

# ORGANIC REGULATORY UPDATE

**Thursday, September 14, 2017**

**11:30 – 12:30 p.m.**

## SPEAKERS

Miles McEvoy, Deputy Administrator, USDA National Organic Program

Tom Chapman, Ingredient Sourcing Manager, Clif Bar | Chair, National Organic Standards Board

Gwendolyn Wyard, Vice President of Regulatory & Technical Affairs, Organic Trade Association

## MODERATOR

Katrina Heinze, Organic Ambassador, General Mills



# NOP Update

September 14, 2017

**USDA Agricultural Marketing Service**

**National Organic Program**

**Miles McEvoy, Deputy Administrator**



# A Global Organic Control System



Standards

Accreditation

Certification

Enforcement

# U.S. Organic Standards



[https://www.ams.usda.gov/  
rules-regulations/organic](https://www.ams.usda.gov/rules-regulations/organic)

Organic Foods  
Production  
Act (OFPA)

USDA Organic  
Regulations

NOP  
Handbook



# Certifiers Are Central to Organic Control



**What certifiers do:**



Ensure compliance of existing regulations



# 10 Points of Organic Integrity

1. Clear/enforceable standards
2. Communication
3. Transparency
4. Certification
5. Complaints
6. Penalties
7. Market surveillance
8. Unannounced inspections
9. Periodic residue testing
10. Continual improvement



# Eastern European organic corn imports



2016 –USDA Foreign Agricultural Service (FAS) and organic trade noted

- Turkish organic corn imports exceed Turkish organic production
- Significant increase in quantity of organic corn and soy exported from Turkey
- Concerns about fraudulent organic certificates



# Oversight of Imports

- Global Organic Control System – standards, certification, accreditation, enforcement
- Role of certifiers – inspections, transaction certificates, sampling, mass-balance audits
- AMS audits of certifiers
- Enforcement actions
- Training to certifiers and handlers
- Collaboration with APHIS Plant Protection and Quarantine



# AMS and certifier actions



- Late 2016 - AMS directed certifiers operating in Eastern Europe/Turkey to:
  - Conduct unannounced inspections, additional mass balance audits, verify audit trail
  - Sample and verification of each organic corn shipment to the U.S.
- April 2017 – AMS issues proposed revocations, notifies U.S. importers of non-organic status of some imported shipments
- June 2017 – Beyaz Agro's certification is revoked

# AMS and certifier actions



- July 2017 - Control Union suspends Aram Foods
- July 2017 - AMS modifies certifier directive-
  - Limits countries to Turkey, Russia, Kazakhstan, Ukraine, Moldova, and Romania
  - Expands directive to include soy, wheat, dry edible beans, flax and sunflower meal
- July 2017 - Hakan Organics DMCC (Dubai) Administrator Decision denying appeal of proposed revocation
- August 2017 - AMS directs certifiers operating in U.S. to conduct additional oversight for imported organic products from these countries.

# Import Instructions



- Importers and Exporters must maintain audit trail, records to verify products comply with organic standards
- On-site inspections must include non-organic parts of operations including records
- Certifiers must conduct thorough mass balance audits and trace-back products to last certified operation
- Certifiers must cross-check documents

# Audit trail records

- Records must fully disclose all activities and transactions in sufficient detail as to be readily understood and audited – 205.103
- Certifiers are responsible to verify that the operation is implementing an effective recordkeeping system
  - Meet USDA regulations
  - Meet any requirements under equivalency arrangements
  - Provide for a complete audit trail to last certified handler to verify organic integrity

# Inspection

- Complete access to facility and records – both organic and nonorganic parts of operation
- OSP is up-to-date and accurate
- Proper documentation for imported products that verifies the validity of imported product
- Verify the validity of certifier that issued documentation for imported product
- Verify that the operation took measures to maintain organic integrity in the supply chain, especially regarding fumigation and irradiation



# Certified Operation Requirements

- Certified operations **MAY NOT** accept organic products without verifying source and certification of the product
  - Especially critical when receiving products from uncertified handlers
- Certified operations **MUST** clearly identify organic products in their records
  - Examples: Receiving documents, inventory records, manifest, bill of lading, purchase orders

