



National Organic Coalition

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NOC COMMENTS TO NOSB—LOUISVILLE, KY MEETING SOUND AND SENSIBLE INITIATIVE

Compliance, Accreditation, Certification Subcommittee

September 23, 2013

NOC MEMBERS

Beyond Pesticides

Center for Food Safety

Consumers Union

Equal Exchange

Food & Water Watch

Maine Organic Farmers and Gardeners Association

Midwest Organic and Sustainable Education Services

National Cooperative Grocers Association

Northeast Organic Dairy Producers Alliance

Northeast Organic Farming Association - Interstate Council

Organic Seed Alliance

Organically Grown Company

Rural Advancement Foundation International -USA

Union of Concerned Scientists

Executive Summary

The original vision for national organic certification was to ensure that farmers, processors and consumers could, through an independent third-party verification process, gain on-going confidence sufficient to ensure the growth of the organic market and facilitate fair and honest trade. Organic standards were intended to be consistent throughout the country while allowing for regional differences in order to address the diversity of production environments.

In practice, there has been ongoing concern regarding inconsistencies, complexities, and paperwork burdens at all levels of the oversight system established under the USDA National Organic Program (NOP) regulations. Unfortunately, the increased bureaucracy has not necessarily produced greater confidence in the organic label, slowing new entries into organic and alienating many of the early adopters.

The National Organic Coalition (NOC) is very supportive of efforts to evaluate and “re-tool” our National Organic Quality System, which includes all aspects of the system from certificate-holders (farmers, handlers, processors, etc.) to inspectors, certification, to NOP accreditation, as well as to those who oversee USDA accreditation.

The heart of this “re-tooling” is a multi-level oversight system which distributes burdens and responsibilities for documenting compliance equitably across all levels. In the NOP, the primary system is the certified operation such as a farm or handling operation. Responsibility for the management of the quality of the primary system lies with farmers and handlers. However, in considering the multi-level oversight system as a whole, the responsibility for documenting the quality of the farmers/handlers should be shifted among the levels of the oversight system so that the burden of documentation is shared. The level of responsibility for management of the National Organic Quality system at each level of oversight (producer, certification agent, accreditation body) must be commensurate with the level of authority for which each level is responsible.

Currently, the NOP (the highest level) has not completely fulfilled its responsibility for oversight of its part of the system, and the burden is overly heavy on the farmers and handlers. NOC believes that correcting the imbalance in oversight is a cornerstone for successfully addressing many of the concerns that have arisen in discussions of the “Sound and Sensible” initiative.

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Introduction

The CACS's Discussion Document on the Sound & Sensible Initiative is based on this idea about the system used to regulate the organic industry—*“For the ACA it must be sound. For the farmer and handler, it must be sensible.”* National Organic Coalition (NOC) counters the CACS viewpoint with an assertion that each and every process in the organic regulatory system must be both sound *and* sensible in order to meet the needs of the regulator and the regulated party as well as satisfying the expectations of other organic stakeholders. NOC believes that making the system more sound will make it more sensible, and that the imbalances in burdens are a symptom of a lack of soundness.

NOC proposes an overarching concept of the “National Organic Quality System” as a way to frame the discussion of the Sound and Sensible Initiative. The integration of the multiple levels of the National Organic Program's (NOP), which have been managed independently from each other, affords many opportunities for increased efficiency as well as clarity.

Based on this integrated model, NOC suggests that correcting the imbalance in oversight responsibilities is a cornerstone for successfully addressing many of the concerns that have arisen in discussions of the “Sound and Sensible” initiative. NOC's view is that the NOP has not completely fulfilled its responsibilities, which has resulted in the overly heavy burden on certifiers and operators. NOC proposes rebalancing the National Organic Quality System so that responsibility for management of at each level of oversight is commensurate with the level of authority at which each level.

Further, NOC recommends use of continuous oversight systems as a mechanism for moving the National Organic Quality System toward “Sound and Sensible.” NOC sees implementation of the Peer Review Panel as a key factor in providing oversight and proposes that PRP provide an “organic-centric focus” to add to and inform the formal procedures for continuous oversight for management of both certification and accreditation systems.

In response to the questions in CACS's Discussion Document, NOC presents specific ideas and recommendations in the following key areas. We also note the addition of an Appendix: “ISO Primer” which describes the ISO Quality Systems in brief.

- Criteria for Evaluating “Sound and Sensible” Initiatives
- Oversight Systems
- Standardized Forms for OSP and Supporting Documentation
- Improving Competency of Inspectors and Auditors
- One List for Brand Name Materials
- Operator Records

Criteria for Evaluating “Sound and Sensible” Initiatives

We suggest the following criteria for evaluating changes to the systems used to regulate the organic industry at various levels.

