



# NEWS RELEASES

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Release No. 0425.00

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## GLICKMAN ANNOUNCES NATIONAL STANDARDS FOR ORGANIC FOOD

WASHINGTON, Dec. 20, 2000 - Agriculture Secretary Dan Glickman today announced the final national standards for the production, handling, and processing of organically grown agricultural products.

"This is the strongest and most comprehensive organic standard in the world," said Glickman. For consumers who want to buy organic foods, the standards ensure that they can be confident in knowing what they are buying. For farmers, these standards create clear guidelines on how to take advantage of the exploding demand for organic products. And for the organic industry, these standards provide an important marketing tool to help boost exports since trading partners will now deal with only one national standard rather than multiple state and private standards. I have said all along that we would create national organic standards that farmers, consumers and the organic industry will embrace, and I think we have done just that."

Essentially, the new organic standard offers a national definition for the term "organic." It details the methods, practices and substances that can be used in producing and handling organic crops and livestock, as well as processed products. It establishes clear organic labeling criteria, and specifically prohibits the use of genetic engineering methods, ionizing radiation, and sewage sludge for fertilization.

All agricultural products labeled organic must originate from farms or handling operations certified by a state or private agency accredited by USDA. Farms and handling operations that sell less than \$5,000 worth per year of organic agricultural products are exempt from certification. Farmers and handlers have 18 months to comply with the national standards.

Glickman also announced that USDA will provide financial assistance to farmers in 15 states to help pay their costs for organic certification. The states selected are Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, Utah, Nevada, and Wyoming. Payments will be limited to 70 percent of an individual producer's certification costs, up to a maximum of \$500.

The final standard includes several changes from the proposed rule issued in March --

- **Enhancing market incentives** for organic products by making product content requirements stricter before the term organic can be used on the main label, including, changing the percentage of organic ingredients in products labeled "Made with Organic Ingredients" from at least 50 percent to at least 70 percent
- **Providing better information for consumers** by allowing manufacturers to state the exact percentage of organic ingredients on the principal display panel
- **Providing greater flexibility for organic farmers** by simplifying requirements for composting of

manure and by providing new options for dairy operations converting a whole herd to organic production

- **Incorporating industry standard practices** by allowing wine produced with sulfur dioxide to be labeled "made with organic grapes" and adopting 5% of the EPA pesticide tolerance as the pesticide residue level above which a product cannot be sold as organic

Consumers will begin to see new organic labeling on products in their local grocery stores by the summer of 2001, with full implementation by mid-2002.

Organic farming is one of the fastest growing segments of U.S. agriculture during the 1990s. USDA estimates that the value of retail sales of organic foods in 1999 was approximately \$6 billion. The number of organic farmers is increasing by about 12 percent per year and now stands at about 12,200 nationwide, most of them small-scale producers. According to a recent USDA study, certified organic cropland more than doubled from 1992 to 1997. Two organic livestock sectors, eggs and dairy, grew even faster.

The final national organic standards rule, which takes into consideration over 300,000 public comments, will be published in the *Federal Register* on December 21, 2000. The rule, along with detailed fact sheets and other background information, is available today on the web at <http://www.ams.usda.gov/nop>.

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Release No. 0426.00

BY  
SECRETARY DAN  
GLICKMAN  
RELEASE OF FINAL  
NATIONAL ORGANIC  
STANDARDS  
WASHINGTON, DC --  
DECEMBER 20, 2000

*[As prepared for delivery]*

"Good morning. It's a great pleasure to be here to announce the release of the final rule on national organic standards.

"I am proud to say that these are the strictest, most comprehensive organic standards in the world. We said that we would deliver standards that could be embraced by farmers, industry and consumers alike...and we have done exactly that. I am confident that our work will lead to even greater growth and opportunity in what is already a \$6 billion dollar organic food industry.

"I want to take this opportunity to thank Under Secretary Mike Dunn, Deputy Under Secretary Enrique Figueroa, and especially Kathleen Merrigan, Mike Fernandez and Keith Jones and their team at the Agricultural Marketing Service. Their outstanding, exhaustive, painstaking work made this day possible. Let me also single out Deputy Secretary of Agriculture Rich Rominger, who grows organic crops on his family farm, and the National Organic Standards Board, led by Carolyn Brickey. And I'm also pleased that the Senate's leading champion of organic agriculture, Senator Pat Leahy, could be here.

"This has been a true public-private partnership. The standards are as so sound because we have worked with consumer and environmental advocates, with organic farmers like Amy and Travis Forgues, and with industry leaders like Katherine DiMatteo of the Organic Trade Association.

"These new standards are a win for both farmers and consumers. For farmers, the standards create clear guidelines for how to take advantage of the exploding demand for organic products. For consumers, the organic standards offer another choice in the marketplace. Those who want to buy organic can do so with the confidence of knowing exactly what it is that they're buying.

"I want to talk for a minute about how we reached this final rule, because I think the process is critical to the strength of the standards.

"There's a misperception, I think, about how government rules are drawn up. Some people believe that it's done behind closed doors, without accountability or public input. The reality is that it is a transparent, fully inclusive process, and the drafting of the organic standards was no different. In fact, the organic standards represent government rule-making at its very best. They are the product of a full-throated public debate.

"When the proposed rule was first released three years ago, the public response was staggering -- 275,603 comments, more than one comment for every minute of the public comment period. The people spoke; we listened; and we responded by dramatically changing the rule last March. Most notably, we revised the standards to say that no food could be called organic if irradiation, sewage sludge, or genetic engineering was used in its production.

"Before finalizing the rule, we submitted it for another round of public comment, resulting in additional changes, some of which I want to highlight for you:

- For a product to be labeled "Made With Organic Ingredients", its ingredients must now be 70 percent organic, as opposed to the 50 percent minimum proposed in the March version of the rule. This change will be an important step in facilitating international trade, as the 70 percent threshold is consistent with the standard used in the European Union, our top organic export market.
- We have added "commercial availability provisions", which require handlers to use organic ingredients in organic products whenever possible. In other words, it's no longer enough for a product labeled "Organic" to have at least 95 percent organic ingredients. Now, on top of that, its remaining ingredients must also be organic, if that's possible given what's available in the marketplace.
- We are now allowing handlers to post their products' exact percentage of organic content on the primary display label. The idea here is that the ability to boast a specific number will encourage more folks to use more organic ingredients.

"Let me be clear about one other thing. The organic label is a marketing tool. It is not a statement about food safety. Nor is "organic" a value judgment about nutrition or quality. USDA is not in the business of choosing sides, of stating preferences for one kind of food, one set of ingredients or one means of production over any other. As long as rigorous government safety standards are being met, we stand ready to do what we can to help support any farmer and help market any kind of food.

"Today, we're also announcing a new cost-share program that will help small producers in 15 states receive the organic certification required by the new standards. About half of the nation's organic farmers are not currently certified. This new initiative allows the government to pay 70 percent of a producer's certification costs or \$500, whichever is higher.

"But there's still more we can do and are doing to invest in this industry that is just now coming of age. We are exploring the feasibility of marketing organic fruits and vegetables through USDA marketing order programs. We must also devote more resources to organic agriculture research.

"As we look ahead to a new farm bill in the next year or two, I believe it must address the growing importance of organic agriculture. It won't be enough to renew the same old programs, which support the same crops in the same parts of the country. We need a more innovative approach, which recognizes, promotes and nurtures the growing diversity of American agriculture. And organic production is very much a part of that diversity.

"We have completed this rule. Now it's time to take the next steps...to fully embrace organic agriculture and gives it a more prominent role in the farm policy of the 21<sup>st</sup> century. Thank you."

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## GLICKMAN ANNOUNCES PUBLICATION OF NATIONAL ORGANIC PROGRAM PROPOSED RULE

Release No. 0442.97

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## GLICKMAN ANNOUNCES PUBLICATION OF NATIONAL ORGANIC PROGRAM PROPOSED RULE

WASHINGTON, Dec. 15, 1997--Agriculture Secretary Dan Glickman today announced publication of proposed regulations that would govern USDA's National Organic Program.

"The National Organic Program will strengthen one of the fastest growing segments of the agriculture and food economy. Although around for nearly 40 years, just since 1986, the market for organic food has exploded, growing over 40-fold so that by 1996, sales totaled \$3.5 billion," Glickman noted.

"In spite of this growth and the enormous potential this market promises, America's farmers, especially our small farmers, still have to navigate a confusing, sometimes conflicting, patchwork of some 40 state and private certification programs. These new rules, by setting a uniform national standard and leveling the playing field, will open the door to this tremendously exciting new market and new economic opportunities for our farmers," Glickman said.

"Just as important, the rules are going to clear up the confusion that sometimes exists in the minds of consumers, processors, and merchandisers about what is and what is not organic." The proposed rule requires that imports meet equivalent standards, so if foreign producers want to sell their organic products in the United States, they will have to meet the same criteria as domestic farmers," Glickman added.

The proposed standards define "organic" as agricultural products produced through a natural versus synthetic process. They also address the methods, practice, and substances used in producing and handling crops and livestock and their processed products, including:

- . producing and handling organic agricultural products;
- . labeling of organic products;
- . certification of organic operations;
- . accreditation of state and private certifying agents;
- . compliance testing;
- . equivalency of foreign organic certification programs;
- . approval of state organic programs; and
- . user fees.

The Organic Foods Production Act of 1990 provides authority for this proposed rule. The proposed rule was developed from recommendations of the National Organic Standards Board, an advisory board appointed by Secretary Glickman, and in cooperation with the Food and Drug Administration and the Environmental Protection Agency.

USDA will hold information sessions on the proposed rule around the country on dates and at locations that will be announced later.

The proposed rule will be published in the Dec. 16 Federal Register. Comments must be received by March 16, 1998. Interested persons are invited to submit written comments to: Eileen S. Stommes, Deputy Administrator, Agricultural Marketing Service, USDA, Room 4007-S, Ag Stop 0275, P.O. Box 96456, Washington, DC 20090-6456. Comments also may be sent by FAX to (202) 690-4632 or via the Internet through the National Organic Program homepage at: "<http://www.ams.usda.gov/nop>". A copy of the proposed rule can be purchased for \$8 from the Federal Register by calling (202) 512-1800.

