



NOP UPDATE

MAY 22, 2012

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National Organic Program
U.S. Department of Agriculture



NOP Update

- What has NOP accomplished and what's next?
- What is the role of the NOSB?
- How can we best utilize our limited resources?
- How can we all work together to achieve common goals?



Oversight

- 93 certifying agents
- Almost 30,000 operations certified to USDA organic regulations across 133 countries
- Exports
 - New markets for USDA organic products
- Imports
 - Ensure compliance with USDA organic regulations



2011 NOP Accreditation Audits

- 29 audits: 93% compliance with accreditation and certification criteria
 - 11 domestic certifying agents
 - 18 foreign certifying agents and trade agreements
- Non-compliance
 - Incomplete Organic System Plans
 - Organic certificates lack required information
 - Not adequately identifying operations' noncompliances
 - Not submitting required information to NOP
- Corrective action plan



2012 NOP Accreditation Audit Preview

- Focus on:
 - Pasture rule implementation
 - Grower group certification
 - Materials review and approval process
 - Conflict of interest
 - Certifier compliance procedures
- Audits occurring in China, South Africa, Egypt, Mexico, Guatemala, Peru, Australia, New Zealand, Israel, Brazil, Argentina, and over 25 states.



OIG Audits and Peer Review

- Ensures that NOP is meeting OFPA requirements
- Helps NOP continually improve our ability to effectively oversee USDA organic products.



Overview of Audits and Related Activities

- Office of Inspector General (OIG) Audits
 - Comprehensive 2010 audit
 - Organic Milk
 - National List
- National Institute of Standards and Technology (NIST) – peer review




OIG Audit #1 - Oversight

- 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)
- Peer review complete, removing FACA requirement in process.



OIG Audit #2 - Organic Milk

- Scope: Organic milk
 - Evaluate whether milk marketed as organic meets USDA organic requirements.
- Phase 1 Findings
 - GMO testing
 - List of certified operations
 - Need for unannounced inspections
 - Handling of Bulk commodities
- Phase 2 Underway



OIG Audit #3 – National List and NOSB

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



National Institute of Standards and Technology Assessment

- Peer Review
 - Required by OFPA and USDA organic regulations.
 - OIG Audit #1 found that peer review had never been conducted.
- First phase completed in July 2011
 - 28 findings, 4 observations
 - NOP corrective actions in process.



NIST Findings

- Overall, NOP is designed to fulfill the requirements of USDA organic regulations.

NOP actions to align with ISO 17011:

- Revised work agreement with NOP auditors
- Improved web content
- Drafting proposed regulation to remove FACA requirement related to accreditation
- Improving control procedures for documents and records

**What is ISO
17011?**
General
requirements
for
accreditation
bodies



NOP's Budget – FY 2011

- NOP was appropriated \$6.97 M
- Largest Expense Categories:
 - \$3.8 million went to NOP salaries and benefits
 - \$1.6 million went to Contracts and Agreements
 - \$791,000 went to Agency Overhead
Administrator's Office, HR Services, Congressional Affairs, Communications, Civil Rights, Training, IT
 - \$175,377 went to USDA Services
Facilities, lights, power, mailroom, security, etc.
 - \$165,584 went to travel



A Closer Look: Contracts/Agreements

- FY 2011 Contracts/Agreements funded:
 - Technical Reports for NOSB
 - NOSB Public Meeting Webcasting
 - NOSB Hotel Contracts and Transcripts
 - NOP Appeals Staff
 - Permitted Substances List Development
 - Economic Impact Analysis
 - Organic Literacy Project (With USDA Organic Working Group)
 - Inspector/Reviewer Criteria Development
 - NCAT Producer/Handler Workbooks



NOP Accomplishments

Accreditation and International

- Audited domestic and foreign certifying agents
- Established trade partnership with the EU
- Streamlined trade of ruminant livestock products to Canada
- Aligned accreditation processes with ISO 17011
- Revised audit checklist based on certification and USDA organic regulations



NOP Accomplishments

Compliance and Enforcement

- As of 5/14/12, completed 162 complaint investigations, already 26% more than the total completed in FY11
- Assessed \$54,500 in civil penalties
- Published nine fraudulent organic certificates online
- Continued efforts to streamline investigations and make enforcement more effective
- Reduced NOP appeals times from 698 days (FY 2009) to 256 days (FY 2011)



NOP Accomplishments

Standards

- Implemented pasture rule
- New policies on GMOs, textiles, residue testing
- Published National List amendments and published guidance per NOSB recommendations
 - Sunset 2011 final rule
 - Crops and handling materials final rule
 - Sunset 2012 proposed rule
 - Vitamins and mineral proposed rule
 - Parasiticides proposed and final rule
 - Methionine and tetracycline proposed rule



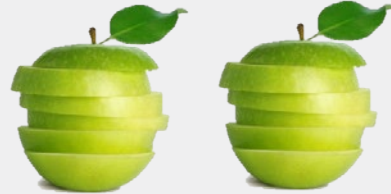
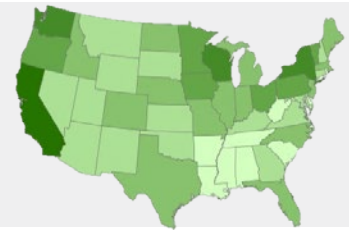
NOP Accomplishments

NOP-Wide

- Improved website and communication (NOP Organic Insider)
- Increased participation in the Organic Certification Cost Share Programs by 20 percent



