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October 18, 2009

Valerie Francis, Executive Director
National Organic Standards Board
USDA-AMS-TMP-NOP, 1400
Independence Ave., SW., Room 4004-So., Ag Stop 0268
Washington, DC 20250-0268.

Docket: AMS-TM-09-0060; TM-09-07

Summary

Oregon Tilth recognizes the work that the NOSB Livestock Committee has invested. Our positions are stated here and our comments are included for the following Livestock Committee Recommendations.

Recommendation on Animal Welfare [September 14, 2009]

Oregon Tilth disagrees with this recommendation as written. We propose that it be used for discussion purposes only and not voted upon as a recommendation at this meeting.

Recommendation to Change Annotation of Xylazine in 205.603(a)(23) [September 9, 2009]

Recommendation to Change Annotation of Chlorhexidine in 205.603(a)(6) [September 9, 2009]

Recommendation to Change 205.105(e) Regarding Vaccines [September 9, 2009]

Recommendation to Change Annotation of Excipients in 205.603(f) [September 9, 2009]

Oregon Tilth agrees with the Livestock Committee on all of these recommendations and appreciates their thorough research and presentation of information.

About Oregon Tilth

Oregon Tilth is a nonprofit research and education membership organization dedicated to biologically sound and socially equitable agriculture. Oregon Tilth offers educational events throughout the state of Oregon, and provides organic certification services to organic growers, processors, and handlers internationally. An NOP accredited certifier since 2002, Oregon Tilth certifies over 650 farms and ranches and over 600 handlers in more than 35 states affording us a broad perspective of current practices and challenges faced by organic producers and handlers.

This perspective also extends to the anticipated successes and challenges that these discussion topics will affect upon them.

Animal Welfare;

Oregon Tilth has reviewed this recommendation and has been involved in its discussion with a number of other groups submitting comments. With the exception of being adverse to the inclusion of prescriptive Stocking Density Requirements we generally endorse the comments of the Accredited Certifiers Association, the Organic Trade Association, the Methionine Task Force, Organic Valley and California Certified Organic Farmers. We specifically endorse their uniform position **that this recommendation be used for discussion purposes only and not voted upon as a recommendation at this meeting.**

As stated in our May 2009 comments, Oregon Tilth is supportive of increased clarification regarding Animal Welfare and applauds the NOSB (especially the Livestock Committee) in their efforts. Oregon Tilth agrees with most of the intent and many of the details in this recommendation, however we feel that there are too many significant controversial and unresolved issues to bring it to a vote at this meeting.

If the goal of the NOSB is to pass a recommendation that can be used by the NOP for rulemaking purposes, then it is important that what you send to them accurately reflects the consensus of the Board, including their constituents' best interests, which we feel this recommendation, as written, does not.

You will be receiving many other comments requesting that you table this recommendation. We encourage you to heed this advice and offer this suggestion that the issue of Animal Welfare is of adequate importance, complexity and potential impact to merit arrangement of a symposium similar to those conducted for Pasture and Aquaculture. In both of these instances the exercise was sufficient to create inclusive, accurate and targeted recommendations with broad based stakeholder input, providing clear intent to NOP in order to promulgate rules.

These comments, and our encouragement to you as this recommendation matures and is eventually used as a basis for regulatory language, are based on the premise that the vast majority of organic livestock farmers, inspectors and others have the best interest of the animals in mind, and that the vast majority of animals on organic farms have their welfare needs met. Therefore we contend that the purpose of improving regulation is not to prevent widespread abuse but to verify the good practices that are currently in use, which will assure organic consumers, and therefore bolster and protect the organic label and the USDA Seal. We believe that this can be accomplished with less prescriptive rule changes that will result in less burdensome restrictions to organic livestock producers and other stakeholders.

Animal Welfare; Stocking Density Comments;

With noted exceptions, we believe that the concepts that the Livestock Committee recommends in their proposed changes to 205.238 and 205.239 are sufficient to demonstrate, assess and enforce animal welfare on organic farms **without stocking density requirements.**

As an internationally accredited certifier, Oregon Tilth is attuned to and encouraged by the strategy to develop standards that harmonize with existing international standards. Kudos then to the Livestock Committee for evaluating and considering Canada and EU standards in the development of this recommendation. We are opposed, however, to the incorporation of the

Livestock Stocking Rate table as recalculated from the Canadian Standards. We believe that it is the Canadians and the Europeans that need to see the wisdom of non-prescriptive, outcome based regulatory language that allows for site, geographic, climate and species specific compliance while allowing innovation and unique management practices to flourish. Following the historic signing of the US-Canada Equivalency Agreement the NOP issued a directive to the Accredited Certifiers that states in part; ACAs must document and collect livestock density ratios for all operations certified for livestock, poultry, and eggs... During the next year, NOP will call on ACAs to submit this data to the NOP... so that such data can be reported to CFIA.