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NOTE: USDA news releases and media advisories are available on the Internet. Access the USDA Home Page on the World Wide Web at <http://www.usda.gov>

## FUNDAMENTAL CHANGES IN REVISED PROPOSED RULE ON ORGANIC STANDARDS

Release No. 0205.98

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## USDA TO MAKE FUNDAMENTAL CHANGES IN REVISED PROPOSED RULE ON ORGANIC STANDARDS

WASHINGTON, May 8, 1998--Agriculture Secretary Dan Glickman announced today that the U.S. Department of Agriculture will make fundamental revisions to its proposed national organic standards as a result of the 200,000 comments USDA received on the initial proposal.

"USDA is committed to developing national organic standards that organic farmers and consumers will embrace," Glickman said. "Thousands of commenters requested that USDA issue revised proposed standards, and we intend to do so. Most importantly, the revised proposal will contain fundamental changes from our initial draft."

The earlier draft, published on December 16, 1997, proposed standards for growing, processing, labeling, importing, and certifying organically grown food. But it did not take a position on certain controversial issues; instead, the proposal asked for public comment on these items. The bulk of the extraordinary number of comments opposed including the products of biotechnology, the use of irradiation in food processing, and the application of biosolids (municipal sludge) in organic food production.

"Biotechnology, irradiation, and biosolids are safe and have important roles to play in agriculture, but they neither fit current organic practices nor meet current consumer expectations about organics, as the comments made clear," said Glickman. "Therefore, these products and practices will not be included in our revised proposal, and food produced with these products and practices will not be allowed to bear the organic label."

Similarly, many of the comments asserted that national organic standards must be rigorous and credible. Otherwise, commenters expressed concern that consumers will lose faith in the organic label.

"If organic farmers and consumers reject our national standards, we have failed," Glickman said. "Our task is to stimulate the growth of organic agriculture, ensure that consumers have confidence in the products that bear the organic label, and develop export markets for this growing industry."

Before publishing the revised proposal, USDA will evaluate the comments submitted in response to the December 1997 proposal. This record will guide the drafting of the revised proposal, which USDA will issue for public comment later this year.

"This additional opportunity for public comment will assist us in crafting rigorous, credible national standards for organic farming and handling that organic farmers and consumers can support," said Glickman.

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NOTE: USDA news releases and media advisories are available on the Internet. Access the USDA Home Page on the World Wide Web at <http://www.usda.gov>

# AMS News Release

Release No. AMS-095-99

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## USDA INTERNET PROJECT RECOGNIZED BY HARVARD UNIVERSITY

WASHINGTON, April 28, 1999--The U.S. Department of Agriculture today announced the selection of a USDA project as a semifinalist in the prestigious Innovations in American Government Awards Program, sponsored by the Ford Foundation and administered by the John F. Kennedy School of Government at Harvard University. The Internet Rulemaking for Organic Food Standards project is one of 98 semifinalists selected from a pool of more than 1,600 applicants.

"The National Organic Program is charged with implementing national standards defining organic products, acceptable production methods, labeling, and other important issues," said Dr. Enrique E. Figueroa, administrator of USDA's Agricultural Marketing Service. "The proposed standards generated more than 275,000 public comments -- making it one of the largest rulemaking efforts in USDA's experience and the first fully electronic federal rulemaking to take place on a large scale."

The proposed rule and background and reference materials have been posted to a website, as have transcripts of national public meetings and all official public comments. This project is the first known instance in which essentially the entire public record of a federal regulatory proceeding is available on the Internet not as a historical record, but as the primary public communications medium in which the rulemaking is conducted.

This full-scale Internet access increased public awareness and interaction, which dramatically increased the public's ability to participate in the rulemaking process. The website has had a multiplier effect on the networking of information among constituent groups and public media. Other websites have linked to the site. The website provides for search and retrieval of the public record based upon sections of the rule and other attributes.

During the 135-day public comment period, the website was accessed 369,000 times, an average of more than 2,700 hits per day. In addition to providing public access, the website saved taxpayers more than \$7,000 in postage through electronic submission of 21,000 comments and saved USDA more than \$125,000 that would have been spent duplicating and providing copies of the public record.

RGS Associates Inc., was instrumental in the development and implementation of the Internet Rulemaking for Organic Food Standards. AMS then contracted with the U.S. Department of Commerce's National Technical Information Service to develop the components for collecting public comment from the website and hosting the publicly accessible database.

The project was a recipient of the 1998 Government Technology Leadership Award conferred by the Government Technology Leadership Institute and Government Executive magazine. It is currently a nominee by Microsoft Chairman, Bill Gates, for a Computerworld Smithsonian Award and was selected for inclusion in the Smithsonian's Permanent Research Collection. The project is also a nominee for a USDA Honor Award and a National Performance Review Hammer Award.

"Improved public service is the most profound and longest lasting value to be derived from this project," said Figueroa. "Using Internet technology, USDA has opened the National Organic Rulemaking process to everyone and established a benchmark, which may revolutionize all federal rulemaking."

For more information on the Internet Rulemaking for Organic Food Standards project contact Lee Keely, Transportation and Marketing, Agricultural Marketing Service, USDA, Room 4010-S, 1400 Independence Avenue, SW, Washington, D.C. 20250-0267; tel. (202) 690-1307 or e-mail [Lee.Keely@usda.gov](mailto:Lee.Keely@usda.gov). The National Organic Program website can be accessed at [www.ams.usda.gov/nop/index.htm](http://www.ams.usda.gov/nop/index.htm).

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## AMS NEWS RELEASE

Release No. 242

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### USDA INTERNET PROJECT INNOVATIONS IN AMERICAN GOVERNMENT AWARDS FINALIST

WASHINGTON, Sept. 2, 1999-The U.S. Department of Agriculture today announced that a USDA project, Internet Rulemaking for Organic Food Standards, has been named as a finalist in the prestigious 1999 Innovations in American Government Awards competition.

Innovations in American Government is a program of the Ford Foundation and Harvard University, administered by Harvard University's John F. Kennedy School of Government in partnership with the Council for Excellence in Government. The competition honors programs that have taken a fresh approach to a problem in government. On Oct. 14, 10 winners will be selected from among the 25 finalists.

"It is a great honor to have been named as a finalist in this distinguished competition," said Michael V. Dunn, USDA's Under Secretary for Marketing and Regulatory Programs. "Our Internet Rulemaking on Organic Food Standards project is the first-ever, large-scale, fully electronic federal rulemaking."

The National Organic Program is charged with implementing national standards defining organic products, acceptable production methods, labeling, and other important issues. The first proposed National Organic Rule and background and reference material are posted to a website, as are transcripts of national public meetings. All official public comments appear on the website. This is the first known instance in which essentially the entire public record of a Federal regulatory proceeding has been made available on the Internet--not as historical record, but as the primary public communications medium in which the rulemaking is conducted.

The project was a recipient of the 1998 Government Technology Leadership Award, conferred by the Government Technology Leadership Institute and *Government Executive* magazine, and a 1999 USDA Honor Award winner. It was selected for inclusion in the Smithsonian's Permanent Research Collection and is a nominee for a National Performance Review Hammer Award.

"Although the recognition we have received has been gratifying, we are most pleased that, through this experience, we have been able to better serve the public," said Dunn. "Using Internet technology, USDA has opened the National Organic Program Rulemaking process to everyone and established a benchmark, which may revolutionize all Federal rulemaking."

For more information on the Internet Rulemaking for Organic Food Standards project contact Lee Keely, Transportation and Marketing Programs, Agricultural Marketing Service, USDA, Room 4010-S, 1400 Independence Avenue, SW, Washington, D.C. 20250-0267; telephone (202) 690-1307 or e-mail [Lee.Keely@usda.gov](mailto:Lee.Keely@usda.gov). The National Organic Program website can be accessed at [www.ams.usda.gov/nop/index.htm](http://www.ams.usda.gov/nop/index.htm). Visit the Innovations in American Government home page at [www.innovations.harvard.edu/](http://www.innovations.harvard.edu/) to learn more about the program and stay abreast of award updates.

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Release No. 0074.00

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## GLICKMAN ANNOUNCES NEW PROPOSAL FOR NATIONAL ORGANIC STANDARDS

WASHINGTON, March 7, 2000—Agriculture Secretary Dan Glickman today announced a new proposal for uniform and consistent national standards for organic food.

“This is the most comprehensive and strongest organic standard in the world,” said Glickman. “I believe that is exactly what American consumers and organic farmers want.”

Essentially, the proposal offers a national definition for the term “organic.” Currently, organic food is certified by various private and state organizations that each use their own standards for the term “organic.”

“A single national organic standard, backed by consistent and accurate labeling, will greatly reduce consumer confusion,” said Glickman. “Consumers will know what they are buying and organic farmers will know what is expected of them.”

The proposal details the methods, practices, and substances that can be used in producing and handling organic crops and livestock, as well as processed products. It establishes clear labeling criteria and rules so that consumers know exactly what they are buying when they purchase organic food. It specifically prohibits the use of genetic engineering, sewage sludge, and irradiation in the production of food products labeled “organic.” The proposal also prohibits antibiotics in organic livestock production and requires 100 percent organic feed for organic livestock.

USDA’s proposal will allow organic farmers to export more easily their products because trading partners can more easily deal with one national standard rather than multiple state and private standards.

The revised proposal is the result of careful analysis of more than 275,000 comments USDA received in response to its initial December 1997 organic proposal.

“We listened to consumers and organic farmers and closely followed the recommendations of the National Organic Standards Board to develop a national organic standard that is better than our original proposal,” Glickman said.

“We believe these new standards fully meet consumer expectations and reflect current organic farming practices.”

Secretary Glickman today also announced several other steps the Administration is taking to promote organic agriculture. President Clinton’s fiscal 2001 budget proposes \$5 million for research to develop improved organic production and processing methods, evaluate economic benefits to farmers, and develop new organic markets. Glickman said USDA will establish a pilot organic crop insurance program to help organic farmers better manage risk. He also announced that USDA and the University of California at Davis will conduct research on organic production and ways to enhance farmers’ ability to market organic fruits and vegetables.

The proposed national standard and additional steps Secretary Glickman announced today will help stimulate one of the fastest growing sectors of American agriculture. USDA estimates that the value of retail sales of organic foods in 1999 was approximately \$6 billion. The number of organic farmers is increasing about 12 percent per year and now stands at about 12,200 nationwide, most of them small-scale producers.

Fact sheets and other background materials on the proposed organic rule can be accessed on the web at [www.ams.usda.gov/nop](http://www.ams.usda.gov/nop).

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AMS No. 181-00

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## **MORE THAN 40,000 COMMENTS RECEIVED ON REVISED ORGANIC FOOD STANDARDS--FINAL RULE BY YEAR'S END**

WASHINGTON, July 18, 2000--The U.S. Department of Agriculture announced today that 40,774 public comments were submitted on its revised National Organic Program proposed rule. The comment period for the proposed rule, which would establish national standards for the production and handling of organically produced products, closed on June 12. A final rule is expected by the end of 2000.

