



CCOF

Organic Certification

Education & Outreach

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Promotion

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board, USDA-AMS-NOP
1400 Independence Ave. SW., Room 2642-S, Mail Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-17-0057-0001

Re: Compliance, Accreditation and Certification Subcommittee: Import Oversight Discussion Document

April 4, 2018

Dear Ms. Arsenault and NOSB,

Thank you for the opportunity to comment on the Compliance, Accreditation and Certification Subcommittee's discussion document "Import Oversight."

CCOF is a nonprofit organization governed by the people who grow and make our food. Founded in California more than 40 years ago, today our roots span the breadth of North America. We are supported by an organic family of farmers, ranchers, processors, retailers, consumers, and policymakers. Together, we work to advance organic agriculture for a healthy world.

CCOF provides the attached responses and recommendations regarding import oversight. Given the wide range of issues addressed in this discussion document, NOSB should organize its work agenda on import oversight by order of priority. CCOF recommends the following priority list:

1. Global and National Organic Crop Acreage Information
2. Equivalencies, Recognition Agreements, and Certifiers Operation Databases (like the Organic Integrity Database)
3. The Role of Documents in an Organic Supply Chain with a Focus on Imports
4. Full Supply Chain Audits
5. The Role of Importers in the Organic Supply Chain
6. The Role of Uncertified Entities in the Supply Chain
7. The Role of Residue Testing to Verify Bulk Shipments of Grain

Additionally, NOSB should lend its full support to the Organic Farmer and Consumer Protection Act of 2017 (H.R. 3871), a bipartisan marker bill intended for inclusion in the 2018 Farm Bill. H.R. 3871 would address some issues that are raised in this discussion document such as improving traceability in the supply chain through technology upgrades and through increased authority to oversee global certifiers and operations.

Thank you for your careful review of our comments. Please do not hesitate to contact me for further information.

Sincerely,

A handwritten signature in black ink that reads "Kelly Damewood".

Kelly Damewood
Director of Policy and Government Affairs

cc: Cathy Calfo, Executive Director/CEO
Jake Lewin, President, CCOF Certification Services, LLC

CCOF's Comments on Import Oversight Discussion Document

The following comments are based on CCOF's experience offering organic certification in 42 states and three countries as well as its experience working with a wide range of handlers and importers.

1. Global and National Organic Crop Acreage Information

- 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?

NOP should require certifiers to provide production acreage to the Organic Integrity Database. Although the database can accept acreage data from certifiers, not all certifiers report acreage for their clients. Currently acreage data is only available for about 27% of organic operations in the U.S. and 0% in the Ukraine and Russia. Certifiers that do not or cannot provide production acreage are an elevated risk in the accreditation and oversight system. Therefore, NOP has justification to push these certifiers to collect and report acreage information.

NOP and stakeholders could use production acreage to identify geographic trends and production capacity as markets change or develop. This information would build a baseline for organic acreage and could be used to assess whether spikes or shifts in trade are supported by the acreage necessary to support the commodity/price changes. NOP could create aggregated reports that list commodities and acreage by region.

NOP and certifiers need acreage information to verify that the volume of imported commodities correlates with the amount of certified organic land in production abroad. If certifiers reported acreage to the Organic Integrity Database, then NOP could create aggregated reports that show commodity or acreage by region instead of per producer. Some certifiers, including CCOF, publicly report acreage to the Organic Integrity Database. CCOF reports acreage on our organic certificates, on our website, and in our organic member directory without member complaints.

- 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?

Yes. All certifiers have acreage information available, but some cannot easily export or report this information. Some certifiers may record acreage information on individual or various documents that they cannot easily aggregate. However, these issues can be readily addressed as demonstrated by certifiers who can aggregate and export acreage information. Certifiers should be given one year to update their systems to export acreage information.

Additionally, NOP should require certifiers to report crop acreage rather than parcel acreage. If certifiers only report parcel acreage, then NOP and certifiers can only see that a producer may have 50 acres of certified land. In contrast, if a certifier reports crop acreage, then NOP and certifiers can see that a producer has 20 acres in strawberry production, 20 acres in tomatoes, and 10 acres fallow. Crop acreage reporting will allow NOP to aggregate data to create reports showing capable production acreage per region/country. Therefore, crop acreage reports will help reduce some risk in the organic supply chain by allowing oversight of whether acreage matches market supply.

