

Mike Johanns, Secretary  
United States Department of Agriculture  
1400 Independence Avenue SW  
Room 200A  
Washington, DC 20250

Secretary Johanns:

The National Organic Coalition and the additional under-signed concerned organizations and individuals, wish to bring to your urgent attention our strong concerns regarding a recent announcement of the National Organic Program (NOP) policy regarding the potential for organic certification of Grower Groups (GGC).

At the outset, we would like to commend the NOP on taking necessary steps towards enforcement of USDA standards throughout the world in order to ensure the integrity of the organic label worldwide. However, we have concerns that a recent decision pertaining to an individual entity announces a fundamental shift of policy at USDA/NOP regarding the inspections and certification of Grower Groups.

Historically, certification agents have widely and successfully implemented GGCs for over a decade, as a method of providing access to the organic market for farmers from developing countries who have very limited financial resources. Products successfully certified organic under the GGC system include nearly all of the organic coffee and much of cocoa, teas, bananas, spices, as well as many other products. The retail market value of coffee alone is estimated to be between \$200-300 million USD. Chocolate and sugar together are conservatively estimated to be similar, with a combined estimated retail value of coffee, chocolate, and sugar equaling \$400 – 600 million USD.

The GGC system was designed and created before the existence of USDA National Organic Program and it is practiced under many international certification programs. GGC systems are recognized around the world in world-wide markets. Since 2002, the NOP has accredited organic certification agencies, many of whom certify grower groups. The NOP has accredited these agencies with full knowledge and approval of the GGC systems. The National Organic Standards Board proposed a guidance policy to address this issue in 2002, and the practice of certifying grower groups has, in fact, continued by USDA-accredited organic certification agencies without further clarification from the NOP since implementation of the USDA regulations in 2002.

The Grower Group Certification model has been utilized for farmers in developing countries who have very limited financial resources and is limited to farmers who have formed associations, cooperatives or other democratically organized groups. To qualify for certification as a Grower Group, the farmers must create an internal certification control system (ICS) which ensures that the entire group, as well as each participating farmer, complies with organic certification requirements. The purpose of this system is to

aid those farmers who cannot afford individual certification, thus providing a valid export access for these farmers, often for the very first time. At the same time, the ICS seeks to provide consistent oversight for the group to verify compliance with strict organic standards and therefore preserve consumer confidence. Organic accreditors and certifiers must ensure that these ICS systems are fully functioning.

There appears to be some conflict with this type of practice and the existing NOP regulation, as interpreted by USDA (see USDA/NOP Adverse Action: Denial of certification, Appeal RULING: October 27, 2006). In this case, USDA denied certification of a Mexican operation due to noncompliance issues, and further stated that: “The ruling established that use of an internal inspection system as a proxy for mandatory on-site inspections of each production unit by the certifying agent is not permitted.”

Since this decision could have very significant economic impact on some of the world’s smallest and most vulnerable farmers, affect major US food industry buyers, and deny consumers access to numerous organic products, we urge the USDA to proceed carefully with any policy decisions only after considering alternatives and consulting in thoughtful and timely discussions with the wide range of potentially impacted stakeholders and program participants.

A critical first step toward making significant policy determinations like the USDA’s statement on GGC must include a public and transparent process. Further, the procedures for considering and taking action on such policies should be fully documented using the standard practices related to management of a Quality System for an accreditation agency. Given the fact that NOP does not have a Quality System in place, it is not surprising that problems have frequently arisen when NOP has made or revised policies related to its accreditation system.

We ask that any ruling on the eligibility of Grower Groups be delayed until NOP institutes a full-fledged Quality System consistent with the mandate at 7 CFR 205.509, which requires that the NOP comply with ISO/IEC Guide 61 (now revised and renumbered as ISO 17011, “Conformity Assessment—General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies”)..”

In our view, compliance with this international norm will greatly improve the current method of making changes in accreditation requirements, as §8.2.4. of ISO 17011 requires accreditation bodies to “give due notice of any changes to its requirements for accreditation and take account of views expressed by interested parties before deciding on the precise form and effective date of the changes.” In addition, this international standard provides detailed and comprehensive requirements for management of accreditation bodies.

