



National Organic Program

Organic Integrity from Farm to Table Consumers Trust the Organic Label

Anti-Fraud Conference

Cambridge, Massachusetts – October 12, 2010

Miles McEvoy, Deputy Administrator



Topics

- Priorities
- Accomplishments
- OIG audit
- Strategic plan
- Accreditation
- Certifiers - consistency
- Quality of Inspectors
- Enforcement – civil penalties, major non-compliance
- Materials – who approves, why no master list?



Priorities

- Uphold and enforce the standards
- Implement and enforce the Access to Pasture final rule
- Implement Strategic Plan
- Implement the NOSB recommendations
- Quality system management
- Increased oversight over foreign operations
- Training and accountability of certifiers



Accomplishments

- Published Access to Pasture final rule – provide guidance and training to certifiers and certified operations
- Moved NOSB meeting out of DC
- Completed Quality Manual, Program Handbook and Strategic Plan
- Increased training – Savannah, Denver, Albany, LaCrosse, Nuremberg, California, Ghana
- Strengthened enforcement procedures – adverse actions, civil penalties
- Transparency – NOP Report; publication of suspended, reinstated and revoked operations; NOP responses to NOSB recommendations.



Organic Integrity from Farm to Table. Consumers Trust the Organic Label.

Organic Officials Assess Certifiers Operating in China



Shandong province producers show off their harvest bounty of peanuts.

NOP auditors Dr. Ruihong Guo and Mr. Lars Crail traveled to the People's Republic of China in September to conduct a multi-faceted assessment mission. Foremost on their task list was to review and audit the activities of four organic certifying bodies operating in China: EcoCert, BCS, IMO, and CERES.

Currently there are 575 NOP certified operations and 9 certification bodies in China. According to Lars, the figure has surged from 230 in 2007 largely because of continued demand by U.S. consumers for organic products.

China's contribution to this effort is primarily organic raw ingredients, including soybeans, herbs, peanuts, tea, ginger, and other fruits and vegetables. These items

are shipped dry, frozen, or in liquid bulk form for final processing in the United States.

Continued on p. 8

USDA Cross-Agency Cooperation in Support of Burgeoning Organic Agriculture

Contributed by Mark Lipson, USDA Organic and Sustainable Agriculture Policy Advisor

Organic agriculture is becoming integrated within USDA so that multiple agencies can be involved in the development of this emerging market.

As international trade of organic products increases, it becomes imperative that NOP partner with other agencies of the USDA, especially those that operate in foreign countries. Most notably, the USDA's Foreign Agriculture Service (FAS) employs agricultural attaches in every part of the world.

Now, wide ranging cooperative relationships are being codified to help preserve the cooperative arrangements being developed between NOP and various divisions of the Foreign Agriculture Service. As a result, FAS can assist NOP officials when traveling internationally to advise them about foreign regulatory requirements, which is especially important when establishing equivalency and recognition agreements. Conversely, NOP can educate FAS staff about USDA's organic standards and host international visitors who wish to become familiar with how organic farming systems operate in the United States.



Office of Inspector General

Audit of NOP – March 2010

- More timely enforcement – complaints, violations
- Oversight of California's state organic program
- Pesticide residue testing
- Accreditation and peer review
- Improve quality management system
- Provide clarity and consistency to certifiers
- Conduct audits of foreign certifiers



Corrective Action Plan

- Recommendations 1-6
 - Enforcement actions are being pursued, civil penalty procedures are being evaluated and updated, administrative sanctions policy developed, five civil penalties issued, improved complaint reporting and timeliness, procedures for monitoring continued compliance implemented, resolved or referred to OGC for adverse action all old complaints
- California State Organic Program (SOP)
 - Audit conducted in December 2009
 - New California SOP program implemented in 2010 includes corrective actions
- Periodic residue testing
 - Rulemaking to require testing under development.



