
ORGANIC AGRICULTURE *IN THE* UNITED STATES

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OUTLINE

- What is organic food? OFPA, NOP, NOSB
 - Harvey vs. Veneman, challenge to USDA implementation of OFPA
 - US organic marketplace
 - US organic production
 - California
 - Organic agriculture in the Farm Bill
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WHAT IS ORGANIC FOOD?

- Organic Food Production Act of 1990 (OFPA)
 - Set national standards for production and processing (handling) for food labeled as “organic”
 - Prohibits the use of synthetic substances
 - Requires an organic plan
 - Requires certification by an accredited certifier
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ORGANIC FOOD PRODUCTION ACT

- Requires the Secretary of Ag to establish a National Organic Program and the National Organic Standards Board (NOSB)
 - Requires the NOSB to develop the National List
 - Prohibited natural substances
 - Allowed synthetics
 - Commercially unavailable organic agricultural ingredients
 - Requires the Secretary to promulgate regulations to carry out OFPA
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NATIONAL ORGANIC PROGRAM FINAL RULE

- Published December 2000
 - Effective October 2002
 - Organic crop production, wild crop harvesting, organic livestock management, and processing and handling of organic
 - All natural (non-synthetic substances are allowed in organic production and all synthetic substances are prohibited)
 - National List of Allowed Synthetic and Prohibited Non-Synthetic Substances contains specific exceptions
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NOP FINAL RULE LABELING STANDARDS

- Four tiered labeling system
 - “100% organic” all organic ingredients
 - “Organic” 95% - 100% organic ingredients
 - “Made with organic (ingredients listed)” 70% -94% organic ingredients
 - “organic (ingredient listed)” on the ingredient statement less than 70% organic ingredients
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USDA ORGANIC SEAL
“100% ORGANIC” AND “ORGANIC”



FOUR TIER ORGANIC LABELING



NOP FINAL RULE CROP STANDARDS

- No prohibited substances for at least 3 years
 - Genetic engineering and sewage sludge prohibited
 - Synthetic substances on the National List may be used
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NOP FINAL RULE LIVESTOCK STANDARDS

- Animals for slaughter must be raised under organic management from the last third of gestation or no later than the second day of life for poultry
 - 100 percent organic feed plus vitamin and mineral supplements
 - May not be given hormones to promote growth or antibiotics for any reason
 - Prohibited from withholding treatment from a sick or injured animal
 - Access to outdoors, including access to pasture for ruminants
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NOP FINAL RULE

HANDLING *AND* PROCESSING STANDARDS

- All non-agricultural ingredients must be included on the National List
 - Must prevent commingling of organic and non-organic products and contact with prohibited substances
 - Processed products labeled as “organic” must include only organically produced agricultural ingredients unless the ingredient is not available in organic form
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NATIONAL LIST *OF ALLOWED AND* PROHIBITED SUBSTANCES

- Prohibited natural materials (e.g. arsenic)
 - Allowed synthetics (e.g. pectin, baking soda)
 - NOSB makes recommendations to the Secretary of Agriculture based on criteria:
 - Effect on human health and ecosystem
 - Toxicity
 - Availability of gentler alternatives
 - Probability of environmental contamination during manufacture, use, and disposal
 - Compatibility with sustainable agriculture
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NATIONAL LIST *OF ALLOWED AND* PROHIBITED SUBSTANCES

- Additional requirements for synthetic processing aids:
 - ❑ Has no organic ingredients as substitutes
 - ❑ Manufacture, use and disposal have no adverse environmental effects
 - ❑ Nutritional quality of food is maintained and the material has no adverse health effects
 - ❑ Primary purpose is not as a preservative
 - ❑ Generally Recognized as Safe (GRAS) by FDA
 - ❑ No other way to produce a similar product
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NATIONAL LIST *OF ALLOWED AND* PROHIBITED SUBSTANCES

- Synthetics allowed in crop production
 - Nonsynthetics prohibited from crop production
 - Synthetics allowed for use in livestock production
 - Nonsynthetics prohibited from livestock production
 - Nonagricultural substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic”
 - Non - organically produced agricultural products allowed as ingredients in or on processed products if an organic version is not available
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HARVEY VS. VEMEMAN

