

NOP Report

Sound and Sensible

NOSB meeting

Portland, Oregon

April 9, 2013

Miles V. McEvoy

Deputy Administrator

USDA National Organic Program





Why Organic?

- Environmentally sound farming systems
- Biodiversity

- Less toxic inputs
- Animal welfare
- Rural development
- Economic opportunity



Why is Certification Important?

- Allows use of USDA organic seal and organic claim
- Empowers consumers to choose between production methods
- Gateway to USDA services for organic operations
- Verifies that products meet national organic standards
- Protects consumers
- Establishes level playing field for farmers, processors, and marketers



10 Years of USDA Organic

- 85 accredited certifying agents
- 25,000 certified operations across 133 countries
- \$31 billion in U.S. organic sales
- Tens of thousands of inspections, reviews, and certification decisions





NOP Budget

- FY 2013
- 5.1% reduction from FY12
- 1 NOP staff person for \$1 billion sales
- No funding for National Organic Certification Cost Share
- Strained resources
- How do we support a sustainable program and staff
 - Retention, staff burnout, realistic expectations

**National Organic
Standards Board
Implementation of
Recommendations and other
matters**





Nanotechnology Background

- October 2010 NOSB Recommendation on Engineered Nanomaterials
- NOP understands that the NOSB considers nanomaterials to be synthetic and prohibited under the organic regulations.
- In December 2010, NOP responded to this recommendation that 1) it would be difficult to identify and verify the absence of nanomaterials in organic products; and 2) NOP needed more information about how nanomaterials are defined, regulated and used in agricultural products.



NOP Update on Nanotechnology

- The NOP has been involved in a number of efforts to respond to the NOSB recommendation:
 - In April 2011, NOP began participating in the White House Emerging Technologies Interagency Policy Coordination Committee (ETIPC), reviewing policies and providing comments to other agencies (e.g. FDA, EPA) on nanotechnology issues as they relate to the organic regulations.
 - In November 2012, NOP briefed representatives on the ETIPC on the NOSB recommendation on nanomaterials and requested information, including any definitions being used, that NOP could synthesize to inform NOSB of activities on nanomaterials and nanotechnology at federal level.
 - Currently, NOP is synthesizing this information and intends to provide an overview of this issue to the NOSB Materials Subcommittee later this year.



Conflict of Interest

- On March 29, 2013 NOP sent a “Conflict of Interest Guidelines Memo” to the NOSB.
- Addresses how to recognize and report conflicts of interest.
- Reaffirms that NOSB members are **representatives**, appointed to speak for the interests of a particular group.
- Memo provides guidelines and examples, Standards of Conduct, and procedures for assessing and declaring conflicts.



Standards of Conflict

- Don't accept improper gifts
- Don't use board appointments for private gain
- Use Government property and time properly.
- Don't engage in partisan political activities.



Acceptable Interests and Conflict of Interest

- **Acceptable interests:** Interests a Board member carries on behalf of a represented group, and member receives no disproportionate benefit.
- **Conflicts of interest:** When an interest directly and disproportionately benefits member, could impair objectivity in representing group interests; or could create an unfair competitive advantage.



Conflict of Interest Procedure

- NOSB members identify interests on proposals
- Interests that directly and disproportionately benefit an NOSB member lead to recusal from voting on that proposal at the meeting
- Recusals will be announced at the meeting at each subcommittee session
- No recusals for current proposals – NOSB members have interests but no disproportionate interests – they are representing their interest groups



Public Communication Proposal

- NOSB is voting on a proposal to establish a year-round public communication tool that the public may use to submit comments to the NOSB and NOP any time of the year.
- NOP supports this proposal as a tool for encouraging openness and transparency.
- If the proposal passes, NOP will identify an appropriate tool and develop an implementation plan to launch it.
- Planning and launch will be coordinated closely with NOSB.



AQUACULTURE: CURRENT STATUS

- Proposed rule is under development.
- Current work is on explanatory text.
 - How we are addressing recommendation.
 - The intent of the regulation.
 - How it will be implemented and enforced.
- Inter-agency clearance will take some time.



