

## PFAS Update

by Chris Grigsby, MCS Director

The discovery of forever chemicals (per- and poly-fluoroalkyl substances, known as PFAS) in the Maine agricultural landscape over the last several years has led to a significant amount of information coming to light about the state of Maine's sanctioning and licensing of biosolids applications over decades.

Certified organic farms are not the only ones affected in Maine by this discovery. PFAS contamination is an issue that will continue to present challenges to the entire agricultural sector, becoming more apparent as Maine's Department of Environmental Protection (DEP) conducts testing over the next several years. Organic farmers have been at the forefront because they have had the courage to be transparent and came forward and voluntarily pulled products from shelves out of concern for their customers' health and wellbeing.

MOFGA Certification Services, LLC (MCS) is a USDA-accredited organic certifier, and we apply the same federal organic standard to the farms we certify in the Northeast as would any other accredited certifier. The USDA National Organic Program (NOP), in its role as the accreditor, ensures consistency through policy and rulemaking, training and audits. The NOP regulations frequently tie back to federal Food and Drug Administration (FDA) and Environmental Protection Agency (EPA) rules, but the NOP regulations do not, in many cases, tie back to what a state-specific law may be.

This has created a challenge for MCS in navigating between the two regulatory schemes, and we have sought guidance from the NOP beginning in 2021. To date the NOP has not offered MCS any additional guidance, but agrees that there is currently nothing in the federal regulations for this situation, and that MCS needs to apply our knowledge and expertise of the federal regulations, while adhering to any state-level statute, rule or decision. MCS has also communicated

with other certifiers and material review organizations, and all agree that without a federal response and an operation meeting compliance requirements for USDA organic, there is little that a certifier can do. One of the terms of accreditation is that a certifier cannot require compliance to standards beyond the existing regulations.

The NOP regulations specifically require that land that is certified to grow organic crops be free from applied prohibited substances for 36 months (three years) prior to harvest. Unallowed synthetic pesticides, sewage sludge, septage, genetically modified organisms and ionizing radiation are all prohibited by the regulations. MCS verifies this through historical land information, affidavits and onsite inspections. In the cases of PFAS contamination in Maine, all of the organic farms we certify have met the current NOP regulatory requirements for land transition.

In an effort to work with and support certified organic farmers during this time of discovery, MCS has developed a webpage on our website, which explains how the NOP regulations apply to the current state-level statutes and thresholds and provides additional information to farms with questions. MOFGA's PFAS resource page has many helpful resources, including a roadmap for navigating PFAS and details about accessing the PFAS Emergency Fund.

MCS PFAS page: [mofgacertification.org/pfas](https://mofgacertification.org/pfas)

MOFGA PFAS resources page: [mofga.org/news/pfas-resources](https://mofga.org/news/pfas-resources)



## ORGANIC LABELING: MOFGA Logo vs. USDA Seal

by John Welton, Certification and Quality Specialist

All of us in the world of organic certification — producers, inspectors and certifiers — want to avoid extra work. When it comes to organic labeling, paying extra attention upfront to the fine print of the NOP Rule will prevent extra work for ourselves in the future. The devil really is in the details of organic labels.

A good example of this need for attention to detail is when producers use both the MOFGA seal and the USDA seal on their product labels. NOP 205.303(a)(5) requires that the USDA seal is greater than or equal to the MOFGA seal in size when both are used on the same label. This detail is located in the final sentence in the rule and is underlined in the full citation below.

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

(a) Agricultural products in packages described in § 205.301(a) and (b) may display, on the principal display panel, information panel, and any other panel of the package and on any labeling or market information concerning the product, the following...

(5) - The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the finished product and any other certifying agent which certified production or handling operations producing raw organic product or organic ingredients used in the finished product: Provided, That, the handler producing the finished product maintain records, pursuant to this part, verifying organic certification of the operations producing such ingredients, and: Provided further, That, such seals or marks are not individually displayed more prominently than the USDA seal.

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## Organic Labeling

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**M**OFGA certified producers need to be careful with the rectangular banner that spans the center of the MOFGA seal, seen below. This banner exceeds the diameter of the circle in the background making the entire seal larger than it appears at first glance. The USDA seal is only a circle, so you need to make sure that the diameter of the USDA seal is greater than or equal to the length of the rectangular banner on the MOFGA seal. If the USDA seal diameter is less than the length of the banner, then producers will have to modify their labels accordingly. This could be a costly mistake if labels are printed before confirming new labels with MCS. Always send your label proofs to MCS for review prior to printing so we can catch any devils in the details.



## CO-PACKING ARRANGEMENTS AND CONSIDERATIONS

by John Welton, Certification and Quality Specialist

**C**ontract packaging, or co-packing, is a commercial arrangement where a company manufactures and packages another company's product line. An example of this might be a certified organic vegetable farm that doesn't have the time or resources to turn its produce into value-added products, but contracts with a certified organic manufacturer to make salsas, relish, or the like, to be sold under the vegetable farm's label. It's important to keep in mind that, for any co-packing arrangement, there is a manufacturer and a label owner who need to coordinate their activities to ensure organic integrity throughout the production process. Co-packers must be certified organic for the final product to be labeled as certified organic. This article will look at several possible co-packing scenarios and what certified organic producers need to keep in mind when exploring this option for their business.

### Scenario 1: MCS-certified co-packer and an uncertified label owner

Label owners do not have to be certified organic to sell certified organic products. For example, an uncertified coffee roaster who wishes to expand their product line to include organic coffee may contract with a certified organic coffee roaster to co-pack a line of organic coffees to sell under the uncertified roaster's label.

In this case, the label will list MOFGA as the certifier and may, or may not, include the manufacturer's information. The co-packer will be expected to maintain all certification paperwork, including final product label copies, whether or not their business is mentioned on the label. If the co-packer sources ingredients from the uncertified label owner, the co-packer must maintain organic certificates for the last certified handler of the ingredients.

### Scenario 2: MCS-certified co-packer and label owner certified by a different certifier

Since both producers are certified organic, the final product label may list either MOFGA or the label owner's certifier, depending on which business is listed on the label. Regardless, the MCS certified co-packer needs to maintain all

documentation related to organic production, including copies of the final product labels.

The co-packer should have a copy of the label owner's organic certificate that lists the products made by the co-packer. The label owner's certificate should also list all ingredients they provide to the co-packer. In this scenario, the co-packer needs to certify the finished products before they can be added to the label owner's certificate.

### Scenario 3: MCS-certified co-packer and MCS-certified label owner

Final products can be approved for both operations simultaneously. If the co-packer and label owner are different businesses, then any update for one operation may affect the other operation's organic system plan. All involved in this type of scenario benefit from clear and consistent communication between the co-packer, the label owner and the certifier.

### Scenario 4: Co-packer certified by a different certifier and MCS-certified label owner

The final product label may list either MOFGA or the co-packer's certifier, depending on which business is listed on the label. Label owners should have the co-packer's organic certificate on file for review at inspection. Records documenting all incoming co-packed products and sales of the co-packed products should be available for review by MCS.

Label owners in this scenario do not need to have the product recipes, ingredient source information, or information related to nonorganic ingredients or processing aids used. MCS will not review production records of the process products, as those should be reviewed by the co-packer's certifier.

### Scenario 5: Uncertified co-packer and MCS-certified label owner

Final product cannot be certified organic! Co-packers must be certified organic for final products to be certified organic.

