Agricultural Marketing Service (AMS) National Organic Program (NOP) Update

Jennifer Tucker, Ph.D.
Associate Deputy Administrator
Agenda

• Welcome and Thanks
• Transition Updates
• Sunset 2017 Final Rule
• Enforcement and Imports
• Organic Integrity Database
• Office of Inspector General (OIG) Report
• ANSI Peer Review of NOP: 2017
• Closing
Welcome and Thanks

• Welcome to Jacksonville!
• THANK YOU National Organic Standards Board!
Thanks to the Organic Community

- **2,253** Written Public Comments
- **52** Oral Comments on 2 Webinars
- **165** Webinar Attendees
- **93** Signed Up to Speak in Jacksonville
Welcome From USDA Leadership

• Secretary **Sonny Perdue**
• Deputy Secretary **Steve Censky**
• Former Acting Undersecretary, Marketing and Regulatory Programs (MRP) **Kevin Shea**
• Undersecretary, Marketing and Regulatory Programs (MRP) **Greg Ibach**
• Acting AMS Administrator **Bruce Summers**
Transition Update

• Welcome to NOP Acting Deputy Administrator Dr. Ruihong Guo!

• Deputy Administrator AMS Science and Technology Program

• NOP Leadership Experience
Hello from Team NOP!
2017 Sunset Review Final Rule

• Published in July 2017
• **Removed** three synthetic substances and five nonorganic agricultural substances from National List.
• **Renewed** three substances on the National List, allowing their continued use.

• **Many Opportunities for Public Input:**
  – Public Comments: Written, at Meetings
  – Rulemaking: Proposed Rule Comment Period
Enforcement and Imports Update

Enforcement Update

Imports Update
By the Numbers: FY 17

39,035 Certified Operations

379
Incoming Complaints

462
Completed Complaint Reviews/Investigations

$187,500
Civil Penalties Levied

311
Newly Suspended/Revoked Operations
<table>
<thead>
<tr>
<th>Alleged Operation Name</th>
<th>Date Published by the USDA</th>
<th>Notes</th>
<th>Street Address/P.O. Box #</th>
<th>City</th>
<th>State or Province</th>
<th>ZIP or Postal Code</th>
<th>Country</th>
<th>Alleged Scope of Organic Certification (as listed on the fraudulent certificate)</th>
<th>Alleged Current Organic Certificate Issue Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anima Mundi Herbals (shown)</td>
<td>9/11/2017</td>
<td>At the time of posting, SunFood Corp. is certified by CCOF and is an operation in good standing at the time of posting.</td>
<td>23-23 Borden Ave.</td>
<td>Long Island City</td>
<td>New York</td>
<td>11101</td>
<td>USA</td>
<td>Handling</td>
<td>12/12/2000</td>
</tr>
<tr>
<td>Anima Mundi Herbals (shown)</td>
<td>9/11/2017</td>
<td>At the time of posting, Pacific Botanicals is certified by Oregon Tilth and is an operation in good standing at the time of posting.</td>
<td>23-23 Borden Ave.</td>
<td>Long Island City</td>
<td>New York</td>
<td>11101</td>
<td>USA</td>
<td>Crops and Handling</td>
<td>4/1/2011</td>
</tr>
<tr>
<td>Ndudike Import &amp; Export</td>
<td>9/11/2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Siripak Trading</td>
<td>8/10/2017</td>
<td></td>
<td>Norngtako-Khaipockong Road, Tambon Rangsai,</td>
<td></td>
<td></td>
<td>Thailand</td>
<td></td>
<td>Handling</td>
<td>11/27/2010</td>
</tr>
<tr>
<td>Dong Duong Export Company</td>
<td>7/13/2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

https://www.ams.usda.gov/services/enforcement/organic/fraudulent-certificates
Postings of Enforcement Actions

• In June, we initiated posting of enforcement actions on a rolling basis

• Makes AMS Appeal Decisions, NOP Suspensions and Revocations, and NOP Settlement Agreements available to public faster.

