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## Response to Comments Natural Resources and Biodiversity Conservation

This document summarizes comments submitted to the National Organic Program (NOP) in response to the draft guidance, “Natural Resources and Biodiversity Conservation for Certified Organic Operations” (NOP 5020). The public was notified in a [Federal Register](#) notice (79 FR 248) on December 29, 2014 of the availability of this draft guidance on the NOP website and solicited comments for sixty days.

- ***CHANGES MADE IN RESPONSE TO COMMENTS***

**Change the title of the guidance to include Accredited Certifying Agents (ACAs), Operations, and New Applicants for organic certification.** Many commenters pointed out that while the notice in the Federal Register and the language in the guidance itself make it clear that this guidance applies to all certifiers, certified organic operations, and new applicants for certification, the title of the guidance only mentions certified operations. NOP felt that the title did not need to include the stakeholders as long as the guidance itself is clear, which it is. In the final guidance, we have simplified the title to *Guidance: Natural Resources and Biodiversity Conservation*.

**Terminology should be consistent.** Many commenters suggested using the word “activities” in place of “practices” in the guidance to be more in line with Natural Resources Conservation Services (NRCS) terminology. For example Conservation Stewardship Programs refer to “activities” which include “plans, practices, and enhancements.” Commenters felt that the use of “activities” is more appropriate in the context of this guidance. Several commenters felt that NOP should work with NRCS to ensure that the terminology used is consistent and also more broadly understood throughout the world (e.g., using “grasslands” in place of “prairies” and other examples). In the final guidance, we have made minor edits to Appendix A and have also included footnotes with links to terms and definitions per recommendations from commenters. We have replaced “practices” with “activities” in the guidance. While the only definitions listed in the body of the guidance are those that are already in the USDA organic regulations at 7 CFR 205, other common terms have been defined in the footnotes.

**Remove reference to handling operations in the guidance or expand the examples of conservation activities for handling operations.** Many commenters expressed concern that handling operations are not identified anywhere in the guidance document except for several examples at the end of Appendix A. One commenter suggested removing reference to handling operations altogether and addressing these types of operations in a separate guidance. NOP has considered the applicability of §205.200 to handling operations. §205.200 states “Production practices ... must maintain or improve the natural resources of the operation...” The definition of “natural resources” only includes “production operation.” Production, by definition at §205.2, is not handling. Handling operations and their certifiers should determine whether handling



operations directly affect biodiversity and take action as appropriate (and as required). However, NOP believes such situations are atypical. Reference to handlers has been removed from the final guidance.

**Clarify expectations for implementation of conservation practices.** Several commenters pointed out that this guidance needs to be very clear about NOP's expectations for producers to implement conservation practices above those that are required by the other sections of the standards, notably §205.203(b), requiring crop rotations, cover crops, and the application of plant and animal materials, and §205.203(c), requiring producers to maintain or improve soil organic matter content without causing contamination of crops, soil or water. Some comments suggested the guidance should clarify that in order to maintain or improve all the natural resources as defined under §205.2, including soil, water, wetlands, woodlands, and wildlife, and conserve biodiversity, a comprehensive approach to natural resource management is necessary and goes beyond maintaining soil or water quality. One certifier suggested a revision to the 2nd bullet of the guidance under "Role of Certified Organic Operations." In response, we updated this section of the guidance to include reference to § 205.2, the definition of *Natural resources of the operation*. Certified operations are required to implement measures that support natural resource conservation and biodiversity in addition to maintaining soil or water quality.

**Include reference to NRCS' Conservation Stewardship Program.** Many commenters suggested also including reference to the NRCS Conservation Stewardship Program (CSP) in the USDA NRCS example activities provided under Section 3 (Policy and Procedures – Role of Certified Organic Operations). NOP agrees that the CSP offers many activities (plans, practices, and enhancements) that benefit organic operations. CSP has been mentioned in the final guidance.

