ORGANIC FARMERS ASSOCIATION

Organic Farmers Association
Written Comments to the National Organic Standards Board
Submitted September 30, 2024

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

Docket # AMS-NOP-24-0023

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 Program on several specific items on the agenda for your fall meeting. These comments were developed based on group discussions in OFA workgroups, email comments from OFA members, and feedback from our annual policy survey.

Big Picture

In addition to the comments on the agenda items specified in the meeting materials, OFA members urge the board to consider the below issues, which are of pressing concern to organic farmers.

Organic Swine

OFA strongly supports the full and consistent implementation of the Organic Livestock and Poultry Standards. While these standards represent a significant step forward, there is a pressing need to address the gaps in organic standards related to swine production. Current organic regulations need to fully align with consumer expectations for humane swine treatment, as was noted in the Supreme Court's upholding of California's Proposition 12. Most consumers who are aware of animal welfare issues, see confinement swine operations or hog CAFOs as some of the worst examples of factory farming. Organic swine producers deserve to have strong organic animal welfare standards recognized in the marketplace, as OLPS and the pasture regulation have provided for organic poultry and organic ruminant operations. We need to address the gaps in the existing and proposed standards to continue to develop the organic pork market, reduce the need for producers to carry multiple marketing labels, and demonstrate

animal welfare in organic pork production to consumers. We request the Livestock Subcommittee add the topic of swine management to its work agenda to begin addressing these gaps, including but not limited to: ammonia tolerances, physical alterations, stock density, outdoor access provisions, and lighting in barns.

Racial Equity

OFA strongly supports the efforts of NOSB and NOP to address racial equity within organic agriculture. To build a more inclusive and resilient organic movement, it is essential to institutionalize racial equity through strategic outreach, onboarding, ongoing board training, and integrating a racial equity lens into all committee work. We urge the board to create a specific agenda item on racial equity in organic. Many new farmers, both immigrant farmers and BIPOC farmers are attracted to the methods used in organic production, but have experienced cultural, language and social barriers to achieving organic certification and the premiums gained in the marketplace under this label. The NOSB can use this agenda item to propose ideas and a direction for this work, and seek community feedback.

Global Organic Movement Consistency

OFA supports efforts to align U.S. organic standards with international organic regulations to ensure a consistent and equitable global marketplace. As the organic market expands globally, U.S. organic standards must be consistent with our trade partners and international bodies such as IFOAM and CODEX. This alignment will benefit organic farmers by creating a level playing field and enhancing market access. An NOSB work agenda item comparing the differences between the NOP and our major trading partners such as the EU, Canada, China and Japan as well as CODEX and IFOAM, could aid the NOSB when making recommendations and aid the NOP when updating equivalency agreements with known U.S. organic community priorities.

Strengthening Organic Enforcement Implementation

OFA appreciates the significant effort involved in implementing the SOE rule; however, concerns have been and continue to be raised by certified organic farmers regarding an increase in paperwork and certifier oversight on low-risk organic farm operations. The inconsistent implementation of these rules by certifiers across the nation has further exacerbated these challenges, particularly affecting small and mid-scale operations.

Feedback we have received from farmers across the country indicates that certifiers and inspectors are being overly cautious and burdensome for fear of not fully implementing SOE as required. More education from the NOP is necessary so that certifiers understand risk assessment and do not unduly burden farmers for fear of an accreditation non-compliance.

We ask that the NOP provide more guidance and oversight to certifiers and their inspectors so that SOE is implemented using Sound and Sensible principles and risk analysis. A long term organic farm, with no parallel production, and a history of commitment to organic agriculture, should not be driven away from organic certification due to an extreme review of their documentation including keeping track of every seed planted on a vegetable farm or every bin or wagon having organic signage which results in a significant amount of time added to getting

ready for, and during the annual inspection. The organic inspector should be verifying the farm's submitted organic systems plan, with a review that the systems are in place to assure compliance to the law, with audits done in a practical way.

Agroforestry and the 90/120 Day Rule

OFA farmers have identified a need to review the 90/120-day rule as it applies to agroforestry systems where livestock grazes under fruit and nut trees. This rule, which dictates the period between the application of raw manure and the harvest of crops intended for human consumption, may not adequately reflect the realities of such integrated and indigenous farming systems. The risk of pathogens affecting this type of production is quite low compared to production that is grown in, on or close to the ground where manure has been applied. The use of rotated poultry and small mammals through orchards can provide multiple benefits of insect and pest control, weed management and soil fertility improvement. Increasing biodiversity within a production system is a foundational organic principle, and the current raw manure restrictions could benefit from an update, reflecting both traditional and new methods of agroforestry.