CHRONOLOGY

- **October 23, 2002** Arthur Harvey filed a civil lawsuit in US District Court for the District of Maine against then Secretary of Agriculture, Ann Veneman. The suit consisted of 9 counts challenging the NOP Final Rule as not in conformity with the OFPA
 - **January 7, 2004** Summary judgment for Secretary Veneman and against Mr. Harvey on all 9 counts.
 - **March 8, 2004.** Mr. Harvey filed notice of Appeal with First Circuit Court of Appeals.
 - **January 26, 2005** First Circuit sided with Harvey on three counts and remanded the counts to the District Court.
 - **June 9, 2005** Consent Final Judgment and Order by the US District Court for the District of Maine.
 - **November 10, 2005** The Agricultural Appropriations Act signed into law including language amending OFPA.
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COUNT 1-EXEMPTION *FOR* NONORGANIC AGRICULTURAL PRODUCTS NOT COMMERCIALY AVAILABLE

- Rule lists five specific products AND allows for any other non - organically produced agricultural product when the product is not available in organic form.
 - OFPA requires all specific exemptions to be on the National List
 - Harvey claimed Rule was a blanket exemption
 - USDA claimed Rule only exempted the five listed materials
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COUNT 1-EXEMPTION *FOR* NONORGANIC AGRICULTURAL PRODUCTS NOT AVAILABLE RULING

- ❑ Declaratory judgment stating that the Rule does not establish a blanket exemption to the National List in June 2005.
 - ❑ USDA issued a notice of clarification in July 2005
 - ❑ Whether or not the five products listed must undergo further review is not clear
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COUNT 1-EXEMPTION *FOR* NONORGANIC AGRICULTURAL PRODUCTS NOT AVAILABLE

CONGRESSIONAL ACTION

- ❑ Amended OFPA section titled “Procedure for Establishing a National List” to authorize the Secretary to develop emergency procedures for placement on the National List for up to 12 months
 - ❑ Creates an expedited petition process
 - ❑ Leaves the process to be defined up to the Secretary
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COUNT 1-EXEMPTION *FOR* NONORGANIC AGRICULTURAL PRODUCTS NOT AVAILABLE CONCERNS

- The OFPA amendment gives the Secretary unprecedented authority to write rules to allow emergency use of non-organic ingredients
 - Under OFPA NOSB has always had the authority to develop procedures to expedite review of materials needed on the National List and authority regarding the List.
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COUNT 3 – USE OF SYNTHETIC SUBSTANCES IN PROCESSING

- Challenges section 205.600(b) of the Rule states synthetic substances may be used “as a processing aid or adjuvant” if they meet six criteria
 - 205.605(b) lists 36 synthetic substances specifically allowed in or on processed products labeled as “organic”
 - All of the 36 synthetics could be used for products labeled as “made with organic (ingredients specified)” which requires content of $\geq 70\%$ organic
 - None could be used in “100 percent organic” products
 - 29 could be used in “organic” products bearing the USDA seal (95 percent organic content or higher)
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COUNT 3 – USE OF SYNTHETIC SUBSTANCES *IN* PROCESSING RULING

- The circuit court found that OFPA forbid the use of synthetic substances during the processing or handling of a product unless required by law for food safety.
 - The National List pertains only to production or growing of organic products
 - District court ordered the Secretary to publish new rules within one year (by June 2006)
 - Allowed for exemption of products labeled “organic” for up to two years after the date of judgment.
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COUNT 3 – USE OF SYNTHETIC SUBSTANCES *IN* PROCESSING

CONGRESSIONAL ACTION

- Amended the two provisions the Circuit court relied on in decision that synthetics were not allowed during handling or processing
 - “A handling operation shall not add any synthetic ingredient *not appearing on the National List* during the processing or any postharvest handling of the product.”
 - Strikes the provision that exempted substances for handling on the National List must be nonsynthetic
 - Therefore, the ruling in Count 3 is moot.
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COUNT 3 – USE OF SYNTHETIC SUBSTANCES *IN* PROCESSING CONCERNS

- The OFPA amendment does not include the criteria adopted by NOSB for reviewing materials.
 - New language refers to ingredients and not substances.
 - The amendment deleted the language allowing the National List to include a **substance** that “is used in handling and is non synthetic but in not organically produced.”
 - This creates a loophole for the use of processing aids that are not on the National List because they are not **ingredients**.
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COUNT 7 – CONVERSION OF DAIRY HERDS TO ORGANIC PRODUCTION

- OFPA requires dairy herds being converted to organic production must be raised according to OFPA for at least 12 months before selling milk or milk products.
 - Section 205.236(a)(2) of the Rule allows whole dairy herds transitioning to use 80% organic feed for the first nine months and 100% organic feed for the last 3 months.
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COUNT 7 – CONVERSION OF DAIRY HERDS TO ORGANIC PRODUCTION RULING

