



## WODPA Position on USDA Appropriations for the National Organic Program

We note that the Committee on Appropriations voted unanimously to increase the NOP budget for 2018 by \$3 Million. We also note that the report language includes the following statement: “The Committee strongly encourages USDA to focus resources for NOP on robust oversight of domestic and international operations that carry the USDA organic seal in light of recent news reports that have shed light on inadequate enforcement of the standards.”

WODPA supports the Committee on Appropriations’ \$3 Million increase to the NOP budget for 2018. However, the Committee statement lacks the specificity needed to ensure that, this time, the added appropriations will be used for compliance and enforcement.

WODPA notes that the issue of enforcement was raised in Calendar No. 282, July 24, 2007. NOP’s budget was increased \$1.15 million for FY 2008, giving the NOP a budget of \$2.65 million. With that increase, NOP brought enforcement inhouse and hired a 5-person compliance and enforcement staff. The budget was raised again in FY 2009 to \$3.87 Million. For FY 2010 NOP’s budget was raised to \$6.97 Million. Senate Calendar No. 464, July 15, 2010, instructed the “Secretary to conduct a full review of the Department’s authorities for enforcement of the NOP....” The Secretary was also directed to “provide a written report to the Committee by March 1, 2011, on steps taken to improve enforcement of the Organic Standards Act.” NOP’s FY 2011 budget was raised to \$9.1 Million.

The Committee correctly notes that USDA is inadequately enforcing the National Organic Standards. In FY 2010 NOP’s Compliance and Enforcement Division had 9 staff members. That is the same number that they have today which consists of a Director, Assistant Director, Complaint Intake Specials, Complaint Coordinator, and 5 investigators. This is one more investigator than they had in 2008 when the compliance staff consisted of a Director and 4 investigators. For the period FY 2015, FY 2016, and the first 6 months of FY 2017, **NOP has accumulated a case backlog of 417 complaints.** This number is likely higher since we do not have data preceding FY 2015. It is clear that Compliance and Enforcement has netted little of the \$6.45 Million budget increase since 2008, when NOP brought enforcement inhouse.

Alleged pasture violations are only one symptom of a broader problem of the lack of an effective NOP compliance program. Factors contributing to an ineffective compliance program include:

1. NOP overly relies on accredited certifying agencies to conduct investigations on complaints referred to NOP. All certifiers have an inherent conflict of interest since their economic viability depends on the fees they charge their clients. Further, client violations may be tied to inadequate certifier oversight or understanding of the regulations. Thus, all self-investigations of their clients should be suspect.
2. NOP does not provide adequate oversight of accredited certifiers and inspectors relative to their oversight of certified operation compliance with the production and handling regulatory provisions. NOP puts more emphasis on certifier compliance with record keeping and administrative issues than they do assuring that certified operations comply with the regulations. This places organic integrity at risk, as evidenced by allegations of pasture violations.
3. NOP staff, generally, are not adequately trained in the regulations and their proper interpretation.
4. NOP auditors are inadequately trained as auditors.
5. NOP investigators are inadequately trained as investigators.

WODPA believes that NOP should be held accountable for meeting its primary responsibilities. To that end, we believe that S. 1603 should be amended to add amendments to the Organic Foods Production Act of 1990. We understand that amending the Organic Foods Production Act of 1990 is controversial and have provided an alternative solution on page 3 of this document. The following are the amendments we believe should be added to S. 1603:

1. Section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) is amended by adding at the end the following:

(d) Distribution of appropriations

(1) Not more than 25 percent shall be allocated annually to Departmental and Agency charges combined.

(2) At least 15 percent shall be allocated annually to rulemaking.

(3) At least 25 percent shall be allocated annually to accreditation of certifying agents and the annual review of all accredited certifying agents.

(4) At least 25 percent shall be allocated annually to enforcement of this chapter and its implementing regulations.

Note: The remaining 10 percent would be used for other activities such as materials review, freedom of information, and the NOSB.

2. Section 2120 of the Organic Foods Production Act of 1990 (7 U.S.C. 6519) is amended in subsection (b) by adding at the end the following:

(3) Conducting investigations

Allegations of violations reported to the Secretary shall not be delegated for investigation to any certifying agent accredited by the Secretary. Investigative actions, including investigations, originating from allegations of violations reported to the Secretary shall be conducted by the Secretary.

3. Section 2110 of the Organic Foods Production Act of 1990 (7 U.S.C. 6509) is amended—

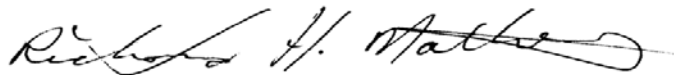
(1) in subsection (b), by inserting, at the end thereof, “, except for bovine breeder stock which shall be organic livestock.”.

(2) in subsection (e), by striking paragraph (2) in its entirety.

**Ideally the Organic Foods Production Act would be amended as noted above. However, in lieu of amending OFPA, WODPA recommends that the report language be amended to read as follows:**

Recent news reports have shed light on USDA’s inadequate enforcement of the National Organic Standards. In light of this, the Committee strongly expects USDA to focus resources for NOP on robust oversight of certifying agents and domestic and international operations that carry the USDA organic seal. To that end, the Committee has increased the NOP budget by \$3 Million, the total to be used solely for enforcement; including hiring staff trained in the field of investigation. In addition to these new funds, the Committee expects NOP to use not less than 50 percent of the other \$9.1 Million, divided equally between Accreditation and Enforcement for Accreditation and Enforcement. Regarding accreditation, the Committee expects USDA to focus on annual certifying agent reviews and the review of inspectors and certified operations. Regarding enforcement, the Committee expects USDA to conduct its own investigations of alleged violations rather than referring such investigations to certifying agents. Additionally, the Committee expects NOP to use not less than 15 percent of the \$9.1 Million for regulatory actions including publication of the Origin of Livestock final rule within 120 days of passage of this Bill.

Approved on August 21, 2017



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