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September 24, 2012

Ms. Michelle Arsenault, Special Assistant
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW.,
Room 2648-So., Mail Stop 0268
Washington, DC 20250-0268;

Re: Docket AMS-NOP-12-0040; NOP 12 - 12
NOSB CAC Subcommittee Discussion Document
Implementation of Biodiversity Conservation in Organic Agriculture Systems

Dear Ms. Arsenault:

Thank you for the opportunity to provide comments to the National Organic Standards Board (NOSB) regarding the Compliance, Accreditation and Certification Subcommittee Discussion Document entitled **Implementation of Biodiversity Conservation in Organic Agriculture Systems.**

The Accredited Certifiers Association (ACA) represents 43 foreign and domestic accredited certifying agents. Our comments were developed through a Working Group of interested ACA members with input solicited from our entire membership.

The ACA appreciates the work of the Subcommittee in providing an update regarding biodiversity issues and seeking additional information.

Summary

The ACA supports the CAC Subcommittee work on this document and the direction the Biodiversity Conservation document is moving toward. We do have several concerns about the issues contained in the document and we will also provide suggestions for strengthening the document and the process of implementing Biodiversity Conservation verification.

ACA General Comments

1. We believe that the National Organic Program (NOP) must issue clear guidance regarding what is required of producers and ACAs to address biodiversity conservation if the implementation of this is to be successful.

Guidance must be provided by the NOP before the work of the other sectors (materials review by NOSB; inclusion of the information in the Organic System Plan by certifiers; and finally verification by inspectors) can be accomplished. As has been demonstrated the implementation of biodiversity conservation has been varied and inconsistent. We believe this is due to a lack of guidance from the NOP.

In order to emphasize the importance of the NOP responsibilities, we suggest the re-ordering of the NOSB Recommendation – putting NOP at the top, with the other sector (materials review, certifiers, operators, inspectors) responsibilities following. The visual impression of NOP responsibilities being primary is an important one.

While the NOSB can recommend that ACAs include biodiversity conservation in their OSPs, ACAs are having difficulty determining the enforcement provisions for biodiversity conservation due to a lack of specificity contained in the Rule itself. Additional guidance from the NOP is the key to moving this forward.

Once NOP guidance has been developed, NOP auditors should monitor whether ACAs are implementing biodiversity conservation through the use of the NOP Accreditation process.

2. The development of clear, concise educational information for producers (and ACAs) is another key to moving biodiversity conservation forward. Several ACAs have indicated that upon inclusion of questions in their OSP regarding biodiversity conservation, producers did not complete the sections, and in some cases complained that the OSPs were increasing in length and complexity. We believe that producers do not have enough information regarding biodiversity conservation to assess the necessity and importance of this.

The ACA supports the work of the Wild Farm Alliance in the development of their guidance documents: “Biodiversity Conservation - An Organic Farmer’s Guide” and “Biodiversity Conservation - An Organic Certifier’s Guide”. These documents are excellent resources regarding Biodiversity Conservation. However, we feel that the document “Biodiversity Conservation Assessment in Organic Agricultural Systems” is not practical for inclusion as part of the OSP at this time because a) significant training of farmers, certifiers and inspectors will be required, and b) the specificity of requirements stipulated in this document cannot be supported by 7 CFR Part 205.

We believe that the development of a 1 - 3 page educational tool explaining what biodiversity conservation is, which identifies regional issues, and perhaps includes a comprehensive checklist of practices that conserve biodiversity, would reduce the resistance to inclusion of biodiversity conservation in the OSP. Producers could then realize that many of the practices they are currently using are assisting in biodiversity conservation. The OSP could then include general biodiversity conservation questions, and producers could be encouraged to utilize the checklist to identify their practices, which could then be submitted as a part of the OSP, and verified by the inspector.

As part of the educational information we strongly suggest the inclusion of a list of resource materials to include printed materials and useful internet website links. Appendix A contains the beginning of such a list.

The ACA is willing to assist with the development of this educational information.

ACA Response to Questions Asked

1. Should the questions used on the checklist for materials review focus on asking whether a material has a positive impact on biodiversity, in addition to the question about harm?

ACA believes that Materials Review should include a question about the positive impact of a material or substance, as well as harmful effect. We believe that this would be valuable in the review process. We also recognize that the question may not be applicable to all materials reviewed.

2. Comment on Wild Farm Alliance Guidance on Conversion of Land

The ACA believes that the conversion of high conservation value land is an issue that needs to be addressed, however, the topic of conversion of land is not currently addressed in 7 CFR Part §205. ACAs could not enforce requirements addressing this issue.

Several ACAs indicated that the conversion of high conservation value land is an issue that has arisen, particularly in foreign countries. Instances have arisen where a separate entity converts virgin land and then sells/leases it to a certified operation.

We request that the NOP issue formal policy and/or guidance regarding conversion of high conservation land. Along with policy/guidance, ACAs need clarity about how such a policy would be enforced. In addition, we recommend that the NOP policy on this issue include specific guidance for ACAs regarding inserting relevant questions in the operator's Organic System Plan (OSP). For example, should certifiers ask whether a producer intends to convert or has converted high conservation land either directly or through third party arrangements?