- OFPA does not permit the creation of an exception for whole herd conversions and found the regulation invalid.
 - The circuit court reversed the district court's decision.
 - The district court then ordered the Secretary to promulgate regulations to implement the circuit court's decision by June 2006 and to start enforcement by June 2007.
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COUNT 7 – CONVERSION *OF* DAIRY HERDS TO ORGANIC PRODUCTION **CONGRESSIONAL ACTION**

- Through the ag appropriations act, added an exception to the general feeding requirement
 - The new provision allows crops and forage included in the farm's organic plan that is in the third year of transition to be consumed by dairy animals during the 12 month period prior to the sale of milk or milk products.
 - This provides an exception for a more lenient conversion process making the court ruling moot by also eliminating the 80/20 rule.
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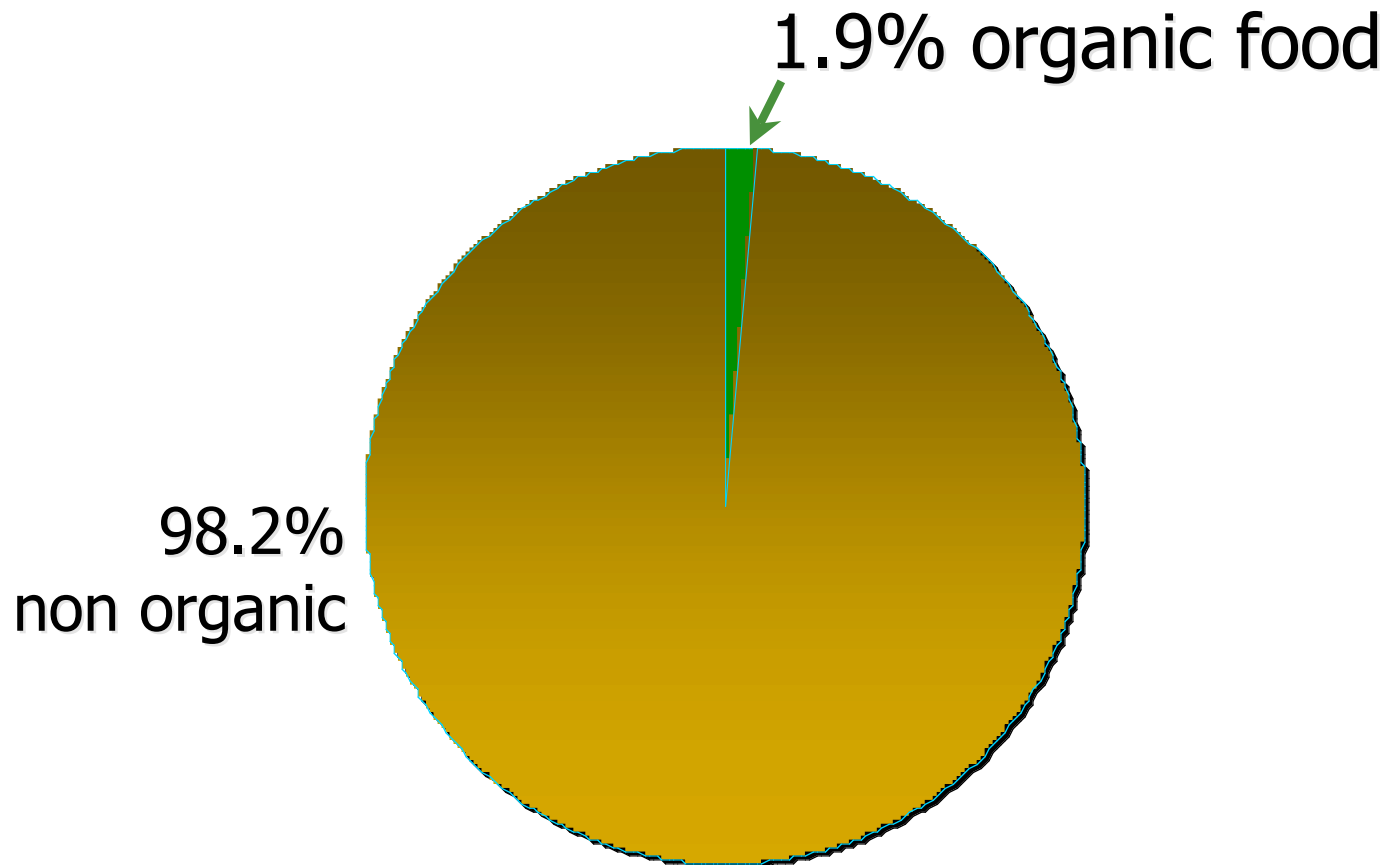
COUNT 7 – CONVERSION OF DAIRY HERDS TO ORGANIC PRODUCTION CONCERNS