LIVESTOCK

Meloxicam Petition

Farmers are faced with multiple animal welfare certifications that, in some cases, are mandated by their buyer or, in the case of dairy, by their milk handler who may not be willing to recognize established organic practices. Animal welfare has always been a high priority for organic livestock producers and the NOP has clarified many of the regulations to ensure compliance, for example the Access to Pasture Rule in 2010. OFA recognizes that the holistic approach to organic production makes the organic seal the gold standard for animal welfare and this should be promoted by the organic industry. Consumers recognize the high standard that organic certification has, and surveys show that consumers value the independent third party certification and the role of the NOSB in recommending which drugs are permitted within organic production. This is what distinguishes the organic seal from the many other claims that consumers face.

The Meloxicam petition clearly identifies approved medications for treatment of pain under organic certification. Most organic dairy producers welcome the addition of Meloxicam to the basket of products they can use, especially its reputation for providing longer lasting pain relief at times of stress for livestock, and the ease of application. There are many requirements under the NOP regulations on animal welfare. Meloxicam will greatly assist producers in reaching the high standards required by organic certification and by their own commitment to their animals. OFA advocates for a cautious, practical, and deliberate approach to the approval of Meloxicam in organic livestock systems in keeping with the high standards practiced by the NOSB and the NOP. OFA has concerns about the process adopted by the NOSB Livestock Committee and the recommendations of their Review.

1. The Committee decided that they did not need to ask for a Technical Review (TR) but could rely on the petition and the expertise of the committee members to complete the review and recommendation for action. A TR provides a third-party review that independently verifies what is in any petition and provides a reference of that review for all future NOSB members, community members and concerned consumers. Every National List entry is reviewed every five years, and a TR is a valuable tool for future Boards to understand where the industry was in relation to the product the NOSB recommended. Future NOSB members will not know the expertise of the current NOSB or the relationship that the petitioners had with the organic community. The NOSB adopted a policy of asking for a TR on all petitions, no matter who the petitioner(s) were, so that the community and Board could act on the best and most relevant independent information.

2. The petitioners requested that the drug be available for use on all livestock. What might have been relatively simple to annotate its use for organic dairy livestock under one year of age (as the petitioner's proposed use suggested), it becomes very complicated by its inclusion as a multi-species proposal that would include meat and dairy sheep, meat and dairy goats, swine, lactating and mature cattle, and pregnant livestock. There is limited research on the effect of the drug's use on livestock rather than humans and pets, even though conventional veterinarians widely use it. The lack of research of the drug is emphasized by the fact that it is not recommended for use in livestock by the FDA and needs a veterinarian prescription to purchase the drug for ***off-label use***. A veterinarian prescription does nothing to safeguard the consistent use, dosage and withdrawal times of off-label use drugs. Veterinary drugs requiring prescriptions can be purchased from websites the same as human drugs can. While this is common in the treatment of livestock, it does not guarantee responsible use of the drug or consider the experience of different veterinarians in organic treatment for livestock.

3. It is common for the NOSB to recommend withdrawal times for meat, milk and livestock products that are produced from livestock that have been given the drug. In its review, the committee recommended a meat withdrawal period of at least two-times that required by the FDA, without stating any length of time for a drug not approved by the FDA. Since this is an off-label use, there are no manded FDA withdrawal times. Dosage of Meloxicam is based on the weight of the animal which becomes more difficult with multiple species. A long withdrawal time, as recommended by the petitioner and by Dr. Hans Coetzee, is exceedingly difficult to monitor and enforce, especially as the cost of maintaining the animal during that time under organic production may be prohibitive.

4. There is no recommendation from the Livestock Subcommittee for withdrawal times for use in lactating livestock. The petitioner presented some recommendations based on the conventional dairy common practices, multiplied by two. There were no recommendations for other livestock, some of whom start lactating at an earlier age than bovines, for example sheep and goats. The petitioner presented recent research on withdrawal time for bovine milk but none for any other livestock. The petition states the following: "The accepted withdrawal times for Meloxicam are 96 hours for milk and between 15 and 21 days for meat. In the typical doubling of established withdrawal times being allowed in organic production, the withdrawal times would

be 192 hours (8 days) for milk and up to 42 days for meat." A vet that is currently using the drug on conventional farms says the withdrawal time for milk withhold for meloxicam is 5 days and the meat withhold is 21 days or consult FARAD (**Food Animal Residue Avoidance Databank).** Dr. Hans Coetzee, formerly of Kansas State University and now at Iowa State University, has conducted much of the research on meloxicam in cattle. He recommends a meat withdrawal of 21 days and a milk withdrawal of 96 hours following meloxicam administration. The petition showed examples of The FDA National Residue Program (NRP) reporting positive Meloxicam residue samples in domestic livestock (1 bull and 3 dairy cows) tested at slaughter in the US at least as early as 2016.

5. There should be clear recommendations for a withdrawal time for each species in the annotation for meloxicam when placed on the National List of approved substances, a Technical Review (TR) would be very useful in deciding these details.

Our research for domestic and international withdrawal recommendations for specific species are listed below, yet our search was not as exhaustive or accurate as a TR could provide. We could not find recommendations for some species.

