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Michelle Arsenault  
National Organic Standards Board  
USDA-AMS-NOP  
1400 Independence Ave. SW  
Room 2648-S, Mail Stop 0268  
Washington, DC 20250-0268

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The Cornucopia Institute uncovers the truth behind organic food and advocates for an organic label you can trust. Through research and investigations into agriculture and food issues, we provide needed information to family farmers, consumers, and other stakeholders in the organic agriculture community.

## **MATERIALS SUBCOMMITTEE (MS)**

### **Inert Ingredients in Organic Pesticide Products**

The Cornucopia Institute asks that the NOP in cooperation with the NOSB urgently **list all inert ingredients in use individually on the National List.**

Under OFPA at [7 U.S.C. 6517\(c\)\(1\)\(B\)\(ii\)](#), the National List may provide for the use of substances in an organic farming or handling operation if the substance is used in production and contains synthetic inert ingredients that are not classified as inerts of toxicological concern by the EPA, in addition to the general considerations for National List substances at [7 U.S.C. 6517\(c\)\(1\)\(A\)](#) and [6518\(m\)](#).

The delay in addressing the evergreen “inerts” problem has caused and will continue to cause real harm to the organic program. The lack of clarity surrounding “inerts” undermines organic integrity, undermines consistency under the label, and damages consumer trust.

The Cornucopia Institute supports the National Organic Coalition’s (NOC) suggestion to adopt a rigorous review process to ensure that toxic “inert” ingredients do not get used in organic agriculture. Updating and streamlining the review process is urgent, and resources must be dedicated to this issue as soon as possible. Continuing to rely on the defunct lists from the Environmental Protection Agency (EPA) is of serious concern for organic integrity and consistency for consumers.

Cornucopia also supports the proposal put forward by both Beyond Pesticides (BP) and NOC that would create a five-year timeframe for evaluation of “inert” ingredients currently in use in

organic agriculture that are not exempt from pesticide registration under FIFRA section 25(b). This proposal is sensible given the weight of the problem inerts pose to the organic label. (Please reference Beyond Pesticide's detailed comments on this issue in Docket ID # AMS-NOP-23-0075 for their proposal in full, so as not to reiterate it here.)

Organic integrity requires a level of transparency that may not be present in other industries – and that transparency is necessary for the functioning of the organic marketplace. Also, the information that the NOSB would compile to review inert ingredients would be primarily from the public sphere, in terms of environmental and human health concerns. Because inert ingredients so often compose the majority of the products applied to organic crops, it is not acceptable to give a blanket allowance to thousands of “inerts” over which organic stakeholders have no control.

We understand that this will be a large burden for the NOSB and the NOP moving forward, however listings can be prioritized by current usage and need. The list of products that would be applicable for the National List is not in the “hundreds” or “thousands” but rather a clear subset. Most inert substances on EPA List 3 and 4 are not in *common* use even if they are occasionally used. No efforts should be made to include these low-or-no-use products on the National List because those substances can be *petitioned for* should a distinct need arise for them in the future.

Addressing concerns about “inert” ingredients is an essential inquiry into the integrity of the USDA organic program. Even though these so-called “inerts” often make up a majority of the products being applied to organic crops and livestock, we are concerned that they could be allowed under a blanket allowance that would be both out of date and nonsensical. Many “inerts” may be more toxic and compose a greater portion of an applied material than the active ingredients. These products should never have been allowed without a review in the first place. Even though synthetic “inerts” were previously allowed as ingredients in product formulations as long as they were not of toxicological concern for the Environmental Protection Agency (EPA), the general review requirements of the National List still apply.<sup>1</sup>

Further, the NOP and NOSB have the authority to determine which pesticide products align with the Organic Foods Production Act (OFPA) and National List Criteria. While the NOP and NOSB should use available EPA data when reviewing substances before they are placed on the National List (or at Sunset), the authority of deciding which products belong in organic production and handling should solely lie with the NOSB and NOP. In fact, the Organic Foods Production Act requires this level of scrutiny.<sup>2</sup>

