



National Organic Program

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National Organic Program Update

*Organic Integrity from Farm to Table,
Consumers Trust the Organic Label*

Certifier Training

January 24, 2012

San Antonio, Texas



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USDA Organic Listening Session: Recap



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USDA Organic Listening Session

September 2011 | Washington, DC

- Goal: public feedback on USDA activities and priorities related to organic agriculture.
- Hosted by:
 - National Organic Program
 - USDA Organic Working Group
(USDA internal communications network)



Public comments and USDA response

- Coordination of research needs with the USDA research agencies.
 - USDA \$475,000 grant to Oregon State University for non-antibiotic treatments for the control of fire blight in organic apple and pear crops.
 - Continue to provide input to USDA research agencies regarding NOP research needs.



Public comments and USDA response

- Training of USDA service providers (NRCS, FSA, RMA) to provide support to prospective/organic farmers
 - Effort funded by NOP, coordinated by the USDA Organic Working Group and USDA National Food and Agricultural Councils
 - “Organic literacy” training effort for all USDA staff nationwide. Includes training and printed materials for field offices.



Public comments and USDA response

- Protection of confidential business information and due process
 - NOP 2607—Instructions for the Disclosure of Information concerning USDA Certified Organic Operations—revised to incorporate comments received.



NOP 2607—Instructions for the Disclosure of Information Concerning USDA Certified Organic Operations

NOP required to release information under the Freedom of Information Act (FOIA), except:

- (b)(4) Trade Secrets, Commercial or Financial Information
 - (i.e., detailed ingredient formulation for organic processed product)
- (b)(5) Privileged Interagency or Intra-Agency Memoranda or Letters
 - (i.e., email exchange between NOP management and AMS representative deliberating prospective policy outcomes or strategies)
- (b)(6) Personal Information Affecting an Individual's Privacy
 - (i.e., personal email address of complainant in a compliance investigation)



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NOP 2607—Instructions for the Disclosure of Information Concerning USDA Certified Organic Operations

Certifiers shall make available for the current and 3 preceding years:

- Organic certificates.
- List of certified operations.
- Laboratory analyses for pesticide residues and other prohibited substances.



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NOP 2607—Instructions for the Disclosure of Information Concerning USDA Certified Organic Operations

Certifiers should notify NOP if there are alleged willful violations

- NOP can pursue civil penalties
- NOP may disclose proposed adverse action to protect public.

Certifiers must maintain strict confidentiality for business-related information.



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Public Comments and USDA Response

- Consistency in the interpretation and implementation of the USDA organic regulations.
 - New training modules
 - Additional guidance under development
 - Noncompliance notices: improper compliance procedures, inadequate review of Organic System Plans, and inconsistent application of the USDA organic regulations.



Public Comments and USDA Response

- Consideration of regulatory burden and costs of new efforts to improve organic integrity.
 - Recordkeeping requirements need to be adequate and reasonable. NOP training and audits will stress reasonable application of requirements.
 - Standardizing Organic System Plans, inspection reports and procedures will reduce redundancy



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Public Comments and USDA Response

- Importance of the organic certification cost share program.
 - USDA supports continued funding of the program. The certification cost share programs are very important to the continued success of small and beginning producers and handlers.
 - NOP has worked with states to expand utilization of cost share programs.
 - 15% increase in cost share utilization in 2010.



Public Comments and USDA Response

- Consideration of compensation for damages from GE crops and greater efforts by USDA to protect organic farmers from GE contamination.
 - Secretary Vilsack appointed the Advisory Committee on Biotechnology for 21st Century Agriculture (AC21)
 - Vilsack charged the AC21 committee with suggesting possible compensation mechanisms to mitigate impact of unintended GE presence in organic and non-GE crops.



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Public Comments and USDA Response

- Support for USDA to provide access to foreign organic markets through trade agreements.
 - The US/Canada Organic Equivalency Arrangement continues to reduce costs and paperwork for organic producers and handlers.
 - USDA is optimistic about the prospect of an equivalency arrangement with the European Union and will pursue other arrangements that support market access and protect organic integrity.



Public Comments and USDA Response

- Urge USDA to finalize rules for organic aquaculture.
 - USDA is assembling a team to start aquaculture rulemaking.
- Urge NOP to not implement NOSB's recommendation to prohibit use of sodium nitrate.
 - NOP is developing proposed rule on prohibiting sodium nitrate to gather additional public comments.



