



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 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.

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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.

Senate Agriculture Committee Hearing

The Senate Committee on Agriculture, Nutrition and Forestry held a hearing on Sept. 15 on “The National Organic Law at 20: Sowing Seeds for a Brighter Future,” in recognition of 20 years since the passing of the Organic Foods Production Act. USDA Deputy Secretary Kathleen Merrigan testified at the hearing and recalled Senator Leahy’s remarks in 1989 when he first introduced the organic legislation:

Organic certification standards should be national in scope, tough, and fully enforced. We need a program that distinguishes phony organic food – items with a natural image but uncertain production methods – from the real thing, born out of ingenious, non-chemical farming. We need a program that promotes this industry because the benefits of purchasing organically produced food extend beyond the dinner table to the support of farmers who protect the soil and water (Congressional Record, Vol. 135, No. 161, S 15873).



Deputy Secretary of Agriculture Kathleen Merrigan

Deputy Secretary Merrigan’s testimony included the following points:

- “OFPA was an initiative of the early organic production sector, prompted by initial economic success and growing consumer demand. The producers themselves were seeking two main things: an enforceable national standard and a place at the table for USDA’s research and marketing programs. The original proposed bill included both of these goals, but the final legislation only included the former. Integration of organic into USDA’s research and marketing support systems came about later.”
- “The final piece of context I want to mention is the essentially market-based nature of federal policy for organic agriculture. The various rationales (economic improvement, environmental benefits, consumer-protection) have all been codified in a way that seeks to allow expression of these values through consumer choice. The federal role is primarily that of assuring consensus on a meaningful standard, enforcing a level playing-field, providing a fair share of governmental resources, and then letting the marketplace drive the scope of change and growth. That is the essence of OFPA and other related USDA activities in support of organic farmers and consumers.”
- “USDA is committed to the integrity of the organic label and recognizes organic farmers as leaders in environmental stewardship. Organic farmers deserve a high-quality regulatory program that takes action against farmers and operators who violate the law, thereby jeopardizing consumer confidence. USDA has developed a comprehensive plan for evaluating and improving the NOP for producers and consumers alike.”
- “As this Administration has stated repeatedly since taking office, this is the era of enforcement for OFPA. The Secretary and I have little sympathy for the argument that someone didn’t know the rules. Civil penalties may be severe, response times to complaints are being improved, and interpretations of organic standards are being narrowed and applied consistently. The NOP has revised its complaint procedures and implemented new civil penalty procedures. Already this year the NOP has issued 6 civil penalties, more than all of the civil penalties issued during the first seven years of the program.”

Interim Rule Published for Methionine

An interim rule that extends the allowance for synthetic methionine on the National List until Oct. 1, 2012, is currently open for comments at the Federal Register.

Comments must be submitted by Oct. 25, 2010. The interim rule and public comments may be viewed at <http://www.regulations.gov>, filed as document AMS-NOP-10-0051.

On Aug. 24, the NOP published the interim rule to modify the existing annotation for synthetic methionine by limiting the amount added per ton of organic feed to no more than 4 pounds for layers, 5 pounds for broilers, and 6 pounds for turkeys and all other poultry, effective Oct. 1, 2010.

The National Organic Standards Board included these limits as part of its April 29, 2010, recommendation on the allowance of synthetic methionine in organic production. While accepting that synthetic sources remain necessary, the NOSB endorsed capping and then reducing the amount of synthetic methionine allowed over time. The NOSB suggests that such a reduction would prompt producers to increase the natural methionine content in organic poultry rations by incorporating organic agricultural products with higher levels of the nutrient or allowed nonagricultural products from natural sources.

The USDA is still reviewing the NOSB recommendation specifically concerning the reduction of allowable levels for synthetic methionine from the period between Oct. 1, 2012, and Oct. 15, 2015.

Methionine is an essential amino acid for poultry, meaning that the birds are not able to survive and grow without provision of sufficient quantities of the nutrient in their diet. The ingredients allowed in organic poultry rations contain a limited quantity of natural methionine relative to the birds' total requirement. The allowance of methionine on the National List permits the augmentation of organic feed with synthetic sources of this amino acid.

The NOSB first recommended to allow synthetic methionine in 2001 and has recommended its continued allowance through additional votes in 2005, 2008, and 2010.



New Members Appointed to National Organic Standards Board

Mr. Colehour J. Bondera, an organic producer from Honaunau, Hawaii. He farms at Kanalani Ohana Farm and produces organic coffee, vegetables, avocados, fruit and cacao. He is a board member of the Kona Coffee Farmers Association and has spoken at many workshops on organic agriculture.