Until the inerts problem is cured, new substance and material petitions should not rely on the antiquated EPA lists. Continuing to use EPA List 4 as a reference will only serve to deepen the problem at hand. Any inerts not already in use under the EPA list allowances should obviously be

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<sup>1</sup> As stated in the Advanced Notice of Public Rulmaking (ANPR) on ‘inerts’, OFPA allows the use of synthetic “inert” ingredients in a product formulation if the “inerts” are “not classified as ‘inerts’ of toxicological concern by the EPA, in addition to the general considerations for National List substances at 7 U.S.C. 6517 (c)(1)(a) and 6518(m).”

<sup>2</sup> For example, section 2118(b) of OFPA specifically states that the National List “shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) or each natural substance prohibited under subsection (c)(2).”

required to go through the petition process to be added to the National List, both because it would allow stakeholder input and necessitate the use of updated science during the material review process.

Cornucopia also advocates for the NOSB to receive more resources to make the analysis and review process possible. NOP personnel could perform data compilation support, for example.

### **Questions from the Materials Subcommittee:**

- 1. Please provide feedback on the format and analysis of Appendix A. The Board will use this to comprehend the practical impact the various options will have on the number of substances that would need to be added to the National List based on the corresponding option (e.g. if all inerts are listed individually or that would be allowed under various subsets of EPA regulations depending on the option)?**

Overall, the spreadsheet falls short in being a useful analysis tool to understand the practical impact of listing substances. First, it's not clear which, if any, items have been determined to be synthetic or nonsynthetic substances. The NOSB will not have to evaluate nonsynthetic substances. Also, it is critical to determine which inert substances are in wide (not just incidental) use in the industry. As the NOP and USDA are concerned about the workload and potential disruption to the industry, listing substances on the National List that are in wide use should take priority. There is no clear indication of a prioritization scheme in Appendix A.

By updating Appendix A, or a list like it, with the main use or mechanism of action, stakeholders and policy makers could get a better picture of the issue than we have to date.

- 2. What areas of expertise should the MS consider when inviting speakers to subcommittee meetings in order to obtain the fullest and most accurate understanding of this topic?**

The MS should prioritize speakers and advisors that understand the toxicological concerns of "inert" ingredients as well as individuals and groups with expertise in "inerts" as a class of substances. This could include scientists, academics, and individuals from NGOs in the organic sphere.

The EPA staff should be advised as well (especially those who participated in the previous Inerts Working Group), as they could address which inerts are currently in use and clarify how EPA standards of inerts review might differ from those found in OFPA.

While the EPA's rulings on toxicological concern may be relevant to the material reviews, the EPA is a separate entity with a separate focus than the organic marketplace. The EPA does not review products for compatibility with organic systems, as the NOSB and the NOP are required to do. Also, and of chief importance, many of the "inerts" in question were reviewed by the EPA decades ago. The scientific community has updated information on the effects of many of these ingredients, including endocrine disruption, neurobehavioral effects, or immune system effects. The EPA also *does not* consider aspects that are critical to organic material review, including whether a synthetic material is essential. Also, the NOP and NOSB must apply more scrutiny for human health and environmental concerns.

Specific inerts may require the input of experts in toxicology, soil science, microbiology, and related fields. If Appendix A is updated as Cornucopia suggests, finding the needed experts will be more streamlined.

Manufacturers of substances with inert ingredients in their formulations could provide accurate data on what they are using, why, and how much. This information is often hidden behind a screen of “business information” in other contexts but would hopefully be made available to the NOP and NOSB as they work through this issue. Manufacturers of inert ingredients, and their representatives, are sure to offer input into whether their ingredients should be allowed; these organizations and individuals have conflicts of interest that must be acknowledged by the NOSB in their deliberations.

**3. Please provide feedback on whether the list of inert ingredients currently in use (see Appendix A), is accurate.**

Cornucopia has no knowledge of the accuracy of this list in Appendix A. Again, the EPA List 4 and the limited EPA List 3 contain seriously outdated information that is not very useful for the current question. The NOP and, by design, the Agricultural Marketing Service are much better positioned to determine which substances are in use.

