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USDA-AMS-NOP
1400 Independence Ave. SW
Room 2646-So., Ag Stop 0268
Washington, D.C. 20250-0268

March 15, 2017

Re: document number AMS-NOP-16-0085; NOP-16-06. National Organic Program: Draft Guidance for Calculating the Percentage of Organic Ingredients in Multi-Ingredient Products (NOP 5037)

Dear Dr. Lewis,

Thank you for the opportunity to comment on the USDA National Organic Program (NOP) Draft Guidance for Calculating the Percentage of Organic Ingredients in Multi-Ingredient Products.

CCOF advances organic agriculture for a healthy world through organic certification, education, advocacy, and promotion. We advocate on behalf of our members for organic policies and provide organic certification that is personal and accessible. Founded in California more than 40 years ago, today our roots span the breadth of North America and our presence is internationally recognized. We are supported by an organic family of farmers, ranchers, processors, retailers, consumers, and policymakers. Together, we work to realize a future where organic producers thrive and where organic *is* the norm.

CCOF supports guidance to ensure consistency among producers of multi-ingredient organic products. However, the draft guidance would impose challenging disclosure requirements and complicated calculations that may adversely impact organic handlers. CCOF is especially concerned about the impacts of the draft guidance on small-scale handlers because they may need additional resources to complete the calculations, and they may not be able to obtain detailed formulations from their manufacturers.

Please find attached comments and proposed revisions to ensure guidance that supports all scales and types of handlers. Also attached for reference is CCOF's form for calculating percentage of organic in multi-ingredient products.

Sincerely,

Kelly Damewood, Policy Director

cc: Cathy Calfo, Executive Director/CEO
Jake Lewin, President, CCOF Certification Services, LLC

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Comments and Proposed Revisions to the Draft Guidance for Calculating the Percentage of Organic Ingredients in Multi-Ingredient Products

The following comments and revisions are based on CCOF's experience certifying handling operations and on direct input solicited from over 1,000 CCOF-certified handlers.

I. 3.1: Calculating the organic content of multi-ingredient ingredients and products

Section 3.1 of the draft guidance makes several helpful clarifications, but some of the calculation requirements are not practical because they require information that is not readily available or information that is subject to frequent changes.

A. 3.1.1 Certified "Organic" or "Made with Organic" ingredients that are themselves composed of multiple ingredients

The draft guidance clarifies that multi-ingredient ingredients can be assumed to contribute either 95% organic content or 70% organic content based upon its classification as "organic" or "made with organic (specified ingredients or food groups)." This clarification is helpful and would be practical to enforce.

The draft guidance states that if the multi-ingredient ingredient used in a product formulation is to be counted as contributing more than 95% or more than 70% organic ingredients, then certified organic handlers should calculate the organic percentage of multi-ingredient ingredients by breaking them down into their constituent parts to distinguish between the organic and non-organic content of the ingredient. This requirement is not practical because ingredient suppliers are unlikely to provide the full formula of their product to other processors. Ingredient suppliers and processors will want to retain confidentiality and protect trade secrets.

As an alternative, the guidance should have an organic ingredient supplier's *certifier* verify the organic content of a multi-ingredient ingredient. Acquiring verification from the certifier instead of the supplier will allow suppliers to maintain confidentiality of their formulas and ensure that the calculation is done correctly. Moreover, verification from the certifier instead of the supplier will help keep costs of certification down by eliminating duplicative work between the final product certifier and the ingredient certifier.

Thus, the following changes are recommended for section 3.3.1:

If the multi-ingredient ingredient used in a product formulation is to be counted as contributing more than 95% or more than 70% organic ingredients (depending on the certification classification of the product) certified organic handlers should:

- ~~*Calculate the multi-ingredient ingredients by breaking them down into their constituent parts to distinguish between the organic and non-organic content of the ingredient. The calculation will account for the real organic constituents in the product.*~~
- ~~*Provide their certifier with supporting documentation (for example, written confirmation from the certified organic supplier of the multi-ingredient ingredient) that substantiates the organic content claim of a multi-ingredient ingredient.*~~

Provide their certifier with supporting documentation (for example, written confirmation from the certifier of the multi-ingredient ingredient supplier) that substantiates the organic content claim of a multi-ingredient ingredient.

B. 3.1.2: Added Water and Salt

The draft guidance imposes impractical requirements for added water and salt. The information required for the calculation is not readily available to handlers because ingredient suppliers may consider the amount of salt or water remaining in the ingredient to be a trade secret. Additionally, sub-ingredient formulas may change over time, leading to inaccuracy or constant minor revisions.

