

Organic Seed Growers and Trade Association

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November 30, 2016

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

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

Dear Ms. Rich:

Thank you for this opportunity to provide comments on issues of importance to the organic community.

Organic Seed Growers and Trade Association (OSGATA) is the national farmer-controlled membership trade association which stewards the interests of certified organic farmers, certified organic seed companies, and accredited organic certifiers, as well as organic seed breeders, organic gardeners, individuals and organizations which support our common goals for a resilient organic industry built upon integrity and a foundation of an independent, strong and capable organic seed sector.

We offer to the FTC the following OSGATA positions on the use of the term “organic” for the purpose of labeling non-food products.

1. The Integrity of the Organic Label Must be Maintained to Avoid Deceptive Marketing Practices to Consumers, and to Protect Organic Producers from Unfair Competition.

The USDA “Organic” label was developed to apply to foods or other agricultural products produced through methods meeting formally approved standards. As a general matter, these standards are intended to provide assurance that the organic production methods are protective of natural resources, conserve biodiversity, and use only approved substances. Organic producers take steps, and incur costs, that are typically greater than those of other producers, and the price for organic products typically reflects those additional investments. The dramatic growth of the organic sector in recent years attests to the value more and more consumers place on the products of organic methods, notwithstanding somewhat higher cost that may be borne by consumers for those products.

Accordingly, 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. Otherwise, consumers will be misled into purchasing non-agricultural products that were not produced according to the methods, and do not meet the standards, they believe they are paying for. Furthermore, producers of such non-agricultural will have an unfair competitive position relative to organic producers, because they will be able to unfairly profit from the reputation the organic label brings without having incurred the extra cost, and/or they will be able to undercut the organic producer by attracting consumers to lower-priced items falsely represented to be organic.

Therefore, OSGATA opposes the use of the term “organic” on any label, including any voluntary labeling system, if the product does not meet the USDA organic standards, except as stated below.

- 2. 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:
 - a. “100 percent organic”: Raw or processed agricultural products must be certified organic and any processing aids must be organic.
 - b. “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.
 - c. “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).
 - d. 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.”¹ OSGATA does not take issue with labeling many of these products for that specific reason, but has concerns over the fact that the National List was not created with non-agricultural products specifically in mind.
3. **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].”** 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.” 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.
 4. **Turf 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 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.

FTC’s important role in protecting against consumer deception and unfair business competition necessitates greater FTC oversight of organic claims made with respect to cosmetics, personal care products, and other non-agricultural items. We appreciate the work of the Organic Roundtable to date and look forward to FTC now acting to insure that the hard-earned, highly valued and valuable organic label remain a meaningful one.

¹ 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>.

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Very truly yours,

Jim

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