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Ms. Michelle Arsenault, Special Assistant
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW.,
Room 2648-S, Mail Stop 0268
Washington, DC 20250-0268

RE: Docket: AMS-NOP-21-0087, comments in response to

- Compliance, Accreditation & Certification Subcommittee (CACs)
- Crop, Livestock/Aquaculture/Handling/Materials/GMOs Subcommittees
- Policy Development (PDS)

Dear Ms. Arsenault:

Oregon Tilth thanks you for the opportunity to provide comments to the NOSB. We appreciate the work of the NOSB and its subcommittees, and are grateful to have an opportunity to provide feedback. As always, Oregon Tilth supports the NOSB's work to improve and refine the organic system and its processes. We believe that collaborative actions that support and promote continuous improvement will result in a more robust, consistent, and beneficial system.

Compliance, Accreditation, and Certification Subcommittee

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

Oregon Tilth has reviewed all of the action items that the National Organic Standards Board (NOSB) has submitted for comment. Regarding the issue of human capital, Oregon Tilth recognizes the significant amount of work NOSB volunteer members undertake. We support efforts to provide NOSB members with additional resources to reduce their workload in a manner that ensures their ability to prioritize agenda topics and to acquire balanced, well-informed information to guide their recommendations.

It's been 20 years since the organic regulations went into effect and despite industry consensus on nearly two dozen NOSB recommendations on rule updates, the standards have remained largely static, with only two updates (the 2010 pasture rule and the 2022 origin of livestock rule) having been implemented in the last two

decades. We believe an essential aspect of supporting the work of the NOSB should include thorough training that ensures their recommendations are prepared in a manner that is clear, legally sound and actionable by the NOP. We respectfully defer to the NOP's and NOSB's ability to identify the best way to support the work of the NOSB in a manner that provides the NOP with clear direction and actionable recommendations to avoid future delays in rulemaking. Oregon Tilth would also like to reiterate our appreciation and support for the work of the NOSB and look forward to learning of the innovative solutions that will address these matters.

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

Thank you for the opportunity to provide comments to the NOSB's Compliance, Accreditation and Certification Subcommittee. Oregon Tilth supports the NOSB's work to improve and refine how the organic system combats the issue of fraud.

We believe that the document entitled, "Oversight improvements to deter fraud: Modernization of organic traceability infrastructure," provides some excellent insights into analyzing, discussing, and defining the fraud issue; however, we would support additional work in this area before implementing a nationwide program or process to address fraud. We provide our comments and perspectives below, following the NOSB's Questions for Stakeholders as the outline for our remarks.

1. Should acreage by crop be included on organic certificates?

It is Oregon Tilth's perspective, in general, that the issue of fraud should be addressed by focusing efforts and resources on dealing with the fraudulent actors specifically rather than by imposing additional requirements on the entire industry for the sake of correcting the fraudulent behavior of the few. In addition to finding the focus for addressing fraud being misplaced, Oregon Tilth is also concerned that the NOSB's current proposal, if implemented, would limit access to the acreage by crop reporting to certifiers only. This limitation would most likely reduce the impact for deterrence by reducing the number of entities that could effectively use the information to monitor for fraudulent activity in the supply chain. In balance, the additional burden imposed outweighs the limited deterrent this process would achieve.

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?

If the NOSB's proposal were to be considered, in order for it to be most effective, Oregon Tilth believes that the total certified acre per crop information should be public-facing. By doing so, it will increase the opportunity for surveillance in the industry from which multiple stakeholders along the entire supply chain could detect fraud.

That being said, Oregon Tilth has tracked and reported acreage per crop to the OID and other regulatory authorities for many years. With that experience, we believe that before such information is made public, the following important considerations must be addressed:

1. Small acreage/square feet per crop: In many smaller, diverse operations, crops may be more accurately measured by the square foot. We certify many diverse market operations and greenhouses that have very diverse crops within a 1-acre parcel or less. How will that be accurately reflected and reported consistently across all certifiers?
2. Crop per acre may add up to be more than the parcel acreage: In many cases, due to variations in climate and operator practices, operators may have multiple, different crops on the same acreage during the same season. Oregon Tilth believes it would be necessary to reflect the total acreage in addition to identifying acreage by each individual crop. These variables should be clearly presented so that the public may understand the information and avoid confusion.

