonable to limit how many speakers from one organization can comment on a specific agenda item, such as a particular material.
- Reserving a set number of comment slots for organic farmers at each meeting. The voice of organic farmers is vital for the Board to hear as it weighs the decisions on its agenda and designating a certain number of farmer comment slots at each meeting would ensure that this voice is heard at each meeting. If slots reserved for organic farmers are not taken at the registration deadline, they could be given to other commenters on the waiting list.

Thank you for your consideration of these comments.

Sincerely,



Kate Mendenhall
Executive Director