While EPA or other stakeholder input is one important consideration among many, the Organic Program should not continue to rely on outdated lists and data. Moving forward, a defined timeline should be created for when and how currently-in-use “inert” ingredients come up for review by the NOSB while allowing their continued use in the meantime (much like current materials must go through Sunset Review). Review priority should go toward any inert products that are known to have red flags in terms of toxicity, environmental impact, or incompatibility with organic principles.

**4. Does the potential reduction in the number of substances the Board must review outweigh the inflexibility associated with the option to develop a single, external list of allowed inert ingredients?**

The amount of work needed to list these substances should not be a deciding factor because it is within the NOP's statutory responsibility to review synthetic ingredients allowed in organic production and processing. The only real question before the NOSB and NOP should concern how the NOSB will establish a process to move forward with the review of “inerts” under the National List. Synthetic materials must *never be allowed* in organic products without a thorough review.

The NOP, with the assistance of the NOSB, must ensure that synthetic inerts used in organic pesticide formulations meet OFPA and regulatory criteria requiring that they are not harmful to human health and the environment, that they are necessary, and that they are compatible with organic systems of production. The evaluation of synthetic “inert” ingredients in products used in

organic production is required by law.<sup>3</sup> The NOP must allocate the needed resources for this project.

Previous EPA lists did not differentiate between synthetic and non-synthetic materials. Cornucopia is unaware of any external source with the expertise and accountability to create this list and maintain it without serious concerns.

Additionally, public input into allowed materials is necessary. Using a static outside list freezes the public process inappropriately for a federal program.

#### **5. Would designation of a specific entity responsible for maintaining the single external list of allowed inert ingredients change stakeholder's opinions of this option?**

The inflexibility of this option, regardless of the specific entity responsible for maintaining said list, is of utmost concern. Inflexible options, including using the EPA list 4 in the first place, has led to long-term schisms in the organic marketplace. The agricultural arena changes rapidly with new technologies and the organic label needs to attempt to keep up.

If designating a specific entity to maintain an external list is landed on as the solution, Cornucopia has concerns about the potential for conflicts of interest, bias, and threats to organic integrity. There would need to be extensive stopgaps to prevent these issues from arising if an entity outside the NOP were to take on managing the list of allowed inert ingredients.

While it may not be appealing in terms of workload, the simplest and safest solution is to use the process already laid out in OFPA and require that all synthetic substances used in organic production must be reviewed according to OFPA criteria, included on the National List, and subject to regular sunset review.

Organic certification has always been a higher bar and inert ingredients should not be the exception to that rule. There are specific rules that limit the use of synthetic materials to the minimum needed to maintain organic production. Cornucopia opposes any broad, non-specific allowance of inerts because it would allow a loophole allowing for widespread use of synthetic inerts without review as to their need and effects.

#### **Research Priorities**

Cornucopia supports the Material Subcommittee's research priorities with the following additional comments and critiques. In general, Cornucopia hopes to see that priorities that focus on "climate smart" strategies will be prioritized because climate change is an urgent problem that organic agriculture is primed to address.

#### ***Livestock***

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<sup>3</sup> The Organic Foods Production Act (OFPA), §6517 allows the use of a synthetic substance in organic production only if it is listed on the National List "by specific use or application" based on a recommendation by the NOSB, following procedures in OFPA

- *Research priority: Develop a dairy program to address climate change mitigation strategies where production capabilities are not hindered and effective forage rotations are maximized.*

The bounds and goals of this research priority must be better defined. One essential aspect of climate mitigation is the protection of native ecosystems and lands that have a high value in terms of ecosystem services. (Right now, there is no plan to enact the NOSB’s recommendation to [Eliminating the Incentive to Convert Native Ecosystems to Organic Production](#) from Spring 2018. Cornucopia asks – again – that this issue be revisited so that it can be moved forward to regulation.)

