



# ORGANIC FARMERS ASSOCIATION

April 1, 2022

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 # AMS-NOP-21-0087

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 (NOSB) and the National Organic Program (NOP) on several specific items on the agenda for your spring meeting.

## ***Compliance, Accreditation, & Certification Subcommittee***

### Discussion Document: Human Capital Management: Supporting the Work of the NOSB

OFA appreciates the effort by the NOSB and the NOP to explore methods for supporting the work of the board and board members. It is vital that the NOSB be fully representative of the organic community, including certified organic farmers. But as the discussion document notes, the volume of material and complex agenda that the board handles can be burdensome for volunteers who have demanding jobs like farming. Therefore, we believe it is appropriate to consider measures that recognize the tremendous time commitment required to participate as a board member. For farmers or others who are self-employed and cannot access other assistance for preparation for NOSB meetings or for farm work that must be covered while participating in NOSB activities, an expansion of the allowable reimbursable expenses, or assistance with research or other tasks could make being a board member more feasible.

1. What are the advantages or disadvantages of having support come from within the government? From a nonprofit or university?

In both scenarios, it may be challenging to find people with an adequate level of knowledge about organic production methods. OFA and other organic advocates have long called for more education on organic agriculture within USDA agencies, land grant universities and extension services to grow the pool of people working in agriculture who understand the unique aspects of organic production and are able to remove barriers for organic producers when accessing research or other USDA services.

Regardless of where the research assistants come from, OFA believes that the NOP should be responsible for contracting with research assistants (not other entities that might have business before the board).

And OFA urges the NOP to establish a conflict-of-interest process to use in hiring research assistants to identify potential conflicts due to other employment or research funding that could pose a conflict when support staff are providing assistance that could influence Board decisions.

2. What NOSB tasks, if any, are critical to keep completely independent from the support team?

The research assistants should not be permitted to draft recommendations, discussion documents or other board documents. Creating summaries of literature reviews, technical reports and summaries of public comments would be appropriate tasks for the support team.

3. Should the support team be privy to all Subcommittee meetings and discussions?

To understand the type of research support and other assistance that would be most useful for NOSB members, the support team should be privy to Subcommittee meetings and discussions, but not allowed to participate in those discussions beyond offering specific clarifications on research they conducted. The discussions by the Subcommittee will likely lead to further research needs and hearing the discussion could help the support team be more effective. However, the NOSB and NOP should create some kind of confidentiality policy for support team members, to ensure that conversations they are privy to are not disclosed to the public or interests that have business before the NOSB beyond the procedures that already exist for sharing information publicly.

4. What should be the scope of the NOP's relationship with the contemplated support group, i.e., should they be able to task the group directly?

As stated in response to Question 1, OFA believes the NOP should administer the program to provide support to NOSB members. That administration should include setting up contracts and payment for these individuals. But individual NOSB members should create the workplan for

the topics their research assistant works on and be able to specify what type of research is needed to best assist them in their NOSB responsibilities.

Beyond the questions posed in the discussion document for this meeting, we also urge the NOP to consider mechanisms to help farmers on the board cover costs they incur for participating in the meetings, such as the cost of hired help for their farm while they are performing board duties. Expanding the existing list of approved reimbursable expenses may be one way to address this need without changing the Organic Foods Production Act.

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 potential 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 highly-perishable 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.

Question 1 - Should acreage by crop be included on organic certificates?

OFA supports including acreage per crop on the organic certificate.

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. The process must also account for the fact that the total acreage per crop may not equal the total farm acres as crop succession could utilize the same piece of ground many times in one growing season.

Question 2 – In addition to total certified acres should acres per crop also be included on the organic certificate and be public-facing in the Organic Integrity Database?

OFA supports including acres per crop on the organic certificate as well as making that information public-facing in the Organic Integrity Database. Many farmers work with certifiers who already put this information on their certificate, and see the benefit in making this a standardized requirement for all certifiers.

We have learned that some large food processors require farmers to sign non-disclosure agreements that forbid them from disclosing information about their acres or crops in order to prevent competitors from gathering market information. To avoid putting farmers in a position where a requirement from their certifier could put them in conflict with a requirement from their buyer, it would be useful for this disclosure of crops by acre to be mandated by the NOP, creating a uniform practice across the industry that buyers would have to accept.

Question 4 - What opportunities are there for stakeholders to collaborate in creating additional resources (e.g., forms, etc.) for use by organic operations that incorporate key data elements?

We urge the NOSB and NOP to work with certifiers to assess what forms farmers are currently using. During OFA discussions of ideas like transaction certificates or something like the Universal Bill of Lading described in the discussion document, ideas that generated enthusiasm from grain producers caused anxiety for other types of producers whose markets are very different, like leafy green producers. It may be necessary to create common forms for different sectors of products – grains that are shipped in bulk, livestock, milk, fruits and vegetables, etc.

We also urge the Board and NOP to consider the potential to provide sample or common forms in multiple languages as this process moves forward. Making forms more accessible to non-English speakers could remove one of the obstacles for more diverse producers who are considering organic certification.

### ***Materials Subcommittee***

#### **Proposal: Excluded Methods Spring 2022**

OFA supports the NOSB proposal: “The NOSB recommends the NOP develop a formal Guidance document to include the above Definitions, Criteria, Excluded and Allowed Methods tables as developed by previous Board Proposals in 2016.”

We agree with the addition of cell fusion and protoplast fusion as outlined, with one small suggestion regarding the definition. We suggest that “recombinant DNA” be changed to “in vitro nucleic acid technologies” to provide a more comprehensive definition and refer you to the more in-depth recommendations made about this addition by the National Organic Coalition. Because it is not only DNA that can be manipulated, but also RNA and other materials, we find this definition to be more comprehensive and it aligns with global standards used by Codex.

We also urge you to define “bioengineered” as part of the organic standards. This is necessary because the National Bioengineered Food Disclosure Standard is in now in effect. The poor design of the law that created this standard has built in confusion for consumers, but organic should strive to be very clear with consumers about what is allowed to bear our label. The USDA’s definition of “bioengineered” for this rule is much narrower than what we would consider as bioengineered within the organic standards. In the interest of organic integrity, it is important to define bioengineered in relation to methods that are excluded from organic, providing organic stakeholders with a clear definition of the term, as well as asserting the independence of the organic standards.

We also urge the NOP and NOSB to discuss the best ways to have these recommendations be consistent between certifiers and enforceable on all operations. This may include having some of the criteria and definitions incorporated into the regulations. To provide stronger consistency between certifiers and give clear direction to accreditation auditors, placing the list of excluded and allowed methods in an instruction to certifiers should be considered.

### ***Crops Subcommittee***

#### **Proposal: Highly Soluble Nitrogen Fertilizers**

The OFA Policy Committee discussed the proposed NOSB recommendation and expressed concern over the ability for certifiers, inspectors, and farmers to monitor the 20 percent of crop needs. Our committee does support limiting the use of highly soluble nutrients (including the prohibition of Ammonia Extract and Sodium Nitrate) for use in organic production because such use is incompatible with OFPA and good soil health practices.

Thank you for your consideration of these comments.

Sincerely,



Kate Mendenhall  
Executive Director