



Dec. 2010 Issue | *Organic Integrity from Farm to Table. Consumers Trust the Organic Label.*

## Recap: Fall 2010 Meeting of National Organic Standards Board

Over a hundred people gathered at the meeting of the National Organic Standards Board (NOSB) on Oct. 25-28, 2010, in Madison, Wis.

Crops and livestock producers, handlers, certifiers, retailers, scientists, producer advocates, consumers, and product manufacturers presented information and expressed their perspectives to the NOSB.

The dynamic discussion resulted in the Board’s adoption of final recommendations on the following topics:

- Organic apiculture standards, including a recommendation to allow formic acid for mite control in honeybee hives.

- Change in board policy so that annotations, or restrictions on use of materials, can be amended during the Sunset process to clarify or restrict the use of a substance on the National List of Allowed and Prohibited Substances. Continued use of the substances in organic production and processing requires them to undergo a “Sunset” review by the NOSB every five years. The NOSB is currently undertaking its second complete review of the National List, originally published in 2000.

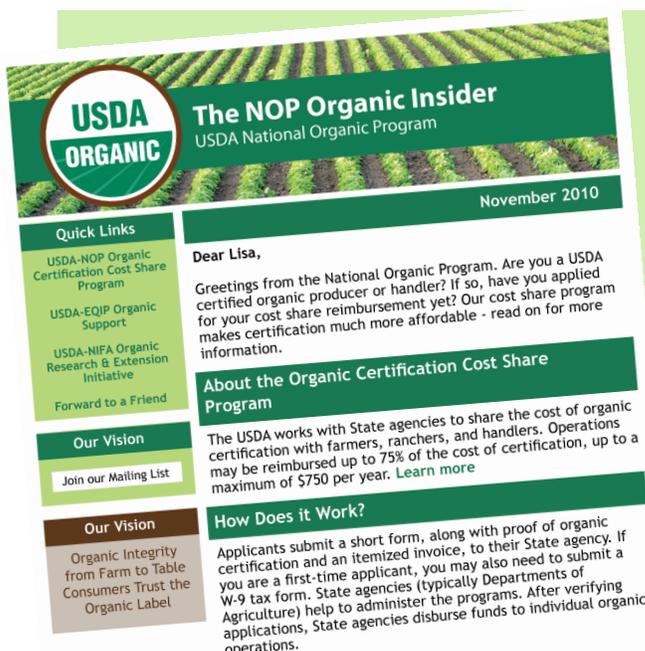
- Renewal of approximately 200 substances on the National List which would have otherwise expired in the 2012 Sunset. This includes the renewal of the allowance for certain inert ingredients used in pesticides until the National Organic Program and the Environmental Protection Agency can develop a new policy. The NOSB will complete the 2012 Sunset review at the April 2011 meeting in Seattle, Wash.

- Restriction to require organic yeast when used as food or fermentation agent if the product’s end use is for human consumption; however, when equivalent organic yeast is not commercially available, non-organic yeast may be used.

- Reclassification of types of pectin allowed for use in organic foods. Pectin must be organic when available.

- Removal of hops from the National List after Jan. 1, 2013, thereby requiring that organic hops be used in organic

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beer. The NOSB responded to many public comments attesting that hops growers can produce desired types of organic hops for brewers to achieve desired flavor profiles in organic beer. Until Jan. 1, 2013, brewers are required to source organic hops when they are commercially available.

—Restriction of non-organic colors currently allowed in organic processing to originate from sources not containing synthetic solvents, carriers or preservatives.

—Change in regulatory language to clarify the use of preventives and pain relief medications during animal husbandry practices such as dehorning.

—The NOSB also proposed that the NOP issue immediate guidance clarifying that the regulations prohibit use of nanotechnology in organic agriculture since it creates synthetic substances that have not been approved by the NOSB. The NOSB recommended that all materials currently approved on the National List are only approved in non-nanotech forms. The NOSB went further in proposing a definition for engineered nanomaterials and requested a symposium to address the interagency regulatory issues and enforcement aspects involved in prohibiting nanomaterials from being introduced in organic products.

