



29 April 2014

**Testimony of Lisa J. Bunin, Ph.D.  
to the National Organic Standards Board  
San Antonio, Texas**

Good morning. My name is Lisa Bunin and I am the Organic Policy Director at the public interest organization, Center for Food Safety.

On the 20<sup>th</sup> anniversary of the Organic Foods Production Act (OFPA), Senator Leahy invited Deputy Secretary of Agriculture, Kathleen Merrigan, to share her reflections on OFPA with his Agriculture, Nutrition, and Forestry Committee.

Merrigan recalled how Congress carefully chartered the NOSB to facilitate consensus among stakeholders regarding interpretations of OFPA. She also underscored the “gatekeeper function” Congress entrusted to the NOSB to stringently evaluate synthetics before allowing them on the National List.

The Role of any gatekeeper is to limit entry to only the most qualified. For OFPA, this means upholding the synthetics prohibition, permitting only certain temporary exceptions. Congress assigned the NOSB this crucial gatekeeper function after hearing from constituents that the organic community, with stakes in maintaining organic integrity, insisted that it maintain control over vetting synthetics. That way, no sector of organic could unduly influence the process or curry favor with the Secretary of Agriculture, no matter who held that office.

No one would argue that this is a perfect process. But, the NOSB’s gatekeeper actions have made it difficult for synthetics that do not meet OFPA’s health, environment, and essentiality criteria, to make it on to the NL.

Unfortunately, this important role has been wrongly usurped by the USDA/NOP, by weakening OFPA’S Sunset provision in 2 significant ways: First, the new policy reverses the presumption that a substance will be removed from the National List at Sunset to a presumption that it will be retained. The policy includes a change in the Sunset voting procedure from a two-thirds majority vote needed to put a synthetic substance back on the National List for another 5 years, to a two-thirds majority vote to remove a synthetic from the List. Secondly, the policy allows synthetics to be renewed by Subcommittees without a full Board vote. This undermines

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Congress's intent of giving the legal authority to gate-keep synthetics to a diverse 15 member stakeholder Board.

The new Sunset policy also undermines the principle of continuous improvement, one of the cornerstones of OFPA's implementation. Instead of strengthening procedures that pressure petitioners to find alternatives within 5 years, at the time of listing, it breeds complacency, by creating the expectation that synthetics will be automatically renewed.

Credibility of the organic brand and consumer markets is driven by organic's high integrity, not the ability to accommodate the lowest common denominator. It is incumbent upon the USDA/NOP to *not* forge ahead with streamlining the Sunset process at the expense of public trust or confidence in the organic label.

Market growth fueled by a policy that increases the number of synthetics in organic is destined for failure, as stated in recent letters sent to USDA by both OFPA's original drafters and former NOSB Chairs. They are all calling for USDA to rescind its September 2013 Sunset Policy and to engage the public on the issue. Center for Food Safety adds our voice in support of that effort.

### **Moving on to Aquaculture**

CFS's position has always been that no petition to add a substances to the National List (NL) for use in organic aquaculture should be considered until final regulations are promulgated. In the absence of knowledge about the *system* within which a substance would be added, approving any substance would be arbitrary, capricious, and unlawful. We urge the NOSB to deny all petitions for materials in organic aquaculture systems.

Neither the NOSB nor NOP has sufficiently evaluated the wide range of aquaculture systems that could be considered organic. The only system presented to the organic community-- open ocean net facilities--has been championed by the Aquaculture Working Group, comprised of members with vested interest in that system. Center for Foods Safety has consistently argued that open ocean aquaculture can never be organic and, as such, we urge the NOP to prohibit them in organic.

Thank you.



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