Geographic-specific challenges



Not applying standards uniformly

Lack of data



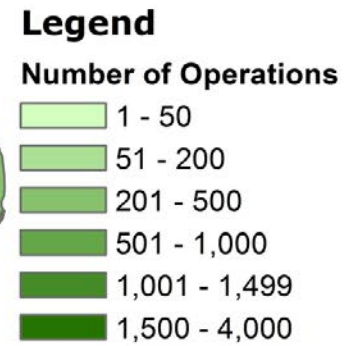
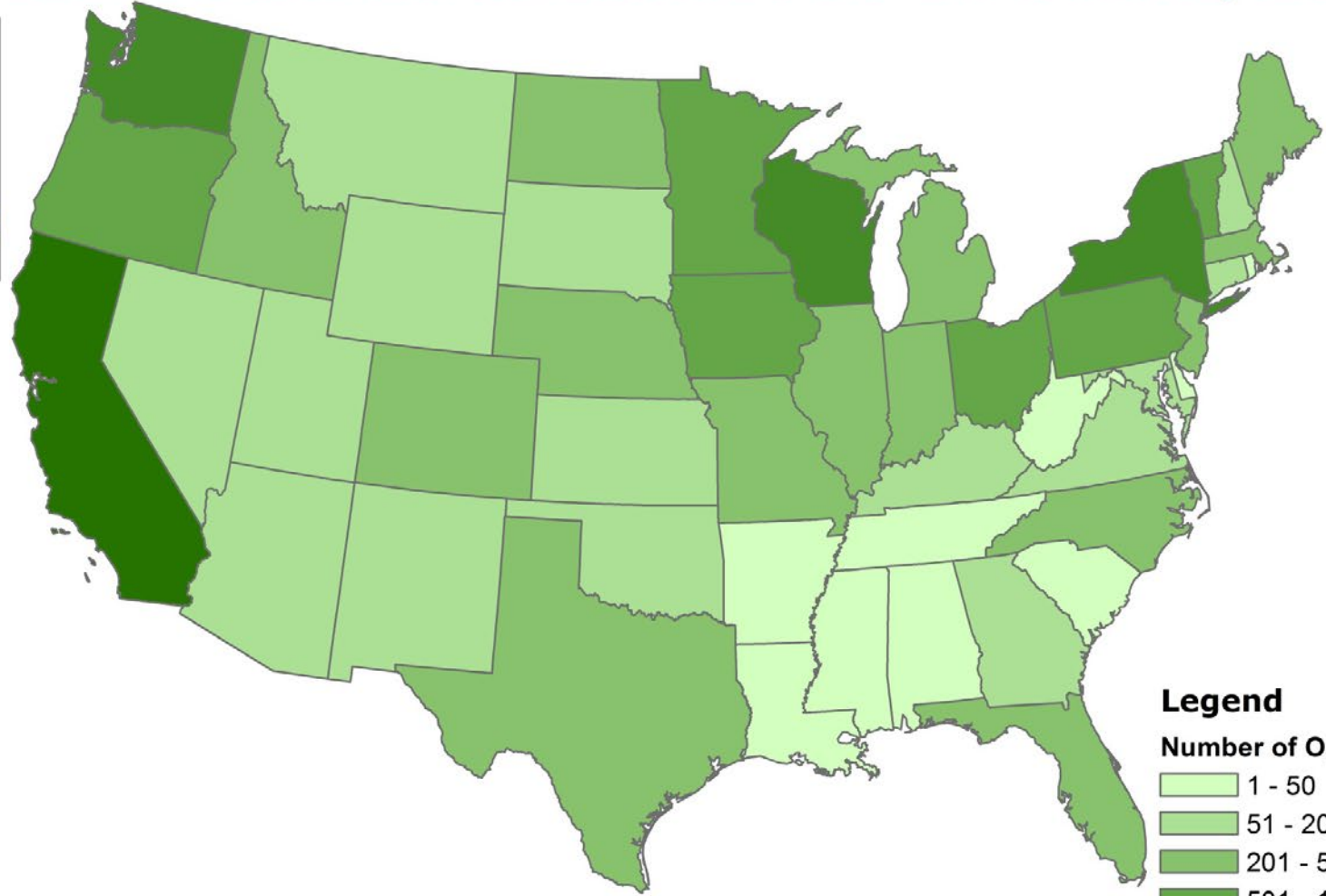
Insufficient technology



Limited resources



CERTIFIED ORGANIC OPERATIONS BY STATE, 2011



Source: USDA AMS National Organic Program, database of certified operations, 2011.



National Organic Program Current Initiatives

Clear
Standards

Consumer
Protection

Market
Access

Information
Technology



Clear
Standards



Fairness and
Transparency

To level the playing field:

- Publish clear standards
- Address gray areas
- Continue to collaborate with National Organic Standards Board
- Increase transparency



Clear
Standards



Fairness and
Transparency

Areas of Focus:

- Residue testing
- Origin of livestock
- Permitted substances
- Pet food
- Aquaculture
- Apiculture
- Mushrooms



Consumer
Protection



Consumer
Confidence

To protect the integrity of organic products:

- Continue rigorous investigations
- Conduct more audits
- Initiate market surveillance program
- Enhance enforcement actions
- Ensure terms of trade partnerships are being met



Market
Access



Economic
Opportunity

To increase organic agriculture in the U.S.:

- Market opportunities for small and beginning farmers
- Enhance USDA technical and financial assistance
- Provide access to additional foreign markets
- Make the organic certification process accessible, affordable and attainable



Information
Technology



Organic
Integrity

List of certified organic operations

State	Country	Products Produced
alabama	▼	hay
Alabama	United States	Hay, Hay and Pasture, Pasture
Alabama	United States	Cattle (Dairy- Transitioned- Not for Meat), Fallow, Hay, Hay and Pasture, Milk
10 ▼		View 1 - 2 of 2
California	United States	herbs, lettuce



Information
Technology



Organic
Integrity

Are they still
certified?

