

National Organic Standards Board
Compliance, Accreditation and Certification Subcommittee
Discussion Document
Sound & Sensible Initiative
August 27, 2013

Introduction

Each year every organic producer and handler is inspected and certified through an independent third party process. Over the decade since the National Organic Program (NOP) was established this inspection process through Accredited Certifying Agencies (ACAs) has resulted in strong consumer confidence in the integrity of the organic seal and an increase in the organic sector of agriculture. Today there are 84 (49 domestic) ACAs and over 25,000 (17,500 domestic) organic producer/handlers. Organic standards were intended to be consistent throughout the country while allowing for regional diversity.

Moving forward, it is imperative that we maintain an incontestable process of compliance with the regulation. ACAs require rigorous documentation from their clients on all aspects of an operation as well as having to meet their own accreditation standards established with the NOP. The Organic System Plan (OSP) is the primary tool used to convey the necessary information about a given operation. Over time, the amount and degree of required documentation has increased to a point that it is seen as a barrier to entry for some farmers and handlers, and a frustration to existing operations.

Some direct marketers have become frustrated by the amount of paperwork and choose not to seek renewal of their certification. Some farm families have indicated that completing the OSP for submission is more stressful than filing their federal income taxes with the IRS. For some, the fear of using the wrong material input will wipe out years of transition and understanding of organic principles. Still others feel the stress of inspection day to have every minute detail up to date is overly daunting, especially during the growing season. Because of these and now, lack of cost-share funds, many growers are disenfranchised with the system and opt out. This leads to greenwashing the organic term. Signage like “better than organic”, “organik”, “naturally grown”, or “unsprayed” are terms direct marketers are using. Many consumers equate local with organic. Why should they go through all of this, if the other guy can claim the same thing?

The increase in enforcement by the NOP to reduce the abuse is a key element in helping certified growers stay with the program. The consumer educational efforts of the NOP are very helpful as well. ACAs have increased their efforts in systematic unannounced inspections and residue testing with guidance from the NOP, which helps compliant farmers feel proud of following all the rules.

The goal of this discussion document is to inform the organic community of steps being taken by the NOP and ACAs to streamline the entire inspection process and to seek additional input from the community. For the ACA, it must be sound. For the farmer and handler, it must be sensible.

Background

At the farm (and facility) level, the owners prepare their OSP by evaluating the previous year’s performance and speculate what changes will be made in the coming year. Compiling all the receipts, logs, seed lists,

and field history documents is time consuming, albeit a good business practice anyway. Other factors such as new neighbors may create new buffer issues, early weather prediction for rotation decisions, market demand or contraction all must be factored in while completing the OSP. Often this new plan is well under way before the ACA is able to verify all points are accurate or complete. The OSP reviewer will submit a list of questions for the inspector to verify when on-site.

At the ACA level, the ACAs prepare an Accreditation Manual when seeking authority from the USDA-NOP to certify operations as organic. Each ACA is allowed by the NOP to interpret the regulation and develop its own policies and process's to verify an operation's compliance with the regulation. Each ACA is somewhat different, meeting the regional, cultural, and agronomic needs of their clients. The Accreditation branch of the NOP periodically audits the ACA to ensure that they are meeting their self-proclaimed protocols which verify their client's compliance with the USDA organic regulations. Many farmers perceive the present verification process as "document chasing and data collection" rather than visual inspection of compliance. In recent years, ACAs have begun to look at how the information exchange with their clients can be simplified to lighten the paperwork burden while maintaining the integrity that consumers expect.

At the NOP level, they conducted "re-calibration training" for their auditors early in 2013, based on feedback from ACAs on how the process is being overworked and inconsistent between audit teams. The NOP also enlisted consultants to evaluate their internal processes to advise them on simplification steps that could be made. The NOP accreditation staff also conducts regular meetings to ensure that consistency of interpretations of the rule and policies are conveyed to all ACAs uniformly as they arise. The NOP conducts annual training for ACAs with the goal of consistency in the implementation of the certification process. The NOP has been challenged by the Secretary of Agriculture to evaluate barriers to entry into the organic sector and reduce the challenges for existing operations.

This paperwork burden is seen as more of a farm issue, as most handlers must maintain adequate records for food safety traceability purposes that often meet the needs of the ACA.

Relevant areas of the Rule

The Organic Foods Production Act (OFPA) of 1990 and the USDA organic regulations, (The Rule).

Discussion

Farmers attend educational conferences during the winter meeting season to learn about successful organically compliant growing and managing strategies from other growers. This is also an opportunity for the ACAs to educate farmers about compliant materials use and the certification process in general. It can seem rather daunting to decide what logs and record keeping systems must be in place. The questions on the ACA(?) forms may feel redundant and out of touch with how the operation works. Many have the appropriate records on hand but they do not fit the format of the forms. The fear of finding out the Insecto 2.1 was not compliant when you have been using Insecto 2.0 for years, weighs heavy on farmer's minds.