"We are pleased that so many people have taken the time to share their views on organic standards with us," said Kathleen A. Merrigan, administrator of USDA's Agricultural Marketing Service. "Although the majority of the comments are positive, some have raised important issues that we are looking at closely, as we move toward issuing the final standards."

The proposal was published in the March 13 Federal Register, and also can be found on the National Organic Program home page: [www.ams.usda.gov/nop](http://www.ams.usda.gov/nop). All comments can be viewed at this same site.

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# **National Organic Program Proposed Rule**

## **Accreditation, Equivalency, and State Organic Programs Fact Sheet**

The Organic Foods Production Act of 1990 (OFPA) empowers the U.S. Department of Agriculture (USDA) to accredit private and State agencies so they can certify that farmers, handlers, and processors representing their products as organic have complied with USDA regulations.

The proposed USDA accreditation program establishes requirements an applicant must meet in order to become an accredited organic certifying agent, and procedures and requirements to maintain accredited status. The program is designed to ensure that all organic certifiers act consistently and impartially. There are more than 40 private and State organic certification programs, some of which have existed for 20 years or more. Most are expected to apply for USDA certifier status.

### **Applicants for accreditation must:**

- ◆ Employ personnel, including inspectors, who have sufficient experience and training in organic production and handling to carry out certification activities.
- ◆ Demonstrate the administrative ability to maintain proper records, collect and account for required user fees, and communicate with USDA about the decisions they make.
- ◆ Prevent conflicts of interest by not certifying operations in which the certifier has held a commercial interest within the previous 12 months.

Applicants granted accredited status would conduct annual performance reviews of their inspectors and evaluate their own performance each year to maintain accreditation.

### **Accreditation process**

USDA would conduct a site evaluation of an applicant's operations. The report submitted by the site evaluator would be reviewed by members of a peer review panel with expertise in organic farming, handling, and certification. Certifying agents would renew their accreditation every 5 years and submit to USDA annual updates on their certification activities. USDA may conduct unscheduled site evaluations at any time they deem necessary to evaluate the ability of certifying agents to fully carry out USDA certification requirements.

### **Equivalency of imported products**

The OFPA also requires USDA to review the certification programs under which imported organic products are produced to ensure that they have been produced and handled according to standards equivalent to those in the National Organic Program, and certified through a process that provides comparable safeguards for product integrity. The proposed rule includes a procedure by which a foreign organic certification program could apply to USDA for a determination of equivalency. Once equivalency is granted to a program, any organic product produced under the oversight of that program

could be eligible to be imported into this country and labeled as "organic."

### **State organic programs**

A State may establish its own organic program for the production, handling, and certification of organic products. Any State program may contain more restrictive requirements than the national program.

In order to establish its own organic program, a State would submit its program to USDA for approval. To be approved, a State program would have to be consistent with the purposes of the OFPA, and could not discriminate against organic products produced in other States.

**(12/97)**

The U.S. Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC 20250, or call (800) 245-6340 (voice) or (202)



# National Organic Program

## Proposed Rule

### National Organic Program Fact Sheet

The Organic Foods Production Act (OFPA) of 1990, adopted as part of the 1990 Farm Bill, requires USDA to develop national standards and regulations for organically produced agricultural products and to assure consumers that agricultural products marketed as "organic" are consistent with these standards. The OFPA requires all agricultural products labeled as "organically produced" to originate from farms or handling operations certified by a State or private agency that has been accredited by the U.S. Department of Agriculture (USDA).

#### How the National Organic Program was developed

The OFPA provides for the USDA to develop national organic standards and establish an organic certification program based on recommendations received from a 14-member National Organic Standards Board (NOSB). The NOSB was appointed by the Secretary of Agriculture in 1992 and has held 12 meetings, devoting an enormous amount of time and effort to collecting and incorporating public input on every aspect of the organic standards.

In August 1994, the NOSB delivered its recommendations on accreditation and importation requirements, and on the standards for crops, livestock, and processed products to the Secretary of Agriculture. In October 1994, the NOSB began reviewing materials for inclusion on the National List of Allowed Synthetic and Prohibited Non-Synthetic Substances for organic production and processing. During 1995 and 1996, in addition to reviewing and voting on over 170 materials for inclusion on the proposed National List, the NOSB made several supplemental recommendations concerning crop, livestock, and handling standards.

Since the NOSB delivered its first recommendations, the Agricultural Marketing Service's National Organic Program (NOP) staff has been working to develop a proposed rule. In addition to NOSB recommendations and comments from the public, the NOP staff reviewed State and private organic certification organizations to help formulate USDA's program. The proposed regulations are similar to most of the standards presently used by organic producers and handlers, and are intended to be flexible enough to accommodate the wide range of operations and products grown and raised in every region of the United States.

#### What's in the proposed rule?

The proposed rule begins with a preamble that explains each section and addresses Federal requirements related to the rulemaking process.

The following subject areas are included in the proposed rule:

- ◆ *Subpart A:* A glossary of terms used in the rule.
- ◆ *Subpart B:* Organic production and handling requirements, which address organic crop production, wild crop harvesting, organic livestock management, and processing and handling of organic agricultural products. The National List of Allowed Synthetic and Prohibited Non-Synthetic Substances is also included.

- ◆ *Subpart C:* Labeling requirements for organic products.
- ◆ *Subpart D:* Certification requirements, which address the types of operations that must be certified and the requirements for receiving and maintaining certification, including the organic plan and recordkeeping requirements. This section also includes the procedure for conducting certifications, including required annual inspections.
- ◆ *Subpart E:* An accreditation system, which explains how USDA will accredit private and State certifying agents, including the requirements for receiving and maintaining accreditation, such as a site evaluation visit and the peer review process.
- ◆ *Subpart F:* Other administrative functions of the NOP, which include compliance testing, evaluation of the equivalency of foreign organic certification programs, the State program approval process, and user fees.

### Steps to implementing the NOP

The public will be able to submit comments about this proposed rule in both written and electronic form for 90 days after it is published in the *Federal Register*. The NOP staff will then review and categorize the comments, make any necessary revisions to the proposed rule, and submit a final rule for publication in the *Federal Register*. Discussion of public comments will be included in the final rule.

Implementation of the program, starting with the first round of certifier accreditations, can begin when the final rule is published. Ample phase-in time will be provided to organic producers. The requirement that all operations that produce or handle organic products become certified would be implemented after the initial list of accredited certifying agents is published. This requirement excludes farms and handling operations that sell less than \$5,000 worth per year of total agricultural products.

(12/97)

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# National Organic Program

## Proposed Rule

### Certification Fact Sheet

The U.S. Department of Agriculture (USDA) will accredit State and private organizations or persons to become "certifying agents." Certifying agents will certify that production and handling practices meet the national standards.

#### Who needs to be certified?

- ◆ Farms producing organic agricultural products.
- ◆ Any wild crop harvesting operation labeling agricultural products as "organic."
- ◆ Any operation, or portion of operation, that processes or handles organic agricultural products or ingredients.

#### Who does NOT need to be certified?

- ◆ Restaurants and food-service operations that do not label packaged products, handlers that do not process or repackage products, and processors that only handle products with less than 50 percent organic ingredients.
- ◆ Farms and handling operations that sell less than \$5,000 worth per year in total agricultural products, and final retailers that do not process organic products.

#### How would farmers and handlers become certified?

An applicant would submit specific information to an accredited certifying agent. Information would include the:

- ◆ Type of operation.
- ◆ History of substances applied to land for the previous 3 years.
- ◆ Organic products being grown, raised, or processed.
- ◆ Applicant's organic plan, which includes practices and substances used in production. The organic plan also would describe how the operation will comply with and remain in compliance with all the relevant requirements and standards.

Applicants for certification also would have to keep accurate post-certification records for 5 years of:

- ◆ Land management practices.
- ◆ How crops are grown.
- ◆ How livestock are fed and cared for.
- ◆ How organic products are handled.

These records should document that the operation is in compliance with the regulations, and verify the information provided to the certifying agent. Access to these records would be provided to authorized representatives of USDA, including the certifying agent.

### **Inspection and certification process**

Certifying agents would review applications for certification eligibility. A qualified inspector would conduct an on-site inspection of the applicant's operation. Inspections would be scheduled when the inspector could observe the practices used to produce or handle organic products and talk to someone knowledgeable about the operation.

The certifying agent would review the information submitted by the applicant and the inspector's report. If this information showed that the applicant was complying with the relevant standards and requirements, the certifier would approve the application and issue a certificate. Certification would remain in effect until terminated, either voluntarily or through the enforcement process.

Annual inspections would be conducted of each certified operation, and updates of information would be provided annually to the certifying agent in advance of conducting these inspections. Certifiers also would be notified by a producer immediately of any changes affecting an operation's compliance with the regulations, such as application of a prohibited pesticide to a field.

### **Compliance review and enforcement measures**

The proposed rule would permit USDA or the certifier to conduct unannounced spot inspections at any time to adequately enforce the regulations. The Organic Foods Production Act also requires that residue tests be performed to help in enforcement of the regulations. Certifying agents, and USDA, would conduct residue tests of organically produced products to determine if any detectable levels of prohibited substances were present. If any detectable residues were present, an investigation would be conducted to determine their source.

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# National Organic Program

## Proposed Rule

### Labeling and Market Information Fact Sheet

The Organic Foods Production Act is intended to protect consumers and to ensure that “organic” really means “organic.” Any agricultural product labeled to imply, directly or indirectly, that the product is produced and handled using organic methods will have to be produced and handled in accordance with the proposed National Organic Program standards, and certified according to the proposed National Organic Program certification requirements by a USDA-accredited certifying agent.

#### Processed products labeled as *organic*

- ◆ Products labeled as organic would consist of at least 95 percent organically produced ingredients, excluding water and salt. These products would be able to use the word “organic” in front of the product name on the principal display panel, such as “organic pancake mix,” “organic orange juice,” or “organic salsa.”
- ◆ The product’s principal display panel could also show the USDA seal and the seal of an approved State organic program, if the product was produced and certified in that State. These seals, as well as information about the certifying agent used, could also be displayed on the information panel and in other market information.

#### Processed products labeled as *made with certain organic ingredients*

- ◆ Packaged products that contain 50-95 percent organic ingredients could use only the phrase “made with certain organic ingredients” on the principal display panel.
- ◆ The USDA seal and a State seal could not appear anywhere on the package, but identification of the manufacturer’s certifying agent could appear on the information panel or any other part of the label or market information.

