



# National Organic Coalition

3540 Route 52, Pine Bush, New York 12566

[Liana@NationalOrganicCoalition.org](mailto:Liana@NationalOrganicCoalition.org) 914-443-5759

## NOC MEMBERS

*Beyond Pesticides*

*Center for Food Safety*

*Equal Exchange*

*Food & Water Watch*

*Maine Organic Farmers and Gardeners Association*

*Midwest Organic and Sustainable Education Services*

*National Cooperative Grocers Association*

*Northeast Organic Dairy Producers Alliance*

*Northeast Organic Farming Association - Interstate Council*

*Organic Seed Alliance*

*Organically Grown Company*

*Rural Advancement Foundation International -USA*

*Union of Concerned Scientists*

March 14, 2013

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

**Docket No:** AMS-NOP-12-0070

National Organic Standards Board:

The National Organic Coalition, (NOC) is a national alliance of organizations representing farmers, environmentalists, other organic industry members, and consumers concerned about the integrity of national organic standards. The goal of the coalition is to assure that organic integrity is maintained, that consumers' confidence is preserved, and that policies are fair, equitable and encourage diversity of participation and access.

The National Organic Coalition opposes the majority Recommendation of the NOSB Crops sub-Committee which proposes a new expiration date of October 21, 2016 for the use of oxytetracycline in apples and pears for the control of fire blight. We also oppose a typical 5-year Listing with re-review at sunset. Our opposition is based on the following 4 critiques of the recommendation:

1. The Majority sub-committee recommendation does not clearly acknowledge the serious human and environmental impacts of any antibiotics use. These impacts are widely acknowledged throughout both scientific and lay writing, and are accurately laid out in the minority opinion. Any NOSB recommendation (for or against an extension) must address these very real concerns.
2. The majority recommendation does not state an absolute expiration date, with a clear Board commitment to deny any further petitions for extension of use.
3. There is no accompanying specific use annotation to mandate that the producer demonstrate and document numerous activities and use of alternative materials to facilitate an organic apple and pear production system that does not use synthetic antibiotics.

4. There is no recommendation language detailing the implementation and necessary oversight by certifiers and the NOP of the organic pest control hierarchy.

We are encouraged to see that there is consensus in virtually the entire organic community to remove oxytetracycline from approved use in organic production. However, there is disagreement as to how soon it should be prohibited and by what mechanisms organic tree fruit producers will transition away from the use of oxytetracycline.

### ***NOSB Justification for Decisions***

The NOSB's authority to maintain the National List is a responsibility that requires clear decision-making based on science, organic principles, and often a bit of real-life adjustment for those on the cutting edge of agriculture: the organic farmers.

The purpose of an NOSB recommendation and accompanying discussion is at least two-fold: 1) to lay out the case by the Board for their recommended decision on a material to the regulators as well as the public; 2) to provide "intent" language for future Boards as they review the material again at Sunset, or if a new petition is submitted for a similar material or material class.

Since a single NOSB decision can have far reaching ramifications for the direction of organic food altogether, it is vital that the science presented be the best that is available in both summary and reference. The legislatively-mandated review process for organic is unique in its evaluation of how organic food is produced, including all materials used.

Beyond the Board, the NOP and the USDA, these discussions become the essence of defining the organic food and agriculture system. When the recommendation documents do not analyze the science, or confuse or misrepresent existing science, it does a disservice to the integrity of the organic label. Therefore the case presented by the Board must provide a clear argument based on OFPA (§2119 (l)(1)) to: "review available information...concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed National List;" as well as other criteria laid out in regulation and NOSB policy (e.g., NOSB Principles of Organic Production and Handling Adopted October 17, 2001)

In this decision, it is essential that the Board lay out a summary of the significant science regarding the human and environmental effects of the use of antibiotics. In fact, the introduction statement by the majority position agrees that "The core issue here is whether there is a risk of enhancing antibiotic resistance in human pathogens."

Despite myriad of cited scientific resources, our concern is that the majority position concentrates on presenting evidence to make the case that antibiotics use on organic tree fruits does not have any risk in enhancing antibiotic resistance. The discussion argues against the known fact that all use of antibiotics will result in eventual resistance, and it attempts to convince us that since it is used in small quantities, resistance will not occur and use in an organic system is therefore acceptable. In fact, Streptomycin, another antibiotic currently on the National List of Approved Synthetics, is no longer effective in certain regions of the United States, due to fire blight resistant bacteria in that area.

We don't believe this is where the NOSB (in fact all of organic) should be or wants to be. Had the discussion acknowledged the significance of antibiotic resistance, the problems with antibiotic use in the environment, and the commitment of organic to provide the most healthful and environmentally sustainable agriculture

systems and food supply, the majority might have then proceeded to make the case for a very limited extension for a very specific time/use.

We believe an incorporation of the arguments laid out in the minority position regarding the significance of antibiotic use on health and the environment is necessary in whatever Final Recommendation this Board proposes to the NOP on this material.