In the case of multi-ingredient ingredients, it may be difficult to estimate the exact amount of salt or water that should be subtracted out of purchased ingredients. For example, an organic sandwich manufacturer makes a product composed of bread, egg patty, cheese, and a vegetarian soy patty. Each of these ingredients is composed of multiple ingredients and sourced from a different manufacturer. The draft guidance and Appendix A indicate that the sandwich manufacturer must first determine the weight of the salt and water contained in the bread, egg patty, cheese, and soy patty and then subtract out all four of those salt and water weights to calculate the percent organic ingredients in the sandwich. In other words, it would be overly burdensome to "chase back" all water and salt added to multi-ingredient ingredients.

Small-scale handlers would be at the greatest disadvantage if water and salt must be subtracted out for multi-ingredient ingredients. They have less leverage over the manufacturers to require formula disclosures and obtain information that may be considered trade secrets.

Thus, section 3.1.2 would read:

~~The percentages of water and salt added during the manufacture of the ingredient, and that remain in the ingredient, should be disclosed by the organic ingredient supplier. Certified operations must keep records to demonstrate to their certifier that the final product calculations supplied to the certifier have excluded the relevant salt/water from incoming organic ingredients.~~

~~However, when water is listed as an ingredient of an FDA recognized standardized food and that product is used as an ingredient in a multi-ingredient food, the water does not have to be disclosed by the organic ingredient supplier and does not need to be excluded when calculating the percentage of organically produced ingredients.~~

Handlers should subtract the weight of water and salt they themselves have added before calculating the percentage of organic ingredients. Purchased multi-ingredient ingredients can be assumed to contribute 70%, 95%, or 100% organic content, or as disclosed by the certifier, per section 3.1.1, and the entire weight of the ingredient can be included.

C. 3.1.3: Organic Claim vs Organic Content

The draft guidance clarifies that an ingredient manufactured with a non-organic processing aid cannot be labeled 100% organic, but if the ingredient is otherwise composed of 100% organic ingredients, then processors and certifiers can assume that it contributes 100% organic content when used in a multi-ingredient organic product. This is a helpful clarification; however, it can be challenging to

determine whether a material is an ingredient or a processing aid. Thus, inconsistencies may persist between certifiers regarding this area of calculating organic content.

II. 3.2 Calculating the organic content of single-ingredient ingredients, processed or raw

Section 3.2 provides helpful guidance but should be revised to allow the ingredient supplier's certifier to verify the organic content.

A. 3.2.1: Processed single ingredients

For the same reasons noted under section 3.1.1, this section of the draft guidance should establish a process whereby the original certifier of the ingredient verifies the organic content of the ingredient.

B. 3.2.2: Single ingredients that are raw agricultural commodities

Section 3.2.2 provides helpful guidance for assuming raw agricultural ingredients contribute 100% organic content to a multi-ingredient product even if it is categorized as "organic" on the certificate.

III. 3.3 When to include or exclude water from the organic calculation for specific ingredients

Section 3.3 provides helpful guidance for calculating percentages for products that contain added water, but *manufacturers* should be responsible for determining and disclosing to their certifier the appropriate amount of water needed to bring an ingredient to single strength.

A. 3.3.1 Juices with an FDA Standard of Identity and 3.3.2 Juices without an FDA Standard of Identity

Although calculating organic content based upon Brix levels or soluble solids seems to be a sound process, the guidance should also include a process for manufacturers to self-attest to their certifiers. The section of the National Organic Standards on calculating the percentage of organically produced ingredients (§205.302) does not state that FDA Standards of Identity must be referenced for concentrates, nor does it reference Brix levels or soluble solids. Additionally, it is unclear if Brix levels and soluble solids content are information that is available to certifiers. To avoid overly cumbersome searches for FDA Standards of Identity, Brix, and soluble solids, certifiers should rely on manufacturers to self-attest, similar to the practice of requesting self-attestation of non-GMO status instead of actual GMO test results.

Additionally, NOP should revisit the calculations in the appendices because they may contain errors and some sections need further clarification. For example, the manufacturer's specification on proportion of concentrate to water to dilute to a specific Brix is shown in the example spreadsheet in Appendix B; however, it does not have guidance on how to determine the amount of water needed to dilute a concentrated Brix level to the single strength Brix level in the absence of such a specification. If manufacturers must rely on Brix, then Appendix B should include information on how to make this calculation.