Notably, CCOF plans to improve our own reporting by reporting acreage by crops using NOP's existing crop taxonomy.

- c. Is both acreage and yield information important?

No. Acreage is critical; yield could be helpful but not necessary in the immediate term. Unlike reporting crop acreage, there is not an existing system for yield data. Certifiers should focus on the immediate task of reporting acreage into the existing system before attempting to track, report, and aggregate complicated yield data.

As described above, acreage is necessary to verify volumes of organic production. Yields might be helpful in verifying volumes of production; however, yields are highly variable from operation to operation and from parcel to parcel. Therefore, NOP should focus on acreage first and then examine the need for yield reporting. In some cases, yield reporting could be useful when a specific risk for a specific crop is identified.

- d. Should acreage and yield information be proprietary to the operations and not be communicated? What would the impact of sharing the information with certifiers and ultimately the NOP and public (through the Organic Integrity Database)? If privacy and other concerns prevent publishing individual information, would aggregate data be helpful and at what level of aggregation (state, country, etc.)?

CCOF publicly reports acreage information to the Organic Integrity Database, on client certificates, on our website, and in our organic member directory. To date, CCOF has never received a member complaint about disclosing this information.

To address any proprietary concerns, NOP should aggregate data at crop and geographic levels to establish baseline production and supply capacities. Analysis of aggregated reports would make it possible for stakeholders to find and address high risk areas where production and supply do not match.

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

Although some countries have data collection mechanisms, the data is not publicly available or widely distributed. For example, Italy requires producers to report acreage into a proprietary system and the E.U. requires member states to report acreage but there is no system to aggregate or share the data.

- f. Should these reporting requirements also be required of countries operating under an equivalency agreement?

Yes. Reporting requirements should be a basic criterion for equivalency agreements as part of the adequacy of control and oversight systems. For example, information about global operations certified to the Canadian Organic Regime are not reported to the Integrity database. This creates a blind spot for the NOP because these operations can sell into the United States under the equivalency agreement, but NOP does not have regularly reported information about these operations. Therefore, equivalency agreements should ensure that certifiers must report information to the database for any operation selling into the United States.

- g. 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. Acreage information is critical to looking at the overall volume of organic product coming from a given region. If there is a specific allegation of fraud, certifiers could potentially look at an operation's acreage to yield and sales ratio. But given the wide range of variability in yield and sales, examining acreage information for each individual producer will not always help deter fraud. The most critical step right now is ensuring NOP and certifiers have a broad overview of how much organic production is happening in different areas. In other words, acreage and production capacity are better as an aggregate tool on the macro level. Therefore, specific individual operation data may not be helpful unless investigating potential fraud.

2. **Equivalencies, Recognition Agreements and Certified Operation Databases (like the Organic Integrity Database)**

- a. Should the NOP require foreign governments to maintain a similar database with certified operator data in its equivalency and recognition agreements?

Yes. The Organic Integrity Database is the gold standard and the best tool for enforcement and oversight. Therefore, foreign governments should be required to report into the Organic Integrity Database. Equivalency arrangements should require certifiers report into the Organic Integrity Database within a reasonable time frame. Global certifiers should not have difficulty reporting into the Organic Integrity Database because the system is accessible and easily understood.

If foreign governments do not report into the Organic Integrity Database, they should be required to create and maintain similar systems. Their systems should mimic the Organic Integrity Database and be easily aggregated with data from the Organic Integrity Database.

- b. Should this data be required to be integrated into the Organic Integrity Database?

Yes. The data should be integrated into the Organic Integrity Database to create a united database with global organic information.

- c. 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?

Use of the Organic Integrity Database should phase out use of paper certificates and lead to a technological system of oversight and verification. Certifiers and others should use the Organic Integrity Database to verify the certification status of operations because it provides a more up-to-date verification of certification status than paper or electronic certificates.