### **Development of a “Centrist Proposal Discussion Document”**

While NOC does not agree that the use of antibiotics is benign, we acknowledge that the entire organic community – farmers, advocacy groups, scientists and consumers – is willing to discuss the question of whether this antibiotic may be necessary for a little while longer in order for serious work to continue on finding alternatives that perform in organic systems. To be credible to the organic community, any decision for extension must include (in addition to the detailed scientific explanation regarding antibiotics previously outlined):

- **An absolute expiration date**, with the Board committing to not accepting any further petitions for extension of use. The NOSB “intent” is necessary to inform future Boards that any use extension must be crystal clear to all involved that this use will not be extended.
- **Specific use annotation** to document a grower’s movement up the disease management hierarchy
- **A resolution detailing how oversight from certifiers and the NOP will be carried out**, to be placed in the NOP program manual or other mandatory certification directions given to certified operations and their agencies.

Although not all NOC members support an extension for oxytetracycline, we felt that presenting a proposal for a short extension with a concise annotation detailing the limited conditions allowed for use, along with clear direction as to how this is accomplished within the certification process – from the farmer to the certifier to the NOP oversight – would go a long way to illustrating a serious and transparent commitment that the organic system is committed to continual improvement. We previously circulated this “Centrist Proposal Discussion Document” to NOSB members and community members (farmers, advocates, trade) of all opinions on this topic, and its details are summarized throughout this document.

### **Annotations**

NOC strongly believes that annotations are an important addition to a listing because they are an enforceable part of the rule that have regulatory authority as part of the National List. They include clear direction whereby the certifier and farmer together can analyze if the antibiotic use is truly the last resort, as well as provide a mechanism to help ease the economic burden of a material being removed by allowing a step-wise approach to prohibition.

NOSB has also effectively used annotations as way to balance the needs and concerns of stakeholders whose positions oppose each other, and they are increasingly being used to address process issues in complex or contentious situations (e.g., Biobased plastic mulch and Copper Sulfate).<sup>1</sup>

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<sup>1</sup> *§205.601(b)(2) Mulches: (iii) Biodegradable biobased bioplastic mulch meeting the following criteria: (A) Completely biodegradable as shown by: 1) meeting the requirements of ASTM Standard D6400 or D6868 specifications, or of other international standard specifications with essentially identical criteria, i.e. EN 13432, EN 14995, ISO 17088; and 2) showing at least 90%*

An annotation used in this situation is a way to make the process of certifying a grower's implementation of the hierarchical disease control standard in the system used to control fire blight as a tool to move the industry forward to an ideal position in which use of antibiotics is no longer necessary. It could lay out a few suggestions, not prescriptions, as to how the organic system must demonstrate and document the move towards the use of management practices rather than inputs to control disease (§205.206(d)). Producers would be free to demonstrate to the certifier any practices that meet this goal.

### **A Recommendation for Oversight**

While Annotations are a regular and regulatory step to aid in clarification of any decision, we believe that certain situations require the NOSB to specify greater oversight than is already required under current regulations. In this case, where consumer concern and confusion have led to a question of the very integrity of the organic system and the label, we think that a recommended instruction on oversight to both the certifiers and the National Organic Program goes a long way towards clarification of this unique system to the public at large.

This instruction, voted in a resolution in addition to the decision vote, would outline inspection and certifier procedures, as well as some specific participation from the NOP in the manner of training, scope focus, and instructions to certifiers from the Program. It would essentially document how the entire system – not just the producers – will make a commitment to this limited use and eventual expiration of the use of antibiotics in organic.

One critique of such a proposal is that the description of oversight is already required under current regulations, and is therefore redundant. We believe that in this case, with such serious scientific and health concerns around the use of antibiotics, it is necessary to specify how a credible system of oversight actually works. The decision for use of an antibiotic must be documented as a solution of “last resort.”

### **Failure of Policy and the Marketplace**

It is also of significant note that some organic stakeholders are in the position of bringing forth a plan for the extension of use today because of a failure of the system beyond the control of NOSB.

First, USDA research policy has not met the needs of organic farmers in spite of the fact that organic is a rapidly growing market. Unfortunately, the USDA has had difficulty understanding the differences between organic systems and conventional agriculture in both needs and methods for research priorities.

