Institute of Food Technologists' (IFT) Comments on Strengthening Organic Enforcement Rule

October 2, 2020

National Organic Program
USDA-AMS-NOP
1400 Independence Ave. SW, Room 2642-So., Ag Stop 0268
Washington, DC 20250-0268

RE: Docket Number AMS-NOP-17-0065; NOP-17-02, Regulatory Information Number (RIN) 0581-AD09

Submitted via: https://www.regulations.gov

Dear Sir or Madam:

The Institute of Food Technologists (IFT) is a non-profit, membership-based scientific institute whose mission is to advance the science of food and its applications across the global food system, to ensure sustainable, safe, and nutritious food for all. Established in 1939, IFT has more than 13,000 individual members in over 100 countries from across industry, academia, government, and non-profit organizations. Organized around the core values of community, integrity, passion, progress, and respect, IFT's members and 68 staff create and uphold a scientifically sound society focused on overcoming barriers to feed our future safely. IFT's Global Food Traceability Center (GFTC) provides the global food industry resources and solutions to help improve food safety, diminish risk, avert devastating health consequences and economic loss to the food system. GFTC works throughout the food industry to develop next generation solutions that enable strategic commercialization across the food chain with benefits for the Ag/Food system, consumers and the environment.

IFT appreciates the opportunity to provide input on the Strengthening Organic Enforcement Draft Rule. We commend efforts to further enhance and clarify requirements for a safe, transparent organic food system. Our comments on the specific areas of the draft rule are listed below.

Thank you for considering our comment on this important activity. If IFT may provide further information or assistance, please contact Bryan Hitchcock, Executive Director Global Food Traceability Center, (bhitchcock@ift.org; 3126040225).

Overall Questions from AMS to address:

1. The **clarity** of the proposed requirements. Can certified operations, handlers, and certifying agents **readily determine how to comply** with the proposed regulations?

Clarifying the minimum acceptable record keeping[1] would aid stakeholders in understanding what is required and thus the impact of this rule on their operations.

*"**best practice**…verify both the **quantities** and the organic status of the product being transported and/or stored. Records **could include**:*

- *clean truck affidavits;*
- *records of cleaning and sanitizing materials, and*
- *procedures used to clean trucks;*
- *bills of lading,*
- *manifests,*
- *transaction certificates,*
- *shipping records,*
- *delivery records,*
- *invoices,*
- *lot numbers, and*
- *other audit trail documents; and*
- *records documenting the*
  - *audit trail,*
  - *chain of custody,*
  - *tanker seals,*
  - *wash tags,*
  - *truck and*
  - *trailer numbers."*

While this is helpful in describing the "best practice" it does not clarify what the minimum acceptable practice is. It would be clearer to state the records that "must be included", otherwise there is a ceiling, but no floor.

Additionally, to achieve the stated goals of supporting full, end-to-end traceability with trace-back AND mass balance audits, it would be helpful to present the traceability framework by product category in terms of a minimum required critical tracking event (CTE) and key data element (KDE) matrix[2]. While certification of transportation and storage may be too onerous to be practicable, shipping, receiving, and storage are all deemed critical tracking events with associated KDEs for supply chain traceability in the production of livestock, processed goods, or bakery items[2].

1 - Additional Questions RE: Handling exemption modifications

1. Are there additional activities that should be included in the proposed definition of handle (i.e., are there additional activities that require certification)? Are there any activities in the proposed definition of handle that should be exempt from certification?
   a. The number of KDEs associated with shipping noted above (e.g. cleaning SOPs, records of cleaning materials, records of cleaning events, etc.) highlight how critical this tracking event is in the supply chain. Given the important role transporters played in enabling the fraud cases referenced in Iowa, Missouri, and South Dakota within this proposed regulation, is seems important to not just clarify the minimum required practices for these entities, but also require certification of transporters. This would be consistent with requirements for Sustainable Palm Oil[3] and the Chain of Custody Standard[4] for MSC-certified sustainable seafood.
   b. Additionally, co-mingling of grain in silos is a common practice. Many feed mills produce organic feed alongside non-GMO and conventional feeds. These facilities' storage for grains may or may not be organized under another business entity, even if the silos are located within the same site as the mill. Exempting the storage from the record keeping exposes the supply chain to

