

## US National Organic Standards Board: Does it preserve the public voice amidst USDA and corporate interests?

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### Abstract

*The institutionalization of organic within USDA has been a tumultuous process. During the twelve years between the time USDA was authorized to create a standard and the time the standards were operational in the market, philosophical differences among the parties involved - USDA, organic farmers, organic processors, consumer and environmental advocates, corporate agriculture, and the public interest – have been apparent. The Organic Foods Production Act created an advisory board, the National Organic Standards Board (NOSB) that was meant to protect the integrity of the organic standard over time. This paper analyses the composition of the NOSB over time, with an effort to determine if the board is meeting its stated goal of protecting the public by ensuring the purity of the organic standard.*

### Introduction

From the start, the institutionalization of organic within USDA has been a tumultuous process. Twelve years elapsed between the time the Organic Foods Production Act authorized USDA to create a standard and the time the standards were operational in the marketplace. During this time, and continuing today, philosophical differences among the parties involved - USDA, organic farmers, organic processors, consumer and environmental advocates, corporate agriculture, and the public interest – have been apparent. In fact, the very first draft set of organic standards proposed by USDA did not reflect the public's perception of organic, and failed to prohibit the use of biotechnology and sewage sludge in organic (Federal Register, 1997). Since then, the media and some consumer groups have accused organic of having been "co-opted" by corporations, with some linking the so-called corporatization of organic to USDA's promulgation of the organic standard (Jaffee, 2010; Delind, 2000; Fromartz, 2000).

Further complicating the situation is the fact that the historical relationship between USDA and organic agriculture has been, at best, uneasy. The position of USDA scientists regarding chemical use, made clear in their response to *Silent Spring*, was that chemicals are needed to produce enough food to feed a growing population. Damage to human health and wildlife, USDA scientists stated, could be avoided by proper use and handling of chemicals (Lear, 1992). Little known is that, for nearly 75 years prior to 1950, USDA entomologists had success with biological methods for many (but not all) pests (Sawyer, 1990). Perhaps the most obvious anti-organic action of USDA was that towards the employee Garth Youngberg. The Reagan administration attempted to squash his 1980 report outlining recommendations for organic agriculture, and in 1981, his Organic Resources Coordinator position was eliminated (Heckman, 2006).

Given the history, the fact that the USDA would be developing, administering and enforcing the organic regulation set up an interesting tension: in order to protect organic consumers and farmers, the industry would have to rely on USDA. But how would the essence of organic be maintained, given USDA interests, plus growing corporate attention to profits associated with the organic sector? The crafters of the legislation were cognizant of these factors, and recognized that without a voice for the public interest, the standards could be shifted in a direction that was decidedly 'not organic.' The mechanism designed to ensure that the public would have a voice in the organic industry from inception and over time was an advisory board, "The National Organic Standards Board (NOSB)" that would make recommendations to USDA.

The board is unique in that it has members from all parts of the organic industry plus guardians of the environment and consumer interest. The board, whose members are selected by the Secretary of Agriculture, does not have complete power. As an advisory panel, the board can ban but cannot add substances to the National List. This list is the cornerstone of the organic sector: it specifies which ingredients and substances can be used in organic production and handling. The exclusion or inclusion of a particular product has significant financial implications: the manufacturer of the substance on the list stands

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to earn money if the product is included on the list. Thus, both politics and self-interest play an important role regarding the substances included on the list.

This paper explores the relationships among the members of the National Organic Standards Board, the National Organic Program, industry growth, the organic standard, and the rulings on controversial findings. The theoretical basis underlying this paper is that the organic standard can be viewed as a form of common property, where rules (promulgated by the National Organic Program) control access to the label “organic,” and the same rules restrict access to the use of the word organic.

### **Organic standards and collective action**

The primary purpose of the Organic Foods Production Act (OFPA) was to develop standards for marketing organic agricultural products, along with a mechanism for enforcing the standards. The Act provided general guidelines for organic food products: they would be (1) produced and handled without synthetic products, except as specified in the legislation; (2) crops (specifically excluding livestock) would be produced on land that did not have prohibited substances applied for three years; and (3) would be produced and handled according to an organic plan. Other than these general thoughts about organic, the Act did not provide additional guidance about specific farming and handling practices. In doing so, the Act left room for interpretation in writing the details of the National Organic Standards.

