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Erin Healy
Director, Standards Division
USDA-AMS National Organic Program
1400 Independence Avenue, SW
Room 2642-South, Stop 0268
Washington, D.C. 20250-0268

Docket ID: AMS-NOP-21-85
Agency: Agricultural Marketing Service (AMS), US Department of Agriculture (USDA)

Dear Ms. Healy,

Oregon Tilth would like to thank the National Organic Program (NOP) for the opportunity to comment on NOP rulemaking priorities and development activities. We appreciate the NOP's efforts to provide a more transparent process that encourages stakeholder input as the NOP moves regulatory priorities forward. However, we feel that it is extremely important for the NOP to address the backlog of NOSB recommendations and updates to NOP guidance documents.

Regulatory Priorities

Oregon Tilth applauds the NOP's continued commitment to refining the USDA organic regulations to be in alignment with the Organic Foods Production Act. We recommend the following, in order of regulatory priority, to address the backlog of NOSB recommendations not yet incorporated into the regulations. Oregon Tilth's ranking is largely in line with the Accredited Certifiers Association's (ACA) comments. However, Oregon Tilth has slightly changed the order of prioritization from that found in the ACA comments. Also, Oregon Tilth supports having a continued voice throughout this process.

Top Priority: Hydroponic/Aeroponic Production and Create Greenhouse and Container Production Standards

We agree that clear standards for greenhouse and container production will lead to greater consistency in compliance evaluation, a level playing field for organic producers, and greater transparency for organic consumers. The existing NOSB recommendation is a good place to initiate the development of these standards.

Medium-High Priority: Require Increased Use of Organic Seeds

Contrary to the NOP's position—that rulemaking is not needed to increase the use of organic seeds; Oregon Tilth opines that standards development in this area would further strengthen the market for organic seed and ensure greater consistency in implementation. Clearer regulations to require more deliberate actions toward increasing the use and availability of organic seeds will help certifiers to promote a robust organic seed industry, thus meeting the requirements of OFPA. We see a need to further enable research and trials to promote the development of organic varieties that perform well under organic conditions. As one way to do this, we suggest eliminating the commercial availability requirements for research and variety trials.

Medium-High Priority: Organic Mushroom Production Standard

The absence of mushroom-specific standards has resulted in significant inconsistencies and market impacts. Without mushroom-specific standards, some certifiers attempt to fit organic crop production standards that have been designed for organic plant production into non-plant species. Some certifiers apply the 2001 NOSB recommendation in the absence of regulations specifically attuned to the unique attributes of fungus production. Mushroom-specific standards will ensure consistent production practices and oversight of organic fungi. In particular, we hope that standards will clarify the NOP's "ready to use" mushroom spawn memo. We are happy to see that the NOP has initiated preliminary research for this standard and look forward to contributing to future developments.

Medium-High Priority: Recommendations Related to Genetic Engineering and Excluded Methods

Establishing and employing a clear and consistent interpretation of what are "excluded methods" and thereby methods prohibited in organic production is critical for consumer confidence and will prevent incorrect interpretations of the rule, equating silence with permission. We urge the NOP to keep this item near the top of its priorities list and devote the necessary resources to address this complex topic. We welcome more direct communication and resources from the NOP to help certifiers improve their consistency in keeping excluded methods out of organic production.

Medium Priority: Organic Aquaculture Production Standards

To maximize opportunities that exist for growth in this sector and to bring the USDA organic standards in line with other major players like the EU and Canada, Oregon Tilth encourages the NOP to carry through on work it has already started under the previous administration. Oregon Tilth also recommends that AMS evaluate market potential for this sector in consultation with industry stakeholders. It should also be noted that some accredited certifying agents are currently certifying sea vegetables and seaweeds, which the NOP required to be certified organic for livestock or human consumption through NOP 5027 (2013) and PM 12-1 (2012). This has been challenging for some ACAs to apply terrestrial crop standards to ocean systems.

Medium Priority: Establish Standard Criteria for Commercial Availability Determinations—Agricultural Ingredients in Processed Products Standards

Rulemaking will clarify expectations for organic producers and ensure consistency in enforcement by ACAs. Certifiers are finding guidance that they can follow with consistency in the ACA Best Practices for Commercial Availability of Natural Flavors. Certifiers also reference the Handling Section #3 when addressing the issue of commercial availability requirements not applying to some materials in the ACA Best Practices for Common Material Review Issues. However, the ACA Best Practices do not carry with them the same weight as regulations.

Medium Priority: Organic Pet Food Production Standards

Establishing organic pet food production standards would be helpful for clarifying certification in a specialty industry. OTCO is in favor of the NOP focusing on rulemaking and prioritizing this issue appropriately.

