



National Organic Program Report

National Organic Standards Board meeting

November 3, 2009

Miles McEvoy, Deputy Administrator



National Organic Program

Founding principles and values

- Collaborative
- Clear and consistent
- Transparent
- Strict and Sensible (courtesy of Leslie Zuck, PCO)
- Organic – biological, interconnected, true to organic principles (e.g. IFOAM's Principles of Care, Health, Ecology, Fairness)



Input and Collaboration

- USDA strategic priorities
- NOP staff
- ANSI and OIG audit
- National Organic Standards Board
- National Organic Coalition
- Accredited Certifiers Association
- Organic Trade Association
- NODPA – Northeast Organic Dairy Producers Alliance
- National Association of State Organic Programs, Cornucopia, Organic Consumers Association, and IFOAM



Priorities

- Publish the Access to Pasture final rule
- Develop strategic plan
- Peer review
- Website revision and improvements
- Hire qualified staff
- More training for staff and ACAs
- Implement the NOSB recommendations
- Quality Manual
- Program Manual
- Uphold and Enforce the standards



Work plan highlights

- Complete petition substances database by February 2010.
- Develop training module for Access to Pasture final rule by publication date.
- Ensure smooth implementation of US-Canada equivalency agreement.
- Complete rulemaking on NOSB material recommendations.
- Complete assessment of state organic programs by early 2010.
- Develop a penalty matrix and a procedure to utilize civil penalties for willful violations of the NOP by February 2010.



Decision Making Procedures

- Identify issue that needs clarification. Obtain information and draft policy.
- Draft policy is reviewed by AMS Administrator's Office, Office of General Counsel.
- Draft provided to NOSB and ACAs for review and feedback.
- Interim Policy is issued to all ACAs, State Organic Programs, Recognition Agreements and posted on NOP website.
- Interim Policy is put on next NOSB meeting agenda for public comment and NOSB recommendation.
- Final Policy is incorporated into NOP Program Manual.

