

April 4, 2018

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independent Ave., SW
Room 2648-S, Mail Stop 0268
Washington, D.C. 20250-0268

Re: Meeting of the National Organic Standards Board

Docket # AMS-NOP-17-0057

Dear National Organic Standards Board Members:

The following comments are submitted to you on behalf of The Cornucopia Institute, whose mission is to support economic justice for family-scale farming.

CERTIFICATION, ACCREDITATION, AND COMPLIANCE SUBCOMMITTEE

Proposal: Eliminating the Incentive to Convert Native Ecosystems to Organic Production

COMMENT

Cornucopia is happy to see the National Organic Standards Board (NOSB) proposal to add both a definition of “native ecosystems” to §205.2 and a clause to §205.200 preventing the conversion of those ecosystems into organic production. **Cornucopia supports these additions to the organic regulations.** If any improvements are made to the definition at §205.2, Cornucopia has recommendations for said language.

The Cornucopia Institute supports the Wild Farm Alliance’s (WFA) efforts and commentary on this issue. We hope both the NOSB and the National Organic Program (NOP) will look to WFA for future guidance on the implementation.

Until these additions are added to the organic regulations, the organic label promotes the destruction of sensitive ecosystems. This is contrary to the basic tenets of organic production. As the NOP states in its guide for organic crop producers: *“Sustainability can be defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*¹ The destruction of our environment carries similar concerns: threats of climate change, habitat destruction, and trophic collapse. It is imperative that we protect and conserve as much wild lands as possible.

¹Pamela Coleman, *Agriculture Specialist*. November 2012. “Guide For Organic Crop Producers.” *National Center for Appropriate Technology (NCAT)*. <https://www.ams.usda.gov/sites/default/files/media/Guide-OrganicCropProducers.pdf>

Other reasons for adding this language to the current standards include:

- Significant economic harm to those producers who commit to protecting sensitive ecosystems on their own land, because they compete with organic producers who take advantage of the ability to convert valuable ecosystems into organic production due to the loophole in the current standards.
- Many consumers choose organic foods and products because there is an understanding that those products are better for the environment.
- Organic agriculture is premised on improving conventional agriculture systems. As such, new organic farmers or producers wishing to expand should plan to transition the 99% of the agricultural land in the world that is currently farmed conventionally.

Adding regulatory language to the organic standards is an important step in protecting the native lands in question.

Proposed Language

The Certification, Accreditation, and Compliance Subcommittee (CACS) recommends that the following definition be added to §205.2:

Native Ecosystem: Native ecosystems can be recognized in the field as retaining both dominant and characteristic plant species as described by established classifications of natural and semi natural vegetation. These will tend to be on lands that have not been previously cultivated, cleared, drained or otherwise irrevocably altered. However, they could include areas that had been substantially altered over 50-100 years ago, but have since recovered expected plant species composition and structure.

Cornucopia supports this addition to §205.2. However, the last sentence in this proposed definition may cause some confusion among certifiers and producers. If any edits are made to this language, **Cornucopia recommends removing the language “...over 50-100 years ago.”**

In practice, *any lands* that have recovered their expected plant species composition and structure should qualify as native ecosystems. This is especially the case if those recovered lands are home to imperiled plant and animal species. Some ecosystems recover much more quickly than others—and some, much more slowly. Including even a loose guide of “...over 50-100 years ago” in this definition could limit or confuse a certifier’s ability to adequately assess an individual producer’s land as it appears in the current day.

CACS also proposed the following addition and regulatory change to §205.200(a):

A site supporting a native ecosystem cannot be certified for organic production as provided for under this regulation for a period of 10 years from the date of conversion.

Cornucopia strongly supports this addition to the organic standards. This protection will serve to alleviate the concern that native ecosystems are being destroyed by organic production.

Cornucopia agrees with the CACS vote on this issue. A required 10-year waiting period between destruction of a native ecosystem and organic certification, as described in the August 2017 proposal, disincentives the conversion of native ecosystems to organic production.

Recommendations for Organic Systems Plan Language

The CACS recommendations also included suggested questions that could be asked as part of the process of certifying a producer's Organic System Plan (OSP). **These questions should not be part of any regulatory change.** While this was already stated in the proposal document, it is important to reiterate this fact for certifiers and producers. In addition, the questions listed should not be examples for organic certifiers to use or modify, to aid them in implementing the proposed regulation.

