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Submitted via [www.regulations.gov](http://www.regulations.gov)

**RE: Docket: AMS-NOP-16-0049**

**NOSB Materials Subcommittee Proposal and Discussion Documents on Excluded Methods Terminology**

Dear NOSB Members:

Thank you for the opportunity to provide comments regarding the proposal and discussion documents on excluded methods terminology.

MOSA is in its 18th year of operation as an organic certifier. We now certify approximately 2000 operations throughout the United States. Our mission is to promote organic integrity through practical, reliable and friendly certification services. We employ nearly 80 sharp, passionate and qualified staff and contract inspectors, including many folks with advanced degrees in agriculture and related areas of study. We also know a lot about good stewardship, and common sense. We'll have more on this, further down in this written comment.

We appreciate your ongoing consideration of many public comments related to updating our standards to keep pace with developments in biotechnology. It is imperative that this work proceeds carefully, but quickly. The organic label is currently consumers' best non-GMO guarantee in the marketplace. Updating our excluded methods terminology will improve our oversight and enable us to continue to confidently promote that organic is a valuable and meaningful non-GMO alternative.

**In summary, we continue to support the direction of this excluded methods terminology proposal and discussion document. We think these help define and strengthen messaging regarding organic's prohibition on use of excluded methods. We also will reiterate our previous comments regarding potential enforcement challenges, and we continue to see advances in genetic engineering as requiring some moral consideration.**

**A Pressing Need, Well-addressed**

The Materials/GMO subcommittee's report to Secretary Vilsack, also up for comment at this fall NOSB meeting, clearly notes consumers' expectations regarding organic as a clear non-GMO alternative. The news of the past six months has included a lot of additional attention and controversy about GMO labeling requirements, and there's increasing prevalence of third-party-verified non-GMO claims on labels for both organic and nonorganic products. So, we still question whether average consumers know that organic means non-GMO. The organic community should get out ahead of the clear and present non-GMO sentiments. These excluded methods terminology documents will help this effort, and will help our label.

We find the definitions in the proposal to be clear and useful. We like that these draw on internationally accepted language. This lends credibility to the US standard in an increasingly global marketplace where there is increasing global concern about negative consequences of genetic engineering.

We also support the direction of the principles and criteria language laid out in the proposal. The inclusion of IFOAM's honorable principles of health, ecology, fairness and care promote an accepted international perspective. The criteria seem like they will enable evaluation of unforeseen biotechnology processes and methods, and will help us to regulate use of excluded methods which can't be detected through testing. With rapidly changing technology, we appreciate a review approach that uses criteria, rather than creating a closed list of identified excluded methods. The criteria for review might colloquially be summarized as "don't invade, don't terminate, don't introduce, and don't patent." We find these principles and criteria to be sensible and in line with the spirit behind our organic standards.

We note a need for a couple of slight technical corrections in the excluded methods terminology documents, where the incorrect homonym "principals" is used in place of "principles."

We also support the work on a terminology chart. This helps to clarify which specific techniques fall under the excluded methods definition and, when agreed upon, will give a lot more information that we can use in communicating what techniques are specifically prohibited by the organic standards. The terminology chart will aid consistency among certifiers.

We appreciate the recent revision to the documents to list embryo transfer in animals as something needing further discussion. Currently, MOSA policy allows embryo transfer, provided that no hormones or other prohibited materials are used on the recipient organic animal. We are willing to re-think this as a part of further discussions.

Even as additional work on definitions, principles and criteria, and a terminology chart continues, we encourage promptly moving forward with what is already agreed upon, so we might sooner use that agreement to promote better standards enforcement and stronger messaging. The more we can agree upon and define, the better we can promote and frame the "organic is non-GMO" message. We can tout what we agree to, and what the organic label guarantees, even as we continue to work out uncertainties and continued challenges with GMO contamination.

Overall, the documents are a good balance of usable principles, digestible messages, and transparent drilling down of what we mean when we say "organic is non-GMO."