# Concerns

- Inspections that are not sufficiently thorough
- Handlers pressuring inspectors to shorten inspection time
- Handlers not allowing access to non-organic portions of operations
- Operations frequently changing certifiers
- Untimely enforcement
- Certifiers complaining that other certifiers are easier, not as thorough



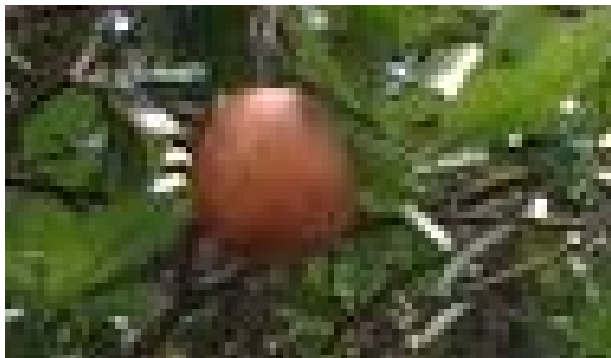
# Best practices

- Transaction certificates that are thoroughly verified prior to issuance
- Certifier maintaining running inventory of organic products
- Sampling and verification of shipments
- Cross checking audit trail documents, especially lot codes from phytosanitary certificates

# Strengthening the control system

- Holding organic handlers responsible for verifying organic products they purchase/receive
- Block chain technology
- Anti-forgery authentication of certificates
- Standardized certificates and records
- Improved qualifications and expertise of organic inspectors
- Sufficient resources (people and funding) for certifiers and competent authorities to oversee organic trade

# Thank you for listening



[www.ams.usda.gov/nop](http://www.ams.usda.gov/nop)

# National Organic Standards Board Update

Tom Chapman  
Chair, NOSB

# Who is on the NOSB?

- ▶ 15 Member board - appointed by Secretary of Agriculture to a 5 year term
- ▶ Represents diverse array of interests from various stakeholders
- ▶ Organic Producer
  - ▶ Ashley Swaffar
  - ▶ Jesse Buie
  - ▶ Emily Oakley
  - ▶ Steve Ela
- ▶ Environmentalists / Resource Conservationists
  - ▶ Francis Thicke
  - ▶ Harriet Behar
  - ▶ Asa Bradman
- ▶ Consumer/Public Interest Advocates
  - ▶ Dan Seitz
  - ▶ A-dae Romero-Briones
  - ▶ Sue Baird
- ▶ Retailer
  - ▶ Lisa de Lima
- ▶ Scientist (Toxicology, Ecology, or Biochemistry)
  - ▶ Dave Mortensen
- ▶ USDA Accredited Certifying Agent
  - ▶ Scott Rice
- ▶ Handlers / Processors
  - ▶ Tom Chapman
  - ▶ Joelle Mosso

# What does the NOSB do:

## Statutory Mission

- ▶ To assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title. (OFPA, Sec 2119 (a))

## NOSB Mission Statement

- ▶ To provide effective and constructive advice, clarification and guidance to the Secretary of Agriculture concerning the National Organic Program (NOP), and the consensus of the organic community.
- ▶ Key activities of the Board include:
  - ▶ Assisting in the development and maintenance of organic standards and regulations
  - ▶ Reviewing petitioned materials for inclusion on or removal from the National List of Approved and Prohibited Substances (National List)
  - ▶ Recommending changes to the National List
  - ▶ Communicating with the organic community, including conducting public meetings, soliciting and reviewing public comments
  - ▶ Communicating, supporting and coordinating with the NOP staff

# Fall 2017 National Organic Standards Board Meeting

- ▶ Event Date: Tuesday, October 31, 2017 - 8:30am to Thursday, November 2, 2017 - 6:00pm
- ▶ Location: Jacksonville, FL

<https://www.ams.usda.gov/event/2017-national-organic-standards-board-nosb-meeting>



# Certification and Accreditation

- ▶ Imports Panel
- ▶ Proposal: Excluded operations in the supply chain (uncertified handlers)
- ▶ Proposal: Eliminating the incentive to convert native ecosystems to organic crop production

# Crops

- ▶ Proposal: Strengthening the organic seed guidance (NOP 5029)
- ▶ Proposal: Aeroponics/Hydroponics/Aquaponics/Containers
- ▶ Discussion document: Field and greenhouse container production
- ▶ Verbal update: Newspaper - annotation change

