



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
Director

Brussels,
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Dear [REDACTED],

Following the meeting of 2 October 2018, you had with Unit B4, I am writing to address your request of clarifications regarding the new provisions on flavourings laid down in Regulation (EU) 2018/848¹ on organic production.

Authorisation for using flavourings in the processing of organic food products

- Overall authorisation

The authorisation for using flavourings in organic food is provided by point 2.2.2 (b) of Annex II part IV of the Regulation (EU) 2018/848.

“2.2.2. In the processing of food, the following products and substances may be used:

(b) substances and products defined in points (c) and (d)(i) of Article 3(2) of Regulation (EC) No 1334/2008 that have been labelled as natural flavouring substances or natural flavouring preparations in accordance with Article 16(2), (3) and (4) of that Regulation.”

Point 2.2.2 provides a "direct" authorisation for the use of flavourings. Flavourings will not be authorised pursuant to Articles 24 and 25: no listing in annexes, no authorisation granted by Member State. This overall authorisation does not impose that the flavourings have to be organic.

- Products and substances which may be used

The use of flavourings is conditional to the respect of specific provisions of the Regulation (EC) No 1334/2008.

¹ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 – OJ L 150, 14.6.2018 p.1

[REDACTED]

Only substances and products defined in points (c) and (d)(i) of article 3(2) of Regulation (EC) No 1334/2008 may be used:

“2. For the purposes of this Regulation, the following definitions shall also apply:

(c) ‘natural flavouring substance’ shall mean a flavouring substance obtained by appropriate physical, enzymatic or microbiological processes from material of vegetable, animal or microbiological origin either in the raw state or after processing for human consumption by one or more of the traditional food preparation processes listed in Annex II. Natural flavouring substances correspond to substances that are naturally present and have been identified in nature;

(d) ‘flavouring preparation’ shall mean a product, other than a flavouring substance, obtained from:

(i) food by appropriate physical, enzymatic or microbiological processes either in the raw state of the material or after processing for human consumption by one or more of the traditional food preparation processes listed in Annex II;”

Only the substances and products that have been labelled as natural flavouring substances or natural flavouring preparations in accordance with Article 16(2), (3) and (4) of Regulation (EC) No 1334/2008 may be used.

“2. The term ‘natural’ for the description of a flavouring may only be used if the flavouring component comprises only flavouring preparations and/or natural flavouring substances.

3. The term ‘natural flavouring substance(s)’ may only be used for flavourings in which the flavouring component contains exclusively natural flavouring substances.

4. The term ‘natural’ may only be used in combination with a reference to a food, food category or a vegetable or animal flavouring source if the flavouring component has been obtained exclusively or by at least 95 % by w/w from the source material referred to.

The description shall read ‘natural “food(s) or food category or source(s)” flavouring’.

Other categories of products and substances, in particular those listed in Article 16(5) and 16(6) of the Regulation (EC) No 1334/2008 cannot be used as flavourings.

Article 16(5) refers to natural flavourings where *“the flavouring component is partially derived from the source material referred to, the flavour of which can easily be recognised.”*

Article 16(6) refers to natural flavourings where *“the flavouring component is derived from different source materials and where a reference to the source materials would not reflect their flavour or taste.”*

To sum up:

- Only the substance that have been labelled in accordance with Article 16(2) (*flavouring preparations and/or natural flavouring substances*), Article 16(3) (natural substances) and (not or) Article 16(4) (flavouring obtained exclusively of by at least 95% from the source material referred to) may be used.
- Flavourings corresponding to Article 16(5) (flavouring component partially derived from the source referred to, the flavour of which can be easily recognised) and to Article 16(6) (flavouring component derived from different source materials and where a reference to the source materials would not reflect their flavour of taste) cannot be used.

Consequently, in more practical terms, only flavourings, which are labelled according to Article 16(4), may be used in the processing of organic food products. These flavourings should be obtained by at least 95% from the source material referred to. The remaining 5 % could include natural substances that are labelled according to Article 16(3).

- Authorisation for carriers

Flavourings are made of a flavouring component and of carriers of flavouring component. "Carriers" are defined in Annex I point 5 of Regulation (EC) No 1333/2008 on food additives:

"5. Carriers' are substances used to dissolve, dilute, disperse or otherwise physically modify a food additive or a flavouring, food enzyme, nutrient and/or other substance added for nutritional or physiological purposes to a food without altering its function (and without exerting any technological effect themselves) in order to facilitate its handling, application or use;"

In practice, carriers are made of food ingredients (sugar, oils, water, alcohols...) and food additives as permitted by (EC) Regulation No 1333/2008, in particular in Part 4 of Annex III listing the "*Food additives including carriers in food flavourings*".