Native ecosystems store much more carbon than converted farmland ever can. These ecosystems are refuges for pollinators and beneficial wildlife that help maintain and contribute to the benefits afforded by sustainable farming. Native ecosystems also provide services that benefit local farming, supporting the sustainability of food production in the face of climate change.

In guidance, the NOP claims that “[t]he conservation of natural resources and biodiversity is a primary tenet of organic production...” (NOP 5020 Natural Resources and Biodiversity Conservation). This language supports both the notion that organic farming is an answer to climate change mitigation and that regulation is needed to protect the resilience of wild lands, wildlife, and natural resources. Any research combining dairy and climate resilience must consider this fundamental understanding and guidance.

Cornucopia is also concerned about repeat reports that some organic dairies have consistently been involved with environmental damage, including interfering with sensitive wildlife, causing or contributing to pollution runoff into waterways, and disrupting and draining ancient aquifers. While some organic dairies go above and beyond in their attention to the conservation aspects of the organic regulation, others seem to be getting away with destroying or degrading sensitive lands and wildlife.

These *existing problems* within the program must be addressed, even as improved “climate change mitigation strategies” for organic dairy are needed.

Finally, while Cornucopia understands that the NOP seeks to keep the organic marketplace scale-neutral, the rules and regulations of the organic program should be considered *scale limiting* where some production would have a detrimental impact on the local environment.

### ***Crops***

- *Systems: Conduct whole farm ecosystem service assessments to determine the economic, social, and environmental impact of farming systems choices.*

Cornucopia strongly supports this research as it will have multiple benefits to the certified organic label and potentially conventional agriculture systems as well. The “experiment” of chemically intensive farming has failed to provide results, and organic agriculture poses a viable alternative.

Research has already shown that focusing on soil health, diverse cropping systems, and cultural practices that are common in organic production have significant value to human health and the environment (on both micro and macro scales). Unfortunately, this work has not been fully quantified in the past. Cornucopia recommends that this research clearly compare the limits and benefits of different farming system choices and assign an economic value to practices that have historically been undervalued.

- *Systems: Factors impacting organic crop nutrition, and organic/conventional nutrition comparisons.*

Cornucopia has seen strong interest from consumers and policy makers surrounding this topic. There are organizations including but not limited to the [Bionutrient Institute](#), the [Rodale Institute](#), and academic institutions who may have insight or practical help to offer this research priority.

### ***Suggested Research Topics***

#### *Farm Labor*

Cornucopia suggests that issues surrounding farm labor be researched, through farmworker surveys and/or policy analysis, to ensure their fair treatment. Fair treatment includes fair wages, adequate working conditions and housing, access to healthcare, and ensuring the voices of farmworkers are heard. The principles of care and fairness embraced by the organic movement necessarily involve recognizing the vital role farmworkers play in organic food production. Studies could also examine the benefits of organic farming on farmworker health due to reduced exposure to toxic chemicals.

## **POLICY DEVELOPMENT SUBCOMMITTEE'S (PDS)**

### **Policy Development Subcommittee Proposal: Policy and Procedures Manual (PPM)**

#### **Revision**

Cornucopia supports most of the Policy Development Subcommittee's (PDS) proposed changes to the PPM; the following comments only address those areas where there is disagreement or other commentary on the proposed changes.

(Note that text in the PPM and suggested revisions has been italicized to better differentiate Cornucopia's comments from the revision being commented on.)