- Veal calves 21 to 30 days
- Cattle 15 days meat
- Cattle 5 days milk
- Swine 5 days meat or no recommendation based upon limited information
- Goats 15-30 days meat
- Goats 14 days milk
- Sheep 11 days meat
- Sheep Milk- No recommendation based upon limited information- New Zealand and Australia do not appear to allow Meloxicam use in lactating sheep.
- Market lamb 10 days meat
- Dairy cows It was noted in one study that post-partum cows will retain violitive drug residues longer than mid lactation cows. (https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10144785/)

6. The petition lists its side-effects in humans, "Side-effects can include abdominal pain, dizziness, swelling, headache, rash, heart disease, stroke, kidney problems and stomach ulcers. It is not recommended for use in the last trimester of pregnancy. The oral form is not recommended for cats." Should use in livestock have the same restriction for the last trimester of pregnancy? Is the withdrawal time sufficient to protect humans who drink certified organic milk and eat certified organic meat? There are NSAID sensitive consumers who need to be protected from such risks. There is no research presented or detailed analysis of the tablet form of the drug manufactured in India and Taiwan that is recommended for veterinary and livestock use.

<u>The current petition and review focus on Meloxicam as it applies to bovines. OFA's Dairy and NOSB workgroups urge the board to support the use of this pain management tool for the dehorning or disbudding of bovine calves under one year.</u>

We further recommend the board send the broader uses of meloxicam back to the Livestock Subcommittee and request a Technical Review to inform decision-making regarding potential uses for other ruminant livestock and swine, with attention to human health implications, especially for the significant population who are sensitive or allergic to the class of drugs (NSAIDs) to which Meloxicam belongs.

By conducting a comprehensive TR, limiting its use to specific situations, and considering the human health impacts, the NOSB can ensure that the integrity of organic standards is upheld while addressing the needs and expectations of organic farmers and consumers.

Proposal- Annotation Change: DL Methionine, DL Methionine-hydroxy analog, and *DL-Methionine-*

205.603(d) As feed additives-

The use of DL-Methionine in organic poultry production has a long history of controversy within the organic community for a variety of reasons. Synthetic amino acids are not one of the categories allowed in organic production in the Organic Food Production Act. It is not allowed for use under the EU organic regulations. We recognize that methionine is an essential amino acid in poultry feed, and that in order to have sufficient levels in poultry feed which change over the life of the various species, synthetic methionine is currently the best option. In order to obtain sufficient methionine without synthetic methionine in ration during the full life of the birds, higher protein levels would need to be fed, which leads to significantly higher ammonia levels in the poultry houses. This is not healthy for the birds or the humans who enter the buildings. Stocking rates both indoors and outdoors, as well as true outdoor access are part of the new OPLS regulations, which will not be fully implemented for all operations until January 2029. We recommend that the suggested change to the annotation be delayed until 2030, to have a year of full implementation of OLPS which may show that this annotation change is not necessary due to lower stocking rates and outdoor access. While we understand that producers may plan for a step-down over the life of the bird to meet the current annotation, and that the flock may remain productive longer than the planned life of the flock and perhaps run into the limit in the annotation, we believe that producers can plan for this possibility and still meet the current rule.

One natural alternative, Soldier Beetle Larvae, has been discussed for many years, and it appears that production of this high methionine source is ramping up. However, at this time it is not allowed in feed for livestock whose production will become human food. It would be useful for the NOP and NOSB to learn more about the roadblocks, and how to remove them. In the future, dried soldier beetle larvae could be used solely to provide enough Methionine in the ration, or could be used along with a lowered amount of synthetic DL Methionine.

While synthetic methionine remains a critical input for organic poultry, especially in confinement operations, the emergence of natural alternatives warrants a re-examination of existing restrictions. The NOSB should take a cautious approach, ensuring that any changes to methionine use are grounded in a commitment to animal welfare, organic integrity, and the principles of OFPA.

Proposal- Annotation Change: Iodine

Motion to amend the listing for iodine at 205.603(a)(16) and 205.603(b)(4) as follows: Iodine must be produced without the use of alkylphenol ethoxylates.

Iodine 205.603(a) As disinfectants, sanitizer, and medical treatments as applicable (16) Iodine; and 205.603(b)As topical treatment, external parasiticide or local anesthetic as applicable (4) Iodine.TR: 20152024 TR not publicly available.

OFA agrees that iodine is important for organic livestock health care. It is widely used for animal health, as well as for milk quality, and may be generally preferred over other available products due to its germicidal activity. For organic dairy farmers, its uses include as a teat dip (both pre and post), anti-infectant, to dip calves' navels, to treat wounds and to help with foot rot.

Since 2019, NODPA, WODPA, and several certifiers have noted that the use of nonylphenol ethoxylates (NPEs) could be prohibited in iodine teat dips, as many of their clients have moved away from NPE-containing teat dips with success in order to meet the demands and requirements of their market. Currently, most processors are already requiring iodophors without NPEs. This is a positive step forward for the NOSB and the NOP to show organic consumers that its sunset requirement for National List materials is proactive in adopting changes in the use of materials and their composition.