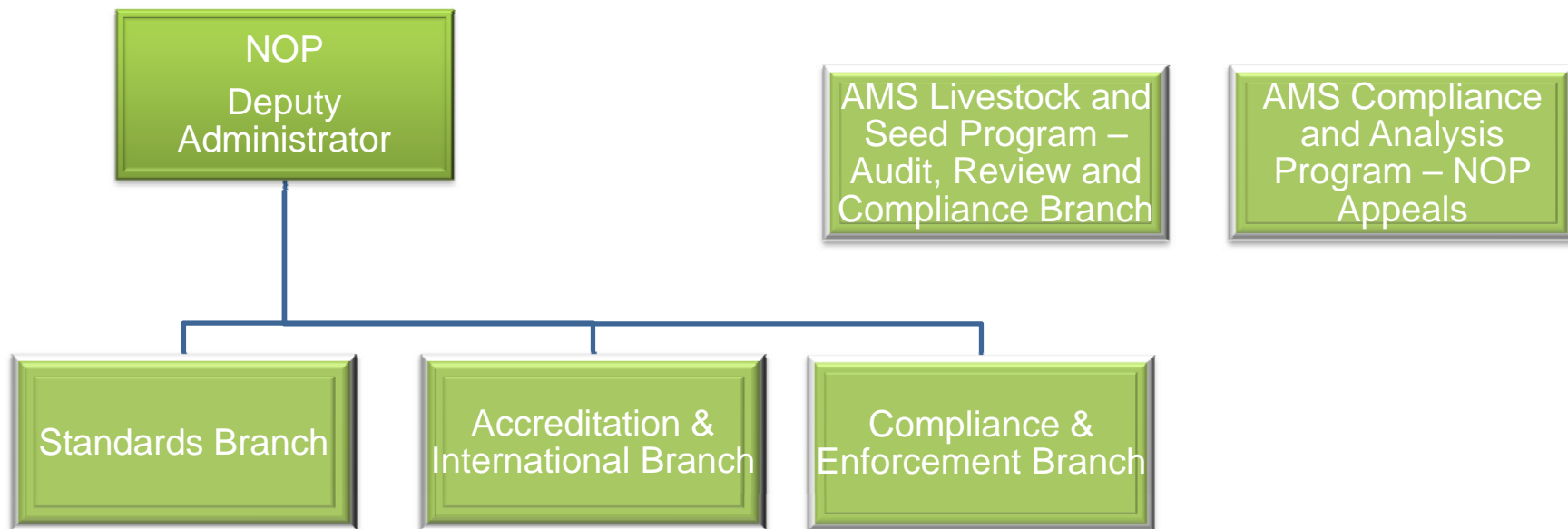


Age of enforcement

- Penalty matrix including civil penalties
- Clarification and enforcement on access to pasture and labels
- Market surveillance – collaborate with other AMS programs, ACAs and states
- Unannounced inspections – require ACAs to conduct percentage of unannounced inspections
- Utilize pesticide residue sampling as required by OFPA to identify problems and enhance organic integrity
- Develop a system of risk based inspections



Organizational Structure





Staffing plan

- Office of the Deputy Administrator – 7 FTEs
 - Budget, web site, quality management, personnel, strategic planning, NOSB
 - Deputy Administrator, NOSB support group (NOSB Executive Director, Advisory Board Specialist, Petition and National List Specialist)
 - Associate Deputy Administrator, Secretary, Quality Manager (new hires)
- Accreditation and International Branch – 6 FTEs
 - Accreditation, recognition and equivalency agreements, state organic programs, training
 - Branch Chief, Accreditation Manager, Accreditation Assistant
 - International Manager, Review Specialist, Training Manager (new hires)
- Compliance and Enforcement Branch – 7 FTEs
 - Investigates complaints, enforces standards
 - Branch Chief, 4 Compliance Officers
 - Federal Career Intern, Compliance Officer (new hires)



Staffing plan

- Standards Branch – 9 FTEs (6 new staff)
 - Rule writing, NOP Program Manual, guidance and interpretations
 - Branch Chief (vacant), Rule Writer, rule making dockets support
 - Organic cropping systems specialist, organic livestock systems specialist, organic handling systems specialist – experts in organic standards and materials in these respective disciplines – Write Organic Program Manual, and assist with rule making and training. (3 new hires)
 - Customer Service Specialist, 2 new rule writers
- NOP Appeals – 3 FTEs
- Other staffing/budget considerations –
 - Dedicated staff at the Office of General Counsel, Administrative Officer, Web page developer, Database developer, Budget Officer, Administrative Support – these activities will be provided by other AMS programs for a cost.



Other USDA resources

- AMS Administrator Rayne Pegg, Marketing and Regulatory Programs
Undersecretary Ed Avalos, Deputy Secretary Kathleen Merrigan, Secretary Tom Vilsack
- Office of General Counsel – legal review
- AMS Livestock and Seed Program – Audit, Review and Compliance – conducts NOP and ISO audits of accredited certifiers, fee for service
- NOP Appeals – in the AMS Compliance and Analysis Program –handle NOP appeals
- AMS Public Affairs and AMS Legislative Office
- AMS Science and Technology Program – provides Technical Reports for petitions to the National List

United States Department of Agriculture
Agricultural Marketing Service



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



Preliminary budget numbers for FY 2010 – very rough

Office/ Branch	Salaries and Benefits	NOSB meetings	Travel	Goods and Services	Total
ODA	\$520,000		\$50,000	\$200,000	\$770,000
NOSB	\$390,000	\$77,000	\$50,000	\$200,000	\$717,000
A&I	\$650,000		\$100,000	\$200,000	\$950,000
C&E	\$910,000		\$50,000	\$200,000	\$1,160,000
Standards	\$1,300,000		\$50,000	\$200,000	\$1,550,000
NOP Appeals	\$260,000				\$260,000
Admin overhead					\$650,000
Admin services	\$329,000				\$329,000
					\$6,715,000