#### Other label restrictions

- ◆ The proposed regulations would prohibit claims on the principal display panel and ingredients statement about the percentage of organic ingredients, but would allow such claims on the information panel.
- ◆ There would be no additional restrictions on the display of any truthful information on product labeling or other market information, including information about specific farm, livestock management, or handling practices that have been used for the product.

The regulations proposed for organically produced products and products labeled as *made with certain organic ingredients* would not supersede other regulatory agencies’ product labeling requirements.

## Penalties for misuse of labels

The Organic Foods Production Act of 1990 provides for the imposition of a civil penalty of up to \$10,000 for any person who knowingly sells or labels as organic a product that was not produced and handled according to the National Organic Program standards, and that was not certified according to the National Organic Program certification requirements.

After the National Organic Program is implemented, organic farmers and handlers will be given sufficient time to revise their labels to conform with the final regulations, and to use up existing labels.

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# National Organic Program

## Proposed Rule

### Organic Production and Handling Standards Fact Sheet

The National Organic Program proposed rule contains regulations that would ensure that organically labeled products meet consistent nationwide standards.

#### What agricultural operations are affected by the proposed standards?

Any farm, wild crop harvesting, or handling operation that wants to sell an agricultural product as organically produced will be affected by the proposed national organic standards. Handling operations include processors, manufacturers, and repackers of organic products. Once a national organic program is implemented, these operations will have to comply with production and handling standards, including the National List of Allowed Synthetic and Prohibited Non-Synthetic Substances, and will have to be certified by a USDA- accredited certifying agent. Operations that sell less than \$5,000 a year in total agricultural products are exempt from the regulations, as are final retailers who do not process or repackage products under an organic label of their own.

#### Standards apply to production process, not to product quality

The proposed national organic standards address the methods, practices, and substances used in producing and handling crops, livestock, and processed products. The requirements that must be met apply to the way the product is created, not to any measurable qualities of the product itself. The proposed standards are designed to be as flexible as possible. Although specific practices used and types of products produced may vary widely, the proposed regulations would require every aspect of organic production and handling to be consistent with the basic guidelines provided in the Organic Foods Production Act (OFPA) and with the principles of a system of organic farming and handling.

#### Crop standards

The proposed organic crop production standards say that:

- ◆ Land would have no prohibited substances applied to it for at least 3 years before the harvest of an organic crop.
- ◆ Crop rotation or other allowable methods that ensure effective pest management and soil fertility would be implemented.
- ◆ Soil fertility and crop nutrient management relates to tillage and cultivation practices, as well as methods and materials that may be used to improve and maintain soil organic matter content and provide nutrients.
- ◆ Preference would be given to the use of organic seeds and other planting stock, but a farmer could use non-organic seeds and planting stock under certain specified conditions.
- ◆ Crop pests, weeds, and diseases would be controlled primarily by preventive practices. Physical, mechanical and biological controls could also be used. When other methods are ineffective, the standards permit some allowance for the use of botanical pesticides and certain other substances that have been reviewed and determined to be acceptable for organic production.

#### Livestock standards

These standards apply to animals used for meat, milk, eggs, honey, and any other product that is

represented as organically produced.

The proposed livestock standards say that:

- ◆ Animals from non-organic sources would be allowed to be brought onto an organic operation, but animals could not be moved in and out of organic management.
- ◆ Livestock would be fed organically produced feeds, including pasture if appropriate, but could also receive vitamin and mineral supplements. A small proportion of the animals' rations could come from non-organic sources, if necessary.
- ◆ Organically raised animals could not be given hormones or antibiotics to stimulate their growth. Preventive management would be the preferred means of keeping animals healthy, but allowances would be made to use animal drugs when needed to treat illness or injury.
- ◆ Use of any animal drugs, except vaccinations, would be prohibited in the absence of illness.
- ◆ All organically managed animals would have to have access to health-promoting living conditions.
- ◆ Manure would have to be managed to avoid water pollution and to recycle its nutrients to the land.

### Handling standards

The proposed handling standards say that:

- ◆ A multi-ingredient product must contain at least 95 percent organic ingredients, excluding water and salt, in order to be labeled "organic."
- ◆ A product that has at least 50 percent organic ingredients, but less than 95 percent, could be labeled "made with certain organic ingredients."
- ◆ A multi-ingredient product containing less than 50 percent organic ingredients could only list the word "organic" on the ingredients statement, and would not have to meet other product handling requirements.
- ◆ Any non-organically produced agricultural ingredients and any non-agricultural ingredients, such as yeast, baking powder, and thickeners, would have to be included on the National List of Allowed Synthetic and Prohibited Non-Synthetic Substances.
- ◆ "Organic" products would have to use organically produced ingredients whenever commercially available, even if the product already contained at least 95 percent organic ingredients.
- ◆ Preference would be given to mechanical and biological methods of food processing, such as baking, drying, freezing, and fermenting.
- ◆ Some allowance would be made for the necessary use of certain processing aids, but volatile synthetic solvents and treatment with synthetic fungicides or pesticides would be prohibited when handling organic products.

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# **USDA** QUESTIONS AND ANSWERS ABOUT THE NATIONAL ORGANIC PROGRAM PROPOSED RULE

## ***What will be the role of USDA in certifying organic farms, wild crop harvesting operations, and handling operations?***

The Organic Foods Production Act of 1990 (OFPA) requires the certification of operations producing and handling organic products, except in limited circumstances. Under our proposal, the system used to produce and handle organic products, rather than the product itself, would be certified. The activities involved in certifying organic operations, such as reviewing applications, conducting inspections, and determining certification status, would be conducted by State and private certifying agents accredited by USDA. USDA would conduct the process for denying or terminating certification.

## ***What is the process for USDA accreditation of State and private certifying agents?***

The proposed USDA accreditation program would provide several safeguards to ensure that the organic standards and certification requirements are fairly and impartially enforced. To become accredited, an applicant would have to demonstrate that its personnel have the capability and experience to carry out the certification program. As part of the accreditation process, USDA would conduct a site evaluation to review the performance of the certifying agent. The report prepared by the USDA site evaluator would be reviewed individually by private sector peers who have experience in organic farming and handling and in organic certification. The USDA also could conduct a site evaluation at any time to evaluate the performance and decisions of the certifying agent. Certifying agents would be required to conduct annual performance reviews of their inspectors and their own certification process. Information about these performance reviews, in addition to updates for other certification-related activities, would be provided to USDA annually.

## ***Can a State be accredited as a certifying agent without having a State organic program?***

A State could apply for accreditation and be accredited by USDA as a certifying agent without the State itself establishing a State organic program. A State that uses the National Organic Program standards may want to provide certification services for the organic producers and handlers in that State.

## ***Can a State have a State organic program without being accredited as a certifying agent?***

A State could operate an approved State program without establishing its own certification program. Rather than utilizing State resources to perform certification activities, a State could rely instead on

USDA-accredited private certifying agents to certify operations within the State.

***Can a State organic program contain requirements other than those established by the National Organic Program?***

The OFPA requires a State organic program to meet the requirements of USDA's National Organic Program and to be approved by USDA. The OFPA permits a State program approved by USDA to include additional requirements, beyond those contained in USDA's program, provided that all additional requirements are consistent with the purposes of the Act, including the purpose to establish consistent, uniform national standards for organic production and handling. An example of an additional requirement that might be approved is one that requires more frequent inspections of certified operations than that provided for in USDA's program. Any State in which additional requirements are established and approved for the production or handling of organic products could not prevent the sale in that State of products produced in another State, regardless of whether these products were produced under a program that contained these additional requirements.

***Would the proposed rule permit processed organic foods to contain synthetic ingredients? Would synthetic processing aids be permitted in processing organic foods?***

The proposed rule would allow up to 5 percent of the weight of a finished processed product, that is represented as organically produced, exclusive of water or salt, to be ingredients that are not organically produced, provided that the non-organic ingredients are included on the National List. The proposed National List includes two categories of non-organic ingredients. The first category--non-agricultural ingredients--includes such ingredients as baking powder, yeast, natural coloring, thickeners, and enzymes, which cannot be organically produced because they are not agricultural products. The second category--non-organic agricultural ingredients--allows the use of any agricultural ingredient when the organic form of the ingredient is not commercially available. Although the proposed National List does not distinguish between synthetic and non-synthetic forms of a non-agricultural ingredient, the proposed rule requires that, when possible, a non-synthetic ingredient be chosen over a synthetic ingredient.

The proposed rule would permit the use of a synthetic processing aid in those instances when its use was necessary due to the ineffectiveness of methods that did not involve the use of processing aids, such as the use of potassium hydroxide to achieve color, finish, and crispness in pretzels. The proposed National List does not include a separate category for processing aids.

***How does the proposed rule address the level of pesticide residues in organic foods?***

We propose to establish a system of residue testing, as required by the OFPA, to enforce the regulations. We would require certifying agents to conduct periodic residue testing of organic products and to conduct an investigation of a certified farm when a pesticide residue found in an organic product produced by the certified farm exceeded a maximum level, which in most cases would be 5 percent of the established EPA tolerance for the pesticide residue. A product produced on a certified organic farm could not be sold as organic if the investigation showed that the residue

was a result of an intentional application of a prohibited substance or was present at levels that exceeded the level of the pesticide caused by unavoidable residual environmental contamination. The unavoidable residual environmental contamination level will vary by geographic region, pesticide, and agricultural product tested.

The organic label on a product certifies that it was produced according to a system of organic farming and handling. It is not, and has never been, a guarantee that the product is free of any pesticide residue. Pesticide residues may occur in agricultural products due to the unavoidable presence of residual chemicals in the soil, water, and air. As a result, minute quantities of chemical residues may occur in organically grown crops, despite the utmost care in their production and handling.

***Does the proposed rule permit genetically engineered organisms to be used in organic production?***

The OFPA does not specifically address the use of genetically engineered organisms. The National Organic Standards Board (NOSB) recommended that genetically engineered organisms be prohibited from being labeled as organically produced. The policy of the United States Government is that genetically engineered organisms and their products should be regulated on risk, not on how they are produced. We are requesting public input on whether the use of genetically engineered organisms or their products in organic farming and handling should be permitted, prohibited, or allowed on a case-by-case basis.

