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PRODUCE NOTES

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FINE LINE BETWEEN CERTIFICATION AND RESPONSIBILITY FOR ORGANIC RETAILERS

The second in The National Foods Merchandiser's 10-part series on the effect of the USDA's National Organic Program, set to begin on Oct.21, looks at two specific aspects of the rule for which retailers are responsible, even if they opt against certification.

By: Thomas Garvey May

Retailers fought on the front lines three years ago when the Department of Agriculture tried to compromise the integrity of the term organic with its first federal rule. Three hundred thousand comments later, the industry's efforts to shape the regulations were successful. But with the NOP implementation date approaching, many store operators have their heads stuck in the sand regarding their obligatory role in upholding the integrity of the organic supply chain—from field to fork—hoping that the USDA forgets them entirely.

The vast majority of retail businesses in the organic trade are currently excluded from certification requirements under the NOP. But whether or not retailers choose to voluntarily certify the organic integrity of their operations, they have responsibilities under the rule for handling and labeling much of the organic product they sell.

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A NOTE TO OUR CUSTOMERS

The USDA's National Organic program will officially become law in October 2002. We have reprinted the attached article in order to bring this to the attention of our customers. Full implementation of the law does mean some changes in your retail practices. We want you to know that we have the information and the resources to help you. A member of our sales staff has already attended the **Good Organic Retailing Practices, (GORP)**, training organized by **The Organic Trades Association**. Please do not hesitate to bring your questions to us. We will do everything we can to answer them for you. If we can't, we'll point you in the right direction.

The article is the second in a series that will appear in the *Natural Foods Merchandiser*. We are unable to reprint the entire series. Check with your store manager to see if you subscribe to the publication.

Karen Salinger
Sales Manager

WHAT'S NEW IN OUR MARKET

Weather has continued to influence pricing in the **lettuce** market. One of our suppliers issued a letter this past week with a very clear and concise explanation of the problem. It has been the coldest winter in Arizona since 1928. Many desert grown commodities, (Yuma Arizona is in the desert on the California/Arizona border), have suffered in their normal growth cycle. As of February 12th, there had been twelve straight days of morning frost. The ground temperature to promote development of the crops does not reach a favorable level until 1:00 – 1:30 p.m. This does not allow for much growing time for both current and future crops in the fields. Growers are hoping for a return to normal weather patterns for the spring so that planting and harvest can get back to normal.

Last weekend, strong Santa Ana winds blew through Southern California. The California **Avocado** Commission estimated that wind damage will result in the loss of about 12 million pounds of the 2002 crop, about 3% to 5% of the total. These numbers are based on the conventional growers, but we can assume that organic growers sustained losses as well. The result of the losses could mean cheaper prices in the short term as growers attempt to move out the salvageable fruit, but potentially higher prices in the long term because growers may experience supply gaps. We'll keep you posted.

1100 Cesar Chavez Street
San Francisco, California 94124
voice: 415 641.3500
fax: 415 641.3505

“Whether they’re certified or not,” said Ray Green, supervisor with the State of California, Department of Food and Agriculture, Division of Inspection Services, “they have to be prepared to answer the question, ‘What gives you the legal right to market this product as organic?’”

From how retailers set and label their produce stands to the invoice systems in their bulk departments; from labels on packaged goods in their grocery aisles to storage containers in coolers, the federal rule contains specific labeling and handling requirements for organic foods retailer, even though those stores don’t need to be inspected and certified.

Green travels the state of California regularly trying to teach the basics of good organic retailing practices. Last year he made 20 presentations, and despite publicity through trade associations, newspapers and county offices, as well as offering the service for free, he said attendance was “atrocious.”

He believes retailers don’t want to hear about their responsibilities under the national program unless legally required or until inspected. His office conducted 100 such inspections last year. Inspectors phone first, because the visits are primarily educational in function. Inspectors use a checklist that includes risk areas in fresh produce, display and storage, prep areas, packaged foods and bulk bins. They check what the store is doing for pest and rodent control, and they evaluate invoices.

The department rarely levels fines because for most retail stores the inspection is the first time store staff have heard of specific responsibilities. But Green said almost every store has handling and labeling violations. “It’s extremely common to see unpackaged organic product touching non-organic [in produce displays],” Green said.

And technically speaking, the company or persons in control or custody of the [mislabelled] product are the ones that get the violation.”

California is one of the few states where proactive investigations occur; but Green’s department isn’t the only source for information regarding responsibility under the NOP. Retail requirements of the USDA’s rule is part of the seminar Joyce Ford designed to accompany the Organic Trade Association’s “Good Organic Retailing Practices: handbook, which she co-wrote as well.

Although most retail operations fall under the excluded category of business, Ford said, “They do need to follow the Organic Rule, Section 205.272, mandating the prevention of commingling with non-organic products and prevention of contact with prohibited substances.” When it comes to the labels on the organic foods for sale in their stores, according to earlier sections of the regulation, Ford said retailers must ensure, through invoices or documentation, that the products they sell as organic are, indeed, organic.

The training Ford designed, available next month at Natural Products Expo in Anaheim, California, lays out everything retailers need to know about the NOP. They get information on the rule and how to use the manual and they get a display diploma for the person completing the training. Ford also put together policy statements and employee training aids retailers can implement as is or readjust according to their program,” Ford said.

The majority of attendees at Ford’s seminars are unaware of their labeling and handling responsibilities. But there are retailers who have successfully certified their stores or implemented

systems to guarantee compliance with the rule, said Mark King, retail representative to the National Organics Standard Board.

In his experience, many stores may already comply with the display and backroom provisions. And the documentation and record keeping involved seem less daunting to retailers the more they learn about the program. “In many cases, like at the Wedge Co-op in the Twin Cities, it was just a matter of integrating [these systems] into the ones they already had in place,” King said.

But right now, King admits that he and the other members of the NOSB believe the word is slow getting out. Ford reports that attendance at recent OTA presentations was less than expected. Some retailers are worried that complying with the program will require at least a couple of added staff members. And if they’re not specifically required, why should they bother?

As it stands, the requirements for retailers under the NOP don’t have much enforcement bite behind their regulatory teeth. In the absence of a proactive state organic program, which at best would exist in less than 30 percent of states by the end of this year, retailers won’t be inspected.

The only way a store would face civil penalties for failure to uphold organic integrity is if an informed consumer complained about it to the federal authorities. “In reality,” Green said, “they can stick their heads in the sand and ignore the bureaucracy because there’s nobody out there to check on them.”

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