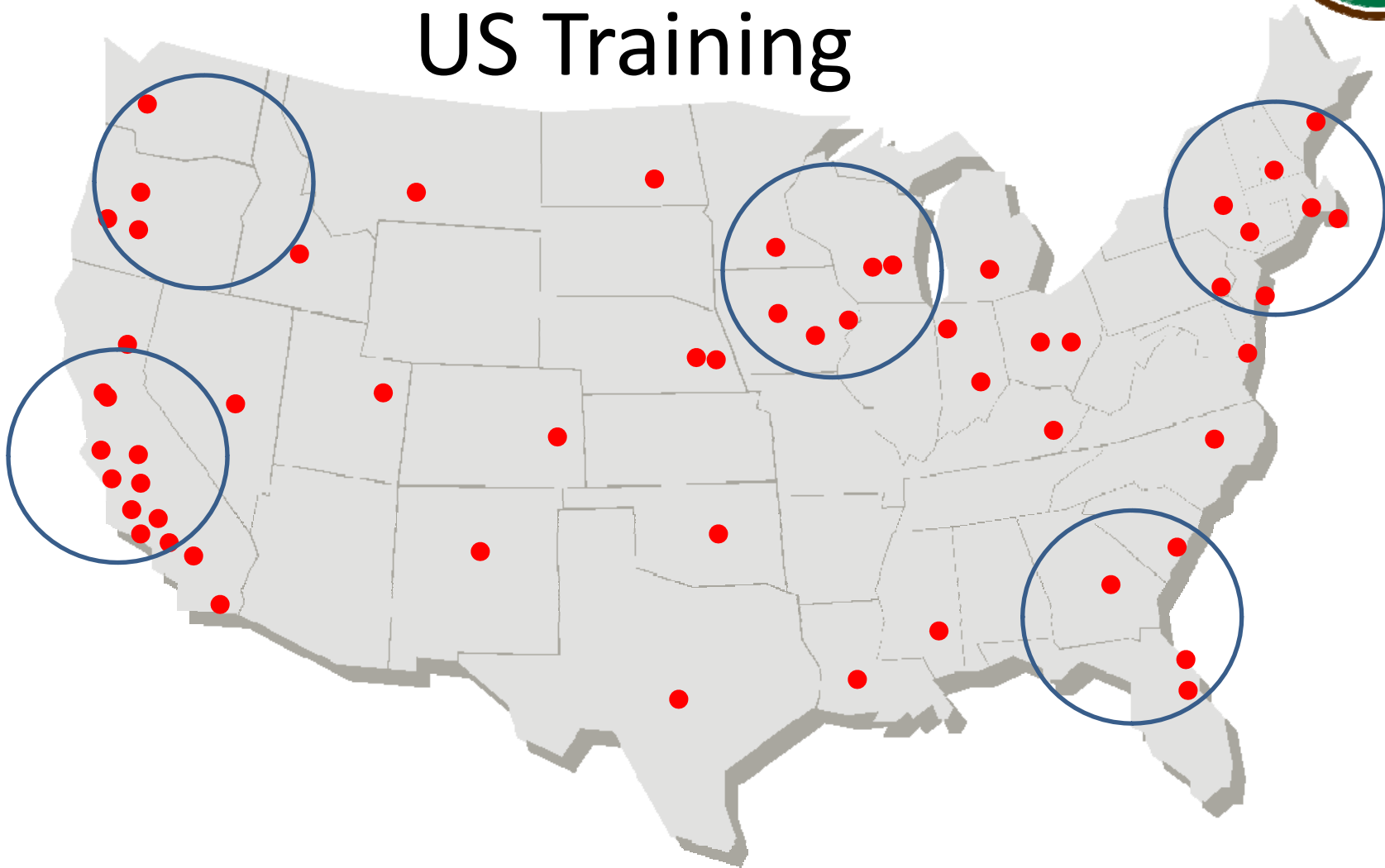


Training

- Online training progressing. Expect to hire full-time training officer by 2010. Four draft modules are on line including Labeling, Certification, Compliance, and Investigations.
- New expanded training initiative for 2010.
 - 3-5 U.S. training events
 - 3-4 foreign events
- Training will be available to organic producers, handlers and other interested parties as time permits.