In the spring of 2013 leaders from the Accredited Certifiers Association, Independent Organic Inspectors Association, the NOSB, the NOP, and the broader community met to discuss the best way to reduce the paperwork burden without relaxing integrity standards. The following topics have been identified as the focus for this initiative: A) Re-tooling the Organic System Plan, B) noncompliances and reminders, C) materials review, D) on-site Inspection, E) Oversight Systems, and F) other considerations. The following discussion reflects the comments provided by participants at these and ensuing meetings:

A. Re-tooling the Organic System Plan (OSP) to streamline flow of information

The Organic System Plan may be the largest cultural barrier to paperwork reduction in the organic certification process. It has historically been a paper based, lengthy and annually updated document that has been interpreted as needing to capture all elements of a compliance plan accurately and in real time.

The USDA Organic regulation (Section 205.406(a) – Continuation of certification) outlines the necessary requirements for an operation to update their certification annually. Within this section a certified operation must do the following annually: pay certification fees; and submit an updated organic production or handling plan which includes:

- Changes from the previous year;
- Changes in the coming year;
- Outline any additions to or deletions of contact, business name and/or address;
- Provide an update on the correction of minor noncompliances previously identified by the certifying agent as requiring correction for continued certification; and,
- Any other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.

These are examples where organic integrity is not in question. The trigger of a noncompliance carries with it a string of communications and documentation of verification that the action was corrected, taking staff time away from more pertinent issues.

ACAs typically try to communicate with their farm clients in the winter and early spring, before the OSP is put in place. Many ACAs are under the impression they must have their clients submit a complete OSP, versus an update that indicates any notable changes or deviations from the previous plan in place. The ACAs need the flexibility to develop better mechanisms of communicating with their clients, without fear of retribution from the auditors. Some ACAs that have implemented abbreviated update reporting methods can see the benefit of time savings and lessened frustration by their farmer clients.

Farmers and handlers need the flexibility to notify their ACA of changes by phone or other electronic means. This is capturing the activities in real time, as an OSP is a working document, not a file server. The ACA and the client have the joint responsibility to annually verify the ACA has the most complete version on hand. Verification of acceptance of the information should only be necessary when the compliance of the action is in question.

Additionally, updates to the OSP should not only be allowed, but encouraged at the time of inspection. Also, inspectors should be encouraged to clarify the regulation for the client at inspection so the operator can better inform the ACA of their activities and demonstrate compliance. Growers can easily not realize the need to notify the ACA of a minor change to the plan they submitted back in the winter, until the inspector recognizes the deviation. Inspectors are often the only face of certification for an operator. Relaxing the tone of information exchange at the time of inspection will greatly improve customer service and encourage compliance by the client.

B. Use of Noncompliances and Reminders to Motivate Clients toward Compliance

Often the first communication a farmer gets after an inspection is a letter with an attached “Notice of Noncompliance” with or without an updated certificate. The noncompliances must be addressed in some given time frame, depending on the severity of the violation. Often these are minor technical errors where organic integrity is not in question. This letter has an impersonal feel and the farmers prefer the ACA simply advise them of the corrections that must be made.

In 2012 the ACAs were given NOP 2612 Instruction Document, *Recommended Penalties for Violations of Specific Regulatory Requirements* and the *Penalty Matrix by Category of Violation* in an effort to provide consistency to compliance decisions. It was widely believed that the Instruction Document and Penalty Matrix rely too heavily on the use of noncompliances to address issues that do not affect organic integrity. The overreliance on noncompliance notices creates an adversarial relationship between certifiers and operators, and hampers beneficial collaboration that can better achieve desired continual improvement of organic systems.

Several ACAs submitted comments and suggested revisions to the Penalty Matrix and to NOP 2612, *Recommended Penalties for Violations of Specific Regulatory Requirements*. This document has since been retrieved by the NOP for further evaluation with intention to employ sound and sensible principles within, as a result of this discussion.

ACAs need to have the ability to communicate with their clients in various methods with the goal of gaining or verifying compliance in the most time effective manner. Often the information can be conveyed with a simple email or phone conversation. Again, the issuance of a noncompliance causes a cascade of documentation of verification that a corrective action was performed, often consuming more of the clients and ACA staff time than the corrective action itself. Improving customer service is one of the simplest ways to encourage new growers into organics, and preventing ill will between growers and their ACA. ACAs know which of their clients need more attention and firm, deliberate communication to protect organic integrity. Any time organic integrity is in question, the ACA has tools to enforce the regulations, and document it for future reference. Overuse of noncompliances dilutes their effectiveness.

