



National Organic Coalition

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Samantha Simon, Program Manager
Audit, Review, and Compliance Branch (ARC)
100 Riverside Parkway
Suite 135
Fredericksburg, VA 22406

Comments submitted via e-mail to: ARCBbranch@ams.usda.gov

Dear Ms. Simon,

The National Organic Coalition (NOC) is a national alliance of organizations working to provide a "Washington voice" for farmers, ranchers, environmentalists, consumers and progressive industry members involved in organic agriculture. One of the NOC's key areas of interest has been supporting rigorous, equitable, and transparent oversight of the organic industry's regulatory systems. NOC recognizes that ARC plays an important role in this arena through its ISO Guide 65 Accreditation Program. Therefore, NOC takes a keen interest in the recently proposed changes to *ARC 1012 Procedure* and respectfully submits the comments below.

Scope: §2 of ARC 1012 (Page 1)

We note that ARC offers accreditation to the "new EU standards," 834/2007 and 889/2008. Does this include accreditation for all scopes of certification allowed by the EU? Specifically, NOC is concerned about the potential for confusion over certification of aquaculture products. As of July 2010, the EU regulations have allowed certification of organic fish, shellfish, and seaweed however; the National Organic Program (NOP) standards currently do not include aquaculture in their scope. During the National Organic Standard Board's (NOSB) discussions of proposals for U.S. standards for organic aquaculture, NOC has consistently advocated for all proposed aquaculture regulations to be based on organic principles parallel to those used for terrestrial systems. We do not support a system whereby ARC's ISO Guide 65 program would provide a back door method for US certification bodies to expand into certifying aquaculture systems unless and until NOP establishes its own standards for this sector.

References: §3 of ARC 1012 (Page 1)

NOC appreciates the explanation in ARC's press release of January 11, 2011 that one of ARC's reasons for updating its procedure is the inclusion of information that ARC had previously managed as an internal guidance document (GU7183CCB). NOC applauds this change to make more information available to the public, thus allowing all of the organic industry's stakeholders a fuller understanding of the procedures ARC uses to manage its ISO Guide 65 Accreditation Program.

However, we note that there are still some important documents related to ARC's ISO Guide 65 program, which appear to be necessary to ensure sufficient public transparency of the program, but which are not currently accessible on ARC's website. In addition to the information added to the ARC 1012 Procedure, we urge ARC to post all of the documents that are referenced in the revised procedure in order to foster understanding and due process related to ARC's ISO Guide 65 Program. Specifically, this includes:

- *ARC 1115 Procedure, Program Review Committee*
- *ARC 1102 Procedure, Selection of Audit Team Members*
- *ARC 1012 Certificate, USDA ISO Guide 65 Program*
- *ARC 1012B Checklist, USDA ISO Guide 65 Program for Auditors*
- *GU7183CCC – USDA ISO Guide 65 Program, Guidance on Requirements*

Definitions: §4 of ARC 1012 (Page 2)

NOC appreciates the new section of definitions of terms used in the revised procedure; the addition of this information fosters clarity and transparency.

Accreditation Period: §7 of ARC 1012 (Page 3)

In its press release, ARC mentioned the change from a 3-year audit cycle to a 4-year cycle as being "significant." However, ARC's summary of its revised procedure did not mention another change that NOC also considers to be very important—that is ARC's proposal to move away from annual on-site audits of certification bodies to these audits being done every-other-year.

Although NOC appreciates the cost saving effect of this policy on certification bodies, NOC is concerned about the increased potential for noncompliances within certification systems going unnoticed over longer periods of time. To balance these factors, NOC suggests that whenever the conditions enumerated in §12.2.d arise, a surveillance visit becomes mandatory. To this end, NOC proposes the following change

12.3.d: Additional surveillance assessments ~~may~~ shall be conducted (1) if numerous minor non-conformances or major non-conformances were identified during the previous assessment; (2) for failure to submit annual update reports; (3) as the result of complaints whose root cause is related to deficiencies in the certification body's quality system; (4) as the result of significant changes that have affected the certification body's operations at any time during the accreditation period; and/or (5) as directed by the ARC Branch Chief.

Accreditation of Certifiers who have Multiple Offices: §11 of ARC 1012 (Page 4)

NOC appreciates the addition of procedures that clarify how ARC will assess certification bodies that operate out of multiple offices. NOC is pleased to see that ARC's procedure includes provisions to ensure that all key certification activities will be assessed no matter whether they are performed in the headquarters or in other offices. NOC notes that §11.3.2, which allows for a sampling process to determine which office will be visited, is balanced by §12.3.b, which provides for a rotation of the audit sites over all of a certification body's offices.

NOC would like clarification about the applicability of the sampling system proposed in §11.3.2. Did ARC mean to propose that this provision apply to certification bodies with "more than 3 offices" instead of "3 or more" offices? Confusingly, the case in which a certifier has 3 offices is also covered by §11.3.1.

NOC calculates that ARC's sampling system is sufficient in cases in which a certifier has about a handful of offices, as shown in the example ARC provides to illustrate §11.3.2. However, if a certifier were to open more offices, as is often the case during expansion into new geographic areas, ARC's sampling procedure would result in some of these offices going without an audit for many years. Therefore, NOC urges ARC to add a provision that ensures that all certification offices performing key activities receive an audit at least once within the proposed 4-year audit cycle.