# Livestock

- ▶ Proposal: Clarifying “emergency”  
for use of synthetic parasiticides in  
organic livestock production

# Handling

- ▶ Proposal: Potassium acid tartrate reclassification
- ▶ Discussion document: Marine materials
- ▶ Verbal update: Tocopherols - Annotation change at §205.605(b) of the National List
- ▶ Verbal update: Tocopherols - Additional listing at §205.605(a) of the National List
- ▶ Verbal update: Ancillary substances used in cellulose

# Materials

- ▶ Proposal: 2017 Research Priorities
- ▶ Proposal: Excluded Methods  
Terminology
- ▶ Discussion document: Non-GMO organic  
seed integrity

# Sunset and Petitions

- ▶ Sunset Reorganization
- ▶ 52 Sunset listings up from Review
- ▶ 4 Petitioned Substances

# Other items on the work agenda

- ▶ Inspector Qualifications
- ▶ Contamination issues in Farm Inputs
- ▶ Bio Based Mulch
- ▶ Inerts Working Group
- ▶ Packaging substances used in organic food handling - including BPA
- ▶ Nutrient Vitamins and Minerals - annotation change



# Public input opportunities

## ▶ Open Docket - Written Comment:

<https://www.regulations.gov/document?D=AMS-NOP-17-0024-0001>

## ▶ Oral Comment:

- ▶ Sign up by: 11:59 p.m. Eastern, October 11, 2017
- ▶ Webinar: October 24/26 from 1:00 p.m. - 4:00 p.m. Eastern
- ▶ In Person: October 31 - November 1, 2017
- ▶ Registration will closed either when the maximum number of commenters has been reached or by the October 11<sup>th</sup> deadline

# Questions?



Tom Chapman

▶ [tchapman@clifbar.com](mailto:tchapman@clifbar.com)

▶ 510.596.6402

# Organic Regulatory Update

Public Participation is Critical



Gwendolyn Wyard

Vice President of Regulatory & Technical Affairs  
Expo East September 2017

ORGANIC  
RIGHT SPOT  
SINCE 1985  
*Organic*  
trade association





The Organic Trade Association is the **LEADING VOICE** for the organic trade in the U.S., representing **8,500 businesses** across **50 states**.

Our **MEMBERS** include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and more.

OTA's Board of Directors is **democratically ELECTED** by our members.

OTA's mission is to **PROMOTE and PROTECT ORGANIC** with a **unifying voice** that serves and engages its diverse members from farm to marketplace.

# GET INVOLVED, BE EFFECTIVE

- ✓ Know the issue
- ✓ Know the process
- ✓ Know your resources
- ✓ Take action & submit comments

AND, see it through to the end!