In Section K, **DECLARATION OF INTERESTS/Conflict of Interest** the following language change is suggested:

*In 2022, USDA determined that eleven of the fifteen seats are classified as **representatives** under the Federal Advisory Committee Act (FACA), and four are classified as **Special Government Employees (SGEs)**. **Representatives** are appointed to articulate the viewpoints and interests of a particular interest group, while **SGEs** are appointed to provide expert advice. Regardless of classification, all board members function as equals in providing advice to the Secretary in the development of standards for substances to be used in organic production and on any other aspects of the implementation of OFPA.*

*NOSB members represent the interests of a particular group. As such, many of the interests are **acceptable interests**. An interest is acceptable if it is carried out on behalf of a represented group, and if a Board member receives no disproportionate benefit from expressing the interest. True **conflicts of interest** arise when an interest:*

- Directly and disproportionately benefits you or a person associated with that member;*
- Could impair your objectivity in representing your group; or*
- Has the potential to create an unfair competitive advantage.*

*The appearance of a personal conflict and loss of impartiality, while not a true conflict, must be considered when conducting NOSB business.*

Cornucopia asks that the eleven seats that are considered “representatives” and the four that are “special government employees” be identified by the specific NOSB position. This would make the practical effects of this change much clearer to stakeholders.

**In Step 8: Action by Full NOSB** the following changes are suggested:

*During this phase the NOP will:*

- Publish the proposals on the NOP website and provide a minimum of 30 days of written public comment on the proposal prior to the public NOSB business meeting.*
- Include sufficient time on the agenda at the NOSB meeting for the Board to discuss the proposal, **consider** ~~listen to~~ public comments (**written, virtual, and in-person**), and make a recommendation.*

Cornucopia asks that, as possible, the comment period be extended to 60 days. This would allow for stakeholders and especially farmers to have more time to thoughtfully prepare and submit comments.

In Section E, **PUBLIC COMMENT**, the following change is proposed for both written and public comments:

*For written comments: Commenters shall refrain from including personal attacks or remarks that might ~~impugn~~ **malign** the character of any individual.*

*For oral comments:*

*Individuals providing public comment shall refrain from making any personal attacks or remarks that might ~~impugn~~ **malign** the character of any individual.*

The change from “impugn” to “malign” is an improvement but needs to be better defined. More importantly, the terms need to be understood by individual members of the NOSB and employees of the NOP who enforce the rule if it is to remain a policy. Where impugning someone can be defensible under Constitutional [First Amendment](#) concerns, slandering, defaming, or otherwise speaking harmful untruths about an individual is typically unprotected speech.



Criticism and intense scrutiny of institutions, businesses, and individuals – especially public figures or public businesses – is a natural and necessary part of any federal government process. Without more clarity that this addition is intended to freeze *defamation and false statements*, this change is still problematic.

Further, the term “personal attacks” is not defined and is completely subjective. The phrase alone does not make it clear that the restriction would fall under one of the exceptions to the right to free expression (such as Fighting Words, Hostile Audiences, True Threats, Defamation and False Statements, or Obscenity).

While individual comments may be uncomfortable for some NOSB members, restricting public speech in this manner is a much greater concern. The NOSB members and most federal officials (for example, the Secretary of Agriculture) are also arguably [public figures](#), meaning the bar for defamation is much higher.

Cornucopia believes it is critical to publicly oppose false and defamatory speech. However, there have been several instances during NOSB meetings and especially during public comments where a commentor was cut off for a perceived “insult” to someone’s character or the character of a business or organization. This silencing is completely inappropriate within a federal government meeting. NOSB members can always choose not to take a commentor’s remarks into account.

Because the NOSB is a FACA committee, it should “not be inappropriately influenced by the appointing authority or by any special interest.”<sup>4</sup> Cornucopia believes this FACA requirement is flouted when NOSB members make subjective decisions on whether one public speaker is launching a personal attack.

Public speakers *should never be cut off* during their allotted oral speaking time (which is currently three minutes) unless they are inciting violence, making threats, false statements, or other speech that is not protected expression. In many of the cases where public commenting has been cut short, there was no way the NOSB could have known in that moment that the speaker was making false statements.

## **CROPS SUBCOMMITTEE (CS)**

### **Discussion Document: Compost**

We appreciate the comprehensive work the Crops Subcommittee has done on this difficult topic. Cornucopia agrees that there needs to be a clear understanding and policy addressing contamination concerns.

