Food & Water Watch • 1616 P St. NW, Suite 300 • Washington, DC 20036
T +202.683.2500 • F +202.683.2501 • www.foodandwaterwatch.org

March 19, 2013

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

Members of the National Organic Standards Board:

I am writing on behalf of Food & Water Watch, a national nonprofit consumer advocacy organization. Our members and supporters are very concerned about the integrity of the organic standards and the credibility of the organic label. We appreciate the opportunity to comment on several of the topics being considered by the Board at your next meeting (Docket # AMS-NOP-12-0070-0001).

We are offering comments on the following issues:

Inerts	page 1
Public Communications	page 1
Sugar Beet Fiber	page 2
Confidential Business Information in Petitions	page 2
Petitioned Material Proposal: Oxytetracycline	page 3

Inerts Working Group Update

Food & Water Watch appreciates the work of the Inerts Working Group and the Crops Subcommittee to create a procedure for evaluating so-called "inert" ingredients with the criteria required by the Organic Foods Production Act. There has been much discussion of the need to address the issue of inerts, as well as the fact that these substances are not actually physically, chemically, or toxicologically inert. We urge the Board to begin the process of reviewing inert substances as soon as possible.

Public Communications

Food & Water Watch believes there should be more communication between the public and the members of the Board and supports the proposed Policy for Public Communication Between NOSB Meetings. Transparency is a core value of the organic system, and facilitating communication between the public and Board members at all stages of the process is an important step in making sure transparency is achieved. A year-round public communication mechanism sponsored by the Board will allow the public to participate in the process between meetings and to provide information that could be useful to Board members as they navigate complex and often technical issues.

Sugar Beet Fiber

Food & Water Watch opposes the recommendation to add non-organic sugar beet fiber to the National List for use as a dietary fiber in organic foods. Manufacturing sugar beet fiber from nonorganic sources creates adverse impacts on the environment during both production and processing. Production of nonorganic sugar beets uses pesticides and other chemicals that would not be allowed in organic production. Processing creates large volumes of wastewater as well as air emissions. Additionally, the potential for contamination with genetically engineered sugar beets is high, given that the vast majority of sugar beets in the United States are genetically engineered. Although the petitioner is in Europe where there are no genetically engineered sugar beets in agricultural production, the petition does not restrict sugar beet fiber to European sources. This product is not essential for organic production, as whole foods and other grains already on the National List represent reasonable and available organic alternatives.

Confidential Business Information in Petitions

One of the unique aspects of the organic sector is the commitment to transparency that is largely absent in the rest of the food system. This makes the issue of confidential business information a complicated one. Certified organic products comply with a unique set of regulations and standards and producers and processors should be aware of that when they start the petition process. Disclosing these unique transparency issues to petitioners should be a priority of the Board and the NOP so that petitioners do not assume that widespread use of CBI in the organic materials petition process is acceptable. We also believe that ingredients and materials must never be claimed as CBI.

Should Confidential Business Information be allowed in petitions? Please explain your answer.

CBI should be allowed in very limited circumstances. To be approved for use in organic, a material must undergo a rigorous review that includes a very high degree of public transparency. Widespread or frequent use of CBI will diminish the thoroughness of the evaluation process and weaken the public's confidence in the process.

If CBI is allowed, should it be limited so that it does not involve ingredients or manufacturing processes?

The use of CBI should be limited and not include ingredients or manufacturing processes. To evaluate petitioned materials against the three criteria (environmental or health impacts, compatibility with organic principles, and essentiality) the Board needs all of the information about ingredients and manufacturing processes.

Do the provisions in Possible Recommendation 2 make sense and are there others that the board should consider?

These recommendations make sense. We would urge that both NOP and NOSB provide additional instructions to petitioners noting that NOSB decision making is very different

than other regulatory processes. Because there is no guaranteed right to have a material approved for use in organic production or processing, petitioners should be aware that relying on CBI could be putting the petition in jeopardy because the Board must consider all aspects of the product.

Provision I in Possible Recommendation 2 is about using an affidavit to supplement a CBI petition. Comment on whether this is valuable.

Use of an affidavit assumes that a petitioner has a good understanding of the Board's review criteria and the organic standards. This may not be a valid assumption given how different organic is from other sectors of agriculture and the complexity of the standards setting process. If a petitioner does not understand the organic standards or criteria for evaluating materials, they could attest to something that is not accurate.

Should procedures, such as a Confidentiality Agreement, be developed that would allow the NOSB, but not the public, to see any CBI?

No. This would not be workable for Board members who are involved in a very public process and often talk with their constituencies about the issues and materials they are evaluating. Asking Board members to keep some information from the public is not appropriate or workable.

<u>Petitioned Material Proposal: Oxytetracycline</u>

Food & Water Watch opposes the majority position and recommendation to extend the expiration date of oxytetracycline use for apple and pear trees until October 21, 2016. We believe that the practice of using any antibiotics in organic tree fruit production has gone on for long enough and there should be no further extensions.

The use of antibiotics in food production is something the public has grown increasingly aware of, thanks to long overdue attention to the growing public health problem of antibiotic resistance. As consumers learn about antibiotic resistance, most are shocked and respond by looking for food products that are produced without unnecessary use of antibiotics. Organic food – no matter what type – should be a valid option for these consumers.