The carriers and additives which have only a technological function in the flavourings (anticaking agent, emulsifier to stabilise a flavouring emulsion....) and which do not impact the quality of the food product are not labelled as such in the flavourings nor in the food product. These carriers and additives are an integral part of the flavourings and, as a consequence, are covered by the direct authorisation provided by point 2.2.2 (b) of Annex II Part IV, as long as they are listed in the Annex III of the Regulation (EC) No 1333/2008.

The authorisation to use any other food additives which will impact the food products in which the flavourings are incorporated (colour...) and which are subject to a specific labelling in the flavourings and the food products, should be provided by Article 24 (2)(a) (current Annex VIII, Section A – Food additives, including carriers, of (EC) Regulation No 889/2008).

Conditions for using non-organic flavourings in the processing of organic food products

According to Article 30 (5) (ii) of Regulation (EU) 2018/848:

"For processed food, the terms referred to in paragraph 1 may be used:

*(a) in the sales description, and in the list of ingredients where such a list is mandatory pursuant to Union legislation, provided that:
(ii) at least 95 % of the agricultural ingredients of the product by weight are organic;“*

Annex II part IV 2.2.2 of Regulation (EU) 2018/848 lists the products and substances which may be used in the processing of food:

*“(a) preparations of micro-organisms and food enzymes...
(b) substances and products defined in points (c) and (d)(i) of Article 3(2) of Regulation (EC) No 1334/2008 that have been labelled as natural flavouring substances or natural flavouring preparations in accordance with Article 16(2), (3) and (4) of that Regulation;
(c) colours for stamping meat...
(d) natural colours and natural coating substances...
(e) drinking water and organic or non-organic salt...
(f) minerals (trace elements included), vitamins...”*

According to Annex II part IV, point 2.2.4.:

*“For the purpose of the calculation referred to in Article 30(5), the following rules shall apply:
(b) preparations and substances referred to in points (a), (c), (d), (e) and (f) of point 2.2.2 shall not be calculated as agricultural ingredients;”*

Flavourings are referred to in point 2.2.2 (b); they are not included in the list of preparations and substances which shall not be calculated as agricultural ingredients. As a matter of consequence, flavourings are to be calculated as agricultural ingredients and are therefore to be included in the 5 % by weight of the product which could be non-organic according to Article 30(5)(ii) of Regulation (EU) 2018/848.

If produced organically, flavourings are included in the 95% by weight of the product which are organic according to Article 30(5)(ii). However, if only the carriers are organic, and not the flavouring components, flavourings are to be calculated on the basis of the total weight of the flavourings (flavouring component + carriers).

Specific provisions applying to organic flavourings

The conditions referred to in Article 30 (5)(a) of Regulation (EU) 2018/848 apply to organic flavourings as processed food.

*“5. For processed food, the terms referred to in paragraph 1 may be used:
(iii) in the case of flavourings, they are only used for natural flavouring substances and natural flavouring preparations labelled in accordance with Article 16(2), (3) and (4) of Regulation (EC) No 1334/2008 and all of the flavouring components and carriers of flavouring components in the flavouring concerned are organic”*

Flavourings can be labelled organic when all of the flavourings components and carriers of flavouring components are organic. This provision considers two distinct parts of the flavourings: on the one hand, carriers and on the other hand, flavouring components.

Carriers are food ingredients constituting the non-flavouring part of the flavourings, possibly together with additives. Carriers are responding to a technological need (to facilitate the mixture of the aromatic components, their dissolution, preservation...).

Flavouring components are a mixture of natural aromatic substances and natural aromatic preparations conferring the taste and smell of flavouring.

Carriers and flavouring components are processed food, for which provision referred to in Article 30 (5) (ii) of Regulation (EU) 2018/848 apply. Carriers may be considered as organic provided that at least 95% by weight of the agricultural ingredients of the carriers are organic. Similarly flavouring components may be considered as organic if at least 95% by weight of the agricultural ingredients aromatic components are organic.

The use of non-organic carriers and additives (within the 5 % limit in weight of the carriers) should be authorised in accordance with the provisions of Article 24 (2) and (4) of Regulation (EU) 2018/848.

The use of non-organic flavouring components (within the 5 % limit in weight of the flavouring components) are authorised in accordance with point 2.2.2. (b) of Annex II Part IV of Regulation (EU) 848/2018.

The present opinion expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

Nathalie SAUZE-VANDEVYVER