Following the NOP’s consultation with stakeholders, the National Organic Standards Board, and legal counsel, we fully support a very transparent and participatory process to develop further action with regard to GGC. This process should start with the comprehensive evaluation of the NOSB 2002 recommendations. The recommendations

will need greater scrutiny and clarification to be widely accepted, but they serve as the appropriate beginning point for discussions. [Please see attached NOP statement and NOSB recommendations.].

Finally, and most urgently, USDA/NOP must ensure continued access to the US market for the current legitimately-certified and accredited GGC organic products in the stream of commerce while this problem is resolved. USDA should, of course proceed to fully audit, provide appropriate oversight and ensure confidence of all USDA accredited certifiers who are certifying fully functional and legitimate GGC systems

We look forward to your immediate response and to the positive resolution of this very timely and urgent matter,

Undersigned,

National Organic Coalition,  
Rural Advancement Foundation International -- USA  
Beyond Pesticides,  
Center for Food Safety  
Food & Water Watch,  
Maine Organic Farmers and Gardeners Association.  
Midwest Organic and Sustainable Education Services,  
National Cooperative Grocers Association,  
Northeast Organic Farming Association -Interstate Policy Council,  
Northeast Organic Dairy Producers Alliance,  
Union of Concerned Scientists

Cc: Lloyd Day  
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Mark Bradley

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**RECENT DECISION BY USDA/ National Organic Program:**

[www.ams.usda.gov/nop/Compliance/AppealsSummaries/Sept05-Mar07.pdf](http://www.ams.usda.gov/nop/Compliance/AppealsSummaries/Sept05-Mar07.pdf)

**“6. Improper inspection procedures**

Proposed Adverse Action: Denial of certification

**SUMMARY:** A denial of certification was issued to community grower group, located in Mexico, for improper personnel structure of the Internal Control System (ICS) and lapses in its administration. Specifically, the ICS failed to detect the application of a prohibited insecticide by one producer and to provide evidence that the use of empty fertilizer bags for crop storage was confined to one producer. The appellant admitted fault, but contested that the severity of the sanction was disproportionate to the frequency and extent of the non-compliances .

**RULING:** October 27, 2006. The appeal was denied. The Findings demonstrated that the operation's oversight mechanisms for maintaining compliance were inadequate. Further, the certifying agent's policies and procedures for the certification of community grower groups were deemed inconsistent with the NOP and had been implemented prematurely prior to evaluation by the NOP In conflict with the provision §205.403(a)(1), whereby each production unit must be inspected, the agent selected a percentage of the producers within a community grower group for on-site inspection. The internal inspection procedures, whereby each production unit is inspected, was overseen by members of the grower group who were not required to have sufficient expertise, be subject to an annual performance review or to disclose conflicts of interest.

The ruling established that use of an internal inspection system as a proxy for mandatory on-site inspections of each production unit by the certifying agent is not permitted. The appellant waived the right to a hearing, and the denial of certification was final.”

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## **2002 NOSB RECOMMENDATION REGARDING GROWER GROUPS:**

### **NOSB Recommendation Adopted October 20, 2002**

#### **Criteria for Certification of Grower Groups**

##### **Introduction:**

Grower group certification refers to the certification of a group of producers whose farms are uniform in most ways, and who are organized under one management and marketing system. Grower group certifications have historically been used for the certification of cooperatives or groups of producers located in a geographical or social region, whose crops are marketed collectively. Primary crops produced by grower groups include coffee, cocoa, tea, spices, and tropical fruits.

##### **Background:**

In section 205.2, the final rule defines “person” as “an individual, partnership, corporation, association, cooperative, or other entity.”

In section 205.400 “General requirements for certification,” the final rule states: “A person seeking to receive or maintain organic certification under the regulations in this part must:

- (a) Comply with the Act and applicable organic production and handling regulations of this part;
- (b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in § 205.200;
- (c) Permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas, structures, and offices by the certifying agent as provided for in § 205.403;
- (d) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow authorized representatives of the Secretary, the applicable State organic program's governing State official, and the certifying agent access to such records during normal business hours for review and copying to determine compliance with the Act and the regulations in this part, as provided for in § 205.104;
- (e) Submit the applicable fees charged by the certifying agent; and
- (f) Immediately notify the certifying agent concerning any:
  - (1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and
  - (2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.”