A Global Organic Control System

- Standards
- Accreditation
- Certification
- Enforcement
Imports Update

• Proposed and Final Adverse Actions of Operations
• Directives to Certifiers
• NOP Certifier Audits: Compliance, Satellite Offices
• Enforcement Collaboration with Federal Partners: Animal and Plant Health Inspection Service (APHIS), Customs and Border Protection (CBP)
Training for Handlers and Certifiers

Multiple Webinars on Complex Supply Chains: For Certifiers and Handlers
Regulatory requirements and best practices for certifiers overseeing organic imports.

Certification and recordkeeping requirements: system plans, audit trails, onsite inspections.

Certifier responsibilities for review/verification.

Please comment! See Federal Register Notice.
Next Steps on Imports

- Continued Investigations
- Follow-up on Certifier Directives
- Continue Certifier Audits
- Pursue Projects with Federal Partners
- Advance Standards Initiatives
- Support NOSB Work on Imports
- Advance Technology Initiatives
- Continue Training Initiatives
Core to All Enforcement

Organic Foods Production Act
USDA Organic Regulations
Legally Defensible Evidence

Enforcement Depends on All 3
Welcome to Jacksonville!

8 Certified Operations In Jacksonville | 453 in Florida
INTEGRITY - Development Complete!

• Release 7 Launched
• Development Now Complete
• We are now in “Operations and Maintenance”
• Many thanks to our Certifier User Group!
Now, It’s All About the Data

• INTEGRITY is a learning curve!
• Success = Data Quantity and Quality
• Key Examples:
  – Reporting of Acreage, Business Types
  – Adoption of Product Taxonomy
• Certifier Data Quality Dashboard: Will recognize certifiers investing in data
Rhode Island Department of Environmental Management

401-222-2781 - matt.green@dem.ri.gov
http://www.dem.ri.gov/programs/agriculture/orgcert.php
235 Promenade St.

Providence, RI 02908, USA

certifies that

Arcadian Fields
4015397043

Mailing Address
P.O. Box 1273

Physical Address
94 Blitzkrieg Trail

Hope Valley, RI 02832, USA

is certified to the USDA organic regulations, 7 CFR Part 205, for the categories of Crops.

Once certified, a production or handling operation’s organic certification continues in effect until surrendered, suspended, or revoked. Status of this certification and specific certified organic products covered may be verified at


Certifier Client ID: Not Available
Certificate Number(s): 02-05
NOP Operation ID: 4830200205
Effective Date: 08/20/2002
Anniversary Date: 4/14/2017
Issue Date: 02/10/2017

For addenda to this Organic Certificate, such as certified item lists with additional details and other operation information, contact the Accredited Certifying Agent identified at the top of this Certificate.
<table>
<thead>
<tr>
<th><strong>Next Steps</strong></th>
</tr>
</thead>
</table>
| **Integrity:**  
Continue Emphasis on  
Data Quantity and Quality |
| **ACCREDIT:**  
Accreditation System Modernization |
| **International Initiatives:**  
Certificates, Automated Data  
Exchanges, Concepts for Future |
Office of Inspector General (OIG) Report

- Published in September 2017
- Includes Audit Process, Findings, and AMS Response
Background

• USDA’s Office of Inspector General (OIG) conducts independent audits and investigations of the Department's programs and operations

• Previous NOP Audits:
  – National List Audit (2012 – No Findings)
Context for OIG Audit

- **GOAL**: To evaluate AMS’ controls over the approval and oversight of NOP’s agreements for international trade and the import of organic products
Four OIG Findings

1. AMS’ process for determining equivalency between the U.S. organic regulations and foreign countries’ standards was not fully transparent.

