

April 3, 2020

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National Organic Standards Board
USDA-AMS-NOP
1400 Independent Ave., SW
Room 2648-S, Mail Stop 0268
Washington, D.C. 20250-0268

Re: Meeting of the National Organic Standards Board

Docket # AMS-NOP-19-0095

Dear National Organic Standards Board Members:

The following comments are submitted to you on behalf of The Cornucopia Institute, whose mission is, in part, to support economic justice for family-scale farming.

Comment on Handling Substance Sunset

Inulin-oligofructose enriched (IOE), whey protein concentrate, and Turkish bay leaves should be removed from the National List.

In 2017 the National Organic Standards Board (NOSB) recommended disallowing conventional IOE, whey protein concentrate, and Turkish bay leaves from use in organic products because organic options had become commercially available. Organic handlers are permitted to use a non-organic ingredient only if the organic ingredient is commercially unavailable.

Based on comments from the industry, the National Organic Program (NOP) instead opted to keep these ingredients on the National List, permitting their use in organic food for the next five years.

As the NOSB previously concluded, organic versions of these conventional ingredients are commercially available, and the industry has had five additional years to build supply lines.

The intent of the National List was always to remove materials that are no longer essential or for which there are viable alternatives in the marketplace. IOE, whey protein concentrate, and Turkish bay are no longer essential because there are viable organic alternatives in the marketplace.

Petitioned Material—Proposal: Paper (Plant pots and other crop production aids)

Paper pots as a planting aid for soil-based farmers should be allowed. These tools are essential for small farmers that rely on the organic label for their existence.

The notation should not be so broad as to allow all possible uses. We suggest that the notation include the following requirements to avoid abuse and encourage improvements in the industry:

- Must use paper pots derived from recycled papers and choose pots without synthetic non-cellulose fibers when those products are commercially available. Petroleum-based fibers must be disallowed.
- Must be used as a planting aid for soil-based crops only and be a product that decomposes in the soil.
- The paper pots cannot include synthetic antimicrobials, fungicides, or fertilizers.
- The paper pots cannot be constructed from petroleum-based fibers.

It bears mentioning that the [Sunset Process](#), as it existed prior to 2013, would have offered a simpler path to address changes in commercial availability and issues on the types of fibers and adhesives used in the future. While it appears that the adhesives used in available paper pots pose a low health risk, more research is needed. In this respect the NOSB should allow the use of paper pots but be prepared to alter annotations and encourage the research of superior alternatives (including pots without synthetic fibers or adhesives) in the future.

Wild, Native Fish for Liquid Fish Products

We appreciate the discussion being generated around the Crops Subcommittee's (CS) Discussion Document on the use of wild and native fish for liquid fish products (LFPs). LFPs are an important tool for many organic producers.

Unfortunately, this product comes with various complications and concerns. The CS has only addressed some of these.

The Crops Subcommittee noted that there is no intention to exclude the use of farmed fish or invasive species that are harvested to protect native ecosystems. We support the use and harvest of invasive fish species for use in LFPs. However, while some farmed fish (and their offal and/or byproduct, which may be used for LFPs) have less impact on wild or native fish stocks, environmental impact of fish farming varies widely.

First, many farmed species are given feed derived from wild and native fish. This means that these fish products are still having a deleterious impact on wild fisheries.

Depending on the species being farmed, the methods used, and where the farm is located, there can be numerous deleterious impacts on the environment and wildlife. Combined with the feed and pharmaceuticals that are put into aquaculture pens, fish waste can impact the local environment by polluting the water and smothering plants and animals on the seafloor. Nutrient pollution can also be a concern for land-based aquaculture systems. There are further risks that diseases and parasites are spread to wild fish from crowded aquaculture pens.

Land-based operations do benefit from fewer risks to the environment. Fish such as tilapia, catfish, cobia, Arctic char, and trout can be raised in onshore systems that do not risk sensitive marine habitats and fisheries.

However, Cornucopia emphasizes that at this time farmed fish should not have blanket approval for use in organic fertilizer without more study.

Cornucopia has concerns about organic producers supporting certain practices by offering economic incentives to their use. Even if it is otherwise considered a “waste product,” fish byproduct is sold and therefore supports potentially harmful harvest practices.