## **Enforcement**

We continue to have some concerns regarding enforcement of the prohibitions suggested by the proposal. As we continue to assess results of GMO testing, and see that testing could be a valid approach in determining compliance, we find that interpreting test results is very problematic, since we don't have sufficient information on thresholds, or what kind of test results indicate compliance failures. We're separately submitting related comments on testing with regard to seed requirements, and GMO incursion into organic. Although testing is a compliance assessment tool, we are most accustomed to working with affidavits or other declarations from suppliers which verify that excluded methods have not been used. And indeed, the proposal notes that some of the excluded methods cannot be detected by testing.

The principles and criteria are expected to be helpful in making determinations whether or not certain genetic engineering processes are excluded methods. However, making this determination also would seem to be taxing and onerous, and we're concerned about where best to place this assessment burden.

We're encouraged that recent passage of the new federal GMO labeling law aids disclosure of use of GMO's, and we understand that as the organic community better defines our excluded methods boundaries, this definition will be consistent with the law. We remain hopeful that excluded methods terminology determinations will enable creation of a binding, strong and detailed non-GMO affidavit that can be reliably completed by suppliers to the organic industry. Such an affidavit could include specific references to applicable standards, definitions, principles and criteria, and makes enforcement practical. We are willing to collaborate on development of such a form.

We understand that this approach puts a lot of the responsibility for reliable enforcement on to those that might use excluded methods. Certifiers will ensure compliance, but we still need to rely on others to cooperate with our requirements and principles.

## **Humility and Morality**

We are proud of, and confident in, the qualifications of our staff and inspectors. As with other certification agencies, MOSA employs a lot of dedicated, smart people. We know a lot about many things related to organic farming and food processing, standards enforcement, materials review, and life. However, understanding advances in biotechnology is complex stuff, and certifiers are not typically employing people formally educated in modern biotechnology. We recognize a need for a dose of humility in our work. We need our experts, and those experts are not always us.

We believe there is a moral imperative for the companies and individuals who possess specialized knowledge about excluded methods to be responsible and transparent.

We recognize that human gifts include innovation, imagination, and invention which promote the betterment of the community. Yet, history demonstrates that human activity has sometimes damaged the health of others. Genetic technology may have a lot of potential for good, but its

use must not violate the fundamental moral responsibility to be respectful stewards of all life - plant, animal, human and planet. Genetic knowledge and its applications require diligent and sustained attention in order both to direct their potential good and to limit potential harm. This moral responsibility is in line with the IFOAM Principles of Organic Agriculture outlined in the proposal. These principles take a long view - considering future generations - and, they see the world as a global village.

Indeed, we're increasingly connected to our global neighbor. Our choices and activities, including decisions about scientific research priorities and the application of scientific knowledge, increasingly have effects across the globe. With global communications, changes now can happen on a larger scale and more quickly, and can have more impact on natural environments. However, we recognize that global and domestic inequalities can limit who is included in discussions and evaluations of genetic science and technology. We must strive to meet the organic principle of fairness.

Fairness demands open communication. Those who possess special or expert knowledge relevant to our freedom to make choices about use of modern biotechnology have a moral duty to share what they know. Marginalized voices must be given particular opportunities for participation, understanding, and registering concerns.

Last year, Pope Francis published a groundbreaking encyclical on the environment, called "on care for our common home." In part, he discussed the moral need for open communication related to biotechnology. To quote, "Certainly, these issues require constant attention and a concern for their ethical implications. A broad, responsible scientific and social debate needs to take place, one capable of considering all the available information and of calling things by their name. It sometimes happens that complete information is not put on the table; a selection is made on the basis of particular interests, be they politico-economic or ideological. This makes it difficult to reach a balanced and prudent judgement on different questions, one which takes into account all the pertinent variables. Discussions are needed in which all those directly or indirectly affected (farmers, consumers, civil authorities, scientists, seed producers, people living near fumigated fields, and others) can make known their problems and concerns, and have access to adequate and reliable information in order to make decisions for the common good, present and future."

We agree. Open communication and mutual humility are keys. Our organic community has a lot of wisdom to bring to the discussion, and we recognize our limits. We must engage in two-way, transparent communication with the biotech community. Updating our excluded methods terminology will aid this effort to find common good.

Respectfully submitted,

The MOSA Certification Team