1. The NOP Regulatory system should focus squarely on compliance with standards. Oversight systems should not imperil or undermine the organic community with undue paperwork, costs, or scale bias. Both standards and procedures used in oversight systems should be evaluated by the full range of stakeholders in the organic community. Generally accepted standards and assessment procedures should be implemented.
2. The NOP must become fully compliant with the enabling legislation – the Organic Foods Production Act (OFPA) as well as International Organization for Standardization (ISO) standards for certification, accreditation, and oversight of accreditation systems. This must include a system for on-going peer review and a system of formal recognition of NOP’s accreditation system that includes procedures for continuous oversight.
3. Organic certification must function as a practical marketing tool for those organic farmers and others who wish to use the organic claim in the marketplace.
4. The Organic System Plan (OSP) is intended as a required tool that is useful to farmers for planning and tracking improvements over time and also for providing certifiers with information needed to verify the production and handling practices used by organic operations.
5. Verification systems should ensure consumer confidence while also being adaptable with regard to the scale of operations and the level of risk present. Verification systems should reward stellar assessment outcomes, as an indicator of reduced risk.
6. Verification systems should include educational activities as proactive measures that balance their enforcement activities.
7. The accountability of each level of the oversight system must be commensurate with the level of authority at that level.
8. The tone and tenor of the oversight process must be welcoming to beginning and new producers, as well as rewarding to early adopters of organic production and handling systems.
9. The oversight system must be fully transparent at all levels and the NOSB must retain and fulfill its complete statutory authorities.
10. More educational outreach must be established with operations that are exempt from certification. Pathways to certification for non-certified organic operations must be encouraged.
11. The oversight system should include confidential, annual surveys of producers, handlers, processors, certifiers and accreditation auditors, as well as other affected stakeholders (internationally). Results should be tabulated in order to gauge

progress toward Sound and Sensible, to highlight and forecast trends, and to identify topics that require actions in order to avoid future problems.

Aligning Organic Values with Sound & Sensible Initiatives

Based on the above criteria, we recommend the following steps that need to bring our organic system into alignment with organic values and over-arching goals.

Topic #1 – Oversight Systems

Both the OFPA statute and the original NOSB recommendations envisioned a multi-level oversight system (inspection, certification, accreditation, and oversight of accreditation) managed with rigor and accountability. USDA and NOP address requirements for quality assurance of inspection and certification through the accreditation system; however, a mechanism for continuous oversight of the NOP accreditation system itself has not been defined or institutionalized.

Continuous oversight of the NOP would not only ensure that noncompliances in the accreditation system are identified through procedures such as internal and external audits, but also that corrective actions are taken by the accreditation body (NOP), reviewed by USDA management, and reported to the oversight body (Peer Review Panel) within a time frame set by the oversight body. NOC asserts that continuous oversight of the NOP's multi-level quality system can be a source of creative ideas for soundness and sensibility from farms up through the accreditation system.

Recommendations

1. **Clarify Standards.** In conjunction with the Accredited Certifiers, NOP should identify standards that lack clarity, that are not implemented evenly by certifiers, or that are not assessed evenly during accreditation. One mechanism for starting this task is to identify standards that are cited often in certification and accreditation noncompliances. Next, such standards should be clarified by NOP through official, written Guidance Documents to be posted in the NOP Program Manual. NOP should bring issues that require a high degree of clarification to NOSB in order to solicit ideas from the full range of organic stakeholders.
2. **Clarify Procedures.** Similarly, certification procedures that are not clear or are unevenly implemented should be identified and clarified through Instructions to Certifiers posted in the NOP Program Manual. Mandatory requirements should be clearly designated as such via reference to §205.501.a.21. ISO standards should be the basis for procedures used at all levels of the organic quality assurance system: 17065 for certification, 17011 for accreditation, and 19011 for auditing and inspection.¹ Using a similar level of rigor for similar procedures at different levels of the organic quality assurance system is a mechanism for rebalancing the responsibility for maintaining a sound quality system. Further, using the internationally-accepted quality processes described in ISO documents will aid in the transparency of these evaluations, as well as help to stabilize the foundation of international equivalency agreements.

¹ See the Appendix at the end of this document for more information on these ISO standards.

3. Trainings on Quality Systems. NOP should sponsor trainings for participants at all levels of the organic quality assurance system with the goal of ensuring common understanding of standards and procedures. This can help to reduce time spent at all levels on individual explanations, interpretations, noncompliances, corrective actions, appeals, and complaints, thus making the oversight system more “sensible”.
4. Establish Continuous Oversight of NOP. NOP should actively pursue definition and implementation of a system for continuous oversight of its accreditation program. Continuous oversight can help to identify areas in which the accreditation program (NOP) is not compliant with its own regulation (thus increasing soundness). Continuous Improvement Points noted in audit reports can help correct management issues related to inefficiency (increasing sensibility) at the NOP level. Each level of the oversight system increases in credibility if the top level is demonstrably accountable for maintaining its rigor, transparency, and fairness.
5. Implement the Peer Review Panel. A peer review system, is required by OFPA and its function is further described in §205.509 of the NOP regulations.

NOC believes that that the mandate for the PRP should be to provide an organic-centric focus to add to and inform the formal procedures for continuous oversight described in the ISO standards for management of certification and accreditation systems.