With respect to the questions raised by the CS, Cornucopia has concerns about the current allowed uses. While the relevant TR notes that wild fish are not being harvested *solely* for use in fertilizer, this use could further support the harvest of wild fish by providing a lucrative market for the “waste product.” Fertilizers and similar inputs allowed in organic production typically command a higher dollar than their conventional counterparts. It is not clear from the Technical Report whether this question was explored.

Cornucopia supports either an annotation or addition to section 205.602 to prohibit the use of wild, native fish harvested solely for the manufacture of fertilizer. We suggest the CS should discuss issues of enforcement of any annotations restricting the use of wild and native fish stocks.

Cornucopia feels it is important to gain insight into how using “fish waste” byproduct could support the harvest of wild and native fish in an unsustainable manner. This question also must be considered for farmed fish because all fish farming is not equal in terms of environmental sustainability and harm caused. Overall, Cornucopia supports a narrowed scope of how LFPs can be used in the organic marketplace.

Biodegradable biobased mulch films

Cornucopia appreciates the NOSB’s continued attention to the status and use of biodegradable biobased mulch films. Currently available biobased mulches contain petroleum-based polymers that degrade into the soil.

Cornucopia recommends caution regarding the acceptance and use of biobased mulches because they are a technology that has only been in the marketplace for a short time. We do not know how the soil microbiome, watersheds, or other essential farm components will be impacted by their use.

As noted by the subcommittee, the supplemental TR was inconclusive, since research on these materials is currently limited. Without this data we cannot conclude that biodegradable biobased mulch films are appropriate for organic production. Cornucopia supports the use of the *precautionary principle* with these production aids.

While the argument *can* be made that the use of this product could be considered environmentally friendly since it replaces plastic mulches that end up in landfills, the reality is that both of these products have serious environmental concerns that could make them incompatible with organic ideals.

Research Priorities

Cornucopia appreciates the detailed research priority agenda put forth by the NOSB at this time. Continuous improvement is one of the central tenets of organic food production; authentic organic farmers steward soil and the best handlers seek the highest quality organic ingredients for their products. Researching the means to best move the organic industry forward without sacrificing its integrity is of the utmost importance. We offer some comments on the proposed research priorities.

1. Evaluation of methionine in the context of a systems-based approach to organic poultry production.

Cornucopia supports the evaluation of DL-Methionine in the context of organic poultry production. Based on our own industry research, Cornucopia has concerns that synthetic methionine is being used principally as a production tool, rather than as an essential dietary supplement. This research is backed by the fact that the European Union does not allow synthetic methionine. They don't need it because they require poultry producers to use breeds more appropriate for organic production, require lower stocking densities, and have strict rules ensuring outdoor access and opportunities for legitimate foraging for their birds.

Pasture management and outdoor access is of particular import, as there are questions concerning whether synthetic methionine still meets the essentiality requirements at the current allowed level. Many family-scale organic poultry farms do not supplement with synthetic methionine at all—they don't need to because they give their birds legitimate time outdoors (which includes high quality forage) and use breeds and production methods that support the natural behavior and normal growth patterns of the species.

There have also been advances in the use of insect protein—specifically black soldier fly larvae—as a source of natural methionine. This suggests viable alternatives exist that the industry is not utilizing because they still have access to this synthetic growth promoter. Insect proteins are an environmentally sound way to produce both protein and methionine from poultry. As an added bonus, insect protein is a component of the historical diet of game bird species.

Part of this research could include looking into the utilization of insects and whether said insects can and should also be certified organic.

2. Prevention and Management of Parasites

We support this research priority as long as it continues to be premised on a systems-based approach.

This research priority lists many good options for research in the area of parasite control. The plant-specific research questions posed are as follows:

Are there plant species in pastures and scrublands that could be incorporated into the annual grazing system to reduce the spread of parasites or to provide prevention through the flora, fauna, and minerals ingested? Which pasture management systems appear to be best for parasite prevention in various parts of the country? Are pasture mixes being developed that include plants known to prevent parasites in various breeds?

Cornucopia wants to ensure that as the above questions are explored, researchers keep in mind that it is imperative to support wildlife and native plants, especially in areas that already have strong native characteristics. Planting non-native plants in areas that have the traits of a native ecosystem is damaging to the environment and sensitive populations. Cultivation techniques, such as specific pasture mixes, should only be considered on private land that has already lost native characteristics.

