

Use of the term “Organic” on the Principle Display Panel of Processed Products that are “Made with Organic (Specified Ingredients or Food Group(s))”

Background

Over the past 8 months, the NOP has observed the increasingly liberal use of the term “organic” on products that qualify only for the “made with organic (specified ingredients or food group(s))” labeling category. Primarily, this consists of the inclusion of the term “organic” in brand names which appear prominently on the principal display panels of “made with organic (specified ingredients or food group(s))” products.

The NOP regulations are more restrictive than permissive with regards to the use of the term “organic” on “made with organic (specified ingredients or food group(s))” products. These allowances for using the term “organic” on product labels, marketing and advertising materials are narrow to enable consumers to place the product within the appropriate organic categories and distinguish basic product characteristics. In comparison to “organic” products, “made with organic (specified ingredients or food group(s))” products are subject to less stringent composition requirements. The use of “organic” in the brand name, however, can imply that the product meets the higher “organic” threshold, which is misleading to consumers and injurious to the organic sector. Therefore, product category distinctions within the NOP are important and should not be obscured.

The following pasta sauce example underscores the practical significance of the differences between organic and “made with organic (specified ingredients or food group(s))” products. In the example, both sauces are marketed under the fictional brand name, Zesty Organics.

Zesty Organics “Organic Portabello Pasta Sauce” contains: Organic tomato puree (water, organic tomatoes), organic portabella mushrooms, organic onions, organic cane sugar, sea salt, organic garlic, organic parsley, citric acid, calcium chloride, organic basil, organic oregano, organic thyme, organic black pepper.

Zesty Organics “Portabello Pasta Sauce made with organic tomatoes and organic mushrooms” contains: Organic tomato puree (water, organic tomatoes), organic portabella mushrooms, **onions, cane sugar**, sea salt, **garlic, parsley**, citric acid, calcium chloride, **basil, oregano, thyme, black pepper**.

The “made with organic tomatoes and organic mushrooms” pasta sauce differs from the “organic” pasta sauce in the following ways: (1) The manufacturer may use nonorganic agricultural products; and (2) Each nonorganic, agricultural ingredient (in bold) may be produced and processed without regard to the National List. Clearly the differences are not negligible. Yet, the Zesty Organics brand name immediately conveys to the consumer that the product has certain characteristics which, in fact, it does not.

The NOP regulations (205.304) permit the use of the term “organic” on “made with organic (specified ingredients or food group(s))” product labels in four contexts:

1. The “made with organic (specified ingredients or food group(s))” statement;
2. The percentage of organic ingredients in the product;
3. The ingredient statement to identify each organic ingredient; and
4. On the information panel in the statement, “certified organic by ***.”

Uses (1) and (2) above are also subject to font size and format restrictions. Specifically, the letters in the “made with organic (specified ingredients or food group(s))” statement and the percentage statement may not exceed one-half the size of the largest font and must appear in the same type size, style and color without highlighting. Brand names typically do not adhere to these criteria. In the pasta sauce example above, the use of “organic” is not within the regulatory allowances.

The regulations do not categorically prohibit the use of “organic” in company names. Some degree of leeway was intended to minimize the impact upon companies whose names had contained the word “organic” prior to the implementations of the regulations. We are not broadening and extending that accommodation to operations that are newly branding products as “organic” which do not qualify for the “organic” labeling category.

Use of the term “organic” within “made with organic (specified ingredients or food group(s)) labeling category

Products which qualify for the “made with organic (specified ingredients or food group(s))” labeling category may not display the term “organic” except within the “made with organic (specified ingredients or food group(s))” statement and/or percentage statement. Brand names that include the term “organic” in their name may not display the brand name on the principal display panel of products within the “made with organic (specified ingredients or food group(s))” labeling category.

United States Department of Agriculture
Agriculture Marketing Service
National Organic Program



1400 Independence Avenue SW.
Room 4008-South Building
Washington, DC 20250

NOP [Control Number TBA]
INTERNAL DRAFT
Distribution:

Implementation

Within 30 days of publication of this notice, all Accredited Certifying Agents must inform their clients of the above policy. Within 30 days of this notice all new label approvals must comply with this policy. Within 12 months of publication of this notice, products with noncompliant labels must not enter the stream of commerce.