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April 23, 2026

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

Docket ID # AMS-NOP-25-0914

Re. CACS: eCommerce

These comments to the National Organic Standards Board (NOSB) on its Spring 2026 agenda 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 eliminate a reliance on pesticides. Our membership and network span the 50 states and the world.

Organic consumers drive the crucial transformation away from chemical dependency to organic, sustainable, and regenerative practices. In order for consumers to exercise informed choice in the marketplace, they must have access to the information required by the Organic Foods Production Act to be provided on the label or in the market. Beyond Pesticides has undertaken litigation to ensure that consumers are protected from misleading and fraudulent advertising in jurisdictions where statutes provide that protection.¹ We support the petition on eCommerce submitted by OrganicEye and thank the CACS for this opportunity to provide organic consumers with information in the booming online marketplace.

Probably every organic consumer who has shopped online has encountered product names including the word “organic” or descriptions of products as “organic” or containing organic ingredients and wondered whether that description is true. If the consumer wishes to verify the claim, the first step is generally to look for the organic seal and ingredient list on the label. The next step is to look for the name of the certifier because there has been inconsistency among certifiers—particularly in whether to certify hydroponic or container production and access to the outdoors for livestock.²

¹ District of Columbia Consumer Protection Procedures Act (“CPPA”), D.C. Code §§ 28-3901–13.

² <https://www.cornucopia.org/wp-content/uploads/2019/03/CertifierReport.pdf>.

As the CACS has verified, there is inconsistency between the requirements when a product is offered for sale by a “brick and mortar” establishment and the requirements in eCommerce. As with other inconsistencies in regulation, this one presents an opportunity for fraud. The requirements for eCommerce should be brought into line with those for physical establishments.

In its proposal, the CACS states, “Across the board, commenters urge the NOP to wait for or align with FDA’s ongoing work on digital labeling to avoid conflicting regulatory regimes.” We did not make this comment, and we do not see a question regarding this in the discussion document. On the contrary, we do not believe that NOP should be tied to FDA’s timeline, and we believe that—as shown by CACS findings—NOP’s rules on organic label, labeling, and marketing information is dictated by OFPA and NOP regulations.

As stated by the CACS,

The USDA National Organic Program (NOP) is responsible for overseeing the labeling of organic products to ensure compliance with national standards. The NOP ensures that products labeled as “organic” meet the requirements of 7 CFR Part 205 and are labeled appropriately, including the presence of the “Certified organic by * * *” statement on packaging. The USDA NOP has jurisdiction over the labeling of organic products, ensuring that all products comply with the established standards for organic production and handling.

The NOP also works to maintain the integrity of the organic label by conducting compliance and enforcement activities. This includes investigating complaints about organic products and taking action against businesses that are found to be non-compliant. Such actions can range from issuing warning letters to revoking certification and imposing fines.

The CACS further finds, “NOP regulations (7 CFR 205.303(b)(2) & 205.304(b)(2) require that organic products (in all labeling categories) include a “Certified organic by [certifying agent]” or similar statement on the information panel of the physical package.” However, the subcommittee expresses the opinion that:

While this requirement ensures transparency in physical retail environments, it does not explicitly extend to digital product listings or e-commerce platforms. As a result, many online retailers and resellers—particularly those exempt from organic certification—do not currently have specific responsibility to display certifier information as the “Certified organic by * * *” requirement is specifically tied to physical packaging. **Therefore the addition of the statement on other “labeling” outside of physical packaging would be outside of current requirements and require changes to regulations.** [Emphasis added.]

The petitioner is requesting such a change to regulations. The subcommittee further concludes:

While the NOP has clear authority over the labeling and marketing of certified organic products, the unique structure of digital retail—where content is often controlled by third party platforms rather than certified operations—introduces practical limitations to mandating new online labeling requirements through regulation alone.

Organic products—both processed and raw agricultural products—are sold at brick-and-mortar and online outlets, many of which are not certified organic. Processors must provide accurate information, check online listing, and correct mislabeling when discovered by them, the online merchants, or consumers. Growers (raw products) and processors must ensure that their products are fairly and fully represented by those who sell their products online. We urge the NOSB to identify any obstacles to eliminating this loophole and propose a rule change that will address them.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Shistar". The signature is fluid and cursive, with a long horizontal stroke at the end.

Terry Shistar, Ph.D.
Board of Directors