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U.S. Department of Agriculture
Agricultural Marketing Service
National Organic Program
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1400 Independence Ave., S.W.
Washington, DC 20250

Submitted via www.regulations.gov.

Comments of Consumers Union to the Agricultural Marketing Service on the Spring 2018 Meeting of the National Organic Standards Board Docket No. AMS-NOP-17-0057-0001

Consumers Union, the advocacy division of Consumer Reports,[1] welcomes the opportunity to submit written comments to the U.S. Department of Agriculture (USDA) Agricultural Marketing Service (AMS) on the proposals and discussion documents for the Spring 2018 meeting of the National Organic Standards Board (NOSB) in Tucson, Arizona.

One of our areas of focus is food labels, which should be clear, honest, and transparent. We evaluate and rate food labels, including the USDA Organic seal, to empower consumers with knowledge to make better and more informed decisions when shopping for food. Our information and ratings are available to consumers online at www.greenerchoices.org.

Consumer Reports' publications, in both print and online, discuss the value of the USDA Organic label when shopping for food. We explain to consumers that the USDA Organic label is backed by federal law and regulations that set a uniform and consistent standard for what can be labeled "organic." We tell consumers that the federal organic standards are comprehensive, promote sustainable agriculture, and aim to minimize negative impacts on the environment and human health.

This assurance that a consistent set of strong standards is met is critical to the integrity of the USDA Organic seal. When the standards backing the organic label fall

[1] Consumer Reports is an independent, nonprofit member organization that works side by side with consumers for truth, transparency, and fairness in the marketplace. We use our rigorous research, consumer insights, journalism, and policy expertise to inform purchase decisions, improve the products and services that businesses deliver, and drive regulatory and fair competitive practices.

short, we advocate for the USDA to strengthen them. Since the National Organic Standards Board, a federal advisory board established by the Organic Foods Production Act (OFPA) of 1990, makes formal recommendations to the Secretary of Agriculture on changes to the federal organic standards, we consistently provide written and oral comments to the NOSB. This process, which includes public participation and stakeholder engagement in the continued improvement of the organic standards, is a critical component of the National Organic Program.

Summary

Several proposals on the NOSB's Spring 2018 meeting agenda aim to strengthen the organic standards, and would provide additional assurance to consumers that their expectations are met when they buy foods with the "organic" label. We support the proposal to add language to the regulations to eliminate the incentive to convert native ecosystems to organic production. We urge NOSB to continue the unfinished work on Excluded Methods Terminology and to continue its work on protecting the genetic integrity of seeds grown on organic land.

In addition to strong standards, meaningful labels must be backed by strong verification requirements and enforcement of those standards. Inadequate enforcement undermines consumer trust in the label. It is important for the USDA to deal with fraudulent imports, but fraud is not solely a problem with imports. The USDA should properly enforce the standards for all products, whether produced abroad or domestically. Our comments on the "Imports Oversight" section provide further detail. We also support the proposal to ensure that inspectors meet consistent minimum qualifications, and we would support licensing of inspectors by ISO-accredited organizations.

While it is not on the agenda for this meeting, we urge the Livestock Subcommittee to start working on a proposal to prohibit the use of all antibiotics at all stages of life for poultry. This would ensure that the routine of use of antibiotics is consistently prohibited in organic production.

In many ways, our vision for a safer, more sustainable, and more transparent food system aligns with the organic system. The USDA Organic label communicates to consumers that the food was produced on a farm that adheres to a comprehensive set of government standards designed to support a system of sustainable agriculture. The integrity of the organic label is worth protecting and, where warranted, its standards should be improved. This is why the work of the National Organic Standards Board is so important, and why we appreciate its work and dedication to the organic label.

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Compliance, Accreditation, and Certification Subcommittee

Discussion Document: Import Oversight

Proper oversight and enforcement is critical for maintaining consumer trust in any label. This is especially true when a food label is backed by federal law and regulations, as is the case with the "organic" claim on food and the USDA Organic seal on any agricultural product. Consumers should be able to trust that all foods labeled "organic" are produced in accordance with the organic standards.

