



BEYOND PESTICIDES

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Jessica Rich
Director, Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Public comment on Green Guides – Organic Roundtable, Project No. P954501

These comments to the Federal Trade Commission are submitted on behalf of Beyond Pesticides. Founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers and farmworkers, Beyond Pesticides advances improved protections from pesticides and alternative pest management strategies that reduce or eliminate a reliance on pesticides. Our membership and network span the 50 states and the world.

We appreciate the opportunity to provide input on the Organic Roundtable, which is examining consumer perceptions of “organic” claims for non-agricultural products and potential approaches to address deceptive labeling. It is very important to us that the integrity of the U.S. Department of Agriculture (USDA) organic label be upheld, and we work to do this through our involvement in the organic regulatory process, which provides opportunities for the public to weigh in on what is allowable in organic production. We believe that labeling of non-food products with the term “organic” in a way that is consistent with organic regulations for food is important to maintaining and building trust in the organic label. New approaches are needed to reduce consumer confusion, and developing outlets for consumer education on the organic standards would also be advantageous.

Maintaining Integrity with Use of Organic Label

We believe that the use of the term “organic” on non-agricultural products, including but not limited to cosmetics, personal care products, lawn care products and services, clothing, bedding, and paper goods must follow the meaning and standards of the USDA certified organic label used on agricultural products. Consumers who purchase organic food products should be able to trust that their “organic” non-agricultural products to be held to the same standards.

We oppose the use of the term “organic” on any label –except as described below—if it does not meet the USDA organic standards, including any voluntary labeling system.

Oversight on this issue of labeling is especially timely with the demand for organic growing exponentially. There have been several surveys detailing consumer perceptions of the organic label. One recent survey conducted by the Cornucopia Institute looked into the meaning of “organic” in different contexts, with a sample size of 1,384 individuals.¹ One survey question asked participants: “Suppose you see a shampoo with a label containing the word “organic.” Does the presence of the word confirm or imply that the product is certified as “organic” by the USDA?” Of the 1,384 respondents, 26% answered “yes.” A separate question asked survey participants: “What labels do you find misleading to consumers?” Of the 1,367 respondents, 62% answered that ““organic’ wording on non-food items” is misleading.

The results of the 2016 FTC-USDA study on organic claims suggests that to avoid misleading claims, a percentage qualification may be added to products with less than 100% organic content. This was achieved by qualifying an “organic claim for shampoo by limiting the organic materials to the cleansing ingredients” which resulted in the “percentage of respondents [incorrectly] identifying the product as all organic [dropping] from 52% to 22%.”² These results suggest that for products with less than 100% organic content, adding qualifying claims about specific organic ingredients reduces the likelihood of misled consumers than unqualified organic claims.

Although this is one potential method for addressing deception in organic labeling on non-food items, the most straightforward method of minimizing confusion is to adopt rules that are consistent with those in organic food, as listed below.

USDA regulates the term “organic” as it applies to agricultural products through its National Organic Program (NOP). NOP developed the following standards for categories of labeling based upon product composition:

- I. “100 percent organic”: Raw or processed agricultural products must be certified organic and any processing aids must be organic.
- II. “Organic”: Raw or processed agricultural products must be certified organic, except where specified on the National List, and non-organic ingredients allowed per National List may be used, up to a combined total of five percent of non-organic content.
- III. “Made with organic”: Multi-ingredient agricultural products must have at least 70 percent certified organic ingredients (excluding salt and water); any remaining agricultural products are not required to be organically produced, but must be produced without excluded methods; and all nonorganic ingredients must be specifically allowed by being placed on the National List of Allowed and Prohibited Substances (National List).

¹ The Cornucopia Institute. 2016. “What does the word “organic” mean to you in different contexts?” Available at https://www.ftc.gov/system/files/documents/public_comments/2016/10/00028-129259.pdf.

² Federal Trade Commission. 2016. “Consumer Perception of “Recycled Content” and “Organic” Claims.” Available at https://www.ftc.gov/system/files/documents/reports/consumer-perception-recycled-content-organic-claims-joint-staff-report-federal-trade-commission/consumer_perception_of_recycled_content_and_organic_2016-08-10.pdf

- IV. Specific organic ingredients: Multi-ingredient products with less than 70 percent certified organic content (excluding salt and water) do not need to be certified. Any non-certified product must not include the USDA organic seal anywhere or the word “organic” on principle display panel and may only list certified organic ingredients as organic in the ingredient list and the percentage of organic ingredients.