New Guidance & Policies

- NOP 5027 The Use of Kelp in Organic Livestock Feed
 - Kelp in livestock feed must be certified organic after March 4, 2014.
- NOP 5029 Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production
 - Describes “equivalent variety” and commercial availability requirements.
 - Outlines substances and types of treatments allowed; what needs to be verified.



New Guidance & Policies

- NOP 5030 Evaluating Allowed Ingredients and Sources of Vitamins and Minerals in Livestock Feed
 - Clarifies permitted ingredients in livestock feed.
 - Addresses how to review feed supplements and additives for compliance.
- Policy Memo 13-1 Cell Fusion Techniques used in Seed Production
 - Clarifies which techniques used in cell fusion are considered an excluded method.
 - Consistent with Canada, EU, Codex.



Draft Guidance for Comment

Classification of Materials:

NOP 5033 – Draft Guidance: Classification of Materials

NOP 5033-1 – Synthetic / Nonsynthetic Decision Tree

NOP 5033-2 – Agricultural / Nonagricultural Decision Tree

Materials for Organic Crop Production

NOP 5034 – Draft Guidance: Materials for Organic Crop Production

NOP 5034-1 – Materials for Organic Crop Production

NOP 5034-2 – Prohibited Materials for Organic Crop Production

- Comments due June 3, 2013 via www.regulations.gov
- Addresses 4 NOSB recommendations on classification and number of interim proposals related to materials.



Responding to Results from Pesticide Residue Testing

- In January 2012, NOP provided initial overview on this topic at annual certifier training
- Instruction to certifiers published on March 4, 2013
- Goals:
 - Ensure certifiers interpret and respond to pesticide residue testing results in a consistent manner
 - Facilitate compliance with the periodic residue testing rule that was effective on January 1, 2013

Biotech test methods

- In 2012, the Office of the Inspector General recommended that the NOP conduct a study of testing methods that may be used to detect the presence of genetically modified materials in organic livestock feed.
- Summarizes current guidance available to certifiers and producers regarding sampling and testing for GM material;
- Describes testing technologies currently used to test organic livestock feed products for the presence of GM material; and
- Discusses the sampling methods used to back up the testing technology.



Modernized Organic Database Report

The NOP currently posts a searchable list of certified organic operations once a year.

A more modernized system is needed to provide up-to-date information about certified organic operations across the supply chain, and to increase the NOP's ability to oversee a growing network of certifiers and operators.

This Needs Assessment and Business Requirements Analysis report describes the primary needs that would guide technology design and development efforts for a modernized certified organic operations database system.



NOP Other Ingredients Request

- NOP requested that NOSB clarify what “other ingredients” are allowed in non-agricultural substances listed under 205.605.
- NOSB needs to develop a comprehensive recommendation on “other ingredients” in 205.605 substances.
- In the meantime, the NOSB should include reference to “other ingredients” in the background of their recommendation. Any recommended restrictions should be part of the recommended annotation.
- Clarification from the NOSB regarding the allowance or restriction of “other ingredients” will provide consistency to the organic trade, consumers and certifiers as the NOP codifies these recommendations into regulations.



National List Petition Guidelines and Procedures

Finalized in 2007; published in the Federal Register;
petition process in NOSB PPM.

- Petition guidelines for annotation changes and removals should be revised to ensure sufficient information is provided.
- Petition process in PPM should be updated to reflect current workflow.
- Petition process should be revised such that Confidential Business Information is not accepted as part of the petition.
- Petition process should be updated to ensure timely Technical Report (TR) requests and approval of TRs.



Organic Literacy Initiative

- Launched September 2012
- Goal: connect organic producers and handlers with USDA programs
- Organic 101 & 201 training modules explain organic basics
- As of March 2013, over 10,000 USDA employees have completed the training

Preview
What's Next?





Focus Areas

National List rulemaking



Sunset 2013 proposed and final rule

- Sodium nitrate proposed rule
- New listings proposed rule

Practice Standards

- Origin of livestock
- Pet food
- Aquaculture
- Apiculture



Focus Areas (cont.)

