



## **Discussions towards Equivalency Arrangement with EU, Korea**

During the week of May 24, the NOP, USDA Foreign Agricultural Service, and United States Trade Representative met with representatives of the European Union's Directorate General Agriculture and Rural Development in Brussels, Belgium, to discuss an organic equivalency agreement between the European Union and the United States. The second of a series of meetings covered a wide range of issues including organic standards, certification procedures, oversight of foreign operations, and compliance and enforcement, as well as issues regarding the certification and trade of organic products from third countries. While organic standards between the two nations are very similar, some key differences persist. Discussions are under way towards establishing an equivalency arrangement and will include an assessment of each other's respective organic programs. The NOP will host an EU delegation in the fall of 2010; EU will host a USDA delegation in the spring of 2011.

Earlier in the month, NOP representatives also joined the Foreign Agricultural Service in meeting with a delegation of Korean officials to initiate discussions for a possible recognition of organic standards or equivalency arrangement. NOP representatives presented a general overview of the program, followed by a lengthy discussion of the certification process and standards. At the conclusion of the discussion, the delegation was presented with a comparative analysis between the U.S. NOP and the Korea Organic Standards for further technical discussions. The delegate visit concluded with a tour of a certified organic dairy and processor operations located on the Eastern Shore in Maryland.

## **Codex Committee on Food Labeling**

The NOP regularly participates in an international forum called Codex Alimentarius, which is Latin for "food code." The [Codex Alimentarius Commission](#) has its headquarters in Rome. It is a body set up by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO). It coordinates input from more than 160 countries to develop and endorse the standards that comprise the international food code. "Codex" was set up in 1961 to protect consumer health and ensure fair practices in world food trade. With more than 200 standards already endorsed by member countries throughout the world, Codex continues to grow with new standards being debated and endorsed each year.

On May 2-7, NOP participated in the 38<sup>th</sup> session the Codex Committee on Food Labeling (CCFL) in Quebec City, Quebec, Canada. CCFL meets every year and each year the NOP participates as a member of the U.S. Delegation. CCFL is of particular interest to the NOP in that the Codex Guidelines for the Production, Processing, Labeling and Marketing of Organically Produced Foods (*Codex Guidelines*) are discussed in this committee. Highlights of the meeting included.

- The Committee discussed expanding the use of ethylene for inclusion as an amendment to Annex 1, Codex Principles of Organic Production. Since Annex I Paragraph 82, only allows ethylene for the ripening of kiwi fruit and bananas, expanding the use of ethylene would require further justification against the Codex *Guidelines*. The discussion includes the fact that while the EU regulations allow ethylene for sprout control in potatoes and onions, this is not an allowed use according to the NOP regulations. There has been a working group for comments set up on the justification of these uses against the criteria in Section 5.1 of the *Guidelines*. The issue is currently held at Step 7 of the 8 step process for making a change to the Codex *Guidelines*.
- The Committee established a more structured approach for reviewing proposed changes to the *Guidelines* through an electronic working group, initially chaired by the U.S. The functions of the electronic working group would be to consider proposals for inclusion of new substances in Annex II, Permitted Substances for the Production of Organic Foods. The group would start by reviewing substances recently submitted for consideration such as spinosad, potassium carbonate and copper octanoate, as well as other uses of ethylene subject to Annex II and provide recommendations to the Committee. The committee would also consider revisions to the Codex *Guidelines* as a whole and make recommendations to the Committee as needed.
- The Committee deleted section 8 of the Codex *Guidelines* relating to the ongoing review process as it would now be handled through the structured approach noted above and the normal Codex procedures for new work.
- The Committee agreed that the EU would prepare a revised discussion paper on exchange of information between competent authorities when suspecting fraud concerning organic products, taking into account comments received from a Circular Letter. A Circular Letter is a formal request from a Codex committee for written comments from approved Codex member organizations and governments. This was prepared by the EU for the 38<sup>th</sup> session of CCFL and will be reintroduced at the next session.

Finally, the Committee agreed to initiate new work on organic aquaculture. The EU will prepare the proposed revisions on aquaculture animal and seaweed production for consideration at the next session.

## **California Reapproved as State Organic Program**

After resolving the findings of an NOP audit in December 2009, which identified eight non-conformances in need of corrective actions, the California State Organic Program has been reapproved to operate under NOP. This fulfills one of the recommendations by the Office of the Inspector General Audit issued in March 2010.

## **Addressing Canadian Health Food Association**

On May 14, NOP Deputy Administrator Miles McEvoy addressed the Canadian Health Food Association in Vancouver, Canada to discuss the United States-Canada Organic Equivalency Arrangement.

