



A DIVISION OF ACIRCA INC

335 Spreckels Drive, Suite F Aptos CA 95003  
phone: 831-685-6506 fax: 831-685-6504 email: [info@organic-ingredients.com](mailto:info@organic-ingredients.com)  
[www.organic-ingredients.com](http://www.organic-ingredients.com)

October 18, 2002

Attention NOSB.

RE: Stream of Commerce problems and confusion

Our company has been operating with an understanding that our ingredients can be used and placed in retail products, AND that companies can then use a USDA organic logo as long as product in "the stream of commerce" has been produced and purchased prior to Oct. 21, 2002. Our company and many others have spent tens of thousand of dollars re-labeling our products. Only within the last month has the USDA stated that we cannot use these "stream of commerce" ingredients AND use the USDA logo. We already have USDA logos on soups, salsas, pasta sauces and juices on the shelves throughout the Country. Some of those products contain ingredients that have been accepted by Oregon Tilth and comply under the NOP even though some ingredients come from off shore and are from certifiers that are not yet accredited by the USDA (they are waiting for approval). This new interpretation of "stream of commerce" is both confusing and cannot be adhered to without a severe negative impact to our existing flow of business. Our losses would be devastating if we are forced to take this product off the shelves.

Here are a couple of other examples where the "stream of commerce" issue becomes problematic and confusing as stated for other customers of ours.

Organic Ingredients supplies bulk ingredients to other major food manufacturers. Our customers have also developed and purchased labels with the USDA organic logo to be placed on approved organic retail products. Some of the ingredients that we are supplying are from non-accredited certifiers. However, the product has been approved by our certifier as organic prior to October 21, due to the understanding of the stream of commerce policy.

We have purchased apple juice concentrate from Argentina that is certified by an IFOAM certifier who is "under review" with the NOP accreditation process. They have been accepted as organic by our certifier. This product is on the water presently. When it arrives in America in 3 weeks it will be used in an apple juice that will be labeled with the USDA organic logo.

We have ordered onions from a European company who is certified by an accredited EEC certifier. This certifier has applied for accreditation and is in the "In ARC Branch" status. They have been accepted as organic by our certifier. This product has been produced and is waiting for shipment from Europe. It will arrive in America in about a month and will be used in a soup that will be labeled with the USDA organic logo.

We believe that these situations fall under a "reasonable" stream of commerce policy. Yet as the USDA recently made changes to the interpretation of not allowing the USDA label to be used, this presents a very serious problem for us and many other food manufacturers that have spent many many months developing new labels WITH the USDA logo at significant cost.

We insist that "stream of commerce" must allow us to use ingredients that are pending accreditation from the USDA and have been approved prior to Oct. 21<sup>st</sup> by our accredited NOP certifier. Without this the losses we would experience would be devastating. And quite frankly we would contest that it would be the lack of clarity on this issue from the USDA that was at the cause of these losses. Your consideration would be greatly appreciated.

Sincerely,

Joseph J. Stern  
President