Given the fact that the rule includes “cooperative” and “association” in the definition of “person”, and given the fact that section 205.400 indicates that it is a “person” who seeks organic certification, it can be concluded that grower groups, organized as cooperatives

or associations, can seek certification as one operation under the NOP without a change to the rule.

Grower groups are different from other entities seeking certification in that they are comprised of numerous producers who are certified as one entity, rather than being certified as individual sole proprietors.

Historically, not all grower group members' farms are individually inspected by the certifying agent annually. This means that the grower group must have a quality system, or internal control system, in place to assure that all members of the group operate according to the system plan in compliance with the organic standard. The quality system of the grower group is inspected at least annually, but only a set percentage of the member operations are visited by the certifying agent. Individual site inspections are conducted primarily to validate the functioning of the quality system.

**Rationale:**

Many products sold as organic in the United States, including coffee, cocoa, tea, spices, and tropical fruits, are produced by grower groups. These types of operations are certified by certifying agents who have received NOP accreditation. While there is no need to change to the final rule, there is a need to provide guidance to the NOP to assure that certifying agents who operate grower group certification programs follow consistent procedures. There is also a need to assure that such certifying agents are evaluated according to set criteria during the accreditation review of their programs.

**Recommendation #1:**

**Criteria for the Certification of Grower Groups**

The NOSB recommends that, in order to be certified as a grower group, the following conditions must be met:

- The crops and farming practices of the producers must be uniform and reflect a consistent process or methodology, using the same inputs.
- The group must be managed as a legal entity under one central administration that is uniform and consistent.
- Participation in the group is limited to producers who sell all of their organic production through the group.
- Producers who are certified as part of a grower group do not possess individual certificates. Rather, the grower group is certified as a unit.
- Grower groups must establish and implement an internal control system (quality system), with supervision and documentation of production practices and inputs used at each producer's operation to insure compliance with the USDA's National Organic Standard.
- Grower groups must ensure that all members understand the US National Organic Standard and how it applies to their specific operations.

- Grower groups must utilize centralized processing, distribution, and marketing facilities and systems.

The certifying agent shall have policies and procedures for determining how many growers must receive an annual inspection by the certifying agent. For each grower group it certifies, a certifying agent must document its method for determining the number of growers to be inspected. This determination must include consideration of:

- The number of operations participating in the grower group;
- The size of the average operation in the grower group;
- The degree of uniformity between the group's operations;
- The complexity of the group's production system(s); and
- The management structure of the group's internal control system.

## **Recommendation #2:**

The NOSB recommends that the following information be included in the NOP Accreditation Manual:

### **A. Inspection of Grower Groups**

**Information provided.** The first step of any grower group inspection is to review the material from the certifying agent to determine the scope of the project. Grower groups are often very complex. They may include hundreds if not thousands of producers. These types of operations do not easily fit normal inspection protocols. Therefore, much supplemental data is necessary in addition to normal certification documents. The following is a list of information that the certifying agent must provide to the inspector prior to the inspection:

- General map indicating the general region of the production zone.
- A more detailed map indicating the location of each of the communities to be inspected.
- Grower lists by community, listing producers, producer codes or numbers, amount of land area under production by each producer, crops, estimated yields, and past production history. Many grower groups maintain individual producer records such as parcel maps and grower agreements which are generally reviewed at the time of inspection.
- Organic system plan, certification questionnaire, or application.
- Name of contact persons with phone numbers, both home and work. It is important to have access to at least two contacts in case the primary contact person cannot be reached.
- A description of the project to understand how it is organized. A previous inspection report should be provided for certification updates.
- Handling plans, questionnaires/applications, if there is any processing. (Many grower groups operate processing and/or storage facilities.)
- Information on final sales and distribution. This is important to determine if any

off-site export or storage facilities need to be inspected.

- In the case of certification updates, the inspector should be provided with the past certification letter with all conditions for certification clearly stated. As indicated, the past inspection report can be extremely valuable, and should be reviewed.

**Review internal control documents.** Upon arrival at the inspection locale, meet with the management to plan the inspection itinerary. You should clearly understand the organizational management of the project prior to heading out into the field. You will need documentation of the internal control system to properly verify local oversight efforts, education programs, product flow, and production practices. It is advisable to review internal control documents and other records before heading out into the field. This information can help you choose where to focus your inspection site visits.

