

Accredited Certifiers Association, Inc.

PO Box 472
Port Crane, NY 13833 USA
607.648.3259 *phone / fax*
www.accreditedcertifiers.org
certifiers@accreditedcertifiers.org

November 10, 2011

Lorraine Coke
National Organic Standards Board
USDA-AMS-TMP-NOP
1400 Independence Ave., SW.,
Room 2646-So., Mail Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-11-0081; NOP-11-15

RE: NOSB Compliance, Accreditation & Certification Committee Recommendation for Unannounced Inspections

Dear Ms. Coke:

Thank you for the opportunity to provide comments to the National Organic Standards Board regarding the Compliance, Accreditation & Certification Committee Recommendation pertaining to Unannounced Inspections.

The Accredited Certifiers Association (ACA) represents 40 USDA Accredited Certifying Agents, both foreign and domestic.

The ACA welcomes and appreciates the work of the Compliance, Accreditation and Certification Committee on the topic of Unannounced Inspections. The ACA supports the work and direction of the Unannounced Inspections Recommendation and believes that these requirements are achievable and will result in an improvement of the certification system.

In the review of the Unannounced Inspections Recommendation, the ACA Working Group identified issues of concern and these are noted below.

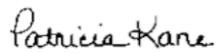
- 1) We believe that only experienced inspectors should be assigned the task of conducting an unannounced inspection. We suggest this requirement be included in the recommendation.
- 2) The ACA believes that conducting unannounced inspections at a minimum of 5% of total certified operations is a reasonable level of monitoring. We also believe the unannounced inspection requirement should be phased in over several years – 2%, 3.5%, and then 5%. We are concerned with the additional costs that will be incurred by operators for these inspections (either directly or through increased certification fees) and this would permit operators to budget for these increased costs.

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- 3) The Recommendation does not address the Exit Interview requirement §205.403(d) of the current regulation. While §205.403(b)(2) waives the requirement that an authorized representative of the operation must be present for an unannounced inspection, the requirement of an Exit Interview is not waived by the Rule. Guidance should be provided as to whether the Exit Interview is required when no authorized representative of the operation is present.
- 4) The Accredited Certifiers Association believes that whenever possible there should not be notification of an unannounced inspection, however, in reality there will be situations with extenuating circumstances when it is necessary to notify the operator of the upcoming inspection. In general, the 4 hour notification is useful, but in some instances, such as remote locations or travel distances of several days, we suggest there be an allowance for an extended notification of up to 24 hours of an unannounced inspection.
- 5) Clarification is needed on Section 7, as it appears to conflict with Section 8. Section 7 indicates that even if a representative of the operation is not present that the factors in items i – vii may still be observed. Section 8 explains that inspectors should not enter private property without explicit permission. In many operations the areas of i – vii could not be observed from a road side location; entry to the operation would be necessary. We believe that wording in section 7 could be made clearer and suggest the following:
7. An unannounced inspection may occur even if no authorized representative of the operation is present, provided explicit permission is granted by other operation staff.
- a. Wherever possible, an unannounced inspection should include no prior notification of the operation to be inspected before the inspector arrives on site. In special cases or where extenuating circumstances make it impossible to conduct any type of observation of the operation without prior notification (such as biosecurity issues), the ACA may notify the operation up to four (4) hours prior to the inspector arriving on site to ensure that appropriate representatives are present.
- b. If an authorized representative of the operation is not present, and other operation staff permit entry, observations of the operation including, but not limited to, the following may be observed:
- i. Condition of soil fertility
 - ii. Health of the plants
 - iii. Condition of soil and water
 - iv. Erosion issues
 - v. Evidence of, or lack of, herbicide, fungicide or pesticide use
 - vi. Condition of facilities, including pest control and contamination risks
 - vii. Condition of pastures and indicators of grazing

Our membership is very concerned about the trespass issue, and inspector safety in general, and we welcome very clear and definitive guidance on this topic from the National Organic Standards Board and the National Organic Program.

We believe that the development of baseline requirements for conducting unannounced inspection will improve the effectiveness of the monitoring of the certification system. Again, the ACA thanks the National Organic Standards Board for the opportunity to provide feedback on this recommendation.

Sincerely,

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

Patricia Kane
ACA Coordinator