

**Formal Recommendation**  
**From: The National Organic Standards Board (NOSB)**  
**To: The National Organic Program (NOP)**

**Date:** October 27, 2022

**Subject:** Oversight Improvements to Deter Fraud: Acreage Reporting Proposal

**NOSB Chair:** Nate Powell-Palm

**The NOSB hereby recommends to the NOP the following:**

Guidance Statement: X

**Statement of the Recommendation:**

The NOSB recommends that NOP require certifiers to list harvested acres by crop type and the total acres in the certified operation on the organic certificate.

**Rationale Supporting Recommendation**

This recommendation is meant to add tools to certifiers' toolboxes in order to fight fraud. It is not meant to add any additional burdens to small producers. With this understood, the NOSB requests that certificates for producers who have an aggregated total of 1 acre of a single crop or less, read "<1 acre". For example, if a producer raises less than 1 acre of kale, the certificate would read "Kale: <1acre".

The majority of stakeholders including farmers, certifiers (several of whom already require the number of acres per crop be listed on certificates), handlers, consultants, and advocacy groups supported this proposal. In ACA's "Best Practices" for verifying traceability in the supply chain "states that a solution to transparency is that Certifiers should ALL submit data on organic acreage reports to NOP for inclusion in the Organic Integrity Database. This would enable a clearer picture of whether or not the organic land base supports production claims on small and large scales and allow for calculating a mass balance across the supply chain".

A minority of stakeholders expressed concerns about confidential business information. The NOSB reviewed and discussed this topic, and in consultation with the NOP, concluded that the NOP does have the authority to require that crops be listed on certificates or certificate addendums with corresponding number of acres per crop.

Additionally, several stakeholders requested that in consideration of small producers, the minimum unit per crop be 1 acre. This is reflected in the above statement.

**NOSB Vote:**

Motion to accept the proposal on Oversight Improvements to Deter Fraud - Acreage Reporting

Motion By: Amy Bruch

Seconded By: Nate Powell-Palm

Yes: 15 No: 0 Abstain: 0 Recuse: 0 Absent: 0

Motion Passed

**National Organic Standards Board**  
**Compliance, Accreditation & Certification Subcommittee (CACS)**  
**Oversight Improvements to Deter Fraud: Acreage Reporting Proposal**  
**August 9, 2022**

**Proposal**

The Compliance, Accreditation & Certification Subcommittee (CACS) recommends that the National Organic Program (NOP) require certifiers to list harvested acres by crop type and the total acres of a certified organic operation on the organic certificate for domestic and international producers.

**Introduction**

Since the NOSB introduced the concept of production verification (listing acres by crop type on organic certificates) as a discussion document at the Spring 2022 meeting, the organic community has confirmed that continued efforts to deter fraud are of the utmost concern. While the finalizing of the Strengthening Organic Enforcement (SOE) rule will contribute significantly to the strength of the NOP standards and enforcement, more work is needed to build upon these successes. The community's questions, input, and expertise have been vital, and this stakeholder engagement gives the authors of this document great heart. Indeed, the commitment, enthusiasm, and focused energies of the organic community need to be celebrated.

In our discussions on oversight improvements to deter fraud, the consistent message from the community resonates that we need more robust mechanisms to address fraud effectively.

Specifically, three themes have remained constant since the beginning of our discussion:

1. Enforcement mechanisms need to be modernized to reflect the globalized reach of the NOP;
2. Continuous improvement in enforcement is expected from certifiers, farmers, and industry;
3. Consistency in certification leads to more effective enforcement and a fairer playing field for all involved.

Considering these three themes, we present the first of our recommendations to deter fraud.

**Background**

Currently, each certifier chooses the format of its organic certificates. On these certificates, certifiers typically list crops and livestock by the products for which they are certified. While exceptions exist, most certifiers do not list crops by acres.

One of the points in the supply chain where the risk of fraud is highest is when the production of multiple producers is aggregated. During an inspection, aggregators of certified products provide organic certificates from their suppliers (producers) to the inspector. In most inspections, inspectors can only verify that the supplier is certified for the crop the inspected party purchased, not the supplier's capacity. By having access to certificates that list harvested acreage by crop type, an inspector will be able to quickly check whether the capacity of the supplying operations supports amounts purchased by the aggregator.

### **Goals of Reporting Harvested Acreage by Crop Type and Stakeholder Support**

As demonstrated by recent cases in the media, fraud can scale quickly with the simple substitution of conventional products for organic. The goal of reporting production (listing harvested acres by crop type and total acres of the operation) on all organic certificates could improve enforcement, increase the robustness of mass-balances on a granular level, allow aggregated mass-balances to function at a regional or country level and create consistency amongst the community on this topic.

Some state organizations such as the California Department of Food and Agriculture (CDFA) and select certifiers currently list harvested acres by crop type and actual acres of an operation. One commenter noted, "There are certifiers currently collecting and recording this information in the Organic Integrity Database. However, since it is not a mandatory requirement of certifiers, there are gaps in the information available to the supply chain when purchasing products and for the certifiers to determine the validity of organic crops sold. Since the Organic Foods Production Act (OFPA) and the NOP Rules are process-based standards, it is essential that there be transparency and sufficient information to ensure the integrity of the crops sold." Many stakeholders, including certifiers, farmers, and handlers, supported the concept of having acres by crop type on certificates, in one form or another, for both domestic and international organic operations. Also, most stakeholder comments indicated that the information should be housed in the Organic Integrity Database (OID).

