



**COMMENTS OF DR. BRONNER'S MAGIC SOAPS
ON THE
CERTIFICATION, ACCREDITATION AND COMPLIANCE COMMITTEE
DISCUSSION DOCUMENT: SOLVING THE PROBLEM OF
MISLABELED ORGANIC COSMETICS & PERSONAL CARE PRODUCTS**

**SUBMITTED TO
THE NATIONAL ORGANIC STANDARDS BOARD
NOVEMBER 2009 MEETING**

All One God Faith Inc. d/b/a Dr. Bronner's Magic Soaps ("Dr. Bronner's") is pleased to submit these comments to the NOSB in support of the Recommendation of NOSB's Certification, Accreditation and Compliance Committee entitled "Solving the Problem of Mislabeled Organic Cosmetics & Personal Care Products", dated August 30, 2009 ("CACC Personal Care Recommendation"). Dr. Bronner's strongly supports adoption by the NOSB of this Recommendation which would, for the first time, make the National Organic Program ("NOP") standards mandatory for personal care products labeled, marketed and/or advertised as "Organic." For the reasons set out below, Dr. Bronner's believes that such mandatory regulation by USDA NOP is the only effective way to protect consumers of organic personal care products from the false, confusing and deceptive labeling of such products as "Organic."

I. BACKGROUND

Organic personal care is about simple time-honored recipes handed down to us through the generations, based on ingredients produced from organic agriculture with a bare minimum of synthetics and processing. Beginning in the 1940's, the world was flooded with cheaply-made synthetic products and ingredients, ranging from pesticides and food additives to detergents and plastics, all created in the laboratory largely from non-renewable petroleum. This widespread use of synthetics was hailed as "Better Living Through Chemistry," but its unintended consequences included pollution of the air and water, deterioration of soil tilth and health, unhealthy over-processed foods, and synthetic ingredients in personal care products — more than a few with significant toxicity issues.

In response, over the last few decades, the organic movement has rejected the intensive synthetic inputs and processes used in conventional agriculture and food processing, recognizing that traditional methods and materials result in better soil and improved human and environmental health.

Organic integrity in body care necessarily means that a product labeled or marketed as being simply "Organic" is composed of certified organic ingredients produced with minimal processing, without unnecessary synthetics and produced in compliance with USDA NOP regulations. Real organic personal care is "organic food for the skin" and does not utilize synthetic preservatives that can irritate skin. Natural unrefined oils and waxes, rather than



hydrogenated oils and synthetic silicones, must be used as emollients and moisturizers. Hand and body washes use, as their principal cleansing agents, traditional natural simple soaps made from organic oils, rather than modern synthetic surfactants usually made in part with petrochemicals.

II. DR. BRONNER'S PRODUCTS

Dr. Bronner's manufactures and sells personal care and cosmetic products including the nation's top-selling natural brand of liquid and bar soap under the brand "Dr. Bronner's Magic Soaps." Our company also manufactures and sells lotions, hair rinses, shaving gels and balms under the brand, "Dr. Bronner's Magic."

Dr. Bronner's liquid soap and other body cleansing products are labeled as "Made with Organic Oils" and that labeling complies with the NOP criteria for labeling a product as "Made with Organic [specified ingredients/types]." In manufacturing these products, Dr. Bronner's uses certified organic oils to make all cleansing ingredients, without conventional agricultural material or petrochemicals, or any petrochemical preservatives. In July 2003, a USDA-accredited certifying agent, Oregon Tilth Certified Organic, certified Dr. Bronner's as an organic operation with respect to nine specific bar soap products and six specific liquid soap products.

Dr. Bronner's has also introduced a line of organic lip balms, lotions, shaving gels and organic hair care products in the form of a conditioning rinse and leave-in conditioner, all of which are certified as meeting the requirements of the NOP for being labeled outright as "Organic." The principal cleansing and moisturizing ingredients of these products are made with organic material and the products contain no petrochemical compounds or preservatives. In February 2005, Oregon Tilth certified Dr. Bronner's as "Organic" in accordance with the certifying agent's standards identical to those of NOP. These products in fact meet all of the criteria of the NOP for being labeled as "Organic."

III. CURRENT REGULATORY SITUATION DEMONSTRATES THE NEED FOR MANDATORY REGULATION OF LABELING/MARKETING OF PERSONAL CARE PRODUCTS AS "ORGANIC"

Because the USDA-NOP is currently a voluntary rather than mandatory program for personal care, the cosmetic industry is rapidly developing private "organic" industry standards free of meaningful organic consumer participation, each more permissive than the next in allowing main ingredients to be synthesized from non-organic agricultural and even petrochemical material, and in setting organic content requirements that are minimal or meaningless. Some are better, most are worse, but together these voluntary standards enable the continuation of the current unregulated "wild west situation" in which a cacophony of phony "organic" labeling and marketing claims, most complying with no standard whatsoever, drowns out the truthful labeling and marketing as "organic" of personal care products complying with USDA NOP standards. We are witnessing the downward spiral of the term "Organic" into the



same meaningless use as “Natural”—marketing babble devoid of the integrity that only federal regulation by NOP can ensure.

