

From: tony@moorelab.com

Sent: Sunday, April 09, 2006 9:47 PM

To: Benham, Katherine

Subject: comment on the Draft Recommendation on the Continued Allowance of Nonsynthetic Colors and Flavors in Organic Handling under 205.605@

Attachments: ATTACHMENT.TXT; Final Draft of Comments on 205.605@.doc

RE: NOSB Handling Committee Recommendation for the Retention of Non-synthetic Flavors on 205.605(a)

Moore Ingredients strenuously disagrees with the above-mentioned Recommendation on technical, commercial and ethical grounds.

Technical. We are a flavor manufacturer, and have been certified organic by QAI since May 2004. It is our contention that all organic-compliant flavors can be, given commercial availability of their ingredients, made as organic. By definition, natural flavors are agricultural. Some of the natural aroma chemicals that comprise these flavors may have names that make them sound chemical and not “natural,” but those that are allowed in organic finished products are, in fact, derived from agricultural products.

For example, 1-methoxy-4-propenylbenzene, or $C_{10}H_{12}O$, goes by the common name “anethole.” It is made by distilling fennel seed essential oil, and can be used to provide more impact to an anise or licorice flavor. If one were to start with organic fennel seed oil and distill it, the resulting distillate would be anethole, and it would be certifiable as organic.

Examples like these abound, and can only lead to one conclusion: natural flavors do not belong in 205.605(a), but rather, in 205.606. There are, in fact, petitions being written to include specific natural flavors and aroma chemicals on 205.606, so that certified organic manufacturers will be able to continue to use those natural flavors in their formulations, and certified organic flavor companies will be able to use the aroma chemicals in their flavors.

Commercial. As long as non-synthetic flavors and colors as a broad category remain on the National List in 205.605(a), manufacturers will continue to use them over available organic flavors. Nowhere in this category heading does it state that organic analogs of anything must be used if commercially available. This is because, presumably, the items in 205.605 are non-agricultural and therefore not certifiable as organic.

However, one has only to check the OTA website to see just how many companies manufacture certified organic flavors. These companies have gone to the trouble and expense of getting certified, sourcing organic ingredients, and marketing their products. But, these products can be, generally, more expensive, and as long as manufacturers have permission—by virtue of this category’s being where it currently is on the National List—they will cast aside organic flavors in favor of less expensive conventional ones.

This goes completely against the mission of the organic industry. While certified organic ingredient manufacturers try to maximize the number of organic ingredients available, there must be, at the same time, impetus for their customers to use them. On a very basic level, considering the size of the organic industry today, requiring finished product manufacturers to use organic flavors, just as they already are required to use organic ingredients whenever available, would not greatly affect the manufacturers of conventional organic compliant flavors. Conversely, not requiring those manufacturers to use organic flavors would be devastating—not to mention incredibly frustrating—to certified organic flavor manufacturers and the multitude of ingredient suppliers that supply the organic ingredients used in certified organic flavors.

While it is understandable that manufacturers of conventional flavors and colors would support retention of this category on 205.605(a), they do not have to lose any business if the category were to be dropped. All they would have to do is petition to have their organic-compatible flavors and colors included on 205.606. This way, their customers could continue to use those flavors and colors; unless, of course, the flavors and colors become available—if they are not already available—as certified organic. The only way to know this for sure would be to go through the petition and public comment process.

Ethical. The reason, as we understand it, for the Sunset Review process, is to look at the National List every five years and make sure that the substances on it still need to be included. To the best of my knowledge, TAP reviews were never conducted for flavors and there has never been a petition to include them. I understand that there was a “review” for flavors and that the intention was not for them to be included indefinitely, but would rather be periodically reviewed via the Sunset Review process.

We have come a very long way since 1990. All of the tools, or basic ingredients, needed to create certified organic flavors exist and are commercially available. Nearly every working day, Moore Ingredients successfully manufactures certified organic flavors which are purchased by certified organic consumer product companies, used in their certified organic foods and beverages, and then purchased by consumers. We fear that the Handling Committee has not looked far enough for nor reviewed all the information currently available. They did not look at the number of certified organic flavors and colors available today, nor at the potential for more. They did not look at the pains that companies have taken to become certified organic, nor the acreage that has been dedicated to organic farming for the cultivation not only of botanicals, but of grains for organic alcohol production, sugar for organic caramel color, etc. This could easily be perceived not only as not showing preference for organic ingredients, but also as a direct insult to those who produce them.

At a time when the NOP and USDA are undoubtedly very sensitive to public perception, the NOSB has come up with a recommendation that could easily cause them to be perceived as pandering to large companies. This, by not requiring those companies to expend the resources needed to make organic ingredients work in their formulations. Instead, they are providing these companies with a loophole that they will gladly drive through. And while these non-organic flavors can only be used in up to 5% of the finished formulation, the number of products that contain flavors is staggering, making the potential impact of this recommendation huge and far reaching.

To conclude, we do have our own recommendations. Of course, we favor the complete elimination of non-synthetic flavors from 205.605(a). Short of that, we recommend at least one of the following:

1. A paring down of the category, so that it includes, for example, non-synthetic aroma chemicals from non-agricultural sources;
2. Annotating the category so that these not certified, but organic compliant flavors can only be used in products labeled as “made with organic...”
3. Delay the recommendation until researching this matter further by consulting with flavor companies that are making organic flavors.

Respectfully submitted,

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