Revisions to the Penalty Matrix relative to required actions by the ACA for noncompliances and major noncompliances should be evaluated by the NOP in conjunction with leadership of the Accredited Certifiers Association. This revision can then be put forth at annual trainings and posted on the NOP website.

C. Input Materials Review and Clarity of Use by Certified Operations

Lack of clarity about what materials can/cannot be used in an organic system is a leading barrier to entry for many direct marketing operations. Growers participating as a supplier to distributors or handlers are often given guidelines on material use by the buyer. ACAs can provide a list of materials to their clients that are allowed in an organic production system, but cannot inform the client on the effectiveness of any particular one. On occasion, ACAs may reach a different conclusion about a particular materials acceptance for use by a farmer or handler. This causes concern to the operator and can also lead to certifier shopping by a farmer. Fear of making a mistake, jeopardizing years of learning and work along

with the inability to get real time answers, is a hindrance to farmers' comfort level with being certified organic.

Although information on materials is necessary to complete multiple parts of the organic certification cycle, current materials evaluation systems are recognized as a weakness. There is no industry standard that provides criteria or procedures for review of brand name materials—OFPA and the NOP regulations only address review of generic materials. As a result, certifiers have implemented materials review systems that differ widely in both methodology and rigor and sometimes produce inconsistent results such as different rulings on the same brand name product.

Materials review systems require personnel with specialized training and skills and the pool of workers with such training is limited. Many certifiers do not have staff that is appropriately trained to perform materials reviews, which is a significant factor that can affect the soundness of decisions about materials.

Certifiers also report an inability to perform materials reviews in a timely fashion. Typically, there is an influx of applications for certification and continuation of certification that are processed over a span of months. During this period, operators are using the materials that they have reported on the OSPs, including those that may not yet have been approved by their certifier. Problems arise if the certifier's review of the material eventually determines that an operator has used a material that does not meet NOP standards. A critically important reason that concerns about materials review are so widespread is that NOP's oversight of materials review systems through accreditation assessments is not rigorous. For example, NOP's Accreditation Assessment Checklist (Revision Date: May, 15, 2013) addresses materials review in a cursory fashion. Rather than a checklist of questions about the specific methods used in materials evaluation, NOP's document contains only a single question about materials evaluation: "Are the materials and inputs used in compliance with the NL and annotations?"

Although the Organic Materials Review Institute (OMRI) provides high-quality materials review services, there are still many brand name materials that are not submitted to OMRI and therefore must be reviewed by ACAs when these products appear on operators' OSPs. As reported during the ACA trainings, the need to review materials requires each ACA to devote resources to maintaining its own review system. To do so, certifiers must recruit and retain staff members who are competent to review materials and they must implement information systems to ensure that inspectors and reviewers have adequate information on each material.

Unfortunately, after doing the work to evaluate materials, most ACAs lack mechanisms for sharing the results of their evaluations, resulting in certifiers duplicating efforts to review the same materials. Some certifiers stated that they have not yet implemented effective procedures for sharing information about reviewed materials internally, among their own reviewers and inspectors. Clearly, it would be more sensible to have one review by a well-trained staffer, with the results shared.

Another problem is that maintaining review materials systems creates a financial burden on each ACA. And if every certifier evaluates many of the same materials these duplicate costs are passed on to the farmer and consumer.

Materials review makes its way into the Sound and Sensible discussion because of the duplicative efforts of the ACAs.

There is a need for training that is specific to materials review. Perhaps OMRI and the International Organic Inspectors Association (IOIA) could work together to offer trainings on development and implementation of certifier-based materials review programs.

Standardizing the materials review systems through NOP issuing guidance on the criteria needed for such systems. One mechanism for such guidance could be in the form of increased detail on assessment of materials review systems in the NOP's accreditation checklist. Thus moving toward a centralized review system through policies that encourage materials suppliers to submit their materials to OMRI, operators to use OMRI-approved materials, and requiring all certifiers and other Material Review Organizations (MROs) to make public their lists of approved materials. This would provide more transparency to operators, certifiers, and the public (Sound), reduce duplicative reviews of the same material (Sensible), and reduce the amount of time all certifiers would need to spend on evaluating materials (Sensible).

It was acknowledged that publishing lists of approved (and prohibited) materials has inherent risks and liability for the ACA. It was noted that the higher level of oversight and a standard material review process, would likely lead to more confidence among certifiers regarding accepting other lists and publishing their own list. Publication of the lists would also serve as a precursor to establishment of a body to analyze the results of different certifiers' evaluations and resolve any points of disagreement. The farming community would like to see one list for brand name materials, managed by the NOP.

- Moving towards materials review systems that incorporate inspections of materials suppliers based on random selection as well as risk factors such as concerns about individual suppliers, problems specific to certain types or classes of materials.
- Expanding the scope of the NOP's accreditation program to include MROs that are not ACAs as discussed by the NOSB in 2012 would be both Sound and Sensible.