Corrective Action Plan

- Annual summary of NOP audit findings
- All foreign audits of accredited certifiers are complete
- National Institute of Standards and Technology review is underway
- NOP Program Handbook published September 2010
- Implement quality management system – document control, records management, notification procedures to ACAs, certified operations



New OIG audit – Organic Milk

- Evaluate whether milk marketed as organic meets NOP requirements.
- Assess the adequacy of the AMS oversight provided by certifying agents.



Strategic Plan: link from homepage

www.ams.usda.gov/NOPNationalOrganicProgramHome



USDA Agricultural Marketing Service

National Organic Program

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

**Strategic Plan
2010 – 2012**

August 2010

United States Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)
National Organic Program (NOP)
Washington, DC

National Organic Program

Welcome to the National Organic Program



What is organic?
Organic production is a system that is managed in accordance with the Organic Foods Production Act (OFPA) of 1990 (PDF) and regulations in Title 7, Part 205 of the Code of Federal Regulations to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity. The National Organic Program (NOP) develops, implements, and administers national production, handling, and labeling standards.



Accreditation and Certification



Compliance and Enforcement



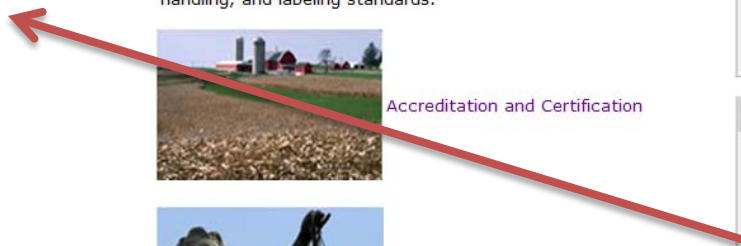
Consumers

I Want Information On

- o National List of Allowed and Prohibited Substances
- o NOP Regulations
- o International Agreements
- o Pasture Rulemaking Information
- o NEW: NOP Program Handbook
- o More...

General Information

- o Questions? See NOP-AQSS
- o NOP: Who We Are
- o [NOP Strategic Plan](#)
- o Contact Information
- o NOP Reading Room
- o NOP Job Openings





NOP Strategic Plan

Organic Integrity from Farm to Table
Consumers Trust the Organic Label

MISSION:

The NOP facilitates trade and ensures integrity of organic agricultural products by consistently implementing organic standards and enforcing compliance with the regulations throughout the world.



1. Quality management

- **Develop, implement, and maintain a quality management system (QMS) for the efficient and effective operation of the NOP.**
 - **Quality Manual**
 - **ISO 17011**
 - **Peer review by National Institute of Standards and Technology**
 - **Effective, consistent, efficient, scalable**



2. Standards - consistency

- **Develop and communicate clear and consistent NOP standards in a uniform manner.**
 - **Program Handbook – Guidance and Instructions**
 - **Policy Memorandums**
 - **Training of certifying agents**



3. Accreditation - oversight

- **Enhance compliance with and enforcement of organic regulations.**
 - **Audits of certifying agents**
 - **Continuous improvement, training, technical assistance**
 - **Accountability, consistent application and implementation of the standards**



4. Compliance and enforcement

- **Ensure consistent application of the NOP regulations by the ACAs, State Organic Programs, and via International Agreements.**
 - **Complaint handling**
 - **Investigations**
 - **Civil penalties, penalty matrix**
 - **Appeals, hearings, due process**