Has their certificate
been suspended or
revoked?

Do they have
organic hay
available?





Information
Technology



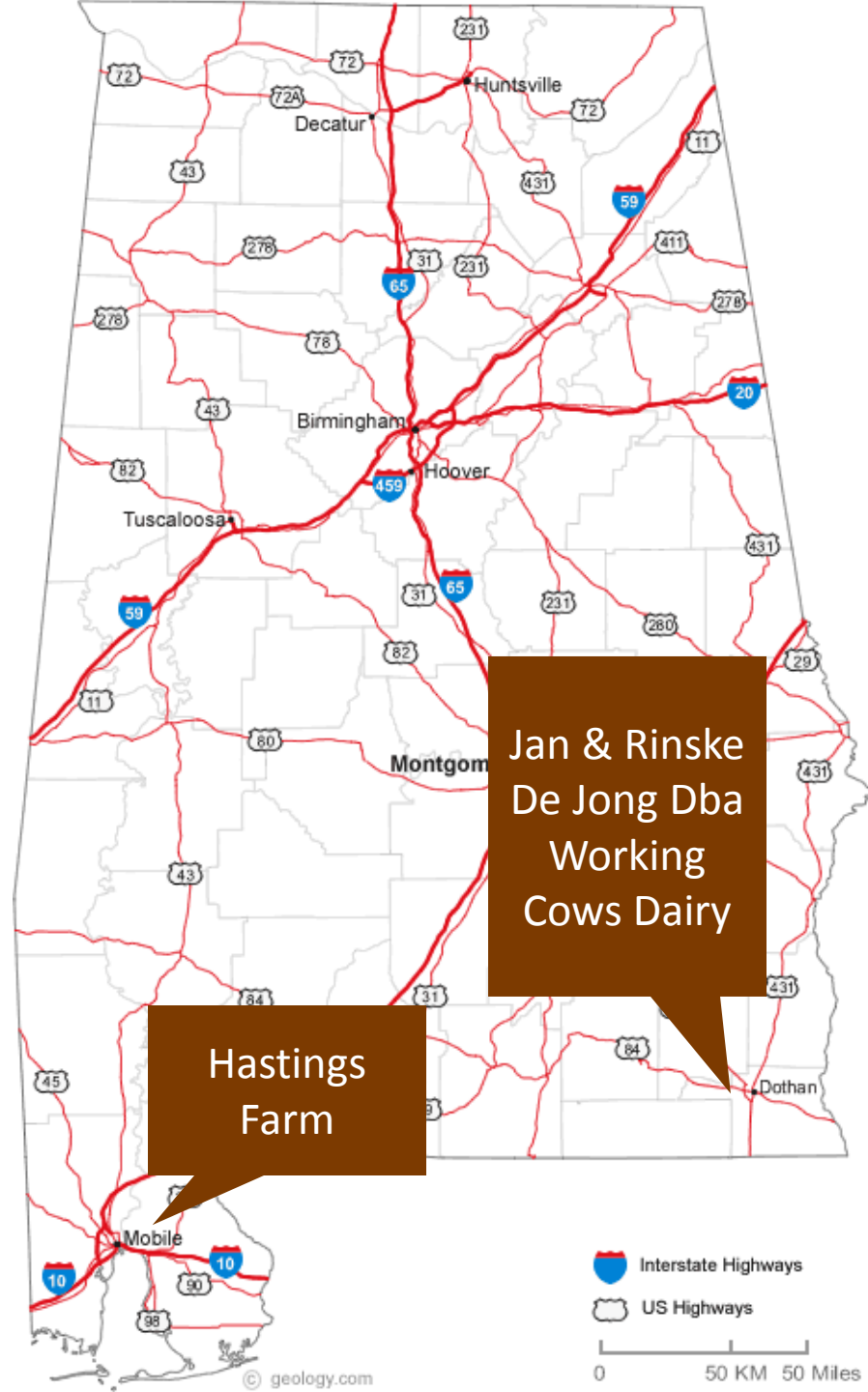
Organic
Integrity

To better connect the organic community:

- Build a modernized database
- Provide historic and current information on certification status
- Display search results in list- or map-based formats
- Allow all certifying agents to efficiently submit updates

Search Results

- Hastings Farm
Bay Minette, AL
- Jan & Rinske De Jong
Dba Working Cows
Dairy
Sloccomb, AL





Benefits of INTEGRITY database

- Enhanced oversight of certifying agents
- Increased transparency
- Integration of multiple web resources into one
- Streamlined certification processes



Clear Standards
Consumer Protection
Market Access
Information Technology



Level the playing field

Protect organic integrity

Increase number of organic farms and businesses

Connect organic community via INTEGRITY



NOP Update

- What has NOP accomplished and what's next?
- What is the role of the NOSB?
- How can we best utilize our limited resources?
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OFPA: Framework for Collaboration

The Organic Foods Production Act (OFPA) establishes the framework for NOP and NOSB roles and activities:

- Establishes NOSB to assist in developing proposed standards for substances for use in organic production and advises the Secretary on other aspects of OFPA
- Establishes the National List, which is based on proposals from NOSB
- Outlines NOP and NOSB roles



Setting the Stage: A Brief History

- A very active self-empowered organic community existed before OFPA
- OFPA established NOSB in 1990, but there was little funding to support its work
- A tough learning curve faced both NOSB and USDA in establishing the National List and the NOP Rule



