



April 2, 2018

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2648-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-17-0057

RE: Compliance, Accreditation and Certification Subcommittee (CACS): Import Oversight Discussion Document

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the CACS Subcommittee's Discussion Document on "Import Oversight." The CACS is seeking input from the public on the topic of import oversight in order to gain further insight and background on the diverse perspective and opportunities to increase integrity in the global organic control system. In addition to the specific questions provided in the discussion document CACS is asking the public to provide perspective on the actions that would have the greatest impact to increase integrity.

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.

OTA thanks the CACS for its time and commitment on this priority topic. From the Organic Trade Association's view, fraud cannot be tolerated in the organic system, inside or outside of the United States. Anytime there is fraud anywhere in the organic system, it threatens the value of the organic chain, and hurts organic farmers wherever they farm. Strong action is needed to improve the effectiveness of controls throughout the organic product supply chain. The attention this matter is being given is important and greatly appreciated.

To best respond to the CACS questions with a range of experience and perspective, we are submitting the responses we received from our Global Organic Supply Chain Integrity (GOSCI) Task Force that was formed in May 2017. The GOSCI Task Force is comprised of over 30 member companies representing the entire supply chain from farm to retailer and a diverse range of products, services and commodities including produce, grain, herbs, spices, dairy, eggs, meat, beverages, packaged and prepared foods, certification and consulting.

The Organic Trade Association's position is that everyone has a role in organic fraud prevention. In addition to the steps that USDA is taking, it is critical that distributors, traders and holders of organic brands have systems and measures in place that adequately support the promise of providing organic food that people can trust. For this reason, our task force was convened and is developing a best practices guide that will provide businesses engaged in the organic trade with a risk-based approach for developing and implementing a written organic fraud prevention plan to assure the authenticity of organic products by minimizing vulnerability to organic fraud and mitigating the consequences of occurrence. A draft version of the Guide is attached (**Annex A**).

The Guide's recommended practices are intended to establish an industry standard for businesses to create continuously improving internal programs and processes for achieving organic integrity throughout their associated supply chains. In addition to presenting a systematic approach to developing a written organic fraud prevention plan, the task force is also developing procedures on what to do when you suspect or detect fraud along with detailed template that can be used to effectively file an actionable complaint to an ACA or to NOP.

The work of the task force and the commitment on behalf of the organic industry to implement best practices for preventing organic fraud will go a long way. We firmly believe that the aim and outcome of the organic industry adopting these best practices is one of the most important measures that can be taken to increase the integrity of global controls systems. Accordingly, our comments to the CACS questions below will reference the GOSCI Best Practice Guide in several places.

Summary of actions that will have the greatest impact to increase the integrity in the global organic control systems:

1. Require certification of currently excluded entities such as ports, brokers, importers and online auctions.
2. Adopt and implement the GOSCI Best Practices Guide to ensure greater buyer accountability and responsibility.
3. Require ACAs to report aggregate production area certified by crop and location on an annual basis. Currently there are no means to accurately calculate organic acreage and/or yield estimates on a country-by-country basis.
4. Prioritize increasing the number of 10-digit statistical breaks for organic products in the harmonized tariff schedule, and require the use of the 10-digit code when it exists.
5. Increase coordination and access to available data cross border documentation systems administered across other agencies including U.S. Customs and Border Patrol (CPBs) Automated Commercial Environment (ACE), and Phytosanitary certificates. This includes notifying NOP when imported agricultural products are treated with NOP-prohibited substances at U.S. ports of entry. Notifications must include the crop/product, name of the associated company and the substance used and information must be made available to ACAs.
6. Improve the timing and communication around NOP's complaint system and develop an alert system that identifies products or regions where heightened vigilance is needed.
7. Improve communications with the enforcement authorities of trading partners, certification bodies

in regions and countries covered by equivalency arrangements and recognition agreements, and other institutions that protect organic integrity.

8. Global use of the Organic Integrity Database. The database should include operations in equivalent countries eligible to export to the U.S. as organic and operations certified to the USDA regulations by a certifier operating under a recognition agreement.
9. Follow-up on recognition agreements to ensure that the governmental authorities, in fact, are implementing the NOP rule including associated guidance and policy.
10. Develop an ongoing system to impose additional requirements on operations doing business in or with countries or regions with documented fraud (system to be developed by NOP).
11. Require that all documents created by direct parties to an organic transaction include organic ID. The organic status of a product should be explicitly required and recorded on the title of transfer documents.
12. Improve training of inspectors and ACAs to monitor, detect and address fraud.
13. Increase oversight of certifiers and inspectors. Inspectors should be licensed for the scope and scale of operations they are inspecting, and licenses should be issued by organizations that have obtained an appropriate ISO accreditation. Inspectors should be trained, capable and carrying out mass balances in order to verify that quantities shipped/sold are justified by ingredient/products received and produced. **See OTA's comments on Inspector Qualifications.**
14. Increase use of testing for imports and other high-risk products.

Below are the following responses OTA received to the CACS questions. Unless noted otherwise, each bullet represents a response we received from a GOSCI Task Force member or OTA member company with expertise in the area.

1. Role of documents in an organic supply chain with a focus on imports.

CACS: There are a number of documents created or utilized to import agricultural commodities. These documents are created by multiple parties, including but not limited to: export governments, U.S. government, exporter, importer, shipping company, and third parties. Some of the documents are: sales contracts, pro forma invoices, commercial invoices, customs invoices, inspection certificates, insurance certificates, Phytosanitary certificates, sanitary certificates, health certificates, fumigation certificates, certificate of origin, packing lists, bill of lading, waybills, export permit/license, import permit/license. These documents may or may not document the organic status of the shipment since organic verification documents like organic certificates or transaction certificates are issued in addition to these other documents.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Should it be a requirement that the organic status of a product be recorded on all documents including those listed above? How would this increase organic integrity? What impact would this have on the industry?

- All documents created by direct parties to an organic transaction should identify the shipment as certified organic. It may not be realistic to require this of governments and there may be additional considerations to re-examine under equivalency arrangements. As a best practice and required if possible, in all circumstances and on all documents, certified organic products should be identified as organic or organically produced. Primary and raw products should be designated consistently between label and related documents. This practice reduces uncertainty for handlers sorting between conventional and organic materials. Clearly marked documents and materials help workers at the transfer of ownership, load, unload and sort correctly. The organic status recorded on all documents should also help prevent misidentification and enhance traceability.
- The organic status of a product should be explicitly required and recorded on the title of a transfer document. The documents associated with an organic transaction can vary depending on the product type, mode of transportation, relationship between buyer & seller, point of transfer etc. The California State Organic Program requires the following:

Invoices, bills of lading or other documents that show transfer of title of certified organic products shall indicate the product is "organic" or "certified organic" and, if applicable, the California registration number of the person transferring the product. (*California Organic Products Act 46013.1(a, b), 46028 (a)(5)(a)*)

This requires the transfer of organic products to be verified on the title of transfer document, but allows for flexibility in terms of the actual documentation required.

- **Note:** Another consideration for NOSB to explore is the interpretation of § 205.307 (Labeling of non-retail containers used for only shipping or storage of raw or processed agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”)

It has been brought to our attention that the interpretation of this section and common practice is up for debate. That is, non-retail containers that are not used to hold retail containers (master cases) should be included in all § 205.303 labeling requirements. Although this is not a central import concern, it is an issue that could contribute to a reduction in the potential for fraud.

b) Which documents (listed above or in addition) are necessary to verify an import supply chain? How well do these documents serve to prevent fraud?

- Best industry practice requires that suppliers clearly identify each line item on documents as organic, with lot numbers that are listed with associated quantities. That not only provides documentary evidence for an audit and enables warehouses and customers to check the accuracy of shipments.
- Organic inspections should always conduct mass balances and traceback audits in order to test the system and to verify that quantities shipped/sold are justified by ingredient/products received and produced. Certifiers have examples of forms that inspectors use for this purpose and should share those so that all certifiers are on the same page.

- The documents above should all reference that the product is organic. While not all of the documents are vital to verifying the supply chain at the time of trade or shipment, having all the documents identified as organic will help for auditing purposes. At the very least, seeing any of these documents without organic labeling during an inspection should raise red flags with the inspector to ask more questions and dive deeper into the traceability of the product.
- If the organic status of a product is noted on the title of transfer document, that document could be verified against the transaction certificate issued by the 3rd party certification agency. Both the title of transfer document and transaction certificate should note the lot number(s) and the product quantity. During the annual inspection:
 - The certifying body could verify the integrity of the organic product using lot code traceability to trace the organic product sold to its original source.
 - After a specified amount of time, the certifying body could determine the total quantity of organic product shipped and perform an in/out balance to ensure that the amount of organic product sold is equal to (or less than) the amount purchased (or harvested).

c) Some imported products change hands once or several times while in transit. How do these documents appropriately trace and verify the organic status of the products for the ultimate importer?

- Every time a product changes hands the risk of fraud increases. The key risk occurs at the first aggregation step. Ideally, there needs to be a shared ledger system, such as block chain, that goes beyond documents following the shipments.
- Imports are shipped in sealed containers/trucks. Seals are checked at each transfer of possession. As long as the seal number matches the one on shipping documentation, integrity is reasonably assured. In those instances where a seal is broken, as in cases where Customs inspects the shipment, that removal is documented and the new seal number recorded. These normal practices support organic integrity. Requiring the issuance of transaction certificates every time product changes possession would aid in enhancing product traceability in these scenarios.

d) Different documents in the import supply chain are issued by different parties. Are some documents or issuing parties (like export governments) more reliable than others? Should these documents be required?

- Document reliability has not been a problem in our supply chains. There seems to be little difference in the reliability of documents from exporters, carriers or authorities.
- There is an implicit reliance on many documents in the supply chain. Risk analysis has to include all parties issuing documents--whether certifiers, foreign governments, suppliers, etc. Corruption is a real threat to the supply chain at all levels, and fraudulent documents are not outside of the realm of possibility given the origins that many organic shipments are coming from.
- The EU Traces system became compulsory in October 2017 and acts as a trade registration and verification clearing house. Rather than having additional paper documents travel with shipments, electronic trade registration is required and ultimately signed off by certifier, competent authority,

and first owner in the EU. Having a record of this chain of custody and associated products entering the EU will establish very quickly what is coming into the region as organic. That data can then be compared to mass balance information separated both by country and product to identify areas for concern or increased scrutiny. No such system exists in the United States.

e) Should the use of organic tariff codes (when they exist) be required when organic products fall under those codes? If so, should failing to use an organic tariff code negate the organic status of the imported product? Should the U.S. government be working actively to vastly increase the number of organic tariff codes? What impact would these changes have on the industry?

- HTS codes for organic products would improve the reliability of the system some. Less than 10% of the items we purchase have a separate code for organic vs. conventional. Since there are no tariff or duty differences for organic foods, there is little incentive for authorities to issue additional codes.
- Yes. The data generated will serve to validate regional or country-wide mass balance.
- HTS codes exist for many (but not all) organic products. Until 2017, most bulk organic grain coming into the US was imported under conventional HTS codes, despite the existence of an organic code. This was likely done to deliberately avoid additional scrutiny at point of importation. While failing to use an organic HTS code should not necessarily disqualify a product today, it should raise a red flag at inspection--just like using a non-organic STCC code when shipping domestic rail cars should. As the industry adapts to this practice, penalties can increase. There is no reason to avoid labeling products as organic if they really are organic.
- Yes. Required use of an organic 10-digit statistical breakout for imported organic product (if one exists) ensures accurate accounting of products entering the United States. This information is critical to understanding what products are entering the U.S. and from which countries. It is the only U.S. government produced, year-round, public data set available on the topic. Without increased number of codes, and their compulsory use by industry there is no reliable/consistent baseline for understanding volumes, prices, and origins of imported organic products. Not using the code should not disqualify the product as organic however this could prompt a mandatory test.

f) Do organic import certificates (as required in the EU) or organic transaction certificates provide value in documenting the organic status of a shipment? What are the strengths and weaknesses of this system, and what can be done to further strengthen this process? Should a similar document be required for the import of organic products into the U.S., and if so, who should issue the document? What impact would this have on the industry? How do certifiers currently issuing Transaction Certificates utilize this data in audits of the certified operation?

- Transaction certificates (TCs) tend to be used or assumed to legitimize the validity of a shipment. In reality, they have value, but more in terms of documenting that an operation was certified for that product at the time of shipment, and perhaps in some cases, the volume availability has had some paperwork check. The principal value of a transaction certificate is that of a visibility tool that helps with tracking and volume oversight. They do not however do much to document a given shipment.

- Transaction certificates could be used for all imports but principally as an oversight and visibility tool. TCs are best used for trade registration and tracking, but not really for verification. For high volume land borders, they are not viable in their current process. They can and should function more as a reporting and registration process. Such as, weekly TCs or multiple shipments per document etc.
- At the user level, TC's become an additional and somewhat redundant document, with Certificates of Analysis and receiving documentation already recording suppliers and lot numbers.
- They are only good as the information ACAs use to issue them. Ensuring the process is sound and consistent will have the greatest impact, as ACAs likely aren't consistent here with what data, the documents they are requesting to issue or how they are verifying that the info provided is accurate. Bad info/data = bad TC, and then we have another piece of paper floating around that can be falsified. Electronic systems may help with the second part. To ensure a more robust system and process, more training is likely needed for ACAs on auditing and verification of info, as well as outreach to operations to ensure they are providing the correct type of info needed to conduct these activities. This could increase the cost of certification.
- Organic transaction certificates provide value in documenting the organic status of that shipment.
- TC's are highly practical for containerized and bulk shipments. For the multiple shipments that cross the Canadian and Mexican borders on a daily basis, they are cumbersome. That said, requiring them for all shipments outside of Canada (and possibly, Mexico) at the time of border crossing is a practice we support. If the process for issuing TC's can be streamlined among certifiers, the value of issuing them for all transactions increases. Cooperation with COTA on this issue will be very important. There are challenges handling shipments from high-risk locations that offload in Canada and then cross into the United States. Would those products be classified as Origin Canada on the documents?

g) Are there procedures or systems that could be put in place that are not reliant strictly upon documentation, such as direct communication between the certifiers of the commodities being traded, that verifies the organic status of items being bought and sold?

- Yes there are. Many systems are predicated upon Block Chain or other shared ledger systems (See **GOSCI Best Practices Guide – Monitoring – Annex A**). The key point is enforcing at the fulcrum of the risk in the supply chain. Our analysis surprised us in identifying the first aggregation step as the critical risk point. The flexibility in the system is how to feed the ledger with data that cannot be imitated.
- Communication between certifiers is important, especially in high-risk situations. In situations where there is dual certification, certifiers should communicate on yield/acreage/production capacity/export quantities and lots. For example, could we be issuing a TC for the same lot that another certifier is? If so, there is potential that non-organic product is being traded under one of the TC's.
- I agree more communication is essential. Cross-checking, especially at inspection, would help. This would greatly improve certifier consistency. I think there is a lot to explore in this area so that ACAs are approaching this in a consistent manner.

2. Role of Importers in the organic supply chain.

CACS: Several international organic standards, like the EU or Japanese, require the certification of importers regardless of their interaction with organic products. Similarly, U.S. government regulations like FSMA have special requirements for importers of record as the first U.S. entity taking some level of responsibility for the imported product.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Should importers of organic products be required to be certified regardless of how they handle a product? What impact would this have on the industry?

- The EU model (and countries with 3rd country status) requires that importers/exporters be certified because of their valuable link in the audit trail supply chain. We support certification of all entities in the supply chain. All parties purchasing (excluding retailers), selling (excluding retailers), storing, processing, or causing to be bought or sold (i.e., brokers) organic products should be required to be certified. This requirement would ensure a basic level of awareness as to the intent and requirements of the organic program, mitigating risk of failure to comply due to lack of awareness. In addition, where ill-intended actors are involved, certification and the oversight of certifying bodies mitigates risk of fraudulent action and creates a more robust paper trail for investigating concerns and holding accountable bad actors.
- Our team completely agrees importers and warehouses should be required to be certified. The requirements for storage facilities should be focused around segregation and storage. These facilities are already subject to FDA inspection, commonly through State agencies. It is unfortunate those inspections could not include a simple matching of standard handling and storage practices against commonsense organic standards. They are essentially the same practices/requirements as any facility would use for complying with GFSI.
- Ultimately everyone in the organic supply chain should be certified. One of the greatest gaps or weaknesses in an organic supply chain is the participation of an uncertified entity.

b) The organic control system relies on a process that generally checks the organic status of a product one step back to the last certified operations. Should importers be held to a stricter standard of documentation or other forms of communication to verify the organic status of products being imported into the U.S.? What additional requirements should be placed on importers given their critical spot in the supply chain? What impact would this have on the industry?

- The organic industry tells consumers organic products are among the safest and most traceable products in the world. One step checks in the supply do not meet this promise. Tools like smart contracts, organic id, and blockchain based ledgers, all which can protect CBI should be explored such that at any point in a product's life cycle it can traced back to the farm. Such level of specificity is needed for food safety in the event of recall. A harmonized approach to this information collection and sharing would be required.

- Yes, acknowledge as high-risk and performing activities that are unique from domestic trade. Certification, documents that declare and fumigation events, and documents that connect paperwork to product.
- If all importers and handlers **are required to be certified**, then no additional documentation should be required beyond the documents that are needed to verify organic authenticity of products being imported into the United States.

c) What documents or system should be developed for an importer to verify the organic status of a shipment?

- Residue testing on an annual or bi-annual basis should be required, and part of the handler audit.
- The importer must be certified. In addition to certification, importers must provide be able to provide to the buyer an official APHIS document that declares whether the product was fumigated, and if so, that the treatment is USDA-NOP compliant.