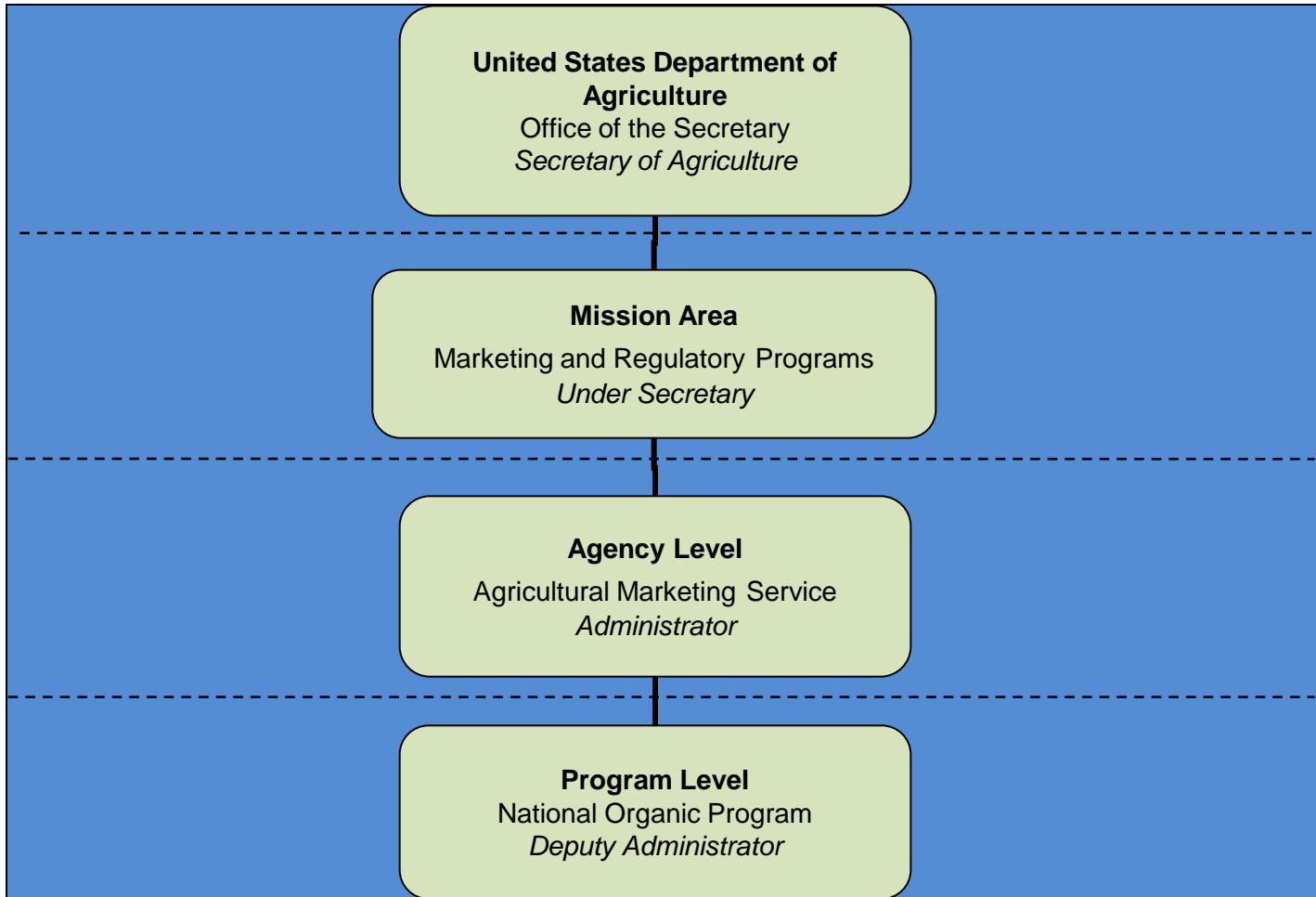
5. Management strategy

- **Effectively manage the human resources, communication, and administrative activities of the NOP.**
 - **National Organic Standards Board**
 - **Cost Share Programs**
 - **Human resources, civil rights**
 - **FOIA, Transparency, Communication**