# #1 - KNOW THE ISSUE

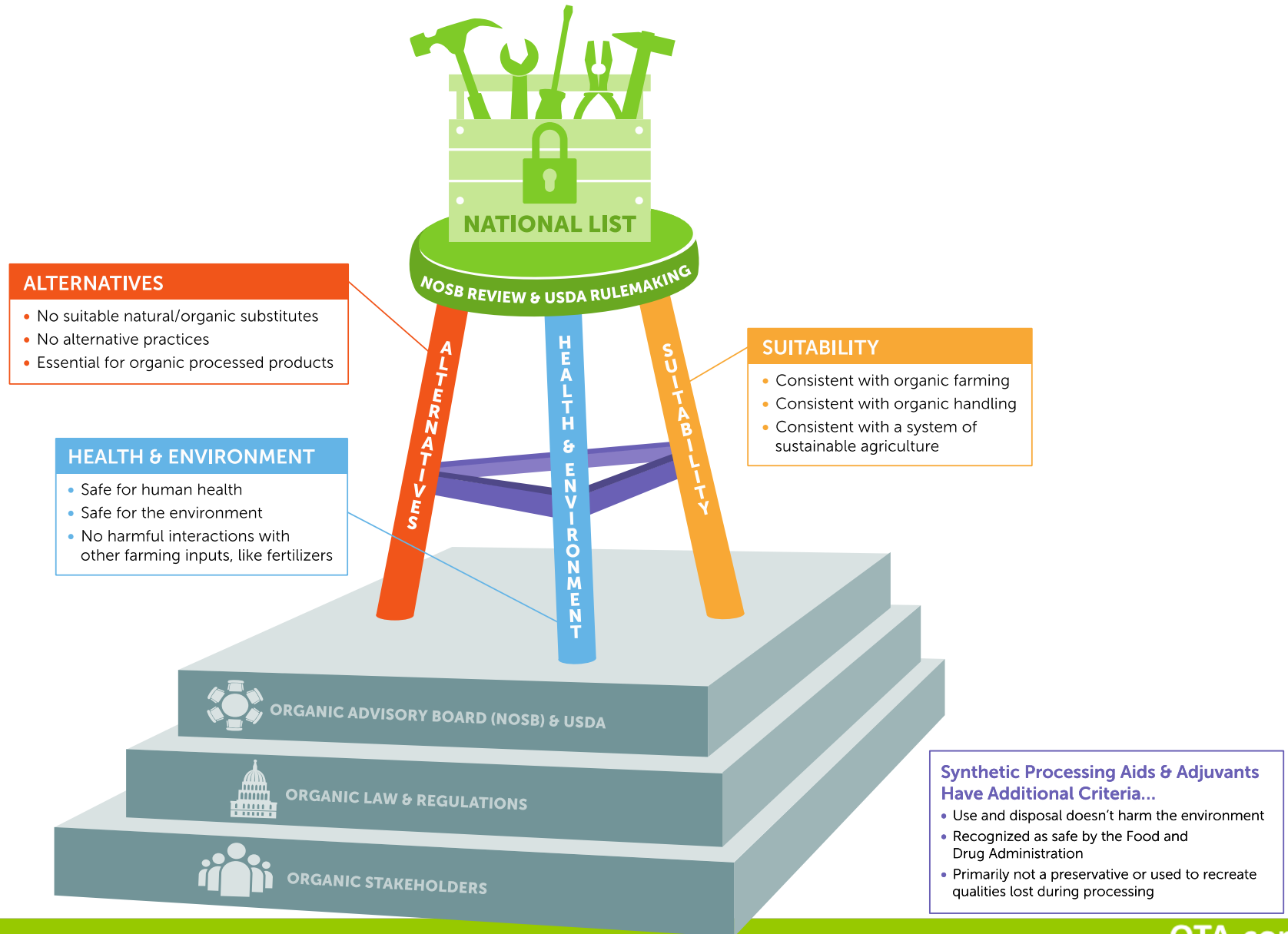
## Education is the first step:

- Critical thinking
- Read the law & regulation
- Investigate
- Know your news source(s)
- Check the facts



# BALANCING THE THREE-LEGGED STOOL

## How "National List" Criteria Supports the Restricted Organic Toolbox



## Allowed synthetics since 2008: What is the trend?

# No-Growth

with a strong preference for the use and development of nonsynthetic and organic alternatives.

# 6

synthetics have been added



Examples of synthetics added include a sanitizer used in processing facilities that is allowed only for secondary and indirect food contact surface sanitizing, a cheese wax used for organic mushroom production, a mite control product for honeybees for organic honey production.

# 59

have been removed, denied, or further restricted.



