



September 30, 2024

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP

Docket: AMS-NOP-24-0023

**RE: Compliance, Accreditation, and Certification Subcommittee
Discussion Document: Risk-based Certification Discussion Document**

Dear Ms. Arsenault:

Thank you for this opportunity to provide feedback to the Compliance, Accreditation, and Certification Subcommittee on its Risk-based Certification Discussion Document Discussion Document. 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. Our members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, brands, retailers, material input providers, and others. OTA's mission is to grow and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

OTA appreciates the significant and detailed work the Subcommittee has put into its discussion document. All successful risk management approaches require leadership commitment and prioritization. The NOSB and the NOP's focus on this area demonstrates such leadership. We hope the NOSB considers making leadership in risk management a continuous and dynamic task, much like its ongoing leadership in setting research priorities for the organic sector. As a collective set of stakeholders representing diverse interests in organic integrity, the NOSB is uniquely positioned to continuously address and advise the sector on risk factors that should be integrated into oversight activities.

We offer the following feedback on the questions posed by the Subcommittee:

A note on our comments: While the document addresses risk from the perspectives of both certified entities and certifiers, it primarily focuses on the adoption of risk-based oversight by certifiers and reviewing the one-size-fits-all approach to certification. Therefore, our comments are framed with this focus in mind.

1. How does your organization define risk?

We define risk in terms of potential threats to organic integrity and adherence to organic standards. This includes evaluating both the likelihood of non-compliance and its potential impact on the certification process, consumers, and the broader organic ecosystem.

a. Would it be valuable for the definitions listed above (Risk-based oversight, Risk management, Risk, Vulnerability) to be included at § 205.2 Terms Defined?

Subjectivity and communication challenges are common issues in risk management. Alignment of definitions can help mitigate these challenges. We do not have a strong position on whether adding these

terms to § 205.2 is necessary, but we do believe that having ACA and NOP use common definitions is critical. Since NOP provides oversight of certifiers through accreditation audits and reviews of risk-based procedures in § 205.504(b)(7), NOP could drive alignment via the accreditation process without requiring regulatory changes.

b. Are there other definitions that would be beneficial to include at § 205.2 Terms Defined? Should all certifiers use the same risk criteria to evaluate operations?

It will be important to have key terms in risk frameworks, criteria and measurements defined. However, risk criteria will evolve as risk profiles change, and regulatory definitions might not be flexible enough for this purpose. Definitions like “impact” (magnitude) or “likelihood” should align with common risk management standards, such as ISO 31000.

Certifiers must align on risk criteria, as misalignment could create risks in itself. Consistent criteria will also enhance NOP’s oversight effectiveness during accreditation audits. That said, risk criteria must remain dynamic and responsive to emerging data, changing environments, and evolving risks. An over-reliance on historical data can create biases and gaps. It’s important that criteria are not determined solely by certifiers; the day-to-day experience of certified entities as well as current competitive pressures should also inform these criteria to ensure comprehensiveness.

We believe that codifying risk criteria in regulations may be impractical due to the time and resources required for revisions. Instead, this should be an ongoing, continuous process. The NOSB could serve a role similar to its work with research priorities, regularly reviewing and advising on risk criteria.

2. What resources are available that could help organizations become more proficient at risk-based oversight?

General risk management training, such as ISO 31000, is valuable, but there will also be a need for organic-specific risk management training once frameworks and criteria are determined. OTA maintains the Organic Fraud Prevention Guide, which helps certified entities (farms and businesses) assess risk in their operations and supply chains. Similar resources should be developed for certifiers to apply risk criteria effectively.

3. What unintended consequences could arise from using a risk-based oversight approach?

A poorly executed risk management approach could be worse than having none at all. Ensuring alignment between the NOP and certifiers is paramount to prevent gaps that bad actors could exploit. Another risk is over-reliance on historical data, which may cause emerging risks to be overlooked. Finally, ensuring the risk criteria are properly prioritized is also important as resources are limited. If appropriate focus is not applied then again risk management will fail as resources are spread too thin to be effective. Lessons from food safety oversight, which has applied risk management approaches for some time, could be adapted to the organic context.

4. What other ways are there to reduce burdens on low-risk operations?

The one-size-fits-all approach to certification should be reviewed to ensure it provides value. If it doesn’t, it should be evaluated for what barriers to entry or added costs it creates. Such inefficiencies make organic

production less profitable or products more expensive. While changes to the Organic Foods Production Act (OFPA) would be beyond NOSB's purview, an exploration of the costs and benefits of various approaches, even in areas outside of NOSB's scope could help to inform improvements in public policy.

We believe that as organic grows, both small producers and large-scale operations are disproportionately impacted by the current one-size-fits-all approach. Small producers may have the same 'likelihood' of a given risk yet will pose a lower overall risk to the market due to their size (impact). Similarly, national retail distributors, who primarily act as conduits between brands, may have high transaction volumes (high impact) but lower financial incentives for fraud and therefore a low likelihood. Lastly an operation that has been stable and compliant for years may have both a low likelihood and impact and therefore low risk overall. For all three types of operations, revisiting the Organic System Plan (OSP) to assess whether all areas yield meaningful value for organic integrity and take steps to remove the inefficient areas could help reduce the certification burden and cost of organic products.

5. How can the community provide information to NOP and/or certifiers on acute risks?

We recommend that the NOSB look to take a role in continually evaluating risk criteria from the broader organic community on an ongoing basis. While these criteria may not change frequently, regular reviews are necessary to identify emerging risks or shifting priorities. The NOSB could also help identify data sources and performance indicators for these risks, ensuring the organic sector remains proactive in managing risk.

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,



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cc: Tom Chapman
Co-CEO
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