

## ORGANIC TRADE ASSOCIATION

### BEST ORGANIC LABELING PRACTICES FOR PERSONAL CARE PRODUCTS

#### WHY THIS IS IMPORTANT

Many consumers have come to trust and understand that organic products are third-party certified to strict standards and regulated and enforced by the federal government. However, many organic claims made on products such as processed fiber and textiles, personal care products and dietary supplements are outside of USDA NOP's scope of enforcement and therefore go unregulated and unenforced. The Federal Trade Commission (FTC) has authority to act on misleading or fraudulent "organic" claims, but historically has not acted with the understanding that the responsibility belongs with USDA's National Organic Program (NOP). This creates a gap in the oversight system, creates unfair competition, negatively affects the success and growth of legitimately certified organic products, and can disenfranchise consumers in their ability to trust organic labels in general.

Consumers need assurance in the USDA organic label and certified organic brands need confidence in fair market conditions. The formal release of industry best labeling practices will promote and optimize compliant and truthful labeling, and encourage leadership by companies committed to consumer trust. It will also educate newcomers who may not know otherwise and will apply pressure on those who do. Ultimately it will support our members and lead the charge in stamping out misleading and inaccurate organic claims.

#### BEST LABELING PRACTICES

The end goal is the establishment of best labeling practices that will apply to **all product categories** that are outside of NOP's scope of authority. As a starting point and a prototype to work from, [Best Labeling Practices for Textiles](#) were drafted, endorsed by the Fiber Council and formally adopted by the OTA Board of Directors in February 2019. Best labeling practices for personal care products were then developed by a personal care member task force that convened in late in October 2021. They were circulated to full membership for feedback and finalization and adopted by the OTA board in February 2022.

OTA's best labeling practice documents for textiles and personal care products reflect the labeling guidelines we have consistently asked FTC to adopt as a policy over the years:

- ⇒ Use of term the "organic" when used to modify a **PRODUCT** name (e.g. organic mattress, organic shampoo) should be reserved for NOP certified products only, or products produced in accordance with an accredited or NOP recognized standard when NOP standards do not exist (i.e. [GOTS](#)).
- ⇒ Organic claims made on products that are **not certified** should be limited to organic **CONTENT** (ingredient) claims only, and should not imply that the entire processed product is certified organic.
- ⇒ Organic **CONTENT** claims should clearly state "contains organic XX" and should not appear on the principal (front or primary) display panel of a product that is not certified.
- ⇒ Organic **CONTENT** claims may only apply to ingredients that are certified to the NOP regulations or recognized as [equivalent](#) by the USDA-NOP.

#### BACKGROUND ON OTA ACTION

For the past 10 years, OTA has been meeting regularly with FTC and NOP, urging the two agencies to develop a policy that will address false and misleading "organic" claims made on products outside of NOP's scope of enforcement. In late 2017, after years of advocacy, [FTC took action](#) against a mattress company making misleading "organic" product claims. In 2019, [FTC took action](#) against a retailer falsely marketing personal care products as "100% organic" and "Certified Organic." Although we commend FTC for taking action against the deceptive use of the word "organic," FTC and USDA have yet to respond to our [larger request](#) and develop formal policy that is incorporated into its [Green Guides](#). **The lack of adequate response, consistent enforcement and guidance calls for the private sector to develop and promote best labeling practices that will become the preferred industry standard and a catalyst for government adoption.**

## BEST LABELING PRACTICES FOR PERSONAL CARE PRODUCTS

The Organic Trade Association (OTA) strongly discourages the use of organic product claims on the front panel of personal care products, unless they are third-party certified. We also object to any organic claim made anywhere on a personal care product that implies or leads the consumer to believe the final product is **certified organic** when it is not. In order to avoid misleading and/or inaccurate organic label and marketing claims on personal care products, the OTA recommends the following best labeling practices:

### USDA-NOP certification is the “gold standard” in organic certification

- USDA regulates the term “organic” as it applies to agricultural products through the NOP Regulation, 7 CFR Part 205. Agricultural ingredients and products such as fiber, herbs, plant extracts, plant and animal-based oils, beeswax, etc. are **agricultural products** and regulated under the NOP production and handling standards. However, the NOP regulations do not include specific processing or manufacturing standards for personal care products. In keeping with [NOP’s inclusive scope policy](#), any personal care product produced and certified in full compliance with the NOP production and handling regulations (7 CFR 205), **may be** certified and labeled as USDA-NOP organic.
  - ⇒ OTA considers USDA-NOP the gold standard in organic processed product certification and the preferred choice for personal care products that can meet the USDA-NOP standard.
  - ⇒ The use of terms “100% organic” and “organic (95%+),” when used to refer to and/or modify a **PRODUCT** name (e.g. organic shampoo), should be reserved for USDA-NOP certified products.
  - ⇒ Similarly, the term “made with organic (70%+ listed ingredients))” is also a statement regulated under NOP. Therefore, a “made with” statement on a front label panel should also be reserved for USDA-NOP certified products.

### Third-party certification is central principle of organic integrity

- In the absence of mandatory federal standards for organic label claims on personal care products, independent third-party certifications created from private voluntary standards can provide systems of transparency and lend legitimacy to organic label claims. Therefore, personal care companies may seek voluntary validation of organic claims, but still need to work within the limitations of USDA-NOP standards.
  - ⇒ OTA recognizes that there are distinct needs of personal care product formulation. If a personal care product does not qualify for USDA-NOP certification, OTA encourages companies to seek out independent third-party certification to a private personal care standard to verify organic claims and support truthful and accurate labeling.
  - ⇒ To ensure the certification process is carried out in a competent, consistent and reliable manner, the third-party certifier should be ISO/IEC accredited (*ISO/IEC 17065:2012 Conformity assessment – Requirements for bodies certifying products, processes and services*).
  - ⇒ To ensure transparency and to promote education and consumer awareness, the standard should be publicly available.
  - ⇒ To ensure the views of all interests are taken into account, standards development should be carried out using a multi-stakeholder, consensus-based approach.
  - ⇒ Finally, products labeled with an organic content claim (e.g. “contains organic X”) on the front panel must contain at least 70% organic content.

**Personal care products that are not certified to the USDA-NOP standards or to a private personal care standard as described above should not use the term “organic” anywhere on the principal display panel**

- Consistent with the USDA-NOP standards for specific organic ingredient listing only ([7 CFR 205.101\(a\)\(4\)](#) and [7 CFR 205.305](#)), OTA supports the following label options for products that are not certified:
  - ⇒ The product may only identify the organic content in the product by identifying each certified organic ingredient in the ingredient statement with the word “organic” or with an asterisk or other reference mark that is defined below the ingredient statement to indicate the ingredient is organically produced.
    - Ingredients: Water, Aloe Vera\*, Calendula Flower Extract\*, Vegetable Glycerin
  - \*Organic
  - ⇒ If the organically produced ingredients are identified in the ingredient statement, the product's percentage of organic content may also be displayed on the information panel.
  - ⇒ The specific ingredients that are identified as “organic” must be USDA-NOP certified or meet the terms of a [USDA-NOP equivalency agreement](#).
  - ⇒ Products must not display the USDA seal or any certifying agent seal, logo or other identifying mark that represents organic certification of the product.

## **Glossary**

**Agricultural product.** Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in the United States for human or livestock consumption.

**Ingredient statement.** The list of ingredients contained in a product shown in their common and usual names in the descending order of predominance.

**Label.** A display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material that contains only information about the weight of the product.

**Labeling.** All written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.

**Personal care product.** A consumable cosmetic product 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. Personal care products are specifically for use in such activities as cleansing, toning, moisturizing, hydrating, exfoliating, conditioning, anointing, massaging, coloring/decorating, soothing, deodorizing, perfuming, and styling.