NOC proposes that the PRP should be comprised of 3 individuals who have knowledge of, and experience with, ISO 17065, ISO 17011, ISO 19011 as these standards are applied in the organic industry, as well as the NOP regulations.

The basic functions of the Peer Review Panel would be to review, oversee, and evaluate the results of internal and external audits to determine whether NOP is implementing its own regulation in a manner that is in conformance with ISO 17011. A specific example of what this might look like—the PRP would use the Management Review procedures in ISO 17011 and an audit report provided by a recognition body engaged to provide continuous oversight of the NOP accreditation system to help ensure the quality of the NOP’s systems from top to bottom. Especially important to the PRP would be the interactions between the policies and procedures used at the different levels of the multi-level system. PRP would pay special attention to the effects of these multi-level systems with regard to the unique needs of all of the stakeholders who relate to the organic industry.

6. Rebalancing Responsibility. A multi-level oversight system presents opportunities for distributing responsibilities for elements of the National Organic Quality System such as documenting compliance of the primary system, while equitably distributing administrative burdens across all levels. For example, in the NOP, the primary system is the certified operation such as a farm or handling operation. Responsibility for the management of the quality of the primary system lies with farmers and handlers. However, by considering the multi-level oversight system as a whole, the responsibility for documenting the quality of the farmers/handlers should be shifted among the levels of the oversight system so that the burden of documentation is shared. The level of responsibility for management of the National Organic Quality system at each level of oversight (producer, certification agent, accreditation body) must be commensurate with the level of authority for which each level is responsible. Currently, the NOP (the highest level) has not completely fulfilled its responsibility, and the burden is overly heavy on the certifiers and organic operators. NOC believes that correcting the imbalance in oversight responsibilities is a cornerstone for

successfully addressing many of the concerns that have arisen in discussions of the “Sound and Sensible” initiative.

7. Increased Consultation on Guidance and Instruction. Guidance Documents and Instructions to Certifiers are important tools for fine-tuning the implementation of standards and procedures at all levels of the NOP oversight system. NOC asserts that increased transparency during the drafting of these documents would increase their successful implementation by allowing incorporation of stakeholders’ opinions and experience at an earlier stage of development. Consultation and transparency minimizes the likelihood that decisions will have to be changed in the future.²

Topic #2: Standardized Forms for OSP and Supporting Documentation

Accredited Certification Agents (ACA) have invested significant time and dollars into developing their own formats for Organic System Plan (OSP) applications and supporting documentation forms. Their clients have spent many hours tailoring their record keeping toward satisfying particular certifier requirements, even when these requirements don’t particularly meet the administrative needs of their operations. Certifiers sometimes note that forms from other certification companies are either excessive or not detailed enough. Such variety in OSP and other forms may restrict the ability of certified operations to make choices as to which certifier they want to use. These factors create particular burdens to small and mid-size operations in which the operator has many responsibilities and little time to invest in research, education, and trial-and-error in order to understand the requirements for certification under different ACAs.

Farmers and other certified operations consider the cost of organic certification to be an overhead expense that is a necessary part of receiving the marketplace premium often associated with third-party certification. However, the amount of the organic premium increasingly does not reflect the significantly larger burden of certification paperwork that has become the norm since the implementation of the NOP. This critically important balance is particularly evident to potential entrants to organic certification when they evaluate the potential for increased gross income against the opportunity cost of time needed to address issues related to organic certification. Use of standardized forms in the certification process is one way to reduce certifiers’ costs as well as time spent by operators.

Recommendations

To reduce the significant paperwork barriers for new entrants to organic certification, we suggest that NOP develop and introduce a uniform OSP, complete with templates designed to allow operators to submit supporting documentation in a manner that complies with the requirements of OFPA and the NOP regulation. This form should be available both in paper and electronic versions and should be explained with guidance and a comprehensive Q & A section that can easily be understood by those not familiar with the requirements of third party certification and NOP regulations.

² For example, NOP’s Nonconformance Matrix had to be withdrawn by NOP based on comments from certifiers that were submitted shortly after issuance of the guidance.

The development timeline should include a multi-year, voluntary trial period with feedback, in addition to a multi-year implementation period that will create the least disruption for both the producers and certifiers. Consistent with our ideas on *Increased Consultation on Guidance and Instruction* (above), ACAs should be involved in the development of the standardized forms from the beginning of the process.

The benefits of standardized OSP forms include:

1. A standardized OSP brings equity to the certification system and ensures that all operations can make informed choices between certification agents based on evaluation of the services offered by the different organizations. Currently if an operator chooses to switch certification agents, it is common for the operator to be required to rewrite their entire OSP using the new certifier's OSP form, rather than submitting the OSP they had completed for their current certifier.³
2. A generic OSP would bring a greater transparency to the certification process and shatter some of the barriers caused by the "fear of the unknown" among potential entrants to organic certification. Many businesses, especially small to mid-size operations lack employees whose jobs descriptions focus on quality control, which makes them hesitant to explore entrance into organic certification; especially since it is common knowledge that organic certification requires a lot of paperwork.
3. Mandatory use of an NOP-approved form for a standardized OSP will encourage the development of technical and educational support services to assist operations with all levels of the certification process. Currently, nonprofit organizations and other educational institutions cannot offer services to operators on completing and troubleshooting an OSP since there is not one format that is used by all certifiers. In cases of disputes between an operator and certifiers, access to professional advice is both limited and expensive because discussions must be tailored to each certifier's unique OSP.
4. A standardized OSP would foster an important link between NOP and conservation programs managed by USDA's Natural Resource Conservation Service (NRCS), creating an incentive for organic certification by providing federal conservation grants to support a farm during its transition to organic practices. Specifically, farmers contracted with the NRCS to have a Conservation Activity Plan (CAP) for the "Transition to Organic" Program written for their operation could use a standardized OSP as the basis of their work with NRCS during transition to organic.

In addition to the role that the OSP plays in transmitting the information needed for the organic certification process, the form can be very helpful to farmers for development of the systems needed to transition a farm to organic management practices. However, at the beginning of the transition period, farmers would not be working with any organic certification agency, and would therefore not know which OSP they might want to develop as they worked with NRCS during the transition period of their farm. If NOP were to implement a standardized OSP, when the farm has completed its transition and is ready to enter certification, the farmer would have gained valuable experience with the OSP and would have the option of submitting as an application for certification with any ACA using the documentation already developed. This would allow the farmer to move toward application to

³ Please refer to: NOP 2604—"Responsibilities of Certified Operations Changing Accredited Certifying Agents"

an ACA of choice, knowing that the time and resources invested in the OSP and supporting records was a worthwhile investment.

Further benefits may arise because use of a standardized OSP would allow agencies such as NRCS to link their information requirements directly to the information on the standardized OSP, lessening the paperwork burden even further for farmers who access both programs.

5. Use of a standardized OSP form would reduce the variability and increase the efficiency of the inspection process. NOP's current regulatory system allows certifiers to develop their own OSPs, a practice that has resulted in a wide range of forms which vary in their length, contents, and detail, all of which is subject to frequent change as certifiers work to improve their documents. When these OSPs are used during on-site inspections, they result in differences in the amount of time needed to complete both the inspection and the inspection report. Inspectors report that the need to be familiar with numerous OSPs is problematic and burdensome for the inspector; the differences between OSPs require inspectors to spend more time for review before, during, and after the inspection, which increases the inspection costs paid by certified operators. Differences in OSPs also create an uneven playing field among similar businesses that are overseen by different certifiers.
6. Use of a standardized OSP form would reduce "certifier shopping" by operators based on the length of a certifier's OSP, its format as a checklist vs. narrative text, etc.
7. Use of a standardized OSP form would reduce the cost and increase the value of inspector training. Currently, inspectors are faced with learning how to use different OSP and inspection forms for each ACA for which they work—this training is time consuming and expensive for both inspectors and certifiers. In contrast, training on a standardized OSP would be more valuable to inspectors because their education about one OSP would be applicable to work for multiple certifiers. Another beneficial outcome is that it would effectively expand the number of full-time qualified inspectors available to each ACA.
8. Standardization of other certification forms could also be helpful in the marketplace. Most notably, use of a standardized format for certificates would facilitate buying and selling of organic product in the marketplace, making transactions more straightforward and more easily understood. Clear information on organic certificates would protect the organic premium for farmers and handlers and would also reduce the possibilities for fraudulent use of the organic claim.

Topic #3: Improving Competency of Inspectors and Auditors

Currently, the organic certification and auditing system relies too heavily on review of redundant documentation as a method to verify compliance to the NOP regulation. However, the use of documentation is just one method for verification of compliance of a farm or handling operation. In order to implement a wider range of verification methods, assessors must possess a wider range of skills:

- An organic inspector must have the background knowledge and experience with organic production systems in order to rely on observation as well as supporting documentation during an inspection;
- An accreditation auditor must be highly skilled with witnessing certification inspections—to do so requires deep understanding of a wide range of organic production practices.

Accreditation auditors should also be familiar with the many ways compliance can be achieved by organic operation and verified by certifiers—they should support certifiers' efforts to lessen redundant and extraneous paperwork.

- Reviewers must have experience with production systems in order to make informed decisions by envisioning production systems from the information provided on Inspection Checklists and Inspections.

Recommendations

1. Emphasize Observations. The inspector should use verbal interviews, physical review of supporting documentation, and direct observation of the operation to verify whether the organic system plan is being implemented followed as claimed. The on-site inspection need not be an unpleasant interaction between the inspector and operator. Organic certification should not be a system where the farmer is guilty until proven innocent; only when there are inconsistencies between the written plan and observations, does the inspector need to delve into the deeper details to verify organic compliance.