OFA supports an annotation change for iodine. We believe it is important to add an annotation to prohibit the use NPE forms of iodophors in organic production. NPEs are suspected endocrine disruptors and proven aquatic toxins. The iodine listings should not permit iodophors containing alkylphenols or alkylphenol ethoxylates. (APs and APEs are the general classes that include NPs and NPEs.) They should be annotated "without alkylphenols or alkylphenol ethoxylates."

LIVESTOCK SUNSETS

Fenbendazole

205.603(a)(23)(i) As disinfectants, sanitizers, and medical treatments as applicable.

OFA supports the current annotation of Fenbendazole. To uphold the principles of organic farming, fenbendazole must remain a tool of last resort, used only in genuine emergencies. By maintaining current restrictions and with consistent certifier enforcement, the NOSB can help ensure that fenbendazole use is as written, preserving the integrity of organic livestock products while safeguarding animal health. We continue to oppose its use in egg laying poultry, due to residue concerns in eggs.

Oxalic acid dihydrate 205.603(b)(8)

205.603(b)(8) As topical treatment, external parasiticide or local anesthetic as applicable. (8)Oxalic acid dihydrate—for use as a pesticide solely for apiculture.

Oxalic acid dihydrate is listed as a tool for organic beekeeping, specifically for managing varroa mites. However, the absence of formal apiculture standards in the organic regulations makes the inclusion of this material on the National List problematic and inconsistent. The NOSB made a recommendation for apiculture standards in 2010, but these standards have yet to be implemented. OFA urges the board to address this inconsistency as it reviews this material. Simultaneously, OFA urges the NOP to continue to prioritize and work through existing NOSB recommendations such as apiculture and greenhouse standards so that the NOSB process can fill the functional role for which it was intended. There are organic and nonorganic apiculture producers that are willing to help the NOP with any questions they have in moving forward with the proposed apiculture recommendation.

DL-methionine- see 205.603(d) As feed additives.

(1) DL-Methionine, DL-Methionine—hydroxy analog, and DL-Methionine—hydroxy analog calcium (CAS #'s 59-51-8, 583-91-5, 4857-44-7, and 922-50-9)—for use only in organic poultry production at the following pounds of synthetic 100 percent methionine per ton of feed in the diet, maximum rates as averaged per ton of feed over the life of the flock: Laying chickens—2 pounds; broiler chickens—2.5 pounds; turkeys and all other poultry—3 pounds.

Please see our comments on the DL-Methionine annotation change proposal.

The phased elimination of synthetic DL-Methionine would reinforce the integrity of organic poultry production by aligning it more closely with organic principles. By promoting natural alternatives and ensuring compliance with current regulations, the NOSB can help the organic sector move towards more sustainable and ethical livestock management practices.

CROPS

Proposal: Carbon dioxide- petitioned

The inclusion of carbon dioxide as a plant amendment, while slightly mentioned in the petition, was not shown to be essential or even necessary in organic production. There are a variety of issues with this material, both from liquified CO2 (which is not proposed to be allowed) and sourced as exhaust which is a byproduct of heating from a fossil fuel.

1. There are issues with these types of fossil fuel heaters when they do not burn clean. The heaters then produce carbon monoxide, sulfur dioxide and ethylene. All of these can be detrimental to humans and plants in the greenhouse, and can cause human health issues, plant damage, or even complete loss of production. Even with best efforts by the operator, venting exhaust gasses into a greenhouse is risky and should not be encouraged by organic standards.

2. Encouragement to use fossil fuels in organic production is not climate smart and not the direction we need to go to lessen the effects of climate change, which has so negatively affected agriculture and our planet.
3. In a greenhouse, the heat is typically used more in the evenings, when the plants do not need supplemental CO2. On a sunny or even partly cloudy day, much less fuel is burned to heat the greenhouse during the day than at night. Since the plants do not need extra CO2 at night, there is not a great boost to production yields.
4. While it is admirable to want to lessen the CO2 released into the atmosphere and instead use it for CO2 production for plant growth, a better solution would be to use a renewable energy source for the heating of the greenhouse.
5. Lastly, the approval of this material will mostly benefit hydroponic operations. OFA farmers have voted to prohibit the organic certification of hydroponic operations and OFA disagrees with allowing materials to specifically serve this controversial production system under the organic label.

Proposal: Compost Production for Organic Agriculture- petitioned

OFA thanks the crop subcommittee for the thoughtful summary and discussion on the NOSB process for adding or removing items from the National List. However, the change to the definition of compost feedstocks to include synthetic materials only after a review of the specific material as an approved compost feedstock opens a door that needs to remain closed. While newspaper has been on the National List for many years as a synthetic compost feedstock, at each sunset review over time, we have seen significant changes to the composition of newspaper since 2002. We do not believe that the removal of synthetic newspaper as a compost feedstock would be a great loss, nor would it negatively affect the availability of compost. Allowing a broad allowance for synthetics with no clear justification sends the wrong message to future NOSB members that synthetics in compost are equal feedstocks to the use of natural plant and animal materials.