US Training





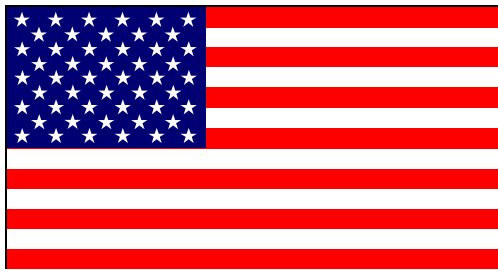


Recognition Agreements

- Canadian determination of equivalence makes 3 recognition agreements in Canada unnecessary.
- 6 agreements remain with –
 - Japan
 - New Zealand
 - United Kingdom
 - India
 - Denmark
 - Israel



Equivalence



- Meeting with Canadian Food Inspection Agency to work through details of equivalence agreement in early December.
- Many other countries have expressed interest in recognition or equivalency.

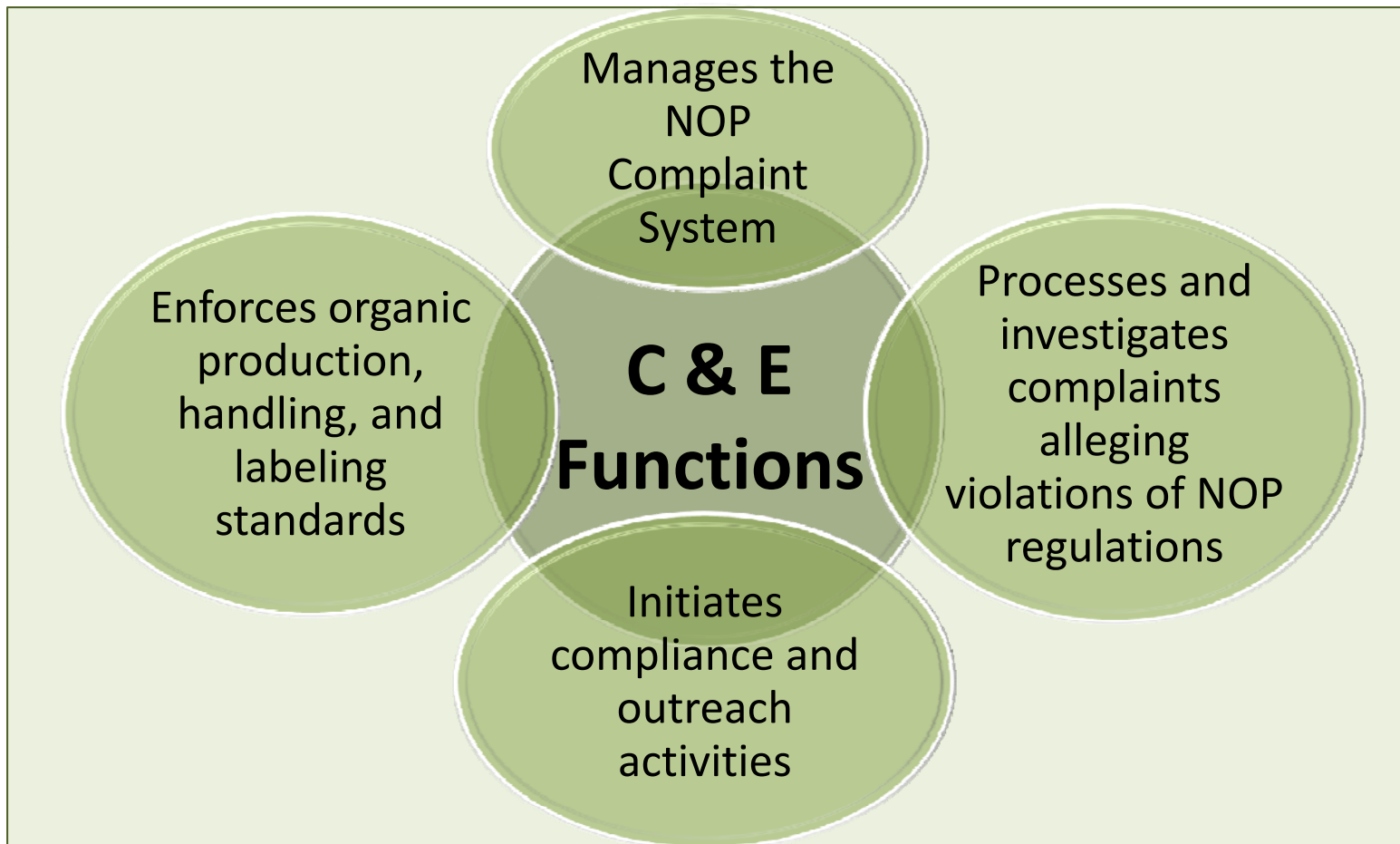


Accreditation

- Currently at 100 certifying agents
- Newest agents:
 - Oregon Department of Agriculture
 - OIA North America
 - BioHellas – Greece
 - AUS-QUAL -Australia
- The last onsite accreditation audit is Agrior in Israel, scheduled for early 2010.



Compliance & Enforcement Branch





What We have Accomplished

- Established standard operating procedures for the complaint handling process.
- Developed and maintain a complaint tracking and management system.
- Developed enforcement guidelines to ensure consistency in enforcement actions.
- Established Branch management systems to increase accountability.
- Developed investigation training module for certifying agents.
- Conducted compliance monitoring activities.
- Trained and continue to train staff.



What We have Accomplished

Between 10/1/2008 and 9/30/2009,

- We received 160 complaints
- We closed 95 complaints
- We also resolved about 30 old complaints (filed before 10/1/2009)
- Average time to resolve complaint – 75 days

We issued –

- 34 warning letters to non-certified operations
- 10 notices of noncompliances to Accredited Certifying Agents
- 3 Notices of Proposed Suspension or Revocation to ACAs



Our Impact on the Organic Community

Between 10/1/2008 and 5/31/2009,

- 23 cases resulted in product label changes
- About 185 types of product labels changed
- 12 cases resulted in production process changes
