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National Organic Program
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2646—So., Ag Stop 0268
Washington, DC 20250-0268

December 15, 2017

Re: AMS-NOP-17-0043
Interim Instruction Maintaining the Integrity of Organic Imports (NOP 4013)

Dear Dr. Lewis:

Thank you for the opportunity to provide comments on the National Organic Program (NOP) Interim Instruction Maintaining the Integrity of Organic Imports. The Accredited Certifiers Association, Inc. (ACA) is a 501(c)(3) non-profit educational organization created to benefit the organic certifier community and the organic industry. The ACA strives for consistency in organic certification to uphold organic integrity, maintain stakeholder trust, and grow the organic industry. We are committed to being a positive influence for the good of the organic community. Our organization is made up of 54 certifying agencies worldwide and includes supporting members from across the organic community.

During the spring of 2017, we convened a working group to develop Best Practices for Verifying Traceability in the Supply Chain. That document was recently finalized and is attached to these comments. The ACA would like to thank the NOP for the work that went into this Interim Instruction. In general, the ACA strongly supports most of the instruction provided. Our specific comments, which are closely tied to our attached Best Practices, are as follows:

Section 3.1. Certification Requirements
This section notes that handlers may be excluded from certification under specific conditions described in 7 CFR 205.100(a), §205.101(b). In the context of maintaining the integrity of organic imports, the requirements related to retails sales in §205.101(b)(2) are of little concern; rather, the exclusions described in §205.101(b)(1) are of greatest relevance because of

traceability challenges that occur when organic goods pass through the hands of uncertified importers, distributors, brokers, or other handlers. As such, section 3.1 should explicitly reference 205.101(b)(1). It should also be noted that many uncertified handlers handle products that are not labeled as organic, despite the requirement for organic labeling. The handling of unlabeled products by uncertified operations presents great potential for fraud and should be explicitly called out. Highlighting the language of the rule – with attention to the requirement for labeling of organic goods, in this context – would help eliminate any misunderstanding.

The ACA would like to see limits on the exclusion for importers, distributors, and brokers who do not physically handle or label organic products clarified. The limitation outlined in §205.101()(i) refers to organic products that are "…packaged or otherwise enclosed in a container prior to be received or acquired by the operation." §205.101(b)(ii) indicates these products must stay in the same package or container. We suggest the final instruction clarify that this language limits the exclusion in 205.101(b)(1) only to those operations handling products in final retail packaging that is sufficient to protect the product from commingling or contact with prohibited substances.

Due to traceability challenges specific to uncertified handlers, additional instruction should be provided to certifiers with regard to verifying the prevention of commingling and contact with prohibited substance as described in §205.101(b)(1). One point to note is that traceability documents must track both the invoices and they physical movement of the product; we have found that many operations rely on another company to make such arrangements and do not personally track physical handling, transportation, and storage.

The Best Practices document developed by the ACA contains specific instructions to aid in the verification process, including an Uncertified Handler Declaration that certifiers can use or modify to aid in operator, inspector, and reviewer understanding of exactly what documentation is expected and required of uncertified handlers. Use of the document will also help certified entities and certifiers to identify red flags regarding areas in which uncertified suppliers might not be willing or able to comply with §205.101(b)(1).

The ACA supports each of the Certifier Responsibilities bulleted in this section. Our attached Best Practices document provides more detailed recommendations for verifying that the operation is maintaining appropriate records and includes an appendix on International Trade Policies for Imports and Exports. This highlights verifications and documentation associated with various international Equivalency Arrangements and Recognition Agreements. The ACA Best Practices also include a section that provides further specificity for audit expectations in general and a section on Audit Cross Checks. The ACA recommends that certifiers implement systems for meaningful comparisons of supplier documentation with purchaser documentation and presents ideas on how to accomplish this. We understand that cross checks have been an integral part of the verification scheme internationally, and we wish to see the same in the U.S. To make this happen, certifiers need to be willing to share information with one another for the purpose of verifying compliance, as suggested in the 6/1/2017 NOP Webinar "Organic Supply

Chain – Ensuring Organic Integrity through the Organic Control System." We believe greater emphasis on this concept directly from NOP will facilitate a greater level of information sharing, which will significantly enhance certifiers' abilities to conduct thorough and meaningful audits.

Section 3.2. Handling Instructions

Information related to phytosanitary treatments that may be applied to imported good upon entry to the U.S. has been especially helpful for our members, especially as pertaining to treatments that are applied as mandatory condition of entry. Certifiers are making improvements related to their requirement to "review the potential for such treatments" but have experienced some level of difficulty using the Fruit and Vegetables Import Requirement (FAVIR) database maintained by the USDA Animal and Plant Health Inspection Service (APHIS). The ACA plans to provide training on this topic at the upcoming professional development training in San Antonio, Texas, next February.

Another topic we believe needs to be addressed in the context of maintaining integrity of imports is the general lack of transparency in production and marketing. Most notably, certifiers are not required to report organic acreage to the Organic Integrity Database. Such a requirement would enable a clearer picture of whether the organic land base supports production claims on small and large scales and would allow for calculation of a mass balance across the supply chain. Our attached Best Practices suggest that all certifiers should submit organic acreage reports to the NOP for inclusion in the Organic Integrity Database. An NOP requirement to do so would help ensure consistency; perhaps an exclusion for very small farms would be appropriate if reporting were deemed impractical and not useful for fraud prevention.

Lastly, we ask the NOP to explicitly state in the final instruction that facilities where organic product is transferred to or from cargo containers, trucks, rail cars, and other bulk containers must be certified. This would apply to ports or any other handling facility.

Again, we appreciate the efforts of the National Organic Program to provide instruction on this issue and we look forward to continued industry-wide progress in this area.

Sincerely,

Jennifer Cruse
Coordinator