2. NOP organic import documents were not verified at U.S. ports of entry.

3. Controls over organic products fumigated at U.S. ports of entry were inadequate.

4. Onsite audits for existing agreements were not conducted in a timely manner because AMS has no established requirements for frequency.
### Finding 1: Transparency

<table>
<thead>
<tr>
<th>OIG:</th>
<th>AMS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop and implement a procedure to document and disclose final resolution of all foreign country organic standards identified as having differences from USDA organic standards.</td>
<td>AMS will document and disclose final variances from its side-by-side analysis of organic standards.</td>
</tr>
</tbody>
</table>
### Finding 2: Import Verification (1 of 3)

<table>
<thead>
<tr>
<th><strong>OIG:</strong></th>
<th><strong>AMS:</strong></th>
</tr>
</thead>
</table>
| Execute a Memorandum of Understanding (MOU) between AMS and Customs and Border Protection (CBP) to obtain assistance in reviewing import certificates from countries with established equivalence arrangements at U.S. ports. | **AMS supports expanding the MOU with CBP.**
| | • CBP officials have limited capacity and no current authority to review organic imports or NOP import certificates. |
| | • AMS will develop a report outlining how AMS and CBP could collaborate. |
### Finding 2: Import Verification (2 of 3)

<table>
<thead>
<tr>
<th><strong>OIG:</strong></th>
<th><strong>AMS:</strong></th>
</tr>
</thead>
</table>
| Request that CBP update the Automated Commercial Environment (ACE) system message sets to provide CBP officials with instructions for reviewing NOP import certificates at U.S. ports of entry and the actions to take if they are not found. | • NOP import certificates are only required from the European Union, Switzerland, Korea, and Japan.  
• AMS will request access to additional areas of ACE.  
• AMS is submitting organic message set proposals to CBP. |
### Finding 2: Import Verification (3 of 3)

<table>
<thead>
<tr>
<th>OIG:</th>
<th>AMS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop and implement a plan to verify NOP import certificates at U.S. ports of entry, identify fraudulent import certificates, and capture organic import data.</td>
<td>AMS will prepare a needs assessment for an organic verification system that validates organic import certificates, identifies fraudulent certificates and captures data.</td>
</tr>
<tr>
<td>• Would create a baseline for future technology development work.</td>
<td></td>
</tr>
</tbody>
</table>
Background: Fumigation

A fruit shipment arrives in Florida

APHIS conducts risk-based inspection of container

APHIS finds pest that could harm Florida orchards

Shipment must be treated (fumigated) to enter Florida

The importer is notified of the requirement

An organic importer has two options:

- Accept fumigation - Sell the fruit, but not as organic
- Re-export shipment to place where pest isn’t a risk
**Finding 3: Fumigation Controls (1 of 3)**

<table>
<thead>
<tr>
<th>OIG:</th>
<th>AMS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Execute an MOU between AMS and APHIS to ensure that APHIS officials notify NOP officials when imported agricultural products are treated with NOP-prohibited substances at U.S. ports.</td>
<td>• In January 2017, AMS and APHIS executed an MOU to document collaborative efforts to identify imported organic shipments of agricultural products that are treated for plant pests or are treated as a condition of entry.</td>
</tr>
</tbody>
</table>
### Finding 3: Fumigation Controls (2 of 3)

<table>
<thead>
<tr>
<th>OIG:</th>
<th>AMS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request CBP to update the ACE system message sets to ensure APHIS officials are notified of steps to take when organic agricultural imports are treated with NOP-prohibited substances at U.S. ports.</td>
<td>• AMS is working with APHIS to develop mechanisms within the APHIS systems to identify, track, and ensure that treated organic products are not sold, labeled or represented as organic.</td>
</tr>
</tbody>
</table>
### Finding 3: Fumigation Controls (3 of 3)

<table>
<thead>
<tr>
<th>OIG:</th>
<th>AMS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop and implement a plan for creating and implementing procedures for tracking organic products treated with NOP-prohibited substances at U.S. ports and ensuring those products are not sold, labeled or represented as organic.</td>
<td>• AMS and APHIS are establishing procedures to notify importers and certifiers when organic products are treated and can no longer be sold, labeled, or represented as organic.</td>
</tr>
</tbody>
</table>
### Finding 4: Timely Audits (1 of 2)

<table>
<thead>
<tr>
<th>OIG:</th>
<th>AMS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop and implement performance measurements to collect, analyze, and report to management regarding the timeliness of onsite reviews for foreign countries that maintain a recognition agreement or equivalency arrangement with USDA.</td>
<td>• AMS has a system to monitor audit frequency for accredited certifiers. This system will be used to track and report timeliness of onsite reviews AMS conducts with its recognition or equivalence partners.</td>
</tr>
</tbody>
</table>
### Finding 4: Timely Audits (2 of 2)

