



Accredited Certifiers Association, Inc.

Accredited certifying agents working together to ensure the integrity of organic certification in the United States

April 13, 2016

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

Re: A Thank You and a Request to the National Organic Standards Board

Dear Ms. Arsenault:

Thank you for the opportunity to provide comments to the National Organic Standards Board. The Accredited Certifiers Association (ACA) represents 50 foreign and domestic accredited certifying agents.

The ACA would like to extend its appreciation to the NOSB for the continued work you are doing on the difficult topics of *excluded methods terminology*, *seed purity*, and attempting to revise the Sunset Process to spread out the work of this task in order to provide a sane, thorough review of the National List Materials.

The Accredited Certifiers Association is also requesting that the NOSB's Compliance Accreditation & Certification Subcommittee add a discussion of the National Organic Program NOP 2027 Instruction pertaining to Personnel Performance Evaluations to its work plan. The initial version of this Instruction was published 8.2.2013, with a revised version published 3.31.2016 - <https://www.ams.usda.gov/sites/default/files/media/2027.pdf>

The Instruction reviews the requirements for ACAs relating to Personnel Performance Evaluations, which are conducted annually. Included in the instruction document is section *b. Field Evaluation*. This was a new requirement for certification agencies with the publication of this Instruction. The NOP did not solicit public comment, provide an analysis of the anticipated costs for certification agencies associated with this new requirement, or incorporate the NOSB Recommendation of 2011 regarding Inspector Qualifications.

There are two main issues with this Instruction document that are extremely problematic for certification agencies:

1. Certification agencies are now required to conduct a field evaluation of each inspector every year, (regardless of the number of inspections conducted by the inspector for the agency) at the expense of the certification agency.

2. Even though the Instruction states:

Inspectors *should* (emphasis added) be evaluated during an onsite inspection by a supervisor or peer (another inspector) at least annually the NOP is interpreting the *should* as a *must*; requiring ACAs to conduct the annual onsite evaluations of inspectors, and if they are not conducted, noncompliances are issued to the certification agency. We have also noted that NOP auditors are required to have an on-site evaluation only every three years.

Our Association wrote to the NOP in September, 2015, (attached), requesting reconsideration of the annual on-site evaluation requirement. We offered multiple alternatives to the “evaluate every inspector every year” requirement. We did not receive a response from the NOP to our letter.

ACAs do support the tool of on-site evaluation of inspectors and find it valuable; however, even without that component of the evaluation, all inspectors undergo a performance evaluation every year. The formal performance evaluation is in addition to the evaluation of each inspection report that is submitted to the certification agency.

Our letter of 9.2015 identified multiple mechanisms for implementing an on-site evaluation of inspectors that would not increase the cost of certification so dramatically, including the development of a risk-based scenario for determination of the need for an on-site evaluation of a particular inspector, the sharing of evaluations among ACAs utilizing the same inspector, and the use of the IOIA Peer Evaluation program. The revised NOP 2027 of 3.31.2016 does permit ACAs to share onsite evaluations of inspectors.

In the two years since the publishing of this new requirement, the budgets of certifying agencies have increased dramatically, which in the long term, will be passed on to the operators seeking certification. In addition, in order to control these costs, many ACAs have significantly reduced the number of inspectors working for their organization. Again, long term this is not a good practice for an expanding organic industry. ACAs have reported that the length of the inspection has been increased when part of an on-site evaluation of the inspector. There is also the issue of “multiple evaluations” of a contract inspector that is utilized by more than one certifying agency – during 2015, one inspector was evaluated by 8 different agencies.

There are many issues involved with this new requirement, however, there has not been a public discussion of any of the issues. We are asking the NOSB to review the NOP 2027 Instruction(s), our letter of 9.2015, the IOIA Peer Evaluation Summary Report, March 2016, and previous NOSB Recommendations to determine a sound and sensible approach to the onsite evaluation of inspectors and provide this to the NOP in the form of a recommendation.

A summary of the issues identified that have not been addressed by NOP include:

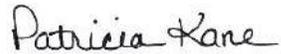
1. The lack of public input on this new requirement for certification agencies.
2. The NOP interpretation of “should” as a “must” and the issuing of noncompliances based on this interpretation.
3. Identification of the nature of the concerns/problems that NOP is attempting to correct.
4. Why a risk-based approach to conducting annual field evaluations is not acceptable.

5. The lack of specific NOP requirements/guidance/instruction for inspector education and training (including continuing education), despite the submission by IOIA of a program for this.

The ACA is hopeful the NOSB will take up this discussion. Our members are available to provide assistance or additional information as needed.

Again, thank you for the work that you all do.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Kane".

Patricia Kane
ACA Coordinator

Enc.



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September 4, 2015

Miles McEvoy, Deputy Administrator
National Organic Program
U.S. Department of Agriculture
Room 2646-So. (Stop 0268)
1400 Independence Avenue SW
Washington, DC 20250

Dear Mr. McEvoy:

The members of the Accredited Certifiers Association (ACA) support and find value in the concept of field evaluation of inspectors as a means of improving the overall integrity of organic certification. ACAs use the field evaluation of an inspector as just one part of the overall annual performance evaluation as required by 205.501(a)(6). Annual evaluations are informed by the results of several critical components of inspectors' work, including the written inspection report, knowledge of the USDA organic regulations, ability to communicate clearly with certified operations, and field evaluations.

