

Comments on the Background Section of the CACS's Proposal

“Many certificates list raw agricultural ingredients as “organic” when in fact, they should be listed as 100% organic.”

Prior to the implementation of the NOP, the organic industry did not use a “100% organic” label and, to date, the label is not widely used in the marketplace, largely due to the requirement that all processing aids in a “100 % product” must be from organic sources.

In the case of raw agricultural ingredients, applicability of the “100% label hinges on the acceptability of the use of postharvest handling materials such as flotation aids and sanitizers in wash water. NOC notes that the NOP regulations do not make a clear distinction between materials allowed for use in postharvest handling (used on farms or packing sheds on raw commodities) and those used as processing aids (used by handlers to create processed products). NOC thinks it would be beneficial for NOSB to clarify where postharvest handling materials stand with respect to crop materials and handling materials classified as "processing aids." In turn, that decision would help inform the discussion of % organic.

“There is also a wide array of mechanisms in place amongst handlers as to how processing aids as opposed to additives are recorded or, if necessary calculated as part of the ingredient list.”

We are unclear what the term “additive” means. This term is undefined in the NOP regulations. Is the CACS referring to an “ingredient” when using this term?

Comments on the Discussion Section of the Proposal

“These comments came from Approved Certifying Agencies, non-profit organizations, research groups and trade associations, and they are included in the brief discussion below.”

Just a small correction, because NOP oversees all certifying agents through its accreditation program, the term “ACA” means Accredited Certifying Agents, as opposed to Approved Certifying Agencies.

Comments on the Subcommittee Recommendations

Proposed Regulatory Change

NOC supports the proposed change in the NOP regulations that would base the calculation of % organic on ingredients instead of on the finished product. NOC notes that making the calculation based on ingredients is current industry practice.

Additionally, from a practical point of view, we see three advantages to the regulatory change:

- The information on ingredients that is easily available is the recipe or formulation
- Adjustments to the ingredients going into recipes are easy to for the processor to plan and for the certifier to evaluate, whereas if calculations are based on the final product, processors would be forced to run a batch of each proposed recipe change in order to get the information needed to make the % organic calculations

- Basing the calculations on ingredients eliminates a source of variability in the calculations related to loss of weight and other product changes that commonly occur during processing.

Self Calculating Forms

We agree that, for a multi-ingredient product used as an ingredient in a another product, information about the actual organic content of the ingredient must be available in order for the ingredient to be calculated at an amount above 95% or 70%, depending on how the ingredient is represented on the certificate.

NOC agrees that a self-calculating form is a simple and practical way for certifiers to implement the NOP regulations on % organic calculation. We think that an NOP template could provide a starting place for certifiers to adopt this methodology and also think it could benefit processors who are working on development of organic products and want to assess how different ingredient choices would affect product labeling.

However, we do not think that certifiers should be required to use any specific self-calculating form. Accreditation requirements allow for ACAs to develop quality and record keeping systems that suit their own management styles and needs. Further, we see benefit for ACA's being able to develop their certification systems in a way that will attract operations of specific types—we think this is a mechanism that tends to drive the quality of certification services upwards.

Although NOC supports the concept that ACA's should be able to differentiate themselves by providing unique forms and tools to operators, we also recognize that that certifiers' current practices in making calculations of % organic currently differ. To address this, NOC urges the NOP to institute a special audit focus on ACA's systems for calculating % organic. NOP should require all certifiers to submit the procedures, tools and forms used to calculate % organic as part of the ACAs' next annual update process and then audit these tools to determine whether the calculations they produce conform with the NOP's standards. NOP can evaluate the certifier's tools against NOP's own template form, which could be used to provide a standard of calculation for a few different types of products that represent all of the elements that a calculation form must be able to address: salt, water, 70% ingredients, 95 % ingredients, single-product ingredients, multiple-product ingredients, ingredients with unknown % organic, etc. After entering the same product information into the certifier's form, the % organic information results could be easily compared.

These principles may also be applied in parallel to CACS's proposal that handler utilize a self-calculating form of their own, or a form provided by a certifier. In this case, the certifier's own form would serve as the standard of calculation and the handler's form would be audited against the certifiers'.

Types of salt excluded from Calculations

NOC agrees that only sodium chloride may be excluded when making calculations of % organic. All other salts and salt additives must be included in the calculation.

Water Calculations

NOC agrees that the exclusion of water in % organic calculations is more complicated than it sounds! We agree with CACS's recommendation that NOP guidance on this topic would be very helpful. For example, information on product identity standards for a wider range of products, especially those that are of special interest to organic consumers, would be very helpful to certifiers, processors and consumers alike.

Processed Single Ingredients

NOC supports more extensive use of Specification Sheets for processed single ingredients. We suggest that providing Specification Sheets is another opportunity for certifiers to distinguish themselves from their competition.

Due to questions about the use of materials in post harvest handling (explained earlier in these comments), we note that Specification Sheets could also help to clarify situations in which raw agricultural products are exposed to materials used during postharvest handling. Use of a Specification Sheets in this instance would document why a raw product is ineligible for the 100% organic label and would provide more detail about how the product should be considered in a % organic calculation when used as an ingredient in a processed product.

Multi-Ingredient Ingredients

NOC supports the CACS's point that it must be the certifier that provides the documentation of % organic claims. We think that including such information on the certificate is the most efficient mechanism for the transfer of this information because it would require no additional work for either the certifier or handler to get the information, as certificates are passed along as part of the sale of organic products.

Organic Label vs. organic content

NOC finds that CACS's distinction between "organic label" and "organic content" is helpful. The NOP regulation addresses these topics in different sections of the regulation, yet provisions of these sections clearly interact with each other when making calculation of "% organic".

- NOC urges further clarification of the provision when applied to raw commodities that are treated with postharvest materials.

Raw agricultural and Single-Ingredient Products

NOC supports a system in which the labeling category is accurately represented on certificate for both raw and processed products. We note that although such information is not specifically required by NOP §404.b, it is specifically mentioned in NOP Guidance document #2603.

We support the practice of listing this information because it not only clarifies the calculations for processors who use this product, if accuracy were improved with regard to listing raw agricultural products it would also aid in differentiation of raw product that

has been treated with a synthetic processing aid--in this case, the raw product could not be listed as 100% organic on the certificate.

NOP Guidance

NOC agrees that it is helpful for NOP to provide explanations of technical points on its website because that makes the information available to all stakeholders. We think information on calculating % organic would fit well into the NOP Handbook. We support the inclusion of information on all of the points recommended by the CACS and any additional topics that arise from communications with ACAs, processors, growers and consumers, as the topic of calculating % organic is further developed.

The National Organic Coalition appreciates the significant work of the National Organic Standards Board, and this opportunity to comment.

A handwritten signature in black ink that reads "Liana Hoodes". The script is cursive and fluid, with the first name "Liana" and last name "Hoodes" clearly distinguishable.

Liana Hoodes,
Executive Director