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Sept. 30, 2021

Ms. Michelle Arsenault, Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP 1400 Independence Ave. SW
Room 2642-S, Mail Stop 0268
Washington, DC 20250-0268
Re: Docket #: AMS-NOP-21-0038

Re: Compliance, Accreditation & Certification Subcommittee (CACS) Discussion Document *“Oversight Improvements to Deter Fraud: Modernization of Organic Supply Chain Traceability”*

Dear Ms. Arsenault:

IOIA appreciates the efforts the NOSB has made in bringing this topic forward for discussion.

We acknowledge with both trepidation and excitement the possibilities of the Organic Link System (OLS) as described that can track transactions in real-time. Some of our members have mentioned experiencing chills from their dual negative and positive reactions. The OLS is an amazing idea and definitely worth exploring further. We do have some concerns about the feasibility of implementing such a technological tool in the real and organic world we live in.

IOIA is the leading worldwide training and networking organization for organic inspectors. Though a United-States based nonprofit 501(c)(3), IOIA operates globally with nearly 250 inspector members in over a dozen countries. Our members are the “boots on the ground” at the annual inspections of certified operators. The inspector is often the first representative in-person at the operation and sometimes the only one. We see first-hand successes and failures of the many administrative and technical innovations which are implemented in the name of ensuring organic integrity.

Thank you for acknowledging in the discussion document the critical role that inspectors and certifiers play and the good work that they are doing.

We respond to the questions below.

Questions for Stakeholders

1. *How can technology efficiently and effectively be deployed to enhance supply chain traceability?*

- We urge some study of the existing systems; it seems imprudent to start from scratch to create a new wheel. TRACES in the EU and Tracenet in India are two such systems. Tracenet is for all organic transactions. TRACES only applies to imports. Neither of these systems can be used for data analysis by certifiers or inspectors. This might suggest that the best use of the technology you have described is for the internal use of the NOP to do supply chain

monitoring, rather than for access to certifiers and inspectors. Concerns and trends could be shared when appropriate between NOP and certifiers, and between certifiers and inspectors.

- Likewise, an analysis of strengths and weaknesses of existing or past certifiers' mandatory and voluntary transaction certification systems. Much of the thinking behind the use of these documentation systems was similar to what the proposed OLS purports to accomplish. Recognize that the concept motivating OLS was applied without reliance upon advanced technology. In other words, transaction certificates are a physical application of the fraud prevention concept that allows for all stakeholders to participate. We might still be in that position today regarding OLS. While these older systems have fallen by the wayside to some degree, when used they can be effective.
- Given the chasm between the more sophisticated multinational producers/handlers and those small individual and local operations and their technical capacities, mandating application of a protocol such as OLS would clearly advantage the former. A 'years-long' project to develop functionally egalitarian systems may render development equally daunting in regard to a timely and desired outcome.
- Consider starting with a voluntary, targeted, sector-focused experimental program, ala a beta test, before requiring participation.

2. *What form does an organic link system (OLS) must take to be non-burdensome for organic stakeholders, including certifiers, inspectors, handlers, operations, importers, etc.?*

- OSP forms must collect some of the key data that changes annually such as crop acres, crops, crops in inventory. It takes time to implement changes in OSP templates. Certifiers can avoid burden by having the OSP separated into what is unlikely to change and what is likely to change. Items that can be separated for farmers into the annual update are annual crop and acreage plan; seed list; input list, storage list, etc. It is not difficult to change these forms to collect additional or different data, because they are collected annually.
- Basic crop data must be uploaded by certifiers, not operators. The system must be easy to use, such as the OID. The OSP is filled by the operator, they own it and they should upload and maintain it, not the certifier. But the system should allow for "track changes" and "history or changes", so it is clear who changed what and when. And the certifier needs to be notified immediately as per 205.400(f)(2) PRIOR TO APPROVAL. We suggest a) operator edits and uploads the info and its changes but b) certifier approves it. So we have a non approved version at the certifier office and then it becomes an approved version online.
- Certifiers must be compensated. The cost for data entry alone, not to mention the perpetual attention to data hygiene for such a system would be considerable for the data to be of real value. Extra staff would likely need to be employed. Would this simply add more cost to an agricultural and food manufacturing sector already engaged in considerable documentation to achieve certified organic status? Might this further drive disadvantaged and affluent consumers further apart in terms of equal access to organic foods?

- Is it possible for NOP to support this work financially? It is possible that a new line of work will develop – a company that provides a service to the certifier to manage the data? There might be efficiencies in certifiers not all working independently. We perpetually see large organic players making decisions based upon financial considerations vs. considerations that favor family farms. This drives consolidation with dire consequences to family farms.
- And what aspect of implementation will be punted to Certifiers? Realistic expectations must be presented to inspectors – Who will collect the data? Who will verify the base data? Who will ensure timely filings of information? Will this be supported or enforced by USDA? Carrot or stick? Without real, timely information, integration of data, and verification of all data points, the proposed system cannot work.
- IF once established, the OLS must include an opt-out or exemption criteria for operations that present little or no risk of organic integrity to the stream of commerce. Would that exemption be assigned by sales volume, marketplace, or production arena?
- Any such system must have one-way access. Processors, producers and importers would need a fully secure portal to upload their data. Then again, isn't this just creating another access point for hacking by mischievous and malignant entities? Such a system must allow only NOP internal staff to see and analyze the data. They can decide how to share observations, trends, and concerns with certifiers.
- What kind of dampening effect will such intrusive oversight have in disincentivizing entrepreneurs and new entrants into organic production from seeking certified status?
- How will the data be protected from FOIA requests?