—The board also urged the NOP to issue guidance to clarify that brokers or traders handling bulk grain, hay/straw or livestock need to be certified organic.

The NOSB is still addressing the following topics:

—Animal welfare, including living conditions and stocking rates, as well as humane practices for animal handling, slaughter and transport.

—Classification of corn steep liquor, a byproduct of the corn wet milling process currently used as an organic fertilizer.

—Appropriate listing of nutrient vitamins and minerals on the National List.

The NOP will consider all final recommendations and prepare a response memo to the chairperson of the board before the next scheduled NOSB meeting on April 26-29, 2011 in Seattle, Wash.

**NOSB recommendations are not NOP policy and are not regulatory unless the NOP issues final rules, final guidance, final instructions, or a policy memorandum that adopts the NOSB recommendations. They are not part of the national organic standards unless such action is taken.**

### **NOSB Apiculture Recommendation**

The NOSB considered a proposal from the Accredited Certifiers Association Apiculture Working Group from Nov. 2009. An update of the NOSB's 2001 apiculture recommendation, the proposal attempts to harmonize certain apiculture standards with those of the EU and Canada. They include requirements for forage zone, surveillance zone, and transition period.

During the latest NOSB meeting on Oct. 27, members voted on an apiculture standard that provides a forage zone of a 1.8 mile radius (3 km), in addition to a surrounding surveillance zone or land area of a 2.2 mile radius (3.4 km). The surveillance zone would exclude crops produced using excluded methods.

The recommendation also calls for producers to manage the forage zone organically (either as crops or wild harvest) while recognizing that bees may occasionally forage on non-organic land in the surveillance zone. The Organic System Plan should demonstrate that sufficient organic forage is available within the forage zone throughout the year and that crops in surveillance zones offer minimal risk to organic integrity.

The complete recommendation for organic apiculture standards is available online at <http://www.ams.usda.gov/NOSBFinalRecommendations>.

## U.S.-Canada Equivalency Arrangement Update

Since the USDA and the Canadian Food Inspection Agency signed the US-Canada Organic Equivalency Arrangement on June 17, 2009, the NOP and the Canada Organic Office have worked to ensure a smooth implementation.

Under the Equivalency Arrangement, the parties agreed to establish a high-level policy Steering Committee consisting of representatives from the Office of the United States Trade Representative, the USDA Foreign Agricultural Service, Foreign Affairs and International Trade Canada (DFAIT), Agriculture and Agri-Food Canada (AAFC), and the Canadian Food Inspection Agency (CFIA). Its purpose: to oversee implementation of the Arrangement and to guide the activities of the Canadian Organic Office and the NOP. Most recently on Oct. 12-13, 2010, the first meetings of the Technical Working Group and Steering Committee took place in Boston, Mass. Both parties have also performed peer reviews in their respective countries.

As a result of these meetings, the NOP notified certifying agents last month that for agricultural products certified under the U.S.-Canadian Equivalence arrangement, the statement "Certified in compliance with the terms of the US-Canada Organic Equivalency Arrangement" must accompany products that are produced under the terms of the arrangement. It must appear on documentation traveling with products shipped to Canada; it may also be included on the organic certificate, a transaction certificate, statement on bill of lading, purchase order, or any other affirmative attestation. Also, sodium nitrate is not allowed in raw or processed agricultural products and must be phased out completely by 2013 for organic ingredients used in processed products shipped under the arrangement.

### **Organic Trade Codes**

Another interest shared by the U.S. and Canada was the ability to track import and export of organic products. On Oct. 13, the interagency 484(f) Committee for Statistical Annotation of Tariff Schedules established 20 import and 23 export codes for selected organic products, most of them horticultural. These new codes will be effective Jan. 1, 2011, and will be published in the Harmonized Tariff Schedule of the United States on the U.S. International Trade Commission's website (<http://www.usitc.gov/tata/hts/bychapter/index.htm>) or Schedule B of the U.S. Census Bureau (<http://www.census.gov/foreign-trade/schedules/b/index.html>).

The Foreign Agricultural Service office in Ottawa estimates that nearly 70 percent of Canada's organic consumption comes from imports, and 90 percent of those imports come from the United States. Organic produce and processed foods are estimated to make up the majority of U.S. organic products exported to Canada.