Composting is the one of the primary tools used by organic producers to meet the requirements of OFPA (at §6513) and the regulations while fostering fertility and supporting their farm ecosystems. Unfortunately, compost is also a source of contamination by synthetic substances not allowed in organic production and toxins that have a profound impact on the land. Due to the risks involved, Cornucopia supports clear standards that discourage the use of compost as a

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<sup>4</sup> 5 U.S.C. Appendix § 5(2).

"dumping ground" for industrial waste and encourage the uses that foster soil health and ecosystem services.<sup>5</sup>

As always, Cornucopia advocates that the organic marketplace should abide by the *precautionary principle*.<sup>6</sup> The unfolding impacts of poly- and per- fluoroalkyl substances (PFAS) and other forever chemicals on our farmland should inform our policies going forward. While many contaminants are broken down in the process of composting, others are not (heavy metals and PFAS, for example). Contaminants are then potentially applied to the land where they can impact it – and our food system – forever. The stakes are extremely high, so moving with caution is essential.

Cornucopia is concerned that the NOP's recently released [Market Development for Mushrooms and Pet Food](#) proposed rule includes changes to the compost definition, which may impact the NOSB's work here. Cornucopia does not support broadening the definition of compost or otherwise making the definition more general.

### **Questions from the Material Subcommittee**

Cornucopia supports the comments provided by the National Organic Coalition (NOC) on these questions, with a few additional points. Cornucopia's comments surrounding the questions posed are as follows:

- All synthetic substances used in organic production must be on the National List and reviewed according to its standards. Specific synthetic chemicals must be petitioned for inclusion on the National List.
- Cornucopia rejects the concept of amending the definition to "compost feedstocks," which could include synthetic substances. Again, in the name of the precautionary principle it is essential to not broaden the scope of what is allowed without first understanding the impacts fully.
- Cornucopia strongly rejects the concept of "de minimus" contamination. As our research evolves into pesticides, insecticides, fungicides, and other chemicals, including synthetic nitrites and plastics, we are finding human health and environmental impacts at lower and lower concentrations. The only acceptable level of contamination is "none" and that's the bar we should strive to meet.
- More data is needed to determine the scope of contamination in compost being used on organic farms and the sources of those contaminants. Research and residue testing is needed to inform risk analysis so that the NOP can address high-risk contaminants first. Previous research priorities have considered the outcome of genetically engineered (GMO/GE) material in organic compost. This research continues to be essential.

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<sup>5</sup> This scrutiny of compost materials is required by OFPA and the regulations because contamination is a real threat to soil health, the environment, and human health on a macro scale. §205.203(c) of NOP regulations requires that "The producer must manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances."

<sup>6</sup> The precautionary principle enables decision-makers to adopt precautionary measures when scientific evidence about an environmental or human health hazard is uncertain and the stakes are high.

- Cornucopia also recommends that the NOSB develop a strategy for keeping contaminated inputs out of organic production. We hope that the Crops Subcommittee will add this issue back into their work agenda.

Cornucopia plans to continue conversations about composting with organic producers on an ongoing basis and may have more specific feedback in future NOSB meetings. As it stands, this issue is of concern to informed consumers; Cornucopia receives questions on this subject with regularity.

## **CERTIFICATION, ACCREDITATION, COMPLIANCE SUBCOMMITTEE (CACs)**

### **Discussion Document: Oversight to Deter Fraud: Residue Testing in a Global Supply Chain**

Cornucopia supports continuous improvement in testing to ensure integrity in the organic supply chain and provides this feedback about testing in the organic compliance residue process.