3. Role of uncertified operations in the supply chain.

CACS: The current regulations exempt several types of operations from organic certification based on how products are handled. Operations may be involved in the import supply chain but not be certified - for example, brokers and traders who do not take possession but take ownership of a product are not required to be certified. Similarly, transport operations and customs brokers who are involved in the logistical transport or clearance of shipments are not required to be certified. CBP licensed private entities know as Customs Brokers serve a unique role in ensuring imports meet the documentation/regulatory requirements for import into the U.S.

- **Organic Trade Association Response:** The Organic Trade Association has been pursuing legislative changes for the next Farm Bill to give NOP the tools it needs to prevent fraud. As a result, on September 28, 2017, Representative John Faso (R-NY) introduced the Organic Farmer and Consumer Protection Act (OFCPA). OFPCA provides support and necessary funding for NOP to keep pace with industry growth and to carry out compliance and enforcement actions in the U.S. and abroad. It strengthens the emphasis on the NOP's authority and capacity to conduct investigations to keep organic markets strong; it invests in technology and access to data to improve tracking of international organic trade; and it helps provide the necessary information to ensure a transparent marketplace.

Most relevant to the role of uncertified operations in the supply chain is the section which calls for a modification to the regulations to limit the type of operations that are excluded from certification under 7 CFR §205.101. The language in the marker bill reads:

MODIFICATION OF REGULATIONS ON EXCLUSIONS FROM CERTIFICATION.
Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall issue regulations to limit the type of operations that are excluded from certification under section 205.101 of title 7 Code of Federal Regulations, and any other corresponding sections.

We bring this legislative action to the attention of NOSB because of the obvious and important intersection it has with NOP's request to NOSB to provide recommendations on improving the oversight and control procedures to verify organic claims for imported products. **The Organic Trade Association believes that eliminating the exclusion from certification for uncertified entities such as ports, brokers, importers and online auctions is one of the single-most important actions that can be taken to increase the integrity in the global organic control systems.**

With the change and the requirements of the law in mind, it is important for NOSB to draft clear definitions and roles for all of the various entities being discussed in this document so we can definitely identify the operations that should not be excluded from certification. The more work NOSB does now on this front, the better prepared NOSB and NOP will be to respond to the time frame required in the law.

Requiring operations such as importers, warehouses and product importers to be certified would make significant strides to improve the oversight of global organic trade, create a level playing field for American organic farmers, and establish a better system to ensure the integrity of organic.

CACS Questions (in bold followed by bulleted OTA member responses):

a) What are examples of uncertified handlers in import or domestic supply chains?

- Brokers and traders who do not take possession but take ownership of a product are not required to be certified. Transport operations and customs brokers who are involved in the logistical transport or clearance of shipments are not required to be certified.
- Some ports are not required to be certified although we believe in many instances this should not be the case. Ports that are handling products (trans loading, unloading or any type of activity that involves moving product that is not in a closed container from one vessel to another) do not qualify for the current exclusions and therefore should be certified.
- Warehouses, truckers and customs brokers are examples of uncertified handlers. Other examples of uncertified handlers:
 - Hopper Trucks
 - Rail Cars
 - Border Brokers
 - Bulk Vessel
 - Container Vessel
 - Traders
 - Cash Grain Brokers

Should these operators be certified or not, what additional value would this bring, and what impact would this have on the industry?

- Warehouses should be certified. They are responsible for clean truck affidavits. Certifying carriers would have a dramatic negative impact on the industry. Many carriers are independent operators for whom certification and compliance would be unworkable.

- Transportation would be very difficult. Finding freight is already a steep hill to climb and getting tougher every year. This is a box we don't feel would add a lot of value. As operators, I feel the loading parties and receiving parties have the responsibility of making sure the transportation mode is cleaned out. We do feel also though standardizing what is "cleaned out" and what is not could add value. Trade would slow to an unhealthy rate, and cost would exceed the value of requiring them to be organic. Grain Traders and brokers we feel would be a MUST be certified. This is a huge annoyance for our company. We who do the process right end up showing those companies how to do these transactions properly. We also require those brokers to provide us with Transaction Certificates in order to do business with us. This would reduce the risk of them bringing in uncertified grain and will also hold them financially liable.

b) Should operations that take ownership (should this be "possession") of products or operations that market but don't own products be required to be certified? What impact would this have on the industry, and how would this improve supply chain integrity?

- Yes as listed above. It would greatly improve organic integrity as it would require these types of operations to go through the same process we all have to. It would reduce the risk of any mistakes made on their part of knowing what to do and what not do, what is acceptable and what is not.

c) What role do customs brokers play in the organic control system? How could customs brokers be further engaged with organic integrity through regulation or other means? What impact do uncertified customs brokers have on the organic control system?

- Because of the complexity involved with importing and exporting goods, many companies use customs brokers to act as their agents. Customs brokers clear shipments of imported goods, prepare required documentation for export shipments and collect duties and taxes. They act as an intermediary between importers and the government. They are paper pushers only.
- The role of customs brokers is nothing more than if you were shipping conventional. This is not the same as a broker that is taking ownership or possession and directing the sale of a product. We don't feel as though requiring certification of customs brokers is the best way to catch proper documentation. Customs brokers are already behind, not efficient, and this would slow them up more. We feel this needs to be done at the USDA/NOP level or at the certifying level. We don't feel as though this is an efficient means to catching fraud.
- No material impact. There is no need in our opinion for customs brokers to be certified.

d) How can audit trail documentation as well as systems of verification be improved with these types of operations?

- Certifiers/USDA need to champion this. NOP needs to hold certifiers more accountable and charge them with more responsibility on auditing back to the point of production. Checking one step back is not good enough. Audit trails need to be easily traced back to the origin of production and this needs to be routinely checked on imported grain. Alternatively requiring pre-shipment TC's could also be a means of accomplishing this. We have done it and it seems to be efficient. With that you still could have fraudulent TCs if only checking one step back in long trades.

- These types of operation being “uncertified handlers,” I would argue the number one step is that they need to be certified to play ball. If not certified, then the working theory is that the required compliance documentation and associated certification activities needed to verify compliance should be seamless as it passes from one certified operation to the next via an uncertified handler. But this is obviously not happening and it is too easy for compliance to fall through the cracks.

4. Global and National organic crop acreage information.

CACS: Several data points are required by the USDA, either as part of annual reporting requirements or to populate the Organic Integrity database. A piece of information not required is acreage and yield information at the production level.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Would including production acreage and yield information in the Organic Integrity database serve to strengthen global organic control systems? If so, how would this information be used? What concerns do producers have in making this information public?

- Yes, particularly if this basic level of information was integrated as a required element of equivalency/recognition agreements over time. This information could be used to create visibility to assess whether volume spikes or shifts in trade are supported by acreage necessary to support the commodities/price shifts observed. Several certifiers have made acreage information, at least total acreage, public for many years and have included it on certificates, on a parcel and crop basis, for many years. Most concerns would likely be avoided by creating different levels of visibility so that crops could be aggregated by region but a specific operation’s acreage was not shown on a crop-by-crop basis. Showing total acreage for an operation, given the public nature of certificates, should not be a major issue.
- Acreage and yield data would allow for a nationwide (across multiple nations) and entire system mass balance exercise to be performed within a reasonable range of certainty in order to flag any large-scale system manipulation. In addition, individual operations can be monitored for duplicate sales of crops (both conventional and organic) off the same acres.
- As a researcher who uses crop data regularly on conventional acreage, both domestic and foreign, it is important to realize that data is sometimes not published for 3-6 months to a year on some crops. In the case of organic acres, it can be over a year and based on the size of the market, small errors in small markets like organic can skew the data significantly. Using this as a “spot” check on the market at any given time would likely not be reliable due to not knowing where the crop went after production. However, having said that, YES, using the Organic Integrity Database for this would be great if data was timely, verified and that there was some indication of if the crop was sold, being held on the farm, etc.
- Acreage and yield information should be reported to certifiers but not included in the Organic Integrity database. This information would be difficult to keep up-to-date and is competitive information that should not be public.

b) Is acreage and/or yield information currently being accumulated by certifiers? What concerns do certifiers have in collecting and communicating the information to the NOP?

- There is variability here. As a general rule, the challenge is that certifiers may not have the information readily available in a shareable format. Most certifiers review acreage in some manner however. For many certifiers reporting acreage would require an adjustment to either data collection, organization or the reporting system. Once inertia is overcome, it would likely take most certifiers 1 year to get a complete data set.
- Agreed. It's more of a getting the data out of individual ACAs systems and into OID in an ongoing and repeatable manner that seems to be the struggle for most ACAs.
- In our experience, it varies among certifiers as to whether they are collecting this data. If this is a voluntary exercise, there is room for fraudulent activity to go undetected in a mass balance exercise where operators have dual certification. A universal requirement to gather, aggregate and reconcile this data system-wide by NOP is needed.
- We believe that certifiers would be doing mass balance calculations on all certified operations.

c) Is both acreage and yield information important?

- Both acreage and yield data are important in order to conduct the most accurate mass balance reconciliation. However, with respect to a starting place for NOSB and a focus area, collecting acreage needs to be the first step.
- Acreage is the important starting place. Yield information is highly variable and there are no established mechanisms for reporting this. The industry should focus first on basic acreage and then consider yield tracking at some later date. We have an existing tool that can be used to get acreage; this is the bare minimum low hanging fruit that NOSB needs to focus on. Certifiers are the only ones that are going to touch all certified entities. There is production data from governments that can overlay yield on top of acreage. Both are heading to the same direction, but using two different tools. First comes the acreage then comes the yield.
- For yield, it is important to keep in mind that many crops such as herbs, are cut depending upon sales, so yields will reflect sales rather than a measure of field productivity. Also for crops such as tomatoes, fruits and many vegetable crops that are graded or selected at packing-houses, depending on the pack-out, the product shipped out does not necessarily reflect (or at least can vary significantly) the empirical yields in the field. Sometimes market prices are too low to justify field harvests, which can also affect yield numbers.
- Yes, both are important so that we understand volume available and can begin to develop baselines for yield projections and to see where crops can be grown most successfully.
- Acreage reporting is required for crop insurance and organic certification, therefore it seems that starting with acreage reports makes sense. It is important that unit structure match organic field ID's and vice versa. Also, it is required for producers to report production history to establish guarantee levels for crop insurance, based on actual production history (APH). Most of this data is already being tracked or captured, we just need to figure out how to mine it. Both the NOP and

FCIC/RMA are government programs, the data should be available and verifiable, IMO.

- We believe this information is important to certifiers who should be doing mass balance calculations on all certified operations.

c) Should acreage and yield information be proprietary to the operations and not be communicated?

- To have a system without any baseline supply capacity would make it nearly impossible to find and address high-risk areas.
- This information needs to be kept confidential to protect growers, however identified data should be made available to NOP in order to use it for system-wide mass balance exercises.
- No, it should not be proprietary unless they are the only producer of a specialty crop.
- The information should be reported to certifiers, but not made public for CBI reasons.
- Aggregated acreage only to avoid issues of confidentiality.

What would be the impact be of sharing the information with certifiers and ultimately the NOP and public (thru the Organic Integrity database)?

- Better understanding of crop yields, impact of weather on crops, value of the farmland, etc.

If privacy and other concerns prevent publishing individual information, would aggregate data by helpful and at what level of aggregation (state, country, etc.).

- Aggregation is only helpful if, at a minimum, it is at the crop and geographic level.
- NOP could provide differential access to information.
- Yes, aggregated information, by crop, would be helpful in the case of privacy issues. This is done now with state level data.

d) Are there other means to accurately calculate organic acreage and/or yield estimates on a country-by-country basis?

- No. Not today.

e) Should these reporting requirements also be required of countries operating under an equivalency agreement?

- Yes. This should become basic criteria for control systems.
- Yes, this should be required of all countries with growers exporting NOP-certified or NOP equivalent- certified products to the U.S.
- Yes if under and equivalency agreement.

- Yes, reporting requirements should extend to any products being sold as organic in the United States. Equivalency partners should work together to develop a consistent mass balance/yield forecast. This report could be generated and shared on an annual basis at least. Currently operations selling product into the U.S. under equivalency are outside the control and enforcement mechanisms of NOP. So a clear understanding of what those products are, and an understanding from the corresponding competent authority that if such products are found to be fraudulent will require cooperation from both countries to prevent it from happening again will be easier done if reporting is required, timely, and done by all partners in the same way.

f) Can this acreage and yield information be a basis by which certifiers can track the approximate volume of product an entity would be allowed to sell under their organic certificate?

- Maybe. Because of tremendous yield variability, the promise here should not be overstated.
- Yes, but as noted there will always be potential for inaccuracies due to yield variability.
- NOP should take a very dim view of certifiers that either do not know their acreage or cannot report it. Both are serious symptoms of a potential inability to perform the basic functions as a certifier. The larger they are or the more they affect trade based on their commodity or region, the more serious this concern should be. NOP should give certifiers fair warning and then implement a system of considering elevated risk where reporting is not performed within, at most, 18 months.
- This data will be difficult to track in real time for shipments being contracted. Given how other agricultural production data is collected (by USDA), put in lock down (so prices aren't impacted) verified and released, it is doubtful that this could be useful other than on a quarterly, or more likely annual basis.
- Our understanding is that certifiers are required by law to track acreage and yield. Certifiers should be tracking how much is sold from a certified entity and doing mass balance to reconcile how much was harvested.

5. Equivalencies, Recognition Agreements and certified operation databases (like the Organic Integrity database).

CACS: The NOP designed and maintained Organic Integrity database serves as a way to independently and rapidly verify the authenticity of an organic certificate. This database includes all operations certified to USDA organic regulations by an NOP accredited certifier. This database does not include operations in equivalent countries eligible to export to the U.S. as organic nor operations certified to the USDA regulations by a certifier operating under a recognition agreement.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Should the NOP require foreign governments to maintain a similar database with certified operator data in its equivalency and recognition agreements? Should this data be required to be integrated into the Organic Integrity Database?

- Yes. Recognition agreements need more follow-up to make sure that the governmental authorities are in fact implementing the NOP rule. This is a sensitive diplomatic issue, but one that needs to

be explored. All ACAs operating under a recognition agreement should be held to the same level of transparency as those operating within the US. Equivalency arrangements also require a greater level of transparency from our trading partners. Again, this is seen as a matter of accessing sensitive business information. Coming up with a means of sharing access to information on the directions and volumes of trade will help not only with international verification, but also with market information that will help the all involved with trade in the long run.

- Yes. It would be helpful in verifying that suppliers' documentation is valid.

b) How would this data serve to strengthen the global organic control system? Is this system currently being utilized by industry or certifiers, and if so, how?

- Accurate and complete information on certified operations gathered in real time is essential for transparency. This kind of system is partially being utilized. Some ACAs and operations contribute and use the Organic Integrity database more than others.
- It would provide access to the certification status of an entity, current as of when the system was last updated.

6) The role of residue testing to verify bulk shipments of grain.

CACS: USDA organic regulations require certifiers, on an annual basis, sample and test from a minimum of five percent of the operations they certify. Testing for residues has been an integral part of some organic control systems. For example, this is commonly required in Europe and is part of the procedures of the California State Organic Program.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Should testing of imports be required?

- Testing should be conducted based on supplier risk assessment and supplier qualification. The testing program shall be reviewed with the supplier and a signed letter of guarantee signed to confirm their responsibility to compliance.
- Testing should be required if there are any issues with the exporter or country of origin within a 12 month period. General blanket testing of all imports would add unnecessary cost and hold up shipments.
- Testing for pesticide residues on all imports could have value in deterring fraud. For imports that may be of higher risk of fraud, testing for pesticide residues and for GMO markers (if applicable) on imports may be appropriate. GMO testing is suitable only for certain products, where a known marker and test exist, and it would be best if it were optional.
- Based on Benbrook & Baker's 2014 analysis of PDP data and other sources, sampling and testing should be increased. Additional data is needed to design an efficient and effective analytical program.
- The following analyses should be run on selected random samples from products imported into the U.S. prior to loading into the shipping vessel and before sealing:

- NOP Pesticide screen;
- Quantitative GMO test (PCR);
- Quality analysis based on contract specifications.

- As technology advances and costs change, additional analyses may be informative.
- Refer to the GOSCI Best Practices Guide on “Testing”

b) Does testing provide useful information, or is it situational? If situational, please provide situations where it is useful or not useful. What burden would this put on the industry? What party (importer, exporter, other) should be responsible for testing?

- Importers already conduct tests for QA, but protocols vary widely. The USDA should permit voluntary sharing of data on the aggregate with a summary of shipments rejected and the reason why. Before the USDA requires more testing, it should have data to support how ACAs should sample, what ACAs should request to be analyzed, and what they need to do when something comes back positive.
- The USDA needs to estimate the frequency of positive samples, for what, how much is being detected, and when detected, how much is rejected, so we can have a better sense of both the risks and current industry practice. Before we ask for more testing, we should have data to support how we sample, what we have analyzed, and what happens when something comes back positive.
- Yes, targeted testing from certain countries and companies suspected of fraud would be useful. It can be the difference of catching someone or not. It will likely catch grain that has been treated/fumigated. We even catch people who desiccate in our conventional system, when they say they wouldn't. Testing would need to be quick and cost effective or it will increase costs and delays at the ports. Certain countries could have preference to others based on comfort levels of organic best practices.
- Testing is a useful tool when doing business in a high-risk areas of the world. The biggest mistake most importers make is testing products once they have landed in the US. Samples should be taken by an ACA or other third party prior to shipment. Companies can contract with ISO accredited Labs anywhere in the world, they will take the sample(s) for testing, tag the load(s), test for Pesticides, GMOs and Microbiologicals; then supervise the loading of the tagged load(s) for a reasonable fee. Testing in country, prior to export, is inexpensive when compared to the cost of fraudulent load stuck in the US. Testing cost will be the responsibility of the importer, not NOP or Certifiers.
- Information would be produced, but how useful the information is would depend on what is done with it. Time and cost would be added to the process.
- Importers should be ultimately be responsible, but the best system would require both parties to test.
- Both parties should be responsible.

c) Should testing be required if the shipment passes a certain market value or size threshold?