**Select the sites to visit.** Make sure that you have the freedom to select any part of the project for inspection. Do not allow the grower group manager to “direct” the inspection. Keep in mind that the further a group of producers are from the main office or the internal control system administrator, the weaker the control may be. Attempt to visit remote producers to best assess the system.

**Interview grower group members.** Once the inspection begins, it is best to follow the product flow starting with the production sites, followed by primary processing, final processing, packaging, storage, and distribution. When visiting the producers, in addition to observing production practices and organic control points specific to the operation, the inspector must verify aspects critical to the overall project. Interview producers directly. Ask questions not only about their farms, but also about other project programs. How well does the producer understand what organic farming and certification means?

**Ask direct questions.** It is also important to ask producers, point blank, "When was the last time you used agro-chemicals?" You may want to ask specifically if this includes urea or Roundup or other brand name products common to the area. Often producers in a remote area do not clearly understand that these substances are prohibited. Do not assume anything. Individual farm integrity usually reflects the producer's understanding of organic certification, which is directly linked to the project's educational and oversight efforts.

**Understand local issues.** It is critical to understand the local culture, traditions, and common inputs. It is advantageous to invite a local inspector to accompany you. A local inspector can help build trust with producers and help you understand local issues. Such cooperative arrangements can help empower indigenous inspectors.

**Office audit.** Once all aspects of the project have been inspected, a final visit to the project office will likely be required for an audit. The audit of the entire project is best done at the end of the inspection, when the inspector has a more thorough understanding of the entire operation. Additionally, it will most likely be necessary to verify different pieces of information gathered during the field inspection.

**Exit interview.** An exit interview with the project management is necessary in order to answer remaining questions. This gives the inspector a last chance to secure missing information, obtain required signatures, clarifying confusing, inconsistent, or inaccurate information, and communicate issues of concern.

## **B. The Internal Control System and Organic Control Points (OCPs)**

**Assess the internal control system.** The most critical component of both the grower group inspection and the grower group inspection report is the assessment of the internal control system. (A grower group inspection is in fact an evaluation of the internal control system.) The report must address the steps taken by the internal control system to enforce compliance with organic standards.

- Have the operators been provided copies of the standards in a language or format they understand?
- Does the internal control system use individual inspection reports to assess operator compliance?  
If not, how is compliance assessment documented?
- How often do official representatives of the control system visit each operation?
- What kinds of documents are generated to verify these visits?
- Are new operators inspected prior to being added to the GG?
- Have all grower group members signed a contract stating that they will comply with the organic standards and permit annual inspections?
- Are operators provided assistance to comply with the standards?
- What happens when non-compliance is suspected or detected?
- Are there records of the actions taken when non-compliance has been investigated?
- Does the control system have an official "sanctions" policy? If so, submit a copy with your report.

**Report inconsistencies.** It is important to clearly describe the consistency of the project from producer to producer. As indicated, different certifying agents may have different requirements for grower group inspections. Some may require spreadsheets with information on each producer; others may require site visit sheets signed by the farmer at the farm; others require inspecting only a percentage of the total number of producers. If you find prohibited practices and you are only inspecting 20% of the operations, it is a good bet that you have only found 1/5 of the problems. Removal of the individual producer is not necessarily the final answer. The situation may be an indication that the project is not providing proper oversight. Internal records should match your findings and the findings of the certification program. Present your findings in the inspection report, along with any inconsistencies and unresolved issues.

**OCPs.** It is very important to describe the organic control points of the overall operation, where loss of organic integrity may occur. The inspector should report the preventative steps taken to protect organic products, and identify deficiencies where organic control points are not sufficiently addressed.

The following is a list of examples of **organic control points** encountered during grower group inspections:

- Unclear registers of grower group members.
- Unclear or inadequate maps.
- Inclusion of new fields or new producers with no conversion or documentation.
- Use of synthetic fertilizers - A producer may think that because he or she uses no herbicides or pesticides, the operation is organic.
- Use of used agrochemical bags or containers for harvested products.
- Contamination during storage or transport, e.g.: boats with gas and water in bilge, or storage under the house with gas and paint on top of product.
- Insufficient buffers or non-separation from other crops that have chemicals e.g.: cacao inter-planted with plantain, with urea used to fertilize the plantain.
- Inclusion of crops from neighbors or relatives who are not on the producer list.
- Intentional chemical use. "I only used a little bit."
- Shared use of backpack sprayers which are also used for applying prohibited materials.
- Unclear internal purchase and transaction records within the grower group.