3. The Role of Documents in an Organic Supply Chain with a Focus on Imports

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

All identifying documents that an operation produces should identify the product as organic. Proper identification would notify others that the product is organic and may need additional requirements. If an operation creates or controls documents but does not indicate “organic,” then certifiers should be alert and aware of increased possibilities that the product is either mistakenly or intentionally mishandled.

- 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 should not be overvalued as complete verification and oversight tools. Transaction certificates do not verify the legitimacy of an individual shipment’s organic status but can be used to track trade between entities. Certifiers and control bodies can use transaction certificates in aggregate to note spikes, drops, or trends in trade.

The transaction certificate system and concept should be updated into an automated trade registration system. The system would give certifiers, the NOP, and other oversight bodies visibility into trade as it occurs. Using this system, certifiers should be required to complete quarterly trade registration reports to the NOP to identify trends and create analysis of the global organic supply chain.

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

Yes. Certifiers can use “cross checks” to verify documents and trade between operations. Cross checks are verifications of sales between operations by certifiers. For example, Seller tells Certifier A that it sold X volume of organic product to Buyer who is certified by Certifier B. Certifier A requests that Certifier B check that Buyer received X volume of organic product from Seller.

Additionally, NOP should meet biannually with certifiers to provide analysis of potential and ongoing issues in trade. And it should require certifiers doing major investigations or with large market shares to participate in the meetings.

4. Full Supply Chain Audits

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

Yes. Full supply chain audits offer complete oversight in a global organic marketplace. Full supply chain audits and tracking should occur periodically. NOP can already require certifiers to complete a full supply chain audit and report findings back to NOP. However, certifiers may need more authority to require operations who supply or ship to pause operations until the certifiers complete the audit.

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

Given the growth and complexity of the organic supply chain worldwide, a full supply chain audit could be lengthy and costly because it may require cooperation among numerous certified and uncertified operations across the globe.

- 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)?

The starting point of a supply chain audit could begin with a commodity or region. Additionally, a single operation or shipment could be used as starting points by auditors to trace products back to their source.

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

A full supply chain audit could begin with the NOP alerting certifiers and assigning audits to certifiers with a time frame. Certifiers would conduct inspections of specific operations and provide documentation or a report of production and sales during the time frame (e.g. the prior year). The NOP could then compile and analyze the information.

5. The Role of Importers in the Organic Supply Chain

- 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?

NOP should consider creating an importer/exporter scope of certification. Importers/exporters are not traditional handlers and have different risks, challenges, and needs. By having a separate importer/exporter scope, certifiers could create specialized Organic System Plan forms that suit their needs. Notably, importer/exporter scopes are not uncommon in other organic standards.

- 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 operation. 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?

Importers should be required to provide complete audit trails for their products. Importers that cannot provide additional assurances for their products should be examined closely and have higher risk assigned to them. Certifiers should assess how much information importers know about their supply and evaluate whether additional information and/or requirements are necessary for those importers.

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

Importers should take responsibility for the integrity of their products by understanding which documents are required, conditions of product entry, transloader details, etc. Creating an importer/exporter certification scope

would allow for certifiers to develop specific questions for importers to verify compliance and importer responsibility for products.

6. The Role of Uncertified Entities in the Supply Chain

- a. What are examples of uncertified handlers in import or domestic supply chains? Should these operations be certified or not, what additional value would this bring, and what impact would this have on the industry?

Certification should be required for operations that move, unpack, or load and unload unpacked product. Loading and unloading operations often handle and move unpacked products, which have a higher risk of commingling or false representation as organic because they are not contained. Therefore, requiring these types of operations to be certified reduces the potential for fraud in the organic marketplace.

- b. Should operations that take ownership of products or operations that market but don't own products be certified? What impact would this have on the industry, and how would this improve supply chain integrity?

Yes. Increasing the number and types of certified operations in the supply chain will increase oversight over the entire organic marketplace.

- 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?

Customs brokers are included in a range of businesses that support import and export operations. Certifiers should work with importers to ensure that their service or paperwork providers mitigate for fraud. This includes confirming that service or paperwork providers are aware of treatment and other requirements for shipments such as the accurate identification of organic status. Certified operations have a responsibility to ensure that the ancillary business they work with, such as custom brokers, do not negatively impact the organic integrity of commodities.

