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October 10, 2008

National Organic Standards Board (NOSB)
Joint Crops, and Compliance, Accreditation, and Certification Committee (JCCACC)
Valerie Frances, Executive Director

Re: Commercial Availability of Organic Seed Recommendation

Oregon Tilth appreciates the Board's attention and commitment to this important topic in the organic industry. Oregon Tilth's comments are not only informed by our role as an accredited certifier, but also in our research and education role through our support and promotion of seed trials and research. Oregon Tilth will be commenting on points A-C as well as the additional points made by the committee.

NOSB Recommendation:

Introduction: The JCCACC acknowledged that only a small portion of seed currently used is certified organic. We do not believe there is statistical data to support this claim, and as a large certifier we have seen vast improvement over the past few years in producers understanding the commercial availability requirements as well as the use of organic seed.

Point A: NOP role in promoting use of organic seed

1. Continual training is always supported.
2. We do not support this kind of documentation, specifically with regard to tracking percentage of organic seed used each season. Requiring this tracking is an extremely large burden for producers, especially those diverse vegetable operations. It also may not accurately reflect the acreage in organic seed or non-organic seed from year to year. Nor do we feel that the exercise of calculating a percentage should have any bearing on compliance and is not, in our opinion, a true representation on the amount of organic seed purchased or efforts to do so. Improvement in sourcing organic seed is easy to monitor with the documentation currently required.
3. The regulation does not distinguish between major and minor noncompliances. The severity of the noncompliance determines the specific course the certifier follows in issuing a noncompliance, or if it is combined with an intent to suspend or intent to revoke. Continuous improvement or continuous lack of improvement have to be considered with each year's certification renewal and any enforcement should be reflective of the individual Producer's progress.

Point B: ACA's role in enforcing commercial availability

1. Oregon Tilth believes this is required as part of compliance and accreditation and should already be practiced by certifiers. What specifics that the committee would want to review would need to be clearly outlined.
2. Oregon Tilth believes this is required as part of compliance and Oregon Tilth organic certified Producers are purchasing with that understanding.
3. Oregon Tilth believes this is required as part of compliance.
4. In regards to the two-year recommendation for decertification Oregon Tilth does not believe this prescriptive requirement is supported in the regulation. Repetitive noncompliance issues should already be addressed by routine enforcement by accredited certifiers.
5.
 - A. This is currently required by the regulation
 - B. This is currently required by the regulation and Oregon Tilth certified clients maintain this documentation. It should also be mentioned that there are multiple documentation sources to monitor trends in operation, including the inspection report. Required review of multiple years of an operation's seed search documentation is onerous and unnecessary for the Producer and the inspector.
 - C. This requirement would not be feasible. Producer's submit their update information throughout the year and certifiers can manage this in many different ways. The update may be submitted prior to the Producer searching or purchasing seed, or in the middle of their search and then would not be able to comply with that requirement. Renewal of certification should not be delayed for those details as that are already such a large part of an inspection and collected appropriately by certifiers. It is important to keep update submission timely and reasonable with regard to their renewal cycle and requirements prescribed in the regulation for that.
 - D. There is no requirement for documenting this data either in the regulation or in accreditation requirements. If certifiers are needing to keep this data more information needs to be submitted as to the format, the specific type of data, etc. One certifier might keep a tally on a yellow note pad that does nothing more than jot down a line when organic is used and another tally for when nonorganic is used, another might keep a detailed spread sheet of specific varieties and organic status, without clear direction for data keeping the information is not useful. Again, the percentage of organic and non-organic seed used may not always accurately reflect the amount of organic seed being used, the acreage of organic seed planted each year, or reflection of overall availability.

Point C: Certified grower's role in increasing organic seed use

1. This is not required in the regulation, which means it is very problematic when transferred to a noncompliance issued to the operator and/or used for further enforcement action against the operator.
2. This is currently required by the regulation.
3. While 3 sources isn't required by the regulation, it is standard industry practice amongst certifiers to require a minimum of 3 sources to define a reasonable search effort. The inspection report includes comment on the legitimacy of the search, which would then be reviewed and enforced appropriately by the certifier.
4.
 - A. This is currently required by the regulation
 - B. This specific information is a great example of how an operator might justify nonorganic seed due to form or quality and are factors that Oregon Tilth routinely reviews.
 - C. See above (3)

D. Field trials are one great example of how an operator might justify nonorganic seed use, however, they are not required.

Additional points:

1. Independent national two-way database

- a. A database is really only relevant for quantity. Quality and form are very subjective issues that are specific to individual farms, crops, geographic areas, etc. It should also be considered that a database is a worth-while tool but is only as accurate, capable, or current as the data in which was entered into and as often.

2. Contract requirements for organic seed

- a. This is a great example of how organic seed can be promoted. It is also an example of how the use of nonorganic seed can be justified through form.

In conclusion we feel the majority of this guidance is required by the regulation and should continue to be enforced by the NOP and accredited certifiers. Before further prescriptive recordkeeping requirements and databases are developed it might better serve the organic Producers and seed suppliers if data is collected by the certifiers and submitted to the NOP or another central party. The collection of data with regard to organic seed use, as described in various recommendations, is important to accurately measure the current situation and will then allow appropriate, efficient adjustments to be implemented.

Sincerely,

Oregon Tilth, Inc.