As a result of the voluntary nature of the NOP as applied to cosmetic/personal care products, and the multiplicity of private standards, a number of cosmetic/personal care products are currently being labeled and advertised as “Organic,” “Organics,” “100% Organic” or the like, either as part of a brand name or elsewhere prominently featured on the front label, even though in such products:

- The main cleansing and moisturizing ingredients are derived from conventional or petrochemical, rather than organic agricultural material;
- The main cleansing ingredients contain or are made from petrochemicals or petrochemical compounds, such as Cocamidopropyl Betaine, Cocamidopropyl Hydrosultaine, Sodium Myreth Sulfate and/or Olfein Sulfonate; and/or
- Are preserved with synthetic petrochemical preservatives.

Consumer research conducted for Dr. Bronner’s demonstrates that consumers are in fact being affirmatively misled and deceived by the labeling of such products as “Organic.” Details of that research, and a copy of a summary of the results, were included in Dr. Bronner’s comments submitted to the NOSB in Docket No. MAS-TM-09-014, and are incorporated herein by reference.

Were USDA/NOP to allow this situation to continue, the damage inflicted on consumers would not be limited to the arena of personal care products. The cosmetic industry generally prefers the “wild west” unregulated status quo for an organic greenwash of its chemical-driven formulations, that comply at best with weak self-defined industry standards, but much more frequently with no standard whatsoever. The devaluation of the “Organic” term in the personal care aisle will diminish consumer trust of “Organic” in the food aisle as well. What is at stake is control of the meaning and use of “Organic” itself.

Failure by USDA/NOP to rectify this situation will also undercut the great potential growth of truthfully labeled organic personal care products, the manufacture of which genuinely serves the objectives of organic agriculture. Dr. Bronner’s NOP certified products alone support over a thousand organic farmers and 5000 organic acres. Conversations with major brands in the industry indicate that late 2009 and 2010 will see significant new USDA NOP lines introduced, including Aveda founder Horst Rechelbacher’s new USDA NOP brand, Intelligent Nutrients. Organic personal care markers are developing more and more cosmetic products that meet the rigorous constraints of the NOP while performing as well as modern synthetic variants. This sustainable innovation should be supported and defended by USDA/NOP, in the face of the



resistance of the mainstream cosmetic industry which seeks to defend its “Better Living through Chemistry” approach by knee-jerk resistance to the truthful labeling and marketing of organic personal care products.

Most private industry standards do not provide anything close to an adequate substitute: they take the term "Organic" and apply it unadorned to products whose primary cleansing agents have never and can never be made in a kitchen, and which are not commercially available from organic material in the first place. It is simply not sufficient to leave to private standards bodies dominated by and for the cosmetic industry, the regulation of the labeling and marketing of personal care products claiming outright to be “Organic.”

The NOSB CCAC Recommendation correctly notes that currently “[c]onsumers are not assured that organic claims are consistently reviewed and applied to this product class” and “[t]ransactions lack the regulatory clarity that applies under the NOP to food products that contain organic ingredients.” Manufacturers “are hindered by a thicket of competing private standards and confusion regarding the applicability of NOP....” The only viable means of addressing this situation is to make the NOP standards mandatory for the labeling and marketing as “Organic” of personal care products. The NOSB/NOP has set a standard that is appropriate and achievable not only for organic food but also for organic personal care, based on organic agriculture free of unnecessary processing and preservatives. “Only by making the NOP rules mandatory for cosmetic/personal care products can consumers be adequately protected from the misleading and deceptive labeling practices currently prevalent in the marketplace. (This also accords with the NOP approach to textiles, where NOP clearly asserts NOP regulates the term “Organic” across all agricultural product sectors, and permits use of the USDA seal only on clothing that meets NOP regulations.

<http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5070818>).

IV. REGULATION FOR PRODUCTS CLAIMING ONLY TO BE “MADE WITH ORGANIC [SPECIFIED INGREDIENTS]” CAN BE DEFERRED AND ULTIMATELY BE BASED ON NSF/ANSI STANDARD 305

The situation is different with respect to products claiming only to be “made with Organic [specified ingredients]”. Over the past five years, Dr. Bronner’s has participated in good faith in efforts to establish additional allowances appropriate and specific to “Made with Organic” personal care through an NSF International-American National Standards Institute (ANSI) standards development process. (This effort was similar to those undertaken by NOSB to develop recommendations for standards for organic pet foods and dietary supplements). That NSF process has extended over several years, with its origins in the Organic Trade Association’s Personal Care Task Force, thus following a path similar to that resulting in the development of the GOTS standard for textiles. The NSF ANSI 305 process was worked out, reviewed and voted on, over a number of years, by a diverse stakeholder group including representatives from OTA, OCA and Whole Foods, various certifiers, and a number of companies including Aveda/Estee Lauder, Avalon, Jason, Aubrey, Dr. Bronner’s and others. The NSF ANSI process, like



NOSB/NOP, was a multi-stakeholder forum in which organic consumers, regulators and certifiers participated meaningfully alongside industry interests to set standards.