When the NOP proposed final rule was first written, sewage sludge was suggested to be an allowable input for organic soil application. After all, it was allowed in conventional agriculture and did not appear to have any negative impacts. Using agricultural land as a dumping ground for unwanted waste materials is unfortunately a long standing practice. With the current knowledge that sewage sludge contains many contaminants such as PFAS, drugs and heavy metals, the NOP and organic community made the right decision to ban sewage sludge from use on organic land.

The organic community should continue to be extremely cautious when considering any allowance for synthetics on organic land, especially “biodegradable or other polymers” that are fairly new and do not have a history of use to track for possible negative effects. With the long term negative human health effects of nano and microplastics as well as PFAS just being discovered, this should be enough of an example to not accept new synthetics whose issues may not be known for many years. We are just discovering that micro and nanoplastics can be taken up into food and very recent studies have found these polymers in human brains. OFA does not support the proposed change to the compost definition to include synthetic materials.

The changes to the time and temperature requirements are acceptable to OFA and are based on good scientific information. The fact that this change to time and temperature meets FSMA requirements is also appreciated.

CROPS SUNSET

Hydrogen Peroxide

205.601(a)(4)As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems;
205.601(i)5)As plant disease control.
OFA supports the continued listing of hydrogen peroxide. Hydrogen peroxide plays a key role in organic agriculture for both disease control and sanitation. It is commonly used in irrigation systems and as a preventative measure for plant disease.

Additionally, there is emerging research supporting the use of hydrogen peroxide in managing pests like the spotted wing drosophila, an increasingly problematic pest in crops such as raspberries. There could be value in expanding the annotation to include pest management under 205.601(f). Notably, it is allowed for pest management in the Canadian Organic Regime.

Oils, Horticultural

205.601(e) As insecticides (including acaricides or mite control) (7) Oils, horticultural—narrow range oils as dormant, suffocating, and summer oils;
205.601(i) As plant disease control (7) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.
OFA supports the relisting of horticultural oils. According to our NOSB workgroup, it is very difficult to find a substitute for these materials. In the Midwest, many orchards have chosen to go to integrated pest management (IPM) production over organic because limited tools exist for organic orchards. Horticultural oils are an important tool for organic fruit growers and should remain available.

There has been some on-farm research using vegetable-based oils, but this material has a shorter life span and is not effective for smothering insects on fruit trees. Until there is an acceptable and readily available natural alternative, this tool should remain in the organic farmer toolbox.

Pheromones

205.601(f) As insect management. Pheromones.

OFA supports the continued listing of pheromones. OFA farmers use these tools in the orchard as mating disruptions for pests and as attractants to traps. They note that this is a proactive tool to prevent pests from reproducing rather than a reactive control.

Magnesium sulfate

205.601(j) As plant or soil amendments (6) Magnesium sulfate—allowed with a documented soil deficiency.

OFA supports the relisting of magnesium sulfate. It is needed in a specific, targeted way to provide an available form of magnesium to crops when soil pH and potassium levels are already where they should be, so limestone, and sul-po-mag are not appropriate magnesium sources.

COMPLIANCE ACCREDITATION & CERTIFICATION (CACS)

Proposal: Climate-Induced Farming Risk and Crop Insurance

OFA is grateful to the NOSB for its thoughtful work on Crop Insurance. We are also grateful to RMA for the recent improvements made and its attention to the unique needs of organic producers. We support the proposal, and continue to identify areas for further work:

Whole Farm Revenue Protection: Highly diversified producers utilizing Whole Farm Revenue Protection (WFRP) are facing a “lumping” challenge. Multiple crops, some of which represent a significant amount of sales, are combined with other crops, preventing these highly diversified growers from benefiting from the numerous crop subsidies. For example, a grower might grow 3 acres of basil, and one acre of other mixed herbs. The basil, representing a significant amount of revenue, should be considered a separate “crop” from the other mixed herbs. OFA farmers urge continuous improvement in WFRP, extending the benefit of diversification of production to specialty crop producers in the same way it is extended to row crop producers.

Additionally, this attention to climate-induced farming risks raises another area for your attention: organic dairy producers have been operating without the support of a functional safety net in the face of challenging climate and market conditions.

Every farm operation deserves a safety net when the market does not work

The profitability of organic dairy production is based theoretically on the market returning a high enough consumer price (premium) to provide enough margin to support a pay price to organic farmers that covers the increased costs of production, plus a return on management and on investment. That consumer assumes, and the organic brands marketing project, that the price premium is distributed equitably to cover all the farmers costs and can respond to fluctuating costs of inputs. Since 2015 this has unfortunately not been the case.