The ACA does not support the WFA Guidance requirement that the *“ACA monitors the mitigation measures until success is achieved, or more mitigation efforts are required.”* In the situation where operators may be under compliance orders from another agency to restore habitat, we believe that operators should be required to submit summary reports of their activities from the regulatory agency in charge of the oversight of mitigation efforts, such as state water quality control agencies. The mitigation measures would be noted in the OSP, but monitoring for correction would remain with the regulatory agency responsible for oversight. Reports to the ACA would be in the form of annual updates to the producer OSP. Some ACAs report using this system and note that it is effective.

3. What have ACAs done since the 2009 NOSB Recommendations were issued; what works, what doesn't.

In the comments received from our members, several indicated that they had included biodiversity conservation questions in their OSPs, with mixed reactions – some very positive, others with negative reactions. ACAs also suggested that there be detailed guidance on exactly what information is needed, but the development of the questions remain with the ACA.

Members noted that while they may not have a specific biodiversity section in the OSP, biodiversity issues are included throughout the OSP in relation to soil management, water management, crop rotations, and manure management.

Our members also noted that there are regional differences in the impact of biodiversity conservation: in the west, water conservation/management and wildlife corridors are critical issues, while in the northeast the farms are smaller, hedgerows are pretty much always in place and wildlife corridors are less relevant due to large forested areas.

Below are a few comments we received from our members.

- Since its introduction of a biodiversity / natural resources section in the OSP, this OSP section and corresponding inspection report questions, have not yielded a high number of non-compliances or corrective actions, however, it has given the chance for producers to display the many different ways they are complying with this important aspect of the Rule. The form and questions have been a great way to capture the myriad of practices our certified operations use on their farms to promote biodiversity and without it, we may have never known some of these practices were ever in existence!
- Another benefit to having these questions imbedded in the OSP is that inspectors now have a dedicated platform to discuss natural resource and biodiversity concerns with the producer. It focuses a portion of the inspection process on biodiversity conservation and drives home the importance of this aspect of certification. If there is a problem or the inspector observes something that does not look quite right by way of natural resources, they have a forum and a form that can be used as a focal point to start the discussion and report back to the certifier. Overall and from a certifier's perspective, the implementation of the 2009 NOSB Biodiversity Recommendations has been a success, both from the sense of educating the producer and the certifier about resource management and conservation.
- I do think that many of our farmers would have a lot of difficulty answering the questions in the recommendations as currently posed. I believe that inherently they have farms that address biodiversity issues but that do not have the language and terminology to express their practices.
- As a certifier I find that the question of biodiversity is difficult to address. It is a feel good idea but when one is deciding whether a file meets the standards it is difficult

to use biodiversity or a lack thereof as an assessment point. What is enough and what is not enough? If a farm breaks open long standing previously not farmed lands perhaps I could question that as not conserving natural resources. But if the land had been broken open 2 years prior to conversion to organic what might be my stance? Perhaps much of the CRP land out there should be left alone for ever. If a denial of certification was based upon lack of biodiversity and that decision was appealed to NOP what would be the result? Without clear standards I am not really sure.

- There is currently nothing in 7CFR part 205 that specifically relates to required practices that operators must do in order to reach certain specific level of compliance when it comes down to biodiversity other than those related to soil conservation. In other words, we cannot ask for anything specific in our OSP's if there is nothing specific required in the current organic regulation and moreover if we do not have a method for measuring compliance.

4. What biodiversity issues have ACAs encountered with handling operations?

Areas where this can be addressed include ensuring operators:

- do not have any violations from the local wastewater authority for illegal discharges into the sewer,
- do not have any violations from the local air pollution agencies for discharges into the air,
- do not engage in external pest control measures (where they have control over the areas outside the building) that negatively impact native species – for example, by using anti-coagulant rodent baits that can transfer from the dead rodent to raptor species or by using bird baits that could harm native species, etc.

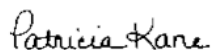
Biodiversity conservation in relation to handling operations is clearly an area where additional guidance is required from the NOP.

Conclusion

The ACA supports the continued work on the implementation of biodiversity conservation practice. We believe that the primary reason for inconsistent implementation of this is a lack of guidance from the NOP. We encourage the Board to request clear and comprehensive guidance be published by NOP.

Thank you to the Compliance, Accreditation and Certification Subcommittee for their work on this important issue and for the opportunity to provide comment on this Discussion Document.

Sincerely,



Patricia Kane
Coordinator

Appendix A

Resources For Information on Biodiversity Conservation & Assessment Tools

Wild Farm Alliance Website

Publications Available:

Biodiversity Conservation in Organic Agriculture Systems

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

Biodiversity Conservation – an organic farmers guide

<http://www.wildfarmalliance.org/resources/BD%20Guide%20Organic%20Farmers%20.pdf>

Biodiversity Conservation – an organic certifiers guide

<http://www.wildfarmalliance.org/resources/BD%20Guide%20Org%20Certi.pdf>

USDA NRCS Soil Quality website

<http://soils.usda.gov/sqi/index.html>

of particular interest is the Soil Quality Assessments cards developed by individual states at:

http://soils.usda.gov/sqi/assessment/state_sq_cards.html

The Cornell Soil Health Training Manual (2nd Edition)

<http://soilhealth.cals.cornell.edu/extension/manual.htm>

See the In-field Soil Health Indicator Table on page 13.

Landcare Australia

<http://www.landcareonline.com.au/>

Resources for land management.