According to USDA NOP, if a cosmetic, body care product, or personal care product “contains or is made up of agricultural ingredients, and can meet the USDA/NOP organic production, handling, processing and labeling standards, it may be eligible to be certified under the NOP regulations.”³ We do not take issue with labeling many of these products for that specific reason, but have concerns over the fact that the National List was not created with non-agricultural products specifically in mind.

Ensuring Clear Organic Criteria Established by Law

The Organic Foods Production Act (OFPA) requires that synthetic materials used in agricultural production and nonorganic materials used in processing of foods in Categories II and III above be on the National List “by specific use or application.” Some listings may be appropriate for non-food uses, but others may not. Only materials used in ways that are consistent with their listings on the National List should be permitted in products labeled “organic” or “made with organic [specified ingredients].” In permitting a substance to be listed as allowed, it should be noted that it must meet three criteria, including: (i) no adverse health effects to health and the environment; (ii) compatible with organic systems; and (iii) essential to the organic management practice under review.

For cosmetics and personal care products, the rules for 100% organic, organic, made with organic, and the specification of organic ingredients in products containing less than 70% organic ingredients would be the same as for processed foods.

Organic Standards for Turf Management and Beyond

Turf, being an unprocessed product of organic production, should follow the rules for organic crop production. Since organic, as defined in OFPA, is a process-based standard, turf management can be held to similar management standards, rules, and oversight. In addition to the use of allowed materials, organic turf must be produced under an organic systems plan that builds soil health and protects the biodiversity that is crucial for organic productivity.

Other non-agricultural items must be assessed on a case-by-case basis to consider the necessary requirements for labeling that adhere to the principles of the organic production, processing, and handling and meet USDA organic standards. Some of this may require an expansion of organic regulations. However, as long as “organic” is not used as a product

³ USDA AMS National Organic Program. 2008. “Cosmetics, Body Care Products, and Personal Care Products.” Available at <https://www.ams.usda.gov/sites/default/files/media/OrganicCosmeticsFactSheet.pdf>.

descriptor, "organic" does not appear on the main label panel, and the organic seal is not used, we do not object to the word "organic" being used to describe ingredients in the ingredients panel.

Clear Enforceable Standards for a Voluntary Label

In 2009, in an attempt to improve consumer confidence in personal care products, NSF International developed an American National Standard Institute (ANSI) known as NSF/ANSI 305: Personal Care Products Containing Organic Ingredients. This private, voluntary standard created defined labeling and processing requirements for personal care products that contain a minimum of 70 percent organic ingredients. According to Oregon Tilth, an accredited certifier of NSF/ANSI 305, the guiding principles for this standard are the same as that required by USDA NOP: to protect the environment; to avoid the use of toxic ingredients in the manufacturing of organic products; and to ensure traceability.⁴ This standard uses the “existing framework of the [NOP] and extends the use of ingredients that the NOP regulation does not allow due to the type of processing used to make functional ingredients.”⁵ **We oppose the use of the term “organic” on any label –except as described above—if it does not meet the USDA organic standards, including any voluntary labeling system.**

We expect that FTC will create changes to its oversight processes that will prevent consumer confusion about organic claims on cosmetics, personal care products, and other non-agricultural items, bolster the much needed trust in and transparency of the USDA organic label, and ensure proper use of private, voluntary standards. We believe that adding an organic percentage qualification claim may improve consumer perceptions of these personal care products and would be consistent with the findings of the FTC-USDA survey. In addition to this approach to address consumer perceptions, developing or improving outlets for consumer education on the organic certification process and the requirements would also be beneficial.

We appreciate your attention to this important and urgent issue. Thank you for your consideration of our recommendations.

Sincerely,



Carla Curle
Science Program Associate

⁴ Oregon Tilth. 2015. “NSF/ANSI 205 Standard: Personal Care Products FAQ.” Available at https://tilth.org/app/uploads/2015/03/Personal-Care-Product_FAQ.pdf

⁵ Oregon Tilth. “Personal Care Product Certification.” Available at <https://tilth.org/certification/forms/personal-care-products/>