The heavy reliance on using paperwork to verify a farm's compliance leaves less time during the inspection for observing management of fields and livestock. When an inspection focuses primarily on documents rather than a tour of the farm and facilities, a great opportunity is lost for the producer and inspector to discuss production strategies, visions for the future, challenges the operation may be facing, and experimentation to address those challenges. Direct observation of an operation during a certification inspection allows a producer to illustrate compliance through explanation, showing examples and answering questions. Such interactions not only provide detailed information about the management of an operation, they allow the inspector to gain an understanding of critically important overarching issues such as the operator's level of commitment to continual improvement of their farm's organic production system. When included in the Inspection report, observational information provides descriptions that efficiently transmit important details from the inspector to the certification agency, providing the unique details an ACA needs to make certification decisions accurately and efficiently.

2. Using Sampling Techniques for Farm Inspections. Basic auditing technique relies on sampling to detect inconsistencies. Sampling methodologies are commonly used when inspecting organic processing facilities—typically, an organic inspector reviews a given percentage of the organic production runs to verify whether the organic system is functioning as presented in the OSP. However, on organic farms, instead of employing a sampling technique, the inspector typically reviews information about all of the commodities grown, stored, and sold, which is a time consuming practice that seldom yields significant information. Instead, sampling methods should be used as a screen to determine whether the documentation of a farms production and storage is basically sound; only if the inspector discovers irregularities in the sample review would a deeper investigation be warranted. Similarly, many certifiers link their certification fees to the dollar amount of the operator's yearly organic sales. However, detailed verification of gross organic sales by the inspector is not necessary and is intrusive to the privacy of the organic operator.

3. Supporting Training for Assessors. It takes a wide set of skills and experience to be an inspector or accreditation auditor. A strong background in agricultural production of many types, working knowledge of the organic regulations, good interview skills, strong written communication skills, and a practical sense of assessing risk are just a few of the skill sets of a competent organic inspector. The National Organic Program should make a commitment to finding funds to facilitate on-the-job training for assessors throughout its regulatory system.

Examples of ways to improve assessor training include:

- While the International Organic Inspectors Association (IOIA) has worked diligently to train inspectors in a classroom setting, there is currently no mentoring or apprenticeship-type program to help newly trained inspectors gain the experience they need to go beyond documentation as a method to verify compliance. Similarly, IOIA does offer continuing education in a classroom setting to experienced organic inspectors, but there is no program for peer-to-peer mentoring.
- An alternative way to train inspectors is to have more than one inspector, such as a novice and experienced, or two experienced inspectors present at the same operation and observing the work of another inspector. They both learn from the expertise and experience of the additional inspector. This type of training has been discussed for years by IOIA, but no funding has been available to formalize this method of one-on-one training for assessors. Such training techniques could help organic inspection mature into a profession that offers consistency and confidence to both producers and consumers, thus increasing the soundness of the regulatory system.
- NOP should also implement training programs for its accreditation auditors that include opportunities to learn from other auditors and also certification inspectors, in order to foster better understanding the complexities of organic certification through all levels of the National Organic Quality System.

4. Foster Feedback on Assessment Systems. Currently, ACAs use a wide range of systems to allow operators to provide feedback on their organic inspections. Some certifiers have forms that collect information from the inspected party, while some ask for verbal feedback. Some rely solely on reviewing the written Inspection Report to evaluate the success of an inspection, but this is an imperfect way to ascertain whether the inspector was competent, knowledgeable, professional, respectful, and efficient during the on-site inspection. Others do nothing to obtain information on the work of the organic inspector.

Institutionalizing consistent methods of evaluating the on-site and written work of the organic inspector would aid in the continual improvement of this essential element of the organic certification process.

5. Increase Efficiency of Accreditation Audits through Cooperation. International Organic Accreditation Service (IOAS) has many years of experience in providing accreditation audits of organic certification agencies around the world. NOP could take advantage of IOAS's well-trained and experienced auditors to reduce the cost of international auditing activities. NOP's acceptance of IOAS as an auditing body would eliminate the need for duplicative audits, reducing the costs and burden of audits to certifiers that are IFOAM-accredited.

Topic #4: One List for Brand Name Materials

Clearly, the Organic Materials Review Institute (OMRI) provides critically important services to organic producers and consumers through production of the *OMRI Products List*. However, instead of submitting their materials for evaluation by OMRI, many regional inputs suppliers choose to work with regional certification agencies to obtain approval of their products. Unlike OMRI, most ACAs do not publish a list of products they have reviewed and approved.

The lack of a system for sharing the results of decisions on materials frequently results in frustration and inefficiencies for operators, certifiers and input suppliers alike. Operators must contact their certifier to find out whether a brand name product is allowed—both farmers and processors report that inquiring about a material can require multiple attempts before reaching a certification staffer who is qualified to answer questions about materials. ACAs duplicate the effort of other certifiers, when each spends time and resources to do a rigorous review of the same input. Finally, the current system is inefficient for input suppliers who must identify operators that are certified by different ACAs in order to gain access to the review systems of multiple certifiers.

