



February 27, 2015

Stacy Jones King, Agricultural Marketing Specialist
National Organic Program, USDA-AMS-NOP
Room 2646-So., Ag Stop 0268
1400 Independence Ave., SW.
Washington, DC 20250-0268

RE: National Organic Program; Notice of Draft Guidance NOP 5020: *Natural Resources and Biodiversity Conservation for Certified Organic Operations.* AMS-NOP-14-0062; NOP-14-01

Dear Ms. Stacy Jones King:

Thank you for the opportunity to comment on the National Organic Program's (NOP) Draft Guidance on Natural Resources and Biodiversity Conservation for Certified Operations.

The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. Its members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's Board of Directors is democratically elected by its members, and its mission is to promote and protect the growth of organic trade to benefit the environment, farmers, the public and the economy (<http://www.ota.com/>).

OTA strongly supports the purpose and scope of this draft guidance, and we're extremely pleased to see it move from a 2009 National Organic Standards Board (NOSB) recommendation to a NOP proposal with request for comments. As stated in the draft guidance, "the conservation of natural resources and biodiversity is a tenet of organic production." OTA could not agree more. This guidance will help ensure that certifiers, inspectors and certified organic operations understand and are fulfilling their roles and responsibilities in complying with and carrying out the natural resource and biodiversity conservation requirements of the organic regulations.

In order to enhance the effectiveness and uniform implementation of this guidance, OTA suggests four minor but important improvements:

1. Under Section 3 (Policy and Procedures – Role of Certified Organic Operations), OTA respectfully requests that this guidance make reference to the Natural Resource Conservation Service (NRCS) Conservation Stewardship Program (CSP) in addition to the already mentioned "Conservation Planning" and "Environmental Quality Incentive Program (EQIP)."
2. In the draft guidance, the certified operator and certifier section each mention accruing benefits from conservation activities on adjacent land. Each section explains the concept differently. OTA suggests NOP include criteria that will describe when operations receive credit for activities on adjacent land.
3. Consistent with the May 6, 2009, NOSB Recommendation, OTA requests that this guidance include the role of NOP and the efforts that will be made to ensure the guidance is effectively implemented. We also

request that the May 2014 NOP Review Checklist (NOP 2005-6) be updated to include the requirements of § 205.200¹ with specific reference to natural resources and biodiversity conservation.

4. It is critical that this guidance acknowledge the limitations of using a single annual on-site inspection for assessing any given operation and its biodiversity conservation. Natural resource and biodiversity conservation on an organic operation should be viewed as an ongoing goal of organic production practices, and resource concerns observed by organic inspectors should be considered as areas for continuous improvement by certifiers rather than non-correctable violations of the organic standards.

We offer the following more detailed comments:

Reference to the NRCS Conservation Stewardship Program

OTA recognizes the critical importance of the Organic Systems Plan (OSP) in setting the stage for how a certified operation will comply with the organic regulations. Official NOP Guidance stipulating that operations MUST address in their OSP how they will conserve biodiversity should in of itself greatly improve the uniformity and implementation of this part of the regulation. The guidance also provides certified operations with the option of referencing or providing evidence of a conservation plan developed in conjunction with NRCS instead of developing a separate OSP section for natural resources, provided that the conservation plan addresses all the requirements of § 205.200. OTA applauds NOP's work and coordination with NRCS and for providing certified operations with this practical option.

With respect to the USDA NRCS example activities provided, OTA suggests that the NRCS Conservation Stewardship Program (CSP) be included in addition to the already mentioned "Conservation Planning" and "Environmental Quality Incentive Program." The CSP offers many activities (plans, practices, and enhancements) that benefit organic operations. Therefore, it is important that CSP be mentioned in this guidance as well.

