



April 3, 2020

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP

Docket: AMS-NOP-19-0095

RE: Handling Subcommittee – Fish Oil Annotation (Discussion Document)

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the National Organic Standards Board (NOSB) Handling Subcommittee’s Discussion Document on Fish Oil annotation change. Fish oil is currently on the National List at §205.606(e) as an agricultural substance allowed for use in organic processed foods only when the product is not commercially available in organic form.

The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing over 9,500 organic businesses across 50 states. Our members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

For the spring 2020 meeting, the NOSB Handling Subcommittee presents a [discussion document](#) that proposes new restrictions on fish harvested for use as fish oil in organic processing in order to address concerns about the environmental impacts of harvesting fish directly for their oil: *“Sourced from fishing industry by-product only. Where within NOAA’s jurisdiction, only from fish species and regions not listed on NOAA’s current “Overfishing” or “Overfished” list. Where outside NOAA’s jurisdiction, only from fish species and regions not listed on FAO’s “Overexploited,” “Depleted,” or “Recovering.”* Notably, the Crops Subcommittee is concurrently evaluating the environmental impact of fish harvested for use in crop fertilizers. There does not appear to be cross-referencing of technical information or attempts to align decisions on environmental impact between the Subcommittees.

In lieu of providing direct responses to the Handling Subcommittee’s questions regarding its proposed annotation for fish oil on §205.606, OTA would like to **encourage NOSB to engage in cross-subcommittee discussions to calibrate decisions on environmental impacts of marine-sourced raw materials across inputs and scopes**. More information about our suggested approach to cross-subcommittee evaluation of environmental impacts is provided below.

Cross-Subcommittee Evaluation of Environmental Impact of Marine Materials

Across the history of NOSB since 2016, there have been at least *16 topics* across *three subcommittees* when a marine-sourced material was evaluated against OFPA criteria for environmental impact. As NOSB has evaluated materials sourced from marine environments, the question of environmental

impact has been scrutinized to varying degrees. Seaweed and fish have both received increased scrutiny for similar concerns about the impact that harvesting these material has on marine ecosystems. Third-party Technical Reports were commissioned for some topics but not others. Harvesting methods and frequencies were elevated as an issue of concern for some topics but not others. For more information on the history of NOSB topics related to marine materials, please see the attached document: **NOSB TACKLES SEAWEED & FISH-BASED INPUTS**.

It is clear that NOSB, across subcommittees, is interested in protecting marine environments and ensuring that use of marine materials in organic production is not harmful to the environment. OTA agrees with the goal of continuously improving the sustainable sourcing of inputs. It is also clear that it is a complex topic with many intersecting issues at play. NOSB must approach the issue carefully, using science-based information and thoughtful consideration of the global industry impacts of any new regulatory requirements, so that organic operations continue to have reliable access to essential tools for production and processing.

To achieve NOSB's goal of ensuring that the use of marine materials in organic production is not harmful to the environment, NOSB must change its evaluation approach to be more inclusive of materials sourced from marine environments for use in organic production and processing. Meaningful outcomes can't be achieved by just looking at individual inputs in isolation.

OTA encourages NOSB to engage in cross-subcommittee discussions to calibrate (standardize, harmonize) **decisions on environmental impacts of marine-sourced raw materials across inputs and scopes**. A collaborative approach across subcommittees will support consistent and balanced decision-making on common questions around the environmental impact of harvesting marine materials. A common process for collecting and sharing technical information should be established for subcommittees to be working from a common base-line understanding of evidence about environmental impacts of various materials and sourcing methods across regions. Collaborative discussions could also serve to establish a common base-line for evaluating the extent to which sourcing of a marine materials is "harmful," so that subcommittees have a common starting point when making use/scope-specific decisions about how the environmental criteria are balanced against other OFPA criteria. Additionally, these discussions can support a consistent approach for developing annotations, restrictions, and verification requirements in cases when sourcing of a marine materials is determined to cause harm such that a regulatory amendment is warranted.

As the vehicle for such cross-subcommittee discussions, perhaps the Materials Subcommittee could expand the Marine Materials work agenda item to look at all uses of marine materials across scopes instead of focusing just on seaweed in fertilizers. Or, establish a Joint Subcommittee, Task Force, or Working Group to support this effort and bring in outside experts. In any case, a centralized group should be responsible for leading the discussions and calibrating decisions on environmental impacts of harvesting inputs from marine environments. This centralized group can take actions to more broadly address environmental impacts of marine materials across scopes/uses, such as:

- Collect **technical information** about environmental impacts to support informed policy-development processes.
 - Establish the scope of information needed to make informed decisions about the environmental impact of marine materials (e.g., Conclusions about the environmental harm

from seaweed or fish harvesting should be informed by data representative of the areas where those materials are harvested around the globe, as well as being relevant to materials harvested specifically for use in organic production and processing.)

- Compile available technical information on environment impact of seaweed and fish harvesting. (e.g., Significant amounts of technical information have already been submitted to NOSB through public comments over the course of many meetings, and this information could be summarized and reflected back to NOSB and the public in a synthesized and thorough manner)
 - Commission Technical Reports as needed to fill information gaps.
 - Identify items to add to NOSB Research Priorities as needed to address areas where information is not currently available.
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- Develop recommendations to clarify the **taxonomic nomenclature** of marine materials on the National List across crops, livestock, and handling scopes. NOSB began this work in 2016 and it has not yet been completed. A Discussion Document was posted in fall 2016, and proposals were presented by each the Crops and Handling Subcommittees in spring 2017 although both were sent back to subcommittee for further work. Inconsistencies still persist, and there is still a need for clear and accurate terms and definitions for marine materials in the NOP regulations.
 - Explore options to address in a consistent manner the environmental impact of inputs sourced from natural substances such as mineral, plant, or animal matter. What does it look like to ensure “not harmful to environment” of non-synthetic inputs not on the National List? Could there be a uniform approach to all non-synthetic inputs, such as a preference for less harmful or certified organic substances based on commercial availability? Could there be special annotations carved out for high risk substances, such as those sourced directly from native wild ecosystems?
 - Explore opportunities for NOP certification to be better positioned as a tool for ensuring sustainable agriculture in marine environments. Continuous improvement of the regulations and guidance are needed to accommodate the unique conditions of marine agriculture. Additional guidance on the certification of marine plants under crop and wild crop standards would assist the organic community in ensuring that NOP certification can provide certain outcomes for sustainability.
 - Work with NOP to explore the legal authority under OFPA to require organic certification of an ingredient in a product that is not intended for livestock or human consumption, such as crop fertilizers. This information is essential for informing future discussions and whether organic certification is a viable solution for verifying environmental impacts of materials used in crop fertilizers.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Standards Board for the opportunity to comment, and for your commitment to furthering organic agriculture.



Respectfully submitted,

Johanna Mirenda

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cc: Laura Batcha
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