Recommendations

The NOP should facilitate the sharing of information on brand name products that have been approved by the various certifiers on the NOP website or other location. The system should be robust enough to facilitate regular updates in order to keep it current. NOC recommends the following steps be taken:

- Standardizing the materials review systems used by ACAs through NOP guidance on the criteria to be used for such systems.
- Reinforce the standardization of ACAs' review systems by careful assessment during accreditation audits—this will entail development of the section of NOP's accreditation checklist related to assessment of materials review systems.
- Emphasize policies that encourage materials suppliers to submit their materials to OMRI for review and for operators to use OMRI-approved materials in order to move toward a centralized review system.
- Requiring all certifiers and other Materials Review Organization (MROs) to make public their lists of approved materials.
- Expand the scope of the NOP's accreditation program to include MROs that are not ACAs.

Topic #5: Operator Records

How much documentation is required for producers to demonstrate compliance with certification requirements? Record keeping is one of the topics most frequently cited as a barrier to producers entering organic certification and also to retaining certified organic operations. A Sound and Sensible regulatory system must streamline the record keeping requirements and provide clear guidance to operators, certifiers and accreditation personnel on the types of required records.

Recommendations

1. Record Keeping – Scope and Amount.
 - a. Operators should be able to create record keeping systems that are tailored to their specific operation.
 - b. Operators should not be forced to use record keeping systems that are developed by a certifier, but many operators appreciate record keeping templates from their certifier.
 - c. Guidance and examples from NOP about how much detail in record keeping is helpful in creating a level playing field.
2. Record Keeping – Organic Seed Search. Farmers should be allowed flexibility in the methods used to document their search for organic seed; documentation of the seed search does not necessarily need to be a complicated.

For example, some growers may prefer to keep seed search records in a database but others may simply write notes in seed catalogs—either method could provide sufficient evidence of efforts to source organic seed. If the inspector observes that a farmer has 3-5 seed catalogs from companies that offer organic seeds, that the farmer has reviewed the Organic Seed Finder database on the web, and the farmer has retained the invoices from seed purchases, this should also satisfy the requirements for sourcing organic seed.

For large volume plantings, such as a whole-field planting of one or two crops, explicit documentation of a seed search may be necessary. However, in other cases, a record of the varieties used and which are organic should suffice.

3. Record Keeping – Redundancy. Excessive redundancy in record keeping requirements frustrates producers. For example when a farmer is keeping a Spray Log it should not be necessary for them to also record information about sprays in their Field Activity Log.

Harvest records should be appropriate for the type of crop. For example, sales records can provide sufficient information about the harvest of a crop grown in one location, while harvest records for a crop grown in multiple plantings and/or in multiple locations may require more detailed documentation. Record keeping requirements for harvest of field plantings of a complex crop, such as salad greens (multiple crops and multiple plantings of these crops), versus a single planting of a less complex crop, such as chives, needs to be specifically clarified by the NOP.

Next Steps

The National Organic Coalition is pleased that the USDA/National Organic Program, along with the Accredited Certifiers Association, has begun this important conversation with the organic community to improve our National Organic Quality System. Improvement can and should happen at multiple levels, from basic communication at the producer level to more streamlined processes at the certifier level to comprehensive attention at the Department level.

We believe that the USDA's acknowledgement of their role in rebalancing oversight responsibilities will result in a more practical organic certification system for producers while

providing the transparency and integrity necessary for consumer confidence in the organic label. This will hopefully lead to an increase in the number and diversity of certified operations.

NOC will continue to be an active partner as the NOP's Sound and Sensible Initiative matures.

NOC'S RESPONSES TO CACS'S DISCUSSION QUESTIONS

1. How can the OSP/information exchange mechanism be altered to verify compliance in a more user friendly manner?

As detailed in Topic #2 of our discussion section (above), NOC believes there are many benefits in standardizing the OSP and also the format of the organic certificate, which are the main documents that convey information into and out of the certification system.

2. How could a feedback loop for operators and ACAs be developed for complaints and suggested changes without fear of retribution?

NOC supports development of a system for confidential submission of information related to continuous quality improvement at all levels of the National Organic Quality system. One mechanism would be for such information to be submitted to the Compliance Division under procedures that guarantee that the identity of the person making the submission be held as confidential information.

3. How can new technologies be employed to verify compliance and reduce document deluge?

NOC supports the trend for certification agents to use electronic documentation. Systems that allow real-time updates of OSP records that are accessible by both the operator and the certifier can help reduce the paperwork burden for both parties. Electronic compilations of lists of approved brand name materials would benefit many parties, as explained in our comments above (Topic #4 of our discussion section).

NOC has been a strong advocate for funding for updated computer equipment for NOP: new equipment would allow NOP to provide real time updates of the certification status of operations. This is an example of a linkage between the ACAs and the NOP's accreditation system which would help to reduce paperwork and provide more clarity throughout the multi-level regulatory system.

4. How can ACAs create a functional information exchange with operators and inspectors to verify all information is current and accurate?

As explained in our answer to Question #3, we think that electronic information systems can provide many mechanisms for exchanging information between parties at all levels of the NOP's regulatory system.

5. What forms of communication should be available for ACAs to encourage and document compliance, other than Notices of Noncompliance?