The research apparatus at USDA has been slow to include organic in any significant manner, despite the fact that organic research is useful to all of agriculture. In 1995, when the Organic Farming Research Foundation began tracking organic research, they estimated that 1/10<sup>th</sup> of 1% of USDA research was focused specifically on organic research.<sup>2</sup> With recent gains, estimates are that we have reached a level

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*biodegradation absolute or relative to microcrystalline cellulose in less than two years, in soil, tested according to ISO 17556 or ASTM 5988; (B) Biobased certified using the ASTM D6866 method; (C) Must be produced without excluded methods; (D) Must be produced without engineered nanomaterials; and (E) Grower must take appropriate actions to ensure complete degradation at the end of each growing or harvest season.*

*(3) Copper sulfate—for use as an algicide in aquatic rice systems, is limited to one application per field during any 24-month period. Application rates are limited to those which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.*

<sup>2</sup> Lipson, Mark, *Searching for the “O” Word*, OFRF 1997, p.40. [http://ofrf.org/sites/ofrf.org/files/docs/pdf/searching\\_for\\_o-word.pdf](http://ofrf.org/sites/ofrf.org/files/docs/pdf/searching_for_o-word.pdf)

somewhere between 2.5% and 3%. While an improvement, this remains an unacceptable level of commitment to research that serves the organic sector as well as all of agriculture (antibiotics are used on conventional apples and pears as well). USDA organic research commitments should, at the very least, be commensurate with organic's share of the overall food and beverage market.

Looking specifically at the antibiotic issue, the OREI proposal on the yeast alternative to antibiotics to fight fire blight in tree fruits was initially rejected for funding until this entire community (NOP, NOSB, trade, and all manner of organic advocacy groups) sent a strong and unified message to the research team at USDA about the significance of this work. Unfortunately, it is due to the delay of this research, that there is now this request to allow more time for this specific alternative ("Blossom Protect") to be more fully vetted in various growing conditions and locations.

In addition, it is appropriate to ask where the organic tree fruit industry was in this endeavor. As early as 1995, but certainly from 2006, there has been significant and vocal reluctance on the part of NOSB to continue the allowance of antibiotics in organic production. In addition, our closest organic trading partners, Canada and the European Union do not allow antibiotics in their organic apple and pear production standards.

Why was there not an infusion of funds from the industry to develop the alternatives, including the yeast alternative, resistant rootstock, and research into market acceptance of less susceptible varieties? The crisis we now find ourselves in could have, and should have, been avoided.

Unfortunately, this leaves the farmers to now live with bad policy and marketing decisions. A material that shows great promise as an alternative to the use of antibiotics for control of fire blight, the yeast product "Blossom Protect" is now available for use by growers (registered 1/31/2012). Its development as a practical alternative is at a stage where it needs to be trialed in a variety of field situations to refine the diagnostic model and the method of use. This is significant. It is our understanding that there is little doubt that this will work in many situations, but due to variability in conditions, growers need to be extensively educated in both its diagnostics and use. It is obvious that organic growers should not depend on this product or any other as the single answer to fire blight, but this alternative appears to be a significant advancement.

Is it then appropriate to allow potential continued use of antibiotics until there is more certainty regarding the use of this one product, "Blossom Protect"? Without a proven alternative product, and faced with significant outbreak conditions (temperature, humidity and other climatic variables), farmers will have to decide whether to risk portions of their orchards – investments of decades – or to use antibiotics and withdraw from organic certification for at least 3 years. In a bad weather year where fire blight conditions are extensive in the Northwest, will we lose significant U.S. organic production of apples and pears as well as significant U.S. certified organic acreage?

Once lost, where will organic apples and pears come from to fill the U.S. market? South America, New Zealand, or China? This could potentially have a devastating effect on U.S. organic tree fruit production.

### **Save the Crop, Destroy the Brand?**

On the other hand, the use of antibiotics could have a significant, negative effect on the organic brand going beyond the direct effect on the market for organic tree fruit production. Dedicated consumers who purchase organic have specific expectations of their organic products, including the oft-repeated phrase that organic does not include the use of antibiotics. This prohibition is true for all but two antibiotics only

allowed to be used to treat fire blight in apples and pears, but there is no doubt that most consumers would expect antibiotics to be prohibited in all organic systems. Details about whether or not antibiotics may or may not be used in a given year, or that it may only be sprayed on the bloom – prior to fruiting, does little to allay consumer concerns about organic products.

**Conclusion**

Simple steps to outline the organic standards and oversight process are now necessary to reassure a wary public. Organic consumers need to know that decisions to allow synthetic materials – especially those known to have negative health and environmental effects – are allowed only as a last resort. They also need transparency as to how the organic certification process will provide clear direction and oversight whenever this product is used. These steps should also stimulate more on-farm cultural practices research and on-farm non-synthetic materials research that would lead to acceptable and practical solutions.

The NOSB must recognize the serious human and environmental impacts of any antibiotics use as a basis for its decision. It must set an absolute expiration date for use of tetracycline, and must not allow an opening for reinstatement of the sunset schedule for antibiotics. In the interim, the NOP, certifiers, and growers must work together to strengthen and reinforce integrated organic systems that work to prevent fire blight problems.

We encourage the NOSB to seek out solutions that honor the concerns of all stakeholders – farmers and consumers – and work to bring the whole organic community together.

We thank the Board for its work and appreciate the opportunity to make this comment.

Sincerely,

A handwritten signature in cursive script that reads "Liana Hoodes".

Liana Hoodes, Director