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October 8, 2015

Via Electronic Transmission

Ms. Michelle Arsenault
Special Assistant, National Organic Standards Board
1400 Independence Ave. SW, Room 2648
Washington, DC 20250-0268

Re: Agricultural Marketing Service Docket Number AMS-NOP-15-0037: Notice of Meeting of the National Organic Standards Board and Request for Public Comment, 80 Fed. Reg. 53759 (September 8, 2015)

Dear Madam:

On behalf of the International Association of Color Manufacturers (IACM), we appreciate the opportunity to submit comments in response to the Agricultural Marketing Service's (AMS) request for comments regarding the upcoming National Organic Standards Board (NOSB) meeting October 26-29, 2015 in Stowe, Vermont and the proposed Handling Subcommittee's recommendations to the NOSB.

I. Introduction

IACM is the trade association that represents the global color industry, comprised of manufacturers and end-users of coloring substances that are used in foods, including natural and synthetic colors. IACM members create colors for use in a wide variety of food and beverage products including those certified under the National Organic Program (NOP) regulations.

II. Executive Summary

The Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501-6522) authorized the NOP to establish the National List of Allowed and Prohibited Substances (National List). The National List identifies substances that may and may not be used in organic crop and livestock production. The National List also identifies nonorganically produced agricultural products, like colors, that may be allowed as ingredients in or on processed products labeled as "organic". 7 CFR §205.606(d). Those substances listed on the National List are required under the OFPA to be reviewed every five years (Sunset review) by the National Organic Standards Board (NOSB). The OFPA authorizes the NOSB to develop proposed amendments to the National List for submission to the Secretary of Agriculture during the Sunset review. 7 U.S.C. §6518(k)(2). Based on the proposals provided by the NOSB from the Sunset review, the Secretary of Agriculture has statutory authority to make amendments to the National List.

"Colors derived from agricultural products" were added to §205.606 of the National List after the 205.605 listing was allowed to Sunset off the National List in 2007. The §205.606(d) listing was updated in 2010 to clarify that they must not be produced using synthetic solvents and carrier systems or any artificial preservative (USDA, 2010). Seventeen of the 18 colors

listed in §205.606(d) are up for Sunset review in 2017 by the NOSB. The colors include Beet juice extract color; Black currant juice color; Black/purple carrot juice color; Blueberry juice color; Carrot juice color; Cherry juice color; Chokeberry-Aronia juice color; Elderberry juice color; Grape juice color; Grape skin extract color; Paprika color; Pumpkin juice color; Purple potato juice; Red cabbage extract color; Red radish extract color; Saffron extract color; and Turmeric extract color.

At its October meeting, the NOSB will consider the 2017 Sunset review for these 17 colors. The Handling Subcommittee recommended to keep Beet juice extract color, Black currant juice color, Pumpkin juice color and Red cabbage extract color on §205.606 of the National List. However, the Handling Subcommittee also recommended removing the following 13 colors from the National List: Black/purple carrot juice color; Blueberry juice color; Carrot juice color, Cherry juice color; Chokeberry-Aronia juice color; Elderberry juice color; Grape juice color; Grape skin extract color; Purple potato juice color; Red radish extract color, Saffron extract color, Turmeric extract color and Paprika color. We believe that the NOSB and the Handling Subcommittee unfortunately received incomplete information about the commercial availability of these colors in organic form. As a result, IACM respectfully offers these comments not only in support of the Handling Subcommittee's recommendation to keep Beet juice color, Black currant juice color, Pumpkin juice color and Red cabbage extract on the National List because there is insufficient organic supply, but also to request the NOSB keep the remaining 13 colors on §205.606(d) of the National List as well because these colors are not commercially available in organic form.