We share the NOSB's concerns about fraudulent grain imports, and we are pleased to see the NOSB reaching out to the public for input on how to deal with this problem. We are also concerned that some domestic producers are not meeting the requirements in the standards when producing organic dairy, eggs, and poultry.

Clear standards provide the backbone for proper enforcement. The USDA's decision to withdraw the Organic Livestock and Poultry Practices (OLPP) rule on March 12, 2018, was a step backward for the organic label. The OLPP final rule had wide support from consumers who buy organic foods, and who overwhelmingly support strong animal welfare standards and meaningful outdoor access for organic animals.[2] The rule was the outcome of many years of careful and transparent deliberation by the National Organic Standards Board, with broad stakeholder input. The OLPP would have clarified existing requirements for "access for all animals to the outdoors" and other livestock production practices, which would have facilitated enforcement actions against producers who do not currently meet those requirements. In terms of eroding consumer trust in the organic label, we believe the failure of some producers to meet these outdoor access requirements, and the failure of the USDA to enforce this requirement, is as much a problem as the fraudulent grain imports.

In addition, unequal enforcement of the pasture requirements for dairy cows is equally detrimental to consumer trust in the organic label. In this case, clear and enforceable standards were implemented in 2010 to ensure that all dairy producers meet consistent standards for grazing cows during the growing season. However, lack of enforcement has allowed some large-scale producers to continue producing milk labeled as "organic," despite numerous complaints and media investigations suggesting pasture requirements are not met.

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[2] Consumer Reports National Research Center, *Animal Welfare Survey: 2017 Nationally-Representative Phone Survey,* Survey Research Report (March 18, 2017) (online at http://greenerchoices.org/wp-content/uploads/2017/04/2017-Animal-Welfare-Survey-Public-Report.pdf)

Whether it is imported grain mislabeled as "organic," eggs from hens without any meaningful outdoor access labeled "organic," or milk from cows that were not able to graze on pasture labeled "organic," these problems should be dealt with immediately. When we communicate to consumers how they can use food labels to make "smarter choices for a better world," we tell them to look for the USDA Organic seal. But if these serious problems of enforcement are not dealt with, more and more consumers will rightfully question whether they can trust the organic label.

We provide responses to some of the subcommittee's questions below. We note also that the subcommittee asks about the impact these recommendations would have on the industry. Consumers are an integral part of the industry; without demand from consumers who trust the "organic" label, there would be no organic industry.

Questions

Question 2) a) Should importers of organic products be required to be certified regardless of how they handle a product? What impact would this have on the industry?

Yes. All entities in the organic supply chain should be certified, which would decrease the likelihood of mislabeled products reaching consumers. Oversight by certification agencies of all entities in the supply chain would improve consumer trust in the integrity of the USDA Organic label.

Question 3) Role of uncertified operations in the supply chain. Should operations that take ownership of products or operations that market but don't own products be required to be certified? What impact would this have on the industry, and how would this improve supply chain integrity?

Yes. To ensure organic integrity throughout the supply chain, any operation that takes ownership or that markets foods labeled "organic" should be certified.

Question 6) The role of residue testing to verify bulk shipments of grain.

a) Should testing of imports be required? Does testing provide useful information, or is it situational? If situational, please provide situations where it is useful or not useful. What burden would this put on the industry? What party (importer, exporter, other) should be responsible for testing?

Yes, testing is a critical component of verification and enforcement, and one that a majority of consumers expect when they buy foods labeled "organic." The USDA should identify countries with high risk of contamination or mislabeling, and require testing imports from these countries. Such testing requirements should not be restricted to grain, but include other products as well. Pesticide residue testing is likely to be most effective in identifying mislabeled products.

c) If testing should be completed, what type of testing should be done?

Avoiding pesticides is a top priority for consumers who buy foods labeled "organic,"[3] so the focus of testing should be on pesticide residues. When prohibited pesticides are detected at levels comparable to those found on conventional products, the product should not be sold as "organic."

Genetically modified organism (GMO) testing would only be of value for crops which have genetically engineered varieties, and from regions where genetically engineered varieties are commercialized and grown.

Question 7) Verification of organic status in perishable supply chains.

a)What additional actions can be taken to increase supply chain integrity in fresh produce supply chains?