3. How can the community better educate inspectors and certified operators on what is sufficiently auditable record-keeping? (e.g., organic learning center, etc.)

In general, Oregon Tilth opines that more training is needed on recordkeeping requirements and traceability in the OILC. Oregon Tilth is always in support of additional training that is accessible to all community members. Additionally, we believe that it helps to increase the quality and integrity of the certification process and educate the community on organic requirements. One suggestion would be for the NOP to consider incentivizing certifiers and other industry partners to use the OILC.

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?

Creating more requirements to provide information isn't the most efficient and effective way to address fraud and would create an unnecessary burden on our industry. Instead, we need to focus our attention on addressing the fraudulent actors. The best deterrent for fraud is to impose severe consequences on those who are engaging in fraudulent behavior instead of developing layers of additional reporting for an entire industry. Those found perpetrating fraud in the organic industry should be immediately and permanently removed.

5. How can the NOP assist certifiers in issuing non-compliances for insufficient record keeping?

Regarding the issue of insufficient recordkeeping, Oregon Tilth has not had difficulties issuing noncompliances for insufficient recordkeeping. In our experience, we have been able to successfully work with our clients to request and verify records. In the instances that a client has been unresponsive to our records request, Oregon Tilth has effectively issued noncompliances for failure to perform sufficient recordkeeping. Therefore, Oregon Tilth believes that to have the NOP assist in issuing noncompliances related to recordkeeping would not increase our effectiveness.

Where the NOP could be of assistance in assisting certifiers in issuing non-compliances for insufficient recordkeeping is that the NOP could ensure, through accreditation audits, that all certifiers are evaluating recordkeeping systems of the operations they certify effectively and that they are issuing noncompliances when necessary. OTCO tracks all noncompliances issued. By far, the most common noncompliances issued (over 50%) are either for recordkeeping or for updates to the OSP. The accreditation audits and process will provide the NOP with additional data and work to ensure certifiers are adequately monitoring recordkeeping systems.

The integrity and future success of the organic system is dependent on the awareness, collaboration and cooperation of everyone involved--the regulators, the certifiers, and the certified operations. Similarly, the prevention, detection and eradication of fraud must be a cooperative effort, endorsed and implemented equally by all. Whether intentional or unintentional, to place a disproportionate burden on any one segment of the industry would have a chilling effect on the very industry we all want to see grow and thrive. Oregon Tilth recognizes the importance of eliminating fraud from the organic system and will support our industry's efforts to do so. To be successful in our joint pursuit, we stress the importance of learning from the experiences of other industries that have gone before, utilizing *existing* processes and information, tapping into the wealth of information made available by conducting risk-based assessments, and encouraging certified operations to be proactive by implementing and following an Organic Fraud Prevention Plan that includes provisions for more effective consequences.

Crops, Livestock, Handling, and Materials Subcommittees

Oregon Tilth has reviewed all of the topics presented by the subcommittees and supports the Board's efforts to work through these topics. We do not have any specific comments to share at this time; however, Oregon Tilth will keep monitoring the progress of the conversations surrounding these issues. We look forward to continuing to collaborate with our partners in the future.

Policy Development Subcommittee

Oregon Tilth supports NOSB's efforts to make the public comment process professional, fair, and equitable for all. Equitable access and inclusivity are essential components to the public-private partnership represented by the NOSB's purpose and its work to develop recommendations to the NOP that update the standards in a manner that reflects a balance of consumer expectations and our evolving understandings about soil, climate, toxicology, animal welfare, etc.

Respectfully Submitted,

Oregon Tilth

Oregon Tilth is a leading certifier, educator and advocate for organic agriculture and products since 1974. Our mission to make our food system and agriculture biologically sound and socially equitable requires us to find practical ways to tackle big challenges. We advance this mission to balance the needs of people and the planet through focus on core areas of certification, conservation, policy and the marketplace.