



GLOBAL ORGANIZATION FOR EPA AND DHA OMEGA-3S

April 2, 2020

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW, Room 2642-S, Mail Stop 0268
Washington, DC 20250-0268
Submitted electronically at www.regulations.gov

RE: Docket ID: AMS-NOP-19-0095, National Organic Standards Board (NOSB) meeting April 2020, Fish Oil

Dear Ms. Arsenault:

GOED represents the worldwide industry for eicosapentaenoic acid (EPA) and docosahexaenoic acid (DHA), the primary long-chain omega-3 fatty acids found in fish oil. Our membership is built on a quality standard unparalleled in the market and our mission is to increase consumption of EPA and DHA omega-3s and ensure our members produce quality products that consumers can trust.

GOED applauds the National Organic Standards Board's (NOSB) decision last fall to retain fish oil in 7 *CFR* §205.606, nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as "organic." GOED understands the Handling Subcommittee (HS), at the upcoming online NOSB meeting (April 29-30, 2020), will be discussing modifications to the current fish oil annotation.

As expressed in our October 3, 2019 written comments prior to the fall NOSB meeting, GOED supports sustainable fishing practices and views a modification to fish oil's annotation as an acceptable solution to address sustainability concerns and ensure that fish oil is compatible with organic practices. At the same time, we have concerns about the proposed annotation, which will be addressed as part of our response to each of the HS' questions.

GOED believes that protecting our oceans and natural resources is paramount. Maintaining our oceans is not only good environmental stewardship, but also ensures sustainable growth for the omega-3 industry as a whole. Given that most of the fisheries from which fish oils are sourced have either been certified—or are currently pursuing certification—by the Marine Stewardship Council (MSC)¹ or other well-respected programs and organizations (e.g. Friend of the Sea,² MarinTrust (formerly Global Standard for Responsible Supply (IFFO RS)),³ International Verified Omega-3,⁴ and Sustainable

¹ <https://www.msc.org/>

² <https://friendofthesea.org/>

³ <https://www.marin-trust.com/>

⁴ <https://ivopure.org/>



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Fisheries Partnership (SFP)),⁵ GOED recommends fish oil used in products labelled as “organic” be required to have third party certification and thus the annotation should reference third party certification as a requirement. Not only does third party certification address environmental concerns, it isn’t associated with the limitations described in the answers below.

GOED proposes the following annotation (suggested additions underlined, suggested deletions struck through):

205.606 (e) Fish oil (Fatty acid CAS #'s: 10417-94-4, and 25167-62-8) - stabilized with organic ingredients or only with ingredients on the National List, §§205.605 and 205.606. *Sourced from fishing industry by-product only and certified as sustainable by a third party certifier. ~~Where within NOAA’s jurisdiction, only from fish species and regions not listed on NOAA’s current “Overfishing” or “Overfished” list. Where outside NOAA’s jurisdiction, only from fish species and regions not listed on FAO’s “Overexploited,” “Depleted,” or “Recovering.”~~*

Undoubtedly, the question will arise as to which third party certifications should be accepted. While GOED does not recommend specific third party certifiers of sustainability, we do know the programs and organizations mentioned previously have a good reputation and are currently being used by many of our members.

1. Are these requirements sufficient, insufficient or overly burdensome to mitigate environmental concerns from the overexploitation of fishing?

In general, the requirements are insufficient to address the current state of sustainability. GOED’s answer to this question is broken into three sections corresponding to each of the three parts of the modification.

a. *“Sourced from fishing industry by-product only.”*

Fish oil for human consumption is always a value-added by-product of fish meal or seafood production because the protein’s value is much greater than that of the oil. While GOED considers this part of the annotation to be unnecessary, in an effort to satisfy the concerns of those individuals/groups who remain unconvinced that fish are never caught for the sole purpose of harvesting fish oil, GOED finds this part of the annotation to be acceptable.

b. *“Where within NOAA’s jurisdiction, only from fish species and regions not listed on NOAA’s current “Overfishing” or “Overfished” list.”*

The National Oceanic and Atmospheric Administration (NOAA) Fisheries are responsible for ensuring sustainable management of U.S. fisheries. While NOAA Fisheries’ work is very important, the reality is that its impact on the fish oil industry as it applies to sustainability is

⁵ <https://www.sustainablefish.org>



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limited to menhaden and salmon oils and, due to the low amount of these oils used in food for human consumption, the overall impact is extremely low. More specifically, GOED has estimated that only ~1% and ~2% of the salmon oil and menhaden oil, respectively, produced from salmon and menhaden caught in the United States, is used in food for human consumption.