***How does the proposed rule address the subject of irradiation of organic foods?***

The Food and Drug Administration has allowed irradiation to be used on food products other than red meat for several years, and in early December 1997, approved its use on red meat. The OFPA does not specifically address the use of irradiation. The NOSB has recommended, consistent with most existing State and private certification agency organic standards, that the use of irradiation be prohibited in handling organic products. We are requesting public comment concerning the subject of irradiation of organic products in order to evaluate its compatibility with the principles of organic handling.

***How does the proposed rule address the use of raw manure in growing organic foods?***

Most existing State and private certification agency organic standards restrict the use of raw manure by imposing certain conditions on its use on land used to grow crops intended for human consumption. The OFPA and the proposed rule provide for the use of raw manure on land that is *not* used to grow crops for human consumption. Although we acknowledge that the use of animal manure, whether applied directly to a field or composted, is common in organic agriculture, there is inadequate data to make the determinations necessary regarding the safety of the crop after application of raw manure. The proposed rule requests public input on guidelines for the use of raw and composted livestock manure in organic production of food intended for human consumption that should be included in the final rule to ensure safety of organic food. This is consistent with the

efforts currently being pursued by USDA and FDA to address food safety issues regarding the use of manure in agricultural production.

***How are the issues of antibiotic use and living conditions for organic livestock production dealt with in the proposed rule?***

The proposed organic livestock standards require that preventive management measures, such as access to outdoors, space for movement, and appropriate living conditions, be established to maintain animal health without the use of drugs. The proposed standards, however, provide for appropriate flexibility to, for example, protect animals during inclement weather or to isolate sick animals. The proposed rule would permit drugs to be used in certain circumstances to treat illness or injury, when necessary. Products, such as milk or eggs, from a treated animal could not be labeled "organic" until the applicable FDA-established withdrawal period for the drug had passed *and* the animal had recovered from its illness or injury. The OFPA does not permit any hormones, antibiotics, or other growth stimulants to be fed to animals in the absence of illness or for the purpose of stimulating weight gain.

***What labeling provisions are proposed in the rule for organic products compared to products that contain organic ingredients?***

Products that contain a minimum of 95 percent organic ingredients by weight, excluding water and salt, may be labeled "organic" on the principal display panel. For example, the principal display panel of these products may state "organic whole wheat flour," "organic cheese," or "organic bread." In contrast, products that contain between 50 and 95 percent organic ingredients by weight, excluding water and salt, would be required to be labeled on the principal display panel as "made with certain organic ingredients" and could not include other references to organic ingredients on this panel. In both cases, the specific ingredients that are organically produced would be identified in the ingredients listing. The USDA seal may be used only on products that contain a minimum of 95 percent organic ingredients by weight. The proposed labeling regulations would apply to any product that implies *directly or indirectly* on its label that the product was produced using organic methods. Products that contain less than 50 percent organic ingredients may use the term "organic" only in the ingredients listing.

***What provisions are made to collect user fees for the activities of the National Organic Program?***

Fees are proposed to be collected from each certifying agent to recover the costs to review accreditation applications, assess annual reports prepared by accredited agents, perform administrative functions, and conduct site evaluation visits. Additionally, USDA proposes to assess a fee of \$50 from each certified organic farmer and \$500 from each certified organic handler annually to recover costs. Operations selling \$5,000 or less of agricultural products each year are exempt from mandatory certification.

***Can imported products be labeled "organic"?***

Products imported from foreign countries may be labeled as organic if the products are produced, handled, and certified by a foreign organic program that has been determined by USDA to be equivalent to the National Organic Program. A determination of equivalency would not require that all standards of the foreign program be identical to those of the National Organic Program.

***What is the role of the NOSB?***

The National Organic Standards Board, an advisory board to USDA, had a major role in the development of the proposed rule. The NOSB solicited a wide array of public input for use in preparing its recommendations to USDA regarding most aspects of the proposed rule. The NOSB also developed and reviewed a comprehensive list of substances for possible inclusion on the proposed National List. We expect the NOSB to continue advising USDA on program implementation and future necessary revisions to program regulations.

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## *Organic Home Page*

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- Fact Sheets and Background
- National Organic Standards Board Proceedings and Recommendations
- State and Private Organic Certifiers
- Technical Advisory Panel Reviews
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Whether you are a producer, processor, distributor, educator, researcher, or concerned consumer, the NOP Home Page is your source for up-to-date information on the activities and available resources in the field of agricultural organic production.

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February 2000



## Questions and Answers About the National Organic Program Revised Proposed Rule

### ***Is this the final word on National organic standards?***

No. This is only a proposed rule. It is important that you take the time to read it carefully and write to USDA to give us your recommendations, being as specific as you can. Your comments are due by 90 days after date of publication in the Federal Register.

Your comments do matter. On December 16, 1997, the first proposed rule was published in the *Federal Register*, and 275,603 people wrote to us to explain why and how the rule should be rewritten, the largest public response to a proposed rule in USDA history. Then, in the October 24, 1998 *Federal Register*, we asked for public comment on issues concerning livestock confinement, medications, and the authority of certifying agents, and 10,817 people wrote to us. As you read through this document, you will get a sense of what these comments said because in each section we briefly summarize the relevant comments and provide our response to them.

We expect to publish a final rule later this year, once we know what you think about this proposal. The final rule will have, as proposed here, an implementation phase-in period so farmers and processors won't have to change overnight.

### ***Has there been citizen input on this proposal beyond public comments?***

Yes. The National Organic Standards Board (NOSB) is a 15-member citizen board that advises the Secretary on all aspects of the National Organic Program and has special responsibility for development of the National List. Established by law in 1990, the NOSB includes 3 environmental representatives, 3 consumer representatives, 4 organic farmers/ranchers, 2 organic processors, 1 retailer, 1 scientist, and 1 certifying agent. Currently, the NOSB comprises 14 members. The 15<sup>th</sup> member, an accredited certifying agent, would be appointed after certifying agents are accredited by the Secretary. Since the first NOSB was appointed in 1993, the Board has held 19 public meetings, including one public teleconference, crisscrossing the country to hear from the public before making recommendations to the Secretary on national standards. The vast majority of commenters on the first proposed rule urged the Secretary to rewrite the proposal in line with NOSB recommendations--and this is what we have done. More information on NOSB members, meeting minutes, and a side-by-side comparison of this proposal with NOSB recommendations can be found at [www.ams.nop.gov](http://www.ams.nop.gov).

In addition, to be consistent with OMB Circular No. A-119, which directs agencies to use voluntary consensus standards, USDA considered adoption of the *American Organic Standards, Guidelines for the Organic Industry* as a voluntary consensus standard for use in the National Organic Program. In October 1999, the Organic Trade Association published the American Organic Standards (AOS). The AOS standards were developed over several months with two opportunities for comment from interested parties. The introduction states that the

standards are written as an up-to-date compilation and codification of organic standards and certification procedures, as they are understood and applies in the United States. Organic Trade Association members are expected to follow the guidelines.

USDA has determined that it would be impractical to use the American Organic Standards in lieu of USDA developed standards for the following reasons: 1) not all participants in the organic industry elected to participate in developing the AOS; 2) the AOS are new to the industry so there has not been sufficient time for the industry to assess their effectiveness, and 3) some certifying agents disagree with portions of the AOS.

### ***Why do we need national standards for organic food?***

National standards for organic food production are designed to bring about greater uniformity in the production, manufacture, and marketing of organic products. In the absence of a national standard, 49 State and private organizations have established individual programs and standards for certifying organic agricultural products. The lack of consistency between these standards has created problems for farmers and handlers of organic products, particularly if they want to sell their products in multiple States with different standards. Lack of a nationwide standard has also created confusion for consumers, who may be uncertain what it really means when a food product is called "organic."

With a national standard, consumers across the country can go into any store and have full confidence that any food product labeled "organic" meets a strict, consistent standard no matter where it was made. Use of the word, "organic," on the label of any product that does not meet the standard is strictly prohibited.

Consumers will have that confidence, because this proposal requires for the first time that all organic operations be certified by USDA-approved certifying agents. Up to now, certification has been optional; some farmers choose not to be certified at all, and others are certified by State or private certifiers using different standards. It can be hard for consumers to know if a product has been certified, or, if it has, to what standard. Under this proposal, all organic operations, except for the very smallest, would be certified to the same standard. And all products labeled as "organic" would have to comply with the production and handling standards in this rule.

Consumers can also look for the USDA organic seal, which can only be used on products that have been certified by USDA-approved certifying agents. This seal assures consumers that the maker of the product is part of a rigorous certification program and has been thoroughly reviewed by professional inspectors trained in organic agriculture.

National standards will also bring greater predictability for producers of organic foods. There will be no confusion about whether a product satisfies the particular standard of any State, for example, because all organic foods will meet the same standards.

Finally, a national standard for organic food will help our farmers and manufacturers sell organic products in other countries. The lack of a consistent national organic program has limited access to important markets in other countries because of the confusion created by multiple, independent standards. A strong national standard will help to ensure buyers in other countries that all U.S. organic products meet the same standards.

***How can I tell how much organic food is in a product?***

This proposal sets strict labeling standards based on the percentage of organic content. If a product is 100 percent organic, it can, of course, be labeled as such. A product that is at least 95 percent organic can be described as, for example, "organic cereal." If a cereal, for example, contains between 50 and 95 percent organic content, it can be described as "cereal made with organic ingredients," and up to three organic ingredients can be listed. Finally, if the food contains less than 50 percent organic content, the term, "organic," may only appear on the ingredient information panel. These four new labeling categories will provide consumers with much greater information than they have today. [Labeling is covered in subpart D.]

***What is the National List?***

The National List of Allowed and Prohibited Substances (known as the National List) identifies specific substances that may or may not be used in organic production and handling operations. The National List is developed by the NOSB, through consultation with outside experts, and forwarded to the Secretary for approval. The list identifies those synthetic substances, which would otherwise be prohibited, that may be used in organic production based on the recommendations of the NOSB. Only those synthetic substances found on the National List may be used. The National List also identifies those natural substances that may not be used in organic production, as determined by the Secretary based on the NOSB recommendations.

The first proposal included some substances on the National List that were not recommended by the NOSB. This proposal contains no substances on the approved list that were not found in the NOSB recommendations.

This proposal also includes restrictions or other conditions on the use of allowed substances, also known as "annotations," as recommended by the NOSB. Such annotations have been used by existing State and private certification programs to further ensure that allowed substances are used in a manner that is consistent with organic production. [The National List is covered in subpart G, sections 205.600 through 205.607.]