Removals:	14
Petitioned and denied:	44
Further restricted:	1



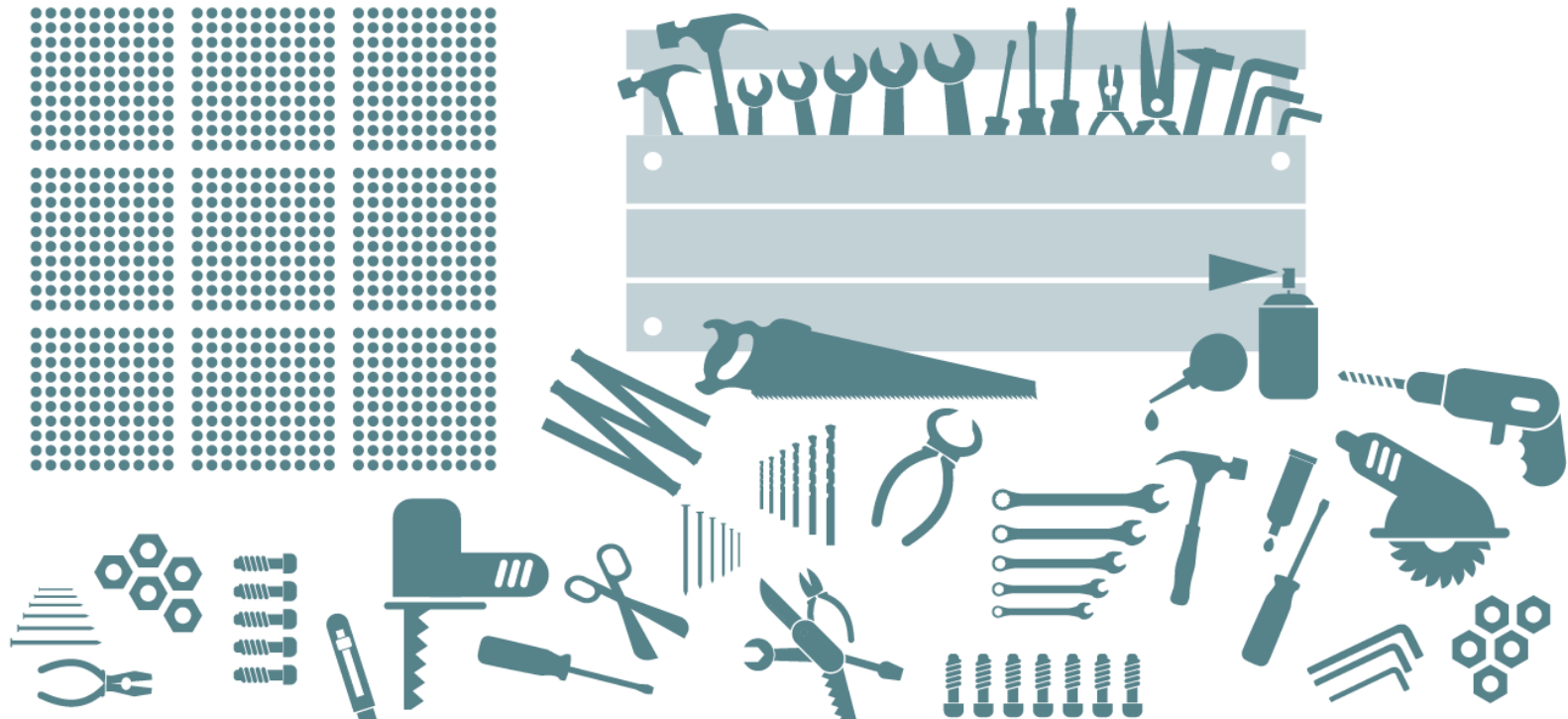
# How do the synthetic pest control products allowed in organic farming compare to the pesticides allowed in conventional farming?

25 synthetic active pest control products allowed in organic crop production



The organic farmer must first use mechanical, cultural, biological and natural materials and move onto the toolbox only when and if they don't work. In this way the toolbox is "restricted."

900+ synthetic active pesticide products registered for use in conventional farming by EPA\*

