



May 4, 2026

Docket Number: AMS-NOP-25-0914

These comments, made on behalf of OrganicEye and our members around the country, are submitted for consideration by the National Organic Standards Board (NOSB) members in preparation for their deliberations during the May 2026 semiannual meeting.

OrganicEye is a tax-exempt public charity engaged in research and educational activities benefiting all organic stakeholders (farmers, ethical businesspeople, and consumers). OrganicEye is best known as an organic industry watchdog.

CACS

Proposed Requirement for Mandatory Certification Disclosure on Websites

As I'm sure most in the public recognize, a disclaimer identifying the accredited certifier is required to appear on all wholesale and retail organic packaging.

Because OFPA was passed, and the regulations adopted, before Internet commerce became a reality, online shoppers are not uniformly provided with the information necessary to verify the certification status of the products they are buying. Both OrganicEye and the NOP have uncovered numerous cases of fraud in which conventional products are erroneously being represented as "organic."

Consumers/eaters should have the right to know if the organic foods they are paying a premium for are truly certified and by which organization.

We appreciate the attention our formal petition for rulemaking has received from the NOP, the NOSB, and the public.

However, there are a few important **points to consider and misleading comments** that have been made by some corporate interests and the country's largest certifier (which was promoting additional certification of retailers as part of their comments).

They include the following:

1. **“No regulatory changes needed.”** We obviously disagree. Currently, there is nothing that legally requires online retailers to display a large enough photo to clearly show the certifier statement or to include it elsewhere on the webpage. This omission makes it very difficult for consumers to verify the authenticity of any given organic product.
2. **“Consumers aren’t interested in the certifier information and exclusively use the USDA seal to identify organic products.”** First, as a prominent organic industry watchdog, we can assure you that a healthy segment of the organic buyers in the retail marketplace is sophisticated and cares enough about organics to pay attention to certification status and certifiers. It’s also important to note that the use of the USDA organic seal is optional. As an example, Eden Foods, a popular and prominent long-time processor/marketer in the industry, does not display the seal due to discomfort with the rigor of enforcement by the agency.
3. **“We believe this is fundamentally an FDA labeling issue, not solely an organic issue.”** Congress created the National Organic Program to regulate the organic marketplace, protecting all stakeholders. Whether it’s approving materials, specifying prohibited methods, or requiring certain animal husbandry and agronomic management practices, the NOSB has the obligation, with few exceptions specified, to evaluate best practices for the organic industry independent of any other federal or state regulatory bodies. If the FDA indeed acts on tightening digital labeling requirements, it could take years for implementation. The USDA has the power to address this problem right now.
4. **Retail establishments exempt from organic certification:** Whether or not a brick-and-mortar or exclusively online retailer is certified or not should have no bearing on this proposal, just as it has no bearing on the obligation of packaged products to be labeled legally.
5. **“Labeling outside of physical packaging is outside of current requirements and requires changes to regulations.”** That is correct. That’s why OrganicEye submitted its official citizen petition. We do not support deferring this issue to guidance by the program, which would lack legal enforcement avenues when violations are detected.
6. **Requiring the certifier statement “could pose significant implementation challenges.”** Any company involved in digital commerce likely already has protocols in place in terms of updating their product offerings, whether it is specifications, brands, ingredients, or, in this case, the certifier. And updates have to be made continually to meet state and federal truth in advertising requirements, in addition to other FDA regulations.

One comment from the industry concerned a scenario in which inventory might reflect two different labels with two different certifiers during a transitional period. We find this to be a specious argument. If that should occur, a statement could be included on the website reflecting both certifiers until the original inventory is depleted.

There was also a concern expressed regarding fresh produce, but that is a very limited percentage of products marketed online and does not present an insurmountable challenge as, again, other updating is legally required on an ongoing basis. We would be amenable to a “friendly” amendment to our proposal by the trade association representing organic produce distribution to exempt loose produce (it should be noted they supported the overall proposal and recognized this need). If the NOSB decided to address this concern and needed more time to promulgate proposed language, OrganicEye would have no objection to tabling the proposal until the next meeting.

7. **Public input misrepresented by the CACS summary.** The vast preponderance of written comments submitted on this issue recognized the need and supported the proposal. Even organizations with reservations did so. NOTE: Our analysis found the statement “recommended voluntary best-practice guidance” to be **wholly inaccurate** (we encourage individual board members to review for yourself). We assume the responsibility for this lies with a single subcommittee member who, due to workload, summarized public feedback for the balance of the panel.

We also contend that it is both inaccurate and disrespectful to suggest that “consumers rarely look for or understand this statement” [i.e., the currently required identification of certifiers on packaging].

This is the quintessential and historic dynamic faced by the board: some business interests that would have to comply with the regulations opposed it, as did their leading lobby/trade group. Input from consumers and comments made by public interest groups representing consumers/eaters and farmers (Beyond Pesticides, Organic Farmers Association, OrganicEye, Organic Farming and Food Association, and others) strongly supported the proposal (or, in the case of OEFFA and PCC, preferred it be even more rigorous).

OrganicEye strongly suggests that the full board reject the current recommendation by CACS in an effort to remediate the widespread and ongoing problems relating to mislabeling and consumer fraud. Regulatory language already exists for packaging and would only need modest revisions to enable

online shoppers to have access to the same information they would if shopping in a physical store.

Mandating Universal Testing for Imports

Based on past experiences with wholesale fraud of large shipments of imported commodities, every single bulk organic shipment should be tested based on a predetermined minimum tonnage (or a dollar amount for high-value crops), and aggressive spot testing should be more liberally applied to smaller imported shipments (far above the 5% now required).

When we petitioned for rulemaking in this regard a few years ago (without a response from the NOP), an official with one of the Midwest-based organic grain cooperatives estimated that one bulk shipment of organic grain coming in from countries such as Turkey could easily be equal to the annual output of 40-50 average US farms.

Universal testing could have a profound impact on preventing US producers from facing unfair competition and organic consumers from being subject to fraud.

The cost to test all organic food being imported would be infinitesimal compared to the billions in commerce that are hitting our shores and the millions in fees US farmers are paying for certification.

Test it all!

That being said, domestically produced, high-risk commodities should be more aggressively tested based on volumes at any specific farm or aggregator.

Depending on adequately red-flagging high-risk shipments will fail.

But if the NOSB continues to pursue a framework for partial testing, the definition has to include high-risk countries like Turkey, China, and India, not just crop types.

Requirement to Fully Identify Vested Interests When Testifying Before the NOSB

For over a decade, I have been lobbying for a requirement that stakeholders testifying at NOSB meetings must fully identify themselves. But that has been only partially accomplished.

When lawyers, lobbyists, or scientists appear, they should be required to disclose more than just their professional affiliation or their employer (the consultancy). If applicable, they also need to identify any and all business interests that are compensating them for appearing before the board, have retained their services in the past, or are underwriting any of their expenses.

As an example, a dairy farmer once made numerous appearances before the board and collected many thousands of dollars from Dean Foods, a \$12 billion a year business enterprise at the time, when it owned the Horizon and Silk labels. That was never publicly disclosed.

Furthermore, to mitigate conflicts of interest, accredited certifiers should not be allowed to testify on behalf of their clients in favor of retaining materials at Sunset or in support of petitions. They should be independent arbiters calling balls and strikes. They could testify in terms of how many of their clients use a particular material. But if handlers or production agricultural interests have a position they want to articulate to the board, they should testify or submit comments on the record, not hide behind consultants or certifiers.

We should know as much as is practicable about the testimony being given.

Respectfully submitted,

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