Setting the Stage: A Brief History

- NOSB recommendations have often been viewed as default answers by the organic community
- As NOP implemented rules, focus shifted to NOP and certifying agents, more formalized processes
- In this phase, NOSB worked on many issues, but NOP lacked resources to respond
- At times, NOP released directives without NOSB input – leading to community conflict



Today: A New Balance

- NOP now has increased funding to support both NOSB management and rulemaking
- There is more frequent and structured communication between NOP and NOSB
- NOP provides regular feedback on NOSB recommendations and management support for its work
- NOP regularly requests NOSB advice on materials issues and practice standards



Today: Current Challenges

- Industry growth and new technology options have led to increases in public comments and scrutiny
- Rulemaking and guidance implementation is lengthy and resource intensive
- NOP and NOSB are both governed and overseen by many offices and interests
- NOSB activities and NOP's management must comply with the requirements of the Federal Advisory Committee Act (FACA)



FACA – Federal Advisory Committee Act

- Governs how advisory committees provide advice to the government
- Requires that advice is objective and accessible to the public
- Provides for Government-wide oversight of advisory committees
- Establishes a framework covering the creation, management, operation, and termination of committees



Overarching FACA Goals

- Enhance Public Accountability
 - Requires balanced committee membership to control undue influence
 - Maximize public access to committee deliberations: public meetings, comments
- Reduce Wasteful Spending
 - Monitor and reduce costs
 - Reduce redundancies
 - Maintain accountability through Annual Report of Accomplishments



How FACA Defines a Committee

- Any committee, board ... or other similar group which is established by statute ... for the purpose of obtaining advice or recommendations
- **Federal advisory committees exist to advise and recommend — not to decide**



Does FACA Conflict with OFPA?

- **No.** OFPA doesn't direct the NOSB to decide. OFPA asks NOSB to:
 - **Assist** in development of Standards
 - **Provide recommendations**
 - **Evaluate** substances
 - **Develop proposed** National List and **proposed amendments** to the List for submission to the Secretary
- Secretary retains decision-making and rulemaking authority



Government Oversight of NOSB

- The Government Services Administration administers FACA
- USDA has a dedicated Committee Management Officer to oversee Boards
- NOP is held accountable for NOSB governance, activities, and budget



USDA Responsibilities

- Establish uniform administrative guidelines and management controls
- Maintain systematic information on Committee operations
- Exercise control and supervision over committee management program
- Make sure advice of committees is not inappropriately influenced



NOP Responsibilities

- **NOP's Designated Federal Officer (DFO) must:**
 - Call, attend, and adjourn committee meetings
 - Develop and approve agendas
 - Maintain required records and budgets
 - Ensure efficient operations and adherence to FACA and other laws
 - Develop committee reports for the Committee Management Officer



NOP and NOSB Success Factors

- NOP's success is measured in part by its success in managing the NOSB:
 - Are Board and program resources being used effectively and efficiently?
 - Is the NOP asking for advice that it can then act upon? (It wastes time and resources for the Board to work on items that the NOP cannot implement.)
 - Are appropriate management structures and processes in place and functioning?



NOSB Costs Come From NOP Budget

- Salaries: Advisory Board Specialist
- Travel: Board members and staff
- \$190,000 for direct NOSB expenses

Additional Expenses:

- Meeting Contracts/Transcripts
- Technical Reports
- Webcasting (FY 2011 Pilot)
- Staff Subcommittee support



FACA Meeting Rules

- Open meetings with opportunity for public comment
- Meetings must be announced 15 days in advance in Federal Register
- Meeting minutes are required and are publicly available
- Meeting must be accessible



Board Member Ethics

- **Board members speak for “We” not “I.”**
 - Representatives are appointed to **represent the points of view of recognizable groups** (e.g., growers, handlers, consumers)
 - It is expected that members will represent a particular bias: **driven by group represented**, not by personal view.
- Members must disclose interests for any specific votes, and abstain from voting where conflict exists.



OFPA: Key NOSB Roles

- Provide recommendations to the Secretary regarding OFPA
- Develop the proposed National List or proposed amendments to the National List for submission to the Secretary
- Convene technical advisory panels to provide scientific evaluation of materials
- Review botanical pesticides
- Advise the Secretary on Product Residue Testing for Unavoidable Residual Environmental Contamination and Emergency Spray Programs



OFPA: Specifics on National List

- The National List established by the Secretary shall be based upon proposals developed by the NOSB.
- Proposals must be published in the Federal Register with public comment period. This Notice must include any changes to the proposed list or amendments recommended by the Secretary.
- The NOSB establishes procedures for how people can petition the Board for evaluating substances for inclusion on the National List.



NOSB Activities and Parameters

- NOSB's National List activities:
 - Defining petition process
 - Considering proposed substance petitions
 - Propose new National List items to USDA
 - Completing Sunset evaluation process
- OFPA establishes key parameters:
 - Quorum (majority of NOSB members)
 - Decisive vote criteria (2/3 of members present)
 - Criteria for evaluating substances



NOP Update

- What has NOP accomplished and what's next?
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Understanding the Process: From Work Plan to Rule – Part 1