We write to formally ask you to reconsider a specific problematic sentence in the August 13, 2013 **NOP Instruction 2027: Personnel Performance Evaluations**: "Inspectors should be evaluated during an onsite inspection...at least annually." This sentence is found under 3.2(b) Evaluation Criteria, Field Evaluation.

Over the course of implementing annual field evaluations for all inspectors, our members have expressed a great amount of concern and frustration with the reality of their implementation and compliance to NOP 2027. The issue has become increasingly important for our members. As an organization we are seeking your assistance to work toward common ground that addresses several issues brought to our attention. We specifically request the NOP to address the following:

1. Provide information to ACAs on the nature of the problem ACAs are supposed to be solving. There has been no detailed information from NOP to ACAs on the issues that initiated the requirement for annual field evaluations of all inspectors. With a clearer understanding of the concerns and issues of the NOP, certifiers can better work to develop procedures and plans to address them.
2. Issue guidance and instruction with consistent use of the term *should* and *must*. NOP Instruction 2027 indicates that *Inspectors should be evaluated during an onsite inspection by a supervisor or peer (another inspector) at least annually*. However, NOP is issuing Notices of Noncompliance to ACAs that have not conducted a field evaluation on all of their inspectors, essentially making the "should" a "must."
3. Permit certifiers to develop a plan to conduct field evaluations of inspectors that work for them and are unique to their business size and scale by allowing a plan over a specified period of time

(2 – 3 years) or over a number of inspections. A risk-based approach to conducting annual field evaluations could provide the needed oversight of inspectors new to the field, or who routinely submit poor reports, while at the same time not overburden experienced inspectors who consistently provide complete, well substantiated reports. ACAs already identify these issues based on the annual performance evaluation of inspectors. The development of a plan that works for the individual situation and inspector allows for a more sound and sensible approach to resolving any concerns and we believe this flexibility will provide more value in the long term.

4. Permit a certifier to accept a field evaluation conducted by another certifier when both utilize the services of the same inspector. Inspectors are increasingly evaluated multiple times by various ACAs. This consumes additional time and expense for both the certifier and inspector. One recent example is a single experienced inspector evaluated by eight different agencies this year. This simply is not a good use of anyone's time or funds nor sensible or necessary given that all certifiers are evaluating in the field in generally the same way.

In addition, certifiers are required by §205.501(a)(13) to accept the certification decisions of other certification agencies. These decisions are directly tied to the performance and ability of the inspector to supply a quality report. By accepting the certification decision of another ACA, certifiers are – clearly and definitively – accepting their judgment about the sufficiency of their inspector pool.

5. Revise NOP 2027 Instruction accordingly.

With the implementation of field evaluations over the past two seasons, several issues have been identified as problematic in this process. By highlighting these issues below, we hope to bring these challenges to the NOP's attention to achieve a thorough understanding of the reality of implementing NOP 2027 and specifically the requirement for annual field evaluations.

- At the 2015 NOP training, NOP staff stated during the Q & A that a field evaluation must be done annually. We believe that this is not an acceptable practice on the part of NOP. If the field evaluation on an annual basis is a requirement, enforced by Notices of Noncompliance, this must be stated in NOP 2027 and consistently applied. Otherwise, the “should” statement is open to various interpretations and inconsistent implementation by ACAs.
- The implementation of annual field evaluations for all inspectors has caused a large burden on ACAs both in the time and funds to conduct these evaluations. The increased costs are problematic for all ACAs, but ACAs involved with inspections in multiple countries face disproportionately higher costs than other ACAs. The increased expenditures by ACAs will result in the reduction of many certifiers' inspector pools and an increase of certification costs to operators. ACAs do not believe the requirement as currently written is cost-effective and are uncertain whether it even addresses the issue(s) of concern. An effective inspector evaluation program will incorporate field evaluations as one key part of an ACA's comprehensive staff performance evaluation process.
- There is an overall lack of clarity on exactly what NOP will accept from a certifier as a plan to conduct field evaluations of inspectors. With the initiation of the International Organic Inspectors Association (IOIA) Peer Evaluation, several certifiers are utilizing this system for field evaluations. NOP has not officially stated this is an acceptable process, yet NOP has indicated to some ACAs the IOIA evaluation is acceptable. Certifiers need to hear clearly from the NOP whether they can use an outside evaluation system like this or not.

Summary

If the NOP has identified deficiencies in the inspection process, or in inspector education, training and selection, NOP should put forth the appropriate education (including continuing education) and training criteria expected for organic inspectors. We understand that IOIA submitted specific inspector education and training requirements to NOP in 2011, but no NOP follow-up to this has yet been published. A publically available resource on this subject would be beneficial to all.

The simple requirement of an annual field evaluation will not elevate the inspector pool. It will lead to certifiers reducing the number of inspectors used in order to reduce costs which will hinder the growth of the organic industry. Without available inspectors to do the necessary work of inspections, we cannot grow and continue to transition more acres to organic, a primary goal of the NOP.

We reiterate that while ACAs are committed to an annual evaluation as required by 205.501(a)(6), we are very concerned with the logistics and costs associated with an *annual field evaluation for every* inspector. We are also concerned with the NOP assertion that “should” appears to be interpreted as “must” and Notices of Noncompliance have been issued for a “should” statement.

We look forward to your response, and moving toward a mutual understanding on the path to improve the certification process, making it more robust, efficient, and flexible, to accommodate multiple types of agencies and processes. We believe that with each conversation we can improve the system to make it more available to organic producers and grow organic trade.

Sincerely,



Patricia Kane
ACA Coordinator