Testing fruits and vegetables from regions with documented fraud would be a critical step toward assuring consumers that these products are not contaminated with prohibited pesticides.

9) Additional controls for origins with documented fraud or integrity issues.

a) Should the NOP develop an ongoing system to impose additional requirements on operations doing business in or with countries or regions with documented fraud?

Yes. The focus should be on testing products from countries or regions with documented fraud.

b) Should testing be mandatory for shipments from these regions? If so, where should testing be done?

Yes. Testing imports from countries with documented fraud should be mandatory to provide assurance to consumers that they can trust the organic label.

Proposal: Inspector Qualifications and Training

Given the recent reports of fraud, we agree with the Certification, Accreditation and Compliance Subcommittee (CACS) that "the need for qualified inspectors experienced in a broad range of operations diverse in scope and scale has never been greater." The current organic regulations require that certification staff, including

[3] Consumer Reports National Research Center, *Natural Food Labels Survey: 2015 Nationally-Representative Phone Survey,* Survey Research Report (Jan. 29, 2016) (online at http://greenerchoices.org/wp-content/uploads/2016/08/CR_2015_Natural_Food_Labels_Survey.pdf)

inspectors, have sufficient expertise in organic production and handling techniques (7 CFR 205.501(a)). However, USDA organic regulations do not include mandatory requirements for inspector qualifications or training. Ensuring that all inspectors are properly qualified would help address concerns that some farms are not meeting all of the requirements in the standards, such as pasture requirements for dairy cows. We therefore support the CACS's recommendation that the National Organic Program develop mandatory minimum qualifications and continued training of inspectors. This would strengthen the organic certification system by ensuring that all farms, handlers and other facilities in the organic supply chain have been inspected by competent and qualified inspectors, and thereby improve assurance to consumers that foods labeled "organic" have met all requirements in the organic regulations.

We support a proposed requirement that all inspectors be licensed for the scope and scale of the operations they are inspecting, which will help ensure that inspectors are knowledgeable and qualified to carry out the inspections. We caution, however, that inspectors who are licensed to inspect large-scale operations should also be knowledgeable about small and medium-scale operations, and there should not be inspectors who only inspect large-scale operations. The National Organic Program should require ISO accreditation for organizations that license organic inspectors. ISO accreditation would ensure that all licensed inspectors are evaluated in a consistent manner, and meet consistent qualifications. We urge the NOSB to continue work on this topic.

Proposal: Eliminating the Incentive to Convert Native Ecosystems to Organic Production

We appreciate the work of the Certification, Accreditation, and Compliance Subcommittee on the proposal to eliminate the incentive to convert native ecosystems to organic production. The conversion of native ecosystems to farmland can have negative impacts on biodiversity and the environment. There is an incentive to convert previously unproductive land, which has not been farmed and therefore has not been treated with prohibited chemicals, to organic farmland because it eliminates the three-year conversion period.

The preamble to the final rule originally establishing the National Organic Program (NOP), pursuant to the Organic Foods Production Act, states: "[t]he use of 'conserve' [in the definition of organic production] establishes that the producer must initiate practices to support biodiversity and avoid, to the extent practicable, any activities that would diminish it. Compliance with the requirement to conserve biodiversity requires that a producer incorporate practices in his or her organic system plan that are beneficial to biodiversity on his or her operation."[4] The NOSB has received reports of numerous instances of destruction of native ecosystems on land that is subsequently used for organic production. If the "organic" label is to continue to signify to consumers that

[4] 76 FR 80563.

the food is produced in a more environmentally sustainable way, then the destruction of native ecosystems must be prohibited.

We therefore support the proposal to add language to 7 CFR 205.2, defining a "native ecosystem," and 7 CFR 205.200, prohibiting a site supporting a native ecosystem from being certified organic for a period of ten years from the date of conversion.