### **Reminder: Section 205.640(a)(3) Requirement**

Applicants for initial and renewed accreditation must pay at the time of application a nonrefundable fee of \$500. The NOP applies the amount towards the applicant's fees-for-service account, which specifically pays for audit services required to participate in the National Organic Program.

Applicants should include the fee with their accreditation renewal applications.

## Recent Changes Result in Cost Reduction for Organic Certifiers

On Oct. 1, the NOP Accreditation & International Activities Division assumed responsibility for conducting the Corrective Action Review as part of the (re)accreditation review and assessment cycle.

Prior to the change, the Audit, Review & Compliance Branch (ARC) conducted Corrective Action Reviews, which cost, on average, \$2,500 per review. The change of the responsible party will result in savings of about \$5,000 per certifying agent over a five-year period.

Additionally, under the new procedure, NOP Regional Accreditation Managers have started a more interactive process with their clients to address questions about assessments and provide technical assistance.

So far, signs point towards a smooth transition, as NOP has been handling corrective action reports received since Oct. 1. ARC will complete the reviews of corrective action reports received prior to Oct. 1.

## Solicitation Open for Projects Eligible for Funding under USDA's Organic Agricultural Research and Extension Initiative

The National Institute of Food and Agriculture recently released a request for applications for the Organic Agricultural Research and Extension Initiative (OREI). The application deadline for the competitive grant is Feb. 10, 2011.



By funding projects that have the potential to enhance the ability of producers and processors employing organic practices to grow high quality organic agricultural products, OREI seeks to solve critical organic agriculture issues through research and extension activities. Priority concerns include biological, physical, and social sciences, including economics. The OREI is particularly interested in projects that emphasize research and outreach that assist farmers and ranchers with whole farm planning, especially those relating to climate change.

Applicants should consider how their projects would deliver applied production information to producers.

Estimated funding available for the program totals \$19 million. Awards can range up to \$3 million. For more information about the program and application process, visit <http://nifa.usda.gov/fo/organicagricultureresearchandextensioninitiative.cfm>.

## Substances Under Petition to Add to National List (unless otherwise noted)

### 205.601 Crops

Ammonium Nonanoate  
Ferric Phosphate (to remove)  
Indole 3-butyric acid  
Tetracycline (annotation change)  
Propane, odorized  
Nickel

### 205.606 Handling

Color: Annatto Extract (to remove)  
Color: Beta-carotene (annotation change)  
Sugar beet fiber

### 205.605 Handling

Arachidonic Acid (ARA) Single-Cell Oil  
Attapulgite  
Barley betafiber  
Calcium acid pyrophosphate  
Dextrin  
Docosahexaenoic Acid (DHA) Algal Oil  
Gibberellic Acid  
Silicon dioxide – petition to remove  
Sodium acid pyrophosphate (annotation change)

Sulfur dioxide in wine (annotation change)  
Sulfuric acid  
Taurine

*These petitions are available for view at [www.ams.usda.gov/NOPPitionedSubstances](http://www.ams.usda.gov/NOPPitionedSubstances) Database and have been forwarded to the National Organic Standards Board for review.*



## **NOP Takes Fraud Seriously**

In the age of enforcement for organic agriculture, protecting the integrity of the USDA organic label is a major priority of the NOP and the organic community as a whole. The Anti-Fraud Initiative meeting in Cambridge, Mass., this past October brought together organic certifiers, inspectors, and food processors who shared similar concerns to discuss ways of combatting fraudulent practices. Organizers of the conference emphasized the importance of deterring fraud before it is actually committed.

The role of protecting organic integrity belongs to everyone in the organic community. For example, the NOP is responsible for properly overseeing certifiers' activities and clarifying aspects of the standard that can be interpreted differently or cause confusion among industry. Certifiers can also assume responsibility for residue testing and greater unannounced inspections of their client operations.

The NOP continues to take its role seriously and is striving to offer increased access to information that will help deter fraud. Moreover, as residue testing can serve as a method of fraud prevention, the NOP is currently drafting a proposed rule that will require random residue testing. Once finalized through the rulemaking process, residue testing will be a required component of certification as prescribed in the Organic Foods Production Act of 1990.