Given the limited impact of NOAA Fisheries on fish oil used in food for human consumption, GOED considers this part of the annotation to be unnecessary.

- c. *“Where outside NOAA’s jurisdiction, only from fish species and regions not listed on FAO’s “Overexploited,” “Depleted,” or “Recovering”*

In hindsight, GOED’s past recommendation to refer to the guidelines from the Food and Agricultural Organization (FAO) of the United Nations has contributed to the creation of an insufficient and inaccurate requirement that has the potential to leave consumers who prefer organic products made with non-organically produced fish oil without those products. GOED apologizes for the confusion.

FAO no longer classifies the status of a fish stock/species in one of the following six categories: “Underexploited,” “Moderately exploited,” “Fully exploited,” “Overexploited,” “Depleted,” or “Recovering.”⁶ Instead, the following three categories are used: “Overexploited,” “Fully exploited,” or “Non-fully exploited.”⁷ The three categories currently being used are the result of aggregating “Overexploited,” “Recovering,” and “Depleted” into one category of “Overexploited,” and the categories of “Moderately Exploited” and “Underexploited” into the single group “Non-fully exploited.”

Regardless of the number of categories, GOED previously thought the “The State of World Fisheries and Aquaculture,”⁸ published every two years, included exploitation figures, but it doesn’t. The most recent report with figures for states of exploitation is from 2011,⁷ which means the data is too outdated to be accurate and thus of utility to address sustainability.

Even if exploitation data was published every two years, using such data could be problematic since exploitation status is subject to change. While the state of exploitation of fish from a stock or species group from a specific FAO statistical area may be considered fully exploited in 2018, it may be considered overexploited in 2020. If crude oil from this example is purchased when the state of exploitation of the fish stock is considered fully exploited, but the refined oil isn’t used in a product seeking organic certification until 2020 – when the fish stock is considered overexploited – does this jeopardize the chance of the product being certified?

⁶ <http://www.fao.org/3/i2389e/i2389e.pdf>

⁷ <http://www.fao.org/3/i2389e/i2389e.pdf>

⁸ <http://www.fao.org/3/i9540en/i9540en.pdf>



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While this example may seem extreme, it's important to consider that fish oil producers have to procure large quantities of crude oil at a time because there are limited fishing seasons and quotas, resulting in limited quantities available to purchase in a highly competitive environment. Procuring large quantities of crude oil is necessary to secure continuity of supply and is feasible because it can be stored for years before being processed into a final product.

Requiring certification of sustainability by a third party certifier of fish oil used in products labeled as organic would eliminate the aforementioned issue. It would also simplify the work of the organic certifier.

2. Are there conflicts between the FAO and NOAA classifications of fish stocks that would make using both lists difficult?

It's not clear to GOED if FAO and NOAA evaluate sustainability similarly, but given GOED's answer to #1, the answer to this question is irrelevant.

3. Are these requirements clear and enforceable?

Even if the data from FAO was recent enough to be of use, it's unclear how an organic certifier would verify the sustainability of the fish used to produce the fish oil. Requiring certification of the fish oil as sustainable by a third party certifier would be enforceable.

4. What impacts would these requirements have on the availability of fish oil for organic products?

The unintended consequence of adopting the HS' proposed annotation could result in the removal from the market of the majority, if not all, of the products labelled "organic" with fish oil and thus defeat the purpose of relisting fish oil on the National List. It's important to keep in mind that the goal at the end of the day is to ensure that consumers who prefer organic products have access to products made with non-organically produced fish oil, since organic fish oil does not currently exist.

Thank you for the opportunity to submit comments. Should you have any questions, please do not hesitate to contact me via email at harry@goedomega3.com. In addition, I will be presenting oral comments during one of the upcoming webinars.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Harry B. Rice', is written in a cursive style.

Harry B. Rice, PhD
Vice-President, Regulatory & Scientific Affairs