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May 2, 2012

Ms. Ann Michelle Arsenault, Special Assistant
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. S.W.
Room 2648-S, Mail Stop 0268
Washington, DC 20250-0268.

Docket: AMS-NOP-12-0017; NOP-12-06

**RE: NOSB Certification, Accreditation & Compliance Committee Discussion Document
Proposal - Use of Sanitizers on Eligibility for 100% Organic Claims**

Dear Ms. Arsenault:

Thank you for the opportunity to provide comments to the National Organic Standards Board (NOSB) regarding the Certification, Accreditation & Compliance Committee Discussion Document Proposal - Use of Sanitizers on Eligibility for 100% Organic Claims.

The Accredited Certifiers Association (ACA) represents 43 foreign and domestic accredited certifying agents.

In an attempt to provide feedback to the CAC Committee the ACA conducted a survey of its membership. As this is a busy time of year for ACAs the number of responses we received was lower than we would have liked. It was apparent that there is a wide variety of interpretations of the requirements and clearly no standardized approach by certifiers. While certifiers varied widely in their opinions about what should be done with the 100% label, sanitizers and processing aids, it is apparent that clarification is needed in these areas in order to bring consistency to the certification process and the marketplace.

Below are some specific comments we received.

1. Does the 100% Organic label claim hold value for you?

Fifty percent of respondents indicated the label did hold value; fifty percent indicated 100% label did not hold value. Comments included:

- As long as processors are still able to put the percent organic somewhere on the label, it shouldn't make any difference.
- Too confusing for our clients and extra unnecessary work for us.
- It devalues the organic claim because some clients only want certification to the 100% level.

2. Do you feel that contact with a non-organic processing aid should prevent an item from being 100% organic and why?

Sixty-two percent agreed with the above statement; thirty-eight percent did not agree with the above statement. Comments included:

- If it says 100% and is composed of only organic ingredients, the processing aid requirement only makes the claim confusing.
- 100% organic doesn't truly exist. Whether it be contact with a non-organic processing aid, contact with residue from a cleaning material, contact with municipal water in a rinse.... it's contact with something non-organic, and no longer 100%.
- "100% organic" should simply be a statement of percentage of organic content. If a processing aid is not an ingredient, then the product still has 100% organic content.
- This is also part of the confusion that would be eliminated by eliminating the 100% category.
- The label indicates that the food or product is "100% organic." That does not imply anything about processing aids.
- I think that consumers want all components of a product to be organic including the processing aids to be organic. I think if processing aids are allowed to be non-organic consumers will feel that manufacturers are somehow cheating them.

3. Do you feel that contact with a non-organic food contact sanitizer should prevent an item from being 100% organic and why?

Thirty-eight percent agreed with the above statement; sixty-two percent did not agree with the above statement. Comments included:

- There should be a list of approved food contact sanitizers because not all sanitizers should be allowed. Cleaning products such as Quaternary Ammonia, i.e. should continue to be not allowed.
- This is a regulatory clarity issue, not a philosophical issue. Endless exemptions within 605 lead to a requirement that is not clear for consumers, staff or clients.
- "100% organic" should simply be a statement of percentage of organic content. If a sanitizer is used and it is on the National List, then the product is still organic. The sanitizer does not become part of the product so the product still has 100% organic content

- This is also part of the confusion that would be eliminated by eliminating the 100% category.
- Sanitizers are part of food safety not components of food. They are needed for public safety reasons and I think all consumers expect that we use them. If use of a sanitizer immediately disqualifies a product as being 100% organic then it should state that directly in OFPA or the rule.

4. How do you distinguish a processing aid from a food contact sanitizer?

- Food contact sanitizer have nothing to do with the final form of the product. They are there to perform a public safety function. They kill pathogens. Processing aids are used in a product to achieve a specific effect in the final product. They are utilitarian or transformative. If you remove them from the product the product will be different than if it was constituted with the processing aid.
- Processing aids are used in direct contact with the food and have an impact on the food or food product. Food contact sanitizers are used (only) on contact surfaces.

5. As an organic certifier do you provide guidance on what is a processing aid versus a food contact sanitizer? If so, what is that guidance?

- NOP definition of processing aid given to OG client; food contact sanitizer is not used "in" the food, nor in the "process" of the food item.
- We have few operations using processing aids, and evaluate on a case by case basis.
- This is not a question that we are asked by our clients. It is usually clear whether a substance is a processing aid or a sanitizer.

6. If your certifier allows you to use a processing aid, how do you show that the processing aid “is present in the finished food at insignificant levels and does not have any technical or functional effect in that food?”

- Client lists in OSP if it is being listed as a processing aid or an ingredient and if used as a processing aid we ask for details in how that processing aid is removed.
- We haven't had extensive of experience with processing aids. Water and DE are the ones that come to mind. The water evaporates. The DE is a filtering aid that can be observed visually.
- We follow FDA guidelines on whether or not the processing aid is considered an ingredient that must be listed on the label.
- Generally, we take the manufacturer's word for it. Also, rely on FDA labeling regulations.
- We require our clients to provide proof demonstrating compliance with these requirements and then we evaluate their proof. If necessary, we contact food scientists to assist in the technical evaluation.