- Testing should be done based on risk not size.
- Size or value should not play into this. Country of origin, random testing, and red flagged companies should be required for testing.
- I don't think integrity is based on weight. Spend the time and the money based on risk. The person selling the grain should bear the cost of testing.
- The market value or the size of the shipment should not be determining factors for testing.
- If mass balance forecasts are produced on an annual basis, and imported volumes exceed those forecasts, this might be one instance where size thresholds could trigger a testing requirement.

d) If testing should be completed, what type of testing should be done?

- Pest/Non GMO/Herbicide.
- I do not agree with GMO testing.
- Pesticide residues, and if appropriate GMO testing (optional).
- Phos-toxin residues are not currently testable. No testing research or methodologies for this have been developed since the late 60s/early 70s. Consideration of research into new testing could include:
 - Fumigant residue methodologies
 - Carbon isotope ratios for indicators of global origin (to test operator/seller claims)
 - Validating nitrogen supplies in crops with Nitrogen Isotope ratios.

These and other experimental testing tools could be researched and utilized in a variety of ways within the compliance system to improve oversight.

7) Verification of organic status in perishable supply chains.

CACS: Fresh produce supply chains are unique. Such products cannot be fully packaged due to their nature and requirements for refrigeration, inspection, sampling, and respiration. This makes fresh produce especially vulnerable to cross contamination and difficult to label and track. Fresh produce transactions often occur very quickly due to their perishable nature.

CACS Questions (in bold followed by bulleted OTA member responses):

a) What additional actions can be taken to increase supply chain integrity in fresh produce supply chains?

- Supplier Approval Program should evaluate suppliers based on risk and include organic integrity risk.
- A supplier approval program is key to establishing supply integrity.
- Work with approved suppliers, directly with certified operators whenever possible. When uncertified brokers are used, ensure full compliance documentation & traceability.
- There are a number of key steps that can be taken that fall under buyer responsibility (see **Vulnerability Assessment and Mitigation Strategies in the GOSCI Best Practice Guide**):

- Buy Direct whenever you can (farm to you).
- Increased number of federal or state administered in-market tests of products already in stores.
- Communicate with your supplier and know how they do business, are they handling just organic or do they sell conventional, do they pack on-site or use an off-site packer, do they import from a certified source or non-certified? If you receive unexpected products/label or private label from a certified source, check on it by requesting certificates from all parties in the supply chain! Don't assume your supplier has done their due diligence.
- Avoid purchasing from uncertified handlers unless you know their practices as they relate to supplier verification and contamination/commingling prevention.
- Buy from vendors you know and have a good relationship with.
- In complex chains involving uncertified handlers know the whole supply chain that the product will go through and have all documents going back to grower. (Don't go just one step back – go all the way back until you can verify compliance throughout the chain.)
- Get images of packaging before sale so that you can match it with documents. This should take place before product is shipped or in route
- Require that BOL's, passing's and invoices come with organic claim, and brand if applicable and any other information to confirm the validity of the product.
- Make sure that Lot numbers on product match documents (Passing's, transaction certificates, BOL's and invoices)

b) Are there difficulties experienced by the industry in documenting the organic status of organic produce offered for purchase?

- Not in my experience. This is already required in California for both certified and “registered” operations.
- Title of transfer documents (BOLs and/or invoices) should include the organic status of the product for both traceability and clarity.
- Harvest Tags sometimes use abbreviations or codes (OG, Org, etc.), but organic status is usually designated.
- There are many issues that create difficulty in documenting the organic status, the foremost difficulty is the fact that the NOP rules §205.307 allows bulk packages (interpreted in the industry to include boxes, totes, RPC's, etc. as opposed to “bulk” rail cars and shipping containers) to have no labeling, other than a lot number (if used).
 - The lot number is not unique when it comes to organic verification, not something that anyone can look up and correlate to a particular product, certifier, or certificate. Lot numbers are rarely on BOL's, passing's or invoices.
 - The use of private labeling on individual items such as clamshell, produce tags, cello wrapping, etc. as well as boxes and cartons often are not represented on organic certificates making it difficult or impossible to link the product or brand to an organic certificate or organic handler/grower.
 - Images of product offered may not match product actually shipped. Certified operation information on packaging may not match requiring additional documentation queries and verification.

- The certificates offered often do not match the information present on a label. This occurs quite often when a grower or handler use a corporate name or DBA to represent their product. This leads one to ask the questions: were you supplied with the wrong certificate? Does the seller not know what certificate belongs to the product and is hoping you won't look closely? Do they then supply you with another certificate if you look and aren't satisfied? Is the box someone else's and they are using those boxes? In our experience we have seen too many instances where growers use boxes belonging to other operations because they 1) got a good deal on someone's excess boxes or the packinghouse didn't have generic boxes; 2) ran out of boxes; or 3) need a different size or style of box.

The NOP OID is a quick resource, but it may have conflicting information. For instance we are not buying from a grower until the status of a recent suspension is resolved. A new certificate issued by a different certifier with an issue date a month or two prior to the suspension date seems to be in conflict with the status of being suspended.... and while the new certifier claims all is well the ACA who suspended the client also claims the status of suspension is valid.

The NOP OID is helpful, **but not reliable** and does not offer:

1. Details about the operation such as retail brands or acreage
2. Private label agreements
3. Insights into the supplier risks
4. Whether or not an operation handles organic and non-organic
5. Multiple scopes if one scope is suspended at the same time

c) What are some potential solutions to better ascertain the organic status of produce offered for purchase?

- Require certificates to specifically list the commodity being certified, general terms such as mixed vegetables and "fruit" must not be used. Accuracy and specificity of the information on certificates is essential to efficient verification of certification status as the product flows through the marketplace.

NOP 2603 3.1 already supports this: *"Certifying agents are also required by § 205.406(d) to issue an "updated certificate" if "any of the information specified on the certificate of organic operation has changed" when an operation is continuing its certification. When an operation updates its organic system plan (OSP) with new fields, crops, farms, facilities, and/or processed products, this information should be **accurately and specifically** reflected in an updated certificate.*

- Require that all products and product packaging have full §205.301, §205.303 labeling. Require organic certificates to list private labels approved for operation, and future forward – also the use of the various tracking markers (such as Harvest Mark) have proven to be useful when applied correctly to the container or box.
- Require organic status on title of transfer documents.
- When products are purchased from uncertified brokers, documentation should state the last certified entity.

- There may be technology solutions including PTI Traceability and RFID Tags.
- Standardization of Certificates, including specific crop types and varieties.
- Availability of electronic certificates and certified products listing (similar to CCOF's certificate database).

d) In an organic fresh produce supply chain, which operators should be certified (transport operators, storage warehouse, distributors, retail distributors, brokers, etc.)?

- Transporters of packaged products would not need to be certified given that the products would be loaded at a certified facility or farm by a certified operation, and unloaded by a certified operation unless the transporter is delivering to an exempt retailer. The only consideration and need for Transporters to be certified is if they are loading at an uncertified, excluded handler or delivering to an uncertified, excluded handler (or both). In this scenario it seems like the transporter might need to be certified. However, if all produce handlers were certified then there would be no need for the transporter to be certified. Other requirements like handling agreements or letters of guarantee with the trucking company should be on file for clean trucks and commingling requirements, but of course this will only occur with a certified operation that is inspected and expected to have such records.

Currently excluded operations such as Storage warehouses, Distribution centers, and Brokers should (emphasis added) be certified in the organic produce trade. Storage warehouse operators and distributor should be audited on their ability to show that they can store product without any product becoming contaminated, especially since fresh produce is frequently in un-sealed, open containers, and boxes even with folded lids are not particularly well covered on the top, and are mostly not sealed. Increased accountability of the storage facility and distributor's activities if certified, brings the facility into compliance and those inspections can confirm that no physical handling is occurring. Since many storage facilities are not certified there is a lack of oversight of the actual activities occurring at the facility. We are aware of many uncertified operations that are engaging in practices that require certification.

For instance: Certain retail chains have their own distribution centers whose activities consist of purchasing, sorting, grading, re-packing and labeling of product; and in more than one known operation ripening with a synthetic [National List] material. These Distribution Centers should be certified based on these activities. While currently operating under the exemption for retailers and/or the exclusion of handlers these operations are really distributors who handle both organic and conventional who are not audited and experience no oversight regarding commingling or contamination, purchasing and other handling practices. There is also no accountability and they are not required to verify the source of the product, or whether the labeling is compliant or truthful. All produce distribution centers, whether conducting their own sourcing or not should be certified on the premise that they are physically handling product.

Brokers who do not get certified may not because they do not understand the regulations for certification, nuances of certification such as crop vs. handling scope, EU vs. NOP certification...etc. They offer multiple certificates to customers listing the crop/commodity they are selling, but the link to the certificate(s) for the product then takes considerable additional time

to verify, if verifiable at all. Sometimes the correspondence time to verify documentation for one sale can ruin the sale due to the perishable nature of the product.

Retail should be accountable for organic claims and should be able to trace the product to at least the purchase source.

- Certification should be required for:
 - Wholesalers that take possession of product
 - Storage facilities that handle open/ unlabeled product
- Certification should not be required for
 - Customs brokers
 - Storage facilities that handle labeled and closed-container product
 - Transport Operators (unless movement of product is occurring from one container to the next or the transportation container is not closed.
- Excluded and Exempt handlers should register with the NOP.

d) What impact would this have on the industry?

- Removing the exclusion for those currently falling under §205.101(b) will have the effect of leveling the playing field, reduce the extra workload currently being carried by certified operations, increase the industries knowledge of organic regulations, increase trust, eliminate bad players (who may not try to get certified) and add scrutiny to areas currently undocumented. It would also provide assurances that the product they source, handle and offer for sale have been handled in accordance with the requirements for record keeping, contamination/commingling avoidance and representation in the marketplace.
- The NOP would have to give ample time for uncertified operators to come into compliance. Theoretically they should be doing the required activities to maintain and document organic integrity. However there would be additional administrative and cost burdens to uncertified operators, which in turn would increase the overall cost of doing business.
- Overall, any negative impact should be minimal. Operations that understand the regulations as written are already certified. Those operations that are not certified are either unaware that they are required to do so, or are deliberately and unlawfully circumventing certification and/or compliance. Operations that have avoided certification with the intent to deceive, or operations that were unclear on the requirements to be certified will either exit the market or get certified. If the fraudulent operations exit, the total supply of product is decreased by the amount of fraudulent product on the market and the price received by legitimate operators will increase. To actually quantify the economic impact requires knowing 1) the supply of legitimate organic product; 2) the supply of fraudulent organic product; and 3) the total demand for organic product. Operations that have not gotten certified out of ignorance will have to pay for certification, raising their costs to those of competitors who are already certified. The net effect in the latter case will be negligible, with the additional cost passed on to downstream buyers. We assume that the economic impact for an operation that didn't need to be certified previously (due to the broader application on the exclusion clause) will increase, as they will now have extra costs. This may cause an increase in the cost of products.

e) Is there repacking of fresh produce currently occurring by non-certified handlers?

- Most certainly. We have discovered several in just the last year or so. One example we know of was convinced to get certified due to their public partnership with a large organic wholesaler. This operator was able to get name recognition as a private label on a certificate and then it was assumed that they were certified as a business. Other documents such as Food safety audits can describe the activities of an operation, which may show that the uncertified operation is indeed handling organic product. In this case we have viewed Food safety audits describing the activities of an operation, which showed that the uncertified operation was indeed handling organic product. We are also aware of at least one major retail chain that is ripening their organic bananas at their uncertified facility. In this case not only are they purchasing, receiving, pulping, temping, and selling organic bananas (and all other produce items), they are also applying a synthetic material without any oversight or verification!

It is disturbing to know that uncertified distributors are allowed to purchase and import organic products, transport across the country, store, handle and distribute to a retail store without any certification beyond the grower. In many instances the produce changes ownership multiple times, goes through multiple facilities, is loaded and unloaded on multiple trucks all without any verification.

8) Role of certifier/operation when certifying a commodity in a third country with import controls on the commodity.

CACS: Some commodities imported into the U.S. from certain origins may be subject to fumigation or other treatment in order to be imported into the U.S. as a requirement of APHIS, another government agency, or by statute. The Fruits and Vegetables Import Requirements (FAVIR) database lists the requirements for fresh fruits and vegetables, and the Seeds Not for Planting lists several other requirements for non-fruit or vegetable commodities.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Should certifiers of operators who are producing commodities subject to import restrictions or mandatory fumigation conduct further assessments to verify a compliant marketing plan is in place for said commodities? b) Is this currently being done by certifiers, and have certifiers operating abroad had this activity verified during NOP accreditation audits?

- NOP could publish a list of the products requiring mandatory fumigation upon entry in the United States, which would negate their organic status.
- It is an area that operators should be primarily responsible for. There is no rational way that certifiers can know all commodities, all markets and all import restrictions in every direction. In theory, the NOP could expect ACAs to understand just the major restrictions for the commodities they certify with the highest volumes and/or value entering the US. Then, the operations should have a plan and procedures in place for addressing next steps if and when organic goods are subject to treatment at any time in the process. Certifiers dealing with either exporters to the US or importers in the US could ensure that operations are aware of their responsibilities. As a general rule, ACAs should identify importers more readily and modify their programs so that unique

business concerns are addressed more effectively and they can be identified, as needed, for oversight at the ACA or Federal level.

- Certified Entities that import product should be able to provide all import documents, including Country of Origin Labeling traceability documents and phytosanitary certificates. COOL documentation should confirm the organic status of product. Similarly, phytosanitary documents should note that prohibited materials have not been applied. In my experience, inspectors do not request this information.
- Yes, further questions need to be asked of certified operations by the certifier and certifiers should get familiar with commodities/countries where treatments of certain commodities (from certain countries) are always carried out as a condition of entry.
- I think this is likely a good idea. There are other parts of the regulations where we ask operations to ensure a plan b (e.g. what is your emergency feed plan? what do you do in the case of drift?). If this were not incorporated currently into OSPs, these would need to be revised. ACA staff and inspectors would likely need more training to verify import restrictions.

c) Should certified operators importing products from abroad conduct specific assessments related to mandatory fumigations or treatments? Is this currently done by certifier's who are certifying importers?

- Certifiers should be asking further questions of their certified operations that import or source organic products/ingredients from non-certified importers to ascertain whether these products could be fumigated upon entry to the US or prior to leaving the origin. I am not sure if some certifiers are already asking these questions but, if not, they should be. During the NOP training in San Antonio, NOP suggested further questions that should be asked of certified operations importing organic products:
 - Are any of these products fumigated as a condition of entry?
 - How do you verify that produce was not fumigated?
 - Do you keep phytosanitary certificates or Emergency Action Notifications?
 - Who is your customs broker/consignee?
 - (If dual certified) do you get TCs from other certifiers?
 - What documentation do you maintain for border crossings?

d) Do certifiers have the expertise, training, and ability to conduct these audits/risk assessments?

- Certifiers could always use more assistance and training in this area, if nothing else to be consistent on what we are looking for, asking for and what constitutes high/medium/low risk, etc.

What additional training would be helpful to certifiers and operators?

- NOP could share data related to typical countries, organic commodities, and treatments carried out upon entry to US. OTA's GOSCI Task force and the Best Practices Guide/vulnerability assessment will assist certifiers and certified operators identify risks to organic integrity in the supply chain and steps to prevent fraudulent product moving its way through the supply chain.

- ACAs need to know the APHIS regulations or at least need to know how to access them. Cross agency communication and training between APHIS/NOP would also be helpful that can then be passed along to ACAs in training.

9) Additional controls for origins with documented fraud or integrity issues.

CACS: It is common in other import regimes for food control or phytosanitary regulations to impose additional requirements from regions with documented issues or fraud. In August 2017, additional control and reporting requirements were imposed by NOP for a set period of time on certifiers of handling operations in regions identified as high risk. Similar actions have been taken by the EU in regards to the import of certain organic products from some countries.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Should the NOP develop an ongoing system to impose additional requirements on operations doing business in or with countries or regions with documented fraud?

- Yes. NOP and others should actively attempt to identify areas or operations etc. that are elevated risk. The NOP should identify either commodities, regions etc. as having an elevated risk whenever there is experience or evidence to do so. This should lead to requirements for additional oversight by certifiers and trade. Elevated risk designations could be shared publicly or not depending on what was in the best interest of effective oversight.
- Yes - also request that they provide an annual report on progress related to improving best practices

b) Should testing be mandatory for shipments from these regions? If so, where should testing be done?

- Probably, if the nature of the risk can be checked through testing. As a general rule, testing provides additional information and oversight. As such, wherever there is concern, testing may play a role.
- Origin and destination. Destination samples need to be pulled by third party accredited labs.
- Yes, the destination samples would need to be tested by accredited labs.
- Regions, commodities and segments in the supply chain that have been identified as high-risk and should be tested to be in compliance with organic standards. The products should be tested for the analyte(s) that allowed that region, commodity or segment in the supply chain to be placed in the high-risk category but not limited to that analyte(s). Testing should be conducted by the importer at an accredited laboratory. The testing requirement should be communicated throughout the supply chain, knowing that there is a possibility that the shipment could be rejected by the importer due to test results that demonstrate a break in the organic integrity.
- Yes, samples should be tested, but direction could be given on what to test for. Are there any tests that can be used to determine country or region of origin?

c) What criteria should be used to identify a region of increased concern? What role do changes in USDA ERS import data play in these evaluations?

- Spike in production; inability to identify acreage or operations supplying commodities; high incidence of positive tests; low political stability or high corruption rankings; bulk of certifiers operating far away from primary offices.
- Areas of large growth, areas where visibility can be easily disguised. Long trades, lots of handlers. Areas where exports far exceed production. Turkey/Ukraine.
- Consider the number of alerts at a predetermined threshold that have been reported through an established alert system. Based on the segment of the supply chain, also consider the number of suppliers or support industries that would be required to attain spiked production. These would include for example seed and fertilizer suppliers (i.e. is there enough fertilizer in this area to grow this much produce?). This is beyond just evaluating the number of growers and processors in that region.
- Considering the number of alerts is good, but also looking closely at historic crop production, current acres being reported and # of MT or acres being reported to see if it passes the sniff test. Random tests as well to spot-check.

d) What impact would this have on the industry?