Cornucopia has long advocated for enhanced residue testing protocols, most recently in the context of organic grain imports which were shown to be fraudulently labeled and wreaked havoc on the domestic grain market. As the CAC Subcommittee is aware, this large-scale fraud was a primary driver of the Strengthening Organic Enforcement Rule. As was the case during the height of the grain import fraud investigation, Cornucopia maintains that bulk shipments of organic product should be tested at the port of origin and upon arrival in the United States. By conducting rigorous testing, we can ensure organic products genuinely meet these organic standards, thereby safeguarding consumer trust.<sup>7</sup>

Maritime shipments of organic feedstuffs continue to be imports of concern given the prevalence of transshipments through third countries and often inconsistent mass/balance data whereby import volume and acreage cannot be reconciled. Cornucopia commends and supports efforts to include enhanced testing protocols of maritime shipments in the Farm Bill. Specifically, we support proposals requiring testing of, at a minimum, every bulk shipment of organic feedstuffs arriving on maritime vessels. Cornucopia supports expanding this proposal to include imports arriving by land from Mexico and Canada, given concerns regarding transshipments through these countries for commodities grown overseas.

Testing protocols should be broad enough to be flexible and specific to the commodity, and consideration should be given to the country of origin. Moreover, importers should be responsible for costs associated with testing.

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<sup>7</sup> Residue testing is also required by the regulations. §205.671 states, “When residue testing detects prohibited substances at levels that are greater than 5 percent of the Environmental Protection Agency’s tolerance for the specific residue detected or unavoidable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced.” Other sections of the regulations relate to the testing for residues.

## **Discussion Document: Climate Induced Farming Risk and Crop Insurance**

Cornucopia believes organic producers and their accredited certifiers are in the best position to identify the hurdles they encounter in procuring crop insurance and in suggesting viable solutions to problems in crop insurance programs. Organic farming is not only environmentally sustainable but also vital for preserving soil health and biodiversity. By improving crop insurance, policymakers can incentivize more farmers to transition to organic methods, thereby promoting long-term ecological sustainability. Improving crop insurance programs for organic farmers benefits producers and the public. It safeguards environmentally responsible farming practices, ensures a stable supply of organic food, and provides a crucial safety net for organic farmers who face unique challenges. Cornucopia supports CAC Subcommittee's continued efforts to discern what organic producers need from crop insurance programs and defers to the opinions of organic producers on questions involving transitional yield history and implications for crop insurance coverage.

### **Organic Food System Capacity & Constraints**

Cornucopia fully endorses the CAC Subcommittee's statement that markets must be stable and fair not only to encourage producers to transition to organic, but to retain organic producers. To ensure markets are fair, vigorous enforcement of the organic regulations is critical, including enhanced oversight of imports. For example, the United States currently imports more organic corn and soybeans than is produced domestically. Domestic production of organic grain does not currently satisfy the demand. To encourage transition to organic, domestic producers must be confident competition is fair and that the benefits of converting acreage outweigh the risks posed by imported product. Clearly, there is a domestic market for organic grain production. The testing protocols noted above can help level the playing field. Addressing potential fraud through testing can incentivize more producers to make the transition, thereby benefiting producers and consumers.

Additionally, the CAC Subcommittee points out the risks of transitioning to organic will now come in a time of increased risk from climate change. It's important to acknowledge that holistic ecological practices embodied in the organic standards lead to greater protection from extreme weather events. So while the transition may be made more difficult, supporting and protecting farmers through their transition leads to more food and crop security overall (and compared to conventional cropping systems). This dynamic is not accounted for in crop insurance tools as they exist today.

As recognized by the CAC Subcommittee in its discussion document, issues with crop insurance must be addressed to avoid disincentivizing organic transition. Many of the practices the global agricultural community needs to support to address climate change – including utilizing diverse crop rotations and practices supporting soil health – are specifically disincentivized by crop insurance programs. Also, transitioning farmers should not be treated as beginning farmers when they have other farming experience. Overall, the deck is stacked against organic farmers when it comes to crop insurance. These problems need to be cured to fuel growth in the organic sector.

### **Opportunities in Organic and Improving Supply**

Cornucopia supports the overarching goals to support organic and improve supply. Our consumer-focused mission aims to promote consumer confidence in organic through transparency in the marketplace. Education about the origin of organic food and how it was produced allows consumers to make informed decisions and ensures that consumers are getting what they pay for when purchasing organic products. Transparency in the supply chain also allows consumers to support those producers who adhere to organic standards, thus promoting confidence in purchasing decisions and the overall organic marketplace. Ultimately, a transparent marketplace is the essential ingredient in driving continuous improvement and ensuring the organic sector continues to thrive.

