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September 24, 2012

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2648-So, Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-12-0040

RE: Certification, Accreditation, and Compliance Committee (CACC) – Calculating Percentage Organic in Multi-ingredient Products

Dear Ms. Arsenault:

Introduction:

Thank you very much for giving Oregon Tilth Certified Organic the opportunity to comment on the discussion document for Calculating Percentage Organic in Multi-ingredient Products. We believe that Accredited Certifying Agents (ACA's) are for the most part consistent when executing calculations for multi-ingredient products. However, there are still some calculation nuances that are not being utilized by all ACA's. This guidance will provide the most efficient way to have all ACA's defer to the same control when calculating the organic percentage of a multi-ingredient product.

Discussion:

The actual percentage organic of a final product, for Oregon Tilth, has always been based on amount of ingredients going into a formulation and not the finished weight of the product. We do not believe this has been an issue with most certifiers around the globe. It may be valid to clarify this in the guidance issued, but rule change, as posed in 2001 is not necessary for this minor clarification.

We do not postulate that a uniform, or standardized forms and calculating tools are needed to ensure ACA's are making calculations consistently. Many certifiers use different programs to calculate the organic percentage in an organic product. As technology expands we are going to see many certification programs that

will have unique ways of inputting data for calculation purposes. The time used on a project like this may be wasted, as these forms and calculating tools may be outdated in a matter of a couple of years. The use of guidance has been successful in the past. The creation of the NOP Handbook has made a much easier approach to accessing and referencing information for clarification purposes.

With regards to the need for specification sheets for all sub-ingredients, if pulling all added water and salt out of a formulation becomes a necessary, then some sort of bulk label requirement, or specification sheet would be an excellent tool to communicate this information to the ACA. It may also be of interest to add the actual percent organic to the bulk label, or specification sheet. Both of these concepts would ensure a more uniform and streamline calculation process

As far as calculating multi-ingredient products, Oregon Tilth has always used the following stipulations for calculation purposes:

- 100% of any ingredients content contributes to the final product, if the ingredient is listed as 100% organic on the certificate.
- 100% of any **single** ingredients content contributes to the final product, if it can be verified to be a single ingredient through specification sheet, or other documentation listing the ingredients. By definition, processing aids do not affect the percent organic content contributed by the ingredient, as they are removed and not present, present at an insignificant level, or present as a normal constituent at a normal level. Therefore they should not lower the ingredients contribution to a multi-ingredient product.
- 70.1% - 99.9% of any ingredients content contributes to the product if specific documentation can be obtained showing the percent organic.
- A default of 95%, or 70% of any ingredients content contributes to the product, if it is listed on the certificate as organic, or made with organic, respectively, on the supplier certificate and no contrasting documentation on the organic percentage can be obtained.

We believe that the criterion that Oregon Tilth has utilized for calculating multi-ingredient formulations is consistent with the many certifier trainings given and from the former Q&A from the website. However most of these resources are not easily found, or have been removed from the NOP website, therefore we are seeing variability in the way ACA's are calculating multi-ingredient products.

We therefore applaud the direction of this discussion document and ask that the guidance issued contain specificities about 1. Organic content of single organic ingredients. 2. Organic content of an organic, or made with organic multi-ingredient ingredients. 3. Non-organic processing aids and the effect the non-organic processing aids have on the percentage organic.

The only salt that is excluded from an Oregon Tilth client formulation is that of sodium chloride. The National List contains magnesium chloride, magnesium sulfate, and potassium chloride, so it is our understanding that sodium chloride is the only substance that is considered salt under the regulations. The recommendation for sea salt specifically states, "Sodium chloride is designated as exempt within the regulation as "salt"."

The discussion document states "Further, some handlers, certifiers, inspectors may not be accurately examining the water and salt content for exclusion from the percentage calculation." There are a couple of thoughts provoked by this statement.

First, is the intent of this statement to ensure that any added water and salt being used in an ingredient going into a multi-ingredient product is pulled from the formulation? An example of this would be the simple use of organic chicken stock going into chicken noodle soup. So, to accurately calculate the organic content of the organic chicken stock which could count in the chicken noodle soup as organic, the added salt and water would need to be removed from the organic chicken stock. Many multi-ingredient products have ingredients which have added salt, and water. To try and remove all added water and salt from the many ingredients that contain them is a time consuming task, the calculation is not obvious and has never been discussed at NOP

trainings. What part of a chicken stock formulation could be used for the solids? Is it the amount of solids in the actual product? Is it the weight ratio of finished extract minus the solvent divided by the finished extract amount? These questions have never been answered.

