

**National Organic Standards Board
Certification, Accreditation and Compliance Committee
Recommendation to Allow “Certified to USDA guidelines” on
Principal Display Panel of All Organic Labeling Categories
(100% Organic, Organic and Made with Organic)**

July 12, 2010

Introduction

The National Organic Program was established with three labels of organic certification and sale of products. All three are subject to the same inspection process and oversight. As such, each product category carries the same credibility for its claim, and requires equal time and resources of the USDA, the certifying community, and the multitude of organizations affiliated to the organic industry.

Of the three NOP labeling options, packages that qualify for MWO have created questions in the consumer community. Absent the ability to use the USDA Organic Seal or some other form of National verification, various labeling strategies have emerged, which have confused and at times misled the public. Adding to the lack of clarity, non-certified products with less than 70% organic have used the word “organic” outside of the ingredients statement, which is non-compliant with NOP requirements. Finally, some manufacturers even include the word “organic” in their Brand Names. This places the word “organic” on the principal display panel irrespective of whether the product complies with the handling and composition requirements of the National Organic Program 7 CFR part 205.

These marketplace conditions blur the distinct validity of the “Made with Organic” category, as created in the original legislation. The number of “made with organic” (MWO) products in the marketplace continues to increase. This is good for organic agricultural volume. It is also good for consumers to have more choices on the shelf that contain 70% or greater organic content. Evidence of the growth should be more visible in the marketplace, to add value to the products, the industry and to enhance the public understanding of the strength and growth of organic agriculture overall.

In order to communicate the merit of the MWO category of products to consumers, further the recognition of the growth of the full spectrum of USDA organic products, and strengthen the position for increased NOP funding through greater shelf presence, the CACC recommends a consistent optional label statement on MWO products certified and sold in the U.S.

Background

The regulatory requirements for the handling and composition of products eligible to display “made with organic ...” on its principal display panel are found in the following sections of 7 CFR.

205.102 Use of the term, “organic.”

Any agricultural product that is sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be:

- (a) Produced in accordance with the requirements specified in §205.101 (organic system plan) or §§205.202 through 205.207 (crops) or §§205.236 through 205.239 (livestock) and all other applicable requirements of part 205; and
- (b) Handled in accordance with the requirements specified in §205.101 or §§205.270 through 205.272 and all other applicable requirements of this part 205.

§ 205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.

To be sold or labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” the product must be produced and handled without the use of:

- (a) Synthetic substances and ingredients, except as provided in §205.601 or §205.603;
- (b) Nonsynthetic substances prohibited in §205.602 or §205.604;
- (c) Nonagricultural substances used in or on processed products, except as otherwise provided in §205.605;
- (d) Nonorganic agricultural substances used in or on processed products, except as otherwise provided in §205.606;
- (e) Excluded methods, except for vaccines: *Provided*, That, the vaccines are approved in accordance with §205.600(a);
- (f) Ionizing radiation, as described in Food and Drug Administration regulation, 21 CFR 179.26; and
- (g) Sewage sludge.

§ 205.270 Organic handling requirements.

- (c) The handler of an organic handling operation must not use in or on agricultural products intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” or in or on any ingredients labeled as organic:
 - (1) Practices prohibited under paragraphs (e) and (f) of §205.105.
 - (2) A volatile synthetic solvent or other synthetic processing aid not allowed under §205.605: *Except*, That, nonorganic ingredients in products labeled “made with organic (specified ingredients or food group(s))” are not subject to this requirement

§ 205.301 Product composition.

(c) Products sold, labeled, or represented as “made with organic (specified ingredients or food group(s)).” Multi-ingredient agricultural product sold, labeled, or represented as “made with

organic (specified ingredients or food group(s))” must contain (by weight or fluid volume, excluding water and salt) at least 70 percent organically produced ingredients which are produced and handled pursuant to requirements in subpart C of this part. No ingredients may be produced using prohibited practices specified in paragraphs (f)(1), (2), and (3) of §205.301. Nonorganic ingredients may be produced without regard to paragraphs (f)(4), (5), (6), and (7) of §205.301. If labeled as containing organically produced ingredients or food groups, such product must be labeled pursuant to §205.304.

- (f) All products labeled as “100 percent organic” or “organic” and all ingredients identified as “organic” in the ingredient statement of any product must not:
 - (1) Be produced using excluded methods, pursuant to §201.105(e) of this chapter;
 - (2) Be produced using sewage sludge, pursuant to §201.105(f) of this chapter;
 - (3) Be processed using ionizing radiation, pursuant to §201.105(g) of this chapter;
 - (4) Be processed using processing aids not approved on the National List of Allowed and Prohibited Substances in subpart G of this part: Except, That, products labeled as “100 percent organic,” if processed, must be processed using organically produced processing aids;
 - (5) Contain sulfites, nitrates, or nitrites added during the production or handling process, Except, that, wine containing added sulfites may be labeled “made with organic grapes”;
 - (6) Be produced using nonorganic ingredients when organic ingredients are available;
or
 - (7) Include organic and nonorganic forms of the same ingredient.

§ 205.304 Packaged products labeled “made with organic (specified ingredients or food group(s)).”

