



National Organic Coalition

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National Organic Standards Board
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Certification of Grower Groups

The National Organic Coalition, (NOC) is a national alliance of organizations representing farmers, environmentalists, other organic industry members, and consumers concerned about the integrity of national organic standards. The goal of the coalition is to assure that organic integrity is maintained, that consumers' confidence is preserved and that policies are fair, equitable and encourage diversity of participation and access

We would like to thank the NOSB Certification, Accreditation and Compliance Committee (CACC) for the further consideration of this important issue. However we are very disappointed that the previous document presented in November has not been withdrawn or reworked to reflect the many public comments, including our own that objected to this approach. Instead, the committee has presented a new appendix outlining guidance for certification of multi-site operations. The unnecessary inclusion of handlers, including retailers, into this proposal remains a great weakness that jeopardizes the protections needed for small farmers in the developing world who have successfully used the grower group model in order to have access to certification and the organic marketplace. Handlers that operate multiple sites, locations, and facilities are currently certified as single operations, under the existing regulations. There is no need for any guidance designed to weaken the inspection protocol for these entities. There may be need for specific guidelines or regulations for retail certification (as it is voluntary) but this is a separate issue that should not be conflated with the problem at hand, which is producer grower group certification.

Guidance For Group Certification

We are in general support of the OTA Group Certification Task Force comment on Guidance for Producer Group Certification. We believe this document provides the needed depth of consideration of important issues relative to certification of producer groups, including guidance on the preferred management structure of an Internal Control System, conflict of interest and training, criteria for inclusion in a production unit, and inspection protocol including risk assessment. We particularly support the OTA position that all production units are inspected

annually. Under this proposal, a smallholder group may be organized into one or more production units, and each unit will be inspected annually. Within each unit the individual farms to be inspected will be selected by a two-stage risk based methodology. The CACC proposal instead calls for an initial year inspection of all “production units” and in following years the inspection based on “a statistically significant regimen of sampling” of production units. Under the CACC definition, a production unit is:

“A portion of a certified production operation identified in the master organic system plan as being managed by a person responsible for the implementation of approved practice standards and required record maintenance and applicable audit trail requirements regarding that portion of the production operation.”

Defining a production unit based on its management structure rather than characteristics of the unit itself is a major mistake. Any disparate group of producers, or hundreds of handling operations, could have one person designated as “responsible.” According to the CACC, in the first year a production unit (not individual farms) are inspected, then in subsequent years less than each production unit is statistically sampled. It is imperative that all production units are inspected, based on an appropriate methodology, every year. There should be no reduction in subsequent years. We support the OTA definition for “production unit” and “subunit” as more precise terms that avoid confusion created by CACC definitions. We would propose a minor change in the OTA definition which would delete the references to handlers in the definition. The only part of handling included in a production unit should be post-harvest handling; other handling must be certified individually as such under the law.

Production Unit means the portion of an organic operation where products are ~~produced and/or handled by producers~~, including any sub-units located within geographic proximity. A production unit, including any sub-units located within geographic proximity, operates under the operation’s organic system plan, and is managed through an internal quality system to ensure compliance with all applicable provisions of the regulations. Each production unit within a production ~~or production/handling~~ operation has defined location, practices, management and/or products.

Sub-Unit means a smaller discrete portion of a production unit, such as a field, plot or distinct processing area

We are not convinced that a production unit should generally be limited to no more than 200 farmers., as the OTA TF proposes, because flexibility is needed to deal with diverse regional structures of farmer groups. However, the OTA proposal does provide for exceptions and the organization of multiple production units folded into one group certification so this may be workable. In some cases depending on geography and culture, a larger group may be able to provide increased diligence on the conflict-of-interest requirements for internal inspections.

The Grower Group certification model has evolved to respond to extreme variety in geographic, cultural and other conditions that we do not necessarily encounter in the continental U.S. In general it is a performance-based, rather than proscriptive model that relies on a tiered level of systems to achieve the goal of compliance with the USDA organic standards.

We find the following definition from the CACC very problematic as well.
“Facility or Site” means:

A portion of certified handling or certified retail operation identified in the master organic system plan as being managed by a person responsible for the implementation of approved practice standards and required record maintenance requirements and applicable audit trail requirements regarding that portion of the handling or retailing operation

This definition would allow multiple individual facilities, perhaps hundreds of retail sites, to be considered as one facility, if one person was identified as a quality manager. This should be dropped from consideration.

