

Enforcement & Integrity of the National Organic Program: Q&A's for Consumers

- Q.** How does the National Organic Program ensure the integrity of products labeled as organic for consumers? What steps does the NOP take to assure consumers that organic products are truly organic?
- A.** USDA's National Organic Program (NOP) is responsible for overseeing the organic program and ensuring all requirements are met. NOP directly oversees all USDA certifying agents—both domestic and foreign—and these certifying agents work directly with all producers and processors who become certified as organic operations under the NOP regulations:
- NOP and Compliance staff regularly conduct retail surveillance – pulling product from retail stores, not unlike shopping by consumers – and bring these products to NOP offices to verify compliance with labeling requirements.
 - NOP staff also conduct unannounced inspections at certifying agents' places of business to gather evidence when they have reason to suspect violations of the program. NOP and Compliance then propose corrective actions, such as revocation.
 - Many times, parties surrender their certification or accreditation once an investigation begins. However, this does not necessarily mean the NOP ceases its investigation or that the NOP will accept the surrender – if there is good reason to believe the violation is willful intent to defraud or mislead clients or customers under the program.
- Q.** What do the NOP certifying agents do? What is their role in protecting the organic label?
- A.** NOP also accredits, or “licenses,” all USDA certifying agents who work directly with producers and processors who produce raw and processed products labeled as 100 percent organic, organic, or made with organic ingredients.
- Certifying agents must inspect an operation at least annually, and must be notified of changes producers or processors make to their operations that could affect the status of their products.
 - Certifying agents must also approve all labels placed on products.
 - Certifying agents must also ensure that their own name and logo and, if desired, other contact information are included on products, so consumers know who certified the organic products to NOP standards.
- Q.** How can consumers register complaints, if they aren't sure a product is NOP-compliant?
- A.** Anyone can register a complaint with the NOP, if they have a reason to believe a violation of the NOP regulations has occurred:
- An easy way to send a complaint to the NOP is electronically, by contacting: NOPcompliance@usda.gov.
 - All complaints are evaluated, and those that appear to be serious are given more in-depth review. Complaints concerning certified operations are referred to certifying agents first for enforcement actions, if appropriate. Complaints concerning certifying agents and uncertified operations are reviewed by the NOP.

- The NOP attempts to lead operations into compliance with the regulations by requiring operations to change insufficient labels, obtain certification, or even withdraw from the organic marketplace.
- Often, it is a matter of providing information to the parties—sometimes the person bringing the complaint does not know whether a regulation has been violated. Sometimes, the violation is easily corrected.
- Always, the objective is to address the issue as quickly as possible so there is no further misunderstanding or noncompliance with the regulations.

Q. What about serious violations? What happens then?

A. When there is willful violation of the NOP regulations, however, severe penalties that can be brought against the parties:

- A certified operation risks losing its certification for up to five years.
- An accredited certifying agent risks losing its accreditation for up to three years.
- In both cases, none of the responsibly-connected parties affiliated with the operation may be re-employed as an accredited certifying agent or provide contract services for an accredited certifier for the duration of the period for which certification or accreditation is lost.
- Fines may also be levied—up to \$10,000 per violation.
- Again, however, the objective is the same—to address the violations as quickly as possible so consumers are not victims of fraud.

Q. Why doesn't NOP provide more details about complaints to assure consumers that violations are being pursued aggressively?

A. During investigations of complaints, parties are protected by laws and regulations until investigations are complete.

- Premature release of unproven complaints against individuals or businesses might unfairly impact their businesses and cause unwarranted harm to them. Likewise, the NOP might be hampered in its ability to pursue an investigation fully if it discloses information prematurely.
- This is why the NOP or other government officials do not provide information on complaints during investigations—parties are presumed innocent until the investigation is completed and findings are determined, either administratively or, if necessary, in a court,.
- Once the matter is complete, however, NOP will notify the public and trade press about the appropriate details of the investigation and the final corrective action taken with respect to the parties involved.

Q. What happens to the mislabeled products, the certifying agents, or the certified operations, if a violation is found and revocation occurs?

- If an accredited certifying agent is revoked from the program, the certifying agent must surrender all records from his certified clients; the operations that were certified by that agent are given 30 days to find another certifying agent. The NOP will help them if they have difficulty finding another certifying agent; but they do not lose their organic certification during this time. After these 30 days, no organic product produced and sold or any promotional material used by these certified operations can continue to display the revoked certifying agent's logo, or mark, once the agent is suspended or revoked.
- When a certified operation is revoked, all new product sales must cease immediately from that producer. In other words, no additional product can be packaged, produced, or labeled as organic and enter the market. Any product already sold into the market can continue to be sold, as the NOP does not have "stop sale" or recall authority.