- Any attempt to increase oversight will likely lead to higher certification costs, delays in imports, or slower inspections etc.
- Costs would go up, but they would go up equally and fairly across the industry if you chose to do business in those areas.
- Protection of the USDA Organic seal is paramount. Additional requirements will communicate the increased scrutiny and ensure the continuity of organic integrity.
- Costs might go up for some products, but we need to protect the category at all costs

e) Should the NOP develop specific channels of communication with our global organic certification partners, to better identify, track, deter and prevent fraudulent organic products? Are there examples of this type of communication already present and how could this be improved and implemented?

- NOP should develop specific communications channels with global certification partners to better identify, track, deter, and prevent organic fraud. One suggestion is to require certifiers to provide a summary report of TM-11s completed for products entering the United States. This summary report could be quarterly or annual and require the number of certificates completed, the product type and volume covered. In the absence of an electronic system this would be done manually across different certifiers but they should be asked to complete a single report template so that the information could be aggregated across all reports submitted.
- Yes. More responsibility on the certifiers. If their costs go up, that is ok, because the cost would go up for the entire industry fairly. More money from USDA is likely necessary as well. An example of this was when EU stopped buying from Ukraine because of said fraud. Then immediately Ukraine turned to Turkey and the US to continue on with their sales. It took us 2-3

years to figure out that things were not adding up to slow up this process. The EU still doesn't buy certain products from these countries and we continue to open our doors. Better communication on this front is huge.

10. Full Supply Chain audits.

CACS: Organic control systems currently rely on checking the organic status one step back from the party from which products are being purchased or the last certified operation in the supply chain). The control system makes it difficult to conduct full supply chain audits (from shelf to field) if each operation and certifier is only looking one-step back.

CACS Questions (in bold followed by bulleted OTA member responses):

a) Do full supply chain audits offer value in ensuring organic integrity? If so, who should conduct these audits, and when?

- Yes. At the base level, a full supply chain risk assessment of the product flow is required. We were surprised by the outcome, which saved us from concentrating upon tangents. Any tool developed or standard accepted should concentrate upon the result of an agreed set of primary risks. We found the critical risk to be at the aggregation step, which is the least controlled and highest benefit to fraud.
- Firstly, at a minimum, certifiers should be expected to work together to verify sales and shipments directly in a "cross check" environment. The larger issue of full supply chain audits can likely only be achieved by NOP unless greater authority is assigned to certifiers to require that operations supply or that shipments etc. not be approved until a combination of operators and certifiers demonstrate an appropriate supply chain audit.
- NOP can require a full supply chain audit and require certifiers perform them by requiring information of the certifiers and putting the audit together themselves. It is important that full supply chain tracking occur periodically in the system so there is a deterrent.
- Refer to **GOSCI Best Practices Guide (Annex A) on Vulnerability Assessment and Mitigation Measures** (Supply Chain Verification)

b) What are the challenges of completing full supply chain audits?

- Many players, some uncertified, distance, time and cost.
- Costly and timely.
- Too broad of a target. Concentrate your cycle audit resources on the critical steps using a vulnerability assessment (**See GOSCI Best Practices Guide – Vulnerability Assessment**).
- Long and complex supply chains and therefore time and cost to complete an audit back to the farm or origin(s) of the ingredient/product.
- Equivalency Arrangements and Recognition Agreements- The USDA does not have the same authority over certifying bodies accredited to foreign standards with which the NOP has negotiated equivalency arrangements or recognized authorities as competent to implement the USDA's organic program.
- One challenge will be the lack of consistency in reporting types and formats. There is no industry wide report template each entity has their own system. In order for a full supply chain audit to take place, parties involved will need to harmonize questions asked and how those items are

recorded and passed to the next step in the chain.

c) How could the start and end points of a supply chain audit be defined in a systematic and repeatable way (commodity-based, geography-based, other criteria)?

- Commodity and region or a single point operation and then back to everywhere their products came from. Similarly, even a single shipment can be used as a starting point in a full supply chain audit.

d) What are possible approaches that a full supply chain audit could take (desk audits, physical audits, etc.)?

- Visibility of the supply chain and supplier verification is one of the single best actions that certified operations can proactively address. As a best practice, certified operations should work to shorten supply chains and have fully visibility of their supply chains. They should also be performing internal audits and supplier audits (**See GOSCI Best Practices Guide**).
- NOP could require full reporting by certifiers in each step within 3 weeks each moving backwards through the supply chain.
- Both would need to be necessary. We also feel as though they need to be targeted to a larger more complicated supply chain where grain moves through multiple hands and the risk is higher.
- Certifiers should adopt “cross-check” systems that at least allow them to submit to each other and even within their own clients to check outbound or in bound documents against the claims and documents at another operation. So, if entity A claims X units sold, the certifier should have mechanisms to check with another certifier that they concur. Certifiers should perform these within their own certified supply chains and across clients. Even if the system was slow and certifiers did the verification at a later date, a system in which certifiers perform a cross check at even 1% of their operations would be an improvement.
- Certified entity works to shorten and simplify its supply chain as much as possible and through its supplier verification program attains full visibility of the supply chain and confidence in its approved suppliers. Internal audits and supplier audits will include traceability and mass balance exercises.

11) Other Areas/Questions/Opportunities/Threats

CACS Questions (in bold followed by bulleted OTA member responses):

a) What other areas should the NOSB focus on in order to have the greatest impact on strengthening the global organic control system or to deter fraud in an organic supply chain?

- **Organic Trade Association:** As stated earlier, the Organic Trade Association believes that eliminating the exclusion from certification for uncertified entities such as ports, brokers, importers and online auctions is one of the single-most important actions that can be taken to increase the integrity in the global organic control systems. With the proposed requirements of the Organic Farmer and Consumer Protection Act (OFCPA) in mind, it will be important for NOSB to draft terms and definitions for all of the various entities in the supply chain being discussed so we

can clear identify the operations that should not be excluded from certification. The more work NOSB does now on this front, the better prepared NOSB and NOP will be to respond to the time frame mandated in the law. USDA should work within the context of the NOSB's advisory capacity to develop final regulations.

MODIFICATION OF REGULATIONS ON EXCLUSIONS FROM CERTIFICATION
Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall issue regulations to limit the type of operations that are excluded from certification under section 205.101 of title 7 Code of Federal Regulations, and any other corresponding sections.

RESEARCH questions related to fumigation and testing. Phostoxin residues are not currently testable. No testing research or methodologies have been developed since the late 60s/early 70s. Consideration of research into new testing could include:

- Fumigant residue methodologies
- Carbon isotope ratios for indicators of global origin (to test operator/seller claims)
- Validating nitrogen supplies in crops with Nitrogen Isotope ratios.

These and other experimental testing tools could be researched and utilized in a variety of ways within the compliance system to improve oversight

What are the areas of greatest weakness in the global organic control system, and what can be done to improve them?

- Gap and weakness in the supply chain due to uncertified handlers and brokers
 - Amendment to the law and rulemaking to limit exclusion of certification
- Time it takes for NOP to process complaints and conduct an investigation and the lack of an alert system
 - NOP needs a better system of prioritizing the severity of a complaint and developing a method to alert industry of areas/regions where heightened vigilance is needed
- Outdated technology systems for international trade tracking
 - Funding via the Farm Bill to NOP to modernize and improve international trade tracking systems and data collection. Move away from paper documents, and modernize import certificates to ensure access to full traceability for oversight without hindering trade.
 - Requirement for modernized import documentation
- Established mechanisms for collaborative investigations and enforcement
 - Establish compliance Working Groups between governments under all organic equivalency arrangements
 - Establish Joint Compliance Working Groups between accredited certifying agents (ACA's), State Organic Programs and NOP, and recognize ACA's as agents of USDA able to share information regarding open investigations.
 - Authority to require increased documentation under specific areas of concern

- Expedited review of global certifying agents whose accreditation has been revoked by another country
- Communication and cross-agency coordination
 - CBP, customs brokers, APHIS, etc. all need better training on organic certification requirements and visa versa with NOP
 - Ensure coordination and access to available data cross border documentation systems administered across other agencies including the U.S. Customs and Border Patrol (CPB)'s Automated Commercial Environment (ACE), and Phytosanitary certificates.
- NOP needs to not only share more information with certifiers in investigations but also work directly with certifiers as their investigators more directly.
 - Periodic roundtables and discussions that are collaborative and address trouble spots identified by all parties would help the oversight system be more proactive.
- See **summary of actions** at the beginning of our comments that would have the greatest impact to increase the integrity in the global organic control systems

b) What other information would be helpful to inform the NOSB deliberations and work on composing recommendations?

- Requiring all handlers in the supply chain to be certified is a critical area of focus. Should the law pass to limit the types of operations that are excluded from certification under § 205.101 of 7 CFR 205, the Secretary will be required to issue regulations not later than 1 year after the date of the enactment.
 - The Organic Trade Association requests that NOSB prioritize work that will assist the process of defining and identifying the various entities that currently qualify as excluded operations. It will be essential to be able to communicate with terms and definitions. Definitions for customs brokers, importers, transporters, transportation, etc.

c) Can the NOP accreditation system play a role in providing consistency in the oversight of both domestic and international certifiers in the area of global trade? Do you have suggestions for specific activities or systems that could be implemented?

- Increased oversight of certifier qualifications and on-going education
- Increased oversight and approval authority over any certifying agent operating in a foreign country and annual authorization for each certifying agent that intends to operate in any foreign country.
- More thorough and frequent use of desk audits to assess certifier's quality systems
- More stringent requirements for certifier internal audits
- Increased oversight of inspector qualifications including a requirement for organizations such as IOIA to be accredited (similar to the Organic Materials Review Institute) - **See OTA's comments on Inspector Qualifications.**
- NOP to proactively improve its own quality systems with increased oversight from an independent 3rd party
- Mandatory reporting and review of mass balance and forecasts to be used as a baseline comparing actual imported volumes of organic products. This could be a requirement on certifiers but on equivalency partners as well.

Conclusion

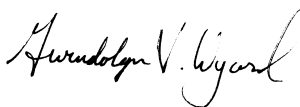
The discovery of verified import fraud and the results of the Office of Inspector General (OIG) audit of NOP clearly call for changes to improve import verification and the integrity of the global organic supply chain. The oversight of foreign organic suppliers and the enforcement of organic standards must be rigorous and robust. The integrity of the organic certification process and the commitment to compliance and enforcement are the lifeblood of the organic industry, and ensure a level playing field for U.S. organic farmers. Therefore, strong action is needed by everyone to improve the effectiveness of controls throughout the organic product supply chain.

The Organic Trade Association urges NOSB to focus on proposals that address the **summary of actions** (listed at the beginning of our comments) that we believe would have the greatest impact to increase the integrity in the global organic control systems. As a priority, we request that NOSB work on the topic of excluded operations and draft terms and definitions for all of the various entities in the supply chain being discussed so we can clearly identify the operations that should not be excluded from certification. The more work NOSB does now on this front, the better prepared NOSB and NOP will be to respond to the time frame mandated in the law. USDA should work within the context of the NOSB's advisory capacity to develop final regulations.

We also request that NOSB focus on **RESEARCH** questions related to fumigation and testing. As we described above, phostoxin residues are not currently testable. No testing research or methodologies have been developed since the late 60s/early 70s. Consideration of research into new testing could include: 1) Fumigant residue methodologies; 2) Carbon isotope ratios for indicators of global origin (to test operator/seller claims); and 3) Validating nitrogen supplies in crops with Nitrogen Isotope ratios. These and other experimental testing tools could be researched and utilized in a variety of ways within the compliance system to improve oversight.

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 addressing issues of organic fraud prevention and protecting organic integrity.

Respectfully submitted,



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

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association

Annex A: Ensuring Global Organic Supply Chain Integrity (GOSCI): A Guide to Developing an Organic Fraud Prevention Plan

Ensuring Global Organic Supply Chain Integrity (GOSCI): A Guide to Developing an Organic Fraud Prevention Plan

Prepared by the Organic Trade Association's Global Organic Supply Chain Integrity Task Force

DRAFT

Revision 4/4/2018



A Guide to Best Practices Ensuring Global Organic Supply Chain Integrity (GOSCI)

Prepared by the Organic Trade Association's Global Organic Supply Chain Integrity Task Force

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Draft 4-3-18

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A Guide to Best Practices for Ensuring Global Organic Supply Chain Integrity

Prepared by the Organic Trade Association's Global Organic Supply Chain Integrity Task Force

Draft (4-03-18)

I. Introduction

The success of the organic sector relies on consumer trust of the USDA Organic seal. The organic certification system, under the oversight of USDA's National Organic Program (NOP), is designed to deliver organic products that are uniformly certified to a single federal standard by a third party USDA accredited certifying agent (ACA). Organic certification is also designed to create a linked system of compliance providing complete source-to-sale traceability of organic products and accountability of each operation in the global supply chain. To date, the organic label remains the only regulated claim with federal oversight and enforcement.

Recent activities and USDA investigations have revealed products fraudulently labeled as organic and gaps in the complex organic supply chain, specifically as it relates to organic imports. Compromised supply chains due to fraud can erode consumer trust in the integrity of the organic brand. Strong action is needed to improve the effectiveness of controls throughout the organic product supply chain. In addition to the number of steps currently being taken to strengthen NOP oversight of imported organic products, further actions include: oversight and training of ACAs, improved collaboration with other agencies to better oversee organic products at U.S. Ports of Entry, and encouraging the private sector to be proactive and take responsible steps for improving systems that will help mitigate and avoid the risk of fraud.

Everyone has a role in organic fraud prevention. It is critical that distributors, traders and holders of organic brands have systems and measures in place that adequately support the promise of providing organic food that people can trust. This Best Practices Guide, as adopted by businesses engaged in organic trade, will become the industry standard reference for achieving integrity across complex organic supply chains.

Purpose of the Best Practices Guide

The purpose of this Guide is to provide businesses engaged in the organic trade with a risk-based approach for developing and implementing a written Organic Fraud Prevention Plan (OFPP) to assure the authenticity of organic products by minimizing vulnerability to organic fraud and mitigating the consequences of occurrence.

By outlining systematic approaches to the organic certification process and verification procedures carried out by ACAs and certified operations, the Guide's recommended practices are intended to establish an industry standard for businesses to create continuously improving internal programs and processes for achieving organic integrity throughout their associated supply chains.

Definition of Organic Fraud

For the purposes of this Guide, organic product fraud can be defined as an intentional misleading or deceptive action carried out for illicit financial gain. Fraudulent acts may include adulteration, substitution, falsified records and the deliberate mislabeling of goods, as well as false statements

made on applications, organic system plans, and during inspections. Of primary concern are intentional and economically motivated substitutions and the fraudulent mislabeling of organic products, including fabrication of fraudulent organic certificates. Such misrepresentation may occur at any point along the value chain from the product source to selling point.

Structure of the Best Practices Guide

This booklet presents a systematic approach to developing a written organic fraud prevention plan that can be summarized by a four-step process:

- Conduct a vulnerability assessment, including
 - Know your products and risks (history, economic and geographical factors)
 - Know your suppliers (manufacturer, broker, certified/uncertified, history)
 - Know your supply chain (length, complexity, supply and demand)
 - Know your existing verification measures and identify the gaps
- Design and implement internal mitigation measures including a supplier approval program that involves second party supplier audits
- Ensure practices are effective through monitoring practices and verification tools such as internal audits and control testing
- Integrate practices into the organic certification system via the Organic System Plan (OSP) as well as other quality management systems such as GFSI FSSC 22000

In Summary, this Guide:

- Provides businesses engaged in organic trade with a risk-based approach for developing best practices for improving the resilience and overall integrity of global organic supply chains
- Is intended for individual businesses engaged in the selling, buying, producing, processing or packaging of certified organic products
- Provides background on the participant's responsibilities and organic requirements for a simple and complex organic supply chain
- Aims to set a standard industry practice that compliments and reinforces the organic certification process and verification procedures carried out by ACAs and MROs as authorized by the USDA-NOP
- Provides guidance on developing and implementing a written organic fraud prevention plan to assure the authenticity of organic products by minimizing vulnerability to organic fraud and mitigating the consequences of occurrence
- Presents a process for carrying out a vulnerability assessment to design and implement appropriate mitigation practices
- Recommends monitoring procedures and verification tools that will ensure the practices and procedures are effectively implemented
- Includes detailed information on what to do when you suspect or detect fraud and the process for filing a complaint to the National Organic Program
- Identifies other industry-wide needs and recommendations for next steps and further actions
- Provides additional resources and helpful tools for identifying and or deterring fraud

Best Practices for Ensuring Global Organic Supply Chain Integrity

-DRAFT-

WORK IN PROGRESS: GOSCI MEMBERS ONLY

3-21-2018

II. The Organic Supply Chain Under the National Organic Program

The global organic control system is unique in that it includes strict production and processing standards; 3rd party certification; accreditation of certifiers; certification of farmers, processors and handlers; and federal oversight and enforcement. The USDA organic regulations include organic system plan requirements, recordkeeping requirements, comprehensive process audits, and inspections that trace organic product from market to farm. The design of this system allows for a tightly regulated organic supply chain with formal mechanisms for addressing violations of organic requirements. As with any system, failures can and do occur, maintenance is a continuous process and there is always room for improvement. Furthermore, no process can guarantee that organic food and organic food supply are not the target of criminal activity.

The reports of organic fraud have highlighted the need to strengthen organic fraud prevention measures across the entire supply chain. The first step in understanding how the organic supply chain can be strengthened is to understand the primary participants of the National Organic Program (NOP), its roles and responsibilities and how the organic certification system is currently structured.