***Does this proposal prohibit use of genetic engineering in organic production?***

Yes. This proposal prohibits the use of genetic engineering (included in the broad definition of "excluded methods" in this proposal, based on the definition recommended by the National Organic Standards Board) in the production of all foods and ingredients that carry the organic label.

275,603 commenters on the first proposal nearly universally opposed the use of this technology in organic production systems. Based on this overwhelming public opposition, this proposal prohibits its use in the production of all organic foods even though there is no current scientific evidence that use of excluded methods presents unacceptable risks to the environment or human health. While these methods have been approved for use in general agricultural production and may offer certain benefits for the environment and human health, consumers have made clear their strong opposition to their use in organically grown food. Since the use of excluded methods in the production of organic foods runs counter to consumer expectations, foods produced with these methods will not be permitted to carry the organic label. [Excluded methods are defined in subpart A and discussed further under Production and Handling (subpart C), Labeling (subpart D), and the National List (subpart G).]

***Will genetic engineering be allowed in the production of foods that contain both organic and nonorganic ingredients?***

No. For products with mostly organic content—those products where more than half of the ingredients are organic and that have the word, “organic,” on the main product label—excluded methods must not be used in the production of any ingredients. Only those products, in which fewer than half of the ingredients are organic and in which the organic ingredients are only identified on the ingredient panel, could contain nonorganic ingredients produced through excluded methods.

We believe consumers have expressed a clear expectation that these methods should not be used in the production of any ingredients contained in mostly organic products. Because prominent use of the word, “organic,” on the label of such products reinforces that expectation, we have chosen to prohibit use of excluded methods in production of both the organic and nonorganic ingredients.

We recognize that this policy will place additional burdens on organic food processors and certifying agents because the ability to meet these requirements will depend largely on practices used in conventional agricultural markets. For organic food processors, it may be harder to find sources of nonorganic ingredients that are produced without use of excluded methods. Similarly, certifying agents may face greater difficulty because they will be required to ensure that handlers have complied with this requirement. However, we believe that the need to meet strong consumer expectations outweighs these concerns. Furthermore, we anticipate that as marketplace practices or standards evolve, these practices will be the basis for implementing this provision, providing handlers and certifying agents recognize criteria with which to evaluate sources of nonorganic ingredients in products containing both organic and nonorganic ingredients.

***Does this proposal prohibit use of irradiation in organic production?***

Yes. This proposal prohibits the use of irradiation in the production of all foods and ingredients that carry the organic label. 275,603 commenters on the first proposal almost universally opposed the use of this technology in organic production systems. Based on this overwhelming public opposition, this proposal prohibits its use in the production of all organic foods even

though there is no current scientific evidence that use of irradiation presents unacceptable risks to the environment or human health and may, in fact, offer certain benefits. Because this rule is a marketing standard and consumers have expressed a clear expectation that irradiation should not be used in the production of organic foods, foods produced with this technology will not be permitted to carry the organic label.

The prohibition on irradiation extends to nonorganic ingredients used in mostly organic ingredients—those products where more than half of the ingredients are organic and that have the word, “organic,” on the main product label. Only those products, in which fewer than half of the ingredients are organic and in which the organic ingredients are only identified on the ingredient panel, could contain irradiated nonorganic ingredients. We do not believe that this prohibition on irradiation in nonorganic ingredients will place undue burden on either handlers or certifiers because of current labeling requirements for irradiated products.

***Does this proposal prohibit use of sewage sludge in organic production?***

Yes. This proposal prohibits the use of sewage sludge in the production of all foods and ingredients that carry the organic label. This prohibition extends to nonorganic ingredients used in the production of mostly organic foods—those products in which more than half of the ingredients are organic and that have the word, “organic,” on the main product label. Only those products, in which fewer than half of the ingredients are organic and which the organic ingredients are only identified on the ingredient panel, could contain nonorganic ingredients produced using sewage sludge.

275,603 commenters on the first proposal almost universally opposed the use of this technology in organic production systems. Based on this overwhelming public opposition, this proposal prohibits its use in the production of all organic foods, even though there is no current scientific evidence that use of sewage sludge in the production of foods presents unacceptable risks to the environment or human health. We believe consumers have expressed a clear expectation that sewage sludge should not be used in the production of any ingredients contained in mostly organic products. Because prominent use of the word, “organic,” on the label of such products reinforces that expectation, we have chosen to prohibit use of sewage sludge in production of both the organic and nonorganic ingredients. We recognize that this policy may place additional burdens on organic food processors and certifying agents. However, we believe that the need to meet strong consumer expectations outweighs these concerns.

***Does this proposal set standards for livestock production?***

Yes. The proposal sets the first comprehensive standards for production of organic animals and meat products. Under this proposal, use of antibiotics would be prohibited in organic livestock production. The standards also prohibit the routine confinement of animals and require that ruminant animals have access to outdoor land and pasture, although temporary confinement would be allowed under certain, limited circumstances. Animals under organic

management must also receive 100-percent organically grown feed. [Organic livestock management issues are discussed in greater detail under subpart C, sections 205.236 through 205.239.]

***Does this proposal prohibit "ecolabeling"?***

No. This proposal only regulates use of the term, "organic," on product labels. Other labels would be allowed as long as they are truthful and not misleading and meet general food labeling requirements. The labeling requirements of this proposal are intended to assure that the term, "organic," and other similar terms or phrases are not used in a way that misleads consumers. Should we find that terms or phrases are being used to represent "organic" when the products are not produced to the requirements of this regulation, we would proceed to restrict their use. [Labeling is covered in subpart D.]

***Are organic foods pesticide-free?***

No. Organic farmers can use natural pesticides to control weeds and insects and maintain the high quality of organic products that consumers have come to expect. Use of synthetic chemical pesticides, however, is prohibited unless specifically allowed on the National List as recommended by the National Organic Standards Board and approved by the Secretary. [The National List is covered in subpart G, sections 205.600 through 205.607.]

***Who needs to be certified?***

As a general rule, all organic production and handling operations must be certified. The Act and this proposal, however, do provide for some exceptions. For example, organic operations with less than \$5,000 in annual sales of organic products do not require certification. Similarly, organic operations that handle only those products with less than 50 percent organic content or that restrict labeling of organic ingredients to the ingredient information panel do not require certification. Finally, we are not requiring certification of most grocery stores and restaurants (referred to in this proposal as "retail food establishments") at this time.

Even where operations do not require certification, however, all organic food products must meet the national standards as described in this proposal. In that way, consumers can be confident that all products labeled as "organic" meet the national standards, even if they did not require certification under the NOP. [Certification is covered in subpart E; the exceptions from certification are found in subpart B.]

***Will organic farmers have to pay fees?***

Organic farmers and other organic operations will have to pay fees for organic certification but will not be charged any fees by USDA. Fees for certification services will be set by the private or State certifying agents. The proposal also requires that certifying agents make their schedule of fees publicly available so that organic operations can plan appropriately and so that they can make informed choices where multiple certifying agents are available. USDA will also review fees charged by certifying agents to ensure that they are reasonable and that they are being

applied fairly to all organic operations. Under this proposal, USDA would only charge fees for reviewing ("accrediting") certifying agents. These fees will primarily be based on the actual costs of the accreditation work done by USDA staff so that certifying agents with smaller and less complex programs will pay lower fees. The proposal also provides for a reduction in the accreditation fees during the first 18 months of the program to provide an incentive for certifying agents to become accredited under the new national program as soon as possible. [Fees are covered in subpart G, sections 205.640 through 205.642.]

### ***How do I become an accredited certifying agent?***

All certifying agents must be accredited by USDA. Certifying agents may apply for accreditation effective with publication of the final rule and are encouraged to apply as soon after publication of the final rule as possible. USDA will provide additional information on applying for accreditation on or about the date of publication of the final rule. This information will be available on the NOP website and by mail upon request.

Applications for accreditation will be handled on a first-come-first-served basis. Those that apply within the first 6 months following publication of the final rule and are determined by the Administrator to meet the requirements for accreditation will be notified of their status in writing on or about 12 months after publication of the final rule. This approach is being taken because of the market advantage that could be realized by accredited certifying agents if USDA did not announce the accreditations simultaneously. [Accreditation is covered in subpart F.]

### ***What are the roles and responsibilities of certifying agents in the National Organic Program?***

Certifying agents are the "front line" representatives of USDA and play a critical role in the oversight and enforcement of the national organic standards program. Once accredited by USDA, certifying agents are empowered to make key decisions regarding the status of organic operations. Certifying agents review the organic plans of organic operations and are authorized to grant certification to those operations that meet the strict national organic standards. Certifying agents are also responsible for the continuing oversight of organic operations—reviewing annual updates of organic plans, conducting residue analyses, and conducting other monitoring activities.

In cases in which a certifying agent finds that an organic operation does not meet the national standards, the agent is empowered to issue notices of noncompliance and to initiate suspension or revocation of certification. Organic operations can appeal such decisions to USDA but unless the organic operation appeals the certifying agent's decision or can correct the problems identified by the certifying agent, the agent's decision will stand. [Accreditation is covered in subpart F; Compliance is covered in subpart G, sections 205.660 through 205.668; and Appeals are covered in subpart G, section 205.680 through 205.681.]

***How will USDA ensure that the National standards are applied fairly and consistently by all certifying agents?***

Because this proposal gives certifying agents such an important role in enforcing the national standards, USDA oversight of those certifying agents is particularly important. Under this proposal, all certifying agents, both private and in State organic programs, would have to be accredited by USDA before they could begin to certify organic operations. It is this accreditation process, in which USDA reviews all certifying agents to make sure they understand and can accurately apply the national organic standards, that is USDA's main tool to ensure that the standards are applied fairly and consistently by all certifying agents.

The accreditation process is really one of ongoing oversight by USDA. Accreditation must be renewed every 5 years so that we can be sure certifying agents continue to meet the program standards. USDA will conduct one or more site visits of certifying agents during the period of accreditation as another mechanism of monitoring their compliance. Finally, certified operations may file complaints with USDA if they believe they have been treated unfairly or if a certifying agent is otherwise not following the program requirements. We will investigate these complaints for possible enforcement action.

***Can States have organic standards that are more strict than the National standard?***

Yes. Some States may have unique environmental or other concerns that they believe require extra conditions above the national standard. In those cases, States would apply to USDA to have their special State program approved by the Secretary.

However, no State would be allowed to set up a program that does not at least meet the national standard. And States would not be allowed to use their programs to keep out or otherwise discriminate against organic products made in another State. [State Programs are covered in subpart G, sections 205.620 through 205.622.]

