

# **NATIONAL CAMPAIGN FOR SUSTAINABLE AGRICULTURE**

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United States Department of Agriculture  
National Organic Standards Board  
Room 2510 -- South Building  
1400 Independence Ave., SW  
Washington, DC 20250-0001

National Organic Standards Board:

Following are comments by the National Campaign for Sustainable Agriculture Organic Committee and Rural Advancement Foundation International in our public response to several key agenda items of importance.

## **Poultry – Access to the Outdoors**

It has been an ongoing concern for the NOSB and public partners that the ‘temporary exemptions’ to outdoor access not become loopholes. As has been repeatedly stated, the public does not want factory-style confinement operations in ‘organic’. In order to remain true to this very clear public message, organic livestock exemptions must be narrowly defined and well justified. To accomplish this with the poultry standard, we urge the NOSB to expand their recommended language in the ‘Recommended standard’ section of their draft.

The suggested expansion of wording would simply frame NOSB’s intent in to standards language where it will have the most force. Every single production cycle where the ‘5 weeks of age’ exemption is used must be justified and documented and every operation must be completely able to meet the requirement for outdoor access before they opt for a ‘temporary exemption’ from outdoor access. This would not only further clarify that this exemption is not a loophole for factory-style confinement operations practices but it would also solidify the NOSB’s ongoing intent that exemptions not be permanent allowances due to limitations of the land available to meet requirements for outdoor access.

**Recommended Standard language should be specifically amended as follows [deletions are indicated by strikethrough and additions are indicated by underlining]:**

### **Access to outdoors for poultry**

- 1. Organically managed poultry must have access to outdoors ~~during the months of the year when feasible~~. The producer’s organic system plan must illustrate how the producer will maximize and encourage access to the outdoors. All producers must identify**

**and be able to meet the outdoor access requirements prior to the producer seeking to justify any temporary confinement of poultry as described in (2).**

2. The producer of organically managed poultry may, when justified in the organic system plan, provide temporary confinement because of:
  - a. Inclement weather; or
  - b. The stage of production, up to 5 weeks of age; or
  - c. Conditions under which the health, safety, or well-being of the poultry could be jeopardized; or
  - d. Risk to soil or water quality.
3. **Should the producer seek to justify temporary confinement because of the stage of production as provided in 2(b), the producer must justify and document such decision for every production cycle.**

#### **Feedlots: Public Comments Past and Present**

One of our key concerns regarding these and past public comments is the feedlot issue. The concept of feedlots was introduced in earlier NOSB clarifications without making it clear to the public that the recommendations would indeed allow for 'organic feedlots'. Despite specific public opposition to dry lots as an allowable outdoor environment, and standard feedlots generally being unacceptable in organic production for a number of reasons, the topic has been broached with the public peripherally at best.

We have been, and continue to be, ardent supporters of the NOSB's role in the public/private partnership. It is disturbing to us to have such a key issue as 'organic feedlots' raised indirectly and not be given the benefit of full and informed public comment. We urge the NOSB to be very clear about the process that is being followed for full consideration of the comments received and how legitimate concerns are to be further addressed by the NOSB in a direct and public manner.

#### **What is the Actual Role of NOSB Clarifications?**

As the NOSB and the Department have been moving forward with final implementation of the National Program, several questions have emerged as to the role of the NOSB, and of public comments made to the NOSB in the clarification of the rule and final implementation. We are seeking immediate answers to the following questions regarding the final rule/regulatory setting:

1. Does the NOP have an Operating Manual based on the final rule?
2. If so, what role did NOSB play in its development?
3. How do the NOSB and the public know if their comments were taken in to consideration, and if so, in what manner?
4. Is the Operating Manual publicly available?

For example, the public's adamant comments to keep factory-style confinement operations out of organic sent a very powerful message to the NOP. If the NOSB clarifications are only optional

guidance, and the public voice is no longer truly relevant to the NOP, then the public should be informed that this is the case. The public should also then be informed how they can engage in a meaningful manner to ensure that factory-style confinement operations are not allowed into organic production.