The exclusion of water from ingredients used in multi-ingredient products is discussed in the NOP Handbook as Policy Memo 11-9, in which the FDA's standardized foods are referenced (21 CFR 131-169 for food and 21 CFR §101.30 for vegetable and fruit juices). The issue with the 21 CFR 131-169 standardized foods reference is that the FDA is extremely stagnant when it comes to updating the standardized foods. Additionally many of those standardized foods do not contain percent moisture that can be factored in when making a product such as soymilk. On the other hand 21 CFR §101.30 Percentage juice declarations for foods purporting to be beverages that contain fruit, or vegetable juice, shows the allowance of water to be added to juice concentrates to then make a single strength juice. This standard of identity actually allows single strength calculations to be made to a fruit or vegetable juice **NOT** on the list, on the basis of soluble solids content under part (h)(2). This part of the regulations gives leeway to new fruits and vegetables, where the standards of identity do not yet exist.

In 2002 the Soyfoods Association of North America (SANA) and the NOP came to an agreement about the percent moisture from soybeans that can be calculated toward the organic content when adding water to a soy base. The agreement was posted in the Q & A on the NOP website, but since then only a few Q&A entries have been retained. However the information is still vaguely in the media (see <http://www.soyfoods.org/about-us/mission-history>) where it is stated "2002 – SANA met with the USDA and sponsored research to resolve issues about how soymilk and related soy-based products should be handled in calculating the percentage of organic matter to comply with the National Organic Program rules. Certifiers to this day, including Oregon Tilth, are utilizing the percent moisture in a soybean to allow added water to soy-based products. However this is the only product that has been allowed an added percentage of water aside from the already allowed FDA standardized foods, and both of the agreement with the SANA and the Q&A with the FDA standardized foods were discussed in 2002. How can the NOP have an agreement with SANA about allowing water to be counted into soy-based products and make Q&A stating that only FDA standardized foods do not have to remove added water? How can we allow the moisture from a fresh soybean into a soy-based product, but not allow the moisture content of a fresh almond to be counted towards almond-based products like almond milk?

There are many examples where this does not work and I would urge the NOSB and NOP **NOT** to use the FDA standardization of specific foods when deciding what added water needs to be omitted from a formulation. There are many other resources to find out a standard of identity. As the leaders of the organic industry we should back the manufacturers efforts in keeping organic products safe from food borne disease and lessen the carbon footprint of shipped food by dehydrating products that can be later rehydrated and used at single strength. We urge the NOSB to either weigh in on this subject now, or issue new guidance in the future about the omission of water and salt from ingredients going into multi-ingredient formulations.

Secondly, to my knowledge the inspector is never performing the calculation for actual percentage organic. The calculation for the actual percent organic is performed at the certifier level to ensure they qualify as organic. The inspection calculations are simply looking at a batch sheet and converting a weight measurement into a percentage in the formulation to check against the formulation submitted to the ACA. Therefore no calculation tools need to be provided to the inspector except the one used by the certifier to verify the percent organic when the product was added to the certification.

Conclusion:

We believe that the criterion that Oregon Tilth has utilized for calculating multi-ingredient formulations is consistent with the many certifier trainings given and from the former Q&A from the website. However most of these resources are not easily found, or have been removed from the NOP website, therefore we are seeing variability in the way ACA's are calculating multi-ingredient products.

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The use of standardized forms and calculation tools and regulation language changes within §205.302 do not need to be to ensue. These two issues can simply be clarified through the forth-coming guidance. Lastly, although we believe the ACA's understand that sodium chloride constitutes salt in the regulation, no harm would come from a brief explanation in the guidance issued.

We urge that guidance and training for the following topics either be brought up in this guidance, or be discussed soon by the NOSB, so ACA's can align and move forward with regards to product composition and calculating the percentage of organically produced ingredients. 1. The omission of added water and salt in further processed multi-ingredient products. 2. The correct way to calculate an extracts (broth, tea, coffee etc.) applicable organic content. 3. Clarify what information is to be used from the FDA's list of standardized foods and provide solutions for foods not on the FDA's list.

Respectfully submitted,



Darryl Williams
Processing Program Technical Specialist
Oregon Tilth, Inc.

Oregon Tilth, Inc. is a non-profit 501(c)(3) organization that supports and promotes biologically sound and socially equitable agriculture. Oregon Tilth offers educational events throughout the state of Oregon, and provides organic certification services to organic growers, processors, and handlers internationally. An NOP accredited certifier since 2002, Oregon Tilth currently certifies over 650 farms and ranches and over 600 handlers in more than 35 states affording us a broad perspective of current practices and challenges faced by organic producers and handlers.