

**National Organic Standards Board
Certification, Accreditation, and Compliance Committee**

**DISCUSSION DOCUMENT
March 23, 2009**

Solving the Problem of Mislabeled Organic Cosmetics & Personal Care Products

Purpose

The Certification, Accreditation, and Compliance Committee (CACC) recommends that organic cosmetics/personal care products be recognized explicitly by the National Organic Program (NOP) to ensure consumers and businesses alike that the products have an unquestioned home in the USDA National Organic Program. The purpose of this document is to present the topic for public discussion and comment and then to incorporate feedback into a CACC Recommendation for the NOSB Public Meeting in Fall 2009.

Background

The statement of the USDA on August 23, 2005 extended the USDA regulations to cover the organic claims made by cosmetic/ personal care products which meet the composition requirements for organic food. With this recognition has come the full force of certification and enforcement. While this is an improvement over what previously existed, an ever-increasing stream of cosmetic/ personal care products making organic claims continues to flow in to the market place. Please see the Appendix at the end of this document for a detailed text of the National Organic Program's current stance on the certification of cosmetics, body care products, and personal care products.

The Problem of Mislabeled Cosmetics and Personal Care Products

Consumers are not assured that organic claims are consistently reviewed and applied to this product class. Manufacturers of cosmetics/personal care products that contain organic ingredients are hindered by a thicket of competing private standards and confusion regarding the applicability of the NOP to their products. Transactions lack the regulatory clarity that applies under the NOP to food products that contain organic ingredients. The USDA is responsible for the product organic claims but is not currently enforcing this in the area of personal care products

Given the pace of development of this marketplace, and the important but uneven development of private standards, the NOSB should take the necessary initial steps to bring this product class into a coordinated existence with organic food products under the NOP.

This recommendation takes the initial steps toward:

- 1) assuring consumers that the federal government is policing these claims
- 2) allowing for the development of a complete federal organic cosmetic program

For the sake of clarity, the recommendation language below will use the term "cosmetics" rather than "personal care products." The phrase "personal care products" does not have a federally recognized definition whereas "cosmetics" is already defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321i.

Recommendation

To facilitate the development of a single national standard for this product class, and to ensure consumers that organic cosmetic products meet a consistent standard, the CACC recommends that the following amendments be made to 7 CFR Part 205. Underlined text is to be added to the current rule.

1. §205.102. Add Definition of Cosmetic:

(1) An article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) an article, other than soap, intended for use as a component or ingredient of any such articles (Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321i).

2. §205.100(a) Add words “including cosmetics”

Except for operations exempt or excluded in § 205.101, each production or handling operation or specified portion of a production or handling operation that produces or handles crops, livestock, livestock products, or other agricultural products including cosmetics that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be certified according to the provisions of subpart E of this part and must meet all other applicable requirements of this

3. §205.102 Use of the term “organic.”

Any agricultural product, including cosmetics, that is sold, labeled or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be: * * *

4. §205.300 Use of the term, “organic.”

(a) The term, “organic” may only be used on labels and in labeling of raw or processed agricultural products, including ingredients of any product, without regard to the end use of the product, that is sold, labeled or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be: * * *

5. §205.311 USDA Seal

(a) The USDA seal described in paragraphs (b) and (c) of this section may be used only for farm or processed agricultural products, including cosmetics, described in paragraphs * * *

Appendix: The following information is currently provided to the public by the USDA NOP

United States Department of Agriculture
Agricultural Marketing Service
National Organic Program
www.ams.usda.gov/nop ph 202-720-3252

Cosmetics, Body Care Products, and Personal Care Products, April 2008

- FDA does not define or regulate the term “organic,” as it applies to cosmetics, body care, or personal care products.
- USDA regulates the term “organic” as it applies to agricultural products through its National Organic Program (NOP) regulation, 7 CFR Part 205.
- 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.
- The operations which produce the organic agricultural ingredients, the handlers of these agricultural ingredients, and the manufacturer of the final product must all be certified by a USDA-accredited organic certifying agent.
- Once certified, cosmetics, personal care products, and body care products are eligible for the same 4 organic labeling categories as all other agricultural products, based on their organic content and other factors:
 - “100 percent organic”--Product must contain (excluding water and salt) only organically produced ingredients. Products may display the USDA Organic Seal and must display the certifying agent's name and address.
 - “Organic”--Product must contain at least 95 percent organically produced ingredients (excluding water and salt). Remaining product ingredients must consist of nonagricultural substances approved on the National List or nonorganically produced agricultural products that are not commercially available in organic form, also on the National List. Products may display the USDA Organic Seal and must display the certifying agent's name and address.
 - “Made with organic ingredients”-- Products contain at least 70 percent organic ingredients and product label can list up to three of the organic ingredients or “food” groups on the principal display panel. For example, body lotion made with at least 70 percent organic ingredients (excluding water and salt) and only organic herbs may be labeled either “body lotion made with organic lavender, rosemary, and chamomile,” or “body lotion made with organic herbs.” Products may not display the USDA Organic Seal and must display the certifying agent's name and address.
 - Less than 70 percent organic ingredients--Products cannot use the term “organic” anywhere on the principal display panel. However, they may identify the specific ingredients that are USDA-certified as being organically produced on the ingredients statement on the information panel. Products may **not** display the USDA Organic Seal and may **not** display a certifying agent's name and address. (Water and salt are also excluded here.)
- Any cosmetic, body care product, or personal care product that does not meet the production, handling, processing, labeling, and certification standards described above, may not state, imply, or convey in any way that the product is USDA-certified organic or meets the USDA organic standards.

However:

- USDA has no authority over the production and labeling of cosmetics, body care products, and personal care products that are not made up of agricultural ingredients, or do not make any claims to meeting USDA organic standards.
- Cosmetics, body care products, and personal care products may be certified to other, private standards and be marketed to those private standards in the United States. These standards might include foreign organic standards, eco-labels, earth friendly, etc. USDA's NOP does not regulate these labels at this time.

CACC motion to present this document at the May 2009 meeting of the NOSB approved on March 23, 2009

Motion: Tracy Miedema

2nd: Julie Weisman

Votes: Yes 5, No 0, Absent 1, Abstain 0