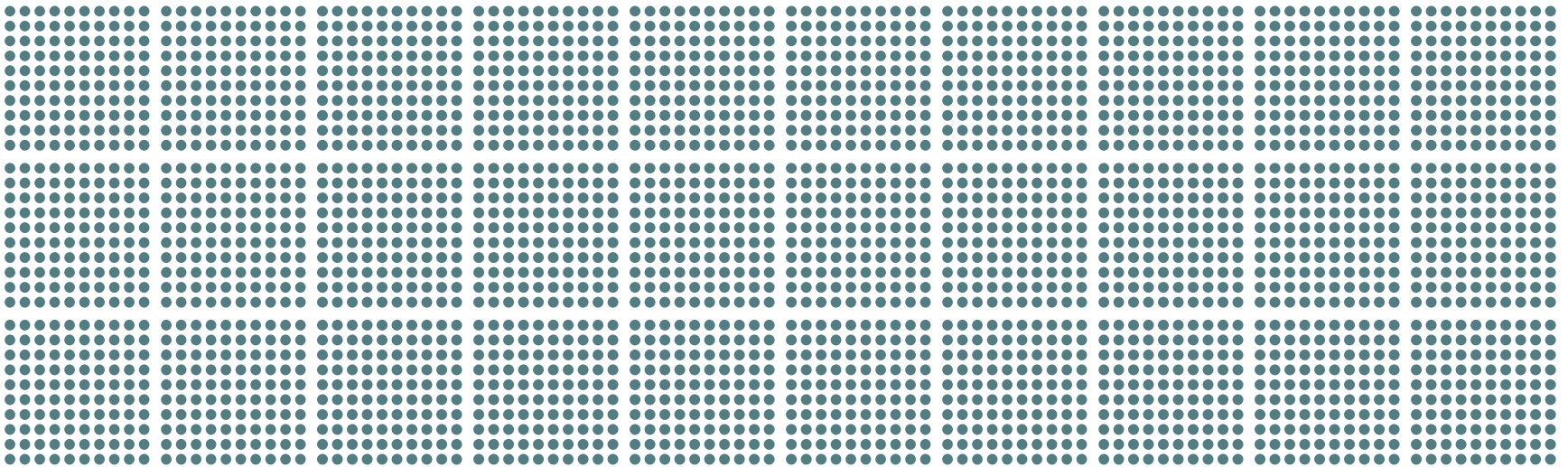


## How do the materials allowed in organic processed foods compare to the materials allowed in all other food?

75 non-agricultural minor ingredients allowed in organic processing



3000+ substances comprise Everything Added to Food in the United States (EAFUS)



Compared to the 75 non-agricultural minor ingredients allowed in organic processing, more than 3,000 total substances comprise an inventory often referred to as Everything Added to Food in the United States (EAFUS), and this is only a partial list of all food ingredients that may be lawfully added to conventional food.

# #2 – KNOW THE RULEMAKING PROCESS

Note: Considered circumstances analyses also are required for certain important rules providing national interest under 15 U.S.C. 8062.

an regulatory that by analysis



**READ IT:**

[www.reginfo.gov/public/reginfo/Regmap/regmap.pdf](http://www.reginfo.gov/public/reginfo/Regmap/regmap.pdf)



Need to be in compliance with the Rule

# #3 – KNOW YOUR RESOURCES: BOOKMARK & MONITOR



[www.ota.com/advocacy/issues/take-action](http://www.ota.com/advocacy/issues/take-action)





Home > What OTA Does > Public Policy > Organic Standards

## Organic Standards



### Organic Standards



#### Public Policy

- Latest News
- Advocacy Action Center
- ➔ Organic Standards
- National Organic Program
- National Organic Standards Board
- Allowed and Prohibited Inputs
- Materials Review
- Organic Certification
- Emerging Standards
- Resources for Retailers
- How to File a Complaint

**Get to know your NOP & NOSB! Get to Know Your National List!**



[www.ota.com/what-ota-does/public-policy/organic-standards](http://www.ota.com/what-ota-does/public-policy/organic-standards)



## Organic Regulations

Overview

Organic Labeling

The Organic Seal

Program Handbook

The National List

National Organic Standards Board (NOSB)

Trade & Equivalency Arrangements

## Organic Regulations

The National Organic Program (NOP) develops the rules & regulations for the production, handling, labeling, and enforcement of all USDA organic products. This process, referred to as rulemaking, involves input from the National Organic Standards Board (a Federal Advisory Committee made up of fifteen members of the public) and the public. The NOP also maintains a Handbook that includes guidance, instructions, policy memos, and other documents that communicate the organic standards.

### Regulatory References

- **USDA organic regulations.** ([Los Reglamentos Orgánicos Estadounidenses](#) - PDF) 7 CFR Part205 includes all USDA organic standards, including prohibited practices, requirements, and the National

SHARE



View Current Rulemaking

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Enforcing Organic Regulations

Get USDA Organic Insider updates!

Sign up for updates!

[www.ams.usda.gov/rules-regulations/organic](http://www.ams.usda.gov/rules-regulations/organic)



# FEDERAL REGISTER

The Daily Journal of the United States Government

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Tuesday, January 17th



## Current Issue

120 documents from 53 agencies (561 Pages)

94 Notices 3 Presidential Documents 7 Proposed Rules 16 Rules 1 Significant Document



## Public Inspection

### Special Filing

updated on 04:15 PM, on Friday, January 13th, 2017

21 documents from 17 agencies

5 Notices 3 Presidential Documents  
5 Proposed Rules 8 Rules

### Regular Filing

updated on 08:45 AM, on Friday, January 13th, 2017

114 documents from 48 agencies

92 Notices 7 Proposed Rules 15 Rules

## Search All Federal Register Documents Since 1994

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## Agriculture Department

Subscribe

The Department of Agriculture works to improve and maintain farm income and to develop and expand markets abroad for agricultural products. The Department helps to curb and cure poverty, hunger, and malnutrition. It works to enhance the environment and to maintain production capacity by helping landowners protect the soil, water, forests, and other natural resources. The Department, through inspection and grading services, safeguards and ensures standards of quality in the daily food supply.