Mr. Nicholas C. Maravell, an organic producer from Potomac, Md. He is owner of Nick's Organic Farm, which has been operating since 1979. He participates in on-farm research and actively engages in policy discussions concerning organic legislation.

Mr. Robert Mac Stone, a certifying agent representative from Georgetown, Ky. He is the Executive Director for the Kentucky Department of Agriculture and oversees the Kentucky Organic Program. He is also co-manager of the Elmwood Stock Farm, a certified organic farm in Georgetown, Ky.

Dr. Jennifer E. Taylor, a public interest representative from Tallahassee, Fla. She is the Small Farms Program Coordinator at Florida A&M University. The program is designed to assist and equip underserved farming communities and their families toward sustainable development.

Dr. Reuben C. Walker, a public interest representative from Lafayette, La. He is a researcher of small scale organic operations and professor and program leader at Southern University and A&M College in Baton Rouge, La. He is currently involved in transitioning the university's pork farm to an organic production system.

The appointees will serve terms beginning Jan. 24, 2011, and ending Jan. 24, 2016.

New Procedures for Responding to Investigative Findings



The Compliance and Enforcement Division of the NOP has revised its internal procedures to help ensure that effective administrative actions are taken against certified operations violating the NOP regulations. By working collaboratively with certifying agents the NOP plans to improve the handling of enforcement actions, ensure consistency in the compliance process, and enhance the integrity of the certification system.

In the past, the NOP has tasked certifying agents with investigating complaints and handling related enforcement actions. While NOP continues to refer most complaints against certified operations to the certifying agent for investigation, in cases of alleged fraud or where food safety or animal welfare may be involved, the NOP has issued revised procedures that would allow it to expand the investigation to include state, FDA, EPA, and NOP investigators (complaints that indicate significant economic fraud are referred to the Office of the Inspector General for investigation). In addition, the NOP can conduct joint investigations with certifying agents to rely on their technical expertise as well as to provide guidance and training to certifying agents concerning investigative methods.

Once the investigation is complete, the NOP reviews findings to determine appropriate actions. In the majority of cases, such as label violations, the NOP will ask the certifier to issue the compliance notice (e.g. noncompliance, denial, proposed suspension/revocation) and ensure that the problem is corrected or that the operation is suspended or revoked. However, in more significant cases that involve multiple operations or fraud, the NOP may directly issue adverse actions to include civil penalties for willful violations, an action not available to certifying agents.

The NOP is taking this step to ensure consistency and to utilize civil penalties for egregious violations of the organic standards.

Update on Corrective Actions in Response to Inspector General Audit

In March 2010, USDA's Office of the Inspector General announced the findings of their audit of the NOP. Their 14 recommendations provided valuable information and highlighted the necessity for reforms, which USDA is in the process of implementing.



So far the NOP has completed 11 corrective actions of the 14 recommended. Corrective actions on the remaining three recommendations are underway and will be completed by the end of the year. All of these activities will enhance compliance with program regulations and the integrity of the organic label.

Most recently implemented corrective actions include:

- Developing a procedure for annually analyzing onsite audits of certifying agents to identify problems and make recommendations for improvement. The first annual analysis was completed in August: it evaluated accreditation audits completed between Oct. 1, 2009, and Aug. 20, 2010, for certifying agent noncompliances, and it analyzed the findings to formulate recommendations to improve the accreditation program. Currently, USDA upper management is reviewing the evaluation for program improvement.
- Issuing a document control policy (NOP 1010) in May 2010 and NOP document distribution policy (NOP 1007) in August 2010. Subsequently, the NOP Quality Manual, completed in August, was provided to the National Institute of Standards and Technology (NIST) so they could initiate their assessment of the NOP accreditation program. The Program Handbook, which was published on Sept. 1, includes a complete list of the program's guidance and instructions. Further improvements to the NOP Program Handbook are forthcoming with additional guidance, instructions and the inclusion of NOP Policy Memorandums. Continue to look for press releases and check on the NOP website.

Compliance Resources

On Sept. 8, the NOP announced to accredited certifying agents the collaboration between NOP and the National Center for Appropriate Technology (NCAT) to revise and disseminate compliance materials that would serve as voluntary guides for certifiers and their operations.

As stated in the announcement, the goal will be to produce resources that are practical and applicable towards certification and compliance activities.

In addition to a new publication titled *Understanding the NOP Access to Pasture Rule*, which would assist operations in implementing the new requirements for organic ruminant production, the collaborative effort will result in the development of:

Organic System Plan Templates—for crop production, ruminant production, non-ruminant production

Documentation Forms—for ruminant livestock, non-ruminant livestock

Organic Certification Workbooks—for livestock production, crop production

Inspection Report Forms—for crop production, ruminant livestock, non-ruminant livestock

Compliance Checklists—for crop production, livestock production

Work is progressing to complete all contracted publications by the end of 2010/early 2011.