Applicability to Small holders Only

We are also concerned that without a restriction to its application to small-scale farmers, the allowance of the “Multi-Site Operation” model will be exploited by operations that wish to bypass the basic requirements of USDA organic certification and avoid independent third party inspection. Given the current challenges facing USDA to provide oversight of accredited agencies in foreign countries, we do not think a method that allows for reduced inspection protocol is warranted for all producers. We suggest that while grower groups may include farm units of all different sizes, the use of risk-assessment type of criteria for determining rate of inspection should factor the sales of production units as a criterion. In other words, individual members of a grower group that produce more than \$5,000 US in organic sales should be subject to more external inspections than other individual producers. Units within a grower group that produce less than \$5,000 of gross organic sales would be subject to annual inspections performed by the group’s internal control system, as well as periodic inspections performed by the certifier. This sales level is supported in OFPA as a threshold for exemption from certification, so allowing a slightly different protocol for inspection is legally supportable.¹

The USDA has acknowledged the concerns of Congress regarding impacts of NOP regulations on small entities.² Both the Regulatory Flexibility Act and Small Business Regulatory Enforcement Act of 1996 express Congressional concern about impact of regulations on small businesses. Senate report language cited in the Regulatory Impact Assessment of the final rule states: “The Committee continues to recognize the importance of organic markets for small farmers and fishermen. The Committee expects the Secretary to construct a national organic program that takes into consideration the needs of small farmers and fishermen.” There is clearly authority for USDA to limit the participation in grower group type certification schemes to small-scale growers who historically have utilized this system, and who will otherwise be unable to attain organic certification.

Scope of accreditation

We reiterate our earlier comment, that NOP consider certification of Grower Groups as a separate area of scope for accreditation of certifiers. As the comments and various proposals indicate, this is a complex area of certification that requires special expertise and oversight. Accreditation of this scope of certification will provide extra assurance that certification agencies have the necessary policies and expertise to perform this type of review, and will require witness audits by USDA of actual Grower Group inspections. This will help maintain consumer

¹ We also encourage USDA to index the \$5000 exemption to inflation using the Bureau of Labor inflation calculator. This would seem to be well within the agency’s enforcement discretion, resulting in a current exemption of \$7975.90 for 2007.

² Regulatory Impact Assessment for Final Rule Implementing the Organic Foods Production act of 1990. FR 80673, Dec.21, 2000

confidence in this form of organic certification to USDA standards. We recommend as reference that USDA consult the IFOAM Accreditation Criteria, for Bodies Certifying Organic Production and Processing (2005), specifically sections 8.3.13-8.3.15 for insight into evaluation of internal control systems by certification agencies.

Answers to Questions

In response to the CACC's request, following are short answers to the questions they posed:

1. Should group certification apply to retailers, handlers, processors and/or restaurants if they meet this stringent criteria?

No. Grower Group certification should be maintained as an alternative certification systems for smallholders where direct farmer certification is not appropriate due to size and conditions.

2. Should it be limited to only small farmers (holders)? What defines small?

Yes. The OFPA and NOP use the demarcation of gross agricultural income from organic sales totaling \$5000 or less annually as the exemption from certification for the smallest of farmers That is a reasonable approximation of the level of small holder involvement in Grower Group model. However, given the extreme variation in worldwide prices of such commodities as coffee and chocolate, the Department must be careful about being proscriptive here. In a given year, the entire inspection protocol, and possibly the entire Group's ability to certify under this model could change with a severe rise in prices which then could fall precipitously in a following year. This income level could be averaged over 3-5 years to provide more accurate indication of small farm status.

3. Does a process of random external inspection levels based on risk criteria provide enough oversight of individual locations or is there a need to guarantee all locations are externally inspected at some minimum frequency?

We support comments of One-Cert, Inc. here: "Random selection is not sufficient. Selection must first be based on risk criteria with any farm in the group that is high-risk being inspected annually. The remaining low-risk farms may be randomly selected using a method that guarantees no more than 5 years between external inspections of any farm."

4. Should the qualification and inspection criteria be different for each sector of the organic industry eligible to apply for multi-site certification? If so, what are the specific criteria that are not included in this document?

This should not be characterized as multi-site certification. The recommendation should be titled "Grower Group certification", and should refer solely to farmer/producers and on-farm processing, as has been the historical practice.

All other types of operations must have every production unit, facility, and site inspected annually as required by 7 CRF § 205.403(a)(1).

5. What is the advantage of including other sectors in the multi-site model? Disadvantages?

We support the comments of One-Cert, Inc. here: "The only advantage is reduced inspection cost. The disadvantage is the loss of the organic integrity of the National Organic Program. The decrease in integrity caused by the loss of annual inspection of each

site and facility has many undesirable consequences.”