Participants, Roles & Responsibilities

Operators

Under USDA's National Organic Program any product labeled as "Organic" or "Made with organic ingredients" must be produced and handled by operations who obtain organic certification. There are a number of exceptions and exclusions to this general rule for who must be certified:

- Farms or handlers whose gross agricultural income from organic sales totals \$5,000 or less
- Retail food establishments (e.g. grocery stores – including bakeries located at grocery stores)
- Handlers that only handle organic products in sealed containers and do not remove or further process those products (e.g. wholesale distributors, brokers, and traders that sell boxed or otherwise sealed containers of certified organic products)

Operations who are eligible to handle or produce organic products under one or more exceptions or exclusions may always voluntarily choose to obtain certification. Furthermore, while an operation may be excluded from certification, they must still comply with specified labeling, contamination prevention and record keeping provisions of the organic regulations.

Accredited Certifying Agents

The Organic Foods Production Act authorizes USDA to accredit third party certifying agents who's responsibility it is to verify organic operations' compliance to the USDA Organic Standards. All operations not exempt or excluded from certification must be certified by one of these "Accredited Certifying Agents" (ACAs). ACAs include state agencies, non-profits, and for profit businesses, but they are all overseen, accredited, and audited by USDA to ensure consistent application of the organic standards across the globe. ACAs also enforce the organic standards through adverse actions, and, in collaboration with USDA, ensure operators implement corrective actions for minor violations or suspend or revoke certificates for major violations.

USDA's National Organic Program

Organic certification is a unique label claim in that it is enforced and maintained by the federal government. Under the USDA's Agricultural Market Service, the National Organic Program (NOP) is responsible for developing and enforcing the organic requirements to assure consumers that products with the USDA organic seal meet consistent uniform standards. They do this through work in five significant areas:

1. Accreditation of ACAs – NOP ensures ACAs are consistently and thoroughly verifying compliance with the organic regulations and that ACAs have the staff expertise and control systems necessary to accomplish this goal.
2. Development of organic standards – NOP responds to changes in the organic marketplace, recommendations from the National Organic Standards Board, and input from the three branches of government through notice and comment rulemaking and issuance of guidance and policy memos. These updates and clarifications to the USDA organic standards ensure that the organic seal continues to meet consumer expectations and accommodate advances in agriculture and food processing.
3. Enforce the organic standards – Compliance and enforcement is an essential component of NOP's work to ensure the integrity of organic products. Through its partnership with ACAs, NOP takes compliance action against operations that have violated the organic requirements. When violations include federal crimes, like wire or mail fraud, NOP works with its office of inspector general to prosecute those crimes.
4. Support the work of the National Organic Standards Board (NOSB) – NOP facilitates the work of NOSB, which is the congressionally mandated Federal Advisory Committee that advises USDA on which materials should be allowed and prohibited in organic production and on updates to the organic standards as a whole.
5. Facilitate trade with international partners – NOP works with the Foreign Agricultural Service and Office of the United States Trade Representative to establish international trade arrangements for organic products. These trade arrangements aim to promote the export of US based organic products and to ensure imported organic products are produced under the same, or equivalent, organic standard and oversight.

Certified operations produce organic products, ACAs verify these operations' compliance with the organic standards, and USDA ensures the standard is enforced consistently across the

globe. Each of these unique roles plays a crucial part in sustaining the confidence and growth in the organic industry.

Certification & Approval Practices

Despite the diversity of scale, type, and location of certified organic operations, the process to obtain approval follows a common set of structures and verification procedures. Whether an operation is growing vegetables for a farmers' market or exporting containers of packaged product, everyone starts with an Organic System Plan, undergoes an on-site inspection, and repeats the certification process annually.

The Organic System Plan

The "Organic System Plan" is the plan or management of an organic production or handling operation that has been agreed to by the producer or handler and the ACA. This includes written plans concerning all aspects of agricultural production or handling under the organic standards. While every certified operation must have an Organic System Plan, not all plans cover every specific organic requirement. For instance, crop producers must describe how they source seeds, rotate crops, apply fertilizers, and ensure neighbors don't drift pesticides onto their farms. These are specific to a crop producer, and do not need to be addressed in an handler's system plan which should cover issues like ingredient sourcing, cleaning processing equipment before touching organic product, and ensuring all packages use compliant and accurate labeling. The organic system plan is also what an inspector will use to verify compliance with the organic standards at on-site inspections.

Recordkeeping

The Organic System Plan demonstrates an operation's ability to comply with the requirements, however, producers and handlers must also maintain records to demonstrate they have actually implemented their Organic System Plan. These records show when input materials are applied to fields, how much of a specific ingredient was purchased, and whether or not equipment was cleaned before touching organic products. An operation's recordkeeping system must also be able to track organic products from source to final market. Traceability throughout the supply chain is a critical feature of organic certification, and one that is unique to the organic food category. Example records that must be maintained by organic producers and handlers:

- **Crop Producer:** Input material purchase and application records; harvest yield records; sales records; soil and nutrient management records; crop rotation records.
- **Livestock Producer:** Feed purchase and feeding records; health treatment records; records that show when outdoor access is provided to livestock and poultry.
- **Handler:** Ingredient purchase and delivery records; batch recipes; cleaning and purging records; final product sales and shipping records.

Tools for Assessing Compliance

The Organic System Plan lays the foundation for an operation's compliance to the organic standards. The operation's records show that the system plan is implemented. However, the

review of the organic system plan and the verification of its implementation is how compliance is assessed and verified. This requires inspections, audits, and testing.

- **Inspections** – Every organic operation must be inspected annually. Some operations are inspected more frequently if new aspects to the business are included into the system plan, if violations are suspected, or as part of a routine surveillance program to ensure organic integrity. At an operation's annual inspection, all aspects of the organic system plan are reviewed and verified. Some aspects, like ensuring buffers on an organic farm are adequate to prevent drift, must be physically observed by the inspector; other aspects, like ensuring adequate quantities of organic ingredients are sourced, must be confirmed through records review and audits. Regardless of the scale or scope of the operation, the inspection is what confirms that the organic system plan is in place and that it is effective to ensure the integrity of organic products.
- **Audits** – All inspections, regardless of scope or scale of an operation, will include audits. These audits will test operations' systems for preventing contamination and comingling as well as ensuring traceability through the supply chain. Mass balance audits examine whether an adequate supply of organic product was produced or sourced to validate the production yield of the operation. If a flourmill produces 1,000 pounds of organic flour, but only purchases 500 pounds of organic wheat, the mass balance audit does not work which may indicate a violation of the organic requirements. Product traceability audits ensure that all organic products can be tracked throughout an operation. Farmers and ranchers must be able to track their crops and animals from planting or birth through harvest. Similarly, handling facilities must be able to track ingredients from supplier to processed product.
- **Residue Testing** – A critical tool in the inspection and certification process is product testing. NOP requires that ACAs test a minimum of 5% of all certified operations each year – more testing may occur when violations are suspected. These tests cover pesticide residues and GMO contamination and can investigate contamination of crops, soil, or water. ACAs use positive tests as evidence that contamination prevention measures are inadequate or as evidence that fraudulent activity has occurred. Testing alone cannot confirm or invalidate an operation's organic certification, but it can provide a critical quantitative tool for evaluating compliance to the organic standards.

Challenges & Gaps in the Supply Chain

Despite the comprehensive and robust oversight system that is established and required under the National Organic Program, there are challenges and gaps in the organic supply chain. Acknowledging the challenges and identifying the factors in a supply chain that create weak points is critical for operations that choose to take additional measures to decrease and prevent organic fraud in a given supply chain. While there are many factors in a supply chain that create vulnerabilities and increase the risk or occurrence of organic fraud, there are three critical areas to consider that will inevitably increase the risk of organic fraud: 1) length and complexity of the supply chain; 2) uncertified entities (excluded operations) in the supply chain; and 3) products crossing one or more borders.

Length and Complexity of the Supply Chain

Obviously, the length and complexity of an operation's supply chain will present varying degrees of risk and challenges in ensuring integrity. When an organic producer brings their crops to a farmer's market there is a shorter supply chain, and therefore fewer places where contamination or fraud can occur, than in the case of an organic food manufacturer sourcing multiple ingredients from across the globe. Similarly, the nature of each organic product will affect how it is transported and, in turn, affect the potential for fraud or contamination. Sealed packages of finished and labeled organic product generally are at a lower risk for contamination than bulk shipments of milk or grain. Understanding the specific nature of each product's and each operation's supply chain is necessary to evaluate where risks may occur, and, in general, the potential for risks increases as the length and the complexity of the supply chain increases. In other words, the more vendors a product passes through, the more at risk it is to organic fraud.

Excluded Operations

When a supply chain includes an exempt or excluded operation it can compound challenges pertaining to length and complexity. As described above, some activities performed in the supply chain do not require organic certification. Brokers and importers may be excluded from certification, which means they are not responsible for developing and implementing an organic system plan, and they are not inspected annually. When an excluded operation is included in a certified operation's supply chain, it can pose challenges in maintaining and verifying integrity and traceability.

Imported Product

USDA enforces the organic regulations across the globe to ensure that all organic products, whether produced domestically or internationally, meet the same or equivalent organic standard. The USDA, however, remains a US authority, and when enforcing standards across international borders, there are inherent challenges. While USDA does have the capacity to take adverse actions against foreign organic operations, a US government agency cannot levy civil penalties against a foreign company, which inherently limits USDA's enforcement capacity overseas. An Office of Inspector General report from September 2017 found that NOP was unable to provide reasonable assurance that organic documents are reviewed at U.S. ports of entry to verify organic integrity of imported products and that NOP had not established and implemented controls at U.S. ports of entry to identify, track, and ensure treated organic products are not sold, labeled, or represented as organic. Limited enforcement capacity, document control, and tracking of products that had been fumigated or otherwise treated to prevent prohibited pests from entering the U.S. all pose challenges to ensuring the integrity of imported organic products.

<Graphic representing a typical organic supply chain – simple and complex>

A Guide to Best Practices for Ensuring Global Organic Supply Chain Integrity

III. Developing an Organic Fraud Prevention Plan Vulnerability Assessment

DRAFT: 4-3-2018

Identifying the weak points in a supply chain that increase exposure to fraud is critical for any operation that chooses to take additional measures to decrease and prevent organic fraud. In this Guide, we acknowledge the tremendous amount of activity already underway in and around food fraud prevention and accordingly utilize the work of the GFSI Food Fraud Think Tank¹ that recommended two fundamental steps to aid in the mitigation of food fraud.

- Carry out a “food fraud vulnerability assessment” in which information is collected at the appropriate points along the supply chain (including raw materials, ingredients, products, packaging) and evaluated to identify and prioritize significant vulnerabilities for food fraud.
- Put in place appropriate control measures to reduce the risks from these vulnerabilities. These control measures can include a monitoring strategy, a testing strategy, origin verification, specification management, and supplier audits. A clearly documented control plan outlines when, where and how to mitigate fraudulent activities.

Using this approach that was adopted into the GFSI Guidance Document (Version 7) and FSSC 22000 requirements for food fraud prevention, a general approach to *preventing organic fraud* can be summarized as follows²:

- Conduct a **vulnerability assessment** including:

¹ The Food Fraud Think Tank was convened to further advance the food fraud topic; it brought together experts in analytical testing, certification, supply chain security and criminology as well as manufacturing and retailing companies.

² References used to inform this section of the best practice guide:

- Nestle, “Food Fraud Prevention, Economically Motivated Adulteration”
<https://www.nestle.com/asset-library/documents/library/documents/suppliers/food-fraud-prevention.pdf>
- GFSI position on mitigating the public health risk of food fraud
http://www.mygfsi.com/files/Technical_Documents/Food_Fraud_Position_Paper.pdf
- PWC, “Food Fraud Vulnerability Assessment and Mitigation – Are you doing enough to prevent food fraud?”
 - <https://www.pwc.com/gx/en/services/food-supply-integrity-services/assets/pwc-food-fraud-vulnerability-assessment-and-mitigation-november.pdf>
- FSSC 22000, “Tackling Food Fraud – Results of the FSSC 22000 Pilot audits on Food Fraud Prevention”
 - <http://www.fssc22000.com/documents/pdf/article-ff-201702-final.pdf>

- Know your materials and risks (history, economic factors, geographical origins, physical state, pest/disease risks, emerging issues)
 - Know your suppliers (manufacturer, distributor, broker, history)
 - Know your supply chain (length, complexity, non-certified entities, supply and demand arrangements, ease of access)
 - Know your existing control measures
- Design a **mitigation strategy** and implement **mitigation measures**
 - **Validate** and verify mitigation measures and continually review the organic fraud prevention plan and management system.

Definitions:

- **Vulnerability assessment (or vulnerability characterization):** Within a food fraud management system, the step aimed at reviewing and assessing various factors, which create vulnerabilities in a supply chain (i.e. weak points where fraud has greater chances to occur).
 - Note: A *vulnerability* is a weakness or gap in protection efforts. *Risk* – The potential for loss, damage or destruction of an asset as a result of a threat exploiting a *vulnerability*. *Risk* is the intersection of assets, threats, and *vulnerabilities*.
- **Mitigation measure:** Measure taken to decrease vulnerability to organic fraud in a given supply chain.
- **Mitigation strategy:** Selected set of mitigation measures aimed at preventing food fraud in a given supply chain that are incorporated into the Organic Fraud Prevention Plan.
- **Organic Critical Control Points (OCCP):** A step or procedure at which controls can be applied to prevent the organic integrity of an organic ingredient or product being compromised. Control points are essential components of an Organic Systems Plan and identify the places in a product process flow or in the supply chain where contamination or other similar events could occur and the organic integrity of a product would be compromised.

VULNERABILITY ASSESSMENT

To characterize the vulnerability of an ingredient or input to organic fraud, the following 3 aspects must be assessed:

- **Vulnerability driven by factors inherent to the ingredient**
Factors such as the ingredient market price, its fraud history, composition and physical state are entirely independent of the actions taken by the buyer to mitigate the risk of organic fraud. This is defined as the inherent vulnerability of an organic ingredient or material. For example, fraud history is a good source of information. It is an indicator of the raw material potential vulnerability, and an important source of possible factors for

which mitigation measures are needed.

- **Vulnerability driven by factors impacting the business (business pressure)**

Factors such as the demand for a specific ingredient (volume), the extent of its use (ingredient used in several products and businesses), or the market price fluctuation may contribute to an increased level of vulnerability to fraud.

Any anomaly in the economics of particular raw material sources is an indicator of the raw material potential vulnerability. Drastic increases in market price and scarce supplies of a raw material in combination with high demand are strong indicators of increased raw material vulnerability based on economic anomalies.

Geopolitical considerations are also important to characterize vulnerability to food fraud. A sudden fluctuation in market price or country-specific low price compared with the rest of the market may indicate a lack of food control and/or regulatory/enforcement framework in the country of origin (or any other country through which the ingredient may transit).

- **Vulnerability driven by factors under the control of the buyer (i.e. supply chain)**

Perhaps the greatest control a company has in preventing organic fraud is through knowledge and control of its supply chain. Vulnerability to organic fraud increases with the complexity of the supply chain, therefore supply chain transparency, traceability and simplification (fewer suppliers) are all key factors to minimizing and preventing organic fraud. Supplier relationships supported by supplier audits are also critical to protecting the organic supply chain. Full visibility of the supply chain, full traceability, adequate purchasing specifications, availability of analytical methods, and robustness of surveillance programs all reflect the strength, or the weakness of a company's mitigation strategy.

CARRYING OUT THE VULNERABILITY ASSESSMENT PROCESS

Assessing the risk of fraud for an organic ingredient requires the understanding of the inherent raw material vulnerabilities, the business vulnerabilities, supply chain vulnerabilities and the existing controls in place. This will allow a company to define which preventive actions are needed (and where) to mitigate the risk of organic fraud.

Conducting an organic fraud vulnerability assessment can be compared to the hazard assessment used for developing a Hazard Analysis and Risk-Based Preventive Control (HARPC) plan. The major difference is that HARPC addresses food safety risks whereas the risk with organic fraud is primarily loss of consumer trust and the value of the USDA organic seal. The similarity however is that both require a systematic approach to assessing risk and developing a preventative plan. Additionally, unlike the traditional Hazard Analysis and Critical Control Points (HACCP) analysis, several of the questions and factors considered to prevent organic fraud need to be addressed on subjective information or insights because companies may not have fact-based insights into specific fraud issues because the information is simply not available.

Unlike quality management systems that focus on preventing unintentional contamination with prohibited substances, organic fraud prevention must take into account economic incentives and deceptive criminal behavior. From this perspective, organic fraud prevention requires multi-competence support collecting as many insights on the unknown as possible to ensure that subjective opinions and insights are objectified by thorough internal discussion and review. Accordingly, conducting a vulnerability assessment may require involvement from multidisciplinary teams depending on the size and scope of a company. Quality departments are best positioned to take the lead in conducting an assessment but will be best supported by procurement, legal, and Human Resources (HR).

It is also important to note that such a vulnerability assessment is not a one time activity but a dynamic process, which needs to be maintained with regards to new information and external pressures.

USING THE ORGANIC VULNERABILITY ASSESSMENT TOOL

Recent food fraud events in all sectors of industry have highlighted the need to reinforce companies' ability to combat fraud – within their own organization, and across the entire food value chain. With respect to food fraud prevention, several guidance and self-assessment tools have been developed by a number of organizations to help companies undertake their own vulnerability assessments and implement appropriate prevention plans. See Helpful Tools and Resources.

The self-assessment tool presented in this Best Practices Guide is specific to organic fraud prevention and focuses on the vulnerabilities inherent to both the ingredient/product and the business (general, geographic, economic, and agronomic) as well as the vulnerabilities under the control of the buyer (supply chain assessment). Each factor in the assessment tool requires a response or answer that should be assigned to a vulnerability level. For each assessment factor, the company must also evaluate whether there is an existing mitigation measure in place to address the vulnerability. Any factor assigned to medium or high-vulnerability that does not have a mitigation measure in place requires company action.