Medium Priority: Develop Organic Personal Care Product Standards

This topic is a significant area of consumer interest and creates opportunities for many operators. Oregon Tilth understands that standards development in this sector may not fall completely under the authority of the NOP. However, the USDA should collaborate with its regulatory partners and support standards development in this area.

Medium Priority: Eliminate Incentive to Convert Native Ecosystems to Organic Production

OTCO categorizes this topic as a lower priority due to its immense complexity and the possible need for legislation, potentially making the topic time-consuming to address. Nevertheless, we recognize that it is a valuable topic that needs further discussion and work to carry it forward at an appropriate time. We encourage the NOSB to continue discussing this highly important topic to gain further clarity.

Lower Priority: Organic Apiculture Production Standards

Oregon Tilth feels that this topic is important enough to develop clear and consistent standards after other priorities have been addressed. In particular, standards should clarify how certifiers will assess the necessary land base for organic apiculture production. As a proposed rule is already drafted, this may be an easy item to make headway in the near future.

Lowest Priority: Restrict the Use of Livestock Vaccines Made from Excluded Methods

In general, Oregon Tilth concurs with the ACA in its determination that the topic of restricting the use of vaccines made from excluded methods should not be a regulatory priority. We appreciate the NOP's consideration; however, between the verification challenges and the essential nature of these tools from a humane animal care standpoint, Oregon Tilth places this topic in the lowest priority category. If the NOP does decide to develop standards related to the NOSB Recommendation, producers and certifiers would benefit from readily available and updated lists of allowed and prohibited vaccines.

Lowest Priority: Clarification of Emergency Synthetic Parasiticide Use with Organic Livestock

Based on its own certification experiences, Oregon Tilth does not see a need to develop standards on this topic at this time. Specifically, Oregon Tilth has not experienced issues relating to misinterpretation or widely varying interpretations of "emergency."

NOP Handbook Updates

Oregon Tilth supports the ACA's position on the process and need for NOP Handbook updates. Additionally, Oregon Tilth believes that any NOP guidance included within the Organic Integrity Learning Center (OILC) should be codified as formal, written standards and policies in order to deliver clearer and more consistent expectations. The OILC is a great training resource for various industry stakeholders, but it is not as clearly enforceable or easily referenced. We support the ACA's recommended updates to the NOP Handbook below. We welcome the opportunity to review NOP Program Handbook updates and provide further feedback prior to implementation.

We urge the NOP to finalize these sections of the NOP Handbook:

- NOP 5036 Treated Lumber Draft Guidance

We also support the ACA's suggested NOP Handbook updates and reference their proposed list below:

- NOP 2005 Accreditation Assessment Checklist
This document does not reflect the current checklist in use by the NOP during accreditation audits and therefore not useful to assist certifiers in preparing for audits or conducting internal program reviews.
- NOP 2603 Organic Certificates
This document does not encompass many changes we are foreseeing with Strengthening Organic Enforcement, as well as specificity on Handler scope certificates.
- NOP 2604 Responsibilities of Certified Operations Changing Accredited Certifying Agents
This instruction contradicts the email sent by NOP staff on November 15, 2021, waiving the 90-day label use up period when an operation changes certifiers because the certifier is no longer accredited. This instruction should be updated to incorporate the new policy described in the email.
- NOP 2611-1 Prohibited Pesticides for NOP Residue Testing
Prohibited substances such as glyphosate are not currently included on this list.
- NOP 2613 Responding to Results for Pesticide Residue Testing
- NOP 4002 - Enforcement of the USDA Organic Regulations
- NOP 5017-1 Calculating Dry Matter Intake from Pasture
Including clarification regarding supplemental grazing of less nutritional forages outside of the defined grazing season.
- NOP 5021 Compost and Vermicompost in Organic Crop Production
Valuable methods for composting are not addressed in this document.
- NOP 5022 Wild Crop Harvesting
- NOP 5023 Substances Used in Post-Harvest Handling of Organic Products and NOP 5026 The Use of Chlorine Materials in Organic Production & Handling
These documents do not sufficiently address active and inactive ingredients in chlorine materials and whether those should be considered in the approval process for these materials.
- NOP 5029 Seeds, Annual seedlings, and Planting Stock in Organic Crop Production
- NOP 5031 Certification Requirements for Handling Unpackaged Organic Products
- NOP 5033 Classification of Materials *and* NOP 5033-1 Decision Tree for Classification of Materials as Synthetic or Non-Synthetic
(The interpretations in these documents allow for certain materials to be classified as non-synthetic, contrary to the OFPA and NOP definition of non-synthetic.
- NOP PM 11-7 Private Label Certification

Oregon Tilth thanks the NOP for its continued consideration of our input. We look forward to further collaboration with the NOP and our industry partners on these topics.

Respectfully submitted,

Oregon Tilth Certified Organic