- (a) Agricultural products in packages described in §205.301(c) may display on the principal display panel, information panel, and any other panel and on any labeling or market information concerning the product:
 - (1) The statement:
 - (i) “Made with organic (specified ingredients)”etc.
- (b) Agricultural products in packages described in § 205.301 (c) must: ... etc.
- (c) Agricultural products in packages described in § 205.301 (c) must not display the USDA seal.

Discussion

While the use of the USDA seal for organic products is optional, most producers of organic products have chosen to use it, and consumers have come to strongly equate the seal with organic integrity and USDA certification. The creation of a similar declaration for the “Made

with Organic” category would facilitate greater consumer confidence in these products and overall growth of the category.

Although a similar amount of work, inspections and cost are invested by organic food producers and professionals in the certification of MWO products, consumer and industry recognition of MWO products is not as high as for “organic” products in the marketplace. As a result, the actual size of the organic products market is underestimated. The total amount of organic acreage, production, processing, inspection and oversight needs to be accurately accounted for in the public and governmental sectors.

Continued growth of the organic sector and increase in organic acreage is dependent on the visibility, recognition of value (environmental protection, energy conservation, health) and affordability of organic products in the marketplace. The growth of the organic sector – and consequently, economic analysis and investment in it -- is hampered by the current confusion between certified MWO products, mislabeled products making some organic claim, and completely uncertified products. In addition, the MWO label is missing out on an opportunity to not only benefit from confidence in the minimum 70% organic content, but also the fact that these products and most ingredients undergo many more inspections than the majority of the food supply, which leads to enhanced levels of food and worker safety.

The USDA ‘Organic’ seal makes organic products more visible in the marketplace, but it is not available for use on products in the MWO category – they are certified, but cannot use the seal. If there were a consistent and authorized statement of credibility on MWO products, it would increase their recognition by, and subsequent value to and likely adoption by the consumer.

We believe that the use of some statement, identifying products in the MWO category as certified under the USDA NOP regulations, would provide a reliable tool to reduce the current labeling confusion and questionable practices, and legitimize the efforts of the producers of MWO products. While potentially easier to extend the use of the existing USDA seal to “made with organic” products, or creating another seal specific to this category, the CACC recognizes those options may have the potential to create more confusion as to the differences between the stricter “organic” (95+%) and 100% organic categories. We also received feedback ranging from concern to outright disapproval of our March 8, 2010 discussion document proposing this route.

Recommendation

The CACC recommends a concise and consistently worded statement that communicates the USDA certified status of “Made with organic” products. Since most shoppers make their quality judgment and purchase choices based on information on the front of the package, it is important that the verifying statement also be available for placement on the front panel. The CACC proposes the clear “Certified to USDA guidelines” be added as 205.304(a)(4), in type following the same requirement as 205.304(a)(1)(iii). The use of this statement will convey the integrity and legitimacy of the USDA certification for MWO products in the same way it has for “organic” products. This will also provide easy to access education to consumers, increasing their confidence in and awareness of the volume of organic products in the marketplace.

The addition of the “Certified to USDA guidelines.” statement, as described above, does not change the certification process, production or processing practices. It does not convey that the USDA performed the certification, only that they establish the guidelines. As a result, the marketing of MWO products will be improved by employing a simple, easy to understand statement that minimizes confusion and increases the recognition and value of organic products.

To keep options on the principal display panel equal, the CACC also recommends adding the same optional language, “Certified to USDA guidelines.” as section 205.303(a)(6), held to the type size, style and color limitations found in 205.303(a)(2).

These changes would appear as follows, in the regulation.

§ 205.303 Packaged products labeled “100 percent organic” or “organic.”

- (a) Agricultural products in packages described in §205.301(a) and (b) may display, on the principal display panel, information panel, and any other panel of the package and on any labeling or market information concerning the product, the following:
- (1) The term, “100 percent organic” or “organic,” as applicable, to modify the name of the product;
 - (2) For products labeled “organic,” the percentage of organic ingredients in the product; (the size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting.)
 - (3) The term, “organic,” to identify the organic... etc.
 - (6) NEW The statement “Certified to USDA guidelines”, (subject to the same type limitations in 205.303(a)(2)).

§ 205.304 Packaged products labeled “made with organic (specified ingredients or food group(s)).”

- (a) Agricultural products in packages described in §205.301(c) may display on the principal display panel, information panel, and any other panel and on any labeling or market information concerning the product:
- (1) The statement:
 - (i) “Made with organic (specified ingredients)”etc.
 - (ii) “Made with organic (specified food groups)”: ... etc.
 - (iii) Which appears in letters that do not exceed one-half the size of the largest type size on the panel and which appears in its entirety in the same type size, style, and color without highlighting.
 - (2) The percentage of organic ingredients... etc.
 - (3) The seal, logo or other identifying mark of the certifying agent that certified the handler of the finished product.
 - (4) NEW The statement “Certified to USDA guidelines”, (subject to the same type limitations in 205.304(a)(1)(iii)).

- (b) Agricultural products in packages described in § 205.301 (c) must: ... etc.
- (c) Agricultural products in packages described in § 205.301 (c) must not display the
USDA seal.

Committee Vote

Motion: Jennifer Hall
Yes: 5 No: 0

Second: Joe Smillie
Abstain: 0 Absent: 1