



106 School Street, Suite 201 • Spring Mills, PA 16875 • (814) 422-0251 • pco@paorganic.org

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Toni Strother  
Agricultural Marketing Specialist  
National Organic Program  
USDA-AMS-NOP  
Room 2646-So., Ag Stop 0268  
1400 Independence Ave., SW.  
Washington, DC 20250-0268

Re: AMS-NOP-13-0011;NOP-13-01PR

**Comments regarding the proposed rule to add biodegradable biobased mulch film to the National List**

Dear Ms. Strother:

Pennsylvania Certified Organic (PCO) welcomes the opportunity to provide comments to the National Organic Program (NOP) regarding the recently published proposed rule to add biodegradable biobased mulch film to the National List. PCO is an NOP-accredited certifying agent that certifies more than 700 operations, including around 165 crops operations, 385 livestock operations, 120 processor/handler operations and various combinations of these categories.

The NOP has proposed to add biodegradable biobased mulch film to the National List, thereby allowing this material for use as mulch without being removed from the field at the end of the growing season. If passed, the listing for this material would read:

§205.601(b)(iii) Biodegradable biobased mulch film as defined in §205.2. Must be produced without organisms or feedstocks derived from excluded methods.

The NOP has also proposed to add a definition for biodegradable biobased mulch film. If passed, the definition would read:

§205.2 *Biodegradable biobased mulch film.* A synthetic mulch film that meets the following criteria:  
(1) Meets the compostability standards of ASTM D6400 or D6868,

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or of other equivalent international standards, i.e., EN 13432, EN 14995, or ISO 17088;

(2) Demonstrates at least 90% biodegradation absolute or relative to microcrystalline cellulose in less than two years, in soil, according to ISO 17556 or ASTM D5988 testing methods; and

(3) Must be biobased with content determined using ASTM D6866 testing method.

In general, PCO refrains from taking a position regarding the addition, change, or removal of a substance on the National List unless we identify potential confusion or lack of clarity that may result from a particular proposal. In the case of the proposed rule for biodegradable biobased mulch film, PCO has identified the following areas where clarification is needed to avoid potential challenges in verifying compliance with the proposed listings. We also provide responses to specific questions raised by the NOP about the proposed listings.

- ***Relevancy of compostability standards in proposed definition***

The NOP has specifically requested comments regarding the compostability standards included in the proposed definition, specifically, whether the substance could be sufficiently reviewed if the criteria for compostability were removed. **PCO supports the inclusion of compostability standards in the definition for biodegradable biobased mulch.** Although it could seem that the compostability standards would not be relevant to the standard of identity of biodegradable bioplastic mulch because this material is not being reviewed for use in compost, the compostability standards do provide some value. For example, the ASTM Standard D6400 verifies that the material does not have an ecotoxic effect on the soil; this is not addressed in the standards for biodegradation and biobased content.

PCO understands that the addition of this material to the National List at §205.601(b) for use as mulch would not translate to it also being allowed in compost, since, as stated in the proposed rule, “the NOSB did not consider or recommend the addition of biodegradable biobased mulch film to the list of the allowed synthetic compost feedstocks at section 205.601(c)”. To ensure a common understanding, the NOP should clarify this point in the final rule. PCO has received requests from producers to add compostable plastic cutlery and plates to compost, and encourages further consideration of whether this material may be used as a compost feedstock.

- ***Ability for certifiers to verify materials according to proposed definition***

If an organic operator wants to use a biodegradable biobased mulch film product, the certifier will first have to assess if the particular product meets the definition for biodegradable biobased mulch film as proposed by the NOP to be listed at §205.2, the section for terms defined. This practice of evaluating a substance against the standard of identity that is provided for on the National List is a routine procedure by certifiers and material review organizations.

The proposed definition of biodegradable biobased mulch film presents unique challenges in this regard. Identifying a material as a biodegradable biobased mulch film according to the proposed definition requires a comparison to at least five other standards and countless others that may be considered an “essentially equivalent” standard. We hope that the NOP does not expect certifiers to be responsible for performing the testing methods referenced in the proposed definition to verify the compostability, biodegradation and biobased content of brand name mulch film products. Organic certification agencies may not have the resources to evaluate these standards. Experts in the area would more efficiently, consistently, and thoroughly perform the evaluation. **The NOP should require separate third-party verification to these standards and allow certifiers to accept their verification.** The NOP should also identify which third-party verifications can be accepted by certifiers.

- *Ability of certifiers to verify production without excluded methods*

The proposed annotation would require that organisms and feedstocks are not derived from excluded methods. Does the NOP mean to say that organisms and feedstocks are not *produced using* excluded methods?

It must be clear about how far back in the production process that the use of excluded methods must be verified, since we have found this issue to be a challenge when reviewing other substances on the National List. It is PCO’s understanding that, according to the proposed annotation, if a biodegradable biobased mulch film is corn starch based, certifiers would have to verify that the corn starch was not produced using excluded methods (i.e. not from genetically modified corn). And if the film is based on polymers from fermentation of sugars, the certifier would have to verify that the polymers were not directly produced using excluded methods (i.e. fermentation is allowed) *and* that the sugar was not produced using excluded methods (i.e. not genetically modified). Inconsistent application of this annotation could easily lead to a product being allowed by one certifier and prohibited by another.

We have seen mulch film products on the marketplace that are advertised as “primarily corn starch based” or “plant based”. It will be essential for manufacturers to disclose the complete composition of organisms and feedstocks used to manufacture the product. An affidavit attesting that excluded methods were not used in the production of each ingredient and feedstock should be sufficient for confirming that the product complies with the proposed annotation.

- *Compatibility with §205.206(c)(6)*

PCO requests clarification from the NOP regarding the compatibility of the proposed listing for biodegradable biobased mulch film with the existing provision at §205.206(c)(6) that requires “plastic or other synthetic mulches” to be “removed from the field at the end of the growing or harvest season.” An explanation from NOP about how this *synthetic mulch* is allowed to be used *without* being removed from the field is

essential for a clear and comprehensive final rule. In the final recommendation from the NOSB regarding this material, the NOSB said they “adopt the interpretation that these mulches biodegrade and the process of biodegradation is equivalent to removal of the substances at the end of the growing season. (NOSB Formal Recommendation to NOP, October 18, 2012). Is this also NOP’s interpretation?

- ***Responsibility of growers to prevent accumulation***

Growers will be eager to use this new material if it is ultimately added to the National List. Additional guidance from NOP regarding the allowed uses of mulch film would be useful to ensure compatible use with organic production.

The NOP removed the phrase, “Grower must take appropriate actions to ensure complete degradation” from the proposed rule. PCO agree that this phrase is not necessary to include in the annotation. The terms “appropriate” and “complete” would present challenges for certifier verification because these terms are vague. PCO supports the use of existing regulatory requirements at §205.200 and §205.203 for maintaining or improving natural resources and soil health. Certifier review and on-site inspections will evaluate if biodegradable biobased mulch film is being used in accordance with these provisions. Evidence of the film accumulating in the soil would be grounds for noncompliance and discontinued use of the material until soil health is restored.

PCO appreciates the opportunity to provide comments and thanks the NOP for its careful consideration.

Sincerely,



Johanna Miranda  
Policy Director