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headoffice@ifoam.org  
www.ifoam.org

**Comments to the NOSB**

Submitted by Suzanne Vaupel, Vice President,  
International Federation of Organic Agriculture Movements (IFOAM)  
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Thank you for the opportunity to offer public input at this meeting of the NOSB. As most of you know, I wear four hats: as an attorney, member of the CCOF Government Affairs Committee, member of the OTA Government Affairs and International Relations Committees, and IFOAM Vice President. This morning I am wearing the IFOAM hat.

The International Federation of Organic Agriculture Movements (IFOAM) is the international platform for organic agriculture. It has about 730 member organizations in 105 countries, including 35 member organizations and three associates in the United States. IFOAM members include organic farmers, processors, traders, certification bodies, and consumers, as well as research institutes, agriculture schools and universities, and environmental organizations.

IFOAM is pleased to see the many improvements made in the organic regulation since the proposed regulation was issued in 1997. However, IFOAM is concerned about several issues which will exclude the very stakeholders who developed organic agriculture from their important role in the US organic industry. Such drastic measures have not been applied by the EU or any other country that has adopted an organic program. In the five minutes allotted, I will briefly address four issues of international concern.

I.

The first issue is the right of private certifiers to use their seal or logo to represent their standards, which may include additional standards to those in the USDA Regulation. Section 205.501 (b)(2) of the regulation prohibits certifiers from requiring compliance "with any production or handling practices other than those provided in the Act and the regulations . . . as a condition of use of its identifying mark."

We have heard that USDA is interpreting this provision to allow private certifiers to use their logo to represent their own standards even if they include standards other than those appearing in the Act and regulations. IFOAM agrees with this interpretation of the Organic

regulations. IFOAM agrees with this interpretation of the Organic Foods Production Act. However, it is important that this interpretation with all reservations and exceptions is set out in writing, in order to establish regulatory certainty for certifiers. Certifiers must also have written assurance that this interpretation will not change.

There are a number of reasons why it is important for certifiers to be able adopt standards that are not yet included in USDA Regulations and to use their own private logo to represent their standards, including the following:

1. Organic standards are continually evolving and private certifiers must be able to respond in a timely manner with standards that incorporate the latest advances in organic production and processing techniques.
2. Historically some certifiers have required additional standards beyond those used by other certifiers. Demeter is an example. Demeter's logo indicates organic certification, but it also signifies standards for biodynamic farming which go beyond most other organic standards.
3. Certifiers own intellectual property rights in their trademarks and what the trademarks stand for.
4. US federal policy is based on the right of the private sector to write voluntary standards. The National Technology Transfer and Assessment Act directs federal agencies to use private standards where possible (NTTAA Sec. 12 (d)). As organic production methods advance, the private sector must be able to respond by developing appropriate voluntary standards. These standards could be used in the future by USDA.

Additionally, in order for a certifier's additional standards to be meaningful, the certifier must not be forced to accept certification decisions made by other certifying bodies for ingredients in products that are certified to its additional standards and labeled with its mark. The certifier could accept certification decisions of other certifiers for products that it certifies according to USDA standards which do not carry the mark of the certifier. Hence, Sections 205.501(a)(13) and 205.505(a)(1) must be interpreted to allow for this need in order for USDA's proposed interpretation of Section 205.501(b)(2) to be meaningful.

## II.

The second issue that I wish to address today is the conflict of interest issue. Section 205.501(a)(11)(i) of the regulation excludes certified farmers from serving on the boards or in positions that are "responsibly connected" with certifiers. IFOAM is very concerned that conflicts of interest are avoided in all certification decisions. This is accomplished by section 205.501(a)(11)(ii) of the regulation.

Section 205.501(a)(11)(i) is overbroad and it prohibits stakeholders from serving in important positions in certification bodies. This provision violates section 4.2 of ISO 65 which requires that the structure of the certification body "shall enable the participation of all parties significantly concerned in the development of policies and principles

regarding the content and functioning of the certification system." IFOAM believes that it is important and necessary for certification bodies to adopt internal checks and balances to avoid abuses and to safeguard impartiality. However, prohibiting producers from serving on the boards of certifiers is an overly broad provision that disenfranchises major stakeholders.