**Conservation Plans should not take the place of the Organic System Plan (OSP).** One certifier expressed concern with the language in the guidance that enables the operation to reference or provide evidence of a conservation plan developed in conjunction with NRCS instead of developing a separate OSP section for natural resources. The certifier explained that NRCS plans can vary significantly by farm in scope and detail and would likely be inconsistent from one farm to the next. In addition, it was explained that NRCS plans can be extensive (certifiers may not have the expertise to review and enforce the full plan), they may not be current, and plans often only identify the deficiencies that need action and not the conservation activities already being taken by the operator. Finally, the comment stated that this option only works for domestic operations, and ideally all certified operations should be encouraged to work with third party conservation organizations. In response, we have amended Section 3 (Policies and Procedures, Role of Certified Organic Operations) to state that the OSP may refer to a current conservation plan and/or contract developed in conjunction with NRCS or other conservation agency or non-governmental organization (NGO), as part of their OSP, to meet the requirements of 7 CFR § 205.200. In addition, we have added a footnote to the final guidance that brings attention to the Conservation Activity Plan (CAP) 138 and Resource Inventory



Supplements documents which, when submitted together, are adequate to address the full OSP requirements for domestic operations.

**Clarify how benefits from conservation activities on adjacent land can be accrued.** Many commenters pointed out that the certified organic operator and certifier sections mention accruing benefits from conservation activities on adjacent land but that each section explains the concept differently. Commenters requested that NOP clarify the criteria upon which operations receive credit for activities on adjacent land. We have adjusted the language in the relevant sections of the guidance so that they are consistent with one another. There must be *direct benefit* to the certified organic land as a result of conservation activities undertaken on adjacent lands. However, the intent of the guidance was to recognize that conservation measures implemented on non-certified portions of the land may benefit organic fields as well. The adjacent land must be under the control of the certified operator and inspectors must have access to those areas to verify compliance. Changes and clarification are reflected in the final guidance.

**Clarify that Appendix A is only a list of example practices.** Several commenters noted that it is not clear that the practices listed in Appendix A are only examples and do not represent an exclusive list of practices that must be carried out in order to meet NOP requirements. Commenters suggested alternative language to clarify that the list of activities on Appendix A is not exhaustive and that there are many other activities, depending on site-specific conditions, that operations can use to reach the same compliance goal. We agree and have amended the wording to illustrate that Appendix A is a list of some, but not all, practices that can be used to maintain or improve the natural resources of an operation.

**Requirements for agricultural conversion of Highly Erodible Land (HEL) and wetlands should be consistent with NRCS requirements.** One commenter suggested that HEL and wetlands may be used for agriculture when NRCS approves a conservation plan. The reference has been changed to be consistent with NRCS requirements.

- ***CHANGES REQUESTED BUT NOT MADE***

**Concerns about the potential for increased inspection time, costs and record-keeping burden.** Several commenters were concerned inspections will be longer, the record-keeping burden will be higher, and associated noncompliances will increase as a result of this guidance. The guidance applies to biodiversity requirements that are already a part of the USDA organic standards. Such requirements have been subject to inspections and necessitated record-keeping since the USDA organic regulations came into effect. The intention of this guidance is to decrease redundancy and streamline compliance efforts related to the USDA organic standards and third party conservation programs. The CAP 138 was developed as a collaborative effort between NOP and NRCS to assist transitioning organic producers with their organic conservation plan. The CAP 138 has three sections: (1) Resource Inventory; (2) Erosion Control Inventory; and (3) Summary Record of Planned NRCS Conservation Practices. Section 1, the Resource Inventory, collects information on the operation's natural resources and conservation



practices. It addresses the operation's management of natural resources related to soil, water, and wildlife habitat. The CAP 138 can serve as a guide for new applicants, as well as currently certified operations, when addressing biodiversity requirements in OSPs. In addition, many certifiers have developed their own OSP questionnaire that asks the producers questions related to conservation measures. Maintaining and improving natural resources and biodiversity conservation are long term efforts. Operations may be beginning the certification process at different conservation levels and will apply solutions in different ways. The annual organic inspection provides a snapshot of the current activities, and a comprehensive assessment for compliance with §205.200 is a multi-year process. The purpose of this guidance is to give operators and certifiers examples of activities that would fulfill the requirements of §205.200. Future NOP accreditation audits will gauge certifiers' familiarity with the guidance and how it is applied.