[1] https://www.federalregister.gov/d/2020-14581/p-166
[2] Zhang and Bhatt (2014) https://doi.org/10.1111/1541-4337.12103
[3] https://rspo.org/certification/license-holders/distributors-license-holders
[4] https://www.msc.org/standards-and-certification/chain-of-custody-standard

lapses in collection of critical data on co-mingling, which could result in a loss of integrity. Feed mills also process grains in a continuous process flow which has inherent challenges in ascertaining batch/lot traceability.

2. Are there specific activities not included in the proposed rule that you believe should be exempt from organic certification?

None. All included would be CTEs necessary to support traceability.

3. Are there additional requirements that exempt handlers described in this proposed rule should follow?

We recommend specifying the KDEs that exempt handlers must capture and transmit within the rule by category (e.g. for grains and oilseeds, dairy, chicken, pork, and beef).

2 - Additional Questions RE: import certification

1. Is the 30-day timeframe for certifying agents to review and issue an NOP Import Certificate appropriate? Why or why not?

Current technical capabilities for data capture and transmission enable a shorter timeframe than the 30 days specified in the draft rule. The certificate should be digitally linked with the identifiers physically present on the shipping containers and/or pallets of product and thus available for capture and transmission at the time of unloading. Thus, a time frame of 24 hours is reasonable and practicable given current systems and technologies.

3- Labeling of nonretail containers

Section 205.307 (b) (3-5) could be improved by better utilizing existing traceability technologies and systems. For example, acceptable location information could be required in a consistent and ideally standardized format to facilitate accurate and timely transmission of information. In addition to location identifiers, entity names and other globally unique identifiers should be specified to ensure resolvability at the end of the supply chain. These can be accomplished with global standards, such as Global Location Numbers, geolocation information (GPS coordinates), or with algorithmically derived unique identifiers such as UUIDs, described in standard for seafood traceability[5].

18—Supply Chain Traceability and Organic Fraud Prevention

COMMENTS IN RESPONSE TO AMS QUESTIONS

1. Does the proposed definition of organic fraud encompass the types of fraudulent activities you witness in the organic supply chain?

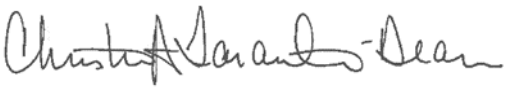
Some fraud is intentional, while other fraud is the result of common co-mingling procedures and unintentional, but regular lapses of traceability within grain, feed, and ingredient supply chains. Girding against both types is critical to maintain the integrity of the seal. Both can be mitigated through adoption of standard, technology agnostic, traceability best practices. This begins with defining the sector relevant critical tracking events (CTEs) and then identifying the key data elements (KDEs) supply chain actors are responsible for capturing at each[6].

[5] GDST 1.0 Standards and Materials

[6] Zhang and Bhatt (2014) https://doi.org/10.1111/1541-4337.12103

2. Should certifying agents be required to perform a minimum number of trace-back audits each year?
Recent cases of fraud were extremely extensive in nature and compromised more than 5% of the entire supply of core feed ingredients. The industry would benefit from random, annual, unannounced trace-back audits, especially among high-volume market participants.

3. Should more specific fraud prevention criteria be included in the regulation?
Clearly defining and codifying KDE/CTE matrices for categories where fraud has been documented within the last 5 years would clarify exactly what information needs to be collected, stored, and transmitted when and ideally in what format. These standards would then be unambiguous, auditable, consistently applied and adopted/implemented across the industry, otherwise the process of data capture, transmission, and processing may become too variable, creating opportunity for lapses vulnerable to exploitation or inaccuracies, particularly in the feed grain and oilseed supply chains.



Noel Anderson

President, 2020-2021

Christie Tarantino-Dean, FASAE, CAE

IFT Chief Executive Officer