Another issue in the appendices is Appendix C, which states that suppliers may provide soluble solids content, Brix level, or reconstitution levels to determine single strength Brix. This explanation does not align with section 3.3.2. Section 3.3.2 only states that soluble solids content can be referenced. Section

3.3.2 should be consistent with Appendix C by including additional metrics of Brix or reconstitution levels in the guidance and leaving the guidance open to other metrics of determining single strength as determined by the supplier.

B. 3.3.4 Carbonated Beverages

The guidance should consider carbon dioxide (CO_2) an ingredient *and* a processing aid. Although some CO_2 remains in the final product, CO_2 is present in the headspace and escapes as soon as the container is opened. So at least some CO_2 is not present in the final product. Given the potential to consider at least part of the CO_2 content a processing aid, NOP should remove this section of the guidance or clarify how to calculate the weight of carbon dioxide to ensure consistency between certifiers.

C. 3.3.5 Chicken stock, soy beverages, almond beverages, rice beverages, ready to drink teas/coffees, and similar products containing added water

The guidance that the organic percentage of an ingredient that has no FDA Standard of Identity should be calculated based on the percent of soluble solids in the ingredient is inconsistent with section 3.1.1. The handler should base their calculation of the percent organic content supplied by an ingredient based on the percent organic implied by the organic certificate for the ingredient. Additionally, certifiers should rely on *manufacturers* to determine and disclose the appropriate amount of water needed to bring an ingredient to single strength, as we suggested for section 3.3.2.

This section also seems to contradict section 3.1.1 by suggesting that, because drinkable teas and coffees do not have FDA Standards of Identity nor do they contain soluble solids, drinkable teas and coffees have no measurable organic content. It is inconsistent to state that ingredients that can be labeled 100% organic on their own cannot contribute measurable organic content when used in a multi-ingredient product. Water and coffee are not interchangeable ingredients. As suggested for section 3.1.1, certifiers should assume organic content based on the certificate for the ingredient or on certifier disclosure.

IV. 3.4: Excluding salt from the organic calculation

This section of the guidance includes a helpful clarification that certifiers can consider any anti-caking agents to be ancillary to the salt and therefore are not required to be accounted for when calculating the weight of the salt. This section also defines salt as sodium chloride. However, definitions should be included in regulations rather than in this form of guidance.

V. CCOF's Product Formulation Sheet

Please find attached for reference CCOF's form to calculate percentage of organic ingredients in multi-ingredient products. NOP should strive for this level of simplicity and develop a workable guidance for producers of all scales and types.

NOP §205.105, 205.201, 205.301-311; 205.605, 205.606

PRODUCT FORMULATION SHEET

OSP SECTION: H2.0 B

Electronic version available at www.ccof.org

Operation Name: _____ **Date:** _____

- Use this form for each multi-ingredient manufactured (either by you or for you) or repacked product. *Wineries should complete the V2.0 and V2.1 forms, not this form. Private label/marketers who do not process products are not required to complete this form. Livestock feed producers are not required to submit all formulations, only a sample.*
- Visit www.ccof.org/documents or contact CCOF for an **Excel version** of this document, which auto-calculates and can be used for one or more products. Complete one sheet for each product.
- See formulas below headers to guide your calculations.
- For each nonorganic ingredient or processing aid not previously approved by CCOF, submit a Nonorganic Processing Material Affidavit or Natural Flavor Affidavit. Search for approved materials on MyCCOF.org.

Product Name:	
Label Brand Name(s):	

Ingredient	Quantity (A)	Units or %	% Organic Content of Ingredient (B)	Ingredient's Org. Contribution to Product (C) = AxB
Example Ingredient	20	Lbs	95%	19 = (20x0.95)

Total of non salt and water contents **(D)**: **Total column (A)**			Organic Contribution **(G)**: **Total of column (C)**	
Quantity Salt **(E)**:				
Quantity Water **(F)**:			**Total Organic %: Divide G/D**	
Total Ingredient Quantity: **Add up D, E and F**				

Round down to nearest whole number

List processing aids* used, including packaging aids (i.e. Carbon Dioxide, Chlorine in wash water) if not listed above. *Only ingredients and materials approved by CCOF and appearing on your OSP Materials List may be used*:

**Products labeled "100% Organic" must be produced without nonorganic processing/packaging aids, including sanitizers or gases.*