NOP and NOSB
Agree on Work
Plan

NOSB
Subcommittees
Engage in Work
Plan Items

NOSB
Subcommittees
Develop
Proposals

**Most items on a Subcommittee Work Plan
take 3-9 months to develop**



Understanding the Process: From Work Plan to Rule – Part 2

NOSB Proposals
Posted for Public
Comment

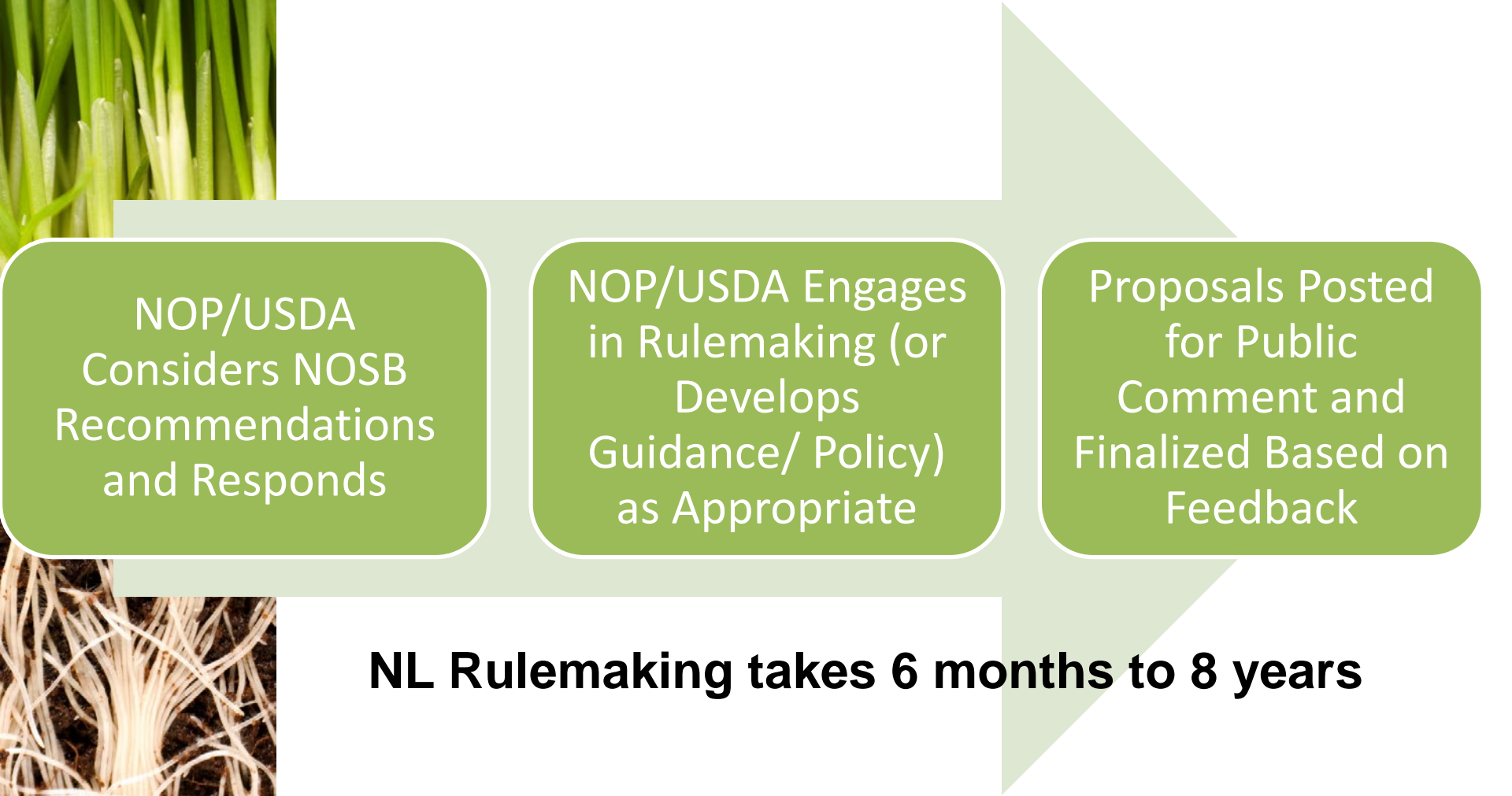
Public Meeting:
NOSB Considers
Public Comments,
Revises Proposals,
and Votes

NOSB Provides
Recommendations
to NOP/USDA

This process takes approximately 3 months



Understanding the Process: From Work Plan to Rule – Part 3



NOP/USDA
Considers NOSB
Recommendations
and Responds

NOP/USDA Engages
in Rulemaking (or
Develops
Guidance/ Policy)
as Appropriate

Proposals Posted
for Public
Comment and
Finalized Based on
Feedback



NL Rulemaking takes 6 months to 8 years



Types of NOSB Proposals

- National List Petitions
 - Add, remove, or change listing
- Sunset
 - Determine if listing should be renewed, removed, or amended
- Non-National List
 - Practice standards, clarification of USDA organic regulations, other areas involved in implementing OFPA



NOSB Process: National List Petitions

1. Review petition for completeness
2. Request technical report
3. Review technical report and petition
4. Subcommittee develops and vote on proposal
5. Post Subcommittee proposal for public comments
6. Written and oral public comments considered by the Subcommittee and the Board



NOSB Process: Decisive Votes

1. National List petitions –
 - Decisive vote is 2/3 majority.
2. Board votes to classify substance as synthetic or natural.
 - Requires 2/3 decisive vote to proceed
 - Failure of decisive vote on classification would stop process.
3. Board votes to list, not to list, change annotation, or remove listing
 - Requires 2/3 decisive vote to proceed
4. NOP considers recommended action and responds with intended next steps
 - NOP can accept, further restrict, or choose not to take recommended action
 - NOP cannot expand use of substance without NOSB decisive vote.