Clarifying how benefits from conservation activities on adjacent land can be accrued

In the draft guidance, the certified organic operator and certifier section mention accruing benefits from conservation activities on adjacent land. Each section explains the concept differently. OTA suggests clarifying when operations receive credit for activities on adjacent land. For example, the draft guidance could include a set of criteria, and we invite NOP to explore the following four: 1) the operation must be active in implementing the activities; 2) the certified land must receive direct benefit from the conservation activities on the adjacent land; 3) the adjacent land must be accessible for announced and unannounced certification inspections; and 4) the adjacent land must not be negatively impacted by the certified land.

Emphasizing the Role of NOP's Accreditation Division

OTA appreciates the fact that the draft guidance clearly expresses the role of certified organic operations, the role of certifiers and the role of inspectors. However, consistent with the May 6, 2009, NOSB Recommendation, the effectiveness of the guidance would be improved if it also included the role of NOP and

¹ **205.200 General.** The producer or handler of a production or handling operation intending to sell, label, or represent agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must comply with the applicable provisions of this subpart. Production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation, including soil and water quality.

the efforts that will be made to ensure the guidance is implemented through certifier training and oversight. OTA suggests that the following language (or similar) be added to the guidance:

The National Organic Program will continue to address natural resources and biodiversity conservation requirements during training programs for Accredited Certifying Agents (ACAs). Training efforts will include the development of an on-line training module. It will emphasize to ACAs that certifiers must ensure that an operation's OSP addresses the operation's plan and practices to support natural resources and biodiversity, pursuant to § 205.200 of the regulations, and that certified operators are implementing their planned practices. Monitoring by ACAs of such requirements will be part of the NOP's accreditation reviews of ACAs. NOP will encourage ACAs to regard non-compliances as a tool to be used when certified operations fail to adhere to the natural resources and biodiversity conservation requirements of the organic regulations.

In addition to adding the role of NOP to the Guidance itself, OTA recommends that NOP include the requirements of § 205.200 to NOP's Review Checklist (NOP 2005-6)), which was implemented in May 2014. We recognize that NOP has included § 205.200 in the Accreditation Assessment Checklist, the Certification File Review Checklists, and the Witness Audit Checklist. The addition of § 205.200 to the NOP Review Checklist 2005-6 will further help NOP's robust oversight of ACAs and ensure uniform implementation of this guidance.

Natural Resource and Biodiversity Conservation is an Ongoing Goal

We agree with the provisions of the draft guidance requiring that an inspector qualified to assess compliance with § 205.200 must inspect organic farms annually. However, we also acknowledge that natural resource conservation is an ongoing effort, and no single inspection can determine full compliance or lack of compliance with the biodiversity conservation requirements of the organic standards. We suggest that NOP acknowledge the limited perspective that a single inspection can provide in assessing long-term biodiversity conservation, and clarify that ACAs should only use adverse action when an operation repeatedly fails to adhere to the natural resources and biodiversity conservation requirements. ACAs should consider resource concerns identified at an annual inspection continuous improvement points rather than major non-compliances, and respond to the issue by providing resources for technical assistance to the operation. Only after repeated observation of resource concerns and inaction by the certified operation to correct these concerns should adverse action be pursued by the ACA. It is critical that biodiversity conservation be seen as an ongoing series of improvements resulting from organic production rather than a defined and static end result.

Conclusion

OTA strongly supports all efforts made to improve and increase biodiversity conservation implementation in organic agriculture systems as explicitly required not only under § 205.200, but in the very definition of organic production as defined under § 205.2 of the organic regulations.

Organic production. A production system that is managed in accordance with the Act and regulations in this part to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, **and conserve biodiversity.**

OTA thanks NOP for its efforts to enhance the natural resource and biodiversity conservation requirements within USDA organic regulations. Certified operators have for many years demonstrated strong conservation



practices. We trust that this guidance will strengthen those efforts and provide helpful assistance to certifiers and certified organic operators on how to best carry out and monitor adherence to these fundamental organic production requirements.

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

Respectfully submitted,

A handwritten signature in black ink that reads "Gwendolyn V. Wyard".

Gwendolyn Wyard
Regulatory Director of Organic Standards and Food Safety
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association