

National Organic Program Report

National Organic Standards
Board meeting
San Antonio, Texas
April 29, 2014



The National Organic Program (NOP)



- **Mission:**
Ensure the integrity of USDA organic products in the United States and throughout the world
- **Vision:**
Organic Integrity from Farm to Table,
Consumers Trust the Organic Label
- **Core Role:**
Implement the Organic Foods Production Act and the USDA organic regulations

What Does the Program Do?



- Develop and maintain organic standards
- Accredite and oversee third party organic certifying agents, who review, inspect, and approve organic producers and handlers
- Implement international organic trade agreements
- Investigate complaints of violations (example: uncertified farmer selling food as organic, selling conventional food as organic)
- Support the work of the National Organic Standards Board
- **Oversight Responsibility:**
 - 84 certifying agents worldwide
 - 25,000 certified organic operations
 - \$35 billion in U.S. organic sales (2012)

Quick Facts About NOP



Staffing:

- 34 employees in three Divisions and the Office of the Deputy Administrator
- Hiring new staff
- **Budget:**
 - FY 2012: \$6.919 million
 - FY 2013: \$6.369 million
 - FY 2014: \$9.04 million
- Regulatory program within USDA's Agricultural Marketing Service

Accreditation Activities



- NOP oversees the work of 84 certifiers, which certify over 25,000 certified organic operations.
 - Work includes audits, audit report reviews, notices of noncompliance, corrective action reviews, responding to questions, updating list of certified operations
- At the close of FY 2013, certifiers were in full compliance with 95% of the accreditation criteria, and have implemented corrective actions for all deficiencies.

Key Accreditation Activities in FY 2013



- 25 accreditation renewal audits, 5 accreditation midterm audits, 1 initial accreditation audit.
- 63 reinstatements of certification
- Issued 9 temporary variances to the USDA organic regulations; denied 2 temporary variances
- Issued 4 export authorizations.
- Supported training, policy development, and outreach activities (meetings, presentations, materials)
- Launched “sound and sensible” initiative to make the organic certification process affordable and attainable for organic operations. **More on this later....**

International Trade



- The United States has trade arrangements with several nations to facilitate the exchange of organic products and provide market opportunities for organic producers.
- **Equivalency Agreements:**
 - U.S.-Canada – Launched in 2009
 - U.S.-European Union – Launched in June 2012
 - Japan – Effective in January 2014
 - Discussions happening with other countries....
- **Recognition Agreements:**
 - India, Israel, New Zealand
- NOP works closely with the Foreign Agricultural Service (FAS) and the U.S. Trade Representative (USTR).

Overview of U.S. Imports



- Imports to U.S. must be:
 - Certified by NOP accredited certifier
 - Certified to USDA organic regulations by certifier accredited by foreign government recognized by USDA
 - Certified to an equivalent organic standard by an authorized control body (accredited by equivalent government authority)

Overview of U.S. Exports



- Exports from the U.S. to:
 - EU, Canada and Japan – NOP certification is equivalent
 - Taiwan – NOP certification is accepted.
 - Countries with no mandatory organic labeling requirements (e.g. Mexico, Australia)
 - Other countries may require certification to their own standard (e.g. China, Korea, Brazil)

Accreditation and International Activities Division: Key Priorities in FY 2014



- Publish updated list of certified operations
- Certifier Training: February 2014
- NOP auditor training: March 2014
- Latin American Certifier Training: March 2014
- Accreditation peer review by ANSI
- Accreditation Audits and Follow-up
- Maintain existing recognition and equivalency arrangements – peer reviews, working groups

Compliance and Enforcement Division



Key Activities:

- Investigate complaints, work with operations to achieve compliance where possible and take enforcement actions as appropriate
- Represent the NOP in appeals of adverse actions
- Work with certifiers, State Programs and Federal partners on enforcement of the OFPA and the USDA organic regulations
- Lead enforcement-related policy development and outreach efforts

Purposes of Enforcement



Purpose: To protect the integrity of the organic standards so as to facilitate commerce

- Maintain consumer confidence
- Ensure a fair market for the great majority of organic operations that operate in compliance with the law

FY 2013 Successes



- NOP C&E issued 18 civil penalties, totaling \$78,500, for willful violations of the USDA organic regulations.
- The NOP closed 260 complaints, approximately 93% of the record high number closed in FY12.
- Continuous improvement of case handling and management, reducing overall backlog
- Worked with USDA Office of Inspector General and Department of Justice on high profile enforcement cases