Groups composed of heterogeneous agents frequently have difficulty reaching agreements over a common good, such as a quality standard (see, for example, Hoffman and Libecap’s discussion of orange marketing orders). Factors that facilitate agreement are homogeneous groups, relatively small number of agents, or a low economic value of under consideration. The US organic industry is a prime example of a situation where reaching agreement is difficult: the core interest groups are diverse, with competing interests (farmers, businesses, and consumers.) These groups, as well as individual members of each group, possess differing preferences over the attributes of organic agriculture and food, such as environmental health, food quality, food safety, human health, animal welfare, and profits. In addition, the profit potential for businesses involved in organic has been increasing, compared to stagnation in the food industry in general, which provides incentives for conventional food businesses to expand their operations into organic.

In order to address the challenges of collective action head on, OFPA created an advisory board that represented all of the different stakeholders in the organic industry: farmers, consumers, the environment, and the industry. The board consists of 15 members, with roles clearly specified in the legislation: farmers, environmentalists or resource conservationists, consumer or public interest advocates, 2 handlers, etc. In some cases there are overlaps – certifying agents might align more closely with farmers and with handlers than with other stakeholders.

The NOP, the NOSB and the National List are inseparable. In its twice yearly meetings, the advisory board makes recommendations about which products to allow (or disallow) on the National List. The web is more tangled than it appears, since the board selection process is complex, and is ultimately influenced by several people, including the Secretary of Agriculture, who has the final authority to select the board members. The selection process is not transparent. The obvious agents with influence on who is appointed to the board are: the head of the National Organic Program and the Secretary of Agriculture. While the NOP head is an employee of USDA, the Secretary of Agriculture is a political appointee. This means that the head of the NOP can remain in office when administrations change, but the Secretary always changes with the president (and sometimes changes if a sitting president is elected to a second term). The Secretary is inextricably tied to the President’s political affiliation, and sets a tenor that ripples through all of USDA, including to the head of the NOP. Appointment decisions, ultimately, are tied not only to food industry politics a la Nestle, but also to executive level politics.

Now, the complexity increases even more: obviously, big organic firms have a stake in the outcome of which products are included on the list. But once competition from conventional agriculture, which can be viewed as anti-organic, is considered, even more is at stake. Now USDA is in a position of having to support organic without irritating conventional agriculture. This is not always an easy place or position. As an example, the description of organic agriculture as a marketing strategy is clearly a conciliatory act towards conventional agriculture: the original USDA “Organic Fact Sheets” specifically stated that organic food was not better than conventional food.

Many leaders of the NOP had difficulty filling the role. Barbara Robinson's views about organic were called into question by the Cornucopia Institute, and she was smeared in a *Washington Post* exposé. Mark Bradley was accused of being too cozy with the organic industry, so he was demoted. These two failures, along with others, might have been rational behavior, dictated by the president, or a lack of skill on the part of the individuals. The lack of leadership in the NOP meant that recommendations of the NOSB were not implemented, which caused a backlog in the administration of the organic regulation plus bred mistrust on the part of organic industry watchdogs.

The National Organic Standards Board is a critical part of ensuring that organic maintains the essence of organic, even as the industry grows. Thus, in order to meet the spirit of OFPA, the board members need to be filled in positions that match their skill and expertise. Merrigan's choice of roles and positions was a clear effort to keep one part of the organic industry from dominating others. Her assignment of different numbers of members in each role is telling about her view of the relative importance of the different segments. The choice of four farmers on the board, which exceeds other stakeholder groups, grants farmers the most power. The environment and consumers have equal weight, and their influence is equal to that of the "industry" segment of organic (the handlers plus retailer).

### **Politics and composition of the National Organic Standards Board**

Analysis of the composition of the NOSB, politics, and decisions on substances allowed or disallowed on the National List provides insight into the politicizing of the National Organic Standards. Questions addressed include whether the composition of the board shifted towards "big food" companies as the industry has grown in terms of retail sales? Is the representation of "big food" interests on the NOSB related to politics? Is the "goodness of fit" between the board member's role on the board and the person's expertise related to politics?

Between 1992 and 2012, the NOSB had 74 different members. A dataset was compiled that recorded (1) dates served on board, (2) professional affiliation at the time of the appointment, and (3) knowledge and expertise. Each board member was classified as having roots in the organic sector, conventional sector, or sustainable agriculture. This assessment was made on the basis of research and conversations with several researchers who have long studied the organic standards in the US, and included cross checking on the part of the research team to ensure each member was appropriately classified. Statistical analysis of the roles assigned to the NOSB members and their professional expertise indicated that those appointed under the Clinton administration were most likely to be well suited to their assigned roles. Those appointed under Bush (41) were least likely to be well suited.

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