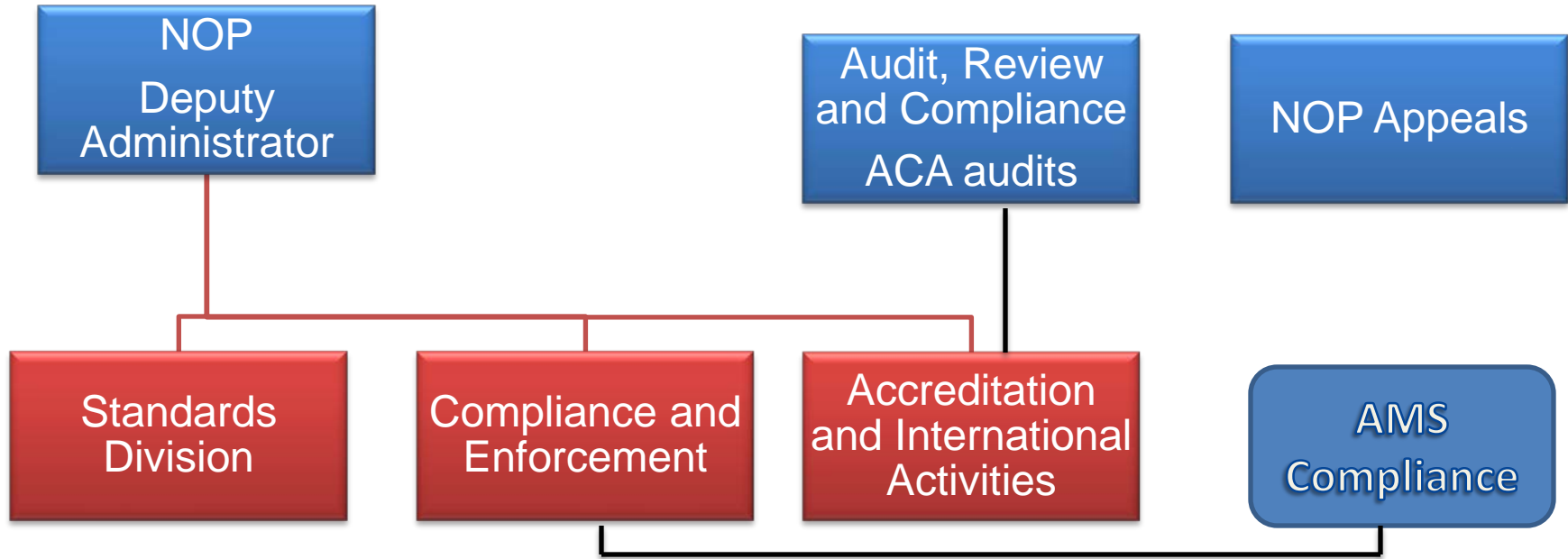


Age of enforcement

- Civil penalties
- Three additional compliance officers
- Revised enforcement procedures –
 - Collaborate with certifiers and state investigators
 - NOP reviews investigative reports to determine possible adverse action
 - Minor violations handled by certifier
 - Major violations handled by NOP to ensure consistency, timeliness and utilization of civil penalties.
- Proposed streamlining of appeals process



Organizational Structure





Year	Budget	# staff
2002	\$ 1.6 million	6
2003	\$ 1.0 million	6
2004	\$ 1.6 million	5
2005	\$ 1.5 million	6
2006	\$ 1.5 million	7
2007	\$ 1.5 million	8
2008	\$ 2.65 million	14
2009	\$ 3.87 million	16
2010	\$ 6.97 million	31
2011 (President's budget)	\$10.1 million	32



Standards Division – Melissa Bailey, Director

- Rulemaking – Practice Standards, National List
- NOP Program Handbook – instructions and guidance
- National List
 - petition process
 - Technical reports
 - Sunset review by the NOSB
- Interpretations, provide consistency to certifiers and certified operations.