**Expand examples that address climate change mitigations and adaptation.** Several commenters suggested expanding examples listed on Appendix A to specifically address climate change. While this is an important topic, it is beyond the scope of this guidance. The purpose of this guidance is to give operators and certifiers examples of activities that would fulfill the requirements of 7 CFR § 205.200.

**Provide more guidance for producers that only produce organic product in greenhouses.** A certifier requested that the guidance should include suggestions on how to enhance the natural resources and biodiversity within a greenhouse cropping system. Greenhouse operations should adopt site specific methods that best integrate cultural, biological and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity to the extent practicable. Greenhouse producers are encouraged to work with conservation programs to implement relevant measures related to conservation efforts.

**Wild harvest operations should follow the FairWild Foundation (FWF) standards as best practice for biodiversity conservation on wild harvest operations.** One commenter suggested that NOP incorporate by reference the FWF standards into this guidance as one example of best practice for biodiversity conservation in the context of sustainable management of wild collection areas under organic control. There are many ways for operations to meet the requirements of § 205.200. Some examples are provided for in Appendix A. Wild harvest operations may voluntarily elect to follow the FWF standards in order to meet the NOP requirements for biodiversity conservation; however the change was not made to the final guidance..

**Specify NOP's role in ensuring that the guidance is implemented through certifier training and oversight.** Several commenters recommended that the guidance explain that NOP will address natural resources and biodiversity conservation requirements through training programs for ACAs and the monitoring of ACAs on such requirements during NOP's accreditation reviews of ACAs. Commenters requested that NOP add the requirements of § 205.200 to NOP's Review Checklist (NOP 2005-6). NOP intends to address this topic at future annual ACA



trainings. The purpose of this guidance, however, is to give operators and certifiers examples of activities that would fulfill natural resource and biodiversity conservation requirements. NOP will audit certifiers to gauge their familiarity with the guidance and how it is applied. Continued NOP coordination with NRCS and other conservation programs to deliver future ACA trainings is also a priority.

**Add to the guidance a 5-year conversion for natural ecosystems and comprehensive conservation plans for CRP lands coming out of CRP.** Many commenters suggested adding an additional bullet regarding the non-conversion of wild lands or high value conservation areas (HVCA) to organic agricultural production for 5 years from the date of application for certification, in order to lessen the incentive to bypass the three-year conversion period. In addition, many commenters suggested including a requirement for lands to have and implement a comprehensive conservation plan if the land has been enrolled in the Conservation Reserve Program (CRP) whose contract is nearing an end and coming out of the program. While we recognize the conservation value of CRP land, this guidance cannot impose regulatory requirements beyond the USDA organic regulations and therefore it is beyond the scope of this guidance. The purpose of this guidance is to give operators and certifiers examples of activities that would fulfill the requirements of 7 CFR § 205.200. However, in response, we have included several more examples of practices and activities that can be used to maintain or improve the natural resources of an operation in Appendix A, including the example that operators of CRP lands leaving the federal program and now requesting organic certification request a new conservation plan to enable the operation to examine a range of alternative practices that will be in the best interest of the land.

**Require Highly Erodible Land Conservation (HELC) and Wetlands Conservation (WC) self-certification.** One certifier suggested that NOP consider incorporating the Highly Erodible Land Conservation (HELC) and Wetlands Conservation (WC) compliance requirements of the Farm Bill, which is administered by the Farm Services Agency (FSA), NRCS, and the Risk Management Agency (RMA), into NOP requirements for organic producers. The implementation of HELC and WC requirements specifically protects highly erodible land (HEL) from excessive soil erosion, and protects wetlands from conversion. While this guidance cannot impose any new requirements on organic operations, NOP agrees that any organically certified land that is found to be out of compliance with the HELC and WC program, would be out of compliance with § 205.200.