



National Organic Coalition

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Valerie Frances
National Organic Standards Board
USDA-AMS-TMP-NOP,
1400 Independence Ave., SW., Room 4004
South Ag Stop 0268,
Washington, DC 20250-0268

RE: TM-09-0014

The National Organic Coalition, (NOC) is a national alliance of organizations representing farmers, environmentalists, other organic industry members, and consumers concerned about the integrity of national organic standards. The goal of the coalition is to assure that organic integrity is maintained, that consumers' confidence is preserved and that policies are fair, equitable and encourage diversity of participation and access.

NANO TECHNOLOGY

NOC is fully supportive of the NOSB initiating a discussion as to the appropriateness of nanotechnology in organic, and appreciate that this discussion is occurring transparently with a wide variety of stakeholders beyond the nanotech industry. Most of our comments support those of the Center for Food Safety, and are excerpted below. We do note that we feel there needs to be further discussion as to whether Nanotechnology should be considered an excluded method. This category is currently clear and reserved for genetically engineered methods.

The Center for Food Safety notes that "Nanotechnology commercialization is currently exploding without any oversight or labeling and little emphasis on risk research. Food and agriculture is a growing sector of nanomaterial research and development and commercialization." This ominously parallels the development of genetically engineered organisms, and we propose precaution before any allowance of nanotechnology or nanomaterials in organic. This includes a caution in looking to other government agencies (i.e., FDA) for its determinations that nanoscale particles are not different than the naturally occurring bulk forms of the same material, or any other determination of substantial equivalence. These determinations do not include organic criteria, and are therefore not appropriate for organic standards.

“Nanotechnology involves the manipulation of materials and the creation of structures and systems at the scale of atoms and molecules. The mere fact that a larger scale version of a material is a permitted substance should not suffice to all the engineered nanoscale version in Organic Standards. **Intentionally created nanomaterials are novel, patented substances that have the capacity to be fundamentally different in ways the scientific community does not yet fully understand.** As such, engineered and manufactured nanomaterials should be defined as synthetic and prohibited substances in organic. The NOP should clarify through guidance or rule-making process that organic standards exclude nanomaterials

Finally, we repeat some of the general concerns about nanomaterials noted by the Center for Food Safety:

“Human and animal health: Due to their size, nanoparticles can cross biological membranes, cells, tissues, and organs more readily than larger particles. When inhaled, they can go from the lungs into the blood system. There is growing evidence that some nanomaterials may penetrate intact skin and gain access to systemic circulation. When ingested, nanomaterials may pass through the gut wall and into the blood circulation. Once in the blood stream, nanomaterials can circulate throughout the body and can lodge in organs and tissues including the brain, liver, heart, kidneys, spleen, bone marrow, and nervous system. Once inside cells, they may interfere with normal cellular function, cause oxidative damage and even cell death.

“Environmental Impacts: There are serious concerns about environmental impacts that conflict with organic’s land stewardship ethos. Once loose in nature, manufactured nanomaterials represent a new class of manufactured pollutants. Potentially damaging environmental impacts stem from the novel nature of manufactured nanomaterials, including mobility and persistence in soil, water and air, bioaccumulation, and unanticipated interactions with chemical and biological materials. Existing studies have raised red flags, such as damage to beneficial microorganisms from nano-silver. The U.K. Royal Society has recommended that, “the release of nanoparticles and nanotubes in the environment be avoided as far as possible” and that, “factories and research laboratories treat manufactured nanoparticles and nanotubes as hazardous, and seek to reduce or remove them from waste streams.”

“Broader Impacts: In addition to health and environmental impacts, nanotechnology is a platform, converging technology which will continue to industrialize food and agricultural. Some of these issues include: the use of nanotechnology in conjunction with biotechnology and synthetic biology; the use of nanomaterials in food packaging in order to ship further distances, exacerbating climate change impacts; and the intellectual property privatization of nanotechnology’s basic building blocks.”

PEER REVIEW PANEL

The National Organic Coalition submitted separate comments regarding the issue of a “Peer Review Panel.” We noted that this issue stands out as one of paramount importance to the integrity of the organic label as administered by USDA/NOP. This issue is not so much about simply the “Peer Review Panel,” but more specifically about NOP’s compliance with industry recognized accreditation standards, as mandated by

§205.509 of the NOP regulations. The NOP accreditation program is the foundation of the sound functioning of the entire organic regulatory structure, and previous audits of the NOP's accreditation system have disclosed serious problems. It is regular, systematic audits, performed by qualified auditors that form the basis for the continued quality of this regulatory system. Compliance with ISO 61 (now 17011) standards is comprehensive and oversight of this compliance must be handled by trained auditors in order to ensure the highest degree of rigor in the evaluation, which will ensure the highest integrity for the label and the National Organic Program.

NOC fully supports the comments of Lynn Coody and Jim Riddle on this matter, and refer to their detailed comments and solutions.

BIODIVERSITY

The USDA National Organic Program Rule requires the conservation of biodiversity, and the maintenance or improvement of natural resources, including wetlands, woodlands, and wildlife. These environmental principles are paramount in an organic system, and have needed consistent definition and enforcement in the NOP. With the help of the Wild Farm Alliance, the organic community now has a common understanding of what these requirements mean.