NOP Program Handbook

- Instructions/Procedures
 - Information to certifying agents concerning accreditation requirements
 - Examples – accreditation procedures, enforcement procedures
- Guidance
 - Clarification of existing regulation
 - Draft guidance published in Federal Register with 60 day comment period



NOP Program Handbook

- Organic certificates
- Liquid fertilizer
- Responsibilities of certified operations changing certifying agents
- Draft guidance – wild crop certification, compost, chlorine, commingling, outdoor access for poultry



Practice standards

1. Origin of Livestock
2. Apiculture
3. Mushrooms
4. Pet food
5. Aquaculture
6. Greenhouses



Accreditation and International Activities Division – Ruihong Guo, Director

- ~ 95 Accredited Certifying Agents (ACAs)
- Accredited certifiers are audited once every 2.5 years. Audits consist of review of quality system management, records, decisions, witness audits – usually take 3-4 days.
- Recognition agreements
- Equivalency arrangements



Accreditation and International Activities Division – new initiatives

- Audits prior to new accreditations
- Additional audits conducted – Ghana, China, Mississippi conducted in 2010
- Increased accountability – Annual Updates, adverse action notices, lists of certified operations



Certifying Agents

- Critical role in protecting organic integrity
- OIG audit identified inconsistencies in certifiers application of the organic standards
- Clear, consistent guidance and instructions needed from NOP – accessible to all certifiers, transparent
- Program Handbook – gathers all guidance and instructions in one place. Next edition to include policy memos.
- Handbook will continue to expand to cover more topics (e.g. outdoor access for poultry, chlorine, kelp in livestock feed, cloning)



95 Accredited Certifiers



~26,000 Certified Operations



6 Recognition Agreements and One Equivalency Agreement





Quality of Inspectors

- Inspectors must be qualified to inspect operations (training, education experience)
- Establish qualification criteria for each scope –
 - crops (row crops, tree fruit, tropical crops) grower groups, split operations, livestock (dairy, beef, poultry), wild crop, handling (distributors, wine, IQF vegetables, cereal, bakeries)
- Training by AMS (auditing, GAP, sampling, investigations)
- Accreditation or licensing of inspectors?



Certifier initiatives

- Up-to-date database of all certified operations
- Qualifications and accreditation of inspectors/auditors
- ISO Guide 65 compliant NOP accreditation program
- Training modules
- Audits prior to accreditation
- Additional compliance audits



Compliance & Enforcement Division – Mark Bradley, Director

New and revised procedures

- Complaint Handling Procedures – new goal to close cases within 180 days
- Enforcement Procedures
- Enforcement Actions Follow-up Monitoring
- Civil Penalty procedures – evaluating NOP authority, rule change
- Publication of Suspensions, revocations, reinstatements, civil penalties
- Penalty matrix development



Age of enforcement

- Civil penalties
- Three additional compliance officers
- Revised enforcement procedures –
- Proposed streamlining of appeals process



Civil penalties

- Minor Noncompliance is defined as a violation that is correctable, does not affect the integrity of the organic system or the organic product, and does not preclude the certification or continued certification of an otherwise qualified organic producer or handler. Examples of a “minor noncompliance” include failure to submit information on time, failure to update the organic system plan, and inadequate record-keeping.



Civil penalties

- Major Noncompliance is defined as a violation of organic standards that affects the integrity of the organic system or the organic product and precludes the certification or continued certification of a producer or handler. Examples of a "major noncompliance" include the application of a prohibited substance, the commingling of organic with nonorganic products, the contamination of organic products with prohibited substances, and the failure to correct a minor noncompliance.
- Willful violation refers to an intentional violation of the Act or plain indifference to its requirements.



Civil penalties

- § 205.100 (c) Any operation that:
- Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than \$11,000 per violation.



Civil penalties

“Per Violation” may be defined as (but not limited to):

- Per regulatory citation violated, Per purchase order, invoice, or bill of lading
- Per shipment, Per box, Per product label, Per package

The determination of what unit to use to count violations will be based on what is reasonable and what is supported by the evidence obtained through investigation (i.e. packages obtained, inspections, photographs, testimonials, purchase orders acquired, website printouts).



