



March 30, 2017

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-16-0100

RE: Handling Subcommittee – Bisphenol A (BPA) in Packaging (Discussion Document)

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the Handling Subcommittee's Discussion Document on Bisphenol A (BPA) in Packaging.

The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing over 9,500 organic businesses across 50 states. Our members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

The Handling Subcommittee is asking whether BPA should be prohibited in organic foods. OTA is not in support of BPA usage in food contact applications, and we are glad to see that many organic brands have removed BPA from food contact materials in response to concerns and requests voiced by consumers. While OTA is not opposed to the prohibition of BPA under the organic regulations, we're challenged to see how BPA, when used in food packaging applications, could be explicitly prohibited without a significant rule change. We also have concerns about how this would implicate a review process for potentially thousands of other food contact substances that may or may not be outside of NOSB's scope of review.

The relevant section of the organic regulations referenced in the discussion document is **§ 205.272 - Commingling and contact with prohibited substance prevention practice standards**. As required in this section, handlers must implement measures necessary "to prevent the commingling of organic and non-organic products and protect organic products from contact with prohibited substances." Under the organic handling regulations, prohibited substances are ingredients, processing aids, sanitizers or other direct or secondary food additives used in or on processed products that are not on the National List.

Under § 205.272, the following are also expressly prohibited for use in the handling of any organically produced agricultural product or ingredient:

- (1) Packaging materials, and storage containers, or bins that contain a synthetic fungicide, preservative, or fumigant;

(2) The use or reuse of any bag or container that has been in contact with any substance in such a manner as to compromise the organic integrity of any organically produced product or ingredient placed in those containers, unless such reusable bag or container has been thoroughly cleaned and poses no risk of contact of the organically produced product or ingredient with the substance used.

Our understanding is that the U.S. Food and Drug Administration (FDA) approval of food packaging (including the components of the packaging) is outside the scope of the USDA organic regulations unless they meet one or both of the conditions above, or if the packaging has been impregnated with a food packaging substance that is a “preservative” intended to become a component of and/or have a technical effect on the food. This kind of substance is regulated as either a direct or secondary food additive. An example would be packaging technology referred to as “active” or “intelligent” packaging that utilizes antioxidants in or on the packaging film to reduce lipid oxidation in the packaged food.

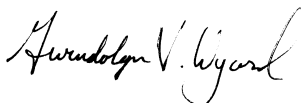
BPA is a component of packaging and is regulated as an indirect additive. It is also not a synthetic fungicide, preservative or fumigant. In order to prohibit BPA, OTA believes the regulations would need to be amended to expressly prohibit the substance for use in organic food packaging applications. Prohibiting BPA would set a precedent for extending NOSB’s scope of review to other indirect additives used in food contact applications including (but not limited to) plastics; paper; adhesives; other substances used in food packaging such as colorants, antioxidants, antimicrobials, coatings; constituents of food additives such as the monomers of the polymeric material; components of conveyors that contact food; components of food grade equipment and contact surfaces; and many other food contact substances.

BPA has risen to the top of the pile of food contact materials because of the heightened interest in its safe use in food packaging, resulting in increased public awareness. OTA appreciates NOSB’s call to organic stakeholders to gather information and discuss whether changes are needed in the regulations to ensure harmful substances do not come into contact with organic food. We recognize the task to be a huge undertaking and the implications are potentially significant. Nonetheless, we believe the topic warrants attention and further discussion.

Given the extremely short time to review the NOSB meeting materials and carry out OTA’s member engagement process, we were not able to convene a task force or conduct further research on the other discussion document questions. We respectfully request that the discussion document be released again for the fall 2017 meeting when the Technical Review is available and stakeholders have more time to give this very complex topic the attention it deserves.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Standards Board for the opportunity to comment, and for your commitment to furthering organic agriculture.

Respectfully submitted,



Gwendolyn Wyard



Vice President, Regulatory and Technical Affairs
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association