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NOP Priorities

- Protect organic integrity each and every day
- Implement NOSB recommendations
- Develop real-time database of organic operations
- Implement Quality Management System
- Support consistent and fair implementation of the USDA organic regulations
- Streamline process for handling complaints and appeals



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Overview of Audits and Related Activities



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Audits

- Three Office of Inspector General audits
- National Institute of Standards and Technology
- Internal Audit
- Corrective actions impact accreditation process and certification procedures



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Office of Inspector General Audit #1

- Conducted: March 2010
- Scope: Multiple mission-critical functions of NOP, including:
 - Compliance and enforcement
 - Oversight of certifying agents and State Organic Program
 - Statutory requirements (OFPA)



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OIG Findings

- Complaint processing and enforcement needs to be more timely and robust
 - Strengthened enforcement procedures, utilization of civil penalties for willful violations
- Inadequate oversight of California's state organic program
 - California SOP audited and corrective actions implemented to ensure proper implementation of program.
- Periodic residue testing not implemented
 - Proposed rule published and the final rule expected out this year.



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OIG Findings

- Peer review of NOP accreditation not performed
 - NIST assessment completed, corrective actions are in process.
- Inconsistent program requirements
 - Publications: Quality Manual, Program Handbook, Strategic Plan, Pasture rule, nine new draft guidance documents, seven new final guidance documents
- Audits of foreign certifiers not conducted
 - Increased oversight of domestic and foreign certifying agents



Office of Inspector General Audit #2

- Timing: Ongoing
- Scope: Organic milk
 - Evaluate whether milk marketed as organic meets NOP requirements.





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Office of Inspector General Audit #3

- Timing: Ongoing
- Scope: National List and NOSB
 - National ListEvaluate process for adding substances to National List of Allowed and Prohibited Substances



National Institute of Standards and Technology (NIST) Assessment

- Peer review is required by OFPA and the NOP regulations.
- The March 2010 Office of Inspector General audit found that peer review had never been conducted.
- First phase completed in July 2011: 28 findings, 4 observations
- NOP Corrective actions in process.



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NIST Findings

- Overall, NOP is designed to fulfill the requirements of USDA organic regulations. NOP documentation is organized in accordance with these requirements.
- The ISO/IEC 17011 elements not required in the USDA organic regulations are not always thoroughly presented in the documentation.
- Additional work is necessary to align with 17011.
- NOP's cooperation and timeliness allowed for an efficient and thorough document review.



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NIST Audit: NOP Actions

- Revised work agreement with NOP auditors
- Updated website to better communicate information on certification, accreditation, and related activities
- Drafting proposed regulation to remove FACA requirement related to accreditation
- Improving document and record control procedures



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NOP Update Activities & Priorities



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NOP Accreditation Program

- Improved the accreditation process from implementation of QMS aligned with ISO 17011
- Revised audit checklist based on certification and accreditation sections of NOP regulations.
- 2012 audits will focus on pasture rule implementation, grower group certification, materials review and approval process, conflict of interest, sample collection and analysis procedures, certifier compliance procedures



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2011 NOP Audit Findings

- 30 assessment reports
- 122 non-compliances issued to certifiers in FY11
- OSPs appear to be incomplete
- Organic certificates are lacking required information
- Certifier review of client operation information is not adequately identifying and issuing non-compliances
- Certifiers are not submitting required information to NOP.



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NOP Accreditation Program

- 2012 Audit schedule – over 60 accreditation, recognition and equivalency audits
- NOP auditor criteria, auditor evaluations
- Improve the list of certified operations
- Improvements to temporary variance, reinstatement processes



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Accreditation System – Findings, Noncompliances, and Corrective Action

1. Findings may result from
 - a. Review of Annual report
 - b. Renewal audits, mid-term audits, compliance audits
 - c. Complaint Investigation
 - d. Appeals
2. Noncompliances issued to certifying agent



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Accreditation System – Findings, Noncompliances, and Corrective Action

3. Corrective action leads to compliance (alignment) with requirements
4. Failure to correct noncompliances leads to loss of accreditation



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USDA Organic Regulations Update

- Accomplishments since October 2010 (FY 2011)
- 2012 Preview: What's next?