Civil penalties

- 8 civil penalties issued in last 6 months
- 6 civil penalties issued to non-certified operations for making organic claims
- 2 civil penalties to certified operations, one for using non-organic seeds in organic sprout production, the other for using organic ingredients from a falsified certificate.



Enforcement policy

- NOP noted that problems with investigations and enforcement actions
 - Inadequate investigations
 - Errors in adverse action notices
- NOP decided to monitor/supervise certifiers investigations – collaborate for training and effectiveness.



New enforcement policy

- Collaborate with certifiers and other authorities (e.g. EPA, FDA, state authorities)
- Review reports of investigations to determine next steps
 - If minor violations let certifiers handle
 - If willful violations then NOP issues adverse action



Positive trends

- Certifiers are effective in protecting organic integrity in the majority of situations
- Vast majority of organic operations comply with the organic standards
- Samples are generally free of pesticide residues



- Over the last 16 years, the AMS Pesticide Data Program has tested 1,351 organic samples of mostly fruits and vegetables, representing 1.3% of the total number of samples tested (107,503).
- The average risks associated with pesticide residues in organic food appear to be declining.



- 43 out of 1,351 (3.2%) of organic samples contained residues above 5% of the EPA tolerance level
- 63 out of 1,351 (4.7%) of organic samples had residues from inadvertent sources – below tolerance
 - Residues from residual soil contamination, spray drift



Hap Weidner – Certified organic mint

- Certified by WSDA for many years as mint grower and processor
- Older farmer, committed to organic, poor records
- Complaint received by WSDA that organic mint had conventional tags.
- Investigation found that conventional mint sold as organic



Hop Two It Farm – WSDA certified organic

- Innovative small farmer growing raspberries, peaches in greenhouse to extend growing season
- Sold at farmers markets and local food coops, well supported by local community
- Complaint received that the farm was buying conventional peaches and selling them as organic.
- No paper trail available, residue testing confirmed that peaches were conventional – certification revoked and grower fined.



Cliff Parker – WSDA certified organic pear grower

- 50 acres of organic pears
- Complaints received that he was using prohibited pesticides on farm, state legislature notified
- Weeklong investigation – samples, records, farm supply companies, site visits
- Investigation found no violations and concluded that it was related to a domestic dispute that was attempting to damage the grower's reputation.



Problems

1. Subpoena authority lacking in OFPA. Certifiers/NOP does not have authority to subpoena records – e.g. Promiseland
2. Appeals process takes a long time.
 - For willful violations NOP is filing complaints to assess civil penalties and avoid mediation and appeals
 - NOP is proposing to delete requirement that certifiers can appeal adverse actions to the AMS Administrator.



Protecting Organic Integrity

1. Clear, enforceable standards
2. Notification to certifiers, organic producers and handlers concerning changes/clarifications to the standards.
3. Transparency of suspensions, revocations adverse actions, and sanctions



4. Quality verification process.

- Organic system plans – thorough and complete
- Quality review of plans
- Inspections by qualified and skilled auditors
- Sales and yield audits
- Feed audits
- Inspection of non-organic areas of operation
- Timely notices by certifier and continual monitoring.



5. Complaint handling

- File complaints at NOPcompliance@usda.gov
- Effective, timely, thorough
- Thorough investigations by qualified investigators
- Allegations can be confirmed or could be determined to have no basis in fact.

6. Penalties for willful violations

7. Market surveillance inspections

8. Unannounced inspections – risk based



9. Periodic pesticide residue testing

10. Monitor use of organic-like claims and take action as appropriate to protect organic label

11. Improve quality of inspections, certifiers

- Training, testing
- Conflict of interest (e.g. funding conflict)
- Certifier limited resources – reluctance to raise fees to improve services



Organic Integrity from Farm to Table

Consumers Trust the Organic Label

Thank you



