



## Best Practices for Developing Consistency in the Product Label Review Process

4.2016

### Summary

ACAs are required to review client product labels for compliance with NOP §205.300 – §205.311. Since varying procedures are used for the review of labels, it may not be clear to what depth the review is conducted and how the review is documented and if clients are informed of approved labels.

For products produced under “private label” agreements with multiple handlers and multiple certifiers there can be a lack of transparency in the review. The private label agreements often require additional steps for verification. This document is not intended to address the Best Practices for Private Label Certification, as much more detail is required for verification of the process.

ACA Best Practice documents are intended to be a description of the current Best Practices; we recognize that everyone may not adopt all practices, or agencies may have a different process to achieve the same result. The ACA Working Group addressing Consistency in Product Label Review has identified the following “best practices” for review of product labels.

### A. Label Review Procedures

- 1) ACAs establish written procedures to perform label review as a part of the review of the Organic System Plan (OSP), and also upon a client request for the approval of additional labels. The review procedure is provided to staff responsible for label review.
- 2) As part of a label review procedure a list of resources should be developed for staff use. See *Appendix # A* for suggested contents of a resource list.
- 3) Staff must document the review of the label. One mechanism to document the review is through the use of a *label review worksheet*. See *Appendix # B* for a sample worksheet.
- 4) Review of the label should include:
  - comparison of product ingredient information and proposed label to verify labeling category;
  - specific label approval documented with
    - date of approval
    - staff who conducted the review and approved label
    - stamping of “approved” on label
  - copies of approved labels retained in operator file
  - copy of approved label indicating date of approval provided to client
  - upon approval of a new label, mark old label as out of date

## **B. Problematic Terminology**

In some instances clients may want to label an ingredient by another name. Examples include:

- including “cinnamon flavor” on the ingredient label, when the description of the ingredient is actually cinnamon oil, or
- labeling an extract a flavor or oil;
- the word “organic” modifying ingredient in the product name in the Principal Display Panel
  - organic chocolate milk product name – cocoa is organic; but an added chocolate flavor is not organic
  - soy milk with non organic soy lecithin
  - blueberry muffins, with non-organic blueberry color
  - lemon pepper seasoning contains organic lemon granules and non-organic lemon flavor

The best practice is not to permit changes in the ingredient description on the label; the ingredient should be identified as it is in the product specification sheet. Certifiers should determine the consumer perception of label. Labels must not mislead consumer. §205.300(a) specifies: *The term “organic”, may not be used in a product name to modify a nonorganic ingredient in the product.*

**C. Label Use-up**

Although certifiers indicate to clients that all labels must be approved prior to printing and marketing of the product, there are instances where products are marketed with labels that are not in compliance with NOP §205.300 – §205.311. ACAs do issue noncompliances for incorrect labels, including labels that have not been approved prior to marketing, and a corrective action plan must be implemented.

In the event of a label error, clients will often request the use-up of existing printed labels due to the costs involved in label production. The following examples identify label issues where label use-up may be permitted, and where label use-up is generally not permitted. A label use-up period of 90 days is believed to be sufficient in most cases, but in no case should use-up exceed one year. An ACA can work with the client on a plan for their expected time-frame for label use-up within reason.

Major Issues with Labels No Use-up	Major Issues with Labels Limited Use-up	Minor Issues with Labels Allow Use-up of Labels
<ul style="list-style-type: none"> <li>~ Significant deviation from form and design of USDA Seal correctness</li> <li>~ Display of USDA seal on "made with" product</li> <li>~ Incorrect product classification – made with product labeled as organic</li> <li>~ Noncertified product with organic claim</li> <li>~ USDA look-alike logos – similar circle with “made with” inside</li> <li>~ COB Statement with incorrect certifier listed</li> </ul>	<ul style="list-style-type: none"> <li>~ Location / or missing Certified Organic By (COB) statement – allowance for additional sticker in correct location</li> <li>~ Identifying non-organic ingredient as organic – allowance for additional sticker identifying entire ingredients statement correctly</li> <li>~ Incorrect format of “made with organic claims” – highlighting of word <i>organic</i> – issue noncompliance; permit 90 days use up</li> <li>~ Organic ingredient not identified as organic in the ingredient statement (for an organic or made with organic product)</li> </ul>	<ul style="list-style-type: none"> <li>~ Errors of type sizes such as “made with” statement .01 inches larger than ½ of the next largest type size;</li> <li>~ Labels with an ingredient statement that contains an incorrect order of predominance of ingredients<sup>1</sup> (see footnote)</li> <li>~ Labels for products that previously listed a non – organic ingredient, that has been changed to an organic ingredient</li> </ul>