- Guidance documents, including:
 - Grower groups
 - Inspector qualifications
 - Handling unpackaged organic products
 - Biodiversity
 - Materials for Organic Livestock Production
- Verify international trade partnerships
- Increase international market access
- Reduce the certification burden on diversified, direct marketing operations

Sound + Sensible

How to maintain organic integrity in a sound and sensible manner





“Sound and Sensible” Certification Initiative

Maintaining organic integrity in a
sound and sensible manner

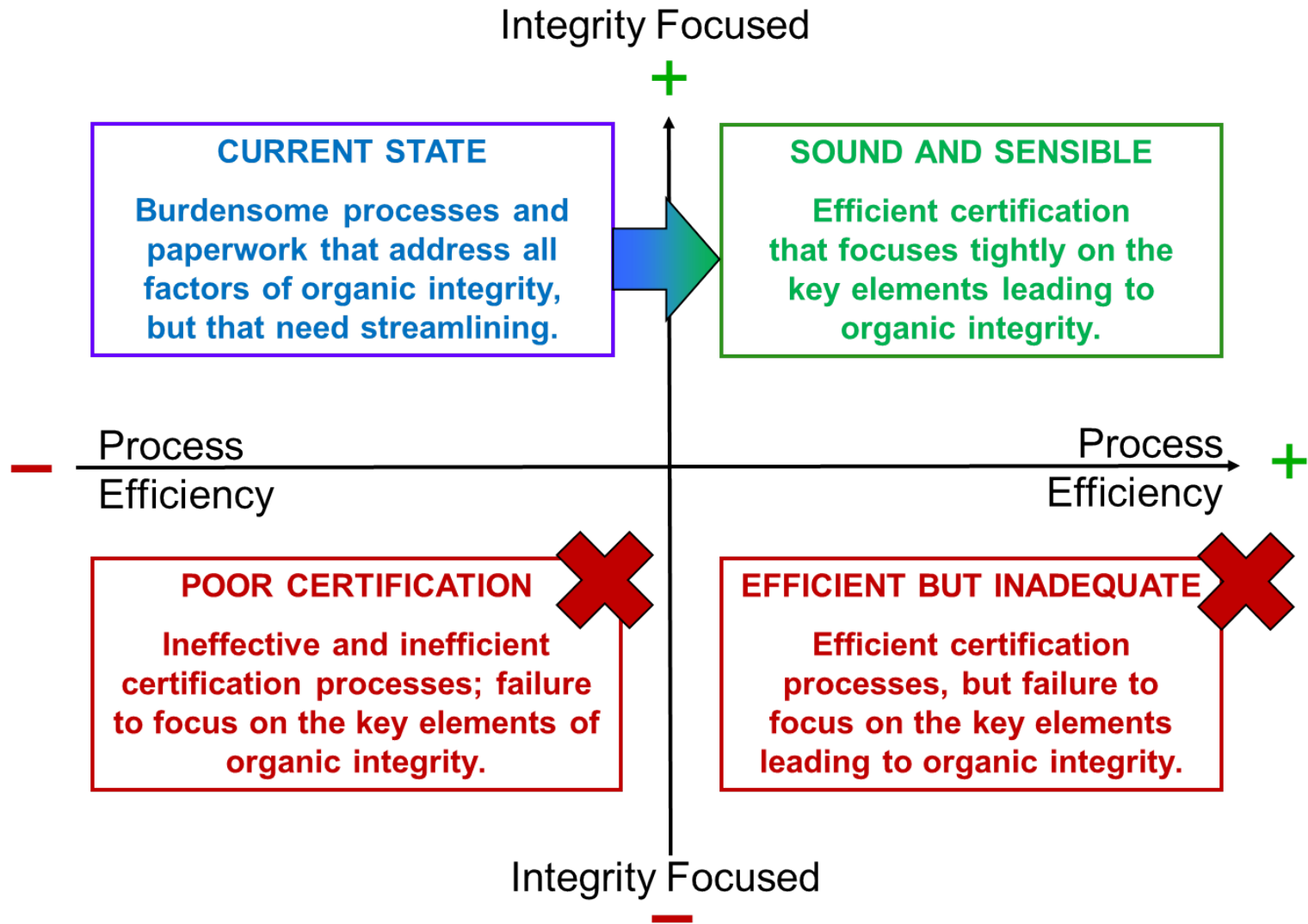
Current Landscape

- Ten years of NOP implementation
- Complex regulatory scheme
- Strict process-based oversight



Issues

- Inconsistent certification process
- Recordkeeping focus and burden
- Expense of certification
- Burden of time that is involved in inspections and maintaining paperwork
- Some farms that comply with organic standards avoid certification.





