

National Organic Standards Board
Certification, Accreditation, Compliance Subcommittee (CACS)
Risk-based Certification Proposal
Fall 2025

Introduction

Risk-based certification and oversight, as a model for decision-making and noncompliance prevention strategy, is an approach used by certified operations and certifiers in organic certification. These concepts are not new. An increase in fraudulent organic activities over the past decade by a few unscrupulous operations (relative to the number of compliant organic operations) has the organic community taking another look at the concept of risk-based certification. Due to an increase in organic fraud, we saw the implementation of the Strengthening Organic Enforcement (SOE) final rule, which codified the evaluation of an organic operation's risk of organic fraud, as well as many other provisions aimed to make it harder for an operation to engage in fraudulent activities (e.g., requiring more operations to become certified, increasing labeling requirements, codifying audit requirements, etc.). While these more robust provisions were well-intentioned, the result is that low-risk operations (not the intended target) were caught in the crosshairs. As such we have the opportunity to reflect on what we've learned over the past year and reexamine the idea of risk-based certification, including where and how we can focus on high-risk operations and reevaluate the certification process for low-risk operations.

Background

While the SOE final rule was intended to prevent fraud, it had unintended consequences such as increased costs or operational complexity for all operators, including those that are legitimate and/or low-risk. It also created potential additional barriers to entry for legitimate operators, even if they don't engage in fraudulent practices. So, while being well-intentioned the result may have been felt to be an "over-correction."

Enter risk-based certification. The NOSB requested this topic as a work agenda item in 2024 on the heels of the Strengthening Organic Enforcement final rule implementation. It became apparent, through comments to NOSB and reports from the NOP, that while this rule was not intended to have major impact on low-risk (e.g., small producers) operations, unfortunately that was what was happening in practice. This was largely due to revisions to certifiers organic system plan (OSP) templates that impacted all organic operations.

During NOP Deputy Administrator Jennifer Tucker's report to the NOSB at the Fall 2024 meeting, she introduced the idea of reconceptualizing "sound and sensible" to "continuous improvement." The NOP has subsequently communicated this idea to certifiers, indicating that this will be an ongoing and collaborative effort to innovate our systems. CACS hopes this proposal will aid in this collaboration to rethink the structure of the certification process in order to preserve its sustainability for the long term, while also ensuring organic integrity throughout the marketplace.

Relevant areas in the regulation or OFPA

Risk-based certification has existed since the inception of organic certification as a federal program. OFPA and the organic regulations at 7 CFR Part 205 allow certified operations and certifiers to approach the development of one's organic system plan and certification policies and procedures using systems that are relevant to one's structure, production model/type, site specificity, etc. As discussed in the 2024 Fall discussion document, the concept of risk-based certification is not new. However, due to several final rules published in the past few years, this topic is of the utmost importance in order to maintain and grow the organic industry, while continuing to uphold organic integrity.

The Strengthening Organic Enforcement (SOE) final rule included specific provisions for certified operations and certifiers to evaluate risk. § 205.504(b)(7) now requires that certifiers develop policies and procedures in order to perform supply chain traceability audits (SCTA) on operations identified as high risk. Supply chain traceability audits may be smaller in scale (e.g., cross-check of a smaller number of transactions between two entities); this is often referred to as a routine SCTA by certifiers. SCTAs may also be conducted as part of an investigation, where the scope and scale of the SCTA may be expanded to cover more transactions or to go further up or down along the supply chain. The preamble to the [SOE Final Rule](#) included the following criteria as potential risk criteria (to be used to evaluate a certified operation's risk):

- Products for which there is a relatively high demand, low supply, and high organic premium;
- Products which may be subject to treatment with prohibited substances after production;
- Unpackaged products which are not enclosed in final retail containers;
- Products with multiple handlers in the supply chain;
- Products from a supplier that lacks a record of compliance;
- A sudden increase in the available supply of an organic product or commodity;
- Operations which change certifying agents frequently; and
- Operations which are certified by more than one certifying agent.

In addition, per § 205.201(a)(3), a certified operation must include in their organic system plan a description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented. This must include a description of the monitoring practices and procedures to verify suppliers in the supply chain and organic status of agricultural products received, and to prevent organic fraud, as appropriate to the certified operation's activities, scope, and complexity. In order for an operation to successfully create an organic fraud prevention plan they need to evaluate the risks and vulnerabilities their operation is subject to.

Discussion

This proposal aims to provide additional support to certifiers and inspectors in how to cultivate critical thinking as a core competency and effectively manage time as a resource in order to make sound and sensible decisions that best protect the marketplace and prevent fraud.

This proposal focuses on the fundamental building blocks certifiers and inspectors use in evaluating an operation's risk (fraud and/or compliance related) and picking the best verification tool as possible. Specifically, the proposal suggests a common set of definitions, baseline risk assessment criteria, the development of a process and matrix certifiers can use to determine the best certification approach for specific operations, and additional training and resource development.