NOSB Process: Sunset Review

- NOSB reviews history, Subcommittee may request technical report
- Subcommittee develops proposal
- Post for public comments
- Vote to renew, change, or remove listing
 - NOP cannot renew listing without 2/3 majority; if 2/3 majority is not achieved, listing will be removed
 - If changing annotation, NOSB must also take back-up vote to renew existing listing
- NOP considers recommended action and responds with intended next steps
 - NOP can accept, further restrict, or choose not to take recommended action

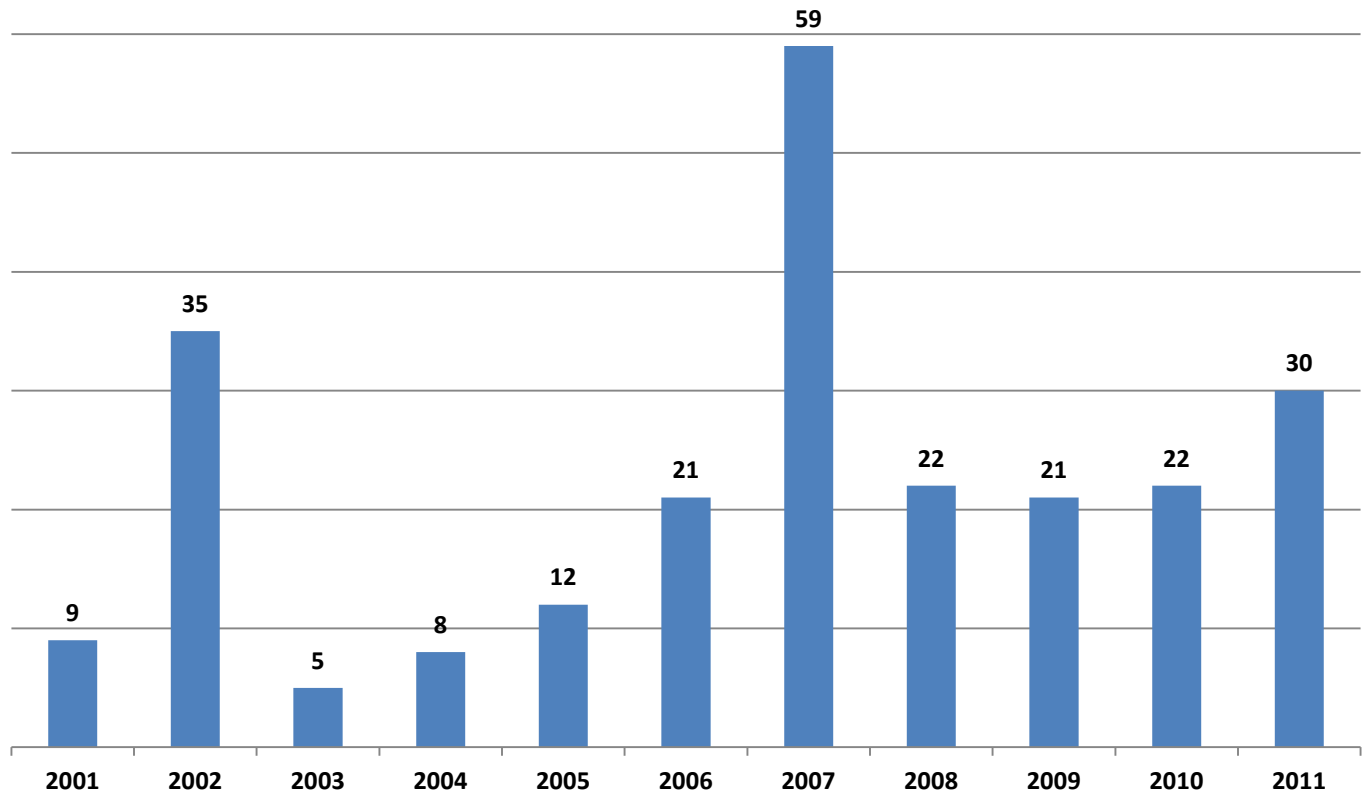


NOSB Process: Non-National List

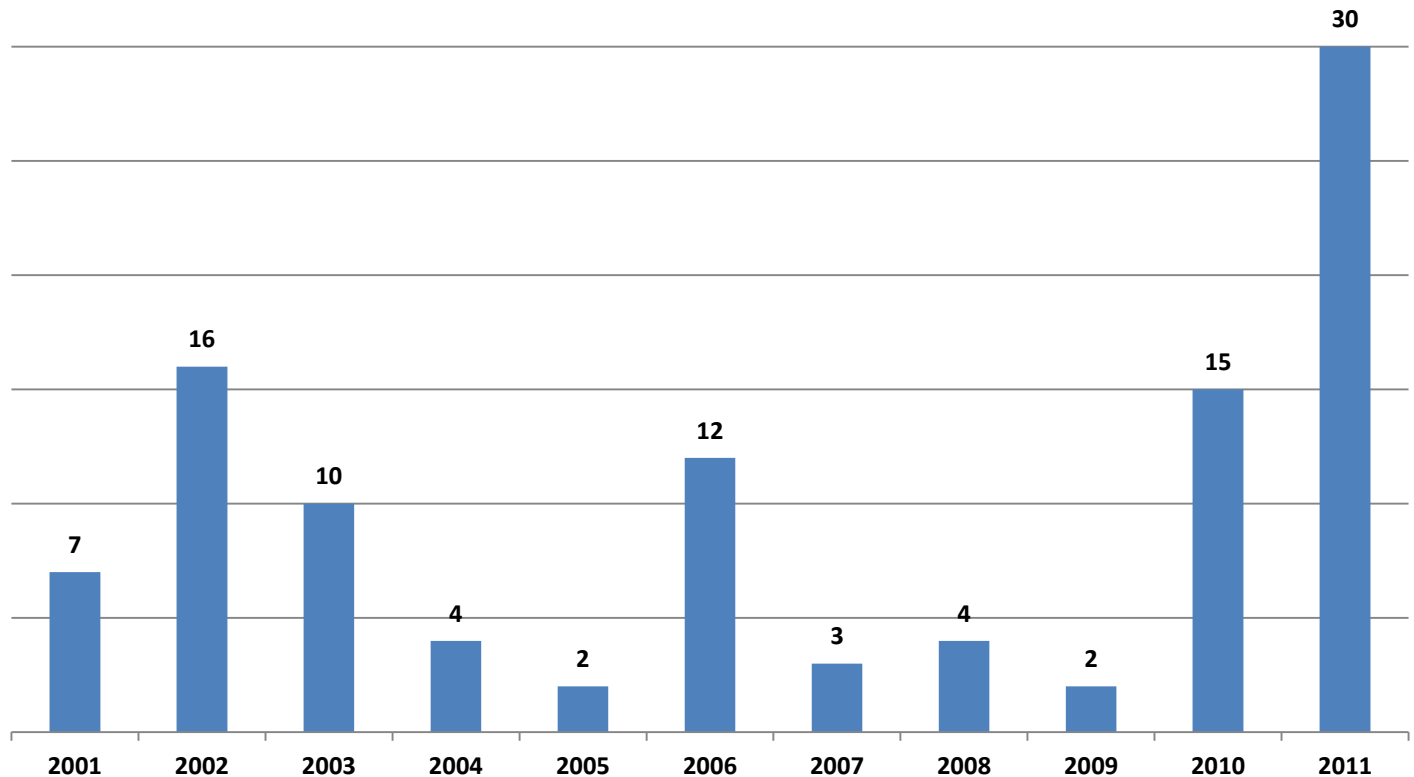
- NOSB and NOP agree on work plan
- NOSB Subcommittee develops proposal
- Subcommittee proposal posted for public comments
- Board votes to recommend action
 - Requires 2/3 majority vote for decisive vote
 - NOP will take recommendation under advisement, but is not restricted to recommended language/actions