Goal: Make Organic Certification:

Affordable, Accessible and Attainable for all operations

- Affordable – reasonable fees, reasonable compliance costs
- Accessible – certifiers and technical assistance available locally
- Attainable – Clear and understandable standards, plain language, reasonable record keeping requirements



Current Initiatives

- **Organic Certification Business Process Survey**
 - Vela Environmental: conducting an assessment to identify key certification barriers for small businesses
 - Identify ways to reduce paperwork burden
- **NOSB Continuous Improvement Initiative**
 - How to certifying the process rather than the paperwork
 - ACA discussion/planning session
- **Ideas from Certifying Agents**



‘Sound + Sensible’ Principles

- 1. Efficient Processes:** Eliminate bureaucratic processes that do not contribute to organic integrity.
- 2. Streamlined Recordkeeping:** Ensure that required records support organic integrity and are not a barrier for farms and businesses to maintain organic compliance.
- 3. Practical Plans:** Support simple Organic System Plans that clearly capture organic practices.
- 4. Fair, Focused Enforcement:** Focus enforcement on willful, egregious violators; handle minor violations in a way that leads to compliance; and publicize how enforcement protects the organic market.
- 5. Integrity First:** Focus on factors that impact organic integrity the most, building consumer confidence that organic products meet defined standards from farm to market.



Penalty Matrix: Archived During Revisions

The NOP published the Penalty Matrix, NOP 2612, in September 2012.

The Penalty Matrix provides guidance on progressive corrective action.

In the spirit of ‘Sound and Sensible’ we are reworking this resource to focus on practices instead of paperwork.

It is currently online in archived form and will be updated when updates are complete.



NOP Auditor Recalibration Training

- Week long training in May for all NOP Auditors (GVD and NOP)
- Organic System Plans, Updates, and Notification
- Adequate Records
- Technical Assistance
- Five Steps to Certification
- Organic Certificates
- Grower Groups



New and Revised Instructions

- New Instructions
 - Technical Assistance
 - OSPs, updates and Notification
 - Performance Evaluation, Program Review
- Revisions
 - Penalty Matrix
 - Five Steps to Certification
 - Organic Certificates
 - Records



Technical Assistance

- 205.501(a)(8) requires certifiers to provide sufficient information to operations to enable them to comply
- 205.501(a)(11)(iv) prohibits inspectors/certifiers from consulting
- New Instruction clarifies that inspectors are encouraged to provide and collect information and prohibited from consulting.
- Provides examples




Technical Assistance Vs. Consulting

Technical Assistance

- Broad/general information
- Educational
- Available to everyone, including the general public

Consulting

- Specific advice directed at an individual operation
- Not publicly available



New Instruction on Organic System Plans, OSP updates and notification

Distinguishes between –

- Organic System Plan
- Organic System Plan Update – Annual requirement
- Notification – for drift, application of prohibited substance, changes that affect compliance



Key Messages

- Certifying agents must ensure organic integrity while setting sensible limits on paperwork
- Obtain enough information to verify compliance, but ...
- Minimize the amount of documentation required for certification



Sound and Sensible

- Certification should be **sound**:
 - Verify and enforce compliance
 - Take action on noncompliances
- Certification should be **sensible**:
 - Reasonable records that verify compliance
 - Educate clients on USDA organic requirements



Sound and Sensible

- NOSB recommendations should be **sound**:
 - Maintain and uphold organic principles - e.g. biodiversity, continuous improvement, biological pest management, soil building
- NOSB recommendations should be **sensible**:
 - Reasonable for producers and handlers to comply with
 - No undue burden on small businesses
 - Implementable and Enforceable

The Seven of Pentacles

Marge Piercy



Thank You

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