CACS discussed whether it is best to include the definitions and/or risk criteria in the regulatory text or in other resources (e.g., NOP Program Handbook, NOP Organic Integrity Learning Center, ACA Best Practices). There are pros and cons to each. We ultimately landed on including these in other resources which provide more flexibility while being transparent (as compared to including them in the regulations).

Public Comment Summary

CACS received several comments on this topic during the Fall 2024 and Spring 2025 meetings. Most were in favor of the concept of risk-based certification, acknowledging that the certification process can be burdensome and overly complex for low-risk operations as well as certifiers. Commenters stated that risk-based oversight is both necessary and promising, but it requires thoughtful design, shared definitions and

resources, consistent training of certifiers and inspectors and stakeholder engagement, in order to avoid unintended consequences.

While there is generally strong support from stakeholders, there were a couple of points that were identified as needing further attention:

- The Spring 2025 proposal leaned heavily on the ACA Best Practice documents. This made some stakeholders uncomfortable, specifically regarding enforceability and transparency (or lack thereof).
- There are some suggestions for wordsmithing of definitions, and also ensuring that the levels at which risk-based oversight is applied using these definitions, are clearly explained and distinguished in training resources such as the existing OILC course.
- Stakeholders expressed a desire to build a framework to engage other stakeholders beyond certifiers and NOP, both in the overarching conversation about risk criteria as well as in the reporting of more acute risks.
- Some commenters cautioned us from being overly prescriptive with the oversight matrices. Additionally, some commenters expressed not supporting additional oversight mechanisms that would increase activities without an adequate balance on streamlining in other areas. One commenter wanted us to more explicitly state a recommendation to utilize a common OSP.
- Commenters stated that risk-based decision making requires judgement and critical thinking. Both of these are skill sets. Stakeholders indicated that more training in these areas is essential in the successful implementation of a risk-based oversight approach.

Proposal

1. **Definitions:** CACS proposes that all stakeholders use a common set of definitions. Some of these currently live in the Organic Integrity Learning Center (OILC) course, NOP-230: Risk-based Oversight. CACS proposes the following definitions be revised in the OILC course. Additionally, CACS proposes that other stakeholders utilize these definitions in their resources (e.g., ACA best practice documents, individual certifier policies and procedures, industry white papers, other training resources, etc.). CACS is not recommending these be added to §205.2 (Terms Defined) at this time; inclusion into the regulatory text may be reevaluated if necessary at a later time. Strikethrough text is proposed to be deleted; underlined, red text is proposed to be added.
 - a. **Risk-based oversight** is a systemic, cyclical approach to considering risk. This approach involves the process of identifying and prioritizing risks (via a vulnerability assessment and risk assessment including all potential risks such as fraud risks and compliance risks), and planning and scheduling mitigation measures, with a goal of reducing and managing risks. Risk assessment and past performance inform the planning process. ~~Risk management is the execution of the planned and scheduled tasks that contribute to the overall goal.~~
 - b. **Risk management** is the actionable step of the risk-based oversight approach. Risk management is the execution of the planned and scheduled tasks and processes that contribute to the overall goal of the prevention, reduction or minimization of risks, including mitigation strategies, preventive measures, and implementation. ~~consists of coordinated tasks and processes.~~ Risk management is only one component of the overall risk-based oversight approach.
 - c. **Risk** is the potential exposure to deceptive, dishonest or noncompliant actions, resulting in financial losses, reputational damage, certification status changes and/or legal consequences. Risks on organic operations can be categorized in broader terms such as risk of noncompliances or risk to organic integrity, or more specifically as risk of fraud ~~effect of uncertainty on objectives (ISO 22380), such as quality objectives or compliance objectives.~~

- d. **Vulnerability Assessment** is the review and assessment of various factors that create vulnerabilities in an operation's internal practices and across the supply chain (i.e. weak points where fraud and/or noncompliances have the greatest chances of occurring) a deficiency or weakness that creates opportunities for exploitation or susceptibility to a given hazard.
- e. **Risk Assessment** is a systematic process of evaluating the potential risks (likelihood vs severity) that may be involved in an activity or relationship, resulting in a risk evaluation determination (e.g. low, medium, high). This may include the assessment of fraud and/or more broad compliance related risks of an operation.

2. Risk Criteria:

- a. CACS proposes that the NOP publish a guidance document or instruction to certifiers in the NOP Program Handbook that establishes a baseline of common risk criteria, while also allowing certifiers flexibility to adjust based on their specific operation portfolio. In addition to the potential risk criteria identified in the preamble to the [SOE Final Rule](#), the "ACA SCTA Risk Score Card Template" and/or the criteria outlined in *Article 9(2) of Regulation (EU) 2021/1698* can provide a good starting point of criteria to include in the guidance document. This guidance should also consider how "new" risks will be identified and evaluated (i.e., on the ACA SCTA Risk Score Card one criteria is worded in broad terms in an attempt to capture evolving risks - "Subject of current oversight efforts, investigation priorities, or NOP directive").

NOTE: CACS would like to offer additional risk criteria for consideration that zero in on agronomics and the challenges of growing organic.