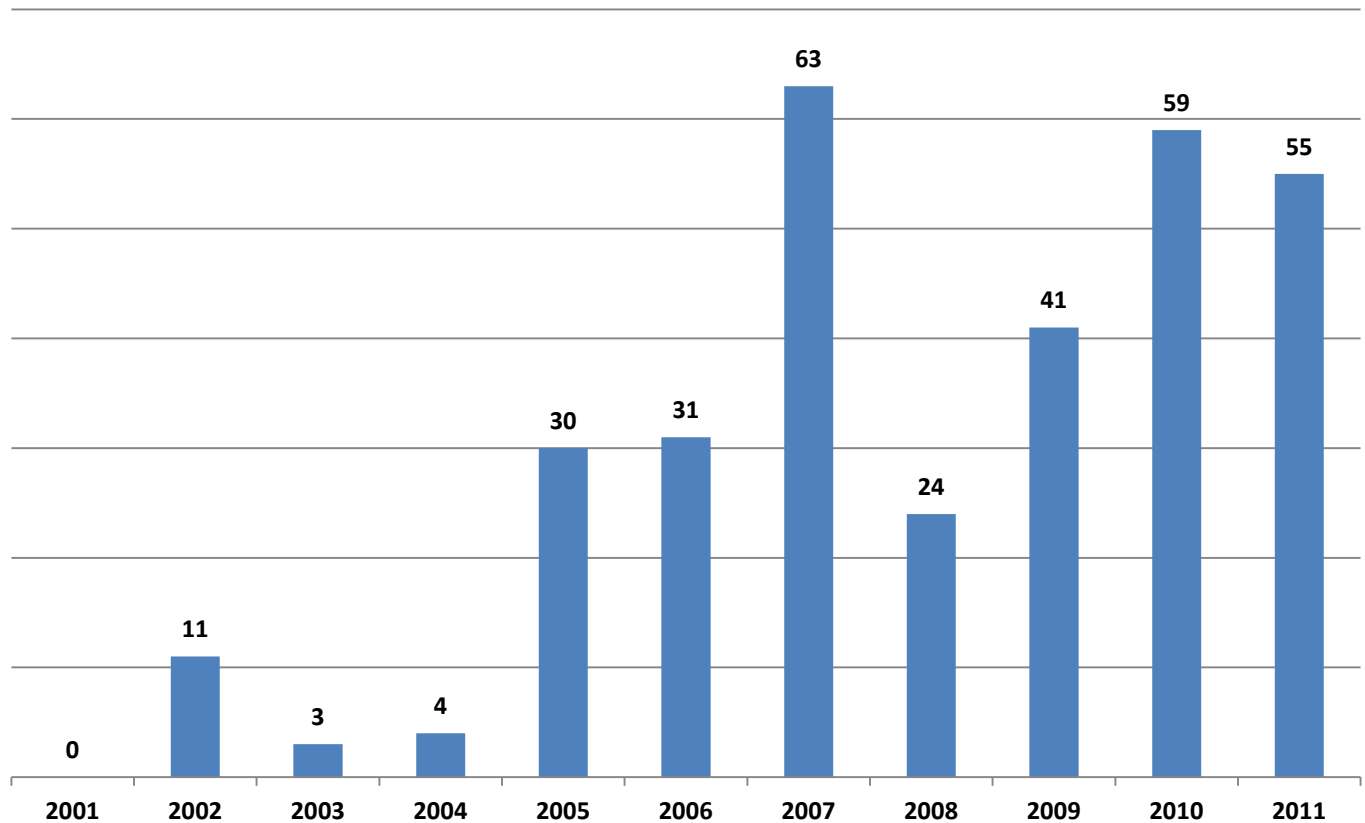
Number of Petitions



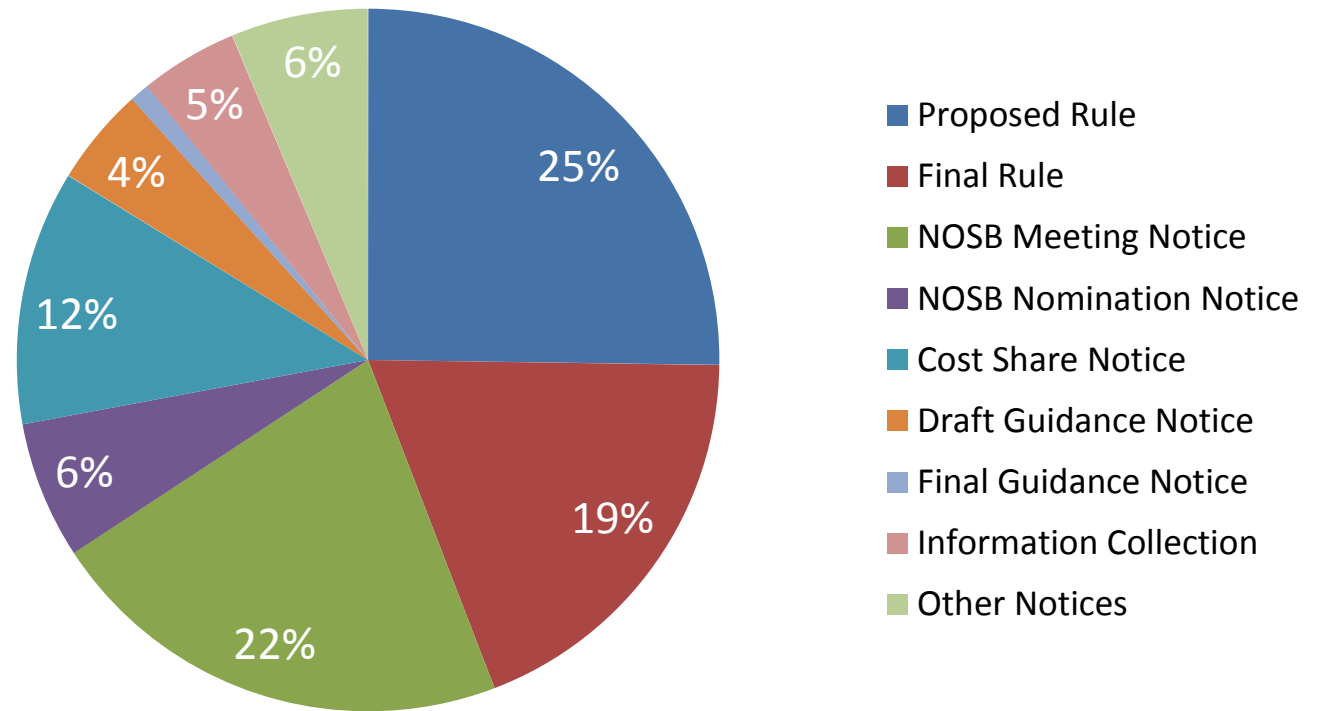
Number of Technical Reports



Number of NOSB Recommendations



Federal Register Activity (2001 to 2012)





From Recommendation to Final Rule

- Developing Proposed Rule (National List)
 - 6 months to 3 years (fenbendazole), 8 years (moxidectin)
- From Proposed to Final Rules (National List)
 - On average 10 months.
- Sunset Rules
 - Spanned about 3 years
- Non-National List
 - Pasture (9 years from first Board recommendation)
 - No other examples



Details are Important...

- But so is big picture
 - The Sunset process enables the NOSB to review all materials on a 5 year cycle.
 - Additional expiration dates for National List substances can present timing and resource issues with rulemaking.

Strategic Rulemaking

- Pet food – projected sales close to \$300 million by 2015
- No specific USDA organic practice standards for pet food
- National List annotation changes are important, but so are practice standards



A vertical photograph on the left side of the slide showing a bunch of green onions. The green stalks are at the top, followed by the white bulbous part, and the fibrous roots are at the bottom, extending into dark soil.

NOP Update

- What has NOP accomplished and what's next?
- What is the role of the NOSB?
- How can we best utilize our limited resources?
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Open Meetings: Ground Rules

- All Public and Board comments must be respectful. No personal attacks.
- No interruptions from the audience while the Board is speaking.
- No interruptions during public comment.
- No intimidation, profanity, or any language or activity that threatens openness.



Managing to Ground Rules

- This is a Federally sponsored meeting.
- Meetings are managed using Robert's Rules of Order.
- The NOP will intervene if ground rules are broken, and may ask anyone who disrupts the meeting to leave.
- **We are many voices joining to form one community – let's have a great meeting together!**



Public-Private Partnership

- Commend the NOSB for their public service
- USDA/NOP relies on the recommendations of the board
- Diversity of perspective, vigorous public debate strengthens outcomes



We are All In This Together

- Scope of organic
 - Livestock feed to frozen beef skillet
 - Apple seeds to hard apple cider
 - Small, local CSAs to large, multinational corporations
 - All meet the same standards
- Celebrate this diversity to help us all achieve something much larger.

Veterans Sustainable Agriculture Training



- Helps combat veterans transition to civilian life
- Teaches veterans how to grow organic hydroponic crops, seed to market



- Former homeless vet
- Created hot sauce business plan at VSAT
- Organic hot sauce now for sale in grocery stores.
- Reminder of why we are here

