

March 30, 2017
National Organic Standards Board
USDA-AMS
1400 Independent Ave. SW
Washington, D.C. 20250
Re: AMS-NOP-16-0049

Docket #AMS-NOP-16-0100

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 (CACS)

Discussion Document: Eliminating the Incentive to Convert Native Ecosystems to Organic Production

SUMMARY

The Cornucopia Institute agrees with the Wild Farm Alliance (WFA) that supporting conservation practices, addressing natural resource issues, and supporting biodiversity conservation within agriculture is essential. The conversion of native and fragile ecosystems in particular is a serious problem that *must* be dealt with in a timely manner.

The current rules offer no environmental protections prior to certification. This flies in the face of organic principles and the law as it is currently written. Cornucopia encourages the National Organic Standards Board (NOSB) to make the recommendation to the National Organic Program's (NOP) to promulgate a rule to control how new land is brought into organic production.

Cornucopia suggests that the NOP and NOSB use the term "High Value Conservation Lands" over the term "native ecosystems." High Value Conservation Lands is a more inclusive term that is more accurate with regard to the problem of conversion for organic production.

When untouched and/or high value lands are destroyed, there is no way to restore the land's pristine character. Habitat loss is the single most pervasive threat to wildlife and native plant life. Incentivizing the conversion of native ecosystems is contrary to standing organic policy and hurts the image and integrity of the organic label.

BACKGROUND

In May, 2009, the NOSB made some specific recommendations asking the NOP to establish standards for biodiversity, including biodiversity standards for accreditation and certifier audits.¹

In December, 2014, the NOP published the 5020 Draft Guidance Natural Resources and Biodiversity Conservation for Certified Operations in the Federal Register, requesting public comment. The final guidance was completed, after consideration of public comment, in January, 2016.² The NOP acknowledged they were only addressing a couple of the NOSB's 2009 recommendations, and the biodiversity standards were not among them.

In February 2015, the Wild Farm Alliance (WFA) submitted a comment on the NOP's 5020 Draft Guidance. One of their concerns was the practical effect of the NOP's policy to waive the three-year waiting period for transitioning to organic production from land that has never had chemical applications. WFA pointed out that an unintended consequence of this transition policy is to incentivize the conversion of native ecosystems to organic production.

The Cornucopia Institute submitted comprehensive comments on this issue at the spring 2016 NOSB meeting. Those comments still stand as relevant to this discussion.

These issues have been on the table for a long time and any further delay in acting will be costly to the environment and the integrity of the organic label.

COMMENT

Cornucopia supports the comments made by WFA, and their allies, on this topic. In general, we ask that rulemaking takes place to prevent the destruction of valuable ecosystems and at-risk land. Biodiversity loss is a global crisis, and the organic label is already aimed at protecting biodiversity and sustainability in agriculture.

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.*"³ The destruction of our environment carries similar concerns:

¹ Formal Recommendation by the National organic Standards Board to the National Organic Program [PDF]. Subject: Biodiversity Conservation. May 6, 2009. Available online:

<https://www.ams.usda.gov/sites/default/files/media/NOP%20Final%20Rec%20Biodiversity.pdf>

² Guidance Natural Resources and Biodiversity Conservation [PDF]. NOP 5020. Agricultural Marketing Service.

Effective Date: 1/15/16. Available online:

<https://www.ams.usda.gov/sites/default/files/media/NOP%205020%20Biodiversity%20Guidance%20Rev01%20%28Final%29.pdf>

³ *Guide For Organic Crop Producers*, By Pamela Coleman National Center for Appropriate Technology (NCAT) Agriculture Specialist. November 2012. Available online:

<https://www.ams.usda.gov/sites/default/files/media/Guide-OrganicCropProducers.pdf>

threats of climate change, habitat destruction, and trophic collapse. It is imperative that we protect and conserve as much wild land as possible.

The tenants of organic agriculture that speak to restoration of land, soil, and the protection of biodiversity are essential, but would not make up for the loss of sensitive or imperiled ecosystems. Restoration can only return some of the benefits wild lands offer. At a minimum, organic agriculture should never contribute to the environmental problems our world faces today.

Cornucopia has the following responses to the questions posed by the NOSB:

Question 1: Please provide specific data on the occurrences of organic agricultural conversion of high value lands or fragile ecosystems.

Cornucopia would like to point to the data provided by Wild Farm Alliance (WFA), a trusted authority in this area. As the Discussion Document revealed, conversion of 1.6 million acres of grassland occurred between 2008 and 2012. Some of that land went into organic production. Additional conversion for organic production has undoubtedly occurred since then.

Question 2: What definition of high value conservation land or fragile ecosystem should be used?

Cornucopia agrees with WFA's definition of "high conservation value areas." This term should be used in place of "native ecosystems," as it is a more accurate portrayal of the lands in question. This definition should not exclude land coming out of the Conservation Reserve Program (CRP) or areas of pristine native ecosystem that may not have other known characteristics. High conservation value areas always provide some services, either as habitat for wildlife and plants and/or as ecosystem services for human populations. In addition, more of these lands are being destroyed every year whether it be from agriculture, resource harvesting, or urban sprawl. Organic agriculture should not contribute to that destruction.