As discussed during the conference, communication between certifiers can also help reduce fraud. Some certifiers in Europe have agreed upon a Certifier Code of Conduct, which states how certifiers communicate with each other when they discover irregularities. They also cooperate by posting their certificates online to allow other certifiers to check that ingredients purchased by an operation are actually organic.

Internally, organizations can prevent fraud by training their employees about how to identify misleading practices and notify others about it; rotating jobs or responsibilities; conducting surprise audits; and maintaining transparent audit trails.

*The AntiFraud Initiative organizers/sponsors include the National Cooperative Grocers Association, the International Organic Accreditation Service, and United Natural Foods Inc.*

*To report cases of alleged violations of the organic standards, email the compliance and enforcement division of the NOP at [NOPCompliance@ams.usda.gov](mailto:NOPCompliance@ams.usda.gov). Be sure to provide as much detailed information as possible (who, what, when, where, why, how) in addition to documentation when available. Complete and accurate information helps the NOP to successfully investigate the allegation. For more information, visit <http://www.ams.usda.gov/NOPComplianceandEnforcement>.*

## **NOP's 11 Principles to Protect Organic Integrity**

1. Publish clear, enforceable standards.
2. Notify certifiers, producers, and handlers concerning changes/clarifications to standards.
3. Provide transparent information concerning operations that are suspended, revoked, or have been assessed civil penalties.
4. Ensure that certifiers implement a quality certification process that includes:
  - ⇒ Thorough and complete Organic System Plans;
  - ⇒ Quality review of the Organic System Plan by the certifier;
  - ⇒ Inspection by qualified, skilled auditors;
  - ⇒ Sales and yield audits and feed audits as appropriate;

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## NOP Strategy to Protect Organic Integrity (continued)

- ⇒ Inspections of non-organic areas of operation;
- ⇒ Timely notices and follow-up monitoring by certifiers concerning minor violations identified during inspections.
- 5. Implement effective process for receiving and handling complaints.
  - ⇒ Effective, timely, and thorough investigations;
  - ⇒ Violations are confirmed or operation is determined to be compliant
- 6. Issue significant civil penalties for willful violations.
- 7. Conduct market surveillance inspections to review labels for compliance.
- 8. Conduct risk based unannounced inspections as part of the organic certification process.
- 9. Implement random residue testing program.
- 10. Monitor use of organic-like claims to protect the organic label.
- 11. Continually improve the quality of inspections and the certification process.

Civil Penalties Issued by Settlement Agreement in Oct. and Nov. 2010	For falsely representing product as organic: Ip6 International, \$1,500 & Half Circle Ranch, \$1,000
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### Draft Guidance: What's Available, What's Coming Down the Pike

In October the NOP published draft guidance for public comment on the following topics:

- Compost and vermicompost in organic crop production;
- Wild crop harvesting;
- Outdoor access for organic poultry;
- Commingling and contamination prevention in organic production and handling; and
- Use of chlorine materials in organic production and handling.

Like the guidance documents currently incorporated into the *Program Handbook: Guidance and Instructions for Accredited Certifying Agents and Certified Operations*, these additional guidance documents, once finalized, will clearly define related aspects of the regulations and provide a viable, uniform option for complying with the organic standards.

The NOP will consider all comments submitted by Dec. 13, 2010, before issuing final guidance for inclusion in the Program Handbook. View the documents and provide comments by visiting <http://www.regulations.gov> (document number AMS-NOP-10-0048).

The NOP will announce a notice of availability of final guidance when available. For further information, contact the NOP at (202) 720-3252 or [NOP.guidance@ams.usda.gov](mailto:NOP.guidance@ams.usda.gov), or visit their website at [www.ams.usda.gov/nop](http://www.ams.usda.gov/nop).

Future draft guidance will address standards for products labeled “made with organic [specified ingredients or food group(s)],” including the use of non-organic ingredients in “made with organic” products and use of percentage statements under the “made with organic” labeling category. Stay tuned to the NOP website and the *NOP Organic Insider* to learn when the document is available for public comment.