<sup>1</sup> NOP §205.2 Terms Defined – *Ingredients Statement* - The list of ingredients contained in a product shown in their common and usual names in the descending order of predominance.

#### **D. Location of “Certified Organic by” Statement**

To provide consumers with a consistent location to determine whether a product is certified, the best practice for the location of the “certified organic by” statement is directly below the information identifying the handler or distributor of the product, except on specialty labels where that is not possible.

NOP Policy Memo 12 -2 indicates the “certified organic by” statement must be placed below the information identifying the handler or distributor of the product in all three labeling categories: Organic and 100 percent organic - §205.303(b)(2) and “made with organic...” §205.304(b)(2).

This requirement provides a specific location where consumers can verify that the product is certified. Some manufacturers and distributors wish to have other text below information identifying the handler or distributor, so the location of the “certified organic by” statement may not always be located directly following the identifying information of handler or distributor. This is not a best practice because the COB may no longer be readily apparent and the label would appear to be noncompliant. The FDA also prohibits intervening material between required information: “Information that is not required by FDA is considered intervening material and is not permitted to be placed between the required labeling on the information panel (e.g., the UPC bar code is not FDA required labeling). 21 CFR 101.2(e)”

In addition to NOP labeling requirements, FDA also specifies label information (see Appendix A, Resource List). FDA requires the address of the manufacturer or distributor.

Specialty labels can have limited space for the required information. Examples include:

- Round labels on cheese wheels
- Nursery or bedding plant tags
- Glass milk bottles with information on cap

On round labels, containing the farm name and address in the curve of the round label, ACAs have permitted the “certified organic by” statement to follow the address information. In lieu of a complete address on a small or odd shaped label, ACAs consider the website address as identifying information, and allow the “certified organic by” statement to follow it as well as the company name itself.

#### **E. Certification of Private Label Products and Label Review**

Private label products or services are typically those manufactured or provided by one company for sale under another company’s brand. Label information for private label products must contribute to traceability and transparency.

There are many issues with the certification of private label products including:

- the private label owner may not be certified;
- the private label owner does not own the product formulation information; in this case, the information must be obtained from the certifier of the co-packer or manufacturer;
- multiple certification agencies involved in the certification process;
- multiple manufacturing facilities producing same product, but which may contain different ingredients, for one label owner.

Best Practices include:

- Increased communication among the certification agencies involved is necessary to improve traceability and transparency. The organic certificate is not sufficient documentation to indicate brand name product label approval.
- Label approval for multi-ingredient products must involve the certifier(s) of the manufacturer(s) of the products. In many cases product labels would be approved by multiple certifiers – example: the certifier of the manufacturer of the multi-ingredient product approves the product label; the certifier of the private label entity then approves the label;
- If a label submitted by a private label company is not compliant, the certifier of the manufacturer cannot approve that label and vice versa.
- The use of facility identification numbers, particularly if the product distributor is not certified. In the US the use of facility identification is not required, with the exception of dairy processing facilities. Facility identification would improve the transparency particularly if multiple facilities were producing the same labeled product. The NOP Database ID numbers could be used for this purpose and added at the time of processing along with lot codes.
- The certifier identified in the COB statement must either certify the manufacturer of the product (consistent with NOP Regulations) or the distributor listed on the label (consistent with NOP Guidance).

#### **F. Use of Brand Names on Certification Documents**

The inclusion of all product brand names produced by a certified operation provides transparency and traceability. However, certified co-packers packaging for multiple companies believe this is confidential business information and often request that brand names not be listed on the certificate.