Listing production on all organic certificates is an additional tool for certifiers and inspectors when reviewing operations. It can also assist buyers when reconciling products purchased with the certified area. This information is also beneficial when conducting mass-balances on the handler, broker, and importer operations that will be newly certified with the upcoming implementation of the SOE Rule.

The Accredited Certifiers Association (ACAs) - "Best Practices for verifying traceability in the supply chain" states that a solution to transparency is that certifiers should ALL submit data on organic acreage reports to the NOP for inclusion in the Organic Integrity Database. With acres on the organic certificate, a clearer picture of whether or not the organic land base supports production claims on small and large scales and allows for calculating a mass balance across the supply chain. Another commenter mentioned, "Including acreage on certificates would help auditors and buyers quickly assess if the volume of product being sold is reasonable given the operation's acreage." An additional commenter stated, "accurate operation-level organic acreage data that is segregated by crop would assist in conducting high-level, big picture mass balance audits, in addition to those performed during inspections, to determine if the output from a specific region matches production levels or is an indication of fraudulent activity."

### **Challenges of Reporting Acres by Crop Type**

A few stakeholders expressed concerns about several areas: land used to grow multiple crops in one year; small acreages with a wide variety of produce crops; and the need for consistent usage of NOP's taxonomy and classifications, to name a few. Sharing best practices currently used by some certifiers could help reduce and/or alleviate concerns about finding a workable solution.

Aggregating production on small parcels with multiple vegetable crops, clear guidance on standardization for classification, and reporting on actual acreage and harvested acres to account for multiple crops grown on the same parcel in one season, are currently best practices implemented by certifiers and state agencies.

For example:

1. Practices that help decipher and not overstate acres when multiple crops are grown on the same parcel in one season can be captured by recording actual and harvested acres on the certificate.
2. To address small acreages with a wide variety of crops:
  - a. Special consideration for granularity could be given to small-scale producers that direct market a wide variety of crops, such as CSAs and farmers' markets.
  - b. Guidelines could be set to express the needed granularity or aggregation of produce crops grown on small parcels.

One commenter expressed that "the burden associated with tracking and documenting acreage figures by crop for use in verification of product purchases will not be balanced by benefits." Also, risk-based assessments were mentioned as another way to proceed forward.

Since organic acreage can be dynamic, in an effort to lessen the burden and make reporting more manageable, annual collection of acreage data in the Organic System Plan (OSP) could be implemented. The information could be updated and validated at the time of inspection. Reporting acres by crop type provides additional quantitative information that could further enhance the risk-based assessment process supporting certified acres with products sold.

#### **Additional Considerations for Reporting Harvested Acreage by Crop Type**

Other commenters pointed out that livestock, poultry, beehives, trays of mushrooms, etc., should also be included and reported on organic certificates. Indicating size by category of an organic operation outside of crops is important and should be considered. A follow-up to this proposal could elaborate on these additional production categories.

Public comments generally supported proceeding with declaring production by crop type on all certificates. One commenter stated, "information should be on the certificate as well as in the Organic Integrity Database since reports from the public are important in initiating investigations." While another commenter noted that there are "challenges in balancing the protection of confidential business information with making such data adequately accessible for traceability and fraud detection purposes."

The CACS understands that the treatment of confidential business information is applied differently across various USDA agencies. The driver of reporting production information is for enforcement and compliance purposes. Since the NOP is a regulatory program, transparency in reporting this production-level information would be unique and specific to the needs of the NOP.

#### **Closing**

As one commenter stated, "Currently, there are no means to accurately calculate organic acreage and/or yield estimates on a regional or country-by-country basis. This hinders the ability of NOP, State Organic Programs, certifiers, and inspectors to evaluate the total volume of organic products coming from any given region and accordingly detect whether fraud is occurring. A requirement for certifying agents to report certified organic production by crop/livestock and location, on at least an annual basis, to the NOP Organic INTEGRITY Database is one of the most impactful single actions that can be taken to increase the integrity in the global organic control systems."

The auditing process for organics is primarily process and risk-assessment driven. Integrating quantitative data into the auditing system could assist in fraud detection. Requiring the number of harvested acres on certificates by crop type and total operational acres for operations domestically and internationally will provide the needed information to begin the process of an effective mass-balance at a farm, region, or country level, which is vital in our globalized marketplace.

Lastly, as mentioned in the Spring 2022 discussion, fraud in the organic sector is often exposed by individuals reporting red flags to certifiers and the NOP. With this acknowledgment, the NOSB implores the USDA to elevate the ability of organic inspectors and buyers of organic crops to identify, in real-time, the volume of sales cross-referenced with certified production area.

**Subcommittee Proposal**

CACS recommends that NOP require certifiers to list a certified operations harvested acres by crop type and the total acres in the operation on the organic certificate.

**Subcommittee Vote**

Motion to accept the proposal on Oversight Improvements to Deter Fraud - Acreage Reporting

Motion By: Amy Bruch

Seconded By: Nate Powell-Palm

Yes: 5 No: 0 Abstain: 1 Recuse: 0 Absent: 0