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

NOP should require complete audit trails between certified operations, including uncertified operations, because complete audit trails demonstrate compliance with the standards and verifies the product source. For example, a complete audit trail would include all the documents necessary to track a product from its purchase to its production and final sale, including invoices, batch or lot numbers, shipping and transportation records, etc. NOP should require uncertified handlers to provide full audit trail documentation to all certified operations. This will ensure that compliance can always be verified onsite at certified operations.

CCOF and many other certifiers are increasing oversight over uncertified handlers by verifying additional audit trail records during inspections and with an Uncertified Handler Affidavit (attached). CCOF's Uncertified Handler Affidavit verifies that uncertified handlers are excluded from certification requirements and requires audit trail information that traces product back to the last certified organic operation. Certifiers should not approve excluded operations as suppliers if they cannot provide audit trail documentation.

CCOF encourages all certifiers to implement systems similar to its Uncertified Handler Affidavit because an additional audit trail for uncertified handlers helps ensure that suppliers are protecting the organic integrity of their products.

7. The Role of Residue Testing to Verify Bulk Shipments of Grain

- a. Should testing of imports be required? 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?

Yes, testing can play a vital role in identifying potential fraud throughout the international and domestic supply chain. Testing acts as a deterrent and important information source; however, it is not a perfect tool, and it is not always appropriate in every commodity or situation. For example, CCOF finds GMO testing helpful and pesticide residue unhelpful when investigating grain issues.

The organic sector should increase the sophistication of residue testing. For example, we do not have valid tests for the use of common fumigants and there is no recent research on fumigant testing. By comparison, pesticide residues help identify potential problems in fresh commodities. There are also new and emerging testing technologies that should be investigated and validated because they could help identify farming methodology or origin of commodities.

While certifiers will continue to test and investigate new testing methods, operations should also be encouraged to do testing and to report problematic results to their certifiers and NOP.

- b. Should testing be required if the shipment passes a certain market value or size threshold?

It may be appropriate for the NOP to require an increased testing regime when there is a specific concern.

- c. If testing should be completed, what type of testing should be done?

The type of testing that should be done will depend on the commodity and the purpose of the investigation. For example, it may be helpful to test carbon isotope ratios to verify the geographical origin where the handler claims to have sourced a crop or product. Overall, the organic sector needs to continue to validate different types of testing and broaden its understanding of how tests may or may not help resolve questions about organic integrity in the supply chain.



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Uncertified Handler Affidavit

This form applies to uncertified storage facilities used by CCOF operations to store unsealed product or product in permeable packaging.

This form also applies to uncertified brokers, traders, wholesalers, or distributors that provide organic products to CCOF certified operations. It is not required for uncertified handlers supplying organic product in sealed, impermeable containers with final retail labeling that identifies the organic status and original certified producer.

- ▶ The uncertified handler must answer the questions below. If there is any change in the future, including a change in management of the uncertified handler, a new form must be submitted.
- ▶ Copies of the Uncertified Handler Affidavit (UHA) must be kept by both the CCOF certified operation and the uncertified handler. This form and any sample audit trail records will become part of the CCOF certified operation's Organic System Plan (OSP).
- ▶ CCOF certified operations will be billed an initial and annual fee for each Uncertified Handler Affidavit, outlined in the CCOF Certification Services Program Manual. CCOF certified operations can avoid this fee by sourcing from certified handlers.

Brokers, traders, wholesalers, distributors, and storage facilities are considered handlers per USDA NOP § 205.2 "Handle, Handler". NOP § 205.101(b)(1) and [NOP Guidance 5031](#) requirements for handling unpackaged organic products do not require certification of broker/trader/wholesaler/distributor/storage facilities if organic products are packaged or otherwise enclosed in a container prior to being received or acquired. Organic products must remain in the same package or container and may not be repacked or re-labeled while in the control of the uncertified handler.

CCOF operation using this uncertified handler: _____

Uncertified Handler: _____

Manager/Owner: _____

Email: _____

Phone: _____ Website: _____

Address: _____

Type of uncertified handler (check all that apply): Dry storage Cold storage Freezer storage Broker Trader

Wholesaler Distributor Other (Describe): _____

A. Uncertified Handler Eligibility

CCOF can approve uncertified handlers only if the uncertified handler qualifies for the exclusion from certification requirements and audit trail information traces the product back to the last certified organic operation.