NOC also requests correction of a provision in the sampling procedure that seems to create a loophole. According to our reading of §§11.3.2.b & c, if the main office played a large role in handing suppliers *and*

in carrying out key activities, only 2 offices could be included in ARC's sample chosen for auditing. According to our reading, this is possible because the text does not clearly state that §§11.3.2.b & c applies only to the certifier's satellite offices, although both examples ARC provides do hinge on that assumption.

Witness Audits: §15 of ARC 1012 (page 8)

NOC appreciates the inclusion of information about ARC's procedures for performing witness audits, as we think this topic is especially important because it describes a tool used to assess certifiers' actual implementation of organic standards. We support §15.2, which requires that organic operations in foreign countries be included among the witness audit locations.

We note that §15.2.2 makes special mention of certifiers that certify only two types of clients, but there is no mention of a certifier who may specialize in only one type of client. Additionally, we suggest that a sample size of one witness audit is insufficient, even for certifiers of limited scope, especially in light of ARC's proposal to lengthen the time between on-site audits at certification offices. We suggest that this section be revised as follows:

15.2.2. During surveillance assessments, a minimum of three witness audits are conducted. If only one or two types of suppliers are certified by the client, then a minimum of ~~one~~ two witness audit may be conducted.

Review of Certification Files: §16 of ARC 1012 (page 9)

Again, NOC supports the addition of information on this topic to the documentation that ARC makes available to the public. NOC has two concerns about §16 of the proposed procedure.

First, NOC would like clarification of the method of implementation of the provision in §16.1 that allows for review of certification files "independent of an assessment." In this case would the certification body be asked to submit operators' certification files to ARC's office? Since files in ARC's possession are subject to FOIA, how does ARC protect the information in an operator's file that would otherwise be protected by confidentiality requirements of ISO Guide 65?

Second, NOC asserts that another important function of file review is to check whether a certifier is fully assessing operators' implementation of all of the standards applicable to their operations, as required by ISO Guide 65 §10. NOC strongly urges ARC to add the following text after §16.1.a (and renumbering of subsequent subsections):

§16.1.b) The assessment methods are sufficient to ensure evaluation of suppliers against all standards applicable to their operations;

USDA National Organic Program: §18 of ARC 1012 (Page 10)

NOC supports integration of all provisions of ISO Guide 65 within the regulations of the NOP in order to eliminate the need for dual accreditations for US-based certification bodies. NOC asserts this change would benefit all stakeholders in the organic industry by increasing the rigor of NOP-accredited certifiers who have not yet achieved accreditation to ISO Guide 65. NOC notes that NOP has also embraced this goal and had mentioned it at more than one public forum.

We are aware that there are some important differences between the accreditation requirements of the NOP and ISO Guide 65, resulting in each having some provisions that are more restrictive than the other. For that reason, we support ARC's statement that its suspension or withdrawal of a certification body's accreditation be limited to the NOP production standards. We conclude that a corollary of this statement would be that if a certification body were subject to a compliance action by NOP related to an accreditation requirement (as opposed to a production standard) that is not required by ISO Guide 65, that ARC's accreditation of that certifier would not be affected. NOC asks ARC to clarify its position on this point by including guidance or an example in Procedure 1012.

Program Review Committee: §19 of ARC 1012 (page 11)

NOC appreciates ARC's efforts to make its procedures on decision making transparent and requests that the Branch also make public its procedure about describing selection of audit team members, *ARC 1115 Procedure*.

NOC suggests that AMS standardize the terminology used in its accreditation programs in order to minimize confusion and increase clarity of communication about audit issues. For example, with regard §19.1:

- We are unclear what ARC means by the term "disapproval" of accreditation. Is this the same as what the NOP means by "denial of initial accreditation"?
- We note that ARC uses the term "withdrawal" in a parallel manner to NOP's "revocation". Whereas NOP uses the term "withdrawal" to refer to situations in which a certifier voluntarily pulls out of NOP's accreditation program.

Certificate of Conformance: §21 of ARC 1012: (page 12)

ARC's procedures allow for an extension of the accreditation period to allow for the "timely conduct of the reassessment." NOC asserts that ARC's procedure should include a maximum amount of time allowed for this extension in order to balance the need for flexibility with the need for timely assessment of certification bodies. NOC suggests a maximum extension period of 3 months.

Reference to Official Certificate and Accreditation: §22 of ARC 1012 (page 13)

NOC notes that the language used in §22.5 is discretionary; that is, the sentence hinges on the term "may." NOC contends that ARC's provision, which applies to certification bodies that have "continuously made erroneous references", should be stated as a mandatory requirement. We think a stronger procedure is needed on this point for ARC to fully comply with ISO 17011 §8.3.2, which requires that an accreditation body *shall* take effective measures to ensure that the certification bodies it accredits fully comply with requirements for claiming accreditation status, making reference to its accreditation, using accreditation symbols, etc.

NOC appreciates the opportunity to comment on ARC's ISO Guide 65 accreditation procedures. We hope that our comments have provided constructive ideas that will assist ARC in serving the needs of the organic industry and all of its stakeholders.

Sincerely,



Liana Hoodes, Director

CC: Kathleen Merrigan, Deputy Secretary of Agriculture
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