**Processing by grower groups.** Finally, grower group reports may include process inspection reports for all of the processes performed by the grower group. Make sure that the grower group has submitted a handling system plan, as applicable, and that the plan has been approved by the certifying agent. Follow handling inspection protocols and submit a handling inspection report.

### **C. Grower Group Inspection Report Guide**

The grower group inspection report basically follows the outline for a farm inspection report. However, sections may need to be expanded, added, or modified. For example, a section on Organizational Management is helpful to describe many aspects of the project. This section should describe the structure and assess the functioning of the internal control system. It should also list the names of communities, number of producers in each, hectares of each, and, if possible, estimated yields, with totals.

The following outline summarizes the general areas of grower groups that should always be inspected, and provides a list of the additional topics which must be covered in a grower group inspection report:

- 1. Background**
- 2. Project headquarters and audit trail information; organization, accessibility, and accuracy of information; projected yields of products requested for certification**
- 3. Organization management, internal control system, and compliance mechanisms, including**

- records maintained
4. List of communities
  5. Grower lists
  6. All processing facilities, both on-farm and off-farm
  7. Transportation systems
  8. Storage facilities
  9. Field conditions; inspector observations
  10. Risk assessment; adjoining land uses; other organic control points
  11. Inputs used
  12. Equipment used
  13. Packaging materials
  14. Producer interviews; inspector observations
  15. Education program – producer understanding of organic principles and standards
  16. Split operations - production of non-organic crops/products by grower group members
  17. Other considerations
  18. Summary
  19. Attachments

#### **D. Outline for Organization and Assessment of the Internal Control System (ICS)**

##### **1. Field officers**

Field officers are employed by the grower group. They have mixed roles:

- a. Information/extension
- b. Registration of growers
- c. Internal control
- d. On-farm research

Field officers often become part of the community. Because field officers have internal control and education functions, they may have conflict of interest issues. This can be solved by rotation of field officers or field officers from other areas handling the internal control function. There should be a minimum of one field officer per maximum 500 farmers.

##### **2. Principles of ICS**

- a. analyses/description of situation
- b. appropriate, documented system
- c. awareness raising, information and instruction, contracting, verbal and written, social controls, monitoring, corrective actions, risk analyses

##### **3. ICS documents**

- a. Project description
  1. Basic project outline
  2. Farmer and farm profile, grower lists, site maps
  3. Farming practices

4. Farmer support system
  5. Stakeholder analyses
  6. Risk-assessment
- b. The ICS itself
1. ICS personnel and the ICS office
  2. Documentation & record keeping (forms)
  3. Monitoring and corrective actions
  4. The buying system arrangement
  5. Product storage and handling procedures
  6. Code numbering and product tracing
- c. Updating the system (annual report)
1. Compliance with standards
  2. Corrective actions undertaken
  3. Farm/project economy – financial report
  4. Update of documents

## **E. Evaluation of the Internal Control System (ICS)**

The outline below contains further methodology for evaluation of the ICS by the third party inspector:

- a. At the ICS office
1. Review of the documented system (Is it sufficient for the current situation?)
  2. File check to see whether system is being adhered to (Is office, are documents, is staff, is the system functioning?)
  3. Review cases of farmer non-compliance
  4. Identification of problem areas/risk assessment
  5. Construct a plan for field visits:
    - Select some to get a general feeling, at random
    - Select some targeted at problems/risk areas and distant production sites

This work can be done in one day if the office and staff are well organized. The inspector should use a format/checklist/reporting form for this office work.

- b. In the field
1. Field visits
    - Conduct some farm re-inspection visits
    - Inspect some at random (can even be demonstration farm or village elders)
    - Inspect some focused on the problem/risk areas
    - Meet with community, second parties
    - Evaluate social control mechanisms
    - Meet with third parties

As soon as a non-compliance is detected, the inspector will want to determine whether the non-compliance is the odd exception or whether it is widespread.

- c. Back in ICS office (exit interview)
  - 1. Share evaluation of the field visits with field staff.
  - 2. Identify OCPs and potential non-compliance issues.
  - 3. Discuss strategies to address areas of non-compliance with management and field staff.