NOC suggests that opportunities for rebuttal be decoupled from the formal Notice of Noncompliance. Currently NOP regulations address 3 main opportunities for a regulated party to rebut findings: denial of initial certification (§205.405); problems with operations that are

currently certified (§205.662.a.3); or issues with the accreditation of a certification body (§205.507). All three of these opportunities for rebuttal are offered only through the unfriendly mechanism of a Notice of Noncompliance.

There are many opportunities in which increased opportunities for communication about problems can result in their resolution. If chances for detailed communications via formal rebuttal could be presented in a manner that did not immediately presume the existence of a Noncompliance, it could help to foster more positive communication. In turn, constructive communication can lead to increased chances for resolution of problems, retention of the regulated party in the system, and more positive feelings all around.

NOC suggests that regulation related to both certification and accreditation systems be adjusted so that they include the opportunity to use a “Notice of Finding” to address minor (correctible) noncompliances. Contents of these notices would be similar to that of the Notice of Noncompliance, but the Notice of Finding would focus on providing regulated parties a chance to respond with rebuttals, explanations, additional information, or correction of the information presented by the regulator. If the rebuttal were not successful, the effort used to draft the Notice of Finding would be of use in the issuance of a Notice of Noncompliance.

6. When is visual verification satisfactory and when must documents be sent to the ACA?

The range of methods that are appropriate for use in verifying compliance with a standard depends, in large part, on how the standard is written. In past comments to the NOSB, NOC has explained the difference between standards that are framed as using qualitative vs. quantitative verification requirements. In general, the qualitative standards lend themselves very well to verification through inspector observations. The buffer zone standard is an example of a qualitative standard; an experienced and knowledgeable inspector’s observation is the best way to determine whether the buffer zone is actually sufficient to protect organic crops from contamination. In contrast, the pasture regulations are strongly quantitative standards. As a result, the only way to verify compliance is through a series of complex calculations, which must be presented to the certifier to demonstrate compliance.

Taking this concept further, once information is deemed to be necessary to the certification process, this data also becomes subject to verification as part of the certifier’s accreditation—thus greatly magnifying the impact of the original data collection requirement.

NOSB must carefully consider the implications of recommending qualitative vs. quantitative language for standards, including standards created via annotation of listings of materials. Similarly, certification procedures, NOP Instructions for certifiers, and accreditation requirements must all be written in a manner that results in verification methods that are not only appropriate and practical for the topic under consideration, but with an eye to reducing the burden of verification.

7. How can the ACAs and inspectors develop a more user friendly process to verify compliance with the regulation?

Please see NOC’s responses above, in Topic #3, *Improving Competency of Inspectors and Auditors*.

8. What are examples of USDA Food Safety and Inspection Service (FSIS), Food and Drug Administration (FDA), and the Environmental Protection Agency (EPA) inspection protocols that are less burdensome but effective to consider here?

The role of the NOP is substantially different from that of the agencies noted in this question in that the NOP regulatory system is process-based and it is specifically designated as a certification/accreditation system (in the legislative authority provided in OFPA). As mentioned in our comments on Subpoint #1—Oversight Systems, we think the most appropriate source of guidance for development of procedures for NOP is the ISO standards: 17065 for certification, 17011 for accreditation, and 19011 for auditing and inspection.

That said, there are a few examples of FSIS policies that, although not directly applicable to NOP, provide some ideas about initiatives that lean in the direction of Sound and Sensible:

- a. FSIS uses the HACCP system, which creates clear guidance while maintaining more flexibility than do the NOP's requirements for Organic System Plans.
- b. FSIS uses one regulation but their regulation includes a provision stating the agency's intent to interpret the regulation in a manner that is appropriate for different scales of operations. For example, FSIS has a hotline specifically oriented to answering questions from small plants. Producers report that this allows them access to pose questions to FSIS inspectors and Enforcement, Investigations, and Analysis Officers (EIAO). In contrast, organic certifiers and operators complain that there is uneven access to NOP staff and the information provided to them is unclear and not equally available to all. With regard to the scale issue, FSIS implements scale-appropriate regulations, while the NOP maintains that it must be scale-neutral.
- c. FSIS encourages operations of similar size to share their experiences in the agency's interpretation of its regulation with regard to operations of that size and to share HACCP plans that were used to conform to the regulation. Once accepted by FSIS, they are acceptable at any other operation.
- e. Issuance of a non-compliance or suspension by FSIS initiates a process to solve the problem and verification of the corrective action is accomplished with a repeat visit by the EIAO to ensure practices have been changed and controls put in place to prevent a recurrence of the non-compliance. For example, a positive test for contaminated meat will cause a recall, but the plant will be allowed to resume production once corrective actions and control points have been implemented. In comparison, under NOP, one positive test for antibiotics in milk will cause a 6 month suspension of the operation's certification and an appeal of the suspension by the operation will only extend the period needed to resolve the compliance issue.