See “Vulnerability Assessment Tool Worksheet.”

Examples of Medium to High Vulnerability

- ✓ No formalized supplier approval process
- ✓ New supplier / short history
- ✓ Use of uncertified handlers (brokers, traders) in the supply chain
- ✓ Supplier handles both conventional and organic
- ✓ Long and/or complex supply chain
- ✓ Imported from areas of known risk (history of fraud)
- ✓ Ingredient/product comes from multiple suppliers
- ✓ Ingredient/product has crossed multiple borders

- ✓ Ingredient/product is sourced from multiple sources in an open market with limited knowledge about the supplier
- ✓ Supplier will not disclose sources and/or provide certificates for those sources
- ✓ Compliance documents submitted are not verifiable
- ✓ Violations of fraud found by NOP from product type and/or region
- ✓ Sudden change in volume or market price
- ✓ Certified company or certifier is not listed on the NOP Organic Integrity Database
- ✓ Supplier company operates under multiple names
- ✓ Bulk product with a valid organic certificate but not identified as organic on paperwork
- ✓ Missing certificate from originating farm or intermediate handler
- ✓ Evidence of falsification – changed operation name on certificate to protect proprietary information
- ✓ Known production challenges and need for use of pesticides
- ✓ Lack of clarity about whether product was fumigated
- ✓ Lack of documentation verifying that the product was not fumigated

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USING THE VULNERABILITY ASSESSMENT TOOL

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The self-assessment tool presented in this Best Practices Guide is specific to organic fraud prevention and focuses on the vulnerabilities inherent to both the ingredient/product and the business (general, geographic, economic, and agronomic) as well as the vulnerabilities under the control of the buyer (supply chain assessment). Each factor in the assessment tool requires a response or answer that should be assigned to a vulnerability level. For each assessment factor, the company must also evaluate whether there is an existing mitigation measure in place to address the vulnerability. Any factor assigned to medium or high-vulnerability that does not have a mitigation measure in place requires a mitigation strategy and implementation of a mitigation measure.

Product Assessment	Vulnerability (V) level and Reason 1 =Low 2=Medium 3=High NA <i>Example levels are provided</i>	Mitigation measures in place to address vulnerability? Yes/No - Describe	Need to develop a mitigation measure? Yes/No
GENERAL			
Current certificate on-file?	No = high		
Supplier is listed in the NOP Integrity Database?	No = high		
Certifier is listed on NOP website?	No = high		
Product is labeled as organic?	No = medium to high		
Accompanying paperwork includes organic designation?	No = medium to high		
Does the product arrive with a transaction certificate?	No = high No = not typical = medium		
Reports of organic fraud for this ingredient/material?	Yes = medium to high		
GEOGRAPHIC FACTORS			
Country of Origin - Is product imported?	Yes = medium to high		
Does the product cross multiple borders?	Yes = high		
Have there been incidents of fraud from this region?	Yes = high		
Country-specific low price compared with the rest of the market?	Yes = high		

Is there a robust domestic market?	Yes = low		
Does COO have an organic regulation and competent authority?	Yes = Low		
Can in-country certifiers provide statistics on total production by volume?	Yes = Low		
Is there a high corruption level in the country where you are buying your ingredient/product from?	Yes = high		
ECONOMIC FACTORS			
Drastic increases/fluctuations in market price?	Yes = high		
Scarce supplies?	Yes = medium to high		
High demand, low or scarce supply?	Yes = high		
Sudden change in volumes traded?	Yes = medium to high		
In line with market trends?	Yes = low		
Selling a commodity below the cost of production?	Yes = high		
High value and high demand crop/ingredient?	Yes = medium to high		
AGRONOMIC FACTORS			
Production challenges? (i.e. pests and diseases)	Yes = medium to high		
Does the product require fumigation treatment for entry into the United States?	Yes = medium to high		
Volume (i.e. bushels) / acres ratio vs previous year, consistent?	No = medium to high		

SUPPLY CHAIN ASSESSMENT	Vulnerability (V) level and Reason 1 =Low 2=Medium 3=High NA	Mitigation measures in place to address vulnerability? Yes/No - Describe	Need to develop a mitigation measure? Yes/No
Visibility of supply chain			
Do you have visibility of the supply chain back to farm?	No = medium to high		
Can traceability of the supply chain be	No = medium to high		

accomplished back to the farm?			
Does the supplier also handle conventional products?	Yes = medium to high		
Is the supply chain long and/or complex?	Yes = medium to high		
Ease of traceability and product assessment?	Easy - low		
Is the supply chain audited by your business or by 3rd party entities?	No = medium to high		
Are there uncertified entities in the supply chain?	Yes = high		
Supplier Relationship	Vulnerability (V) level and Reason 1 =Low 2=Medium 3=High NA	Mitigation measures in place to address vulnerability? Yes/No - Describe	Need to develop a mitigation measure? Yes/No
Do you have a supplier approval program in place?	No = high		
Has the supplier filled out a new supplier questionnaire?	No = high		
Is the supplier certified?	No = high		
Is the supplier is listed in the NOP Integrity Database?	No = high		
Is the certifier is listed on NOP website?	No = high		
Long-standing relationship?	No = medium to high		
Have you ever met the supplier in person?	No = medium		
Spot purchase?	Yes = medium to high		
Supplier/manufacturer of the ingredient is audited by your company?	Yes = low		
Good communication between you and your supplier?	No = high		
Does the supplier provide accurate documentation of product?	No = high		
Has your supplier been involved in a	Yes = medium to high		

criminal activity?			
Other supply chain or authenticity factors			
Is this material/ingredient subjected to routine authenticity tests?	No, NA No = medium to high		
Is your company certified to a GFSI recognized scheme?			
Is the supplier GFSI certified to FSSC 22000?	Yes = low		

COMPANY ASSESSMENT	Vulnerability (V) level and Reason 1 =Low 2=Medium 3=High NA	Mitigation measures in place to address vulnerability? Yes/No - Describe	Need to develop a mitigation measure? Yes/No
Does your company have an established fraud monitoring and verification system in place?			
Has your company adopted the GOSCI guide to best practices?			
Is your company GFSI certified to FSSC 22000?			
Has your company completed the Food Fraud Vulnerability Assessment Tool developed by SSAFE?			
Have past food fraud incidences occurred within your company?			
Does your company have established and agreed upon ethical codes of conduct?			
Does your company have an employee screening program in place?			

Does your company have whistleblowing guidelines and protections in place?			
Other questions?			

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OTA's Global Organic Supply Chain Integrity Task Force

Best Practices for Ensuring Organic Integrity / Preventing Organic Fraud

Developing an Organic Fraud Prevention Plan Mitigation Measures

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3-17-2018

Once the vulnerability assessment is complete and the findings have been communicated to the top levels of management of your business, the next step is to design an appropriate mitigation strategy. The control and mitigation measures will be developed directly in response to the weaknesses or gaps that were identified by the vulnerability assessment and the objective is to move any of the medium or high contributions to vulnerability to the low contribution level.

MITIGATION MEASURES / BEST PRACTICES

In accordance with the results of your vulnerability assessment, here are critical actions that can reduce your vulnerability to organic fraud:

Create a Supplier Verification Approval Program

One of the most effective actions that can be taken is to increase supply chain transparency by implementing a formal supplier approval program, or by improving your existing program. The program should include a process that will improve transparency, traceability and the management of ingredients and products and an assessment to create “confidence” that each supplier will provide an authentic/compliant product.

- Identify who in your company is responsible for the various aspects of the supplier approval program including regular monitoring
- Determine whether you have full visibility of your supply chain? Who are your immediate suppliers? Who supplies them? What is your process for changing suppliers?
- Map & simplify your supply chain:
 - Gather information to determine who is most at risk
 - Simplify your supply chain as much as possible to eliminate sources of risk
- Develop a Supplier/Vendor Approval Questionnaire & Checklist. Elements include but are not limited to:
 - Purpose and Scope
 - Supplier information and product information
 - Identify supplier activities
 - New/Existing

- Verify that the supplier (if certified) is listed in the NOP Integrity Database
 - Verify that supplier's certifier is listed on the NOP website
 - Required expectations and ingredient specifications are agreed upon and include organic authenticity requirements
 - Letter of guarantee
 - Supplier audits
 - Uncertified entity has filled out "Uncertified Handler Affidavit"
 - Required documents, specifications, etc.
 - Other third-party audits such as GFSI
 - Full visibility from supplier back to the farm
 - Supplier is has an Organic Fraud Prevention Plan (GOSCI registered)
- Establish and Maintain a Supplier Approval List
 - Clearly indicate the suppliers that are certified and the ones that are not
 - Develop a policy for high risk ingredients
 - Develop a policy to only to source from NOP or equivalent certified entities
 - Ask suppliers of vulnerable ingredients or materials to undertake a mass balance exercise at their facility or further upstream in the supply chain
 - Implement more stringent requirements for suppliers that provide vulnerable products or materials
 - Make a business case for switching suppliers of ingredients or materials that prove to be consistently problematic and present it to your purchasing department
- Establish a Supplier Monitoring Process
 - Establish process for ensuring supplier is meeting the expectation, this includes a formal annual monitoring process for all documents to ensure they are valid and up-to-date
 - Establish a 6-month "compliance check" for new suppliers/new certificates
 - Develop a policy for procedure in case of non-conformance
 - Develop a process for communicating changes from supplier to buyer and visa versa
 - Develop a process for maintaining the supplier approval list
 - Reference to all related records (supplier list, vulnerability assessment, etc.)
 - Establish supplier audits

Incorporate Your Supplier Approval Program into The Organic Systems Plan

Clearly establish, in your Organic Systems Plan, the practices and procedures (organic fraud prevention plan) that will be performed and maintained to verify compliance and authenticity of all suppliers and products.

- Include in the OSP a description of monitoring practices and procedures to be performed and maintained, including the frequency with which will be performed to verify that the organic fraud prevention measures are effectively implemented.

Establish Best Practices for Receiving Organic Ingredients / Products

Examples of records & practices to document and verify compliance:

- In addition to a current valid organic certificate, the following practices or documents should be carried out and/or required and maintained:
 - Cross reference valid certificate to receiving documents to product labels. Ensure that “organic” is designated on all labels and associated paperwork, and cross-check to verify that product, paperwork and labels line-up
 - Cross check incoming product and paperwork with approved supplier list
 - As applicable, verify that the following documents are available in order to verify certified organic status:
 - Transaction certificates for the shipment and sales to intermediate handlers, including brokers, traders, wholesalers, and transporters
 - Shipping manifest
 - Packing list
 - Bill(s) of Lading and invoice(s) from all vendor(s)
 - Certificate of origin
 - Clean truck affidavits, records of cleaning and sanitizing materials, and procedures used to clean trucks
 - Records documenting the audit trail, chain of custody, tanker seals, wash tags, truck and trailer numbers.
 - Documents to demonstrate residue, GMO, quality, or other analytical testing performed on the product or in the supply chain
 - Ensure that lot numbers are assigned to all products/ingredients and organic designation is clearly maintained on label and storage areas.

Best Practices for Imports or High Risk Products

Require the following records to verify organic compliance of imported products:

- Organic certificates for each product or ingredient received
- Certificate of origin
- Transaction certificates for the shipment and sales to intermediate handlers, including brokers, traders, wholesalers, and transporters
- NOP Import Certificates
- Receiving records showing organic status, quantity of organic product received, and source of product
- Transaction documents including lot number or production code that links each document to the next and to the organic product

- Invoices and purchase orders with information identifying the specific product(s), such as lot numbers, quantities, and supply chain entities. The product should be designated as “organic” on all associated paperwork
- Shipping documents, such as booking sheets or bills of lading, with information such as lot numbers, product volume, handling instructions and the name of the last certified organic operation
- Phytosanitary certificate for each vessel used to move the product in the supply chain – check for record of any fumigation activity
- Weigh tickets, receipts, and tags – cross check to organic ingredient/product
- Clean truck/container affidavit for bulk product verifying that truck/container was thoroughly cleaned and poses no risk of contact with prohibited substances
- Certificates of Analyses or Product Specification Sheets
- Product inventory and storage records
- TraceNet certificates (Applies to products certified in India to the USDA organic standards)
- Attestation statements (Applies to products certified to the Canadian organic standards)

Best Practices for ensuring Supply Chain Traceability and Mass Balance

- Simplify your supply chain as much as possible
- Perform internal traceability exercises from finished product back to all raw ingredients.
 - Randomly choose a final/finished product
 - Can the final product be traced back to all ingredients, processing aids and inputs used to produce the product?
- Perform internal mass balance exercises
 - Randomly choose a final/finished product
 - Randomly choose a finished product
 - Can a mass balance be successfully performed? Does product in (all ingredients used to make a batch of product) account for product out?
 - Perform on batch production as well as monthly and annual production
- High Risk Product: Carry out verification of the volumes and full traceability for all at-risk (high) product in the shipment back to the growers. Verification should include the following, at a minimum, and be in sufficient detail to be readily understood and audited:
 - Identification of all growers and suppliers, their acreage, certifier, certificate, certificate number, NOP ID (if applicable), and expected production volume.
 - Volume of each grower’s product (i.e. grain) represented in the shipment.
 - Identification of each intermediate handler in the shipment’s supply chain, the name of its organic certification agency, certificate, certificate number, and NOP ID (if applicable). This includes all brokers, traders, wholesalers, and transporters.
 - For trace-back, ensure that clear links are established and documented

- Verification of mass balance for the shipment from the organic certification agency of each intermediate handler.

Labeling Best Practices

- Develop a policy that organic product must be listed as “organic” on all documentation
- Clearly designate products as “ORGANIC” in writing on the product label. Include statements such as “DO NOT FUMIGATE OR TREAT WITH IRRADIATION” on the label and on associated shipping documents.
 - Reference NOP Instruction 4013 – Maintaining the Integrity of Organic Imports

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Best Practices for Ensuring Organic Integrity / Preventing Organic Fraud**

**Monitoring and Verification
(Internal Audits)**

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3-19-2018

Ensuring mitigation measures are adequate and effectively implemented

In order to ensure that organic fraud mitigations measures are adequate and the organic fraud prevention plan is effectively implemented, a monitoring program, including verification activities, must be established. For the purposes of ensuring organic integrity, monitoring can be defined as a planned sequence of measurements and observations that are taken in real-time that reflect the proper functioning of the Organic Fraud Prevention Plan (OFPP). Such measurements are typically assigned to the Organic Critical Control Points (OCCPs) where organic fraud or loss of organic integrity is most likely to occur and/or to the key mitigation measures that have been implemented in order to prevent or deter the occurrence of organic fraud. Verification on the other hand describes activities, other than monitoring, such as tests and other evaluations, that determine the validity of an OCCP and that the system is operating according to the plan.

There are a number of practices that a company may perform that will not only allow for on-going evaluation and maintenance of the overall organic fraud mitigation strategy but will also allow for the detection of organic fraud issues. Key monitoring and verification practices include internal audits, supplier audits, analytical surveillance or testing and use of traceability tools and technology such as block chain.

Internal Audits

While the organic certification process for any particular product is verified by an accredited certifying agent, all companies that trade, buy, grow, process or sell certified organic products and use the USDA Certified Organic seal on any of its products shall have an internal audit and verification process, documented in writing as an Organic Integrity Quality Management System (QMS) manual, that assures that the Organic Fraud Prevention Plan and all associated mitigation measures, which may include those beyond requirements for certification, will be used to verify the authenticity of all of the organic certificates issued during the production, handling and transportation of any and all USDA Certified Organic products.

The top management of the company, including the CEO, COO, President and all others in senior management guarantee to commit the necessary resources and requisite training in order to:

- Establish and document an internal Organic Integrity Quality Management System (QMS) which ensures that all ingredients and products bought, processed or sold as certified organic products conform to the requirements of the National Organic Program (NOP) and

to the specified mitigation measures established in the Organic Fraud Prevention Plan that ensure their authenticity and integrity

- Acquire, maintain, review and verify all organic certificates and accompanying documentation that were issued in the course of production, handling and transportation of certified organic products
- Provide those responsible for purchasing and auditing the authenticity of organic ingredients and products with adequate training, support and resources to perform all necessary tasks for verification in a timely fashion
- Develop a program of corrective action and reporting to appropriate authorities that will be implemented in any and all cases of potential fraud in the certification of organic products
- Maintain a program of continuous improvement that works towards improving the quality of the verification audit and timeliness of the organic fraud prevention process
- Audit all approved programs at least once per year - however, more frequent audits may be conducted (1) if either numerous minor non-conformances or a major non-conformance are identified during the audit; (2) if customer complaints indicate an ongoing problem; or (3) as suggested or directed by the National Organic Program of the USDA or other regulatory agencies or trade groups monitoring the organic industry and trade

In addition:

- The company must have an organizational chart or similar document listing all personnel assigned to managerial positions and responsibilities as described by the Organic Integrity QMS. This document will be updated at least once per year, or as needed to ensure accuracy and adequacy
- Top management must designate a management representative who, irrespective of other responsibilities must have responsibility and authority that includes:
 - Ensuring that processes needed for the Organic Fraud Prevention Plan and the QMS are established, implemented, and maintained;
 - Reporting to top management on the performance of the QMS and any need for improvement; and
 - Ensuring the promotion of awareness of customer requirements and specified process verified points throughout the company
- Each year, the Organic Fraud Prevention Plan and the Organic Integrity QMS will be reviewed and signed by the CEO, president (or equivalent) and management representative responsible for the implementation and proper execution of the QMS

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Best Practices for Ensuring Organic Integrity / Preventing Organic Fraud**

Monitoring and Verification Tools

TESTING

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WORK IN PROGRESS

3-26-2018

Testing - A tool for monitoring organic integrity

Testing under USDA's National Organic Program has a dual role in organic certification. It provides a means for monitoring compliance with the USDA organic regulations and discouraging the mislabeling of agricultural products and it also provides State Organic Program and certifying agents with a tool for ensuring compliance. Testing is a critical tool that can be used to verify that there was no intentional application of prohibited substances and it can be used to measure the effectiveness of your contamination and commingling prevention measures. Examples of contamination events include but are not limited to overspray of pesticides from adjacent conventional fields, fraudulent manufacturing of organic fertilizers using prohibited substances, fumigation using prohibited substances at ports of entry and GE contamination of crops, ingredients or products.