Certifiers utilize multiple systems to address this concern:

- listing of the generic product/service on certificate, an example would be packing of whole tomatoes;
- utilizing an addendum which includes all brand name labels, but this is generally not a public document;
- providing the client with a custom addendum for each of their customers using the customer brand labels.

#### **G. Sharing information regarding the percentage of products for determining final product category.**

There are differences among ACAs regarding what information is gathered from clients to verify the organic content (100% organic, organic, or made with organic) of products. Some use the percent of organic content and percent of excluded water and salt, others use the weight of the ingredients; some use a combination of percent and weight of ingredients.

If the certified product is used as an ingredient for further processing, it is likely that the operation is asked for verification of the percent organic in order that the further processed product has the correct category assigned.

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There are various means of providing information pertaining to ingredients that will be used in further processing:

- certifier approves the specification sheet/label supplied by the client containing percent of organic content, including water and salt. The client then provides this to their customers.
- certifier provides letter to client verifying percent of organic content
- the percent of organic content (not water & salt) could be included on the certificate; however clients may not like the percent stated on the certificate; could create competitive advantages/disadvantages among companies producing similar products – with a perception of “more organic” products, even though the products fall into same labeling category.



# Accredited Certifiers Association, Inc.

*Accredited certifying agents working together to ensure the integrity of organic certification in the United States*

## Best Practices for Developing Consistency in the Product Label Review Process Appendix A

### Label Review Resource List

**Certification label review staff should have access to the following information:**

**Information from the NOP Program Handbook including:**

- NOP 5031 (Handling unpackaged products)
- NOP 5032 (MWO labeling)
- NOP 4012 (Company names with “organic”)
- Policy Memo 11-3 (Alcohol)
- Policy Memo 11-7 (Private labels)
- Policy Memo 11-9 (Percentage calculations)
- Policy Memo 11-14 (Textiles)
- Policy Memo 12-2 (COB statement placement)

**NOP Label Training Presentation**

<http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5098489>

**FDA Labeling Guidance**

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm>

## Best Practices for Developing Consistency in the Product Label Review Process

### Appendix B

<b>Label Review Worksheet</b>														<input type="checkbox"/> Correct Answers – Noncompliant label if answers differ			
Packaged Products Labeled as 100% Organic or Organic																	
Cert #	Operation Name	Product Name	1	2	3	4	5	6	7	8	9	10	11	12	Complies		
															Yes	No	
			Y/N	N	Y	Y/N	Y	N	Y	Y	Y/N	N	Y/N	Y	✓		

1. For products labeled as "Organic," does label contain the percentage of organic ingredients in the product? If no, put N/A for 2 and 3. [§205.303(a)(2)]
2. Does the percentage statement exceed one-half the size of the largest type size on the panel on which the statement is displayed? [§205.303(a)(2)]
3. Does the percentage statement appear in its entirety in the same type, size, style, and color without highlighting? [§205.303(a)(2)]
4. Is this a multi-ingredient product labeled as 100% Organic? [§205.303(a)(3)]
5. If product is labeled organic does it identify each organic ingredient in the ingredient statement? [§205.303(b)(1)]
6. Does it identify water or salt as organic? [§205.303(b)(1)]
7. Does the label (on the information panel) identify the certifier of finished product? [§205.303(b)(2)]
8. Is the certifier statement (#7 above) on the information panel and below the information identifying handler or distributor of product? [§205.303(b)(2)]
9. Does the label use the (certifier) logo? If no, put N/A for 10 and 11. [§205.303(a)(5)]
10. Is the (certifier) logo displayed more prominently than the USDA seal? [§205.303(a)(5)]
11. Does it contain the USDA seal? [§205.311(a)]
12. If USDA seal is used, does it replicate the form and design of the seals located below? [§205.311(b)]



*Optional – four light lines running from left to right that disappear at the point on the right horizon to resemble a cultivated field.*

**Organic Seal Pantone Matching System (PMS) Colors**

- Green = PMS 348
- Brown = PMS 175