Livestock Subcommittee

Antibiotic Use in Organic Hatcheries

Eliminating the routine use of antibiotics in healthy food animals is a top priority for Consumer Reports, given the connection between the overuse of antibiotics and the development of antibiotic resistance. While the organic standards prohibit the routine use of antibiotics, there is an exception: the Organic Foods Production Act of 1990 allows for the use of antibiotics in chicks prior to day two of life because it exempts day-old chicks from organic management.[5]

This creates inconsistency in the organic standards, and means that the organic label on poultry fails to meet consumer expectations. In our 2015 national survey of consumers on food labels, 82% responded that they think federal organic standards should mean no antibiotics or other drugs were used.[6]

We have repeatedly requested that the NOSB take action on this issue and recommend a clear prohibition on antibiotics at all stages of life for all farm animals used in organic food production. In recent years, major poultry producers, including Perdue and Tyson Foods, have phased out the use of antibiotics in hatcheries (including for conventional production).

We recognize certain OFPA limitations concerning day-old poultry; however, the OFPA provision exempting day-old poultry from organic production standards does not prohibit the application of individual aspects of the organic standards. Instead, the provision merely states that organic standards cannot be required for day-old poultry as a whole. Prohibiting the administration of antibiotics to day-old chicks, or *in ovo*, does not amount to a requirement that these products adhere to organic production standards across the board. Rather, it adds a singular requirement that would satisfy a key purpose

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[5] 7 U.S.C. § 6509(e)(1).

[6] Consumer Reports National Research Center, *Natural Food Labels Survey: 2015 Nationally-Representative Phone Survey,* Survey Research Report (Jan. 29, 2016) (online at http://greenerchoices.org/wp-content/uploads/2016/08/CR_2015_Natural_Food_Labels_Survey.pdf)

of OFPA concerning consumer assurance and organic consistency, as well as other mandatory labeling standards under separate acts.

Therefore, the OFPA exemption for day-old chicks from organic management does not prevent the NOSB from recommending a prohibition on all antibiotic use in organic poultry production.

This could be achieved by recommending the following addition (in bold) to 7 CFR 205.238(c)(1)

(c) The producer of an organic livestock operation must not:

(1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under §205.603, or any substance that contains a nonsynthetic substance prohibited in §205.604. ***The prohibition on antibiotics treatment applies to poultry not under organic management prior to day two of life.***

We strongly urge the NOSB's Livestock Subcommittee to begin work developing a recommendation prohibiting all antibiotic use in organic poultry production.

Handling Subcommittee

Preserving the Integrity of the Organic Label in the Materials Review Process

The value of the organic label lies in the strength of the Organic Foods Production Act (OFPA) and USDA organic regulations, which promise consumers a consistent standard for organically produced foods. OFPA and the regulations also create a meaningful process with strict limits for determining what can and cannot be used in organic food production. Proper material review by the NOSB, consistent with the process outlined in OFPA, is a critical component of ensuring the continued integrity of the organic label.

An overwhelming majority of consumers expect organic foods to be free from synthetic ingredients, and this expectation is rooted in the organic law and regulations. Consumers should be able to expect that any synthetic and non-organic materials that are used in organic farming and handling have been carefully reviewed to the consistent set of criteria outlined in the Organic Foods Production Act of 1990: harmlessness to human health and the environment, essentiality for organic production, and consistency with organic farming and handling.

Consumers should also be able to expect that organic farmers and handlers are using only synthetic and non-organic materials that meet **all** criteria in OFPA.

We urge the NOSB to review each material, both those that are petitioned and those that are up for sunset review, to OFPA criteria and to ensure that all criteria are met. While other considerations may be of interest to some stakeholders, such as whether certain products will need to be reformulated or whether a certain material is useful to some food processors, these considerations are not OFPA criteria.

One criterion in the Organic Foods Production Act for materials review is essentiality, or necessity. It is important for the NOSB to consider the difference between materials that are necessary to the production of an organic product (such as yeast in bread and bacterial cultures in yogurt) and materials that are convenient or useful for marketing purposes but not necessary, such as fructooligosaccharides.

For the Spring 2018 meeting, we urge the board to consider this when evaluating the petition for SDBS and the sunset review of fructooligosaccharides. Neither of these substances is necessary for the production of organic foods.