- 31 cases resulted in website changes
- 4 operations became certified



NOSB Recommendations

- Standards rulemaking
- Materials
 - Additions/deletions to the National List
 - Sunset
 - Tabled materials
- Policy/Guidance – no rulemaking required



Practice standards

1. Origin of Livestock – include cloning recommendation
2. Apiculture
3. Mushrooms
4. Standardization and Expiration of Certificates
5. Pet food
6. Aquaculture
7. Greenhouses – delayed due to further NOSB action in spring 2010



Materials

- Crops – Tetracycline, peracetic acid, **potassium silicate**, **sodium carbonate peroxyhydrate**, sulfurous acid
- Livestock – Injectable trace minerals, vitamins and electrolytes, methionine, fenbendazole, moxidectin
- Handling – bleached lecithin (removal), deoiled lecithin, myrrh essential oil, sodium chlorite, cheesewax, seaweed-kombu, **tragacanth gum**, **cooking wine (marsala)**, **cooking wine (sherry)**, **gellan gum**, dried orange pulp
- Sunset materials – 2011 and 2012



Recommendations not needing rule making

- Commercial availability of seeds
- Peer review
- Biodiversity
- Multiple sites – grower groups
- Organic research – 2 recommendations
- Compost, processed manure, compost tea, vermicompost
- Organic System Plans
- Livestock medications
- Chelates as feed additives
- Outdoor access for poultry
- Planting stock
- Transitional products
- Chlorine
- Waxed boxes
- Name of final certifying agent on package – private labels



Tabled materials – “Take from the Table”

- September 2008 Recommendation
- Evaluate list and work with NOSB to determine next steps (e.g. new Tech report)
- Materials include
 - Crops: methanol, amino acids, ash coal, creosote, ethephon, controlled atmosphere lime, potassium permanganate
 - Livestock: methanol, amino acids
 - Handling: amino acids, baking powder, attapulgite clay, magnesium carbonate, non-modified starch, waxes