<table>
<thead>
<tr>
<th><strong>OIG:</strong></th>
<th>Revise NOP Handbook NOP 2100 (Equivalency Determination Procedure) to include the requirement that NOP officials conduct onsite audits of foreign countries that maintain equivalency arrangements with USDA every 2 years.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AMS:</strong></td>
<td>• AMS will revise NOP 2100 to require NOP officials to conduct onsite audits of foreign countries that maintain equivalency arrangements every 2 years.</td>
</tr>
</tbody>
</table>
In Closing …

• AMS accepted all findings and responded to all recommendations.

• AMS actions will be in place by July 2018.

• OIG reports have helped AMS shape NOP into the program that it is today – we thank them for their work and feedback.
ANSI Peer Review of the National Organic Program (NOP)
ANSI Peer Review of NOP: 2017

• Conducted by American National Standards Institute (ANSI) under contract
• Panel of 3 independent auditors
• Process driven by NOSB recommendation, “Memo to NOSB” (11/2014) and “NOP 1031: Peer Review of NOP Accreditation” (In NOP Handbook)
• A vital component of NOP’s continuous improvement
Context for Peer Review

**GOAL**: NOP actions align with NOP Procedures and ISO/IEC 17011, a quality standard.

- Small program serving a growing industry
- Strong, robust accreditation procedures
- Public and transparent standards
- Skilled pool of auditors; ongoing training
- Annual training to certifiers
ANSI Findings: Overview

Overall, NOP is following its procedures. There were no major non-conformances related to accreditation decisions.

The ANSI audit identified opportunities for NOP to improve recordkeeping and clarify procedures.
ANSI Findings: Procedures

- NOP corrective actions are not tracked as described in NOP 1020 (corrective action procedure).
- NOP needs to ensure timely implementation of corrective actions before next audit cycle.
- NOP does not have a procedure for determining the number/location of certifier satellite office audits.
- NOP assessments of certifiers occur every 2-2.5 years (not every 1-2 years as recommended in ISO 17011).
NOP’s Corrective Actions: Procedures

• NOP has revised procedures to monitor peer review corrective actions on the NOP operating plan to ensure timely implementation.
• Launch of ACCREDIT and additional staff will help accreditation timeline management and satellite office tracking
• More generally, NOP continues to improve records management:
  – Dedicated quality manager
  – Improving processes and training
  – Updating and retiring procedures
NOP’s Corrective Actions: Procedures

• USDA organic regulations require accreditation renewals every 5 years; mid-terms every 2-3 years.
  – NOP will review its accreditation policies/procedures to explore options for more frequent assessments.
  – NOP lacks resources to perform onsite assessments every 1-2 years, per ISO 17011 recommendations.
  – We are reviewing how we could use the Annual Report process for more frequent follow-up.
• NOP did not complete the “review” section of accreditation application documents.
• There were some instances of incorrect versions or incomplete records (lack dates or signatures).
• NOP accreditation certificates do not contain the certifier’s full address and do not indicate the current version of 7 CFR Part 205.
• There was an isolated instance of a date discrepancy.
NOP’s Corrective Actions: Records

• NOP conducts robust certifier audits: new applicants, mid-terms, and renewals.
• We are refining our application processing approach.
• We have instructed auditors about required signatures on certain forms and will train on this.
• NOP will revise the accreditation certificate template to reference the current USDA organic regulations and include certifier’s complete address.
• NOP will review its procedures related to accreditation certificate issue dates.
In Closing ...

• Peer Review is a vital part of our Quality System
• 2018 Peer Review, also with ANSI, will start in Spring
• In the meantime, NOP will:
  – Post ANSI Report and NOP Corrective Actions
  – Advance records management practices
  – Refine accreditation processes
  – Continue launching technology aids
  – Conduct regular training for auditors and certifiers

• Thank you, ANSI and the Audit Team!