2020 Sunset Reviews

Fructooligosaccharides

Fructooligosaccharides are highly processed isolates of sugars that are derived from plants such as chicory, sunchokes, agave, or from sugar extracted from sugar cane or sugar beet and subsequently fermented. The ingredient is added to processed foods to allow the manufacturer to make certain marketing claims related to the perceived health benefits of highly isolated fibers and sugars. This food additive fails to meet the criteria in the Organic Foods Production Act for inclusion on the National List as an allowed non-organic ingredient because it is not necessary to the production or handling of any organic product.

Sometimes the line between what is considered a necessary material in organic processing and what is merely useful or convenient is not clear; however, in the case of fructooligosaccharides, it is abundantly clear that it is entirely possible to make products like yogurt, frozen yogurt, milk and bread without it. In fact, some manufacturers that used to add fructooligosaccharides to their organic products no longer appear to do so, likely because the fad of adding it for its perceived health benefits has passed.

Even during the last sunset cycle, the subcommittee noted that it had received "limited feedback from users." During the 2010 comment period, some manufacturers commented that they used fructooligosaccharides, but gave no reasons for why it should be relisted. We believe that fructooligosaccharides have never been essential to producing organic foods, and should never have been added to the National List as an allowed non-organic ingredient.

We urge the NOSB to remove fructooligosaccharides from section 205.606 of the National List because this non-organic, highly processed food additive has never been necessary to the production of organic foods, and therefore fails to meet the essentiality criterion.

Gums

Many gums that appear on the National List as approved non-organic agricultural ingredients (gums: arabic, carob bean, guar, locust bean; tragacanth gum), approved synthetic ingredients (alginates, xanthan gum), and approved nonsynthetics (gellan gum) are on the agenda for sunset review. We appreciate the updated Technical Evaluation Report (TER) that covers gum arabic, gellan gum, guar gum, locust bean gum, tragacanth gum and xanthan gum.

In previous sunset cycles, we urged the NOSB to verify the non-GMO status of the bacteria and fermentation substrate materials used to produce xanthan gum and gellan gum. The TER suggests that xanthan gum and gellan gum can be produced with non-GMO bacteria, and that certified non-GMO xanthan gum is available. The TER also notes that the fermentation substrate for gellan gum comprises glucose syrup derived from maize or wheat. We continue to urge the NOSB to ensure the non-GMO status of these gums, since consumers expect certified organic foods to be produced without genetically engineered ingredients.

Certified organic foods should consist of certified organic ingredients, and non-organic, nonsynthetic or synthetic ingredients should be allowed only when organic alternatives are not available. Organic versions of the agricultural gums are available, and therefore these gums should be listed separately on the National List. Currently, they appear as a group: “gums: arabic, carob bean, guar, locust bean.” The TER notes that carob bean gum and locust bean gum are two different names for the same gum; therefore, these two listings should be combined. When adequate commercial availability of organic alternatives of one or more of these three gums is achieved, these should be removed from the National List and organic versions should be required. To facilitate this process, we urge the NOSB to list each gum separately.

We also urge the NOSB to address the inappropriate categorical listing of “alginates.” The Organic Foods Production Act specifies that the National List shall contain an itemization of each synthetic substance permitted. The NOSB should review each ingredient derived from brown algae separately, and list each substance with the species’ name.

In general, these gums provide safer alternatives to carrageenan, and we do not oppose their relisting. However, we do urge the NOSB to carefully consider the commercial availability of organic alternatives, and remove gums for which organic alternatives are available.

Proposal: Sodium dodecylbenzene sulfonate (SDBS)

We support the recommendation of the National Organic Coalition (NOC) to request a comprehensive review of sanitizers, to determine the essentiality of petitioned materials as well as materials that are already listed as allowed substances. Organic food should be safe, and the essentiality of synthetic sanitizers or disinfectants therefore needs to be carefully reviewed. We agree with NOC that a comprehensive review is needed to make those determinations.

Materials Subcommittee

Discussion Document: Protecting the Integrity of Seed Grown on Organic Land

Our 2015 consumer survey found that a large majority (85%) of consumers believe that processed and packaged foods labeled "organic" should mean that no GMOs were used.[7] Since ensuring that seeds grown on organic land do not contain GMOs is a key to protecting the integrity of those seeds, we appreciate the Materials Subcommittee's continued work to address GMO contamination issues. We offer the following brief answers to the five discussion questions posed by the Materials Subcommittee.