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Practice Standard Accomplishments

- Proposed Rule – Periodic Residue Testing
- Final Rule/comment discussion – Access to Pasture for Ruminant Slaughter Stock



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National List Accomplishments

- Final Rule for crops/processing (aqueous potassium silicate; sodium carbonate peroxyhydrate; gellan gum; tragacanth gum, fortified cooking wines)
- Final Rule livestock (methionine)
- Proposed Rule for crops/processing (lecithin, cheesewax, acidified sodium chlorite, dried orange pulp, Pacific kombu seaweed)
- Proposed Rule for livestock (fenbendazole, moxidectin)
- Proposed Rule for crops/livestock/processing (tetracycline, formic acid and attapulgite)
- Proposed and Final Rules - Sunset 2011
- Advanced Notice of Proposed Rulemaking – Sunset 2013
- Proposed Rules for Sunset 2012, vitamins and minerals



Guidance Accomplishments

- Draft and Final Guidance for Wild Crops, Commingling, Compost and Chlorine
- Draft Guidance for Made with Organic products ingredients and labeling
- Draft Guidance on Seed/Annuals/Planting Stock (including commercial availability), Livestock Feed Additives, Kelp, and Responding to Positive Residue Testing Results;
- Program Handbook 2nd ed.(Jan 2011) and updates - residue testing instructions, policy memos on use of GMOs and textile labeling



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Practice Standards: 2012 Preview

- Final Rule – Residue testing
- Proposed Rule - Organic pet food standards
- Proposed Rule – Remove FACA requirement from 205.509
- Proposed Rule – origin of livestock



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National List: 2012 Preview

- Final Rule for livestock (fenbendazole, moxidectin)
- Final Rule for crops/processing (lecithin, cheesewax, acidified sodium chlorite, dried orange pulp, Pacific kombu seaweed)
- Final Rule for crops/livestock/processing (tetracycline, formic acid, attapulgite)
- Proposed and Final Rule – Methionine
- Final Rule – Sunset 2012, vitamins and minerals
- Proposed and Final Rule for sodium nitrate



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Guidance: 2012 Preview

- Final Guidance – “Made with Organic” products composition and labeling
- Final Guidance - Seed/Annuals/Planting Stock (including commercial availability), Livestock Feed Additives, Kelp, and Responding to Positive Residue Testing Results
- Draft Guidance – Certification of handlers of bulk organic products
- Draft Guidance – Post-harvest materials
- Draft Guidance – Classification of materials, Permitted Substance List (Crops)
- Draft Guidance – Organic Seafood/Aquaculture Labeling



Appeals

- OFPA sec. 2121 – Secretary shall establish expedited administrative appeals process.
- In 2009 the average timeline for appeal decisions was 2 years.
- New initiative to reduce appeals time.
- More resources directed to appeals (Appeals staff, Office of General Counsel)
- Appeals staff conduct early analysis to determine potential settlement options.
- Currently almost all 2010 appeals closed, goal is to close appeals within 90-180 days of appeal filing date.



NOP Appeals

FY	Average Total Days		
	Denied	Dismissed	Closed
2009	709	2	374
2010	416	4	117
2011	223	41	137



Complaint Management Update

Since October 2010:

- Received and commenced investigative activities on 181 complaints, representing a 15% increase from Fiscal Year 2010.
- Closed 128 complaints, representing a 20% increase from Fiscal Year 2010.
- Achieved a 177-day average time period for complaint closures.



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Enforcement Update

Since October 2010:

- Issued 10 civil penalties through settlement agreements for willful violations of the USDA organic regulations.
- Implemented enforcement action procedure of publishing notices of NOP fraudulent certificates.



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Key Priorities for FY2012

- Develop formal scoring matrix and publish guidance to ensure consistency and fairness in civil penalties and other enforcement actions
- Work with other AMS and USDA stakeholders to improve the timeliness and tracking of post-decision activities (such as civil penalty collections).
- Continue to refine case management procedures to reduce time to closure while maintaining investigative rigor.
- Develop tools to point non-certified violators of the organic regulations towards a path of certification, to enable them to become compliant community members.



Levels of Compliance Actions

1. Conditions for continued certification
2. Minor noncompliances - correctable
3. Major noncompliances - Suspension
4. Willful violations – Revocation, civil penalties



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NOSB Recommendations

- NOSB Recommendations are not official policy unless adopted by the National Organic Program.
- National List Recommendations have no standing unless adopted into USDA organic regulations under 7 CFR part 205.
- Some NOSB Recommendations have been adopted through NOP Policy – (e.g. Grower Groups).
- Some NOSB Recommendations have been incorporated into Guidance (e.g. NOP 5021 Compost and Vermicompost).



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Inspections



- Observations
 - Borders, soil, storage areas
- Interview
 - There doesn't have to be a record for everything
- Records
 - Must be adequate,
 - Reasonable and aligned with OSP.
 - Records don't take the place of observation and interviews of actual practices.



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Partnership

We are all
in this
together!





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Thank you for
your work in
protecting
organic integrity!

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