3. *What challenges exist with the implementation of an organic link system (OLS)?*

- We recognize first hand that contrary to the common rhetoric, the organic certification process is not scale neutral. Given this, unintended negative impacts on smaller and medium size producers are highly likely. At a time when organic producers are struggling with weather/climatic factors, bankruptcy and financial insecurity by buyers, loss of markets, and the impacts of an uncontrolled pandemic, the prospects of incurring more administrative obligations to meet a bureaucratic mandate will likely push some certified growers out of organic production if not out of business. Just this week, I spoke to an organic producer who said they were no longer organic “because they lost their buyer”. The only practical buyer where they were located had just filed bankruptcy. More than 80 dairy farmers in VT, ME, NH, & NY were notified that their contracts would be cancelled by the end of August 2022.
- The average age of an American farmer is **58 years old**. The average organic farmer is 52 years old, however. Even the average beginning farmer – those with less than five years of experience – is 47. On the whole, it's not a profession populated by young people. The proposed technology presumes a tech savvy population would simply ‘add a new app’ to the operation. While some might, many will not.

- The weight of business intrusion may be too great. If transactions can be viewed only by the NOP, that would be viewed as a huge intrusion. If certifiers and inspectors can theoretically access the information of operations that they are not inspecting, it is much deeper. And if Certifiers can't share the data, there will not be much added value over the current system where inspectors verify annual sales.
- The impact on smaller and medium sized operators as compared to larger operators is likely inequitable.
- Many plain folk are certified organic. Certifiers who serve them will have increased administrative costs, and some growers might leave certification due to their lack of trust or interest in having their data in a centralized system.
- Collecting additional data will likely fall to inspectors and increase time for inspection. Inspectors are increasingly asked to do more at inspection, be more competent, and get more training. Given timeliness expectations for inspections, the more paperwork required and the more data we are collecting, the less time we have to actually execute a physical inspection that is a critical part of the verification process. ie., look in the corn planter, at the seed tags , in the grain bins, at the boiler maintenance logs, and processing equipment.
- This system will clearly increase administrative burden for certifiers, who are already strained due to growth in number of clients, and shortage of human capital. The expectation of more inspections to do, when Strengthening Organic Enforcement increases the number of operations that must be certified, must be considered. Too rapid expansion risks weakening the merits of certification.
- The "Organic" label is already viewed by some as overly bureaucratic. Will one more bureaucratic requirement encourage growers to escape to other alternative labels? Be prepared - organic farmers can be guaranteed to rise up against a system that does not deliver actual value to them without compensating them for additional bureaucracy.

4. *Is there value in AMS, certifiers, and inspectors getting more granular with transaction-level detail to gain transparency throughout the complex supply chain?*

- Yes, there is value. Absolutely. However, a plan to implement over time and a proposed realistic timeline would be essential. Risk assessment is a very useful tool to sharpen the focus of such concerns. We would suggest beginning with what might be described as both the higher risk operations and those most likely to have the technology to participate in such a system as the proposed OLS. Following is one suggested ranking.
 1. **Imports to the US and exports from the US.** We are already part-way there with Strengthening Organic Enforcement and the requirement for import certificates. Certifiers have had ample time to prepare for this new requirement.

2. **Brokers and Traders who are not physically taking possession of the crops or livestock products they buy and sell.** These higher risk operations already have digital systems for tracking volumes and could probably provide their annual transactions to the certifier without undue burden.
3. **Processors identified above a specified sales volume.** This should not be limited to the crops they sell as organic. A split operation, especially if in parallel production, needs more oversight. A large operation generally has better tracking systems and the resources to provide data on organic sales.
4. **Commodity crops (non-perishable) such as grains,** that can be stored from year to year. They are generally sold in large volumes and are already commonly accompanied by a Bill of Lading and a scale ticket. Volumes and/or weights are easily documented. If there was an exemption for small producers, this might prove to be less burdensome than at first look.
5. **Large-scale fruit, vegetable, raisin and nut operations.** Similar to above for commodities, except that they are usually sold within a year and tend to be more perishable.
6. **Dual certified operations, including farms and handlers.** Dual certification elevates fraud risk because it makes oversight more complex.
7. **Others:** If and when an OLS system is actually implemented it can be pitched to these producers as a way of facilitating trade at a scale and across global marketplaces, to support participant buy-in.

Here's what needs to happen first.