Petitions and technical reports

- AMS Science and Technology (S&T) program is doing Technical Reports (TR) for National List petitions - \$6,000 each.
- 27 petitions are in process
- S&T has completed 4 technical reports and has 6 additional reports in process
- 7 technical reports have been received from S&T and are under review by NOP and NOSB
- 7 petitions do not need TR, 3 petitions have not been sent to S&T for a TR



Spring NOSB meeting

- Accessory nutrients – clarification of 1995 recommendation is needed
- Pesticide residues in compost
- Corn steep liquor
- Oversight of material evaluation programs
- Plan to have meeting in California



Soap

- NOP posted a draft notice with request for comments labeling of soap products.
- Comments from public were inconclusive.
 - Many supported labeling soap as organic.
 - Others stated soap was a synthetic and not eligible for organic certification.
- Conversations with FDA indicated conflicts between NOP labeling and FDA cosmetic regulations.
- Certifiers must ensure labels meet NOP regulations.





Pesticide residues in compost

- 3 municipal waste composts found with bifenthrin residues
- Residues exceeded the EPA tolerance for bifenthrin in many crops
- CDFA, under consultation with NOP, notified certifiers that these composts were not allowed in organic crop production
- NOP has drafted policy that would set a UREC (unavoidable residual environmental contamination) level of 5% of the lowest EPA tolerance level established for the pesticide detected.
- Plan to provide policy on this issue later this year.



Use of the term “Organic” on the principal display panel of products that are in “made with organic ingredients” labeling category

- Increasingly liberal use of the term “organic” on products in “made with” category.
- “Made with” category restricts use of the term “organic” to certain font size and format restrictions on principal display panel.
- Plan to clarify that use of term “organic” is restricted to use as specified in 205.304 and that use of the term “organic” in a brand name must meet requirements in 205.304.



Corn steep liquor

- Corn steep liquor is a product of the wet milling process. Other products of wet milling include corn gluten, corn meal, corn syrup and corn starch.
- OMRI, WSDA and others accepted corn steep liquor as a nonsynthetic for many years.
- The addition of sulfur dioxide is part of the wet milling process. There is a debate about whether the addition of sulfur dioxide causes chemical changes to the corn and makes it a synthetic.
- As of November 2, 2009 WSDA is no longer allowing products with corn steep liquor. OMRI is in the process of removing all of their products from the OMRI list. In the meantime you have some products allowed and some prohibited.



Corn steep liquor

- NOP should allow corn steep liquor until the NOSB makes a determination on whether it is a synthetic at the spring NOSB meeting.
 - Product has been allowed by the NOP, certifiers, and OMRI for many years
 - Other input products that are considered nonsynthetic use synthetics during the manufacturing process (e.g. fish fertilizer with ethoxyquin, synthetics used during manufacturing that are removed from the final product)
 - There is significant debate on whether corn steep liquor is natural or synthetic.
 - Need for a transparent and fair process to remove products from the approved list.
- If the NOSB determines that corn steep liquor is synthetic than future uses of the ingredient will be prohibited unless it is added to the National List.
- If the NOSB determines that corn steep liquor is nonsynthetic than the product can continue to be used as a crop fertility input.



Problems with Materials

- Inconsistency in approved materials – some certifiers allow, some prohibit certain inputs; some products prohibited by NOP/CDFA listed by OMRI or WSDA due to each organization's procedures.
- Impact on businesses that have product that was previously approved suddenly prohibited.
- Impact on certified organic farms that have purchased product that is now prohibited.
- Impact on certified organic farms that use products that were approved and are now prohibited.
- NOP lack of authority over material manufacturers.



"An organic farm, properly speaking, is not one that uses certain methods and substances and avoids others; it is a farm whose structure is formed in imitation of the structure of a natural system that has the integrity, the independence and the benign dependence of an organism."

--Wendell Berry,
Farmer and Author,
Henry County, Kentucky, 1982