## **Clarification Provided Concerning Export Certificates for Products Shipped to Taiwan**

Under the organic standards equivalency arrangement between the United States and Taiwan, products produced and handled in the United States can be exported to Taiwan accompanied by a TM-11 Export Certificate. The NOP issued a letter to certifying agents last month to remind them of the fact that these export certificates are intended for and restricted to organic products produced and handled in the United States only.

For more information about technical requirements associated with issuing a TM-11 Export Certificate, contact Mark Bradley, Director of the Accreditation and International Activities Division, at [mark.bradley@ams.usda.gov](mailto:mark.bradley@ams.usda.gov).

## **Quality Management System Under Way**

The NOP finalized the first key elements of establishing an internal quality management system when it participated in a training last month on implementing ISO 17011 standards, which outlines the requirements that an accrediting body such as NOP should meet to effectively carry out its regulatory duties. NOP staff reviewed criteria for establishing a quality management system, which includes defining and documenting policies and objectives, ensuring effective communication among all relevant parties, and ensuring that policies are measurable and consistent with the authoritative statute and regulations. The National Institute of Standards and Technology (NIST) will conduct an assessment of the NOP quality management system later this summer.

NOP met with the Audit, Review, and Compliance Branch and Industry Services Audit and Accreditation Programs last month and is continuing to work closely with them. Currently, the Audit, Review, and Compliance Branch conducts audits of companies accredited to carry out the compliance and enforcement functions of the NOP. The two programs will work towards completing a revised version of audit procedures for the NOP accreditation program by August 2010.

## **Agency Collaboration of Organic Labeling of Cosmetic and Personal Care Products**

NOP engaged in discussions with the Federal Trade Commission (FTC) to discuss ways to strengthen the collaborative efforts of both agencies in providing greater oversight for products being labeled as organic, including cosmetics. FTC is assisting NOP with information to initiate a consumer survey to gauge public perceptions about organic cosmetics. In addition, FTC has agreed to help NOP identify ways to establish market data for organic cosmetics. In return, NOP will share data from the consumer study so that FTC can establish greater clarity around the term organic as it may relate to non-agricultural products. Such information is expected to help the agency consider enforcement mechanisms for products labeled as organic that fall outside of USDA's authority.

Also in May, an interagency meeting with the FDA's Center for Food Safety and Applied Nutrition, Office of Cosmetics and Colors took place at the request of the NOP to discuss the scope of each agency's

regulatory program and to identify some of the issues surrounding the declaration of organic ingredients on cosmetic product package labelling. The NOP explained its current course of action to develop and implement a consumer and economic survey to determine consumers' understanding of personal care products labelled as organic and the amount of personal care products being labelled and sold as such in the market place. The NOP will use the information gathered from both of these studies to publish an Advanced Notice of Proposed Rulemaking and will include the FDA in reviewing the study. Further, the FDA has drafted a report to Congress concerning the various issues surrounding personal care products labelled as organic; it also states intentions to continue working with the NOP to identify and resolve the issues.

The FDA pointed out discrepancies between its definition of cosmetics and the NOP's definition of personal care products, in addition to other labelling discrepancies. Despite regulatory differences, the agencies agreed to work together to bring consistency and clarity to the organic labelling of cosmetics and personal care products.

## National Organic Standards Board (NOSB) Recommendations and Transcript Available Online

A transcript of the spring 2010 meeting of the NOSB is available at <http://www.ams.usda.gov/April2010Transcripts>.

In addition, NOSB's final recommendations from the spring meeting are now posted for public view at <http://www.ams.usda.gov/NOSBFinalRecommendations>. A brief summary of each recommendation is provided below.

- **Inerts in Pesticides Allowed for use in Organic Production**  
Proposed regulatory changes to allow the now obsolete EPA List 3 and 4 Inerts to be relisted appropriately on the National List and to evaluate new inert materials for inclusion on the list.
- **Petition for the Amount of Methionine Allowed in Poultry Feed**  
Rejection of the petition to allow the use of 3 forms of methionine in organic poultry production below specific quantities until October 1, 2015
- **Methionine Annotation through October, 2012**  
Proposed annotation to allow the petitioned levels of the 3 forms of methionine allowed in organic poultry production through October 1, 2012
- **Methionine Step-Down Annotation after October, 2012**  
Proposed annotation to reduce the levels of the 3 forms of methionine allowed in organic poultry production after October 1, 2012
- **Clarification of 238(c)(1)**  
Proposed language clarification to allow young organic animals still receiving milk in their diet to consume milk from animals being treated with substances allowed under §205.603, regardless of withholding time
- **Ferric Phosphate in 205.601**  
Decision to relist ferric phosphate on §205.601 (h) as slug or snail bait