D. Inspections and the Exit interview Process

Inspection day can be very stressful for farmers. The inspection is a snapshot view of every detail of everything on that farm. Good organic farmers are very proud of their operations, but worry that some document may be missing, causing the inspector to wonder what else might be wrong. The division between regulation and education must be maintained, but certifiers and inspectors are compelled to assist in the understanding of the regulation and it need not be adversarial in nature.

As stated before, the farm or facility inspection is the only real face to face transaction in the certification process. Certifiers often have very rigid inspection report forms (often 20 or more pages long) that inspectors must complete while on-site or after leaving the operation. In most cases, the inspection report body could be much shorter if the Exit Interview process and document included OSP updates, follow-up to certifier's requests, follow-up to last year's non-compliances, scope of inspection, as well as issues of concern and further information needed. The focus of the body of the inspection report could be reporting things that could not be verified, things that were inconsistent with the OSP, or that were unusual.

The Exit Interview document is critical because it is the one document that is co-signed by the operator and the inspector. While ACAs generally require specific discussion of and documentation of noncompliances during the Exit Interview, the Exit Interview is neither well-enough used nor understood. Properly used, it ties together updates, reports, and reviewers. In general terms, everyone understands what is to be covered in the Exit Interview (issues of concern and further information needed).

Currently, the Exit Interview formats used by different certifiers vary widely. They are often free-form, relying on the knowledge of the inspector on how to structure and report audit findings and nonconformities. Potential non-compliances are often buried in the body of the report and not re-iterated on the Exit Interview document. Industry-wide, there is much less focus on structure of the Exit Interview (both process and document) than the inspection report, when the exit interview is actually more important. Great inconsistency in what certifiers expect and what inspectors are doing has resulted. The exit interview should summarize updates to the OSP. As described above, updates at inspection are still often the best way to update minor changes.

In addition, the NOP should take steps toward implementation of the NOSB Inspector Qualifications Recommendation of December 2011. The recommendation includes good steps to increase inspector performance, including continuous education requirements and witness audits. Witness audits are valuable, but are currently vastly under-utilized.

E. Oversight Systems

Both OFPA and the early NOSB recommendations envisioned a multi-level oversight system (inspection, certification, accreditation, and oversight of accreditation) managed with rigor and accountability. USDA and NOP address requirements for quality assurance of inspection and certification through the accreditation system; however, a mechanism for continuous oversight of the NOP accreditation system itself has not been institutionalized. This type of review is performed when equivalency agreements are being considered with other programs like the EU or Canada. This committee can not only evaluate accreditation protocols and consistency between the Standards, accreditation, and enforcement divisions, but information systems and internal processes, much like the USDA auditors evaluate the ACA to their own accreditation manual.

Continuous oversight of the NOP would not only ensure that noncompliances in the accreditation system are identified through procedures such as internal and external audits, but also that corrective actions are taken by the accreditation body (NOP), reviewed by USDA management, and reported to the oversight body (Peer Review Panel) within a time frame set by the oversight body.

It has also been pointed out in the preliminary discussions; there is no feedback mechanism for farmers, handlers, ACAs, inspectors, or auditors to provide information on how well the process works. There is actually a disincentive to do so for fear of retribution. This need not be only for complaints, but a positive place for suggestions and ideas on how to make the process more Sound and Sensible. The NOP oversight committee could be a forum for such information exchange. This committee could mine the data looking for common threads that show up in audit reports.

Conclusion

The CACS welcomes thoughts and ideas on what steps can be taken to streamline the accreditation and certification process to encourage new farmers and handlers to transition to organic practices and to maintain existing organic operations in the program.

For the ACA, it must be sound. For the farmer and handler, it must be sensible.

Discussion Questions

1. How can the OSP/information exchange mechanism be altered verify compliance in a more user friendly manner?
2. How could a feedback loop for operators and ACAs be developed for complaints and suggested changes without fear of retribution?
3. How can new technologies be employed to verify compliance and reduce document deluge?
4. How can ACAs create a functional information exchange with operators and inspectors to verify all information is current and accurate?
5. What forms of communication should be available for ACAs to encourage and document compliance, other than Notices of Noncompliance?
6. When is visual verification satisfactory and when must documents be sent to the ACA?
7. How can the ACAs and inspectors develop a more user friendly process to verify compliance with the regulation?
8. What are examples of USDA Food Safety and Inspection Service (FSIS), Food and Drug Administration (FDA), and the Environmental Protection Agency (EPA) inspection protocols that are less burdensome but effective to consider here?
9. How should a peer review process for the NOP itself function? Who should be on that committee?
10. How should approved materials lists be shared among certifiers and to the operators themselves?