***What is the timeframe for implementation?***

The final rule in this rulemaking process will establish a procedure and a timeframe for implementing the NOP. We expect that the interim period between publication of the final rule in this rulemaking process and the effective date of the program (actual implementation of regulations) will be 18 months. The following is a preliminary list of several administrative and program issues that must be implemented during that period. Certifying agent applications will be evaluated and accreditation granted. Certifying agents will, in turn, certify production and handling operations to the requirements of these regulations. Equivalency discussions will be held with foreign governments and foreign certifying agents. Guidelines and practice standards on production and handling practices must be finalized and distributed by the NOP. A petition process for recommending amendments to the National List must be developed and distributed. The NOSB will continue to review materials for the National List. State programs may have to make adjustments in their organic certification programs for consistency with the standards of this program. Producers should use the interim period to prepare their production operations to comply with the relevant requirements of this program. Handlers should use the interim period to prepare for necessary changes in the labeling of their products.



## National Organic Program Revised Proposed Rule

### National Organic Program Background

The Organic Foods Production Act (OFPA) of 1990, adopted as part of the 1990 Farm Bill, requires USDA to develop national standards and regulations for organically produced agricultural products to assure consumers that agricultural products marketed as organic comply with these standards. The OFPA and the National Organic Program (NOP) require that agricultural products labeled organic originate from farms or handling operations certified by a State or private agency that has been accredited by the U.S. Department of Agriculture (USDA).

The OFPA and proposed regulations do not address food safety or nutrition. The USDA Agricultural Marketing Service, the part of USDA that sets marketing standards, is charged with implementing the NOP.

#### **How the National Organic Program was developed**

The OFPA requires USDA to develop national organic standards and establish an organic certification program based on recommendations of a 15-member National Organic Standards Board (NOSB).

In addition to NOSB recommendations, USDA reviewed State, private and foreign organic certification programs to help formulate the NOP. The proposed regulations are similar to most of the standards organic producers and handlers currently use, and are intended to be flexible enough to accommodate the wide range of operations and products grown and raised in every region of the United States.

In December 1997, USDA published a proposed rule and received 275,603 public comments, explaining why and how the rule should be rewritten. As a result, we have revised the rule to reflect these comments.

The public will be able to submit comments on this revised proposed rule in both written and electronic form for 90 days after it is published in the *Federal Register*. USDA will then review and categorize the comments, make any necessary revisions to the proposed rule, and submit a final rule for publication in the *Federal Register*. Discussion of public comments will be included in the final rule.

## What's in the proposed rule?

The new proposed regulation will prohibit the use of genetic engineering (included in excluded methods) irradiation, and sewer sludge for fertilization. It will include the following:

- ◆ Production and handling requirements, which address organic crop production, wild crop harvesting, organic livestock management, and processing and handling of organic agricultural products. The National List of Allowed Synthetic and Prohibited Non-Synthetic Substances is also included.
- ◆ Labeling requirements for organic products, along with compliance, testing, fee, and State program approval requirements.
- ◆ Certification requirements, the certification procedure, and recordkeeping requirements.
- ◆ Accreditation requirements for receiving and maintaining accreditation, as well as requirements for foreign accreditation.
- ◆ Other administrative functions of the NOP, which include evaluation of foreign organic certification programs, the State program approval process, and user fees.
- ◆ Steps to implement the NOP.

Implementation of the program, starting with the first round of certifier accreditations, can begin when the final rule is published. During the first 18 months of implementation, all clients of certifiers are considered USDA-certified immediately upon USDA accreditation of their certifier. Certified operations must then comply with the national standards and will be assessed by their certifier on the anniversary of their original certification. Farms and handling operations that sell less than \$5,000 worth per year of organic agricultural products are exempt from certification. These producers and handlers must still abide by the national standards for organic products and may label their products as organic.

*March 2000*



## National Organic Program Revised Proposed Rule

### Organic Production and Handling Standards

The National Organic Program (NOP) proposed rule contains regulations that would ensure that organically labeled products meet consistent national standards.

#### **What agricultural operations are affected by the proposed standards?**

Any farm, wild crop harvesting, or handling operation that wants to sell an agricultural product as organically produced will be affected by the proposed national organic standards. Handling operations include processors, manufacturers, and repackers of organic products. Once the NOP is implemented, production and handling operations will have to comply with all applicable standards. These requirements include operating under an organic system plan approved by an accredited certifying agent and using materials in accordance with the National List of Allowed Synthetic and Prohibited Non-Synthetic Substances. Operations that sell less than \$5,000 a year in organic products are exempted from certification and preparing an organic system plan, but they must operate in compliance with these regulations and may label products as organic. Retail food establishments that sell organically produced agricultural products but do not process them are also exempt from certification.

#### **Standards apply to production process**

The proposed national organic standards address the methods, practices, and substances used in producing and handling crops, livestock, and processed agricultural products. The requirements apply to the way the product is created, not to measurable properties of the product itself. Although specific practices and materials used by organic operations may vary, the proposed standards require every aspect of organic production and handling to comply with the provisions of the Organic Foods Production Act (OFPA).

#### **Crop standards**

The proposed organic crop production standards say that:

- ◆ Land would have no prohibited substances applied to it for at least 3 years before the harvest of an organic crop.
- ◆ Crop rotation would be implemented.
- ◆ The use of genetic engineering (included in excluded methods), irradiation and sewage sludge is prohibited.
- ◆ Soil fertility and crop nutrients would be managed through tillage and cultivation practices, supplemented with animal and crop waste materials and allowed synthetic materials.

- ◆ Preference would be given to the use of organic seeds and other planting stock, but a farmer could use non-organic seeds and planting stock under certain specified conditions.
- ◆ Crop pests, weeds, and diseases would be controlled primarily through management practices including physical, mechanical and biological controls. When these practices are not sufficient, a biological, botanical, or allowed synthetic substance may be used.

### **Livestock standards**

These standards apply to animals used for meat, milk, eggs, and other animal products represented as organically produced.

The proposed livestock standards say that:

- ◆ Animals for slaughter must be raised on an organic operation from birth, or no later than the second day of life for poultry.
- ◆ Producers would be required to feed 100 percent organically produced feeds to livestock but could also provide allowed vitamin and mineral supplements.
- ◆ Organically raised animals could not be given hormones or antibiotics.
- ◆ Preventive management practices, including the use of vaccines, would be used to keep animals healthy. Producers would be prohibited from withholding treatment from a sick or injured animal; however, animals treated with a prohibited medication would be removed from the organic operation.
- ◆ All organically raised animals would have to have access to the outdoors, including access to pasture for ruminants. They could be temporarily confined only for reasons of health, safety, or to protect soil or water quality.

### **Handling standards**

The proposed handling standards say that:

- ◆ All non-agricultural ingredients, whether synthetic or non-synthetic, must be included on the National List of Allowed Synthetic and Prohibited Non-Synthetic Substances.
- ◆ Handlers must prevent the commingling of organic with non-organic products and protect organic products from contact with prohibited substances.

*March 2000*



## National Organic Program Revised Proposed Rule Labeling and Marketing Information

The Organic Foods Production Act and the National Organic Program (NOP) are intended to assure consumers that the organic foods they purchase are produced, processed, and certified to consistent national organic standards. The labeling requirements of the new program apply to raw, fresh produce and processed foods that contain organic ingredients. Foods that are sold, labeled, or represented as organic will have to be produced and processed in accordance with the proposed National Organic Program standards.

Under the NOP, farm and processing operations that grow and process organic foods must be certified by USDA-accredited certifying agents. A certified operation may label its products or ingredients as organic and may use the "USDA Certified Organic" seal.

Labeling requirements are based on the percentage of organic ingredients in a product.

### **Foods labeled 100 percent organic and organic**

- ◆ Products labeled as 100 percent organic must contain (excluding water and salt) only organically produced raw or processed products.
- ◆ Products labeled organic must consist of at least 95 percent organically produced ingredients (excluding water and salt). Any remaining product ingredients must consist of nonagricultural substances or non-organically produced agricultural products approved in the National List.
- ◆ Products meeting the requirements to be labeled 100 percent organic and organic may display these terms on their principal display panel.
- ◆ The USDA seal and the seal or mark of involved certifying agents may appear on product packages and in advertisements.

### **Processed products labeled "made with organic (specified ingredients)"**

- ◆ Products that contain 50-95 percent organic ingredients can use the phrase "made with organic (specified ingredients)" and list up to three of the organic ingredients on the principal display panel. For example organic beef stew can be labeled stew, "made with organic beef, potatoes, and carrots."
- ◆ The certifying agent seal or mark may be used on the package. However, the USDA seal cannot be used anywhere on the package.

### **Processed products that contain less than 50 percent organic ingredients**

- ◆ These products cannot make any organic labeling claim other than on the information panel, and in doing so, designate specific ingredients that are organically produced.

### **Other labeling provisions**

- ◆ The package information panel of any product labeled as organic must state the actual percentage of organic ingredients and use the word "organic" to modify each organically produced ingredient.
- ◆ The name and address of the certifying agent of the final product must be displayed on the information panel.
- ◆ There are no restrictions on use of truthful labeling claims such as "pesticide free," "no drugs or growth hormones used," or "sustainably harvested."

### **Penalties for misuse of labels**

A civil penalty of up to \$10,000 can be levied on any person who knowingly sells or labels as organic a product that is not produced and handled in accordance with the National Organic Program's regulations.

After the new regulations are finalized, organic farmers and handlers will be given a sufficient period of time to adjust their growing and processing operations and revise their labels to conform to the new standards.

*March 2000*



## National Organic Program Revised Proposed Rule

### **Certifier Accreditation and Equivalency of Imported Products**

The Organic Foods Production Act of 1990 (OFPA) empowers the U.S. Department of Agriculture (USDA) to accredit certifying agents so they can certify that producers and handlers representing their products as organic have complied with USDA regulations.

The proposed USDA accreditation program establishes requirements an applicant must meet in order to become an accredited organic certifying agent, and procedures and requirements to maintain accredited status. The program is designed to ensure that all organic certifiers act consistently and impartially. There are nearly 50 private and State organic certification programs in the United States, some of which have existed for 20 years or more. Most are expected to apply for USDA certifier status.

#### **Applicants for accreditation must:**

- ◆ Employ personnel, including inspectors, who have sufficient experience and training in organic production and handling to carry out certification activities.
- ◆ Demonstrate their ability to certify organic producers or handlers; maintain proper records; adequately communicate with producers, handlers, and the public; and communicate with USDA about decisions made.
- ◆ Prevent conflicts of interest and maintain strict confidentiality.

