

**Formal Recommendation**  
**From: National Organic Standards Board (NOSB)**  
**To: National Organic Program (NOP)**

**Date:** October 25, 2018

**Subject:** Risk-Based Accreditation Oversight

**NOSB Chair:** Tom Chapman

**The NOSB hereby recommends to the NOP the following:**

Other: Incorporate into accreditation audits and oversight the risk factors identified in the proposal.

**Statement of the Recommendation:**

The NOSB recommends the NOP incorporate into accreditation audits and oversight the risk factors identified in the proposal.

The intent of this recommendation is to use the criteria in the proposal as a starting point from which the NOP can build and expand the factors that may determine greater risk and the activities to address them. It is expected these criteria will evolve and change over time as emerging issues are identified.

As part of this proposal, stakeholders were invited to suggest additional criteria; a number of suggested additions were received and should be considered as the NOP moves forward. The NOSB encourages the NOP to consider other public comments noting the importance of ranking any criteria by level or degree of risk, as well as the importance of developing a scorecard or a risk matrix to group and rank risk behaviors.

**Rationale Supporting Recommendation**

[Organic Foods Production Act of 1990](#), as amended, Sec. 2115 [7 U.S.C. 6514] Accreditation Program, and Sec. 2116 [7 U.S.C. 6515] Requirements of Certifying Agents

[7 CFR Part 205 Subpart F—Accreditation of Certifying Agents](#)

**NOSB Vote:**

Motion to approve the proposal on Developing Criteria for Risk-Based Accreditation

Motion by: Scott Rice

Seconded by: Ashley Swaffar

Yes: 15 No: 0 Abstain: 0 Absent: 0 Recuse: 0

**Outcome:** Motion Passed

**National Organic Standards Board**  
**Compliance, Accreditation and Certification Subcommittee Proposal**  
**Developing Criteria for Risk-based Accreditation Oversight**  
**August 17, 2018**

## **I. INTRODUCTION**

In early 2018, the National Organic Program (NOP) requested the NOSB provide input on the factors that contribute to an accredited certifier having a higher risk of fraud, either within its organization or the operations it certifies. This proposal seeks to establish criteria for assessing risk factors when engaging in the oversight of USDA-accredited certifiers. Oversight includes on-site and desk audit activities of the certifier in the primary and satellite offices, as well as on-site audits of inspection procedures.

## **II. BACKGROUND**

The NOSB has received a wealth of input from stakeholders, as the organic community and the NOP respond to concerns and findings of fraudulent organic imports. We have expanded the scope to include fraud anywhere in the supply chain, be it in domestic or international markets. This input, in the form of public comments in advance of and during NOSB meetings and across two expert panels at the Fall 2017 and Spring 2018 NOSB meetings, has informed NOSB recommendations and discussion documents, as well as the NOP's oversight and enforcement of the organic market abroad and here in the U.S.

NOSB efforts have included a proposal addressing tightening the exclusion of certain operations in the supply chain, a discussion document on import oversight soliciting input on over 75 questions, and a proposal on the qualifications and training of inspectors. NOP initiatives have included development of a web-based interactive training on conducting investigations, an interim instruction on organic imports for certifiers, in-person trainings with certifiers, a working session webinar with certifiers to exchange best practices and barriers for reporting acreage to the Organic Integrity Database, and a webinar focused on receiving further feedback from stakeholders on the Program's forthcoming enforcement rulemaking.

## **III. RELEVANT AREAS OF THE STATUTE, RULE and RELATED DOCUMENTS**

[Organic Foods Production Act of 1990](#), as amended, Sec. 2115 [7 U.S.C. 6514] Accreditation Program, and Sec. 2116 [7 U.S.C. 6515] Requirements of Certifying Agents

[7 CFR Part 205 Subpart F—Accreditation of Certifying Agents](#)

[NOP 2005 Accreditation Assessment Checklist](#)

[Organic Oversight and Enforcement: Summary of Activities and Overview Action Plan, May 2018](#)

## **IV. DISCUSSION**

The following factors identify potential for risk and suggest a starting point from which the NOP can develop a guide for determining risk, as well as activities to address them. This is an unranked list and is not exhaustive, but a starting point from which to build. Additionally, the NOP may already include these factors as part of its audit activities. To be clear, presence of these criteria does not suggest fraud is present but is an indicator of its potential to occur. In addition to taking these criteria into account, we

encourage the NOP to consider the frequency and intensity of audits when these or other risk factors are present and schedule sufficient time to address them.

