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NOP Issue Final Guidance to Clarify "Made with Organic"

In May 2014, the National Organic Program (NOP) of the U.S. Department of Agriculture (USDA), which develops standards for the production and handling of organic crop, wild crop and livestock, issued final guidance to clarify the use of "made with organic" claims on product labeling. Of the five labeling categories allowed under the USDA organic regulations (100% organic, organic, made with organic, specific organic ingredients, and organic livestock feed), the "made with organic" category of claims has caused the most confusion for food producers.

To use the "made with organic" claim, the final guidance requires that the product meet specific composition requirements. Specifically, the product must contain at least 70% organic ingredients (excluding salt and water), and the remaining 30% nonorganic ingredients must be agricultural ingredients or nonagricultural ingredients allowed by the National List of Allowed and Prohibited Substances, 7 C.F.R. § 205.605. Further, no ingredients can be produced using excluded methods, such as sewage sludge, genetic engineering or ionizing radiation.

Additionally, labels may include no more than three specific organic ingredients or organic food categories contained in the product. For example, "made with organic cheese, nuts and fruit" is permissible. However, the regulations do not permit a general statement of "made with organic ingredients," and claims listing more than three organic ingredients or organic food categories are prohibited.

Labels may also include the percentage of organic ingredients of the finished product. For example, the regulations permit labels stating, for example, "70% organic" and "99% organic ingredients." However, the percentage statement must be separate from the "made with organic" label. As such, the regulations do not permit labeling a product as "made with 75% organic ingredients." Lastly, specific ingredients may not be used in the percentage statement. For example, a label of "100% organic grapes" is a violation of the regulations.

Companies should be aware of the potential penalties for violating organic labeling regulations. The regulations permit a civil penalty of up to $11,000 when a company knowingly violates the organic labeling requirements. Companies should review their labels to ensure compliance with the new guideline.

If you would like to know more about product labeling or how the NOP's final

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