Organic dairy has a unique supply chain and market that requires tailored solutions to meet the needs of producers. International trade challenges specific to organic, persistent drought, inconsistencies in implementation of organic regulations, consolidation, lack of supply

management, and the lack of a stable domestic supply of certified organic feed have created repeated situations where the organic dairy pay price does not cover operating expenses. Furthermore, these challenges organic dairy farmers face do not align with market challenges conventional farmers face, leaving the existing safety nets inadequate for organic dairy farmers.

Establishing an organic dairy safety net program must be preceded by the collection and publication of organic dairy data that can form the basis for calculations that determine the type and operation of a program that allows organic dairy operations to manage risk. In turn, this will reflect organic dairy farms' contribution to the rural community, to fighting environmental degradation, and for maintaining a high quality, regional supply of organic milk.

AMS has begun collecting organic dairy data in some states. OFA urges the NOSB to request AMS record the necessary organic dairy data that will inform the process of creating a fair and functional organic dairy safety net.

Discussion Document: Residue Testing for a Global Supply Chain

For more than a decade, organic grain producers have raised their fraud related concerns at the NOSB. Organic farmers need the seal to have organic integrity, and we agree that residue testing is one of the tools in the toolbox for the monitoring and deterrence of fraud. Organic farmers suffer on both ends of the fraud equation, the feed producers are forced to compete with a cheaper product for markets, and the buyers of organic grain are receiving an inferior product. We appreciate the board addressing this difficult topic.

We are aware that certifiers are in the throes of addressing SOE, and we respect their efforts. We can imagine a solution in which certifiers rely on specialized inspectors to engage in residue testing at ports of entry, and in which certifiers would be in receipt of documentation verifying compliance (or lack thereof), much in the same way domestic grain producers are subject to testing stateside. We would also welcome the support of Congress in this regard. Should legislation addressing residue testing at ports be introduced, we would review it with interest.

Discussion Document: Risk-based Certification

Organic is a growing sector of the U.S. agriculture system, with tremendous potential to address climate change, help family farms flourish, revive rural communities and protect public health. The potential for economic viability for smaller farms has been a major strength of the organic sector, and is an important component of creating a resilient domestic food supply. However, transitioning to and maintaining organic certification represents a significant investment of money and time spent on recordkeeping. The recordkeeping required can be burdensome for small farmers, and in some cases, deters small farms from transitioning to organic, including those already incorporating organic practices.

OFA farmers are interested in policy changes that would ease the burden of recordkeeping on small, low-risk operations such as small farms with a history of compliance and a simple supply chain while still ensuring adequate oversight and fraud prevention measures are in place for higher-risk operations with long and complex supply chains over multiple countries and certifiers. Using risk assessment to shift the bulk of oversight and additional record-keeping requirements to high-risk operations would allow NOP and individual certification agencies to use their resources most effectively. This focus would also keep certification affordable for low-risk operations as well as a Sound and Sensible approach to recordkeeping.

The current roll-out of the Strengthening Organic Enforcement (SOE) Rule has revealed several areas where implementation of risk-assessment procedures is needed to help stop fraud prevention from disproportionately burdening small farmers. NOP needs to consider how smaller, low-risk operations are impacted by mapping of supply chains, identification of critical control points and weaknesses, processes for verifying organic suppliers and organic status of inputs, measures and processes for reporting fraud. To effectively use resources, NOP must issue clear guidance on how risk assessment will be done, how to define or determine low-risk and high-risk, and shift the larger part of the oversight to higher-risk operations. NOP should consider allowing simpler certification documentation and possibly cycles of remote inspection for low-risk operations to reduce the cost of certification and the burden of paperwork. Continuing the work with certifiers to reduce the duplication of paperwork and form-refilling on certification renewals also reduces the recordkeeping burden for less complex operations that run similarly year to year. Additionally, clarifying, improving and simplifying the process for farmers to document and present fraud concerns to the NOP would be helpful.

OFA has heard from a number of our farmer members that they are being asked to take on a significant burden of encouraging currently uncertified operations they may work with to become certified as now required by SOE. This includes storage facilities, private label brand owners, brokers, traders, wholesalers, distributors, importers, exporters, transporters, trans-loaders, and more. In some cases, farmers and processors have been issued non-compliances for working with a broker who was not yet certified before the implementation date of SOE; yet, they were not given warning or advice from the certifier that these parties would need certification and by what date. If these operations do not become certified, the farmer must find different ways to store and distribute their products or face dropping their own certification. For some small farmers, this additional responsibility and supply-chain tracking could discourage them from maintaining their organic certification. Farmers should be responsible for producing certified organic products on their farms, not verifying that their buyers are in compliance.

Another area of risk-assessment that is of particular importance relates to section 205.403 of the Strengthening Organic Enforcement Rule, requiring that certifiers conduct unannounced inspections for a minimum of 5% of the operations they certify annually. We recognize the importance of codifying a minimum amount of unannounced inspections as a tool for ensuring the integrity of the organic certification system. At the same time, it is vital for the NOP to understand the significant burden that undergoing a second annual inspection represents for

smaller organic farms and that these unannounced inspections not be selected randomly, but instead be tied to higher-risk operations.