Factors that contribute to a certifier's risk and activities to address them:

1. Operates in an area or region known to have or have had fraudulent activity
  - a. Prior to an audit, review findings/adverse actions for the region in which the operation is based or undertakes certification activities
  - b. Focus on certifications and transactions of the fraudulent product
  - c. Work closely with other accreditation bodies operating in the region where fraud has been found
2. Certifies a high number of operations exporting to/importing from foreign markets
  - a. Review procedures for issuing export documents and include in exporting operations audits
  - b. Review procedures for evaluating import documents and organic integrity
  - c. Ensure operators have appropriate organic system plans that cover brokering activities in more detail
  - d. Ensure inspection and review staff have detailed checklists to verify all documentation and activities are within organic certification requirements
3. Maintains one or more satellite offices
  - a. Where a satellite office is functioning as a quasi-independent branch of the certifier, accreditation audits should include a complete review of the key activities, practices, and procedures
  - b. Verification that practices and procedures closely reflect the primary office
  - c. When variances found, separate accreditation should be required
4. Certifies operations from which a significant portion of revenue is derived from a small percentage of operations
  - a. Include specific high value operations in audit activities in addition to randomly chosen operations
  - b. Include witness audit of inspection activities along with evaluation of certification review activities
5. Employs or contracts with inspectors and/or reviewers new to certification and the organic sector
  - a. Review the certifier's Annual Report Checklist to identify staff with less experience
  - b. Focus on the training practices of the certifier to ensure these staff received comprehensive training
6. Works predominantly with contract inspectors for which they have minimal management or oversight
  - a. Review witness audits of inspectors to determine adequate oversight
  - b. Review training plans to determine adequacy of continuing education requirements
  - c. Include operations in witness audits to which a contracted inspector is or has been assigned
7. Certifies high-risk commodities
  - a. Include a comprehensive supply chain audit of the high risk commodity
  - b. Include a cross check of all certifiers involved in the production and handling of the high risk commodity
8. Reports incomplete or minimum required data to the Organic Integrity Database (e.g., updates certified operation list with commodities grown/handled but does not report acreage or volume)

- a. Review certifier data systems to determine data gaps
  - b. Require timeline for implementation to address gaps
9. Residue sampling results show lower than average/no positive results of certified operations
  - a. Include in audit a review of residue results
  - b. Review procedure for sampling and include in inspection witness audit
10. Fewer or lower than average noncompliances or adverse actions issued
  - a. Include audit review of the procedure for issuing noncompliances
  - b. Review inspection report findings to assess accuracy/thoroughness of inspection process
11. Has received a past Notice of Suspension or Revocation of relevant accreditation from USDA or other accreditation body
  - a. Include a comprehensive review of the certifier's systems that focuses on the noncompliances that led to suspension or revocation
  - b. Focus unannounced inspections on certifier
12. Has received a noncompliance that points to a breakdown in the control system
  - a. Evaluate steps taken to address the root cause of the system breakdown
  - b. Review objective evidence demonstrating the system is sound
  - c. Reference and update as necessary [NOP Instruction 2608 Responding to Noncompliances](#)
13. Certifier provides certification to employees, contractors, or members of its advisory bodies or management boards
  - a. Include these operations in audit activities in addition to randomly chosen operations
  - b. Include witness audit of inspection activities along with evaluation of certification review activities

## **V. Request for Public Comment**

The NOSB requests comments from certifiers and the organic community that further expand on areas of risk not included in the above list.

### **Subcommittee vote**

Motion to approve this proposal on Developing Criteria for Risk-based Accreditation Oversight

Motion by: Scott Rice

Seconded by: Ashley Swaffar

Yes: 8 No: 0 Abstain: 0 Absent: 0 Recuse: 0

**Approved by Lisa de Lima, Subcommittee Chair, to transmit to NOSB, August 24, 2018**