Certifying agents are welcome to participate in this effort to create the greatest benefit for all stakeholders.

Resources created from a previous collaboration between NOP and NCAT are currently available at <http://www.attra.ncat.org/organic.html> free of charge.



NOP Compliance and Enforcement Update

In August and September, the NOP closed **26** cases of alleged noncompliance with the national organic standards.

Further, it issued **five** civil penalties through settlement agreements, amounting to a total of **\$48,000**:

- HOMS LLC (\$5,000)
- Piney River Organics (\$8,000)
- Specialty Farms (\$11,000)
- Organo Gold (\$4,000)
- Sunland (\$20,000)

NOP Staff update

- The NOP website now includes a contact list for all staff, available at www.ams.usda.gov/nop under "General Information: Contact Information."
- The Accreditation and International Activities Division has expanded from 3 staff members in 2009 to 7 current members. The new staff includes three former organic inspectors.
- The Compliance and Enforcement Division has grown from 5 to 7 staff members. In addition, full-time NOP compliance investigator Jeff Sotosky serves from the agency's Compliance and Analysis Program.
- The Standards Division has expanded from 3 to 7 staff members.
- The NOP is developing additional positions for 2011. Please check the NOP website for current or future openings.

NOP Appeals

In August and September, the NOP Appeals office received 2,031 adverse action/non-compliance notifications*:

- 927 Notices of Noncompliance
- 237 Notices of Proposed Suspension
- 51 Notices of Suspension
- 8 Notices of Proposed Revocation
- 5 Notices of Revocation
- 29 Denials of Certification
- 742 Notices of Resolution
- 32 Surrenders of Certification



*These letters are submitted to the Administrator as part of the accreditation requirements for accredited certifying agents under §205.501(a)(15)(i). Procedural requirements for adverse action letters issued to operations are outlined in §205.405 and §205.662. These numbers are based on the letters received by the AMS Administrator from accredited certifying agents during August and September 2010. These numbers may include letters issued prior to these months, may not include all letters issued during these months, and may not include letters submitted to a State Organic Program.

Administrator Denies Appeal of Mexican Grower; Issues Three-Year Suspension

On May 21, 2010, AMS Administrator Rayne Pegg denied the appeal of a Mexican organic producer for using seeds and planting stock treated with prohibited substances to produce organic crops for sale in the United States.

Isidro Camarillo Zavala and Horticola Camarillos S.A. de C.V. were suspended by the Organic Crop Improvement Association for using cucumber seeds and planting stock treated with substances prohibited under the NOP regulations.

Horticola may apply for reinstatement 3 years from the date of the Administrator's action.

The use of treated seeds in Mexico remains an issue. Mexican law requires all seeds entering Mexico to be treated to prevent disease; NOP regulations do not allow seeds treated with prohibited substances to be used in organic production unless required by U.S. phytosanitary laws.

Efforts continue to resolve the problem, including research into seed treatments that are acceptable to the Mexican government but do not violate the NOP regulations for organic production.



Organic Cost Share Program Update

The NOP is currently meeting with state organic programs and organic certifiers to clarify the requirements of the organic cost share programs and simplify applicants' access to information online.

While meeting with the National Association of State Organic Programs later this month and with the Accredited Certifiers Association, Program Manager Betsy Rakola will discuss items eligible for reimbursement, respond to unique scenarios, and address technical questions concerning the organic cost share programs. By doing so and collecting feedback, the NOP hopes to mitigate any complexities in the application process for producers, handlers, and their certifiers.

As the new funding year is underway, visit www.ams.usda.gov/NOPCostSharing in the future for improved access to application instructions; state contact information; and electronic reports of funds requested and distributed.

Periodic Pesticide Residue Testing

Later this year the NOP plans to initiate rule making to require certifying agents to conduct periodic residue testing.

As reiterated in the Inspector General audit report of the NOP, periodic residue testing of organic operations by certifying agents is required by the Organic Food Production Act but has not been implemented.

Earlier this year, the NOP hoped to require certifying agents to implement periodic residue testing by 2010. Guidance from the USDA's Office of General Counsel directed the NOP to establish this requirement through rulemaking.



In addition, the NOP explored the option of the AMS laboratory in Gastonia, N.C., analyzing all pesticide residue tests at the program's expense. However, guidance from the USDA's Office of Budget and Program Analysis has determined that the NOP is not authorized to pay for expenses associated with periodic residue testing.