In the process of development of the NSF ANSI 305 standard, the relevant bodies specifically considered and voted on the issue of whether current USDA NOP O95 regulations and allowances are sufficient and appropriate for O95 personal care; by overwhelming majority vote, the NSF/ANSI Personal Care Group affirmed indeed that is the case. Accordingly, the NSF Personal Care Group decided that personal care products should be allowed to be labeled as "Organic" only if they meet the existing USDA NOP "Organic" standards, and that a new NSF/ANSI standard should be promulgated only for personal care products to be labeled as "Made with Organic." Additional process and preservative allowances for personal care were then prescribed, but only for the O70 MWO space.

Dr. Bronner's supported and continues to support that approach, notwithstanding that 90% of our company's sales consist of products labeled "Made with Organic [specified ingredients]" actually complying with the USDA/NOP rules for such labeling. In particular, Dr. Bronner's bar and liquid soaps do not utilize synthetic preservatives or hydrogenated or sulfated ingredients. Yet our company is willing to see the NOP 070 space expand to allow the use of such ingredients as permitted by the NSF ANSI process. NSF/ANSI Standard 305 represents a responsible compromise between mainstream cosmetic industry interests and organic consumers.

We are adamantly opposed, however, to private industry standards that allow hydrogenated, sulfated and synthetically preserved ingredients in products labeled outright as "Organic," i.e. in the O95 "Organic" space. For the reasons set out in section II above, the O95 space should be preserved for organic consumers that seek organic personal care that complies with basic organic consumer criteria, that organic personal care be free of hydrogenated, sulfated and synthetically preserved ingredients.

We believe that the USDA NOP could adopt the NSF ANSI process and preservative allowances specific to O70 MWO personal care, in the same way it made the synthetic sulfite allowance for O70 MWO wine. Just as that allowance has no larger impact on the NOP regulations applicable to all other products, including O95 wine, so proper annotation could ensure the USDA NOP is otherwise unaffected by allowances restricted to O70 MWO personal care, including O95 personal care. The major innovation that occurred in the NSF ANSI process was the proposal of a new form of substances particular to O70 personal care, termed "Botano-Chemicals" which refer to ingredients that can be processed from agricultural material. This is to distinguish from "synthetic" petrochemicals; for instance, hydrogenated organic castor oil is not synthetic in the way hexane is, and can support organic agriculture.

Attached is an illustration of how the substantive process and synthetic allowances of the NSF ANSI 305 standard could be moved into the USDA NOP. NOSB TAP review should occur of each class of ingredients, which amounts to about twenty -- not impossible. A lot of NSF ANSI 305 is editorial and background which NOP already has. The actual incorporation of



substantive allowances and requirements is straightforward and can be confined almost completely within the context of the NOP List.

We recognize, however, that the NOP has only limited immediate resources and time and faces other pressing priorities. Accordingly, we believe that it would make sense for USDA/NOP immediately to make the NOP rules mandatory for the labeling of personal care products outright as “Organic,” while leaving the labeling/marketing of personal care products as “Made with Organic [specified ingredients]” unregulated for the time being, and producers of those products free to comply with private standards or no standards.

The central pressing problem is the misleading, confusing and deceptive O95 labeling outright as “Organic” of personal care products that comply with no standard whatsoever, let alone the NOP rules. In our view, MWO claims do not have the same corrosive effect on the integrity of “organic” term, and can be given more leeway. For example, the labeling as “Organic Shampoo” of a product based on non-organic petroleum-based cleansers and moisturizers with some organic aloe for greenwash, is much more injurious to consumers than the labeling of such a product as “Shampoo made with Organic Aloe Vera.” Then, in the longer term, it is hoped that NOP could take on the task of formalizing and regulating the MWO space under a single set of criteria as well.

Under this approach, it would be unnecessary for USDA NOP at this point to undertake any evaluation of additional substances for the National List or to decide on the incorporation of NSF ANSI 305. Products would remain free to certify MWO claims against whatever private standard, or more commonly no standard. But immediately and most importantly under this approach, 99% of “Solving the Problem of Mislabeled Organic Cosmetics” is solved, by NOP locking down outright “Organic” O95 claims in personal care against existing NOP O95 criteria.

Sincerely,

David Bronner
President
Dr. Bronner’s Magic Soaps

Enclosures: Draft Illustration of how NSF ANSI 305 could be incorporated into the NOP List;
Dr. Bronner’s Formal Comments Submitted to NOP re: Soap Guidance.