Once you have completed your vulnerability assessment and designed your mitigation strategy, you can begin to setup your testing program. The following is a guideline on how to setup a testing program. Your involvement with the supply chain will dictate the type of testing you will be performing.

Key considerations that any company developing a testing program should consider include:

- Defining the parameters and responsibilities for a testing program
- Identifying a laboratory
- Sampling
- Testing frequency
- Test results and corrective actions

1. Defining the parameters and responsibilities for a testing program

As with any quality assurance program, the first important step is to identify the person that will be responsible for developing a testing plan along with the tests, method, and procedures that will be used and a corrective action plan as needed. Typically, a testing program falls under the responsibility of the QA Manager that works with the QA department to collect and submit raw material samples, review all lab results to assure compliance and release product for usage, and document all corrective action taken when a test is out of tolerance, and to place the documentation of the rejection or other corrective actions on file in a lab testing log.

II. Identifying a laboratory

Identify a laboratory that can perform the tests that you are interested in. The laboratory should be certified or accredited to an industry standard. To ensure consistency in the analytical approach and quality assurance of the data by parties conducting residue testing, the National Organic Program issued instruction on laboratory criteria that should be used as part of meeting the residue testing requirements under 206.670 of the NOP regulations. The instruction includes helpful information to be followed when selecting a laboratory. Although not essential, greater credibility can be gained by the laboratory participation in proficiency testing. Ask your lab what certifications they hold and if they participate in proficiency testing. ISO 17025 and ELAP are examples of testing competency.

III. Sampling

Sampling your material is an integral part of your testing plan and is sometimes overlooked. It is critical to identify what risk mitigation measure your sampling program is aiming to validate. When using sampling as a tool to validate fraud prevention measures, the goal is a **representative** sample. That is, obtaining a sample that can accurately represent the size of your lot or the amount of material that you want the resulting test to apply to. There is a balance here, where you must determine the frequency and the size of each sub-sample compared to the overall amount. If the sample is not representative, one risks a loss of credibility in the test results. Excessive sampling can exaggerate the costs of testing without providing any additional assurance. Typically once accredited laboratories have been chosen for testing, their guidelines regarding quantity and collection procedures should be followed in order to obtain a representative sample.

Sampling plans are available on-line and can form the basis of your own sampling plan. (See NIST Mil Spec 105D or equivalent in your segment of the supply chain) Alternatively, your quality team may already have a food safety sampling plan in place that evaluates the effectiveness of reducing food born pathogens. These types of plans can be used as a template for organic fraud prevention sampling.

IV. Testing Frequency

The testing frequency will be determined through your vulnerability assessment. Increased exposure or potential to loss of integrity will be identified. Frequency of testing based on the findings can increase confidence in results.

The actual test that you perform will vary with what your testing plan is trying to accomplish. The tests may range from pesticide testing, isotope ratio testing to GMO testing. Choose the tests that would best address your product or commodity and the risks that have been identified in your vulnerability assessment. In order to choose the right test, you must first understand the fraud risks endemic in your supply chain (e.g. GE testing on imported wheat would not make sense, as GE wheat has not been released onto the market), and the capacity for any given test to actually detect fraud (e.g. pesticide residues can volatilize when

exposed to heat, so testing roasted soybeans for pesticides may not be the best use of testing resources).

Establish the actions taken for each set of test results that you receive. Similar to the actions taken for food safety purposes, you may consider a Hold and Release program, or diversion to another market (i.e. conventional). Results should be reviewed to determine if corrective action is needed and also if there are trends.

V. Test results and corrective actions

Test results provide documentation about the integrity of your products and can verify that your organic fraud prevention plan is or is not working. The following considerations are critical to interpreting results and identifying corrective actions.

1. Lot number designation
2. Available tests
3. Which test is right for you
4. Interpreting and reacting to the results

1. Lot number designation

Regardless of the product that you sell, it is important to define the lot that your testing represents. This is referred to as a lot definition. This goes hand in hand with the representative sampling plan discussed previously. A “lot” can be defined in many ways and depends entirely on your process. Some examples can be as follows:

- a) One day of production
- b) One block of land
- c) A single shipment

The concept would be to provide a unique number that will never be duplicated or repeated and can be traced back to an amount that you designated. In the event of a quality issue, this amount or “lot” can be traced throughout your supply chain, isolated, and diverted or recalled.

You may already have lot numbers that have been designated depending on what segment of the supply chain that you are on. Any lot numbers that are supplied to you should be recorded to move back a step if requested.

2. Available Tests

Ideally, the tests that you have identified as relevant for demonstrating organic integrity will be applied to this lot. Testing resources and frequency will need to be allocated based on how much risk your company has identified exists within the supply chain.

Below is a list of types of fraud, tests that can be performed to detect this fraud, the possible crops they may apply to, and limitations of the testing methodologies.

Fraudulent Activity	Test	Applicable Crop	Type of Results (Qualitative or Quantitative)
Use of prohibited pesticides in the production of crops	Multi- Residue Pesticide Screens (QuEChERS)	Most crops can be analyzed for pesticide residues	Quantitative – Most labs will provide concentrations down to 0.01 ppm
Use of prohibited herbicides like glyphosate or 2,4-D	Individual compound tests must be ordered to detect glyphosate or 2,4-D	Most crops can be analyzed for pesticide residues	Quantitative – Most labs will provide concentrations down to 0.01 ppm
Fumigation of crops post-harvest with prohibited substances	No Reliable Tests for Methyl Bromide, Magnesium Phosphide or Calcium Phosphide available	N/A	N/A
Comingling, blending, or substitution of organic crops with GMO crops	Strip test	Corn, soy, alfalfa, sugar beet, canola, cotton, rice, papaya, summer squash, tobacco	Qualitative (POS/NEG)
	ELISA		Quantitative – Can detect 0.01 – 0.1% GMO Proteins
	PCR		Quantitative – Can detect 0.01% GMO DNA
Use of prohibited synthetic fertilizers in the production of crops	Nitrogen 15 / Nitrogen 14 Isotope Ratio Testing	Produce	Qualitative – A lower ratio of N14/N15 can indicate the use of synthetic fertilizers, but testing methodology is not always conclusive
	Metabolomics (ref)		Qualitative (POS/NEG)

3. Which test is right for you?

At this point you must decide which tests are right for you. Ask yourself (but not limited to) the following questions:

1. Does my product have a potential for coming into contact with prohibited material like pesticides or fumigants?
2. Does my product have a risk for GMO contamination, either through pollen drift or comingling?
3. Do my ingredients or inputs have a history in the industry of being tainted? With what?

Based on your answers, you can then decide which tests are applicable for your supply chain and based on each test's limitations, you can determine how valuable it will be for detecting fraud or validating that risk mitigation measures are successful.

4. Interpreting and reacting to the results

Understand the appropriate levels of testing for each test. Technology continues to improve and detection levels continue to get increasingly more sensitive. For example, QuEChERS result can be accurate to parts per billion where the industry standard acceptance criteria may be higher, perhaps parts per million. Industry standards are generally available for each quantitative testing method.

At this point you have completed the following:

1. Risk assessment
2. Identified your lot
3. Obtained a representative sample
4. Identified the appropriate tests to demonstrate organic integrity
5. Performed the appropriate supporting tests

Ideally, all the results came back in support and compliance with your organic systems plan. That is, no pesticides were detected; your product tested free of GMOs; the isotope ratio tests showed that it was unlikely your product was grown using synthetic fertilizers.

But what happens if all the tests didn't come back quite as planned? The results showed some pesticide residues or there were GMOs detected at levels higher than the acceptance criteria allows. You must address it through corrective action. In some cases, the product must be diverted from the organic market.

Following a positive sample, an investigation can help to identify the source of the contamination. Refer back to your organic systems plan and your process to identify the possible places that contamination or comingling could have occurred. Trace back samples and test at each potential critical control point. Identifying the potential points along the supply chain where contamination or fraud can occur and establishing appropriate and consistent testing protocols at each of these points will ensure you are using residue testing to its maximum capacity as a tool for validating fraud prevention measures.

Helpful Resources

To assist certifiers and industry in matters of testing residues, USDA's National Organic Program has created extensive guidance that can be found in its Certification Handbook. The guidance includes sampling procedures for residue testing (NOP 2610), laboratory selection criteria (NOP 2611), a target list of prohibited pesticides that includes approximately 188 analytes (NOP 2611-1) and step-by-step instructions for responding to test results (NOP 2613).

All of the guidance documents may be viewed electronically and/or be downloaded through NOP's website at: <https://www.ams.usda.gov/rules-regulations/organic/handbook>.

- **Pesticide Residue Testing**
 - Sampling Procedures for Residue Testing: NOP2610
 - Laboratory Selection Criteria for Pesticide Residue Testing: NOP2611
 - Prohibited Pesticides for NOP Residue Testing: NOP 2611-1
 - Responding to Results from Pesticide Residue Testing 2613
- **GMO Testing**
 - NOP Policy Memo 11-13 (Clarification of Existing Regulations Regarding the Use of Genetically Modified Organisms in Organic Agriculture)
- See **Resources** for laboratory suggestions

DRAFT

**OTA'S Global Organic Supply Chain Integrity Task Force
Best Practices for Ensuring Organic Integrity / Preventing Organic Fraud**

**Monitoring and Verification Tools
TRACKING AND COMPLIANCE VERIFICATION TECHNOLOGIES**

**-DRAFT – WORK IN PROGRESS –
For GOSCI Task Force Members Only
4-2-2018MM**

Supply chain transparency, a rigorous supplier approval process, and monitoring supplier compliance and performance are critical to ensuring organic integrity. Each company will have their own systems for monitoring and tracking suppliers, inputs, orders, production, fulfillment, and sales. General concepts such as blockchain and SaaS tools are described below to help companies determine which type of technology solutions if any might be incorporated as an organic fraud prevention tool. Questions to consider before utilizing any mitigation tool are summarized at the end of this section.

Supply Chain Tracking and Transparency

CONCEPT: Blockchain

A blockchain is a digital ledger of identifying information, transactions, and smart contracts that creates a digital history or lifecycle of an asset. Entries on an asset become permanent and unchangeable. Assets can be digital or physical. Blockchain was co-created cryptocurrency to provide a distributed consensus on the history of a particular asset. Now, blockchain is being used by myriad industries for transparency in complex supply chains. The blockchain of any particular item can be extremely specific and 100% transparent, or can be a complete record but portions of the record are only available to authorized users. Since blockchain creates the product history as it moves, information is available 24/7 in real-time rather than relying on compilation and investigation of past records. One key requirement is that participants relying on a blockchain are part of the same platform or system.

Uses for promoting organic supply chain integrity

- Creating a many to one data solution clear identification and traceability of a product
- track produce from seeds used to product condition at time of harvest to delivery
- collect and organize documentation gathered from various sources
- develop smart contracts that will trigger an action if a requirement is met; for example, if a supplier uploads testing evidence for a particular lot, that particular transaction can pass to the next phase of the buyer's procurement process.
- protect confidential business information also using smart contracts while maintaining full supply chain history
- automate data collection from sensors (in-field, during transport, or on the shelf)
- automate notices for action required such as document review of certificates and test results added to a product ledger
- institute member-approved rules and condition for advancement of a asset transacted through the chain

Case Studies

- IBM and Wal-mart uses blockchain to trace mangos back to the source involving 16 farms, two packing houses, three brokers, two import warehouses, and one processing facility¹
- Dole, Driscoll's, Kroger, McCormick and Company, Nestle, Unilever, and Wal-Mart formed a food safety coalition focusing on blockchain as a method to increase supply chain transparency²
- Taiwan is using blockchain technology to screen and track the health status of milk imports³

CONCEPT: Sensors

Precision agriculture is revolutionizing the way food is planted, grown, and harvested. Thanks to the Internet of Things (IoT), more information is available than ever before. This data-driven approach is moving beyond the field and into the supply chain to monitor for product freshness, freight conditions, contaminants, and more thanks to rapid innovation in sensors. A sensor is a device that obtains information about a particular condition. The sensor then reports that condition either at predetermined standardize reporting period, in the event an alert is triggered, or both. Sensors can for example be programmed to report directly into a blockchain. Sensors are available for a range of reports, come in all sizes and price points.

Uses for promoting organic supply chain integrity

- Tracking field conditions where products are produced such as nitrogen content
- Tracking product conditions such as chemical changes due to a fumigation occurrences; originally developed as a food defense tool
- Tracking location details so the journey from field to factory is detailed and automated

Case Studies

- The European Union commissioned a report demonstrating that sensors and the internet of things will revolutionize supply chain management from small niche operations to large-scale industrial operations. The report indicated more funds would be spent on expanding the knowledge base and applications of this technology for the benefit of farmers and consumers.⁴
- Food sensors and RFID tagging have been demonstrated to increase supply chain traceability and safety.⁵
- Zest Labs helps food retailers monitor best-by dates and product conditions on arrival to reduce food waste in transit and stores⁶

¹ Galvin, David, "IBM and Walmart: Blockchain for Food Safety"; <https://www-01.ibm.com/events/wwe/grp/grp308.nsf/vLookupPDFs/6%20Using%20Blockchain%20for%20Food%20Safe%202020/%24file/6%20Using%20Blockchain%20for%20Food%20Safe%202020.pdf>

² http://www.sustainablebrands.com/news_and_views/startups/sustainable_brands/ibm_harnesses_blockchain_technology_improve_supply_chain

³ <https://www.ccn.com/taiwans-owlting-launches-ethereum-based-blockchain-for-food-safety/>

⁴ https://ec.europa.eu/eip/agriculture/sites/agri-eip/files/eip-agri_focus_group_on_precision_farming_final_report_2015.pdf

⁵ RFID and Sensor Network Automation in the Food Industry: Ensuring Quality and Safety through Supply Chain Visibility, First Edition. Selwyn Piramuthu and Wei Zhou

Supplier Approval, Monitoring, and Compliance

CONCEPT: Software As A Service (SaaS)

There are several Software As A Service (SaaS) solutions that have been created to strengthen supply chain integrity. While this is not an endorsement of a particular provider, the 'best in class' solutions providers support: 1) easy integration of suppliers into their buyers' systems; 2) support of 'real time' monitoring/updating; and 3) recognition of common safety and integrity systems (ie, HACCP, ISO, etc). Most SaaS offerings are cloud based and can be accessed anywhere with an internet connection.

Uses for promoting organic supply chain integrity

- Customer relationship management
- Increased visibility across teams for enterprise resource planning
- eCommerce can be used to track products out
- batch recipe management and inventory tracebacks

Case Studies

- Olam Farmer Information System (OFIS) is an SaaS platform aiming to provide smallholder farmers with a variety of resources to help sustain and grow their operations, as well as give Olam the information it needs to assure its customers about the provenance of their products. OFIS now has 100,000 farmers signed up. OFIS offers registrants a variety of features, including data management, geotagging for traceability, and ways to reduce supply chain risk in a variety of crops like coffee, cocoa, cashews, hazels, palm, pepper, rice, and rubber.⁷
- Purchasing verified organic supplies from online SaaS such as Mercaris or Ekowarehouse
- Utilizing SaaS like ComplianceCops to help with supplier verification and document maintenance

Evaluating a Technology before Integration into Company Protocols and the Organic Fraud Prevention Plan

There are countless technology solutions, providers, and promises in the marketplace today. Individual companies will rely on different tools depending on their footprint, supply chain complexity, and available resources. Before investing in any particular tool, be sure to ask answer the following questions first.

- How will this tool improve the organization or read out of information we already collect?
- Does the program or service streamline an existing process, create a new one, or both?
- How will this tool integrate with existing critical systems?
- What resources will be needed to utilize and maintain the tool?
- What support is available from the vendor after programs are installed and implemented?
- How easy will it be to add / change/ update users and permissions?
- Which other companies are already using the tool? Request a conversation with an existing client.

⁶ <https://www.fastcompany.com/40424163/these-high-tech-sensors-track-exactly-how-fresh-our-produce-is-so-we-stop-wasting-food>

⁷ <https://agfundernews.com/olam-creates-agtech-platform.html>

**OTA's Global Organic Supply Chain Integrity Task Force
Alert System: Monitoring and Reporting Organic Fraud**

**DRAFT
WORK IN PROGRESS**

It is essential to maintain a routine watch of USDA National Organic Program (NOP) announcements regarding fraudulent certificates, investigations, suspensions, revocations, etc. as well as monitoring other official and industry publications, which may give early warning of information or changes that may trigger new threats of organic fraud, or change the priority of existing threats.

Conversely, it is of paramount importance to report fraud when it is detected. It may also be appropriate to alert your business partners when you detect fraud to prevent the fraudulent product or material from reaching other parts of the value chain. In all cases of detected fraud, it's critical that cases are reported to the competent authority and/or to an accredited certifier agency or material review organization.

This section provides guidance on what to do when a business engaged in organic trade suspects or detects fraud. It includes a template that will help businesses collect and organize the necessary information to be shared in order to submit an *actionable* complaint.

What do you do when you suspect or detect fraud?

In short, reject the product, return it to the vendor / supplier / producer and report it to your own ACA, the ACA of your supplier, and/or the competent authority (e.g. USDA-NOP)

What is the process for reporting fraud?

Anyone who suspects a violation of the USDA organic regulations can and should file a complaint. When you report an alleged violation, you must provide as much information as possible to help ensure a thorough investigation. Provide your contact information, and the NOP will contact you if necessary for clarification or when the case is closed. It is recommended practice to check in with NOP on a regular basis to see if they need any additional information.