It has been our understanding that the NOSB was to play a formal role in NOP final rule manual development. This role was to ensure public transparency and accountability in the development of the operating manual. Yet, following the last NOSB meeting, there has been increasing confusion as to the role of NOSB final rule clarifications. Recent NOSB meeting notes state that certifiers can choose to enforce or not enforce the clarifications. In addition, NOP inspectors have been giving conflicting information to different programs and have been inconsistent with one another. It is essential that the role of the NOSB and public input in the final rule clarifications be recognized, and that all clarifications be consistent.

### **NOSB Authority**

We would like to reiterate our support for the NOSB's legal authority. Under the Organic Food Production Act (OFPA), the National Organic Standards Board (NOSB) is a non-governmental board with a diverse constituency representing organic farmers, environmental organizations, organic marketers, consumers and scientific experts. The NOSB has two distinct roles: (1) to provide the Secretary of Agriculture with recommendations regarding the implementation of the OFPA; and (2) to develop the Proposed National List or amendments to the National List for submission to the Secretary.

With regards to the National List, we believe that the NOSB must ensure that guidelines concerning the review of processing technologies do not subvert the Board's legal authority to ensure that unapproved synthetic ingredients are not allowed in end products labeled "organic" or "made with organic." The OFPA specifically requires that NOSB will have a role in addressing whether the make up of processed products is allowable under the Act. In exempting any food processing technologies from NOSB review, the Board must ensure it is not reducing or eliminating its legal authority over the content of processed agricultural products. Thus, all synthetics present in an agricultural product must have undergone TAP review and been approved by the NOSB for inclusion on the National List. This necessary function of the NOSB must not be circumvented.

### **NOP and the Accreditation Process**

As the Accreditation process has proceeded leading up to the announcement of the list of accredited certifiers, several questions have been surfacing regarding exactly what process NOP has employed to offer clear evaluation and guidance. Two necessary parts of an effective accreditation program, an Accreditation Manual and a functioning peer review process, are lacking - these both must be put in place immediately to provide a clear measure of consistency in the evaluation and interpretations of the rule for certifiers. In the future development of the Accreditation program, such internationally-accepted norms as a pre-accreditation site visit, should also become a part of this process.

In addition, we continue to be concerned that USDA not discriminate against farmer-based certifiers where farmers are appropriately involved in their certification organizations.

### Grower Groups

We strongly urge NOSB to make a recommendation to USDA to recognize the internationally accepted protocols associated with grower groups and do nothing to undermine the ability of these types of certified associations to have access to markets in the United States.

### NOSB Director

We have been providing public testimony for some time to this Board, and have often also asked for a response to specific questions, which we have rarely received. That, coupled with the inability for meeting minutes to appear on the website in a timely manner, is a function of a lack of infrastructure for this Board. It is time for NOSB to hire an Executive Director who would be a full-time dedicated staff person to facilitate public transparency, respond to public requests, and to generally communicate with the public, as well as to relieve the NOP of these duties so that they may continue their regulatory function.

### In conclusion, We strongly urge:

1. The NOSB to make recommendations concerning livestock including poultry and their access to the outdoors which are consistent with the volume of public comments to not include "factory-farming and feedlot " practices in organic agriculture.
2. That the NOSB and NOP clearly state the exact role of public comments and the NOSB recommendations regarding final rule clarifications
3. That the NOSB and NOP immediately install the peer review panel and develop an Accreditation Manual to ensure that certifiers are treated in a clear and consistent manner.
4. That NOSB continue its statutory responsibilities in evaluating all synthetics for inclusion on the National List.
5. That NOSB recommend to USDA that Grower Groups be recognized
6. That NOSB be given an Executive Director.

Finally, we would like to commend the work of Mark Keating. We were extremely saddened to learn of his reassignment, and would like to go on record as supporting and thanking him for his dedication and excellence in all his work on behalf of organic and the organic community.

Thank you on behalf of the Organic Steering Committee of the National Campaign for Sustainable Agriculture and the Rural Advancement Foundation International - USA.

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