



October 31, 2016

Mr. Devon Pattillo
National Organic Program
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2648-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-16-0028

RE: National Organic Program: Notice of Draft Guidance on Treated Lumber

Dear Mr. Pattillo:

Thank you for this opportunity to provide comment on the NOP Draft Guidance on Treated Lumber.

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 organic businesses across 50 states. 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. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

OTA appreciates NOP's efforts to provide clarification and guidance to ensure consistency among certifiers on the enforcement of treated lumber use in organic production. The requirements that treated lumber must not be used for new or replacement purposes can pose a challenge to certifiers, and clarity is needed. However, we are concerned with the approach NOP is taking on evaluating the use of treated lumber, particularly as it relates to evaluating "treated articles" not as prohibited substance applications, requiring that treated wood not come into contact with the roots of crop plants, and creating an uneven playing field between existing organic producers transitioning in additional acres and non-organic producers transitioning acres for the first time. OTA also would support including an implementation timeline when final guidance is issued on treated lumber. Many ACAs have developed long-standing treated lumber policies (e.g. Washington State Dept. of Agriculture: http://agr.wa.gov/FoodAnimal/Organic/docs/3003_Treated_Wood_Factsheet.pdf) that organic producers have complied with for years. Changing those policies will require adjustment and implementation. OTA believes NOP should provide a timeline for full compliance to a final guidance on treated lumber.

"Treated Articles" Should Be Considered Prohibited Substances

OTA agrees with NOP's assessment that treated lumber is considered a "treated article" by the U.S. Environmental Protection Agency (EPA). However, we disagree with NOP's opinion that applying or installing "treated articles" on organic land does not constitute a prohibited material application and would not require a 36-month transition. Seeds treated with synthetic fungicides are also considered "treated articles" by the U.S. Environmental Protection Agency (EPA), and ACAs have a precedent of considering the planting of treated seeds on organic land a prohibited material application requiring 36-

month transition of the land. This long-standing interpretation is supported by the November 2012 USDA *Guide for Organic Crop Producers* on page 46: “If the seeding equipment is not cleaned and treated seeds are distributed throughout the field, this will be considered an application of a prohibited material and the field will lose organic status for 36 months.” If introducing a “treated article” to organic land no longer requires a 36-month transition, it would mark a significant change to the manner in which ACAs have evaluated previous land use and input review. OTA strongly encourages NOP to consider the use of treated lumber on an organic production site to be a prohibited substance application and revise this guidance accordingly.

Crop Contact with Treated Lumber

OTA supports the requirement that treated lumber on organic farms should not come into contact with organic crops. However, we question whether that prohibition should extend to contact with the plant’s roots when the harvested crop is not a root. For example: a carrot is a root and should not be allowed to contact treated lumber on an organic farm; an apple is a fruit, and also should not be allowed to come into contact with treated lumber; however, the roots of the apple tree are not the harvested crop, and should the roots of the apple tree come into contact with treated lumber, that should not affect the organic status of the apple. Additionally, section 4.6.1 of the guidance only addresses fences and should include guidance around the use of treated lumber for trellises as well.

Uneven Playing Field

OTA is concerned that the structure proposed by this guidance will establish an uneven playing field between currently certified producers bringing in additional acres and non-organic producers transitioning their acres for the first time. Section 4.4 of this guidance indicates that treated lumber will “not be considered a ‘new’ installation when the lumber was installed on a parcel prior to acquisition by a certified organic operation.” OTA believes this approach is problematic. If a currently certified operation also owns and manages conventional acreage, installs treated lumber on that acreage, and then decides to transition that acreage to organic, it would need to remove the treated lumber under this draft guidance. On the other hand, if a non-organic operation installs treated lumber on its conventional acreage and then decides to transition that acreage to organic, the treated lumber would not be considered a “new” installation and would not need to be removed under this draft guidance. We think this approach establishes an uneven playing field and should be reconsidered and revised.

Implementation Timeline

OTA is generally supportive of including implementation timelines to any new regulations or guidance that require adjustments on the part of ACAs and certified organic operations. It appears as though this guidance will likely require some amount of adjustment, and we request NOP consider an implementation period of at least one year following its finalization. One year will allow for ACAs to adjust policies, alert their producers, and ensure changes have been made on farms through annual inspections. An implementation period is reasonable, and we strongly encourage NOP to consider including an implementation period when it finalizes this guidance on treated lumber.

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

Respectfully submitted,



Nathaniel Lewis
Farm Policy Director
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association