- Production Standards for Terrestrial Plants in Containers and Enclosures (Greenhouses)**  
 Proposed guidelines by which normally terrestrial plants, not including mushrooms, sprouts, and micro-greens; may be certified organic under a new section of the Crops Standard, §205.209
- Use of Inert Atmospheric Gases with Products Labeled and Sold as 100% Organic**  
 Proposed guidance that the use of inert atmospheric gases should be allowed in products labeled and sold as 100% Organic
- 2-Tiered Voting Approach for Materials Petitioned to the National List**  
 Decision that NOSB first properly classify the material as synthetic or non-synthetic during the petitioned material evaluation process.
- Classification of Materials**  
 Proposed addendum to the November, 2009 recommendation on classification of materials, including a refined definition of chemical change as referenced in §205.2
- Sunset 2012 §205.601 Synthetic Materials Allowed in Organic Crop Production**  
 Decision to relist the following materials on the National List:

<b>§205.601(a)(4)</b>	<b>Hydrogen Peroxide</b>
<b>205.601(a)(7)</b>	Soap-based algicide/demossers
<b>205.601(b)(1)</b>	Herbicides, soap based
<b>205.601(b)(2)(i)</b>	Newspaper or other recycled paper
205.601(b)(2)(ii)	Plastic mulch and covers
<b>205.601(d)</b>	Soap ammonium
<b>205.601(e)(1)</b>	Ammonium carbonate
<b>205.601(e)(2)</b>	Boric acid
205.601(e)(3)	Elemental sulfur
<b>205.601(e)(4)</b>	Lime sulfur
<b>205.601(e)(5)</b>	Oils, horticultural
<b>205.601(e)(6)</b>	Soaps, insecticidal
<b>205.601(e)(7)</b>	Sticky traps
<b>205.601(e)(8)</b>	Sucrose octanoate esters
206.601(i)(3)	Hydrated Lime
205.601(i)(4)	Hydrogen Peroxide
205.601(i)(5)	Lime sulfur
205.601(i)(6)	Oils, horticultural
205.601(i)(8)	Potassium carbonate
205.601(i)(9)	Elemental sulfur
205.601(j)(1)	Aquatic plant extracts
205.601(j)(2)	Elemental sulfur
205.601(j)(3)	Humic acids
205.601(j)(6)(i)	Soluble boron products
206.601(j)(6)(ii)	Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt
205.601(j)(7)	Liquid fish products
205.601(j)(8)	Vitamins B1, C, & E

- **Sunset 2012 §205.602 Nonsynthetic Substances Prohibited for use in Organic Crop Production**

Decision to relist the following materials on the National List:

§205.602(a)	Ash from manure burning
205.602(b)	Arsenic
205.602(d)	Lead salts
205.602(e)	Potassium chloride
205.602(f)	Sodium fluoaluminate (mined)
205.602(h)	Strychnine
205.602(i)	Tobacco dust (nicotine sulfite)

- **Sunset 2012 §205.603 Synthetic Substances Allowed for use in Organic Livestock Production**

Decision to relist the following materials on the National List:

§205.603(a)(3)	Atropine
205.603(a)(4)	Biologics—Vaccines
205.603(a)(5)	Butorphanol
205.603(a)(6)	Chlorhexidine
205.603(a)(8)	Electrolytes—without antibiotics
205.603(a)(9)	Flunixin
205.603(a)(13)	Hydrogen Peroxide
205.603(a)(14)	Iodine
205.603(a)(15)	Magnesium hydroxide
205.603(a)(17)	Oxytocin
205.603(a)(18)	Paraciticides. Ivermectin
205.603(a)(19)	Peroxyacetic/ peracetic acid
205.603(a)(20)	Phosphoric acid
205.603(a)(21)	Poloxalene
205.603(a)(22)	Tolazoline
205.603(a)(23)	Xylazine
205.603(b)(2)	Iodine
205.603(b)(3)	Lidocaine
205.603(b)(4)	Lime, hydrated
205.603(b)(5)	Mineral Oil
205.603(b)(6)	Procaine
205.603(b)(7)	Sucrose octanoate esters
205.603(d)(2)	Trace Minerals
205.603(d)(3)	Vitamins
205.603(f)	Excipients

- **Sunset 2012 § 205.604 Nonsynthetic Substances Prohibited for use in Organic Livestock Production**

