

**Comments on The Issue of Cost in the Consideration of Commercial Availability
of Organic Ingredients
Docket number TMD-00-02-FR
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3-21-01**

The issue of using a cost multiple or impact on margin analysis to determine "commercial availability" of an ingredient has been debated for many years by many industry stakeholder groups.

The OFPA does not require manufacturers to use minor organic ingredients – if the product is at least 95% organic, then it can be labeled as "organic." The first NOSB debated the issue of a "higher standard" that would require manufacturers to use minor organic ingredients if they were "commercially available." This "higher standard" was agreed to conceptually with the understanding that a reasonable definition of "commercial availability" would include: sufficient quantities and consistency of supply; sufficient quality; suitability in product formulation; **cost and cost stability as determined by the market ("the market is the arbiter of whether a cost is too high to be acceptable")**. The April 25, 1995 NOSB Recommendation placed the determination of "commercial availability" of minor organic ingredients with the certifiers based on comprehensive documentation provided by the manufacturer.

The current industry debate is focused on using a cost multiple to define the "cost parameter" of the definition of "commercial availability." The use of a cost multiple formula is a simple solution but doesn't adequately address the problem. The attached sensitivity analysis shows the difficulty with this approach.

In summary, you could have a minor organic ingredient (e.g. lecithin) at 10X or even 50X conventional cost that is available and have little impact on product profitability. In this case a variance would be allowed that would discourage the development of an organic ingredient supply when no financial hardship would be present. Inversely, you could have a minor organic ingredient (e.g. olive oil) at 3X conventional cost) that could massively impact the profitability and feasibility of a product.

The alternative approach is to use an impact on gross margin formula or matrix upon the availability issue. For example: if a minor organic ingredient has an impact of 20% or less on gross margin, it would be considered available.

The problem with this approach is that a 20% impact on gross margin could be huge in a 10% margin business or insignificant in an 80% margin business. Certifiers, in this instance, would have to make subjective judgments...

Additionally, most manufacturers will be unwilling to share margin details (confidential business information) with certifiers that will further frustrate the analysis. Our belief is

that there is no adequate formulaic approach to using cost as a factor in determining organic availability, and that judgment on a case-by-case basis is the only realistic approach to this complex issue. This "judgment" needs to be referenced to the above factors, but cannot be solely determined by them.

At the end of the day, market and competitive forces will drive manufacture compliance with organic availability requirements as stated in the 1995 NOSB Recommendation. Manufacturers will seek to distinguish themselves and their products through developing more "complete" organic formulations in an effort to gain access to the new "100% organic" label category. This self-regulating approach combined with certifier judgment is the only practical way of driving compliance.

Small Planet Foods**Minor Ingredient Sensitivity Analysis****Example #1 - Expensive Ingredient, Small Percent of Total Formula**

	Weight (Lbs)	% of Formula Weight	Cost	% of Cost
Natural Lecithin \$4.60/Lb	0.0068	0.10%	\$ 0.031	0.357%
Total Cost Increase at 3X - (per case)			\$ 0.063	0.713%
Total Cost Increase at 10X - (per case)			\$ 0.282	3.209%
	\$ Increase			
Cost increase to consumer at 3X - (per unit)	\$ 0.01			
Cost increase to consumer at 10X - (per unit)	\$ 0.08			

Example #2 - Inexpensive Ingredient, Large Percent of Total Formula

	Weight (Lbs)	% of Formula Weight	Cost	% of Cost
Conventional Olive Oil \$1.20/Lb	0.955	4.90%	\$ 1.146	11.035%
Total Cost Increase at 3X - (per case)			\$ 2.292	22.07%
Total Cost Increase at 10X - (per case)			\$ 10.314	99.31%
	\$ Increase			
Cost increase to consumer at 3X - (per unit)	\$ 0.36			
Cost increase to consumer at 10X - (per unit)	\$ 1.58			

Sensitivity Analysis Showing Effect of 3X and 10X Conventional Pricing on Cost of Goods and Final Price to Consumer

1st Example

The first example gives a real life illustration of a typical expensive minor ingredient used at a very small percentage in a complex highly value added product in which ingredients have a major impact on the cost of goods but packaging and processing are also significant factors.

The amount shown in the example (.10%) is the very bottom of the range for minor ingredient usage. Often this type of ingredient is used in an amount up to approx. .50% of a formula. The effect of a 3X pricing in this example is .7 % increase in cost of goods and the effect of 10X pricing is 3.2% increase in cost of goods. This increase would be passed on to the consumer. If this ingredient were used at the .50% level the resulting effect would be a 3.5% increase in cost of goods at the 3X level and a whopping 16% increase in cost of goods at the 10X level. This is a very realistic scenario as there may be more than one minor ingredient subjected to the commercial availability criteria at any given time.

2nd Example

The second example gives a real life illustration of a typical less expensive minor ingredient used at a relatively large percentage in a complex value added product in which ingredients are the major factor in the cost of goods.

The amount shown in the example (4.90%) is the upper range for minor ingredient usage. Often this type of ingredient is used in an amount in the range of 1.0 – 4.9% of a formula. The effect of a 3X pricing in this example is a whopping 22% increase in cost of goods and the effect of 10X pricing is an unbelievable 99.3% increase in cost of goods. This increase would be passed on to the consumer. If this ingredient were used in lesser amounts (2% level), the resulting effect would still be a large 9% increase in cost of goods at the 3X level and a 40.5% increase in cost of goods at the 10X level.