3. Organic Livestock Breeding

Organic rules require livestock products originate from animals that are not confined and are adapted to outdoor living as well as obtaining feed from living vegetation and outdoor foraging. Unfortunately, the majority of organic livestock still do not meet these qualifications. A current Food and Agriculture Organization report states that globally one third of pigs, half of all egg layers, two thirds of milk animals, and three quarters of meat chickens are produced with breeds more suited to confinement or industrial production systems than a typical organic farm or ranch.

Cornucopia strongly agrees that the organic community has a great need for regionally adapted livestock breeds that can thrive in authentic organic systems. This is particularly the case for poultry, as fast-growing strains that are ubiquitous to the conventional marketplace are also utilized by organic producers despite poor performance on pasture-based systems.

High animal welfare is predicated on a natural diet and time spent outdoors performing natural behaviors (which includes foraging for food for all livestock animals, including poultry). The organic standards should be focused on moving the organic livestock industry closer to these ideals rather than propping up producers that are not dedicated to legitimate pasturing and flooding the market with low-priced “organic” products.

Organic agriculture should be premised on *at least* maintaining the healthful qualities of the land in question. Organic ideals such as fostering biodiversity and preventing harm to the environment, noted in the Organic Foods Production Act (OFPA), support the concept that organic production should actually *improve* land it takes place on. This “continuous improvement” goes hand-in-hand with utilizing production practices such as regenerative agriculture, using deep-rooted native perennial grasses, silvopasture, and other management strategies that are proven to have the highest environmental outcomes. It’s vital that this research explore the types of livestock that work synergistically with these particular management strategies.

4. Alternatives to Bisphenol A (BPA)

The Cornucopia Institute supports research to identify alternatives to Bisphenol A (BPA). Concerns exist that certain BPA alternatives pose significant risks to human health.

Cornucopia has previously submitted comments opposing the use of Bisphenol A (BPA) in the packaging of any product labeled “organic” or “made with organic (specified ingredients or food group(s)).”

Numerous peer-reviewed studies indicate that BPA is an endocrine disrupting chemical and is linked to a multitude of adverse health effects, including cancer, obesity, diabetes, neurological and behavioral problems, and reproductive issues.

It is undisputed that dietary exposure to food products packaged in BPA-lined cans results in higher urinary BPA concentrations in humans.¹ BPA accumulates in reproductive organs, and due to its structural similarity to estrogen, acts as an endocrine disruptor.²

Other countries have recognized the hazards of BPA used in food packaging. France prohibits the import and domestic sale of any food contact materials containing BPA. Canada, the European Union, and the United States ban the use of BPA in infant formula bottles, which is a clear acknowledgement that adverse health effects tied to dietary exposure to BPA exist.

The principle outlined in 7 C.F.R. § 205.272 requires organic handlers to prevent contact between organic products and non-organic products or prohibited substances. The prohibition of the use of a chemical linked to such well-documented adverse health effects is entirely consistent with the regulatory language and basic tenets of organic production.

Consumer goods companies have responded to public concern about BPA by replacing BPA with other bisphenol chemicals on packaging labeled “BPA-free.”

Scientists have warned that the alternative chemicals may also pose health risks. Bisphenol S (BPS) and Bisphenol F (BPF) have almost the same molecular size and structure as BPA, raising concerns that they could act similarly in the body.

A recent study links BPS and BPF to a potential increase in childhood obesity. Researchers from the NYU School of Medicine found that children ages 6 to 19 with higher levels of BPS and BPF in their urine were more likely to be obese than those with lower levels.³

Whether alternatives to BPA are also endocrine disruptors and pose other adverse health effects is cause for serious concern.

The NOSB should err on the side of caution and not only prohibit BPA from use in the

¹Hartle J, Navas-Acien A, Lawrence R. 2016. “The Consumption of Canned Food and Beverages and Urinary Bisphenol A Concentrations in NHANES 2003-2008.” *Environmental Research*, Vol. 150, pp. 375-382.

²Xiaona H, Chen D, Yonghua H, Wenting Z, Wei Z, Zhang J. 2015. “Bisphenol-A and Female Infertility: A Possible Role of Gene-Environment Interactions.” *Int. J Environ Research & Public Health*, 12(9): 11101-11116.