Residue testing is an important tool to monitor compliance with the NOP regulations, and the NOP hopes to publish a proposed rule early 2011.

USDA Request for Organic Trade Code to be Considered

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

In early August, USDA updated its request to the International Trade Commission (ITC) to create tracking codes for international trade of organic commodities. (The ITC controls the statistical system which tracks the flow of products across international borders.)

Separate codes for organic products have never existed, so the quantity of international trade in organics has been a matter of sheer guesswork.

USDA personnel from the Economic Research Service, the Foreign Agriculture Service, and the NOP collaborated with members of the organic industry to compile the proposal and justification data. The request identifies 24 product categories that have sufficient known volume of trade to meet the ITC's minimum requirements for assigning new codes.

USDA's request to the ITC will be considered in October. If the proposal is accepted, tracking of those products would begin early 2011.

Much Anticipated Inaugural Edition of Program Handbook Published

Sept. 2 marked the inaugural edition of the NOP Program Handbook, designed for those who own, manage, or certify organic operations by providing guidance about the national organic standards and instructions that outline best program practices.

Intended to serve as a resource for the organic industry that would help participants comply with federal regulations, it marks the first of subsequent editions to come, each to include additional guidance that first will have been made public and available for comment in the Federal Register. The NOP will announce the publication of draft guidance documents at the time of availability.

Guidance documents issued in the first edition of the handbook address allowance of green waste in organic production systems, approval of liquid fertilizers in organic production, certification of organic yeast, processed animal manures in organic crop production, reassessed inert ingredients, and the calculation of dry matter intake for NOP's access to pasture requirements.

The handbook is accessible at <http://www.ams.usda.gov/NOPProgramHandbook>.

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NOP's Assessment in China

China is also a major supplier of organic products to Europe, Japan, Korea, and Australia. The majority of certified organic products and operations comply with multiple standards (e.g. EU, JAS, NOP, etc.) which allows for marketing flexibility. China also has a small but growing domestic demand for organic products.

Ruihong and Lars visited the offices of the NOP certifiers and conducted a review of their oversight functions and compliance to the requirements according to their accreditation agreements. Additionally, they participated in witness audits in the provinces of Fujian, Hunan, and Shandong. Operations there either produce or handle (by way of exporting or processing) the following products: Spirulina (algae), tea, IQF vegetables, peanuts, soybeans, strawberries, and other fruits and vegetables.

Several of these products were sampled and will subsequently be tested for pesticide residues at USDA's Laboratory in Gastonia, N.C. (The sampling effort by NOP is part of a pilot program underway now to determine the feasibility of sampling organic products produced domestically and abroad.)

During the assessment in China, NOP auditors also collected information about the regulatory and research system of China's growing organic industry. While in Beijing, they met with Chinese government representatives from the China National Accreditation Association, which is charged with developing, promulgating, and implementing state laws and regulations concerning certification and accreditation, including organic accreditation. USDA's Foreign Agriculture Service in China arranged and facilitated the meeting. NOP representatives also visited with USDA's Animal and Plant Health Inspection Service staff and a representative from the China Agricultural University to discuss organic production research.

"The information from our China assessment will be invaluable in providing the program with insight about its certifying agents overseas," said Miles McEvoy, NOP deputy administrator. "Eventually this information will help the NOP to strengthen and shape its accreditation, enforcement, and educational activities for organic stakeholders."

Access to Pasture Client Evaluation

Operations certified as organic as of Feb. 17, 2010, are expected to be fully compliant with the access to pasture rule by June 17, 2011. During the implementation phase, organic certifiers should assess their clients' ability to comply with the rule and provide operations with feedback *now* about any concerns that are likely to be a compliance issue after June 17, 2011.

No corrective actions should be issued until full implementation of the rule on June 17, 2011, at which point certifying agents can begin to take corrective actions as necessary.

Information on calculating dry matter intake (DMI) and associated worksheets and tables are now available in the NOP Program Handbook and at <http://www.ams.usda.gov/nop>. Presently, the NOP has dry matter demand tables assist producers with DMI calculations—available for beef, dairy cows, and, soon to come, dairy goats. The National Research Council also has additional resources for nutrient requirements for small ruminants (see, for example, http://www.nap.edu/catalog.php?record_id=11654).

The NOP is working with the National Center for Appropriate Technology to develop new templates for organic system plans and other resources for producers and certifiers that will incorporate the new pasture requirements. It is anticipated that these materials will be available early 2011.



This is a bi-monthly publication of the National Organic Program. All NOP updates are available online at www.ams.usda.gov/nop under "General Information: Who We Are."