Question 1: Should we move to quantify the extent of GMO contamination in order to better understand the scope of the problem? How could this be accomplished?

We agree that there should be a move to quantify the extent of GMO contamination in order to better understand the scope of the problem and feel that this could be accomplished by testing seeds sold to or used by organic farmers. Initially, a survey of the organic seed market could be undertaken with batches of the seeds most at risk of genetic contamination, such as soybean, corn, cotton, sugar beets, canola, squash, to be tested first.

Question 2: Should a requirement be in place establishing a seed purity threshold for purchased seed (either organic or nonorganic, or both) planted on organic land? If so, what should the threshold be? How will that threshold vary with crop?

[7] Consumer Reports National Research Center, Natural Food Labels Survey: 2015 Nationally-Representative Phone Survey, Survey Research Report (Jan. 29, 2016). At: http://greenerchoices.org/wp-content/uploads/2016/08/CR_2015_Natural_Food_Labels_Survey.pdf

A requirement to establish a seed purity threshold for purchased seed, is a good idea, but various details would need to be worked out. In terms of seed purity, a goal of a 0.1% threshold for detected GMO traits should be established.

Question 3: Should there be an approved list of tests, and/or testing laboratories, for tracking the presence of GMO in seed and/or crops?

Yes, there should be an approved list of tests and testing laboratories, for tracking the presence of GMO in seed or crops. Such tests or testing procedures should be consistent with the most recent *Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Food* (CAC/GL 74, 2010),[8] developed by Codex Alimentarius Commission and developed by the Codex Committee on Methods of Analysis and Sampling (CCMAS). Codex Alimentarius documents and standards are considered to be *de facto* global scientific standards by the World Trade Organization in disputes having to do with food safety. Thus, these testing procedures developed by CCMAS constitute a consensus global standard. In addition, the tests used should be sensitive enough to detect GMO traits at levels of 0.1% or less. As the testing methodology improves, the level of detection decreases so that smaller and smaller levels of GMO contamination can be detected.

Question 4: Should there be an approved method of sampling for GMO traits? How much of a seed or crop should be tested to provide confidence that the entire lot is likely to be GMO free?

There should be an approved method of sampling for GMO traits. In particular, the sampling should be done according to a statistically valid sampling plan consistent with principles recommended by internationally recognized sources such as the International Standards Organization (ISO) and the Grain and Feed Trade Association (GAFTA).

Question 5: Would a seed label statement indicating the percentage of GMO traits detected by an approved testing regime, be sufficient in providing the information needed by the purchaser of the seed? No detectable level of GMO traits, .1% or other levels are examples that could be provided.

A seed label statement indicating the percentage of GMO traits detected by an approved testing regime may be sufficient in providing the information needed by the purchaser of the seed, providing that the test is sufficiently sensitive. At present, it is

[8] Codex Alimentarius Commission. 2010. Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Food. CAC/GL 74. At: http://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCAC%2BGL%2B74-2010%252FCXG_074e.pdf

relatively easy to detect levels of GMO traits to 0.1%, based on present DNA testing (based on PCR [polymerase chain reaction] technology). As methods improve, the limit of detection (LOD) for GMO traits will decrease. Presently, a goal of no more than 0.1% GMO contamination should be feasible.

In summary, we urge NOSB to continue its important work to address GMO contamination and to protect the genetic integrity of seed grown on organic land.

Excluded Methods Terminology

At the Fall 2016 meeting, the NOSB voted 14-0 to forward an Excluded Methods Terminology document to the National Organic Program for adoption and promulgation of a regulation to implement the proposal. To date, USDA/NOP has not yet proposed regulations to adopt this proposal.

Furthermore, at both the Fall 2016 meeting and Spring 2017 meeting, we commented on a discussion document regarding the use of four terms in the Terminology Chart—transposon, cisgenesis, intragenesis, and agro-infiltration—that should be considered excluded methods since they all meet the definition of being a technique of modern biotechnology such as genetic engineering. At the Fall 2017 meeting, NOSB voted 15-0 to include cisgenesis, intragenesis, and agro-infiltration in the terminology for excluded methods.