### III.

The third issue I would like to address is the issue of accreditation of foreign certification bodies. Section 205.500 does not include one of the options that the NOSB recommended to USDA. The NOSB recommended that USDA accept accreditation by an international accreditation body. The IFOAM Accreditation Programme, operated by the International Organic Accreditation Service (IOAS) in North Dakota, is such a body. It has been found to comply with ISO 61 for accreditation programs in an independent evaluation and it has been recognized by governments and certifiers as a rigorous program. The IFOAM Accreditation Programme has accredited 16 certification bodies in 11 foreign countries. Additionally, 11 more certification bodies in 5 additional countries have applied for IFOAM accreditation. This represents up to 27 foreign certification bodies in 16 countries that would not have to be re-accredited by USDA or required to wait for lengthy government-to-government negotiations.

The NTTAA directs federal agencies to coordinate their conformity assessment systems with private sector conformity assessment activities "with the goal of eliminating unnecessary duplication and complexity." (Sec. 12 (b)(3)) Avoiding duplication is especially important in the organic industry, which includes many small farmers and processors in many countries. Certifiers, especially those in the Third World, cannot afford to pay for duplicate accreditation programs. Costs of multiple accreditation will be passed on to farmers, who cannot afford them, and to consumers, who will not buy organic food when the costs are too high.

In order to help small US certifiers, USDA has decided to subsidize the first round of accreditation. This is an important step that IFOAM applauds. However, WTO rules require USDA to subsidize accreditation of foreign certifiers on the same terms. So, US taxpayers will pay much of the cost for duplicate accreditation of certifiers that have already been accredited by a rigorous accreditation program.

USDA could avoid substantial costs to US taxpayers and to foreign certification programs by coordinating its activities with the IFOAM Accreditation Programme in any of several different ways. The preferred approach, which conforms to the NTTAA and the NOSB recommendation, would be for USDA to recognize the IFOAM Accreditation Programme after a thorough review of it by the National Voluntary Conformity Assessment System Evaluation program (NVCASE) operated by the National Institute of Standards and Technology (NIST).

There are also other alternatives that could avoid duplication. USDA could accept reports from IOAS on accredited certifiers' compliance with US standards. Several Authorities in the EU accept similar reports on compliance with the EU organic regulation. Since IOAS has already analyzed the standards used by each certification

body that it has accredited, it could easily review their standards for compliance with US standards.

USDA could also contract services with IOAS, such a reports and on-site evaluations. Such evaluations could be conducted with the annual review that IOAS makes of each accredited certifier. Any of these alternatives could utilize the expertise of IOAS and the work that has already been done to avoid duplicative work and duplicative expenses.

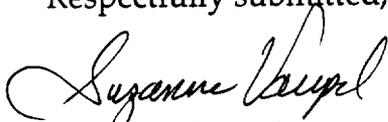
#### IV.

The fourth issue is the one we refer to as small holder certification. Section 205.403 (a) of the USDA regulation requires certifiers "to conduct an initial on-site inspection of each production unit, facility and site that is included in an operation for which certification is requested." In Third World countries, groups of very small farmers are commonly organized under a single system that has an internal inspection body. Coffee growers in Mexico are organized in such a system. Certification bodies have developed systems for inspection and review of the internal inspection system and re-inspection (on-site farm inspections) of a certain number of farm sites. When 1000 to 5000 or more farmers comprise one group, as often occurs, this system of limited re-inspection is the only feasible method for conducting certification. In such cases, even inspection of 10% of the farmers is not feasible.

At a recent meeting of government officials and international certification bodies at Biofach in Germany, a recommendation was made to select a statistically representative sample of farmers for on-site inspections. IFOAM encourages USDA to allow such a system for certification of small holder groups that have internal control systems.

We hope that these comments are useful to the NOSB and we stand ready to work with the NOSB on these and other issues. Thank you once again for the opportunity to address you today.

Respectfully submitted,

  
Suzanne Vaupel  
IFOAM Vice President