

**National Organic Standards Board
Compliance, Accreditation, and Certification Subcommittee
Discussion Document
Toward Clarifying Accredited Certifying Agents' Application of § 205.206(e)**

August 20, 2013

Introduction:

Organic crop production has passed its first decade of existence under full implementation of the National Organic Program (NOP). While many positive features of this program stand out as contributing to a more sustainable, healthy environment as a function of the legislation and regulations we as an industry and community operate under, from time to time we identify areas for possible improvement.

One of the legacy features found in the National Organic Standards (NOS) that is a derivative of many organic standards in existence prior to the NOP (e.g. CCOF, Oregon Tilth) was a codified preference for softer, less invasive, and less disruptive methods of pest control over their harder, more invasive, and more disruptive counterparts. The Compliance, Accreditation, and Certification Subcommittee (CACS) supports this preference without reservation while recognizing that pest control and management is one of the most challenging aspects of organic crop production, and that the very existence of a section on pest control in the NOS is a formal recognition of the essentiality of such activities to protect crops from the myriad of daunting and potentially devastating pests such as insects, mites and other invertebrates, weeds, plant pathogens, rodents, deer and other vertebrates.

Regulatory Citations Background:

§ 205.206 Crop pest, weed, and disease management practice standard, provides for the following:

(a) The producer must use management practices to prevent crop pests, weeds, and diseases including but not limited to:

(1) Crop rotation and soil and crop nutrient management practices, as provided for in §§205.203 and 205.205;

(2) Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and

(3) Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases.

(b) Pest problems may be controlled through mechanical or physical methods including but not limited to:

(1) Augmentation or introduction of predators or parasites of the pest species;

(2) Development of habitat for natural enemies of pests;

(3) Nonsynthetic controls such as lures, traps, and repellents.

(c) Weed problems may be controlled through:

(1) Mulching with fully biodegradable materials;

(2) Mowing;

(3) Livestock grazing;

(4) Hand weeding and mechanical cultivation;

- (5) Flame, heat, or electrical means; or
- (6) Plastic or other synthetic mulches: Provided that, they are removed from the field at the end of the growing or harvest season.
- (d) Disease problems may be controlled through:
 - (1) Management practices which suppress the spread of disease organisms; or
 - (2) Application of nonsynthetic biological, botanical, or mineral inputs.
- (e) When the practices provided for in paragraphs (a) through (d) of this section are insufficient to prevent or control crop pests, weeds, and diseases, a biological or botanical substance or a substance included on the National List of synthetic substances allowed for use in organic crop production may be applied to prevent, suppress, or control pests, weeds, or diseases: Provided, That, the conditions for using the substance are documented in the organic system plan.

Discussion:

The Crops, Accreditation, and Certification Subcommittee has determined that there is uncertainty and variability in the understanding and application of the mandates and nuances of § 205.206(e). Additionally there appears to be insufficient understanding in how substances reviewed and recommended by the NOSB, added to that National List by the Secretary of Agriculture, and allowed as listed on § 205.601 are utilized responsibly in the context of the cascading requirements found in § 205.206(e).

The underlying principle guiding this section of the regulation is that only when other, less disruptive, less harmful, less toxic methods, strategies, and tactics have been employed and found wanting may synthetic substances found on the National List be used as part of an Organic System Plan. It was never the intention of the regulation to allow the application of any synthetic crop input unless other, less toxic and persistent means had been tried without adequate success. This feature is unique in that it is the only federally-regulated mandate for Integrated Pest Management while also being a centerpiece of the crop production standards of which the organic community can be proud.

It is the Subcommittee's contention that a comprehensive and clear understanding of § 205.206(e) across all sectors of the organic community and industry is essential in the continued fair appraisal of substances on the National List and their alternatives, whether that appraisal occurs in the sunset process or in consideration of petitions. Only when the process is fair and equitable by which alternatives to pesticides—referenced in § 205.206(a)-(d)—are assessed as essential and viable can the essentiality and viability of pesticides—referenced in § 205.206(e)—be assessed fairly and equitably.

The Subcommittee also contends that the public is generally unaware of the rigors placed on organic operations and organic certifiers by § 205.206(e) and therefore undervalues the efforts of each in assuring compliance with the applicable regulation. This lack of awareness can allow for undeserved skepticism and second-guessing that impedes effective and efficient management of crop pests. Clarity about these rigors would serve the community well in allowing organic operations to focus on crop production and compliant activities instead of defending those actions.

Toward clarifying the collective understanding and unifying collective application of § 205.206(e), the Subcommittee is seeking comments on this subject and in particular would like to ask the following questions of the certification community.

1. What activities or practices do you require of applicants and certified operators in their Organic System Plans (OSP) with respect to their compliance with §205.206(e)?

2. What form of verification or records from the operator do you require in support of their compliance with § 205.206(e), either during review of the OSP, during the inspection, or upon the inspection review?

3. What information do you require when an operator needs to amend their OSP on short notice when pest pressure unpredictably or unexpectedly rises beyond their decision threshold?

4. Other than through records, how do you verify that approved substances are applied only when other, less toxic or aggressive means have been tried and found wanting?

Recommended Motion:

To approve and forward to the NOSB the discussion document "Toward Clarifying Accredited Certifying Agents' Application of § 205.206(e)".

Subcommittee Vote:

Motion: John Foster
Second: Joe Dickson

Yes: 7 No: 0 Abstain: 0 Absent: 1 Recuse: 0

Approved by Joe Dickson, Subcommittee Chair, to transmit to NOSB August 20, 2013