### **Hydroponics and Container Production Violates the Organic Standards**

The Cornucopia Institute continues to support the [Organic Agriculture is Soil-Based: Position Statement](#) (Soil Position Statement).<sup>8</sup>

The Organic Foods Production Act of 1990 (OFPA)<sup>9</sup>, the existing organic regulations (7 CFR Part 205), and surrounding law and policy all require that the National Organic Program act to assure consumers that organic products meet a *consistent standard*. Specifically, in the stated purpose of OFPA<sup>10</sup> and the summary of the final National Organic Program (NOP) was established in 2001, they were tasked with “...facilitating domestic and international marketing of fresh and processed food that is organically produced and assure consumers that such products meet consistent, uniform standards.”<sup>11</sup>

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<sup>8</sup> Note that where Cornucopia refers to “Hydroponics”, we mean any soil-less production where the plants are grown to maturity. This includes traditional aeroponic and hydroponic systems, and systems where plants are grown in an inert (like coconut coir) media in containers.

<sup>9</sup> Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501-6524).

<sup>10</sup> 7 USC § 6501

<sup>11</sup> Summary of the Final Rule Establishing the National Organic Program National Organic Program. Docket Number: TMD-00-02-FR, Effective: February 20, 2001. <https://www.ams.usda.gov/rules-regulations/establishing-national-organic-program>

As reviewed in the OFPA itself references the need for soil in organic cropping. The regulations also make it clear that soil-based production is not only the intent of the organic label, but also required. The organic rules and regulations referring to soil-based production make it clear that the language is meant to apply universally. For example: “The producer **must** select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.” 7 CFR § 205.203(a) (Emphasis added).

The references to soil-based production and its requirements are meticulously laid out in the **Soil Position Statement**, which we urge the National Organic Standards Board (NOSB) and other stakeholders to review. The allowance of soilless production under the organic label is an unintended result and is misaligned with the existing rules. The issue of organic hydroponics is not settled: organic products *cannot* meet a consistent standard while hydroponic production exists outside the requirements for soil.

Cornucopia ultimately agrees with the Hydroponic and Aquaponic Task Force’s statement to the NOSB in their 2016 report: “No matter what one thinks about which path is best, we can all accept that many in the organic community are opposed to the inclusion of hydroponic as organic. Failure to address that concern will inevitably undermine public and farmer support for the USDA Organic label.”<sup>12</sup>

Consistent and uniform standards require that unintended consequences, misalignment, and “holes” in rulemaking be cured as soon as possible. The fractures in the organic marketplace can only be resolved by issuing noncompliances to existing certifiers and operators allowing soilless production, thereby ending the certification of these operations, *or* by immediate rulemaking to clarify when and how soilless production can be employed.

Curing the problem would also require a moratorium on the certification of new “organic” hydroponic operations until rulemaking can settle the issue.

Cornucopia urges the NOSB to call for a moratorium on the certification of new aeroponic operations, hydroponic operations, and crops grown to maturity in containers until we can utilize our existing NOSB and rulemaking process to move forward with greater consistency.

### **Racial Equity in the Organic Marketplace**

The NOSB should prioritize racial equity in all its processes, including how the NOSB prioritizes agenda items. A fair food and agricultural system is one of the core values of the organic community. Supporting racial justice and environmental justice go hand in hand, as marginalized communities often experience environmental and anthropological stressors at different rates.

The NOSB should apply the [USDA’s 2023 Equity Commission](#) recommendations, and embed racial equity in NOSB processes, discussion documents, and public meetings.

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<sup>12</sup> United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS). July 21, 2016. "Hydroponic and Aquaponic Task Force Report." <https://www.ams.usda.gov/sites/default/files/media/2016%20Hydroponic%20Task%20Force%20Report.PDF>