“Commercially available” is defined in 7 CFR §205.2 as “the ability to obtain a production input in an appropriate form, quality or quantity to fulfill an essential function in a system of organic production or handling.” The 17 colors subject to the NOSB's 2017 Sunset review are all not commercially available in organic form because there is either no established organic supply market for the color, the organic raw material commodity may be available generally, but the crop varietal available is not further manufactured for color use or the organic version of the color available is not standardized for color hue, strength or otherwise does adequately function technically in the finished food product. The 17 colors up for Sunset Review should remain on §205.606(d) of the National List because the supply of these colors in organic form is not sufficient to warrant their Sunset from §205.606. Additionally, the NOSB must recognize that color is a critical factor in consumer perception and satisfaction. Being unable to provide the same shade in marketed organic processed products on a consistent basis, or at all, could cause significant consumer loss and or brand dissatisfaction. IACM supports the re-listing of all 17 colors until such a time when all 17 are sufficiently available commercially in organic form.

In addition to considering the 2017 Sunset review for the 17 colors derived from agricultural products on §205.606(d), the NOSB will also consider the Sunset review of calcium chloride as currently listed on §205.605(a). IACM requests that the NOSB keep calcium chloride on §205.605(a) of the National List because there is no organic substitute available and it is essential for the production of organic caramel color.

IACM is pleased to provide comments, which support the continued listing of colors derived from agricultural products in §205.606(d) and calcium chloride in §205.605(a) on the National List.

III. The 17 Colors up for 2017 Sunset should remain on §205.606(d) of the National List because there is insufficient organic supply to warrant their Sunset

Colors were originally added to the National List as the result of a 2007 petition. As noted at that time, most natural colors are derived from international fruit and vegetable crops grown in developing countries; there is little international acreage certified organic. Thus, natural colors have not historically been available in the appropriate quantity to meet the needs of organic processors. Although there are currently some organic options available in the market for natural colors, they would need to be rigorously evaluated to ensure the same functionality in the end product, which would mean possible reformulation of many products. Another unknown factor is whether there would be sufficient supply of organic options to fulfill all the current needs, and the growing need as we see the trend of the market moving toward more natural options. IACM would strongly note that colors derived from agricultural products still have a vital role to play in the organic foods sector because there is not sufficient supply of organic certified colors to satisfy both quantitative and qualitative demand in the market.

The 17 colors up for 2017 Sunset should remain on §205.606 of the National List because there is insufficient availability of organic colors to satisfy current demand. The quantity of available certified organic colors is limited by the underdeveloped downstream raw material supply. Until the market for organic raw materials is more fully developed, color manufacturers will continue to struggle to obtain consistent quantity and quality raw materials to produce certified organic colors. Removing the 17 colors from the National list will create lasting and significant market disruption in the processed organic food sector.

Color development and manufacturing is not a commoditized industry. Color manufacturers develop collaborative relationships with their finished food manufacturing customers in order to create a customized color formulation that meets the specific color shade requirements and also functions in the food applications based on production, shelf-life and other quality requirements. Although over the last several years, color manufacturers have responded to market demands by producing organic compliant colors, organic color development continues to be limited by insufficient availability of organic raw materials. In 2005, certified organic cropland and pasture accounted for about 0.5% of total US farmland. Markets for organically grown fruits and vegetables have been developing for decades in the US, and fresh produce is still the top-selling organic category in retail sales. The US organic marketplace has seen decades of strong growth, but it does not supply the appropriate quantity of natural colors for organic food processors. While anecdotally, the availability of organic colors has increased since 2005, IACM member companies still do not see the appropriate quantities available to meet the demand of a rapidly growing organic sector. Additionally, the high consumer demand for whole organic produce, for example, limits the availability of organic raw materials that may be diverted to other organic processing uses, like color manufacturing. For example, a survey of our membership garnered data that demonstrates that there is no organic Purple potato juice color, Beet juice color, Black currant color, Pumpkin juice color, Red cabbage color, Turmeric extract color or Saffron color available in the marketplace. Our members can also not confirm adequate or consistent supply of organic Grape skin extract color, Elderberry juice color, Chokeberry-Aronia juice color, Paprika color or Red radish color.

