



United States
Department of
Agriculture

Agricultural
Marketing
Service

STOP 0268 – Room 4008-S
1400 Independence Avenue, SW.
Washington, D.C. 20250-0200

VIA FACSIMILE AND US POSTAL MAIL

February 11, 2004

Mr. Richard D. Siegel
1400 16th Street NW
Suite 400
Washington, D.C. 20036-2220

Dear Mr. Siegel:

Thank you for your letter of January 15, 2004, requesting that the National Organic Program (NOP) issue guidance regarding the use of nonorganically produced agricultural ingredients in agricultural products labeled "organic." Included with your letter are two documents. The first document uses the decision tree outline found in our "Decision Making Procedures for the National Organic Program" (May 9, 2003) to present the issue. The second document presents proposed questions and answers for posting on the NOP website as guidance to Accredited Certifying Agents and handlers.

First, let me thank you for using our decision making procedures to present the issue. By using these procedures you have greatly facilitated our review.

In your letter, you correctly conclude that the NOP "requires that products labeled 'organic' must use organically produced ingredients when they are available." Your conclusion is based on 7 CFR §205.270(b)(1) which provides that "Nonagricultural substances allowed under §205.605 and nonorganically produced agricultural products allowed under §205.606 may be used in or on a processed agricultural product intended to be sold, labeled, or represented as 'organic,' pursuant to §205.301(b), if not commercially available in organic form."

In the decision making document you state the problem, in part, as: "While the National Organic Program (NOP) Final Rule requires that products labeled as 'organic' must use organic rather than nonorganic ingredients when organic ingredients are 'available,' accredited certifying agents are not uniformly requiring companies to comply with this 'organic preference' requirement."

The NOP plans to take the following actions regarding the issue that you have presented. We will:

1. Clarify §205.606 in a future rulemaking action. This clarification will explicitly tie the requirements of §205.270(b)(1) to the list of nonorganically produced ingredients in §205.606.
2. Issue a letter to Accredited Certifying Agents reminding them of their obligation to

Mr. Richard D. Siegel

Page 2

verify compliance with and to enforce the requirements of §205.606 and §205.270(b)(1).

3. Develop and post to the NOP website questions and answers relative to the issue raised by your letter.
4. Request that the National Organic Standards Board develop specific guidelines for adding nonorganically produced products to §205.606 and for removing such products from §205.606.

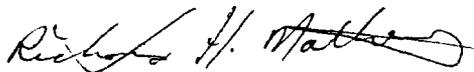
To facilitate compliance with §205.270(b)(1) we suggest that your clients work with the Organic Trade Association, Accredited Certifying Agents, organic handlers and others to educate them of the availability of organically produced agricultural products supplied by your clients. This might include the creation of a database of ingredient suppliers and their products.

We also encourage you or any other member of the public to promptly report any potential violations of the NOP regulations. Please see www.ams.usda.gov/nop/Compliance/FileComplaint for information on how to file a complaint.

In the decision making document you state that organic yeast is available. Yeasts are listed in §205.605 "Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as 'organic' or 'made with organic (specified ingredients or food group(s)).'" Because yeasts are listed in §205.605 as nonagricultural, handlers are not required to source organic yeast. Should you desire reclassification of yeast as an agricultural product, a petition is required to remove yeast from §205.605 and to seek yeast's reclassification as an agricultural product.

Thank you again for your letter. If I can be of further assistance, please do not hesitate to contact me at 202-720-3252.

Sincerely,



Richard H. Mathews
Program Manager
National Organic Program