Many organic-certified farms in the country are small-scale with a primary focus on specialty crops for direct markets and local restaurant/institution sales, where the farm owner and family are the primary labor force and operational managers. For these farms, the disruption involved in undergoing a certification inspection is significant and expensive, and putting them at risk of suffering the process three times in 13 months is inequitable, particularly to the extent that organic farms operated by Black, Indigenous, Hispanic/Latinx, and other farmers of color are more likely to be small-scale farms.

Moreover, the contribution that smaller farms make to the volume of organic crop and livestock production means that random inspections of these operations will have less of an impact on the organic marketplace, already making them a low-risk for marketplace fraud. The optimal use of certifiers' resources is to focus unannounced inspections on farms and handlers with a history of complaints or noncompliance, and farms and handlers that operate in markets with a higher risk for organic fraud.

Therefore, section 205.403 should be revised to require certification agents to establish parameters for assessing the risk of fraud that operations present, and to select operations for unannounced inspections that present this higher risk profile. The NOP should conduct evaluations of the risk-based criteria certification agencies use to identify operations for unannounced inspections, including assessment of the demographic characteristics of farm operators subjected to unannounced inspections, so that the agency monitors for and corrects bias in selection that disproportionately impacts Black, Indigenous, and other People of Color-operated farms. It is incredibly important that through the USDA accreditation process, USDA ensures that discrimination is not being conducted under the National Organic Program. The NOP should strive for consistency in determining risk between certifiers, so there are not some regions where there is very little oversight and others where the oversight is overly burdensome. Working with certifiers to develop oversight procedures that are "just right" for each scale and type of operation should be the goal.

Discussion Document: Consistency in Organic Seed Use

1. Is there still support for the 2018 and 2019 recommendations?

OFA supports the goals of the 2018 and 2019 recommendations on organic seed usage.

2. How burdensome is it for producers to demonstrate compliance with the commercial availability requirement for seed?

Since the "equivalent variety" requirement for seed is rarely enforced, it is not difficult for producers to demonstrate compliance to this aspect of the regulation. Farmers only need to search for a specific named variety or seed "number" by a specific supplier, and they do not need to prove that there are no organic varieties that are equivalent to the preferred nonorganic variety. This lack of on-farm trialing has been damaging to the organic seed industry. Organic seed breeders work within organic systems and include characteristics that are necessary and

unique for organic growers. Unfortunately, when organic producers choose not to even trial out a new organic variety, they do not know what they are missing and continue with what they believe are the best choices for their region and market. Farmers will pay more for a variety that they believe provides them the yield potential, disease and insect resistance, and quality they are seeking, so it is not only price that farmers use when buying seed or other inputs. However, organic seed producers do not have the same publicity and outreach of the larger seed companies, to advertise or promote the benefits of their seed. This has somewhat stifled the growth of organic seed production, nor do they get the same attention at land grant universities when they trial seed varieties for commodity crops grown in their specific region. Requiring some seed trials would be helpful, but for a specialty crop grower who plants 50 plus varieties of vegetables, this could become too burdensome. For larger row crop producers, putting in an acre or two of an organic variety when there are 100s of acres planted, might not be the same level of burden. There need not be many different trials on the farm each year, but starting with organic varieties that through the seed description, appear to offer equivalency to the nonorganic seed currently planted, or perhaps offer benefits not found in the current variety, would be a place to start.

3. In general, how available is organic seed, and is untreated seed significantly easier to find than organic seed?

For those who attend organic conferences, read their certification agency's communications, or do any type of continuing education, it is not difficult to find organic seed suppliers. There is a reluctance to buy organic seed because it typically commands a somewhat higher price, but when farmers see the benefits of the organic seed breeding in action on their farms, they are much more willing to spend a little bit extra for the organic seed. Currently, gene-edited seeds (such as those developed using CRISPR) do not need to be transparent in the marketplace that the seed was developed using this genetic modification. Under organic regulations, this type of gene manipulation is considered to be genetic engineering, an excluded method not allowed under organic. However, currently the USDA and the Canadian government do not require transparency to the buyer of this type of genetically modified seed, so it is difficult if not impossible for the organic farmer to know if the non organic seed they are buying has been produced using excluded methods. At this time, there are only a few types of seed that have been developed through gene editing, but over time, it appears as though this number will greatly increase. Organic producers need to gravitate to using more organic seeds now, so they are ready to use known and acceptable organic varieties for a wide range of crops, once the supply of non organic seeds becomes more suspicious as genetically engineered.

4. Are there some crops for which organic seed is available? Are there any crops for which lack of organic seed supply is notable?

Organic cotton seed may be somewhat in short supply, but other commodity crops such as corn, soybeans, wheat, oats, alfalfa, barley and clovers are all readily available. There may be some regions where the specific regionally adapted varieties are harder to find, but seed companies can work with local growers to produce the desired organic seed for their region.