9. How should a peer review process for the NOP itself function? Who should be on that committee?

As noted in detailed public comments submitted over the years, NOC strongly supports the implementation of the Peer Review Panel, a body which is required by OFPA and elaborated upon in the NOP regulations. Unfortunately, OFPA and the NOP regulations treat the topic of the PRP differently, in large part, due to the evolving understanding of the role of oversight procedures in the regulatory systems used in the organic world over the past two decades. This disparity has contributed to confusion about the role of the PRP and has delayed its implementation. What is clear, however, is that the PRP is intended to be an oversight body and

as such, could contribute positively to the Sound and Sensible Initiative by providing ideas about “big picture” solutions. The PRP could also provide critically important ideas related to coordination and efficiencies throughout and between the levels of the NOP’s regulatory structure.

NOC addresses the structure and function of the PRP in Topic 1, Subpoint 5 of discussion section, above. Obviously this is a complex topic which requires much more thought and development. NOC will continue to contribute ideas about the PRP and to engage in conversation with other parties that are interested in this topic.

10. How should approved materials lists be shared among certifiers and to the operators themselves?

NOC supports efforts to create one list for approved brand name materials. Sharing the lists of materials that are approved by individual ACAs is a very important step in that direction and our recommendations for proceeding in this direction are explained in Topic #4 in of our discussion of the Sound & Sensible Initiative.

Appendix: ISO Primer See below

APPENDIX: AN ISO PRIMER

Discussions about organic certification and accreditation systems often refer to one or more “ISO standards.” ISO standards provide international norms for just about everything—there are ISO standards that provide specifications for plumbing fixtures, to standards that describe procedures for laboratory analysis, to standards that describe how to do different types of welding.

The standards are developed by the International Organization for Standardization with the goal of providing harmonizing products and processes all around the world. This goal of “sameness” is reflected in the name of each standard—the root word “ISO” means “the same”. (Think of an “isosceles” triangle, which has 2 sides of the same length).

The International Organization for Standardization develops its standards through a democratic, transparent process that encourages national bodies to participate as members. The national standard setting body that represents the United States in this process is the American National Standards Institute (ANSI). For more information on ISO standards, visit ANSI’s website, <http://www.ansi.org> or the website of the International Organization for Standardization, <http://www.iso.org/iso/home.html>.

See the chart below for the standards most frequently mentioned in the world of organic assessment:

Standard Number	Standard Name	Description	Use in the Organic World
<p style="text-align: center;">ISO 17065</p>	<p>Conformity assessment - Requirements for bodies certifying products, processes and services</p> <p><i>This refers to the organic Certifiers</i></p>	<p>Provides guidance on <u>certification</u> systems</p> <p>Specifies the internationally accepted requirements for inspecting and certifying products, processes, and services.</p> <p>Examples of topics addressed:</p> <ul style="list-style-type: none"> • Organizational structure • Quality System Documentation • Internal auditing • Document control • Recordkeeping • Confidentiality • Conflict of interest • Personnel management • Managing the certification process • Surveillance • Controlling the certification seal 	<ul style="list-style-type: none"> • Certifiers (ACAs) use ISO 17065 as guidance in writing procedures and policies that govern their certification body. • Accreditation agencies, such as NOP, use ISO 17065 to audit certification bodies (ACAs)
<p style="text-align: center;">ISO 17011</p>	<p>Conformity assessment - General requirements for accreditation bodies accrediting conformity assessment bodies</p> <p><i>This refers to the USDA/NOP who Accredits the certifiers</i></p>	<p>Provides guidance on <u>accreditation</u> systems</p> <p>Requirements for accreditation bodies assessing and accrediting conformity assessment bodies (CABs).</p> <p>For the purposes of ISO/IEC 17011:2004, CABs are organizations providing the following conformity assessment services: testing, inspection, management system <u>certification</u>, personnel certification, product certification, and calibration.</p>	<ul style="list-style-type: none"> • Accreditation bodies (NOP) use ISO 17011 as guidance in writing procedures and policies that govern their organization. • Recognition bodies use ISO 17011 to audit accreditation bodies such as the NOP. • ISO 17011 is also appropriate for the peer evaluation process for mutual recognition arrangements between accreditation bodies (NOP & Canada’s organic program, for example).
<p style="text-align: center;">ISO 19011</p>	<p>Guidelines for auditing Management Systems</p> <p><i>This refers to inspectors, and auditors of both certifiers and of the NOP itself</i></p>	<p>Provides guidance on <u>inspection and auditing</u> procedures</p> <p>It covers topics such as:</p> <ul style="list-style-type: none"> • The principles of auditing, • Managing an audit program • Conducting management system audits, • Evaluation of competence of individuals involved in the assessment process, such as inspectors and auditors. 	<p>ISO 19011 is applicable to all types of assessment bodies that need to conduct internal or external audits of management systems or manage an audit program. For example:</p> <ul style="list-style-type: none"> • Certifiers (ACAs) use ISO 19011 to guide the process of inspecting organic operations • Accreditation bodies (NOP) can use it to guide audits of certifiers (ACAs) • An NOP Peer Review Panel could use it to guide review of NOP’s accreditation system • A recognition body could use it to audit NOP’s accreditation system • Any of the above can use this standard when checking the quality of their own organization’s systems through conducting an internal audit.