Appeals Closure Rates Over Time



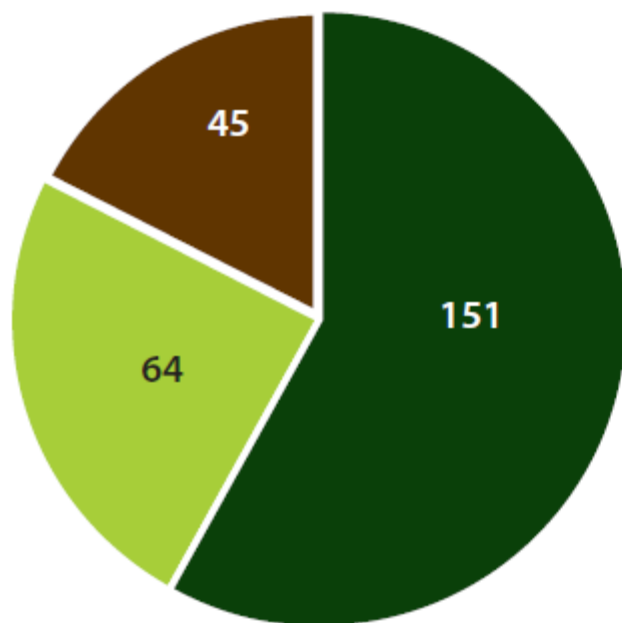
- Average days to closure for all of calendar 2011 = 344 days
- Average days to closure for all of calendar 2012 = 294 days
- Average days to closure for all of calendar 2013 = 196 days
- Average days to close an appeal over the last 6 months = 148 days

Based on NOP experience to date, we are targeting closing the majority of appeals cases within 180 days in 2014.

Complaint Distribution



Case Distribution



- Uncertified operations
- Labeling violations and fraud
- Prohibited substances and methods

FY 2014 Priorities



- Complaint investigations and closures - Reduce backlog and time to case closure
- Work closely with Office of General Counsel to pursue complaints for hearing against violators, as appropriate
- Contribute to policy and training development related to enforcement
- Implement Farm Bill provisions related to enforcement

Residue testing



One of the most significant compliance related issues we have rolled out is residue testing.

This has been an AMS and NOP cross-divisional effort to -

1. Set residue testing standard
2. Provide instructions and training to certifiers
3. Assess certifier compliance during accreditation audits
4. Collaborate with AMS Science and Technology Program on sampling, residues screens and residue testing
5. Conduct enforcement actions based on residue sample results

Residue testing



Since 2013 certifiers are conducting periodic residue testing for prohibited substances and methods. Certifiers must -

- Notify applicant or certified operation of test results.
- Maintain records of analysis and provide results to the public upon request.
- Maintain sample collection information and sample results for review during NOP accreditation audits.
- When residues are found, investigate why residues are present and take enforcement action as appropriate.



Pesticides, antibiotics, hormones, GMOs

Investigate to determine source of residues and take appropriate adverse action.

- Use of prohibited substance or method:
 - Knowingly, willful, reason to know = Proposed Revocation
 - Inadvertent, Error = Proposed Suspension
- Inadequate measures to prevent contamination or commingling:
 - Notice of Noncompliance: require corrective actions to mitigate future contamination.



Example: GMO residues

- The USDA organic regulations prohibit the use of genetically modified organisms, prohibit commingling or contamination during processing and handling, and require preventative practices to avoid contact with genetically modified organisms (GMOs).
- Organic agricultural products should have minimal, if any, GMO presence.
- No tolerance level has been established for the presence of GMO material.



GMO residues, continued

- If investigation determines that the residue levels indicate use of excluded methods, certifier takes adverse actions to suspend or revoke certification.
- If investigation determines that the residue levels are due to inadequate measures to avoid contact with excluded methods from adjoining land use or commingling, then certifier issues Notice of Noncompliance. Corrective actions must include measures to mitigate contamination.

Summary:



Test Results-
Provide copy to operator and make
available to public



Investigate positive results to
determine source



Take appropriate action: adverse actions
and notification of authorities

Standards Division: Key Activities



- **Key Activities**

- Develop new rules and coordinate clearance
- Develop and maintain Regulatory Priorities Agenda
- Draft new and updated guidance and policy memos based on NOSB recommendations, Office of Inspector General findings, certifier and community questions, and priority needs
- Develop materials to support rollout of new standards, respond to letters and questions about standards
- Maintain National List, including petition intake and response, and list management activities
- Support the National Organic Standards Board

Standards Division: FY 2013 Successes



- In FY 2013, NOP successfully led, managed, maintained, and communicated progress for approximately 20 Standards projects, including regulatory work plans, rules, and communication materials.
- In FY13, the Standards Division completed:
 - 3 final rules, 3 proposed rules, 2 draft guidance documents, and 5 final guidance documents.
 - Developed regulatory priority plan to ensure NOP's priorities are reflected in USDA's regulatory agenda.
 - Developed revised sunset process to improve efficient use of USDA resources and ensure stability for organic markets.



