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New National Organic Program enforcement on the horizon

By

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If you handle organic produce in any way along the supply chain, now is the time to determine if you need to be certified under the new Strengthening of Enforcement regulations in USDA's National Organic Program. And the overwhelming chances are that you must be certified.

That was the biggest takeaway from an educational panel discussion on the topic at the 2023 Organic Produce Summit, held in Monterey, CA, July 12 - 13.

"Now is the time and the moment to understand if the new rules will impact you," said session moderator Joelle Mosso, who is senior director of technical and regulatory affairs for the Organic Trade Association.

She noted that full enforcement takes effect in March 2024, but the process of being certified takes time so she advised all currently exempt organic handlers to act within the next 60-90 days to make sure their certification is approved before the March deadline.

Later in the session, longtime organic industry player Kim Dietz, who is the co-founder of a new consultancy company called Strengthening Organic Systems, reiterated Mosso's point. She said the highest risk to the organic industry is the people who don't know about the new rules. She indicated that there are many companies in that category because there will be very few exemptions once the rules go into effect and many are unaware of that fact. That is a major change to NOP as previously there were many handlers exempted for one reason or another. "People not prepared to be certified are the biggest risk," she said.

Mosso piggybacked on that warning by again noting that there will be very few exemptions. "Get certified," she demanded.

The panel of speakers included Driscoll's vice president of Food Safety Compliance Bill Brodegard, Organically Grown Company CEO Brenna Davis, and Moms Organic Markets Produce Director Chris Miller, along with Mosso and Dietz. Each one discussed the new regs from their own perspectives but the general consensus was that the new SOE regulations are needed to prevent fraud by literally strengthening enforcement.

But Brodegard did point out that how the many certifiers interpret the new regs are still up for debate and some interpretations "could potentially be very scary." He noted that the regs call for every imported shipment to be associated with an import certificate. The regs leave the determination of the scope of the "associated" phrase to certifiers. The Driscoll rep said it could be every shipment or every season or every year. Brodegard said if Driscoll's certifier determined every truck needed its own certificate that would be "mountains of paperwork to complete."

Driscoll is advocating for each season to require a certificate not each shipment.

Mosso once again told those in the audience to engage with their certifier early to determine how they are interpreting the rules.

She added that one of the major intents of the new regs is to minimize the number of people involved in the organic produce supply chain who are not certified. A unique area of the new regs addressing the certification issue deals with tamper-evident packaging. A supply chain member who only handles organic product in tamper evident packaging can be exempt. That could include any packaging with a seal but something like a pallet of strawberries would not qualify.

Driscoll ships its own products through its certified facilities so that's no problem. But up the supply chain, it's possible that the pallet would end up on a receiver's dock that is not certified. Instantly, the berries would lose their ability to use the organic seal. One solution might be to overwrap the entire pallet in what would be tamper-evident plastic.

Brodegard said these distributors may lean on Driscoll to change its packaging and add more plastic in a tamper-evident way. "That is not a happy place for us," he said.

Mosso noted that a pallet of certified strawberries can move through the supply chain of organic certified handlers unwrapped and maintain its status. But if that pallet ever reaches an uncertified facility, it would immediately no longer qualify for the organic seal. She said losing the organic certification could be as simple as the pallet being shipped to the wrong dock.

Davis of OGC, a Portland, OR wholesaler, said there are some exciting elements in the new regs including the standardization of certifiers and the certificates. Every certificate will be required to be entered in the database within three days of its issuance. Managing organic certificates, which is a common occurrence, has gotten much easier, according to this panel.

She added that OGC is currently reaching out to its own supply chain, telling them the regs are coming and making sure they understand that a cross-dock facility must be certified if any organic product will pass through it in non-tamper-evident packaging, which would include a carton of apples with no seal.

Miller noted that MOM's Organic Markets handles only organic product through its facilities so it most likely will still qualify for an exemption, but he said the retailer is currently working with its own supply chain to make sure every handler is in compliance.

He, in fact, expressed pride in the fact that these new Strengthening of Enforcement regulations came at the behest of the organic industry itself. "We are one of the only industries actually asking for more government regulations," he quipped, adding that all handlers of organic produces need to know exactly who their partners are up and down the supply chain and make sure they are in compliance with the new regs.

Even as an exempt retailer, Miller said MOM's is working on tightening up its own standard operating procedures so it can determine exactly what is on each pallet it receives and make sure there is no chance of contamination by a non-organic item which would cause major concerns.

Putting a period on the discussion was moderator Mosso who noted that there are questions still to be answered and issues still to be resolved. What happens, she wonders, when a load of

conventional product shows up at the wrong facility and starts to be unloaded?

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About Tim Linden |

Tim Linden grew up in a produce family as both his father and grandfather spent their business careers on the wholesale terminal markets in San Francisco and Los Angeles.

Tim graduated from San Diego State University in 1974 with a degree in journalism. Shortly thereafter he began his career at The Packer where he stayed for eight years, leaving in 1983 to join Western Growers as editor of its monthly magazine. In 1986, Tim launched Champ Publishing as an agricultural publishing specialty company.

Today he is a contract publisher for several trade associations and writes extensively on all aspects of the produce business. He began writing for The Produce News in 1997, and currently wears the title of Editor at Large.

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