The minority opinion made a thorough case for the urgent public health need to end the use of antibiotics in organic production, as well as providing the long history of the Board's consideration of this issue. We support the minority opinion and believe it is the right approach that lives up to consumer expectations of organic production.

The minority opinion included ample evidence about the health concerns related to antibiotic use in agriculture so we will not repeat similar evidence. But we do feel that it is vital to provide some context for this decision. Food & Water Watch, along with many other medical, public health, consumer and environmental groups, is working to try to reduce the overuse of antibiotics in conventional livestock production. Our efforts on this issue have

informed our strong belief that the use of antibiotics in food production must be minimized, and that there is no place for the use of antibiotics in organic agriculture.

A critical aspect of the antibiotics issue is the concept of the reservoir of resistance to antibiotic drugs that grows every time any antibiotic is used in the food system. All species evolve in response to their environment, including bacteria. Antibiotics kill bacteria, but if a few bacteria withstand the treatment, these bacteria will not only survive, but also reproduce and pass on the traits that allow them to resist antibiotics. This process is more commonly known as "survival of the fittest." In the case of bacteria and antibiotics, the "fittest" are those that survive exposure to the drug. Therefore, any use of antibiotics to some degree leads to resistance.

The use of even one antibiotic can select for resistance to multiple classes of antibiotics because the genetic trait that allows bacteria to survive exposure to one antibiotic is often linked to traits allowing it to survive others. So, not only do resistant bacteria become more common in response to selective pressure by reproducing more copies of themselves, but they can also share the resistance genes with neighboring bacteria. These DNA swaps, known as "horizontal gene transfer," allow both faster spread of resistance genes and easier acquisition of resistance to multiple drugs by multiple types of bacteria.

The resistance gene, in a way, takes on a life of its own, no longer tied to a specific species of bacteria, but persisting in the larger microbial environment. The collective effect is known as "reservoirs of resistance," in which resistance genes are widespread in the environment and can be acquired by bacteria through horizontal gene transfer.

Given this context, we were disturbed by the conclusions drawn in the majority opinion that there is not an urgent need to end the prophylactic use of antibiotics in every sector of the food system. Comparing the volume of antibiotics used by the organic industry to the conventional livestock sector or the use of other antimicrobials in other settings misses the point that there is no acceptable amount of antibiotic use for prophylactic treatment of a disease. Just because the amount of antibiotics used by organic fruit production is smaller than other sectors of agriculture does not mean that the organic sector should not try to end its contribution to the problem.

The majority opinion was unjustifiably dismissive of the potential for the use of antibiotics in organic tree fruit production to contribute to the reservoir of resistance of pathogens that can be dangerous to humans. Just because orchards are not known to harbor high levels of human pathogenic bacteria does not excuse the use of antibiotics, because the mechanism of horizontal gene transfer in the environment is still at work.

In fact, reading the majority opinion was disconcerting because it so closely tracked the arguments regularly used by the conventional livestock sector, especially the attempt to focus on – and downplay – the risk posed by possible drug residues on the food product while dismissing the critical health issue of adding to the overall reservoir of resistance through selection and horizontal gene transfer. This is especially disturbing for organic

consumers who expect more from organic than the same excuses they hear from conventional agriculture.

While we are most motivated by the public health threat posed by the reservoir of resistance, any possibility of antibiotic residues in fruit offers one more reason to end this practice. Attempts to justify any possible residue levels by pointing out that they are lower than the EPA's limit is not good enough for organic. Organic consumers are looking for food produced entirely without synthetic chemicals, not just foods that can come in below EPA's usually outdated tolerance levels.

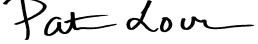
We understand that denying an extension presents a dilemma for some organic fruit producers, and that this bad situation has been made worse by the failure of several different arms of organic policy and research to find an alternative in time for this expiration. This is unfortunate and we don't take this disturbance lightly. But this is not the first time that a change in the organic standards triggered changes in production practices. This is a painful but necessary move to make sure organic continues to be a credible consumer label.

The prohibition on antibiotic use has been one of the core issues that attract consumers to organic. To allow the use of antibiotics in organic fruit production, while not allowing it in livestock production, is confusing and ultimately undermines the credibility of organic with consumers. Therefore, this decision has implications for the credibility of the organic label overall. The track record for getting materials off the National List via the sunset process is not impressive and is putting the credibility of the entire organic label at risk. This material has been under discussion since 1995 and the Board has been saying it wants to get rid of it for the better part of a decade. Yet we are facing another extension. It is time for the Board to show a commitment to continuous improvement and to break the cycle of constant extension of materials on the National List.

In addition to the basic issue of consumer expectations, the fact that oxytetracycline is considered critical to human medicine should be enough to end this practice. Additionally, oxytetracycline does not meet the criteria for listing it as an approved synthetic, which was discussed in detail in the minority opinion. It poses significant health and environmental threats. It is incompatible with organic practices and provides an off farm input without adopting systems-based approaches. And the experience of growers selling into the European Union and Canadian organic markets, which do not allow the use of antibiotics, shows that organic apples and pears can be produced without the use of antibiotics.

We urge the board to reject the petition to extend the expiration date for oxytetracycline in apple and pear production. Thank you for your consideration of these comments.

Sincerely,



Patty Lovera
Assistant Director