- Acreage data must be collected. If we don't have a system of good production data, any OLS system will fail.
- Crops should be listed on the certificate or the in the Organic Integrity Database, or both, with more specificity. The OID is a very important tool for inspectors and certifiers and we greatly value it. As well, it seems an underutilized resource that has not been fully explored. Certificates could include field numbers. The first step is accurately reported acreage data.
- Serious audit balance training and expectations are essential. Inspections are too often not executed in the time required, but rather in the time allowed. Good inspectors can do poor audits when the expectation is that the inspection must be done in a shorter time than is necessary. Reviewers are often not trained to be able to recognize an audit that is well-done or incomplete. IOIA, the NOP Organic Integrity Learning Center, and in-house certifier training are all good initiatives. But we cannot rest on our laurels with this essential aspect of inspection. New inspectors need mentorship and time to develop auditing skills. Many experienced inspectors need training for recalibration and correction of less effective inspection habits.
- More and better qualified inspectors. There is no baseline expectation of competence for inspectors or reviewers. The NOSB's Human Capital Recommendation and the recent Human Capital RFA from NOP are both strong efforts to increase the number and competence of organic inspectors and reviewers.

It must be recognized that this will be a lengthy process for positive impact. When inspectors are in short supply, there is natural resistance to cull from among the less competent. Some certifiers have moved to full-time staff inspectors. Full-time inspection work can be grueling and might exacerbate the situation by encouraging inspector attrition.

- Given the recent focus on fraud detection and prevention It must become an industry expectation that audits/inspections must include actual documented revenue figures, must address parallel crops when relevant, and must include non-organic aspects of the operation.
- The NOP needs to strengthen its oversight, investigation staff and have an early alert system so that certifiers are not required to make a case for an investigation, but can instead raise a potential concern.

5. *What other methods exist for enhancing transparency?*

- We eagerly anticipate the Strengthening Organic Enforcement Final Rule, which promises to improve certifier-to-certifier information-sharing. This is essential to fraud prevention and detection!
- Requiring the annual reporting of crop acreage would be a good next step for the Organic Integrity Database. Some of the higher risk factors (i.e., parallel production) could also be flagged. Acreage data is not an end-all, but it does improve transparency as long as there is a healthy respect for the realities of farm life. What does it do to the system when one farmer with 10,000 acres has a catastrophic crop failure? What does it do to the system when a farm experiences bumper crop yields?
- Strengthening Organic Integrity addresses cooperation among certifiers. Currently due to confidentiality concerns, inspectors are deterred in their ability to cross check sales information received during audits with buyers. Inspectors need more authority to verify sales information received at audits. This is especially important with organic entities which also operate or have other business relationships with non-organic entities.

6. *Are there additional areas that need to be considered for improvement to prevent fraud or react to fraud?*

- **We see immense value in cross-checks.** They promise to be effective, less costly, and less burdensome than full supply chain audits, and certainly less costly and burdensome than the OLS system. The crop, yield, and sales data can be shared between certifiers without going through a centralized database. The full potential of this simple technique has not been realized.
- **Supply Chain audits:** We've had little opportunity to witness the effectiveness (or lack thereof) of the supply chain audits described in the Strengthening Organic Enforcement Draft Rule.
- **Investigations:** We support an increased focus on investigations at the NOP level. Currently the certification community is expected to provide an abundance of evidence when fraud is suspected. We support a system that allows for the certification community to provide alerts with less than that 'abundance of evidence'.

- **Quicker response:** We remain deeply concerned with the years of fraud that were carried out in the Randy Constant case before a successful investigation was conducted. We collectively must refuse to tolerate years of fraud and millions of dollars of organic fraud. Perhaps inspectors with additional credentials, such as IOIA accredited inspectors, should be used to back stop inspections on complex operations such as those he was engaged in. Highly experienced Inspectors with specific knowledge of the systems in play and cross discipline qualifications are likely to observe aspects of complex operations others may miss.
- **Creating complex technology relying on digital data could actually increase fraud risk.** Individuals adept at data manipulation in electronic media could have a hay day at creating false records. An electron is much easier to manipulate than a field or shipload of corn.

7. *Should the industry require the registration of land 36 months before certification*

- We do not support registration of land 36 months before certification. This would create an unnecessary barrier to certification for first-time applicants and an unnecessary barrier for expansion of certified operators. Growers have enough barriers and hurdles along the certification path without adding the requirement to plan everything 3 years in advance.

In summary – While an OLS type recordkeeping matrix may at first look to be a sure response to reduce fraud, the possible real world impacts to the organic community of growers/processors/handlers would be uneven and in some cases detrimental. Further expansion of the OID as an informational tool and industry resource should be aggressively pursued. Cross-checks, more certifier cooperation, and robust audits when inspectors are on-site can greatly increase the effectiveness of our system without intrusive and expensive technological leaps forward. We urge proceeding with caution and enlisting highly knowledgeable folks in the organic community, so that you can be sure the shoes of technology fit the beast that will wear them.

Thank you again for your vision and your work on this issue.

Sincerely,



Margaret Scoles, on behalf of the IOIA Board of Directors
Executive Director