The Department of Agriculture (USDA) was created by act of May 15, 1862 (7 U.S.C. 2201).

**Agency URL:** <http://www.usda.gov/wps/portal/usda/usdahome>

**Sub-agencies:** [Agricultural Marketing Service](#)  
[Agricultural Research Service](#)  
[Animal and Plant Health Inspection Service](#)

[www.federalregister.gov](http://www.federalregister.gov)



# #4 – TAKE ACTION AND COMMENT

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## What's Trending

[Request to Reinstate Action Taken in Connection with European Union's Measures Concerning Meat and Meat Products](#)  
Closing on Jan 30, 2017

[Exploring Industry Practices on Distribution and Display of Airline Fare, Schedule, and Availability Information](#)  
Closing on Mar 31, 2017

[Visual-Manual Driver Distraction Guidelines for Portable and Aftermarket Devices](#)  
Closing on Feb 03, 2017

[Use of Mobile Wireless Devices for Voice Calls on Aircraft](#)  
Closing on Feb 13, 2017

[Endangered and Threatened Species: Petition for Rulemaking To Establish a Whale Protection Zone for Southern Resident...](#)  
Closing on Apr 13, 2017

## Comments Due Soon

Today (18)  
Next 3 Days (21)  
Next 7 Days (201)  
Next 15 Days (354)  
Next 30 Days (710)  
Next 90 Days (1,128)

## Newly Posted

Today (115)  
Last 3 Days (270)  
Last 7 Days (483)  
Last 15 Days (891)  
Last 30 Days (2,254)  
Last 90 Days (6,338)

# TIPS FOR SUBMITTING EFFECTIVE COMMENTS

- **Read & understand** what you are commenting on
- **Clearly identify the action** on which you are commenting
- **Identify your credentials** and why your comments matter
- **Start with a summary**; state your position upfront
- **Be concise** but support your claims (sound science & reasoning)
- **Try to address any specific questions** an agency is asking
- If you disagree, **suggest an alternative** or solution
- **Explain how the proposal with impact you** (positive/negative)
- If you upload a document, **PDF & include docket number in title**
- **The comment process is not a vote** – one well supported comment is often more influential than a thousand form letters

# SAVE THE DATE



## ORGANIC WEEK IN WASHINGTON D.C.

MAY 21-24, 2018



# CURRENT REGULATORY ISSUES OTA IS INVOLVED IN

- **NOSB Fall 2017 Meeting**

- Hydroponics
- Organic Seed Usage
- 2019 Sunset Materials

➤ **Comments Due: October 11 , 2017**



- **Organic Livestock and Poultry Practice Rule**

- 14 years of extensive public input & thorough vetting process'
- Over 47,000 comments in 30 days against 2<sup>nd</sup> delay
- Delayed effective rule = a call for action!!

- **Import and Supply Chain Integrity**

- OTA Task Force is developing a best practices guide for preventing organic fraud

- **GMO Labeling Regulation**

- Docket # AMS-NOP-16-0052

➤ **Look for the Proposed Rule - Late Fall**



A close-up photograph of several small green seedlings with emerging leaves growing out of dark, rich soil. The scene is illuminated by a bright sun in the upper right, creating a lens flare effect. The background is a soft-focus landscape of rolling hills under a clear sky.

ADVOCATE TO THE VERY END;  
IT'S FOR OUR FUTURE

# Learn More!

## OTA tracks key REGULATORY ISSUES



**VISIT**

**OTA.com**

for resource  
downloads + more  
information

Ongoing monitoring and analysis of recommendations and rules

Alert members to issues

OTA Task Forces – Member input and development of comments

OTA Member Forums

OTA Website

OTA Member Publications

# Questions?



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**OTA.com**

**@OrganicTrade**



# ORGANIC REGULATORY UPDATE

## QUESTIONS?

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