In addition to the Subcommittee's Fall 2017 proposal, there are still items on the Excluded Terminology Chart—protoplast fusion, cell fusion within Plant Family, transposons, embryo rescue in plants, TILLING (targeting induced local lesions in genomes), doubled haploid technology, induced mutagenesis, and embryo transfer in in animals—whose status as to whether they should be considered as excluded methods is still to be determined. Work is urgently needed to determine which of these eight technologies should be considered as excluded methods, since it is important to protect the integrity of organic, which does not allow use of excluded methods.

Consumer Reports' 2015 consumer survey found that a large majority (85%) of consumers believe that processed and packaged foods labeled "organic" should mean no GMOs were used.[9] We have previously argued that "transposons" should be considered an excluded method. Transposons are mobile genetic elements that have been used to genetically engineer plants and animals.[10] Transposons can also be used to create genetically engineered (GE) animal vaccines. While GE vaccines are not prohibited in

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[9] Consumer Reports National Research Center, Natural Food Labels Survey: 2015 Nationally-Representative Phone Survey, Survey Research Report (Jan. 29, 2016). At: http://greenerchoices.org/wp-content/uploads/2016/08/CR_2015_Natural_Food_Labels_Survey.pdf

[10] Ivics Z and Z Izsvák. 2010. The expanding universe of transposon technologies for gene and cell engineering. Mobile DNA. At: http://mobilednajournal.biomedcentral.com/articles/10.1186/1759-8753-1-25

the organic program, due to the exemption of vaccines from the excluded methods terminology, we believe that GE vaccines should not be allowed in organic production. However, even if they are to be permitted, transposon use for creating GE plants and GE animals clearly constitutes an excluded method. Transposons should be in the Terminology Chart in the Guidance on Excluded Methods with a note saying that use in vaccines for animals may be allowed. Thus, at least one of the eight remaining technologies on the Terminology Chart can be considered as GMOs, so their use in organic production would violate the integrity of the organic label.

The NOSB should take action to determine how many items still present on the Terminology Chart meet the definition of an excluded method, since use of such a method would violate the integrity of the organic label, which forbids use of excluded methods in organic production. Consequently, we urge the NOSB to allow work on determining the status of the other eight technologies vis-à-vis whether they meet the definition and criteria of an excluded method, as laid out the Excluded Methods Terminology Proposal that NOSB voted 14-0 to adopt at the fall 2016 meeting. Work on these eight technologies (determining definitions and whether they meet the criteria of an excluded method) should move forward and also be put on the agenda for the Fall 2018 meeting. In addition, definitions should also be developed for the three technologies—cisgenesis, intragenesis and agro-infiltration—that NOSB determined at the Fall 2017 meeting to be excluded methods.

In summary, we urge NOSB to continue the unfinished work on Excluded Methods Terminology. This means continuing work on determining the status of the other eight technologies vis-à-vis whether they meet the definition and criteria of an excluded method and to put this item on the agenda of the Fall 2018 meeting.

Conclusion

We appreciate the work of the National Organic Standards Board to strengthen the organic standards and develop recommendations to improve oversight and compliance. We urge the Board to continue its work on import oversight and inspector qualifications, to address growing concerns with fraud, both domestic and abroad. We support stronger requirements for testing imported organic products from certain regions with documented fraud, to assure consumers that the organic foods they buy were produced in accordance with the strong organic standards. We also strongly encourage the Board to consider recommending a licensing requirement for inspectors by ISO-accredited organizations. These additional requirements in the certification process would improve consumer trust in the USDA Organic label.

We urge the Board to pass the proposal to eliminate the incentive to convert native ecosystems to organic production. The Board should continue its work to develop a proposal on preserving the integrity of seed grown on organic land, as well as its unfinished work on Excluded Methods Terminology. Finally, we strongly urge Livestock

Subcommittee, to develop a proposal to prohibit the use of antibiotics for poultry at all stages of life, to ensure that the routine use of antibiotics is consistently prohibited in organic production.

Thank you for considering our comments. We encourage the Board to reach out to us if questions arise; we are happy to provide more information and background materials on any of the topics in this comment.

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