In 2004 and 2005, the NOSB issued guidance statements regarding biodiversity conservation. The current recommendations of its Joint Crops and Compliance, Accreditation, and Certification Committee are reasonable steps that build on these earlier recommendations for certifiers and include:

- 1) Biodiversity be considered when reviewing materials for use on organic farms,
- 2) Biodiversity conservation be more fully developed and implemented in the Organic System Plan (OSP) by:
 - a) Producers outlining their strategy for biodiversity conservation in their OSP,
 - b) Inspectors being trained in biodiversity conservation,
 - c) Certifiers verifying producer's efforts to address the NOP's requirements for biodiversity, and
 - d) NOP emphasizing biodiversity conservation in its trainings and revising its checklist used to audit certifiers so that questions about the NOP's biodiversity standards are in every audit.

Incorporating biodiversity into the Materials Review process will ensure that no harm comes to organisms benefiting the farm, such as native pollinators. Implementing the requirement for organic farmers to include biodiversity conservation in their OSPs, will help them to prioritize their plans and will ensure improvement of their practices over time. Educating organic inspectors about conservation will result in consistent interpretation, and requiring certifiers to verify that their producers are conserving biodiversity will mean that farmers across the country will all be treated equally. As well, once the NOP begins checking that all organic certifiers are inspecting for biodiversity conservation, the rule will be uniformly implemented.

ANIMAL WELFARE

We applaud the Livestock Committee in opening discussion on “Animal Health and Living Conditions”. Understanding that this discussion is just beginning, we would suggest that any real movement on this should wait until after the publication and implementation of the Final Access to Pasture Rule. In the interim, the appropriate next step would be the formation of a Task Force with stakeholders from the many types of organic livestock production to develop consensus on strong animal welfare standards. We note that there are specific issues with using generic Body Condition Scoring and other measures developed under systems that are not organic, and that many new entrants to organic will need education in organic livestock management systems. We defer to and support comments of the Northeast Organic Dairy Producers Alliance on specific comments to your discussion paper regarding dairy and beef animals, and comments relating to poultry management guidelines suggested by Pennsylvania Certified Organic.

RETAIL CERTIFICATION

Prior to NOSB/NOP development or discussion of voluntary retail certification, or clarifications of using a “multi-site certification” model to certify retail chains, the NOSB should seek legal guidance on whether retailers (who do not process food) can be legally certified. Currently, they are specifically excluded from the definitions of “handler and “handling operation”. We look forward to a discussion of separate retailer standards in the future.

MISLABELED ORGANIC COSMETICS & PERSONAL CARE PRODUCTS

Cosmetics and personal care products are the most flagrant category of several consumer products making false and uncertified organic claims on their products. We agree with the NOSB discussion paper that it is time that the USDA take action in both clarification and enforcement of such violations of the law. Previous ‘guidances’ from NOP have been inconsistent in this matter. We refer to examples outlined in comments by the Organic Consumers Association, as to how widespread the problem is, and the ambiguity for consumers of products that actually do comply with USDA standards, those that use other private industry standards, or those products that simply use the label with no standards at all.

NOSB recommendations are good as far as they go, but should also encourage USDA to work with FDA on this issue as well, since the false claims on mis-labeled products falls into their purview.

USE OF INERT GASES IN PRODUCTS WITH 100% ORGANIC LABEL

The 100% label claim is the consumer’s only choice for products that have no non-organic ingredients or processing aids, or any other un-labeled non-organic additives. Given the widespread use of NOP approved synthetic materials, particularly in processed products since the original passage of the Organic Foods Production Act, it is important to maintain this one category for consumers as the highest possible bar.

7 CFR 205.301(f)(4) clearly states, “products labeled as “100 percent organic,” if processed, must be processed using organically produced processing aids.” This means that all ingredients and processing aids, including so-called “packaging aids,” must be 100% organic in order for the product to be labeled “100% organic.”

We are troubled with the discussion document’s claim that ACAs are generally using the NOP policy of food contact substances to allow use of gases as packaging aids. However, apparently, from several comments sent in by certifiers and others, this is simply not true. For those certifiers who are doing this, we believe it is an incorrect reading of the regulation and should be discontinued. . Further, the document contends that argon is allowed in organic food products when it was never reviewed by NOSB and is not on the National List. The current regulation does not permit inert atmospheric gases to be automatically allowed in the 100% label claim, and such a proposal would need very careful attention. This proposal does not make the case, and opens up far more questions regarding food contact substances and packaging aids.

Finally, we would like to congratulate Valerie Frances for her wonderful work and leadership on the People’s Garden at USDA. We understand that it is through her guidance that those at the Department working on this garden are beginning to understand what it takes to call it “organic.” While symbolic, it is actually a huge step. Thanks Valerie.

We appreciate the work of the NOSB and look forward to submitting more extensive comments as testimony for the upcoming meeting.

Sincerely,



Liana Hoodes, Policy Organizer

National Organic Coalition:

- Beyond Pesticides
- Center for Food Safety
- Equal Exchange
- Food & Water Watch
- Maine Organic Farmers and Gardeners Association
- Midwest Organic and Sustainable Education Services
- National Cooperative Grocers Association
- Northeast Organic Dairy Producers Alliance
- Northeast Organic Farming Association, Interstate Council
- Rural Advancement Foundation International, USA
- Union of Concerned Scientists