



Accredited Certifiers Association

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Jennifer Tucker
Deputy Administrator
National Organic Program
USDA-AMS-NOP
1400 Independence Ave. SW
Room 2642-So., Ag Stop 0268
Washington, DC 20250-0268

October 19, 2020

RE: June 3, 2019 Memo Certification of Organic Crop Container Systems

Dear Dr. Tucker,

The ACA has formed a working group to address the inconsistent interpretation of the NOP Memo released June 3, 2019, Certification of Organic Crop Container Systems. In conjunction with NOC and OFA, the ACA surveyed all certifiers (members and non-members) from Aug.-Sept. 2020 regarding the circumstances under which they require a three-year transition period after the application of a prohibited substance. Specifically, 34 certifying agents participated in the survey; that represents about 44% of NOP accredited certifying agents and 54% of ACA's membership. We have concluded that there are major inconsistencies and high levels of variation between certifiers in how they interpret this memo. We find that this memo is not specific enough to ensure it is actionable, thus it has furthered inconsistency amongst certifiers.

For instance, there was only one scenario presented in the survey where there was strong certifier consistency. The survey results indicate that all certifier respondents require a three-year transition period after the application of prohibited substance in a greenhouse or hoop house that is growing crops in the ground.

In the following scenarios, certifiers were split evenly between requiring a three-year transition period and not requiring a transition period:

- After the application of prohibited substance in a greenhouse or hoop house with a permeable floor (i.e. soil, sod, rocks, plastic, fabric, etc.) that is growing crops in containers on tables or benches.
- After the application of prohibited substance in a greenhouse or hoop house that is growing crops hydroponically or with an aquaponic system. Most certifier respondents (61.3%) do not certify these systems at all, but for those who do, there is a lack of clarity on this issue.



- After the application of prohibited substance inside an indoor facility that is growing crops hydroponically or with an aquaponic system. Most certifier respondents (61.3%) do not certify these systems at all, but for those who do, there is a lack of clarity on this issue.

Based on the survey results, in these three scenarios there is a high level of inconsistency and no clear consensus among certifiers. As a result, achieving clarity on requirements for certification of crop container systems should be a high priority for the NOP, NOSB, and the organic community.

In our working group, one of the main areas of inconsistency is the use of the phrase “*this memo clarifies that the legal requirements related to the three-year transition period apply to all container systems built and maintained on land.*” Even though the word “greenhouse” is not explicitly used in this memo, greenhouses are “built and maintained on land.” Furthermore, certifiers do not agree on what is meant by “container system.” In this memo, the term container system includes container, hydroponic, and other plant pot-based systems, with or without soil as the growing media. While a strict interpretation of this memo would seem to include wheatgrass, sprout, or mushroom production, certifiers do not concur that these are in fact container systems. For instance, some certifiers certify sprout production under the processing/handling scope and not the crop scope. Also, the memo doesn’t differentiate between transplants and crops grown to maturity. When prohibited substances are applied inside a greenhouse and not directly to the land, it is unclear whether that would require a 3-year transition. Thus, depending on how this memo is interpreted, this could end the common practice of using greenhouses for organic container transplant production (or potted herbs) and then transitioning to conventional production for other parts of the year or having split production during the same portions of the year; although these operations consider measures to prevent contamination. Prohibition of this practice would have an economic impact on the organic community, and growers would likely have fewer organic transplants available. This could result in only large growers being able to secure contracts with transplant producers to ensure exclusively organic greenhouses, potentially leaving out small growers. This memo also potentially prohibits the common practice of small growers using their house to grow transplants.

Inconsistent interpretation of this memo is leading to operations certifier shopping and switching to those that allow these practices. Additional guidance or clear standards are needed for greenhouse structures; it needs to be stated clearly whether greenhouses are considered facilities and facility standards apply. The [preamble](#) stated that (2) *Additional NOP standards for Specific Production Categories* would be published: “*Many commenters asked that the NOP include in the final rule certification standards for apiculture, greenhouses, mushrooms, aquatic species, culinary herbs, pet food, and minor animal species (e.g., rabbits) food. The NOP*



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intends to provide standards for categories where the Act provides the authority to promulgate standards. During the 18-month implementation period, the NOP intends to publish for comment certification standards for apiculture, mushrooms, greenhouses and aquatic animals. These standards will build upon the existing final rule and will address only the unique requirements necessary to certify these specialized operations.” Greenhouse-specific standards could thus remedy these inconsistencies.

In the absence of these standards, it is necessary to address the ambiguity of this memo. Specificity is needed to ensure consistent implementation. For example, certifiers need specific definitions for container systems, land-based systems, greenhouses and what structures are included in “built and maintained on land.” As the survey results indicate, this memo left a lack of clarity regarding how it applies to crop production in greenhouses and facilities. While some organic certifiers read the memo to include crop production in greenhouses and facilities under the three-year transition requirement, other organic certifiers read the memo to not require greenhouse operations and facilities that produce crops to comply with the three-year transition requirement. We recognize contentiousness in the organic community regarding container production systems in general and the memo in specific, but the NOP must provide more clarity regarding requirements for greenhouses, other indoor production, and container systems, including the parameters for a three-year transition for crop production in greenhouses and facilities after the application of a prohibited substance.

Sincerely,

Meagan Collins
ACA Coordinator