In addition to general supply limitations, seasonal variability in available organic certified raw materials also has a significant impact on color manufacturers and the finished organic food product in which the organic color may be utilized. Weather conditions, impacts to climate and soil conditions of different growing regions can impact color, strength and other essential technical elements imparted by a particular crop used in color manufacturing even in the same

varietal. These same issues may also affect the organic crop varieties available on the market. For example, while organic grape juice exists on the supply market, the varieties grown specifically for color are incredibly scarce. As a result, the available supply of organic grape juice color cannot satisfy even current demand for its use in organic processed food products.

Not only is the commercial availability of organic colors limited by supply constraints and impacts of seasonal variability on color impact or available varieties for use in color production, but it is also restricted by the limited functionality of available organic colors. For example, although some Black/purple carrot juice color and Carrot juice color exist on the market, neither is standardized for color shade and may not offer a uniform color to the product batch-to-batch and may not be stable in certain finished food applications, which would negatively impact consumer acceptability of organic processed products. Consumers associate color with quality, so color in products is critical to a product's success. It is the experience of our members that even if a particular color is available organically, the organic colors offered on the market are typically not technically comparable (e.g., color stability, hue, strength, etc.) to the compliant colors currently permitted for use on §205.606(d).

As described above, there is insufficient commercial availability of organic colors to satisfy current demand. The removal of the 17 colors subject to Sunset from §205.606(d) of the National List will create significant market disturbance because so many processed organic products utilize colors derived from agricultural products listed on §205.606(d) for which there is no organic substitute. Additionally, removing these colors from the National List puts into jeopardy the many organic food products already on the market that currently utilize colors derived from agricultural products.

IV. Colors are essential to the continued success of the processed organic food sector.

Colors play a critical role in expanding consumer access to organic food products. As the organic food sector has enjoyed incredible growth over the last several years, organic food product offerings have expanded well beyond fresh produce, meat and poultry products. Processed organic foods line traditional and natural grocery store shelves. Consumers interested in organic food products can purchase organic cookies, cereal, yogurt, chips, pasteurized juice beverages, soups and many other products – organic foods are no longer relegated to the perishable items in the grocery cart. As consumers have asked for more organic product offerings, the organic sector has answered by producing processed food products organically.

Colors have been and continue to be a critical ingredient in processed organic products because they increase palatability and provide enhanced visual appeal that consumers expect. The addition of natural colors compensates for the destruction of the original color by high temperature/low pH processing, allowing the finished organic food or beverage product to have the same visual appeal and attraction of their direct non-organic competition. Additionally, because colors are concentrated and very strong, they are used in products, including organic products, at very low levels of typically less than 1 percent. Restricting the use of colors in organic food production will negatively impact the palatability and access to processed organic food products.

V. There are few ancillary substances associated with the manufacture of colors.

The organic compliant products that are currently offered by IACM member companies are produced as simply as possible and controlled with Hazard Analysis Critical Control Point (HACCP) plans in place. Color manufacturers do not add any processing aids to their products that are not claimed in ingredient statements.

VI. Calcium Chloride should remain on §205.605(a) of the National List

IACM requests that the NOSB keep calcium chloride on §205.605(a) of the National List. Calcium chloride is currently listed on §205.605(a) of the National List and is up for 2017 Sunset review by the NOSB. Calcium chloride has many uses, one of which is essential for the production of organic caramel color. Calcium chloride must remain on §205.605(a) because there is no organic substitute available. Should calcium chloride be removed from §205.605(a), the NOSB can expect severe market disruption because it would make the production of organic caramel color impossible.

VII. Conclusion

IACM appreciates the opportunity to comment and urges your consideration of these important matters as you finalize the color Sunset review.

Sincerely,



Sarah A. Codrea
Executive Director