We believe that as NOP accredited certification bodies collect stocking density information and report it to the NOP, the data will demonstrate that NOP standards are adequate to assure *equivalency* to these prescriptive requirements, and, where they fail, the organic producers need to come into compliance with the NOP standards as written. To be clear, as we collect and compile this information from our NOP producers, we expect many of our farmers to exceed these space requirements. We do not however expect that everyone will comply with these stocking densities, but, even where they don't, we predict that the majority of those who do not will be able to demonstrate adequate attention to animal welfare. The goal of an Equivalency Agreement after all is *Equivalency* not *Identical Compliance*. Equivalency recognizes standards that allow geographic and cultural differences to result in means that accomplish the same end, in this case Animal Welfare. The agreement reached by NOP to the Livestock Stocking Density issue in the US Canada Equivalency Agreement preserves both the intent of the Canadian Standard and the flexibility of the NOP standard.

While prescriptive livestock stocking density standards are easier to uniformly calculate they do not assure animal welfare. They establish a minimum threshold for compliance rather than impetus for continuous improvement, the hallmark of an organic system plan.

There appear to be a significant number of Canadian Organic Livestock farmers who--although they have been certified organic for years to the NOP standard, including doing a good job regarding Animal Welfare--will not be in compliance with the prescriptive Canadian stocking density requirements. There could be others who are in compliance with the numbers yet inadequately husbanding their livestock. Under the Stream of Commerce Guidance, Canadian producers will have another 20 months to modify their operations and come into compliance. It will be interesting to see how these requirements are enforced at the end of the 2 year period and how many (if any) organic livestock producers will find themselves unable physically or financially to manage the requirements.

It is noteworthy that the Canadian Organic Standards can be petitioned and changed relatively quickly through the balloting process. Their regulation is new, and as they identify problem areas they will change them. If that happens and the NOP has committed to stocking density numbers there would likely be a significant amount of time before the NOP regulation comes back into harmonization.

In summary, one size does not fit all, as evidenced by the plethora of comment received from an overly prescriptive ANPR for the pending pasture rule. And as we did throughout the Pasture discussion Oregon Tilth supports objective, flexible, outcome-based, adaptable language rather than prescriptive numeric minimum requirements.

Animal Welfare; Proposed Language Comments;

As stated earlier, Oregon Tilth has been an active participant in detailed discussion regarding the proposed language changes to 205.238 and 205.239. As such we feel that our input has been captured in other comments submitted and so only requires a brief restatement here. These comments focus on the concepts rather than verbiage because we feel that it is imperative to convey clear intent to NOP so that they can write quality regulatory language.

Proposed 205.238(a): We do not endorse the requirement for a Veterinary Client Patient Relationship. We agree it is good practice but should not be a regulatory requirement.

Proposed 205.238(a)(6): We agree with the concept of developing best practices for physical alterations by species and agree with comments that “at the youngest age possible” is not always best practice.

Proposed 205.238(a)(6)(i): Beak trimming and de-toeing should not be categorically prohibited. To do so would be counter productive to animal welfare.

Proposed 205.238(b): We agree with the concept of following the Canadian model of a graduated progression of materials use for health treatment. We do not think a specific parasite plan is necessary as this information is currently being captured in the Organic System Plan.

Proposed 205.238(c)(1): Feeding milk and meat from treated animals is not an animal welfare issue and is currently prohibited.

Proposed 205.238(c)(10): We agree with comments that recommend adding “through feed or water withdrawal” to the concept of prohibiting forced molting.

Proposed 205.239 (a)(2)(iii) We agree with the concept to better define outdoor access for poultry but see these requirements for access to *pasture* as too dramatic a shift from the concept. We agree with the concept of setting a goal for outdoor access but disagree with prescriptive requirements.

Proposed 205.239(a)(5)(i): As stated in our comments to the ANPR Pasture Rule we are strongly opposed to the requirement that bedding meet the organic feed requirements. If animals do not consume their bedding, there is no reason why the bedding should have to be organic.

Proposed 205.239(b)(3): We do not endorse the requirement to sanitize buildings between production runs. We agree it is good practice but should not be a regulatory requirement.

Vaccines

We agree that the keystone of organic livestock production is preventive practice, including the use of vaccines. We appreciate the preventive practice thinking by the Livestock Committee in addressing this issue in order to preserve the status quo. This will harmonize the NOP position with the EU regulation that expressly allows GMO use in the production of veterinary medicinal

products. Hopefully it will lead to the adoption of similar policy by Canada and other certifiers as the issue becomes more immediate and non GMO vaccines become more scarce.

Excipients

We welcome this attempt to clarify excipient use among all NOP certifiers. Certifiers currently spend a disproportionate amount of time dealing with this minutia. The result is often the unfortunate disallowance of an otherwise appropriate medical treatment. Often disallowance is based on the inconclusive determination that an excipient meets one of the three criteria. We agree with the Livestock Committee that the intent of the 12-07 rule change was to facilitate the elimination of this unnecessary work and to streamline approval of alternative therapeutic and preventive agents. We agree with the Livestock Committee and other certifiers that this guidance needs to address as broad a scope of livestock products as possible, not only animal “drugs”.

Chlorhexidine

We agree with the modified annotation that would allow for logically expanded use of chlorhexidine. We feel that such a change is sufficiently demonstrated by the Livestock Committee as clearly within the intent of the OFPA and the Regulation, and that its expanded allowance will lead to better care of organic livestock.

Xylazine

We agree with the Livestock Committee’s unanimous recommendation and support the recommended change to the annotation.

Once again, Oregon Tilth would like to thank the NOSB for their ongoing work and commitment to the organic industry. We offer our support.

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Oregon Tilth, Inc.