6. Will the multi-site model increase our ability to detect non-compliance?

Properly implemented, the **Grower Group model**, currently in use, with changes to reflect increased oversight to avoid conflict-of-interest and improved sampling techniques will help to detect non-compliance in Grower Groups.

Use of this model to certify retail stores or handlers without individual site inspection will greatly decrease our ability to detect non-compliance. Handling facilities are much higher risk situations, subject to frequent changes in product formulation, suppliers, and personnel.

7. How will consumers react knowing that the certification model does not require annual inspections of each group member?

For those consumers savvy enough to understand certification protocol, a transparent discussion of the different models used to effect compliance review might be helpful (i.e., a NOP website Q&A). Adoption of clear criteria for grower group eligibility, explanation of inspection protocol, and careful implementation of accreditation requirements should also help. Limiting the eligibility to small farm holders will also be more likely to garner consumer support. Consumers are not likely to support the idea of group certification for large corporate entities when they learn it will weaken the current inspection protocol.

8. How will the multi-site model improve the National Organic Program?

The “multi-site” model will not improve the NOP. Retailers added to the existing structure will only improve the bottom line of retailers.

The **Grower Group model**, with needed clarifications, will continue to provide organic certification in an alternative model for smallholders around the world who would otherwise not be able to certify, with no loss of integrity of the USDA standards. The marketplace will be assured of continued availability of such important commodities as coffee, chocolate, bananas, etc.

9. Would it be worth pursuing the development of the multi-site model for other sectors separately from grower groups?

No.

10. As this is an international regulation, are there additional concerns with multi-site certifications, beyond producers/grower groups, in other countries?

The OFPA was not written as an “international regulation”. Unfortunately, this has been a result of the fact that USDA has not been able to achieve any equivalency agreements with other countries, and it has been relatively easy for foreign programs to become USDA accredited. NOSB should encourage NOP to continue to work toward equivalency with other countries to support regionally appropriate certification standards and systems rather than impose a US type system on the whole world. In the meantime, NOSB should encourage the NOP to implement and enforce consistent guidelines for Grower Group certification that do not undermine basic organic integrity.

11. How will extending multi-site certification affect small businesses in each sector that may not choose or qualify for consideration as multi-site?

Grower Group certification, implemented consistently and fairly should not put other farmers not using Grower Group certification at a disadvantage if the model is limited to small farm holders. The Grower Group model is no less rigorous – simply implemented differently.

Multi-site (non-Grower Group) certification of other types of operations (e.g., retail) puts single-site operations at a disadvantage because the single-site operations are paying significantly more for annual inspections. Many small chain or individual retailers, including coops and natural foods stores have chosen to get certified under the current regulation, and pay more for individual site inspections than do large chains who are currently being certified under a faulty interpretation of the grower group policy. It is important that NOSB take action on this topic to prevent further inequality for small retailers.

12. What means can be adopted to insure that the Internal Control System does not become a proxy for rigorous third party annual inspections for all production units?

The suggested guidance from the NOSB (2002), and the OTA Task Force requires third party inspection of all production units. The ICS is used to provide oversight and monitoring within the production units. .

13. If multi-site is included in all sectors, what economic issues should be evaluated to make sure it is fair for large and small operations?

It should not be adopted in all sectors. It should be limited to smallholder group certification.

Conclusion:

The NOSB should work to adopt a consensus document that establishes guidelines for small holder group certification, and limit its guidance to this arena only. There is no demonstrated need or convincing reason that handlers should be afforded eligibility under this proposal to weaken their protocol for necessary individual site inspections. We hope that the organic retail community will take the necessary leadership in this discussion and insist on dropping this idea, in order to protect consumer confidence in organic certification. Grower Groups represent some of the world’s most vulnerable farmers. Therefore, it will be vital to exercise extreme caution, adequate implementation timelines, and full transparency, including adequate opportunities for public comment , when applying changes to this model.

Thank you for the opportunity to comment.

Sincerely,

National Organic Coalition:

Beyond Pesticides
Center for Food Safety
Equal Exchange
Food & Water Watch
Maine Organic Farmers and Gardeners
Association
Midwest Organic and Sustainable
Education Services

National Cooperative Grocers Association
Northeast Organic Dairy Producers Alliance
Northeast Organic Farming Association,
Interstate Council
Rural Advancement Foundation International
USA
Union of Concerned Scientists