7. Should there be a category/list of NOP allowed food contact sanitizers and non-organic processing aids that are approved to be used in the 100% organic category? (e.g. Chlorine, peracetic acid, diatomaceous earth, etc.)

Seventy-three percent indicated agreement with the above statement; twenty-seven percent indicated they did not support such a category. Comments included:

- This would allow consistency across all certifiers.
- That would just introduce another level of confusion and complexity. It would be much better to simply eliminate the "100% organic" category.
- Only if the 100% category is maintained.

8. At what concentration, if any, do you consider a sanitizer/disinfectant to have disqualified an item from the 100% organic category?

- The concentration of the substance isn't the issue in our minds, but the contact with product.
- We go with label rates and an intervening event such as a rinse or air dry, depending on the product.
- Does not matter what level, it's ok as long as it is FDA approved
- Under the current NOP regulation, we consider any contact with the organic product to disqualify the product from the 100% category. (multiple responses)

9. Should food contact sanitizers be allowed in the 100% organic category if it is proven that no residue from the treatment remains in the finished good?

Sixty-six percent indicated yes to this question; thirty-three percent indicated no. Comments included:

- To us the issue is not whether there is residue in the finished product. There should not be residue contacting the product as it is processed.
- It should not be whether there is residue... it should be whether there was contact. Once there is contact, "No residue" is not truly achievable.
- That would just introduce another level of confusion and complexity. It would be much better to simply eliminate the "100% organic" category.
- Consumers have spoken for food safety over and over again.

10. Do you certify items to the 100% organic category? If so, how many?

Ninety-two percent of those responding indicated they certified items in the 100% category. Comments included:

- Since we certify mainly raw materials, most of our certificates are for 100%.
- All producers are certified to the 100% category; 40% of processed product is certified to the 100% category.

- 18% of about 10,000 products but very few actually carry the 100% label.
- We certify products that qualify, but operators have chosen to certify them to the organic category to avoid potentially costly revisions to labels if an ingredient category changes
- Almost all crops are initially certified in the 100% category. For handling operations, we certify 554 products in the 100% organic category.
- Many single-ingredient products, mostly raw, unprocessed foods.
- Less than 50 processed products, but all crops are certified to the 100% level so they can be used in 100% organic processed products. Otherwise we have to send letters to other ACAs attesting to the 100% organic status of crops we certify.

11. Do you feel that food contact sanitizers are necessary for food safety concerns?

Ninety-two percent of those responding indicated they believed food contact sanitizers were necessary. Comments included:

- This is due to a sue happy society that can't take responsibility for themselves and wash their own vegetables, and the government officials who over-react.
- But much less frequently than they are currently used.

12. If food contact sanitizers could be used while still allowing for a 100% organic claim would you certify more products with the organic claim? If not, why not?

Fifty percent of those responding indicated yes; fifty percent indicated no. Comments included:

- We have never considered a sanitizer that leaves no residue to kick a product out of 100% organic.
- Probably, but many products that are eligible for the 100% organic claim are not labeled as such.
- The ingredients are the issue, not the sanitizers.
- I doubt that it would impact our clients.

13. Do you have customer requests/demand for products in the 100% organic category?

Seventy-seven percent of respondents indicated they did have requests for products labeled 100%; twenty-three percent indicated they did not have requests. Comments included:

- If it went away, there would not be that much fuss, but if they are eligible, most customers use it.
- Clients with product that qualifies as 100% organic request to have it listed this way on their certificate. We also have clients who have qualified product who request to have only "organic" listed on their certificate due to ease of labeling compliance.

- But very few clients want the 100% category. They would be just as happy with making a 100% organic content claim.
- Some of our clients want to be certified 100% organic so they can claim the highest level of certification. Consumers don't seem to care.

In addition to the questions posed by the CAC Committee above, we did include in our survey questions regarding **whether the 100% label should be eliminated**.

Fifty percent of respondents were in favor of retaining the label; fifty percent were in favor of eliminating the label. Comments included:

In favor of retaining the label:

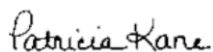
- This is a useful label for consumers to identify products that don't contain (or contact) non-organic ingredients.
- I believe consumers deserve it.
- I think that consumers want to see the 100% on packing.
- It allows consumers to recognize and preferentially choose pure, whole organic foods.

In favor of discontinuing the label:

- Equivalence agreements with EU and Canada require label changes as they do not recognize the 100% label. (Multiple comments to this effect.)
- There is a question how we will calculate multi-ingredient products if we aren't using the 100%. Will every single item ingredient/product then have its actual percent organic on the certificate (e.g. 95.6%, 99.2%, 100%, etc)?
- Consumers don't understand the difference between these categories -- they are looking for "organic". Removal of the 100% category would simplify the label for consumers. Technically the 100% category only applies to processed products. However, since every ingredient in a processed product in the 100% organic category must be 100% organic (per NOP training), even raw, unprocessed agricultural products need to be listed on certificates as 100% organic. The category doesn't really apply to those products. Eliminating the 100% category resolve this issue.

The ACA thanks the CAC Committee for beginning the discussion on this topic and we look forward to further discussion and comment.

Sincerely,



Patricia Kane
Coordinator