Decision to relist the following materials on the National List:

§205.604	Strychnine
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- **Sunset 2012 §205.605(a) Nonsynthetic Substances Allowed as Ingredients in or on Processed Products Labeled as “organic” or “made with organic”**

Decision to relist the following materials on the National List:

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Acids
Bentonite
Calcium carbonate
Calcium chloride
Carrageenan
Dairy cultures
Diatomaceous earth
Kaolin
Nitrogen
Oxygen
Perlite
Potassium chloride
Sodium bicarbonate
Sodium carbonate
Waxes

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- **Sunset 2012 §205.605(b) Synthetic Substances Allowed as Ingredients in or on Processed Products Labeled as “Organic” or “Made with Organic”**

Decision to relist the following materials on the National List:

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Alginates
Ammonium bicarbonate
Ammonium carbonate
Ascorbic acid
Calcium citrate
Calcium hydroxide
Calcium phosphates
Carbon dioxide
Ethylene
Glycerides
Glycerin
Hydrogen peroxide
Magnesium carbonate
Magnesium chloride
Magnesium stearate
Ozone
Potassium acid tartrate
Potassium carbonate
Potassium citrate
Potassium hydroxide
Potassium phosphate
Xanthan gum

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- **Sunset 2012 §205.606 Nonorganically Produced Agricultural Products Allowed as Ingredients in or on Processed Products Labeled as “Organic”**

Decision to relist the following materials on the National List:

205.606(a)	Casings, from processed intestines
205.606(b)	Celery powder
205.606(c)	Chia ( <i>Salvia hispanica L.</i> )
205.606(e)	Dillweed oil
205.606(f)	Fish oil
205.606(h)	Galangal, frozen
205.606(i)	Gelatin
205.606(j)	Gums
205.606(m)	Kelp
205.606(n)	Konjac flour
205.606(p)	Lemongrass – frozen
205.606(q)	Orange shellac – unbleached
205.606(s)	Peppers (Chipotle chile)
205.606(t)(3)	Sweet potato starch
205.606(u)	Turkish bay leaves
205.606(v)	Wakame seaweed ( <i>Undaria pinnatifida</i> )

The fall meeting of the NOSB is scheduled to take place October 25-28; the location has not yet been determined.

## Compliance and Enforcement Update

NOP Compliance & Enforcement Branch Monthly Activity Report Reporting Period: May 2010	
Reporting Categories	Number
Beginning Complaint Inventory	97
New Complaints Received	20
Complaints Closed	12
Ending Complaint Inventory	105
Complaints over 270 days	19
Complaints over 180 days	17
Average Time for Case Closure	274

There were no civil penalties issued in May. Also, for continued monthly updates to the certification status as received by the NOP Appeals Team, visit

<http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&navID=NationalOrganicProgram&leftNav=NationalOrganicProgram&page=NOPAccreditationandCertification&description=Accreditation%20and%20Certification&acct=nopgeninfo>.

## **NOP Appeals**

In May, the NOP Appeals office received 856 adverse action/non-compliance notifications\*:

- 506 Notices of Noncompliances
- 66 Notices of Proposed Suspension
- 16 Notices of Suspension
- 8 Notices of Proposed Revocation
- 8 Notices of Revocation
- 5 Denials of Certification
- 222 Notices of Resolution
- 25 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 the adverse action letters issued to operations are outlined in § 205.405 and § 205.662. These numbers are based on the number of letters received by the AMS Administrator from accredited certifying agents during the month of May 2010. These numbers may include letters issued prior to May 2010, may not include all letters issued in May 2010, and may not include letters submitted to a State Organic Program.)

Appeals filed by the following companies have been closed without a decision by the Agricultural Marketing Service Administrator, and related information has been posted in the NOP electronic reading room at <http://www.ams.usda.gov/AMSV1.0/NOPReadingRoomHome>:

- Agrano GmbH & Co. KG
- Clarkston Enterprises, LLC/Outlaw Farms
- Dennis Lasceski Farm
- Rise N' Shine Farm
- Sojo Foods
- Twin Parks Organic Farm

## **NOP Staff Update**

In May, the NOP welcomed Lisa Ahramjian as the executive director of the National Organic Standards Board. She was most recently a communications specialist in the National Institutes of Health Consensus Development Program, which produces evidence-based healthcare recommendations through its independent panels. Lisa has a background in animal science and medical biotechnology.

Also in May, NOP hired Melissa Bailey to serve as the director of the Standards Division. Ms. Bailey is completing her Ph.D. in the Agriculture, Food and Environment Program at Tufts University and joined NOP on June 20.