

Ryan F. Quarles
Commissioner



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Kentucky Department of Agriculture

February 25, 2016

USDA-National Organic Program
Penny Zuck, Accreditation Manager
1400 Independence Avenue, SW
Room 2642-South, Stop 0268
Washington, D.C. 20250-0268

RE: *NOP 2040: Instruction: Organic Certification of Industrial Hemp Production*

Ms. Zuck,

The Kentucky Department of Agriculture (KDA) is in receipt of *NOP 2040: Instruction: Organic Certification of Industrial Hemp Production*. The KDA has some questions about this instruction and is seeking clarification.

KDA has conducted an industrial hemp agricultural research pilot program since the enactment of the 2014 Farm Bill. The entities KDA has certified to date are private cooperators conducting organic agricultural research. These participants are duly registered by KDA through the execution of a Memorandum of Understanding. This program is operated in full compliance with Federal and State Regulations.

The review of *NOP 2040* has left some basic questions unanswered for the KDA. Principally, we are uncertain the next steps we are to take. The *NOP* provides no direction on how to implement this instruction in regards to those operations currently certified organic for industrial hemp.

A review of 7 C.F.R. § 205 did not result in the discovery of a process that would allow a certifier to exclude an agricultural product, such as industrial hemp, from organic certification. The KDA is concerned that it would be in violation of an entity's right to due process to summarily remove a particular agricultural product from certification without a specific regulatory citation.

KDA requests the following from *NOP*:

- 1) Provide a specific regulatory citation that would speak to the process of revoking the certification of a specific agricultural product when directed to do so by the National Organic Program instruction? KDA has been unable to locate such a procedure in the regulations. We did of course see the reference in *NOP 2040* to 7 C.F.R. § 205.501, but we've been unable to ascertain how that functions in this case.



- 2) Provide clarification for regarding the following statements within *NOP 2040*.
- a. “*Specific questions remain about the legal uses of industrial hemp, including its use in food...*”. By this statement is the NOP indicating that it believes that industrial hemp is not legally consumable within the United States?
 - b. “*...NOP-accredited certifying agents may not certify the domestic production of industrial hemp.*” As we are uncertain to the precise definition of the word “production” as used in this statement, KDA is unclear whether this prohibition applies equally to industrial hemp in both Crops and Handling scopes. Should KDA further distinguish that imported sources of certified organic industrial hemp are still allowed for use in USDA NOP Certified Organic products processed in the United States by certified handlers?

Please let me know if I can offer any clarity on these requests. KDA looks forward to your response on this matter, as participants in our pilot research program are highly interested in the organic certification of this historic crop and are making planting and marketing decisions for the coming growing season.

Thank you,



Adam Watson
Kentucky Department of Agriculture
Organic Program Manager

