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## Instruction

### Use of Brand or Company Names Containing the Word “Organic”

#### 1. Purpose and Scope

This instruction clarifies the requirements regarding the use of brand or company names that contain the word “organic” or its variants<sup>1</sup> on the labeling of agricultural products. This instruction affects accredited certifying agents (certifiers) that certify operations to the U.S. Department of Agriculture (USDA) organic regulations.

#### 2. Background

Recent National Organic Program (NOP) investigations indicate a need for consistency by certifiers when reviewing product labeling that displays company or brand names containing the term “organic” or variations thereof.

In the final rule establishing the USDA organic regulations, the NOP stated that it would review the use of the term “organic” in company or brand names on a case-by-case basis:

While we believe that the term, “organic,” in a brand name context does not inherently imply an organic production or handling claim and, thus, does not inherently constitute a false or misleading statement, we intend to monitor the use of the term in the context of the entire label. We will consult with the FTC and FDA regarding product and company names that may misrepresent the nature of the product and take action on a case-by-case basis.

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The NOP continues to review on a case-by-case basis the use of company or brand names containing the term “organic” in product labeling and has developed a set of principles used for these reviews. We recommend that certifiers refer to these principles when determining whether the use of such names complies with the Organic Foods Production Act (OFPA) and the USDA organic regulations. Also, importantly, the OFPA clearly prohibits any labeling that falsely implies an agricultural product was produced or handled using organic methods in compliance with the OFPA and its implementing regulations:

...no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with [the OFPA].

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<sup>1</sup> For the purpose of this instruction, the term “organic” includes both “organic” and its variants, e.g. “organics,” “organix,” “organik,” “organo-,” “organically,” etc.



7 U.S.C. 6505(a)(1)(B).

### 3. Policy

Certifiers should refer to the following principles, ordered by product certification category, when reviewing labels of agricultural products.

- a. Agricultural products certified as “100 percent organic” and “organic”
  - i. Brand or company names that contain the term “organic” may appear anywhere on the labeling for these products, in compliance with applicable labeling requirements.
- b. Agricultural products certified as “made with organic (specified ingredients or food groups)”
  - i. Brand or company names containing the term “organic” should not be used on the principal display panel (PDP) of these products.
  - ii. Company names containing the term “organic” may be displayed as the name of the manufacturer, packer, or distributor and listed on the information panel as required by Food and Drug Administration (FDA) regulations.<sup>2</sup> Nevertheless, the display of such company names should be reviewed in consideration of its potential to mislead consumers about the composition and organic certification of the product. Although this information is required by the FDA, it should not be displayed in a manner that falsely implies an agricultural product meets certification requirements that it does not.
  - iii. Brand or company names containing the term “organic” should not be used elsewhere on the labeling of these products.
- c. Uncertified agricultural products, even if containing organic ingredients
  - i. Same as (b) above.

These principles are grounded in the USDA organic regulations, which make a clear distinction between the composition and labeling requirements for “100 percent organic” and “organic” products and the composition and labeling requirements for products certified as “made with organic (specified ingredients or food groups).” For example, the specific labeling requirements for agricultural products labeled as “100 percent organic” and “organic” are set forth in a single section of the USDA organic regulations at 7 CFR § 205.303. These regulations allow the term

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<sup>2</sup> FDA regulations requiring that the manufacturer, packer or distributor name be displayed on food labeling can be found at [21 CFR § 101.5](#).



“organic” to modify the product name or ingredients on any labeling for products certified as “100 percent organic” and “organic.” Similarly, the restrictions on the production and processing of “100 percent organic” and “organic” products are identical and set forth in a single section of the USDA organic regulations at 7 CFR § 205.301(f). Only products certified as “100 percent organic” or “organic” may display the USDA organic seal.

Thus, the labeling permitted for certified products making either of these claims allows consumers to easily distinguish between “100 percent organic” or “organic” products and products “made with organic (specified ingredients or food groups).” When a company or brand name containing the term “organic” is used on the PDP or other labeling of an agricultural product that is not certified as “100 percent organic” or “organic,” this distinction is blurred and consumers may be misled.

The NOP does not make determinations about the legality of company or brand names containing the term “organic.” However, the NOP does regulate the use of these names on the labeling<sup>3</sup> of agricultural products to prevent the misrepresentation of a product’s organic certification status. Using the principles in this instruction, certifiers also should review the use of these names to determine the potential for consumers to be misled in regard to the composition and organic certification of agricultural products.

#### **4. References**

##### **Organic Foods Productions Act of 1990, as amended**

7 U.S.C § 6505. Compliance requirements

##### **USDA Organic Regulations ([7 CFR Part 205](#))**

7 CFR § 205.301 Product composition.

7 CFR § 205.303 Packaged products labeled “100 percent organic” or “organic.”

7 CFR § 205.311 USDA Seal.

Approved on August 14, 2014

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<sup>3</sup> Note that per the OFPA provision cited in this instruction, 7 U.S.C. 6505(a)(1)(B), the NOP also has authority to regulate market information, such as webpages or print advertising, that makes organic claims for agricultural products. Certifiers typically do not review market information, but if they do, the same principles apply.