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September 24, 2012

Ms. Michelle Arsenault, Special Assistant
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW.,
Room 2648-So., Mail Stop 0268
Washington, DC 20250-0268;

Re: Docket AMS-NOP-12-0040; NOP 12 - 12
NOSB CAC Subcommittee Discussion Document
Calculating Percentage Organic in Multi-ingredient Products

Dear Ms. Arsenault:

Thank you for the opportunity to provide comments to the National Organic Standards Board (NOSB) regarding the Compliance, Accreditation and Certification Subcommittee Discussion Document entitled Calculating Percentage Organic in Multi-ingredient Products.

The Accredited Certifiers Association (ACA) represents 43 foreign and domestic accredited certifying agents. Our comments were developed through a Working Group of interested ACA members with input solicited from our entire membership. We conducted a survey of our members to identify the practices used when calculating the percentage of organic ingredients; more than 50% of our members responded. The responses are reflected in our comments.

The ACA appreciates the work of the Subcommittee in seeking to clarify the issues surrounding the calculation of the percentage of organic ingredients in a multi-ingredient product.

Summary

We believe that in the majority of instances ACAs perform calculations of organic ingredients in a consistent manner. There are areas where additional guidance from the National Organic Program (NOP) would improve the practices used and we have included suggestions in our Response to Question 9. While the NOP has provided training on this topic to ACAs, the fact that many ACAs do not attend in person trainings, combined with not all of the training information materials being posted on the NOP website, does make the information received by ACAs variable.

ACAs would welcome the creation of a comprehensive training or guidance document by the NOP. This guidance document should consolidate all previous training materials, and address the issues identified by commenters on this Discussion Document. We encourage the NOSB to make this recommendation to the NOP. The development of a webinar training on this topic should also be encouraged.

The ACA provides the following general comments, with additional comments contained in our response to the questions asked by the Subcommittee below.

- The ACA believes that a language revision to §205.302 (a), 1, 2, and 3, is not necessary. According to our member survey, ACAs are consistent in their methods of calculating organic content by dividing the weight/volume of organic ingredients at formulation by the total product weight/volume at formulation and do not believe the language is an issue that needs to be clarified by rulemaking. For clarification purposes, there could be a discussion regarding the language in the guidance document.
- We believe that the Discussion Document contains a statement that does not reflect the practice of ACAs – the Subcommittee notes on pg. 2 and pg. 4 that “inspectors” participate in the calculation of percentages. According to the survey of our membership, ACA’s review and verify the calculation of percentage of organic ingredients in products based upon information submitted by clients. If revision or additional information is required to determine the correct percentage, the agency staff work with the client. ACAs do not require inspectors to calculate the percentage of organic ingredients in a product. Inspectors are required verify the production records to determine that the records match the percent of organic content stated in the OSP.
- In addition, comments from our members do not support the Subcommittee statement on pg. 4 “it can be very difficult for handlers, certifiers and inspectors to consistently derive the same calculations with varied format specification sheets and calculation forms”. Our members noted that contract inspectors utilized by them have not had a difficulty verifying product formulations and have not expressed concern regarding variations in the forms used by ACAs.

ACA Response to Specific Questions contained in the Discussion Document

- 1. In order to obtain uniformity in organic claims for products, should the NOSB recommend standardized forms and/or the use of self-calculating tables for determining organic percentage, and specification sheets for all sub-ingredients?**

Response: The ACA does not believe that standardized forms or the use of self-calculating tables are necessary, providing there is adequate training and guidance from the NOP to include examples of calculating multi-ingredient ingredients. The requirement for ACAs to

utilize a standard calculation tool and format would likely not be compatible with the certification system used by the ACAs.

The importance of a uniform calculation method cannot be emphasized enough. This would be the result of clear guidance from the NOP. The tools do not need to be uniform, only the method.

2. If sub-ingredients are included without a specification sheet and accompanying calculation, should ingredients be calculated as 70%, 95% or 100% based on stated labeling category?

Response: Yes, the ACA agrees with this statement. If the client requests a higher percentage in an organic ingredient, ACAs generally accept further verification from the client or the certifier of the product. For clients who would like a % claim, verification of the actual percentage is obtained from the certifier of the ingredient, or the supplier.

3. Does the ACA or handler consider other salts, such as potassium chloride as well as sodium chloride in determining calculation?

Response: Potassium chloride and other similar salts are not excluded from the calculation of organic content. Potassium chloride is listed on §205.605 and any item on the National List used as an ingredient is counted as such in the organic content calculations. The only excluded salt is sodium chloride. This topic should be included in guidance with examples provided to provide clarification.

4. What difficulties do you encounter when verifying percentage calculations for multi-ingredient products? Do supplier forms meet necessary expectations?

Response: Incomplete or unclear information from suppliers is the main difficulty encountered. This is particularly relevant when trying to determine the exact organic content of ingredients, and when defaulting to 95% for all ingredients does not allow the client to make an organic claim. Suppliers are asked to provide additional information, but there is difficulty obtaining the specific organic content when tracking back through multiple traders and distributors. When determining the organic percentage of the product using a specific ingredient, ACAs must know the organic percentage of that ingredient and the percentage of salt and/or water that was excluded from the organic calculation. Determining the specific organic percentage in multi-ingredient products used as ingredients is particularly time consuming and difficult.