## Dry Matter Demand Tables for Goats Now Available

New information is available online to help organic producers comply with dry matter intake requirements of the pasture rule. Find dry matter demand tables for dairy goats on the NOP website at <http://www.ams.usda.gov/NOPAccessstoPasture>.

The access to pasture final rule, published Feb. 2010, requires producers to document how they are meeting dry matter intake requirements. Now, in addition to information about daily dry matter demand requirements for classes of dairy and beef cattle, similar resources are available for dairy goats. Find information about how to calculate dry matter demand requirements for goats based on stage of production.

A complete listing of dry matter demand tables will be available in a future edition of the NOP Program Handbook.



## Final Rule Amends the National List for Crops and Processing

A final rule published in the Federal Register on Dec. 13 enacts six recommendations submitted to the USDA by the NOSB from Nov. 30, 2007, to May 22, 2008.

The rule adds the following materials to the National List (along with any restrictive annotations): (1) aqueous potassium silicate for use as an insecticide and for plant disease control in organic crop production, (2) sodium carbonate peroxyhydrate for use as an algacide in organic crop production, (3) gellan gum as a nonsynthetic allowed for use in organic handling, (4) fortified cooking wine – Marsala, and cooking wine – sherry for use in organic handling as a nonorganic agricultural ingredient **only** when not commercially available in organic form, and (5) tragacanth gum for use in organic handling as a nonorganic agricultural ingredient **only** when not commercially available in organic form.

The rule also removes glycerine oleate (glycerol monooleate) as a synthetic inert ingredient allowed in organic crop production since its exemption to be used expired on Dec. 31, 2006. Removal of this substance does not have a new regulatory effect.

For further information about the final rule, available at [www.regulations.gov](http://www.regulations.gov) (docket number AMS-NOP-09-0003), contact Melissa Bailey, Ph.D., Director, Standards Division, NOP, at (202) 720-3252.

## Market Surveillance at All Things Organic Tradeshow

This year's participation at the All Things Organic Tradeshow in Boston, Mass., gave the NOP an opportunity to conduct market surveillance of organic products. As a result, the NOP opened five active complaint investigations of potential violations evidenced at the tradeshow. The majority of complaints concern labeling violations—specifically the use of the term "organic" to market products without certification—while one involves an allegation of use of prohibited ingredients in a certified organic product.



## NOP Appeals

During October and November, the NOP Appeals office received 2,016 adverse action/non-compliance notifications\*:

- 808 Notices of Noncompliance
- 243 Notices of Proposed Suspension
- 91 Notices of Suspension
- 10 Notices of Proposed Revocation
- 0 Notices of Revocation
- 9 Denials of Certification
- 764 Notices of Resolution
- 91 Surrenders of Certification

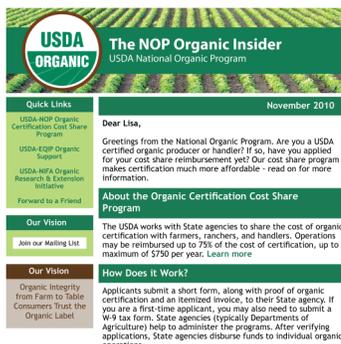


\*These letters are submitted to the Administrator as part of the accreditation requirements for accredited certifying agents under §205.501(a)(15)(i). Procedural requirements for adverse action letters issued to operations are outlined in §205.405 and §205.662. These numbers are based on the letters received by the AMS Administrator from accredited certifying agents during October and November 2010. These numbers may include letters issued prior to these months, may not include all letters issued during these months, and may not include letters submitted to a State Organic Program.

## Farewell to Departing NOSB Members and Former Executive Director!



The NOP bids adieu to the following members of the National Organic Standards Board (from left to right): **Jeff Moyer**, organic producer; **Joe Smillie**, certification agency member; **Valerie Frances**, former NOSB Executive Director and current NOP staff member; **Jennifer Hall**, public interest representative; **Kevin Engelbert**, organic producer; and **Dan Giacomini**, public interest representative. Thank you for your hard work and support of the organic community.



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