



October 4, 2018

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-18-0029

RE: Developing Criteria for Risk-Based Accreditation Oversight (Proposal)

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the Compliance, Accreditation and Certification Subcommittee's Proposal on Developing Criteria for Risk-Based Accreditation Oversight.

The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing over 9,500 organic businesses across 50 states. Our members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

Competent and consistent application of the U.S. Department of Agriculture's (USDA) organic regulations by certifying agents is critical to the success of the National Organic Program (NOP) as is NOP's responsibility to ensure adequate oversight of each certifying agent. Both are principal factors to protecting organic integrity. As we know, the complexity of each organic operation and the depth of its supply chain vary significantly as do the type and number of factors that create and/or elevate the risk of fraud. It is the responsibility of NOP to assess whether a certifying agent should be authorized to certify farms and businesses to the USDA organic regulations and determine the level of oversight needed to ensure that certifiers are adequately fulfilling their responsibilities.

Given the range of risk factors that contribute to potential fraud, the Organic Trade Association fully supports the concept of risk-based accreditation oversight and the development of criteria to use to guide the process. We agree with the criteria presented in the proposal, and offer the following suggestions/comments:

1. In general, the Organic Trade Association agrees that the document is a good start and it addresses many of the risk factors. We are advocating for increased levels of performance within the recommended suggestions to increase the effectiveness of the efforts and improve measures of expected outcomes. While identifying risk factors, the proposal appears to only recommend additional actions for accreditors to take when auditing or considering a first application for a certifier with elevated risk factors, rather than requiring adherence to the recommended mitigation activities. Further, the recommended risk mitigation actions are not detailed enough, nor do they

provide guidance on if or when the outcomes of the mitigating measures would warrant a finding of non-compliance or prevent a certifier from achieving accreditation. Perhaps these are meant to be next steps in the process. If so, the proposal should indicate as much.

2. As stated in the proposal, the risk factors are unranked. However, some factors appear to be of much higher risk than others, and we can assume that risk increases depending on the accumulative number of factors that may be in play. For example, a certifier that employs or contracts with inspectors or reviewers new to certification and the organic sector is common. Given appropriate oversight by senior inspectors/reviewers, this factor likely does not pose a huge area of risk. However, this factor combined with one or more of the others will have a different outcome. It may be helpful for NOSB and/or NOP to create a risk matrix defining the level of risk by considering a category of probability or likelihood against a category of consequence severity. This would be a helpful mechanism to increase visibility of risks and assist management of decision-making.
3. NOP and the Accredited Certifiers Association (ACA) conduct annual certifier trainings around the United States. The NOP annual training is a key opportunity for certifying agents to receive timely information highlighting areas needing performance improvement, and helps maintain certifier consistency with respect to decision-making. The Organic Trade Association believes that attendance is critical and the trainings should be mandatory. Therefore, moving forward, we believe missing one or more of the NOP annual trainings is a factor that could contribute to a higher risk of fraud. We recommend adding this factor to the proposal.
 - Certifier misses one or more of the NOP annual trainings
 - Include evaluation of whether the appropriate staff are attending the training
 - Include evaluation of whether the information received at the training is being adequately disseminated to certifier and inspector personnel
4. The Organic Trade Association places strong emphasis on **Factor #8 and required data reporting** [Reports incomplete or minimum required data to the Organic Integrity Database (e.g., updates certified operation list with commodities grown/handled but does not report acreage or volume)]. We believe the following two factors are fundamental to fraud prevention and should be considered priorities:
 - **Aggregated production data:** It is critical that ACAs report aggregate production area certified by crop and location on an annual basis. Although the database can accept acreage data from certifiers, not all certifiers report acreage to the database. This should be considered minimum required data. Currently, acreage data is available for less than 30% of organic operations in the U.S. and 0% in high-risk regions. As a result, there are no means to accurately calculate organic acreage and/or yield estimates on a country-by-country basis. This hinders the ability of NOP, the State Organic Program, and certifiers to evaluate the total volume of organic product coming from any given region and accordingly detect whether fraud is occurring.
 - **Certifier to certifier responsiveness:** In addition to submitting complete data to the Organic Integrity Database, it is also critical that ACAs are responsive to one another, and send the requested documentation needed to audit and verify import shipments. From a HACCP point of view, a primary critical control point is the **port-of exit**. Verifying the organic product before it leaves the country of origination is the only viable way of



assuring an audit of a product back to the field. We continue to hear complaints that overseas certifiers are not sending requested information to U.S.-based certifiers. Auditing paperwork prior to export is essential. The condition of a certifier being unresponsive and not sending requested paperwork to another certifier should be identified as major risk factor. An NOP directive to overseas certifiers that they MUST send the information requested by U.S. based certifiers is needed.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Standards Board for the opportunity to comment, and for your commitment to furthering organic agriculture.

Respectfully submitted,

A handwritten signature in black ink that reads "Gwendolyn V. Wyard".

Gwendolyn Wyard
Vice President, Regulatory and Technical Affairs
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association