The lack of a statement of the specific percentage of organic content on either the organic certificate or the product specification sheet requires additional work from both ACAs and clients. The inclusion of such information on the certificate would obviously create an added paperwork burden for both certifiers and handlers, but further along in the process could

resolve content calculation issues more quickly. In addition, some manufacturers want to only default to the 95% level of organic ingredient rather than calculate the specific organic content. In the event an ACA does not have a specific organic content claim (verified by the ACA of the product producer) the organic content would be calculated based upon the designation on the organic certificate (95% for organic; 70% for made with organic ingredients). It is not clear if ACAs should only accept ingredient content verification from the ACA of the ingredient supplier or if handlers could be required to provide the specific organic content on the product specification sheet. NOP guidance could include the organic content being disclosed on the specification sheet as a suggested tool for addressing this issue.

5. Is calculating the percentage organic made more complex when multiple certifier forms are being used to make calculations for multi ingredient products with sub-ingredients?

Response: The ACA believes that as long as the information provided is complete and accurate, the type of form used is not relevant. Certifiers use their own forms, and in some cases supply self-calculating forms to their clients. Inspectors are not asked to calculate ingredients.

6. Should all ACAs use a uniform calculation tool to verify percentage calculations?

Response: No. A uniform calculation tool should not be required. However, the results of all tools should be uniform if ACAs use a uniform method of calculating organic percentages. Guidance is needed from NOP to provide uniformity of method and to ensure consistency.

7. Do all ACAs provide calculation tools to reviewers/inspectors? Do inspectors have their own tools? Are there an adequate number of qualified inspectors available perform this work?

Response: Reviewers verify the product information submitted by the client is complete, review the submitted calculations for organic content, and identify additional information that may be required. Inspectors are not asked to calculate organic content. Inspectors verify that the formula is being followed by comparing it with the production batch records on-site.

8. How does use of processing aids affect percentage organic calculations? For example in the absence of other technical specification does the product default to the 95% category for the purpose of the calculation?

Response: The use of processing aids may affect the percentage for calculation. From our survey, a few ACAs do include processing aids in the calculation of organic content if the processing aids are present in the final product. Most ACAs do not include processing aids in the calculation. Clients are asked to supply information about the use of processing aids on

product profile forms. Based on the result of our survey, it appears certifiers could use guidance in determining when a processing aid is considered present in the finished product at an insignificant level versus present at a significant level, and when a processing aid warrants reclassification as an ingredient counted in the organic calculations and listed on the finished product label.

This question also led to a discussion about the effect of use of processing aids on labeling. Use of processing aids does affect the labeling claim. In order to make a 100% Organic claim, processing aids must be certified organic, and each ingredient must be accompanied by a certificate identifying the ingredient as "100% Organic. Use of nonorganic processing aids, even if not present in the finished product, precludes a product from being labeled as "100% organic." However, some products that use processing aids may still be calculated at 100% for the purpose of organic content only.

9. Would guidance from the NOP bring clarity and uniformity to the process? What features and characteristics should be incorporated into the policy?

Response: Yes. The guidance should be clear enough to result in all certifiers arriving at the same organic percentage result when given the same list of ingredients and processing aids that are added to the product. Features to include would be examples of calculating various types of multi-ingredient products and examples of calculating tools that MAY be used by ACAs.

We recommend the following topics are included in the guidance and specific calculation examples:

- a) clarifying the intent of the language of §205.302(a)(1)(2)(3) in regard to "finished product" vs. the use of "all ingredients";
- b) calculating the organic percentage of a multi-ingredient product containing multi-ingredient ingredients;
- c) clarification on the types of salts that are included in the organic content calculation vs. salt that is excluded from the organic content calculation;
- d) clarifying whether added water that comes in with a processed ingredient (when there is no standard of identity for that ingredient) is removed from the calculation of organic content in a finished product (example: chicken broth used in soup);
- e) calculations involving single ingredients, such as tomatoes with citric acid, that if listed as simply "tomatoes" on the formula cannot be assumed to count at 100% content;
- f) excluding water and salt that have been added to ingredients from the calculation for the finished product; examples could demonstrate the impact of failing to exclude water and salt has on the proper labeling category (will usually increase the percentage

calculated and may result in products with less than 95% organic content being certified in the “organic” category);

- g) examples of when processing aids are excluded from the organic content calculation and examples of when processing aids are included in the organic content calculation; when does a processing aid become insignificant;
- h) using the actual percentage of organic content of ingredients during calculations vs. using a default percentage (95% or 70%) and the impact this may have on the label category;
- i) the specific types information that manufacturers could supply in their specification sheets to facilitate the calculation of percent of organic ingredients .

10. Do we have in place adequate mechanisms to ensure that all agricultural products which have received no post harvest treatment can be verified to the 100% category as raw ingredients for calculating percentage organic in multi-ingredient products? Explain process used in calculation.

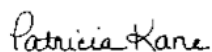
Response: No. The organic certificate is the only mechanism at this time. Some certifiers only issue a Crop scope certificate when post-harvest activities occur on-farm. Many crop certificates do not list the product category. They are only listed as organic even though they may qualify for the 100% organic category. For calculating such organic products as ingredients, ACAs default to 95% organic content, but if the result for the finished product is less than 95%, ACAs may determine or ask the client to obtain documentation if the ingredient may be calculated at a higher percentage of organic content.

Conclusion

The ACA believes that certifiers perform calculations of organic ingredients in a consistent manner and that standardized forms are not necessary to accomplish this task. We do believe however, that clear, comprehensive guidance from the NOP would ensure additional consistency in this task. We encourage the NOSB Compliance, Accreditation and Certification Subcommittee to move forward with a detailed recommendation to the NOP regarding the need for a clear and comprehensive guidance document regarding the Calculation of Organic Percentage in Multi-ingredient Products. Additional webinar-style training for ACAs by the NOP should also be encouraged.

Thank you to the Compliance, Accreditation and Certification Subcommittee for their work on this important issue and for the opportunity to provide comment on this Discussion Document.

Sincerely,



Patricia Kane
Coordinator