5. Is current organic seed research meeting industry needs? Which crops/varieties are the most promising avenues for organic seed research?
Developing varieties that have resilience to extreme weather events would be useful. Certifiers can survey their specialty crop growers to discover which varieties of seeds need to be produced to meet regional needs and market demand.

6. How can the NOP address the handler role in seed choice, beyond the updates to Guidance 5029 that the NOSB previously recommended? Should the regulations be amended to apply the commercial availability requirements in 7 CFR § 205.204 to handling operations? Should handler Organic System Plans address seed choice? If so, how?
Handlers who require the use of nonorganic seed should demonstrate in their organic system plan how they are working towards providing organic options to their contracted growers. Many times handlers work with the seed suppliers they are recommending to their growers, these handlers should be strongly encouraged to have their current suppliers transition to organic for their seed production, or work with their contracted growers to grow organic seed. This is not a burden to the handlers, it only needs a little bit of foresight for them to encourage land to transition to organic production.

7. What additional information do certifiers and inspectors need to effectively enforce the commercial availability requirement (i.e. how would a certifier or inspector know that an organic option is available and must be used)?
The internet is very useful in finding organic seed. Regional organic education groups and certifiers are aware of organic seed suppliers in their region as well.

8. How could the NOP (or other entity) make information about commercial availability available publicly? What additional factors could be used to determine that a seed must be used? How could the EU's seed expert panel model inform the U.S. approach?
An organization such as OMRI, Organic Seed Alliance, or one of the TOPP partners could be given a grant to set up a database, and keep it updated. The EU has a list of varieties that are available as organic in each member country, and if a grower plants a nonorganic seed of a variety that is available as organic in that country, that grower's crop for that year cannot be sold as organic. The EU is serious about promoting organic seed use, it is time for the U.S. to get serious too.

9. Who could/should build/maintain a U.S. commercial availability database for seed? What attributes should be listed/made available?
Regionally adaption, characteristics needed in that type of seed, market demand for specific seed varieties and perennial planting stock. Let us not forget that fruit and nut trees should also be certified organic. This is an area that has not gotten much attention. Genetic manipulations are being considered or have been done on perennial fruits, although not as rapidly as genetic modification of seed.

Lastly, organic farmers believe that the strength of the organic label resides in organic integrity. Many large producers choose to avoid buying organic seed due to what they perceive as a high cost without benefit. It is disingenuous to expect an organic premium for a crop, and not be willing to pay a seed supplier the organic premium for the high quality seed they can provide.

MATERIALS SUBCOMMITTEE

Proposal: Research Priorities 2024

Regional seed variety trials: Land grant universities, private companies, and regional groups should be supported with grants to encourage more organic seed and planting stock trials. Home gardeners would also be interested in learning more about the beneficial characteristics of organic seeds and planting stock available in their regions.

Proposal: Inert Ingredients in Pesticide Products

OFA appreciates the tenacity of the NOSB in working on this issue and we strongly support option one and do not feel that option two provides enough protection in the future to add exceptions. We have learned over time that science provides new information concerning the toxicity of many types of substances. Option two does not provide the needed flexibility for inert review as new information is presented, and can lock in the use of problematic substances. If this NOSB proposal passes, we urge the NOP to move only option one to rulemaking.

Discussion Document: Excluded Methods- TBD List/ induced metagenesis

This issue illustrates how problematic technologies can become integrated into agricultural production systems and end up being difficult to remove. The use of chemical or radiation to induce mutagenesis has resulted in varieties of fruit and vegetable crops that are widely found as organic. However, the organic community needs to consider if this can continue into the future, how many of these varieties should be “grandfathered” in and how to provide organic producers what they need in the future through organic seed and planting stock breeding. Induced mutagenesis from heat or pressure may be acceptable into the future, but OFA needs to give more thought in general to this complicated subject.

HANDLING SUBCOMMITTEE

Discussion Document: Ethylene As a Sprout Inhibitor for Onions and Potatoes

OFA will be reading the TR review of ethylene as a sprout inhibitor for onions and potatoes with interest. It is unclear if this material only inhibits sprouts while in the controlled atmosphere location, or if the sprouting is inhibited for more than a couple of weeks after it is removed from the controlled environment. Potatoes and onions can be kept for many months in cool and dry conditions, into spring and beyond if the produce was in good condition when it was placed into

storage. This type of storage is not high technology, an old fashioned root cellar or cool room with a dehumidifier can provide the environment necessary for long storage. However, once removed from this environment and placed in a retail store where there is more warmth and humidity, sprouting can occur. Keeping the potatoes and onions refrigerated after long term storage can add a couple of months to the shelf life, but this may not be practical for the larger marketplace. There are some human health issues associated with worker exposure and we look forward to reviewing the TR for more information.

Sincerely,

Kate Mendenhall
Executive Director