Applicants granted accreditation would conduct annual performance appraisals of their inspectors and have an annual program evaluation of their certification activities conducted to maintain accreditation.

#### **Accreditation process**

Certifying agents will apply for accreditation to the Administrator of the Agricultural Marketing Service. Applicants will sign and return a statement of agreement prepared by the Administrator. USDA will evaluate the application to ensure that the certifying agent can comply with the NOP requirements, including a site evaluation at the applicant's place of business. The site evaluator's report will be reviewed by USDA staff and a peer review panel with expertise in organic production or handling. Accreditation will be for 5 years. Applications for renewal of accreditation are due 6 months prior to expiration of the accreditation. Certifying agents will submit to USDA

annual updates on their certification activities. USDA will conduct one or more site evaluations during the period of accreditation to determine compliance with the OFPA and regulations.

### **Equivalency of imported products**

The OFPA requires USDA to review the certification programs under which imported organic products are produced to ensure that they meet the requirements of the National Organic Program (NOP). Certifying agents operating in foreign countries may apply for USDA accreditation. Foreign applicants would be evaluated based on the same criteria as domestic certifying agents.

In lieu of USDA accreditation, a foreign certifying agent may:

- ◆ Receive accreditation when USDA has determined, upon the request of a foreign government, that the foreign certifying agent's government authority is able to assess and accredit certifying agents as meeting the requirements of the NOP, or
- ◆ Receive recognition as meeting requirements equivalent to the requirements of the NOP under an equivalency agreement negotiated between the United States and the foreign government.

Once accreditation or equivalency is granted, organic product produced under the oversight of the certifying agent or foreign government would be eligible to be imported into this country and labeled as "organic."

*March 2000*



## National Organic Program Revised Proposed Rule

### Certification

The U.S. Department of Agriculture (USDA) will accredit State, private, and foreign organizations or persons to become "certifying agents." Certifying agents will certify that production and handling practices meet the national standards.

#### Who needs to be certified?

- ◆ Operations or portions of operations that produce or handle agricultural products that are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)."

#### Who does NOT need to be certified?

- ◆ Farms and handling operations that sell less than \$5,000 a year in organic agricultural products. Although exempt from certification, these producers and handlers must abide by the national standards for organic products and may label their products as organic.
- ◆ Handlers, including final retailers, that do not process or repackage products, and processors that only handle products with less than 50 percent organic ingredients.
- ◆ A handling operation or portion of an operation that is a retail food establishment that processes or prepares, on the premises of the establishment, raw and ready-to-eat food labeled "organic."
- ◆ A handling operation that handles agricultural products that contain at least 50 percent organic ingredients that chooses to use the word "organic" only on the information panel.
- ◆ A handling operation that handles products that are packaged or otherwise enclosed in a container prior to being received by the operation and remains in the same package.

#### How would farmers and handlers become certified?

An applicant would submit specific information to an accredited certifying agent. Information would include:

- ◆ Type of operation.
- ◆ History of substances applied to land for the previous 3 years.
- ◆ Organic products being grown, raised, or processed.
- ◆ Applicant's organic plan, which includes practices and substances used in production. The organic plan also would describe the monitoring practices to be performed to verify that the plan is effectively implemented, the record-keeping system, and the practices to prevent commingling of organic and nonorganic products and to prevent contact of products with prohibited substances.

Applicants for certification also would have to keep accurate post-certification records for 5

years concerning the production, harvesting, and handling of agricultural products that are to be sold as "organic."

These records should document that the operation is in compliance with the regulations, and verify the information provided to the certifying agent. Access to these records would be provided to authorized representatives of USDA, including the certifying agent.

### **Inspection and certification process**

Certifying agents would review applications for certification eligibility. A qualified inspector would conduct an on-site inspection of the applicant's operation. Inspections would be scheduled when the inspector could observe the practices used to produce or handle organic products and talk to someone knowledgeable about the operation.

The certifying agent would review the information submitted by the applicant and the inspector's report. If this information showed that the applicant was complying with the relevant standards and requirements, the certifier would approve the application and issue a certificate. Certification would remain in effect until terminated, either voluntarily or through the enforcement process.

Annual inspections would be conducted of each certified operation, and updates of information would be provided annually to the certifying agent in advance of conducting these inspections. Certifiers also would be notified by a producer immediately of any changes affecting an operation's compliance with the regulations, such as application of a prohibited pesticide to a field.

### **Compliance review and enforcement measures**

The proposed rule would permit USDA or the certifier to conduct unannounced inspections at any time to adequately enforce the regulations. The Organic Foods Production Act also requires that residue tests be performed to help in enforcement of the regulations. Certifying agents and USDA would conduct residue tests of organically produced products when there is reason to believe that they have been contaminated with prohibited substances. If any detectable residues were present, an investigation would be conducted to determine their source.

*March 2000*



## National Organic Program Revised Proposed Rule

### USDA Multi-Program Approach to Organic Agriculture

Regulating the use of the term "organic" is just one way USDA is helping facilitate the growth of the organic industry. In addition to the proposed rule, Secretary Glickman is announcing four initiatives that help bring organic agriculture into the mainstream of USDA programs.

#### **Federal Marketing Order Research Project**

The Agricultural Marketing Service (AMS) is working with the University of California at Davis and the Organic Research Foundation to research organic production and the marketing of organic fruits and vegetables under USDA marketing order programs. The increase in organic production has raised some questions about where organic commodities fit into the system, and how marketing orders can better serve organic producers and handlers. The project will provide a forum for producers of organic and traditionally produced fruit and vegetables to decide the direction of marketing and production research for specific marketing order commodities.

There are 36 fruit, vegetable, and specialty crop marketing order programs in 33 States designed and initiated by farmers to help stabilize markets. Marketing orders help to maintain the high quality of produce, standardize packs or containers, establish reserve pools, and authorize advertising, research, and market development.

#### **Crop Insurance Pilot Project**

Under current rules, farmers must grow crops using "traditional good farming practices" in order to receive full Federal crop insurance protection. Generally speaking, organic farming practices are not recognized under these rules.

The Risk Management Agency is developing a crop insurance project which would pave the way for organic farmers to get full coverage. The pilot project will only be conducted in areas that have State or private organic certification systems in place; crop production and marketing information; and producer interest.

#### **SARE Organic Farming Projects**

The President's budget request for fiscal year 2001 asks for \$5 million for organic research, marketing, and education projects to be carried out by USDA's Sustainable Agriculture Research and Education (SARE) program of Cooperative State Research

Education and Extension Service (CSREES). The request also includes \$1 million for a new Organic Transitions Program, which will support the development and implementation of biologically based pest management practices that mitigate the ecological, agronomic, and economic risks associated with a transition to organic production.

SARE funds research and education projects (usually collaborations among researchers, farmers, and other partners), producer grants (where farmers test their own innovations and share the results with their neighbors), and professional development grants (which provide educational opportunities for USDA and other agricultural professionals).

### **Market News for Organic Fruit and Vegetables**

USDA's Fruit and Vegetable Market News Service recognizes the growth and increased importance over the last few years of organically grown produce. As a result, the President's fiscal year 2001 budget contains a request for funds which will allow the Market News Service to begin reporting price and volume of organically grown fruits and vegetables in the United States.

The report would be issued from the Fruit and Vegetable Market News Service, Customer Service Center in Fresno, California. The National Organic Fruit and Vegetable Report would consist of F.O.B. (free on board) shipping point prices, volumes, and wholesale market prices.

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## National Organic Program Revised Proposed Rule State Organic Certification Programs

The Organic Foods Production Act of 1990 (OFPA) authorizes the Secretary of Agriculture to approve State organic certification programs that are consistent with the national organic standards and regulations established under the OFPA. Under USDA's proposed National Organic Program (NOP), a State government may request the Secretary to approve its State organic certification program. Once a State's requested organic requirements are approved by the Secretary, those requirements become the NOP requirements for organic producers, handlers, and certifying agents operating in the State.

### **What criteria must a State organic certification program meet to be approved by the Secretary?**

Under the proposed NOP, a State's organic requirements cannot be less restrictive than NOP requirements. More restrictive organic requirements will be approved by the Secretary only if those requirements are needed to protect particular environmental condition or cultural practices in the State or a particular area of the State. For instance, a State may request approval of additional restrictions to protect a sensitive watershed or aquifer. A State's more restrictive standards will not be applied to production and handling activities outside the State. Finally, a State's organic program requirements may not be used to discriminate against organic products produced in other States.

### **Must a State assume responsibilities for administration of its State organic certification program?**

Yes. The governing State official of a State organic certification program must agree to administer the NOP program, including any approved more restrictive State requirements. The State's organic program will oversee certified organic producers and handlers in the State to assure that they are operating in compliance with the NOP. Working with State and private certifying agents, as well as any accredited foreign certifying agents, the State organic program will oversee enforcement and appeal procedures to make sure all certified organic operations are in compliance with NOP and State requirements. The State organic program will not exercise compliance authority over accredited certifying agents operating in the State--an authority delegated only to the Secretary of Agriculture.

A State organic certification program may have other State-sponsored organic projects, such as research and promotion programs, tax incentives, or transition assistance for organic producers within the State. Such projects will not be subject to the Secretary's approval, provided they do not conflict with the OFPA.

**What happens if a State doesn't have a State organic certification program or doesn't want one?**

The organic requirements of the NOP will be effective in the State and will be administered by the NOP office in USDA. USDA will monitor State government, private, and foreign certifying agent activities in the State to assure compliance with the national program.

**What steps are followed to implement a State organic certification program?**

States with current organic programs and States who intend to establish a new organic program may submit their programs to the Secretary for approval after the final rule in this rulemaking process is published. The request for approval must explain any additional, more restrictive State organic requirements needed in the State. The State also must agree to administer the State and NOP organic requirements in the State. Existing and new State organic certification programs should be approved and operating when the NOP becomes effective, approximately 18 months after publication of the final rule. The Secretary will review requests to amend an approved State program. The Secretary will review the State's oversight of its organic certification program every 5 years.

**What options does a State have under the NOP ?**

A State with an existing organic certification program may either:

- ◆ Request the Secretary's approval of the unique requirements of the State's organic program and assume responsibility for administration of the NOP program in the State, or
- ◆ Initiate steps to terminate or dissolve the State organic program and turn over administration of the NOP to USDA.

A State without an organic certification program may:

- ◆ Develop a proposed State organic program with administrative oversight responsibilities and request the Secretary's approval of that proposed program for the State, or
- ◆ Do nothing and allow USDA to administer NOP in the State.

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