³Jacobson M, Woodward M, Bao W, Liu B, Trasande L. 2019. “Urinary Bisphenols and Obesity Prevalence Among U.S. Children and Adolescents,” *Journal of the Endocrine Society*, 3(9): 1715-26.

packaging of organic foods but support research to find whether common replacements pose the same risks to human health as BPA.

5. Testing for Fraud: Developing and implementing new technologies and practices

The Cornucopia Institute supports developing new technologies and practices to detect fraud in all of the areas identified in the meeting materials, particularly those related to detection of fumigant residues.

Because fumigated commodities can no longer be sold under the organic label, it is critical that they be identified and stripped of organic designation.

A report issued by the USDA's Office of Inspector General (OIG) in September 2017 concluded the NOP needed stronger protocols to identify organic food that was fumigated at borders and ports of entry.

In response, the NOP agreed to collaborate with APHIS and US Customs and Border Patrol (CBP) to share information across databases. According to the NOP, new measures have been undertaken to ensure the agency is notified of organic shipments that are fumigated.

These notification measures are intended to assist the NOP in identifying importers that violate the law when they do not remove the organic designation from fumigated food.

The NOP proposes using an "organic message set" that will be incorporated in the Automated Commercial Environment (ACE) database currently used by CBP. ACE is the system through which traders report information on imports and the government determines admissibility of products.

According to the NOP's response to the OIG, the "message set" will be tied to CBP Entry Form 7501. The information on the Entry Form 7501, including an "organic" designation, typically appears in the ACE system 30 days after the imported product is delivered in the US.

The NOP acknowledges this technology will take time to develop. Additionally, the 30-day notification delay would likely allow fumigated commodities to enter the market.

Identifying new technologies and protocols that employ sensitive and specific analytical methods to identify the existence of fumigant residues is an integral part of fraud detection and prevention.

Fenbendazole petitioned-material discussion document

The Cornucopia Institute understands that fenbendazole may be a life-saving tool for organic producers facing devastation of their flocks due to parasitic load.

Although Cornucopia is not opposed to fenbendazole being added for emergency use in poultry, we believe this is a substance that is ripe for abuse. Industrial-scale producers are likely to use this as a production tool in the absence of strict controls for what constitutes an "emergency."

The definition of “emergency use” is key. It must take into account management strategies, including strain selection.

For example, the regulations require the “[s]election of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites...” (7 CFR § 205.238 (a)(1)). Right now, the organic poultry industry utilizes many strains that are commonplace in the conventional industry (this is particularly true for broiler chickens), despite their poor fit for organic systems.

Production methods like frequent pasture rotation and keeping flock sizes low also prevent most parasitic infections. It is imperative that this material is not added to the National List without understanding how it could prop up practices that are not compatible with organic production.⁴

Inaction on Eliminating the Incentive to Convert Native Ecosystems to Organic Production

The Cornucopia Institute is focused on our collective health, access to clean, nutrient-dense food, and the livelihoods of farmers who produce organic food and the health of the planet. We object to the USDA’s refusal to follow the recommendations of the NOSB—its own advisory board.

Over the years since its inception, key decisions by the NOSB have been dominated by corporate interests and the Board’s power has been shifted to the USDA. The USDA secretary also demonstrates unwillingness to act on the NOSB’s advice—despite that being the *statutorily required relationship between the NOSB and USDA*.

One of the most egregious breakdowns in this advisory role is the lack of action on the part of the NOP to adopt the NOSB’s 2018 formal recommendation: Eliminating the Incentive to Convert Native Ecosystems to Organic Production.⁵

The issue of native ecosystems and wild lands being destroyed due to organic production is still a serious and urgent threat.

OFPA gives the NOP broad authority to enact regulation to further the aims of the statute. The formal recommendation from the NOSB in this particular case does exactly that, since organic production is explicitly required to support biodiversity and prevent environmental harm.

We urge the NOSB to continue to put pressure on the NOP to pass the resolution on Eliminating the Incentive to Convert Native Ecosystems to Organic Production and other essential recommendations made by the NOSB.

⁴ If this material is not added for use in organic poultry, producers should continue to be required to treat animals if their welfare is at risk, even if it means they lose organic status.

⁵ <https://www.ams.usda.gov/sites/default/files/media/CACSNativeEcosystems.pdf>