- i. Organic farming is extremely difficult in subtropical and tropical zones. An operation's execution of their OSP given agronomic challenges should be evaluated when considering an operation's risk.
- ii. Additionally, CACS would like to elevate the risk criteria for nitrogen fertilizers. Many produce crops (including monoculture crops such as tree crops), carrots, and grains such as corn and wheat require nitrogen applications, important to understand the source of that macro nutrient especially in regions that do not have access to traditional means of litter or access to products that contain nitrogen.
- b. Additionally, CACS proposes that certifiers, in collaboration with NOP, ACA and any additional stakeholders deemed necessary, identify a common objective/goal of performing risk assessments on organic operations for the purposes of complying with the requirements at §205.504(b)(7). By establishing a shared objective, even if the risk criteria fluctuate to fit the specific situation, the outcome should be the same in service to the objective.
- c. Lastly, CACS proposes that NOP communicate acute risks to certifiers at the annual certifier training. This predictable annual communication is utilized by other schemes and will allow certifiers to better plan and maximize their resources. Currently, NOP utilizes a system of issuing directives to certifiers. These are unpredictable and do not allow certifiers to proactively and effectively allocate resources. This is not to say that directives will be entirely eliminated. They may still be required based on information that arises later in the year. However, communicating known risks on an annual basis will hopefully result in the reduction of directives being issued, which will allow certifiers to manage resources, as well as comply with the requirements regarding performance of SCTAs in a more consistent manner across certifiers.

- 3. **Oversight Activities Process and Matrix:** CACS proposes that NOP, in coordination with ACA and any additional stakeholders deemed necessary, develop a process or framework by which certifiers can evaluate the regulatory text and use critical thinking to determine the opportunities to approach the

certification of operations with varying risk levels differently. In conjunction with this process/framework, ACA can develop a matrix of activities to add to a high-risk operation's certification and options to reduce a low-risk operation's certification burden. CACS acknowledges that certifiers need different tools to evaluate different types of operations. This process/framework and matrix will help certifiers more consistently pick the right tool depending on an operations risk evaluation. This process/framework and matrix are by no means intended to convey that low-risk operations are being held to a lower standard. The following are examples provided by commenters in response to this topic:

- a. Examples of increased oversight activities that may be utilized for high-risk operations:
unannounced inspections, residue testing, supply chain traceability audits, additional audits during annual inspection, and additional fees assessed to high-risk operations.
 - b. Examples of reduced oversight activities:
 - i. Inspection related suggestions: focused inspections in some years with full inspection every other or every third year; remote/virtual inspection for certain types of operations; fewer traceback and mass balance audits (compared to high-risk operations).
 - ii. Minimize/reduce recordkeeping/paperwork requirements; common OSP.
 - iii. Cost structure to incentivize low-risk operations.
 - c. Once complete, CACS proposes that NOP:
 - i. Include this process/framework and matrix into the guidance document or instruction to certifiers in the NOP Program Handbook.
 - ii. Conduct training of their accreditation and audit team personnel. This will ensure that NOP staff and certifier staff are operating under the same expectations regarding risk-based certification and continuous improvement.
4. **Training and Resources:** CACS proposes that NOP and ACA develop and revise resources and training materials to support certifiers in conducting risk-based certification (i.e., finding the right set of tools/activities for the specific operation, based on their profile - organic activities and risk evaluation).
- a. Revise and/or create ACA Best Practice Documents to:
 - i. Incorporate the definitions in this proposal.
 - ii. Explain the process/framework to be used by certifiers to evaluate the regulatory text and use critical thinking to determine the opportunities to approach the certification of operations with varying risk levels differently.
 - iii. Communicate the oversight activities matrix to certifiers.
 - b. Revise NOP-230 in the OILC to:
 - i. Clarify the intended audience and/or separate the lessons to ensure applicability, as risk-based oversight can be applied at each level within the certification and accreditation hierarchy (e.g., USDA program-level oversight, certifier accreditation, entity-level certification, and day-to-day operational risk management).
 - ii. Incorporate the definitions in this proposal.
 - iii. Provide more interactive modules/activities pertaining to both risk of fraud and risk of noncompliance.
 - c. Create a guidance document or instruction, as described in 2a and 3 above, for certifiers in the NOP Program Handbook on risk-based oversight that:
 - i. Includes the definition in this proposal
 - ii. Outlines baseline risk criteria
 - iii. Outlines the process/framework that certifiers can use to evaluate the regulatory text and use critical thinking to determine the opportunities to approach the certification of operations with varying risk levels differently

- iv. Provides examples using the process/framework of how different parts of the regulation may be applied depending on the risk level of a given operation
- d. Continue to include risk-based certification/oversight as a topic at annual NOP Certifier Training/ACA Professional Conference, including training for certifiers and inspectors that continue to hone their critical thinking skills.

Subcommittee Vote

Motion to accept the proposal on risk-based certification

Motion by: Kyla Smith

Second by: Amy Bruch

Yes: 5 No: 0 Abstain: 0 Recuse: 0 Absent: 1