File complaints by email or mail at the addresses below:

Email: NOPCompliance@ams.usda.gov

Phone: (202) 720-3252

Mailing Address:

NOP Compliance and Enforcement Branch
Agricultural Marketing Service
United States Department of Agriculture
1400 Independence Avenue, S.W.
Mail Stop 0268, Room 2648-S
Washington, D.C. 20250-0268

Reports should be written, verifiable, and accompanied with evidence documenting the suspected fraud. Evidence should be first-hand. We recommend sending a copy of the complaint to any organic certifiers involved your certifier as well.

Follow this suggested template to organize your complaint:

If you are willing to discuss the issue further or wish to be notified when the case is closed, please include your name and contact information with your complaint. If you would like to remain **CONFIDENTIAL**, clearly state this with your submission and mark all documents accordingly.

Filer's information

1. Company
2. Name of person filing the complaint, title
3. Contact email/phone
4. Date Submitted
5. Your certifier (if applicable)
6. State whether you wish to remain confidential

Complaint information

1. Nature of complaint - detailed explanation of the identified regulatory violation
 - a. Use of fraudulent organic certificates to market or sell agricultural products
 - b. Misrepresentation of conventional as organic (not fraudulent certificates)
 - c. Labeling violation
 - d. Excess volume (evidence that volume exceeds organic supply)
 - e. Lack of documentation
 - f. Evidence of contamination by a prohibited substance (pesticide use, fumigation, treated seed, etc.)
 - g. Changing identity
 - h. Inability to follow an audit – Documentation not in alignment with product (not matched, excessive documents, wrong documentation type, etc.
 - i. Use of uncertified co-packers or other handlers in the processing of agricultural products to be sold, labeled or represented as organic
 - j. Distribution by an uncertified/readily confirmed entity
 - k. Below market value
 - l. Other: Please explain
2. Severity of the complaint – indicate the severity of the complaint and explain why
 - a. Minor – The violation is un-willful, correctable and is not a result of a systemic failure in OSP
 - b. Major – The violation is un-willful bit is a systemic failure of OSP & inability to comply with the regulation; warrants a proposed suspension
 - c. Severe – The violation is a willful violation of the organic regulations and warrants revocation

3. Reference the section of the rule(s) you think the complaint violates
 - a. 7 CFR XXX
 - b. Explain why it violates this section of the rule
4. The source of the product, list:
 - a. Full Business name (s)
 - b. Brand name of the product
 - c. Contact name
 - d. Address
 - e. Phone number
 - f. Certification agency of that source
5. Other parties involved in transactions, list:
 - a. Reference certificate documents information offered as proof of compliance (list operator name, certifier, certificate number)
6. The type (including variety, if applicable) of contaminated/fraudulent product
7. The lot number or other identifying mark, if any, of the product (“best by”)
8. The quantity of product, if known
 - a. Is this entire lot or just contaminated product?
 - b. E.g., 1 lot, etc.
9. If the complaint involves a contaminated product
 - a. The name of the prohibited contaminant, if known
 - b. The amount of the prohibited material, if known
10. The length of time that the violation has been occurring, if known
11. The basis of knowledge of the fraud (food safety testing, observation, phone call, etc.)
12. If testing was performed, the test results themselves and any information about the sampling protocol and chain of custody
13. Any information about the likely source or reason for the contamination / fraud
14. Who the product has already been sold to (if applicable)
15. Any additional information relevant to the situation (images of labels, attachments and additional documentation accepted)\
16. What action has complainant already completed?
17. Has there been any industry action? If so, what?
18. Nature of the supply chain (who is selling the product? Who else is buying? Market saturation level?)

Remember, filling a complaint should follow the big 5 W’s: Who, What, When, Where, and Why. Please review your information for accuracy when before you submit.

What happens after the complaint is filed?

The National Organic Program (NOP)* will review your complaint and determine how best to proceed. This may include coordinating a thorough investigation with the operation’s certifying agent. If the suspected violation is confirmed, the operation could be subject to financial penalties up to \$11,000 per violation or suspension or revocation of its organic certificate. If you provided your contact information, the NOP will contact you when the case is closed.

*Complaints involving operations in California are referred to the California Department of Food and Agriculture and follow a similar process. [Why are these handled differently?](#)

What should I do if I use an ingredient or product shown to be fraudulent?

Do not sell it as organic. Knowingly selling fraudulent product is unethical and may also make your operation subject to criminal prosecution or civil penalties. It may be marketable without any organic claims, but in some cases the product may need to be written off as a complete loss.

How does the complaint process work?

As the flow chart shows, there are several steps the NOP follows once receiving a complaint. It is important to note that if sufficient evidence is not available, NOP is unable to move forward with further review and investigation and the case closes.

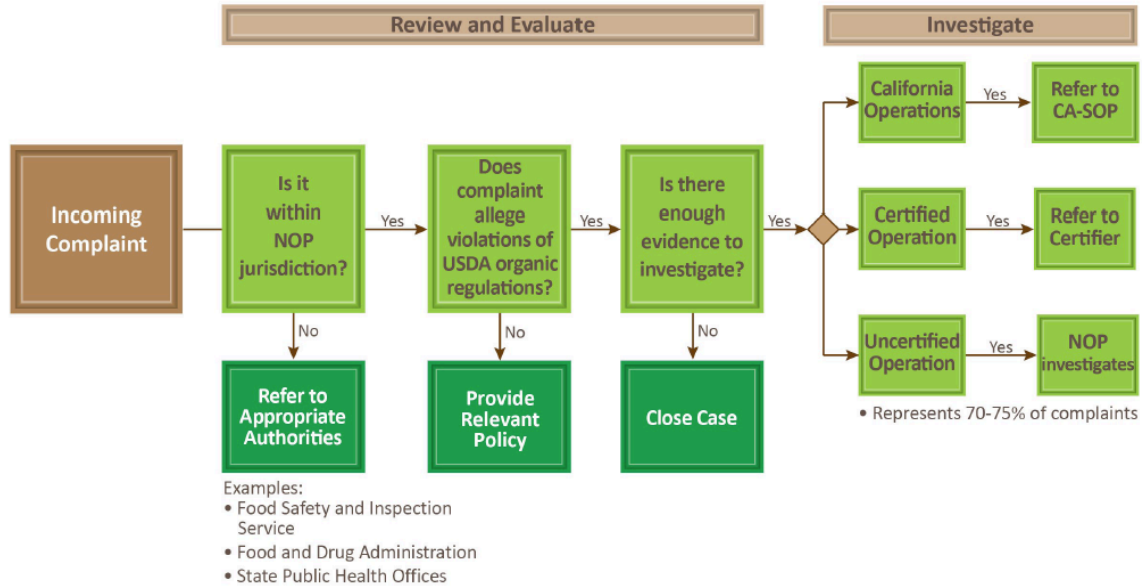


Image from USDA-NOP "How to File a Complaint about Violations of the Organic Standards"

Resources

- How to File a Complaint on Organic Regulations
<https://www.ams.usda.gov/services/enforcement/organic/file-complaint>
- NOP Integrity Database (includes list of suspended and revoked organic operations)
<https://organic.ams.usda.gov/integrity/>
- Joint Organic Compliance Committee
<https://www.ams.usda.gov/services/enforcement/organic/joint-committee>
- Fraudulent Organic Certificates
<https://www.ams.usda.gov/services/enforcement/organic/fraudulent-certificates>
- Receive email updates on topics of organic interest: [Get Email Updates](#)

ACKNOWLEDGEMENTS & FURTHER READING

-WORK IN PROGRESS- GOSCI TASK FORCE MEMBERS ONLY

ACKNOWLEDGMENTS

The Organic Trade Association would like to thank the members of the Global Organic Supply Chain Task Force, convened in May 2017. The mandate of this task force is to develop a best practices guide to use in managing and verifying global organic supply chain integrity to help brands and traders manage and mitigate the risk and occurrence of organic fraud. The Organic Trade Association would also like to thank the USDA National Organic Program for providing valuable feedback on the complaint template included in this guide and the Accredited Certifiers Association for its collaboration on this project. Finally the Organic Trade Association would like to recognize the GFSI Food Fraud Think Tank and the MSU Food Fraud Initiative for their on-going and valuable work on vulnerability assessment and mitigation strategy. The food fraud prevention model adopted by GFSI significantly shaped the process we adopted in this guide for developing and implementing a written organic fraud prevention plan.

FURTHER READING

Below are additional resources that the users of this guide will find helpful. Links and contact info are provide where appropriate.

Note – This is not intended to be a comprehensive list nor an endorsement of any particular product or service.

STANDARDS

- Title 7 Code of Federal Regulations, Part 205-National Organic Program
[USDA organic regulations](#)
- Access to international standards - Global Organic Trade Resource Guide
<http://www.globalorganictrade.com/>

USDA GUIDANCE DOCUMENTS /INSTRUCTIONS/POLICY

- NOP 5031: Certification Requirements for Handling Unpackaged Organic Products
<https://www.ams.usda.gov/sites/default/files/media/5031.pdf>
- NOP 4013 Interim Instruction: Maintaining the Integrity of Organic Imports
<https://www.ams.usda.gov/sites/default/files/media/NOP4013IntegrityOrganicImports.pdf>
- NOP 2602: Recordkeeping for Certified Operations
<https://www.ams.usda.gov/sites/default/files/media/2602.pdf>
- NOP 2609: Unannounced Inspections
<https://www.ams.usda.gov/sites/default/files/media/2609.pdf>
- NOP 4009: Who Needs to be Certified
<https://www.ams.usda.gov/sites/default/files/media/4009.pdf>
- APHIS Fruit and Vegetable Import Requirement (FAVIR) Database:
<https://epermits.aphis.usda.gov/manual/index.cfm?CFID=227701&CFTOKEN=9b59dc120fc5103f-0102C510-9977-5744-AC3D60FA1941AACB&ACTION=pubHome>

SELF-ASSESSMENT TOOLS

- SSAFE Food Fraud Assessment Tool
<https://ffv.pwc.com>
- Food and Drug Administration (FDA) Vulnerability Assessment Software
<http://www.fda.gov/Food/FoodDefense/ToolsEducationalMaterials/ucm295900.htm>

ALERTS & DATABASES

- California State Organic Program
https://www.cdfa.ca.gov/is/i_&c/organic.html
- FAO Early Warning Bulletin
<http://www.fao.org/food-chain-crisis/early-warning-bulletin/en/>
- Ports of Entry websites
(e.g. <http://www.portofstockton.com/project/view-log>)
- U S Food and Drug Administration (FDA) Import Alerts and Refusals
<http://www.fda.gov/ForIndustry/ImportProgram/default.htm>
- USDA AMS Market and price information:
<https://www.ams.usda.gov/market-news/organic>
- USDA FAS GATS Import/export data for organic <https://apps.fas.usda.gov/gats/default.aspx>
- USDA National Agricultural Statistics Service
https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Organic_Production/index.php
- USDA NOP Fraudulent Certificates
[List of fraudulent organic certificates.](#)
- USDA NOP Industry Alerts
<https://www.ams.usda.gov/reports/organic-insider>
- USDA NOP Organic Enforcement Webpage
<https://www.ams.usda.gov/services/enforcement/organic>
- USDA NOP Organic Integrity Database
<https://organic.ams.usda.gov/integrity/>
- Vessel Finder
<https://www.vesselfinder.com>

TESTING

Nitrogen Isotope ratio testing labs

- Aquatech Enviroscience Laboratories, Inc.
<http://www.aquatechenvirolabs.com/>
- Agro Iso Lab United Kingdom
<http://www.agroisolab.com/>
- Isotech Laboratories Inc.
<http://www.isotechlabs.com/index.html>
- IEH Laboratories & Consulting G <http://www.iehinc.com/food-testing-services-authenticity-of-organic-vs-conventional-products/>

Pesticide residue testing labs

- Pacific Ag Lab
<http://www.pacaglab.com>
- Medallion Labs
<https://www.medallionlabs.com>
- Eurofins
<https://www.eurofinsus.com/food-testing/testing-services/contaminants/pesticide-residue/>
- Primus Labs
<http://www.primuslabs.com/services/PesticideAnalysis.aspx>
- EMA Inc Environmental Micro Analysis
<http://www.emalab.com/>
- Analytical Bio-Chemistry Laboratories
<http://www.eag.com/locations/north-america/columbia-mo>
- Midwest Laboratories
<https://www.midwestlabs.com>
- Global Laboratory Services, Inc.
<http://www.globallaboratoryservices.com>

GMO Testing Labs & Services

- Eurofins GeneScan, Inc.
www.eurofinsus.com/gmotesting/
- Genetic ID NA, Inc.
www.genetic-id.com
- Genista Biosciences
www.genistabio.com/
- ICIA
www.indianacrop.org
- IEH Laboratories & Consulting Group, Inc.
www.iehinc.com
- Midwest Laboratories, Inc.
www.midwestlabs.com
- OMIC USA Inc.
www.omicusa.com
- SGS Brookings
www.sgs.com/us-gmo

GENERAL RESOURCES ON THE TOPIC

- Organic Trade Association's Global Organic Trade Reports
<https://www.ota.com/tradedata>
- GFSI position on mitigating the public health risk of food fraud
http://www.mygfsi.com/files/Technical_Documents/Food_Fraud_Position_Paper.pdf
- U S Michigan State University Food Fraud Department
<http://foodfraud.msu.edu/>

- Nestle, “Food Fraud Prevention, Economically Motivated Adulteration”
<https://www.nestle.com/asset-library/documents/library/documents/suppliers/food-fraud-prevention.pdf>
- PWC, “Food Fraud Vulnerability Assessment and Mitigation – Are you doing enough to prevent food fraud?”
<https://www.pwc.com/gx/en/services/food-supply-integrity-services/assets/pwc-food-fraud-vulnerability-assessment-and-mitigation-november.pdf>
- FSSC 22000, “Tackling Food Fraud – Results of the FSSC 22000 Pilot audits on Food Fraud Prevention”
<http://www.fssc22000.com/documents/pdf/article-ff-201702-final.pdf>
- Anti-Fraud Initiative, Fibl
<http://www.organic-integrity.org/>
- BRC Global Standard for Food Safety Issue 7 - Understanding Vulnerability Assessment
https://www.brcglobalstandards.com/media/63848/brc_global_standard_for_food_safety_issue_7_faqs-1.pdf
- A Guidance Document on the Best Practices in Food Traceability, Comprehensive Reviews in Food Science and Food Safety, Jianrong Zhang and Tejas Bhatt
<http://www.ift.org/gftc/~media/GFTC/Best%20Practices%20Paper.pdf>

Uncertified Handler Declaration

The purpose of this form is to verify eligibility for the exclusion from certification under §205.101(b)(1). This form must be completed by any uncertified operation in your supply chain that sells and/or handles agricultural products labeled as "100 percent organic," "organic," or "made with organic" (specified ingredients or food group(s)).

Name and address of handling operation (please include any alternative names your operation may do business under):		
Name and title of responsible party (must match signature below):		
Phone:	Email:	Website:

1. Do you handle any organic products that are not enclosed in a package or container when you receive them? Yes No If yes, please explain:

2. Do you open packages or containers of organic products? Yes No If yes, please explain:

3. Do you re-label any organic products including application of a label that obscures the original label or lot number/code? Yes No If yes, please explain:

4. Do you ever combine or split loads of bulk/unpackaged products? Yes No If yes, please explain:

5. Do you process any organic products including but not limited to repacking, sorting, reconditioning, culling, icing, hydrocooling, hydro vacuum, washing, high pressure processing (HPP), ethylene or controlled atmosphere treatment or any other processing?
 Yes No If yes, please explain:

6. Do all organic products remain in the same package or container for the entire time they are in your possession? Yes No If no, please explain:

7. What do you do when incoming packages or containers of organic product have been damaged?

8. Describe the measures implemented to prevent commingling of organic and nonorganic products:

9. Describe the measures you have implemented to prevent contamination of organic products from substances such as cleaners, sanitizers, and pest control products:

10. Explain how you maintain audit trail records sufficient to track organic product back to its certified organic source, including original lot number:

11. Do you import or export organic products? Yes No If no, please explain:

12. If you are importing, describe the documentation you collect to verify that the products are not fumigated or treated with a prohibited substances upon entry to the country:

13. Describe how frequently you change organic suppliers and how the certified organic operation you are buying from can verify the source, volume, organic certification, and import compliance of each shipment. You may attach sample documents to demonstrate your system.

14. Do you agree to provide copies of audit trail records to the certifier upon request? Yes No If no, please explain:

§ 205.100 (c) Any operation that:

(1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than the amount specified in §3.91(b)(1) of this title per violation.

(2) Makes a false statement under the Act to the Secretary, a governing State official, or an accredited certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

Certified organic operations must maintain records sufficient to demonstrate compliance. Certified operations may only source from uncertified handlers who provide full supplier traceability back to the last certified operation for each shipment. This means:

- *Purchase invoices, BOL, and other audit trail records must designate products as organic and include a description of the product and amount transferred.*
- *Uncertified handler audit trail records must link directly back to the last certified operation, including transport, storage, processing/handling, shipping, and/or distribution. Documents generated by the last certified operation proving purchase/delivery/transfer to the uncertified handler must be available.*
- *The last certified operation must be listed on invoices and/or lot numbers applied by the last certified operation must match lot numbers on uncertified handler audit trail records.*
- *For each delivery, uncertified handlers must provide a complete, current organic certificate for the last certified operation, as well as import documentation as relevant.*
- *All certified suppliers must be approved by the certifier as part of the certified operation's Organic System Plan (OSP).*
- *Traceability will be verified as a part of the certified operation's audit and review. If organic product cannot be traced back to the last certified operation, the certified organic operation making purchases will not be allowed to source organic products from the uncertified handler.*

I declare under penalty of perjury (under the laws of the United States of America) that the foregoing is true and correct.

Executed on: _____ Signature: _____
(date)

Printed Name: _____