The definition of lands that fall under the "high conservation value areas" should include:

- Land or aquatic environments (particularly riparian ecosystems or wetlands) that are habitat or potential habitat for vulnerable, threatened, or endangered plants or animals, as identified by the IUCN Red List of Threatened Species⁴ and federal and state law. Any areas that provide habitat for imperiled or declining species of plant or animal should be outright prohibited from conversion to farmland.
- An ecosystem which is significant at global, national, or regional levels and that contains viable populations of most of the naturally occurring species found in that ecosystem in natural patterns of distribution and abundance.

⁴ <http://www.iucnredlist.org/>

- Rare and fragile ecosystems, as protected by local law or defined by the IUCN Red List of Ecosystems.⁵
- Areas that provide critical ecosystem services (e.g., watershed protection, pollution filtration, carbon sequestration, and flood control). There should be an assumption in the rule or guidelines that areas which historically provide these ecosystem services continue to provide those same services.

Question 3: How can high value land and fragile ecosystems best be protected under in USDA organic certification. Should the NOP issue Guidance on conversion of high value land, or fragile ecosystems? Should a Rule change, such as an addition to 7 CFR 205.202 be recommended in order to address conversion of high value lands or fragile ecosystems?

Cornucopia agrees with WFA that a rule change in 7 CFR 205.202 is needed to effect the appropriate change. A guidance will not suffice because the conversion of the land in question *occurs prior* to organic production, while NOP regulations currently apply to land that is already certified, or is part of land in its three-year conversion period. Only a rule change, or addition, will make it clear that conversion of sensitive lands falling under the definition of high conservation value areas is absolutely prohibited.

The rule should require the following:

To qualify for organic certification, operators must not have cleared, burned, drained, cultivated, or otherwise irrevocably altered established, diverse, and abundant ecosystems or high conservation value areas within five years preceding the date of application for certification of a parcel. This restriction does not stop operators from harvesting wild crops or from managing production systems that sustain the diversity and abundance found in these ecosystems, such as mechanical collection of native seeds.

We recommend that the certifiers' Organic System Plan forms collect sufficient information for the certifier to assess the conservation value of each parcel covered by the certification application. A guideline may need to be established after the rulemaking to direct certifiers and producers in following the letter of the law.

Question 4: What incentives, and/or disincentives could be implemented within current USDA organic regulations to prevent the conversion of high value land and fragile ecosystems?

A complete prohibition is the best way to prevent the conversion of high-value land and fragile ecosystems. However, using an eligibility period would de-incentivize conversion of high-value lands.

⁵ In the U.S., producers and certifiers can refer to NatureServe's Terrestrial Ecological Systems of the United States for guidance on what ecosystems might meet this requirement.

Cornucopia recommends that an eligibility period of five years be established in a rulemaking. At a minimum, this eligibility period should be longer than the current three-year rate of conversion for conventionally managed farmland.

Question 5: Should there be an extended waiting period for land seeking organic certification that has recently been converted from high value land or fragile ecosystems? If so, what duration should the waiting period be and why?

An eligibility period would require that if the high value conservation areas in question are damaged or destroyed within five years prior, they *will not be eligible for organic certification at all*. This is dissimilar to a *waiting period*, as Cornucopia is concerned that a waiting period would ultimately not prevent the loss of these vital ecosystems. For example, a farmer may have adjoining parcels or organic farmland and pristine habitat. Even if a waiting period is established it would not prevent that farmer from then degrading that high conservation value area once the waiting period is up.

For producers concerned about losing any economic value they may have in the land, they can acquire conservation easements or pursue other conservation grant avenues (including the Conservation Reserve Program). These programs return the value of that land to the producer, while protecting the sensitive ecosystem in question.

Organic production should focus on taking depleted land within the conventional agricultural sphere and restoring it to a more holistic state.

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, there is no way to get them back, even if significant restoration is done. Conservation of already-existing wild ecosystems is necessary, as habitat loss is the single most pervasive threat to wildlife and native plant life. Finally, incentivizing the conversion of high-value land is contrary to standing organic policy and hurts the integrity of the organic label.

It is essential that the NOP develop a rulemaking to prevent the conversion of high value conservation areas to organic production. **At a minimum, a rulemaking should require an eligibility requirement of five years, or more, to de-incentivize this kind of conversion.**

Consumers expect their organic food to come from a source that is ecologically sound. This means that, at a minimum, the methods of organic production should *do no harm* to biodiversity and ecological systems. 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].⁶

WFA produced a valuable guide regarding Biodiversity Conservation in Organic Agriculture Systems in April, 2012.⁷ 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 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.

⁶ NOSB Principles of Organic Production and Handling. Adopted October 17, 2001. Article 1.1.

⁷ Biodiversity Conservation Draft Guidance - Wild Farm Alliance [PDF]. Available at: http://www.wildfarmalliance.org/resources/NOP_WFA_BDGuidance.pdf