



Response to Comments The Use of Kelp in Organic Livestock Feed

This document summarizes comments received on the draft guidance document, “The Use of Kelp in Organic Livestock Feed ([NOP 5027](#))”, which was posted on the NOP website for public comment. The public was notified in a Federal Register notice (76 FR 34180) on June 13, 2011.

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

- 1) Description of Wild Harvested Organic Kelp.** Commenters proposed a broader description of wild harvested kelp in the background portion of the guidance on the basis that more complete scientific information is available. In response, the National Organic Program (NOP) has expanded the description of kelp to include both intertidal and deeper ocean waters throughout the Northern and Southern Hemispheres.

Most commenters expressed support for kelp’s classification as an agricultural product based upon its inclusion on the National List of Allowed and Prohibited Substances (National List) at 7 CFR § 205.606. These commenters proposed that the NOP discontinue references in policy documents about the debate over the agricultural status of kelp. In response, the NOP has withdrawn from the final guidance the statement that those who object to kelp’s classification as an agricultural product may petition for kelp’s removal from § 205.606.

- 2) Phase-in Period for the Requirement of Organic Kelp in Organic Livestock Feed.**

Almost all commenters addressed the phase-in period proposed in the draft guidance. The draft guidance proposed a 24 month phase-in period before kelp used in livestock feed must be certified organic. Many commenters supported the proposed 24 month phase-in. Commenters stated that the 24 month phase-in period was needed to allow kelp producers adequate time to obtain certification and for producers who use kelp to update organic system plans (OSP) and locate sources of certified organic kelp. None of the commenters stated that the supply of organic kelp is insufficient for the organic livestock industry’s needs; therefore, the NOP anticipates that locating sources for certified organic kelp should be fairly straightforward.

Commenters already certified to produce organic kelp or those currently requiring its use by organic livestock producers supported immediate implementation of the requirement to use certified organic kelp in livestock feed. These commenters argued that supplies of organic kelp are commercially available and can be increased rapidly in response to any increased demand, based upon the nature of certified organic wild crop harvesting.

Other commenters expressed strong support for a 12-month phase-in. These commenters acknowledged that the past inconsistencies surrounding the use of kelp in organic livestock feed had persisted due to the lack of guidance regarding the certification of kelp as a wild crop and the confusion regarding kelp’s agricultural status. They noted that these areas were clarified by the May 9, 2011, publication of *Final Guidance 5022 – Wild Crop Harvesting*



and the clarification of kelp as an agricultural product in the draft guidance. These commenters expressed confidence that 12 months would be sufficient for kelp producers not yet certified to obtain organic certification for wild crop harvesting. This phase-in would also be sufficient for producers to use up current supplies of non-certified kelp in livestock feed and locate sources of certified organic kelp.

The NOP agrees with the justifications supporting the 12 month phase-in period, particularly because a sufficient supply of organic kelp was not questioned by any of the commenters. Additionally, a one year period is considered adequate for organic livestock producers to make updates to their Organic Systems Plans and for kelp harvesters to obtain organic certification for wild crop harvests. This change from a 24 month phase-in to a 12 month phase-in period is reflected in the final guidance.

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

- 1) Training for Certification of Kelp as a Wild Crop.** One commenter stated that the wild crop guidance does not provide sufficient information on how to verify compliance of kelp as an organic wild crop in a designated area of the ocean. The commenter requested that the NOP offer additional training on the specifics for accredited certifying agents. The NOP recommends that certifiers review of *Notice 11-7 Final Guidance & Response to Comments 05 06 11* which was issued in conjunction with the publication of *NOP 5022 – Wild Crop Harvesting*. This notice clarified the inspection requirements for wild crop certification. The NOP also notes that additional training for certifying agents on the topic of wild crop harvesting will be considered in the future.
- 2) Removal of Kelp from § 205.606.** One commenter stated firm opposition to the listing of kelp on § 205.606 as the organization believes that kelp is a product of aquaculture and should not be considered agricultural. The NOP reiterates that kelp was added to the National List through a 1995 recommendation of the National Organic Standards Board (NOSB), and has remained on § 205.606 through multiple sunset reviews. The NOP notes that substances on the National List can be removed by a NOSB recommendation through the petition process or sunset review process.