Addressing biodiversity on-farm is already required. As noted by CACS, the OFPA Preamble to the Final Rule establishing the NOP states: "*[t]he use of 'conserve' [in the definition of organic production] establishes that the producer must initiate practices to support biodiversity and avoid, to the extent practicable, any activities that would diminish it. Compliance with the requirement to conserve biodiversity requires that a producer incorporate practices in his or her organic system plan that are beneficial to biodiversity on his or her operation*"² [emphasis added].

In the future, if organic certification agencies add questions to their organic system plan applications to address this issue, they should rely on guidance developed with consideration and care. **Cornucopia recommends that the NOSB and NOP seek the expertise of organizations, including WFA, for this guidance.** WFA, in particular, has been instrumental in pushing for this regulatory change, and they have the expertise to assist in crafting items to aid organic certifiers in implementing the proposed regulation.

Recommended Future Guidance for Certifiers

After this proposal is passed, as Cornucopia recommends, further guidance will help to ensure uniform compliance with §205.200. It is important to ensure the purpose, scope, policies, and procedures are implemented in a way that is easy for organic operators, certifiers, and inspectors to understand and implement.

Due to WFA's expertise in issues of on-farm biodiversity and the protection of native ecosystems, we ask that the NOSB and NOP utilize WFA's recommendations moving forward.

² 76 FR 80563

This includes the following comprehensive recommendations on this proposal:

- Classifying and verifying native ecosystems in the field;
- Using other verification tools to determine compliance; and,
- Examples and guidance for OSP questions.

Cornucopia also agrees with the WFA that future NOP guidance will be helpful for certifiers when attempting to classify an ecosystem type.

WFA produced a valuable guide regarding Biodiversity Conservation in Organic Agriculture Systems in April, 2012.³ This guide is comprehensive in its review of how organic regulations and guidance documents require that biodiversity be considered throughout every facet of organic production.

This Regulatory Change Clarifies Existing Organic Regulation

This regulatory change crystallizes and clarifies the intent and language already present in the organic standards. Any argument against protecting native ecosystems, suggesting instead that they be destroyed, violates the founding principles of the label.

Organic standards currently speak to:

- Improving the quality of the land;
- Protecting biodiversity;
- Promoting sustainable agriculture; and,
- Minimizing chemical loads on the land.

In general, environmental costs tend to be less, and the benefits greater, for organic versus conventional agriculture. Or, as the 2001 NOSB Principles of Organic Production and Handling state: "*Organic agriculture is an **ecological production management system that promotes and enhances biodiversity, biological cycles, and soil biological activity.***" [emphasis added]⁴

This regulatory change is an essential component of the promise of organic agriculture.

CONCLUSION

The conversion of native and high-value ecosystems, in particular, is a serious problem that *must* be dealt with in a timely manner. When pristine and imperiled ecosystems are destroyed, time and concerted effort are required to give the land a chance at returning to its natural character. Conservation of already-existing wild ecosystems is necessary, as habitat loss is the single most pervasive threat to wildlife and native plant life. Essentially,

³ "Biodiversity Conservation Draft Guidance." 2012. *Wild Farm Alliance*.

http://www.wildfarmalliance.org/resources/NOP_WFA_BDGuidance.pdf

⁴ "NOSB Principles of Organic Production and Handling." Adopted October 17, 2001. *National Organic Standards Board*, Article 1.1.

incentivizing the conversion of high-value land is contrary to standing organic policy and hurts the integrity of the organic label.

The Cornucopia Institute agrees with WFA that supporting conservation practices, addressing natural resource issues, and supporting biodiversity conservation within agriculture is essential. As the NOSB acknowledges in their current proposal, the perverse incentive to convert pristine organic lands into organic agriculture conflicts with the basic intent and purpose of the organic standards.

We thank CACS and the NOSB as a whole for putting forth the current proposal and urge that the additions to §205.2 and §205.200(a) be made into law immediately. This proposal is a vital step to prevent the conversion of high-value conservation areas to organic production.

This is an ongoing and serious trend that requires immediate action on the part of the NOSB and NOP. **Both the NOSB and the NOP have been aware of this issue since 2009. The rate of destruction will not stop until the NOP acts.** Time is running out for many fragile ecosystems, and Cornucopia and our allies urge expediency in this rulemaking.