	Yes	No
1. Do you ever handle any organic products that are not enclosed in a package or container when you receive them? a. If yes, describe: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Do you ever combine or split loads of bulk/unpackaged products?	<input type="checkbox"/>	<input type="checkbox"/>
3. Do you ever open packages or containers of organic products?	<input type="checkbox"/>	<input type="checkbox"/>
4. Do you ever relabel, package, or apply any label that obscures the original label or lot number/code?	<input type="checkbox"/>	<input type="checkbox"/>
5. Do you ever repack, sort, recondition, cull, ice, hydro cool, hydro vacuum, or otherwise process organic product in any way? <i>Repacking includes placing product into other packaging.</i>	<input type="checkbox"/>	<input type="checkbox"/>
6. Do you ever apply any substance to the organic product including water, ethylene, or controlled atmosphere treatment?	<input type="checkbox"/>	<input type="checkbox"/>
7. Does organic product ever contact cleaners, sanitizers, pest control materials, nonorganic products, water that has contacted nonorganic products, or other prohibited materials while under your control?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the organic product packaged or enclosed in a container prior to being received and does it remain in that enclosed container while under your control?	<input type="checkbox"/>	<input type="checkbox"/>
9. Broker, trader, wholesaler, distributor – Describe how frequently you change organic suppliers: _____		
10. Do your audit trail records for each shipment include the information described below? You may attach sample documents to demonstrate your system; all records must be provided to the CCOF certified operation. If you have an alternative way to provide a complete traceback to the last certified handler, attach a description. *	<input type="checkbox"/>	<input type="checkbox"/>

To be excluded from certification, the answer to questions 1-7 must be "NO", questions 8 and 10 must be "YES" and question 9 must be complete.





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*** CCOF certified operations may only source from uncertified handlers who provide full supplier traceability back to the last certified operation for each shipment. CCOF considers the following to be essential for traceability:**

- Purchase invoices, BOL, and other audit trail records must designate products as organic and include a description of the product and amount transferred.
- 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.
- Documents generated by the last certified operation proving purchase/delivery/transfer to the uncertified handler must be provided to the CCOF certified operation. Uncertified handler audit trail records must link directly back to the last certified operation, including transport, storage, processing/handling, shipping, and/or distribution.
- All certified suppliers must be approved by CCOF as part of the certified operation's Organic System Plan (OSP).

CCOF certified operations must maintain records sufficient to demonstrate compliance, verified at inspections. If CCOF inspectors cannot track organic product back to the last certified operation, sourcing organic products from the uncertified handler may be considered a noncompliance if issues are not resolved.

B. Uncertified Handler Statement

I, the owner or legally authorized representative, attest that I am qualified to assess the validity of the statements in this affidavit and the statements are true and accurate to the best of my knowledge.

I acknowledge the above requirements for audit trail records and disclosure to the CCOF certified operation and understand that failure to meet the audit trail record requirements or disclose records to the CCOF certified operation may be cause for CCOF to rescind approval of my operation as an approved uncertified organic handler and may be cause for compliance action against the CCOF certified entity.

Name (Manager/Owner of Uncertified Handler)	Signature	Date
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Certification of broker/trader/wholesaler/distributor/storage facilities is straightforward and allows you to protect the identity of your suppliers. Visit www.ccof.org to apply for certification. Questions about the certification process? Email getcertified@ccof.org.

CCOF reserves the right to inspect any facility storing or handling organic product owned by a CCOF certified operation per NOP 205.400. If the uncertified handler misrepresents policies or procedures as stated on this affidavit or acts in a manner that might jeopardize organic integrity or tracking of the organic product, the CCOF client using the uncertified handler will be notified. The CCOF client will be held responsible for correcting any noncompliance issues. CCOF will report uncertified handlers who are not excluded to the USDA NOP for investigation and potential civil penalties.

CCOF Decision:

- Requires certification. Not approved until certificate provided.
- Excluded supplier; certification not required. Must provide full audit trail for each shipment. \$150 annual fee
- Excluded storage location, certification not required. \$50 annual fee