In Clearance

- Origin of Livestock Proposed Rule
- Aquaculture Proposed Rule
- Pet Food Proposed Rule

Other rules in progress:

- Sodium nitrate
- Nutrient vitamins and minerals
- Animal Welfare
- Apiculture
- Mushrooms
- National List rule on biodegradable mulch

FY 2014 Priorities



Draft Guidance:

- Post-Harvesting Handling – published April 25
- Biodiversity and Natural Resource Conservation

Final Guidance

- Made with organic “specified ingredients of food groups”
- Classification of Materials
- Materials for Organic Crop Production

Other projects

- Material Clarifications for Certifiers
- National List Management, including Technical Report contract management
- Provide support for NOSB subcommittees

Sound + Sensible

How to maintain organic integrity in a sound and sensible manner



Information Collection



- Every three years AMS is required to assess paperwork burden of the USDA organic regulations.
- Last information collection process was completed in December 2013
- Many interesting comments

Public comments on information collection



- The format used by my certification agency is burdensome in order to meet the NOP standards and it takes HOURS to wade through it and bypass the irrelevant portions.
- My main time-consuming activity that's beyond reasonable is the research to determine what materials are compliant and used in what fashion. Try to find, for example, if copper azole surface treatment (not pressure treatment) of wood for fence posts is prohibited or permitted and if prohibited, at what distance from the nearest tree that produces a certified organic fruit. And how is that distance measured?

Public comments



- We have been completely organic since 1999, certified since 2003 and have not substantially changed our operation in that time, with the exception of adding 8 more acres of production.
- Every year the regulations are tightened a little more and more things are scrutinized and the paperwork burden grows and grows even though we have always passed recertification inspection with good reports since being certified 10 years ago.
- Wouldn't it be better to get more farms certified and for the government agency to spend its tax dollars on promoting organic products so that farmers could get higher prices for the higher costs of organic farming instead of creating an onerous time wasting paperwork burden?

Indirect costs of certification



As an organic handler/processor with sales of organic product less than 200 metric ton and revenue of less \$750,000 I would estimate our annual time requirements based upon activity as follows:

- maintain organic handling, production, sales records: 200 hours
- preparation, follow up, & participation in annual inspection: 20 hours
- maintaining knowledge of organic regulations, training, etc.: 40 hours

High Priority Certification Issues to Address



- Inconsistent certification process
- Recordkeeping focus and burden
- Expense of certification
- Burden of time that is involved in inspections and maintaining paperwork
- Some farms that comply with organic standards avoid certification.

The Sound and Sensible Initiative was established to address these issues.

Goal: Make Organic Certification:



Affordable, Accessible and Attainable for all operations

- **Affordable** – Reasonable fees, reasonable compliance costs
- **Accessible** – Certifiers and technical assistance available locally
- **Attainable** – Clear and understandable standards, plain language, reasonable record keeping requirements

Sound and Sensible Implementation



- Technical Assistance Instructions –
Certifiers/Inspectors responsible for
providing technical assistance
- Organic System Plan Instructions –
Multiple ways to comply, streamline
certification process
- Settlement Agreements to support
continuous improvement and timely
compliance

Sound and Sensible



- Certification must be **sound**:
 - Objective and complete evaluation of compliance
 - Verify and enforce compliance
 - Take action on noncompliances
- Certification should be **sensible**:
 - Reasonable records that verify compliance
 - Educate farmers and handlers on USDA organic requirements

Sound and Sensible - 2014



- Certification must be **sound**:
 - Increased focus on uncertified operations – no organic claims unless exempt or excluded from certification
- Certification should be **sensible**:
 - Develop affordable, accessible, and attainable certification programs for underserved areas (e.g. CSAs, farmers markets, urban agriculture)

Upcoming Contract Opportunity!



- AMS and NOP have set aside FY 2014 funds to support projects that develop sound and sensible organic certification models, training, and outreach.
- Draft Performance Work Statement online: FedBizOpps.gov
- We encourage certifiers and other organizations to form teams to respond to the final solicitation once posted.
- To help potential project team members find each other, you can sign up as an “Interested Vendor” at the link below:
<https://www.fbo.gov/spg/USDA/APHIS/Contracting/AG-6395-S-14-0069/listing.html>
- We will also announce through the Organic Insider.

Farm Bill



Farm Bill – Key Organic Provisions



1. \$100 million for organic research, extension and education;
2. \$5 million for the Organic Data Initiatives;
3. Expanded options for organic crop insurance
4. Expanded exemptions for organic producers who are paying into commodity “check off” programs, AND authorizes USDA to consider application for the organic sector to establish its own check off
5. Improved enforcement authority for the NOP to conduct investigations.
6. \$5 million for a technology upgrade of the National Organic Program;
7. \$11.5 million annually for certification cost-share assistance



Modernized Organic Database Report – March 2013

- This report describes the primary needs that will guide technology design and development efforts for a modernized certified organic operations database system.

Technology upgrades

- Registry of exempt and excluded operations
- Ability to issue USDA organic certificates and export certificates (e.g. European countries)
- Real time list of certified organic products
- Portals for certified operations, public, certifiers, state organic programs.

Thank You

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