- Elimination of 80/20 rule also eliminated the provision that “Once an entire herd has been converted...all dairy animals shall be under organic management from the last third of gestation”.
 - USDA could write new regulations to allow non - organic heifers as replacement stock on a continuing basis.
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ORGANIC MARKET TRENDS

- Organic sales are growing at double digit rates.
 - Vegetables and fruit still dominate.
 - Livestock and poultry sales are now growing at a faster rate than produce.
 - The National Organic Rule seems to have had a positive impact on sales.
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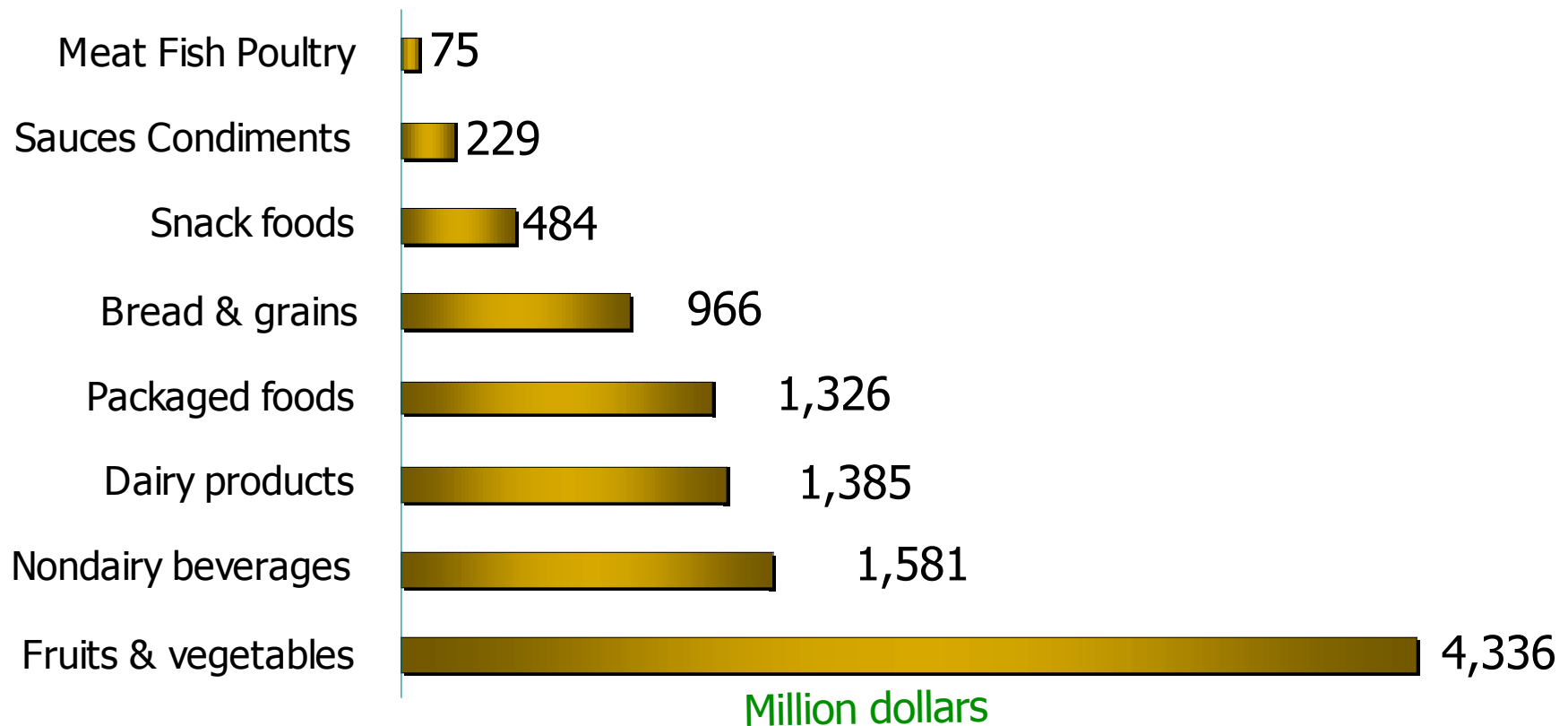
\$555 BILLION US FOOD MARKET *in 2003*



Source: Nutrition Business Journal

US RETAIL SALES OF ORGANIC FOOD

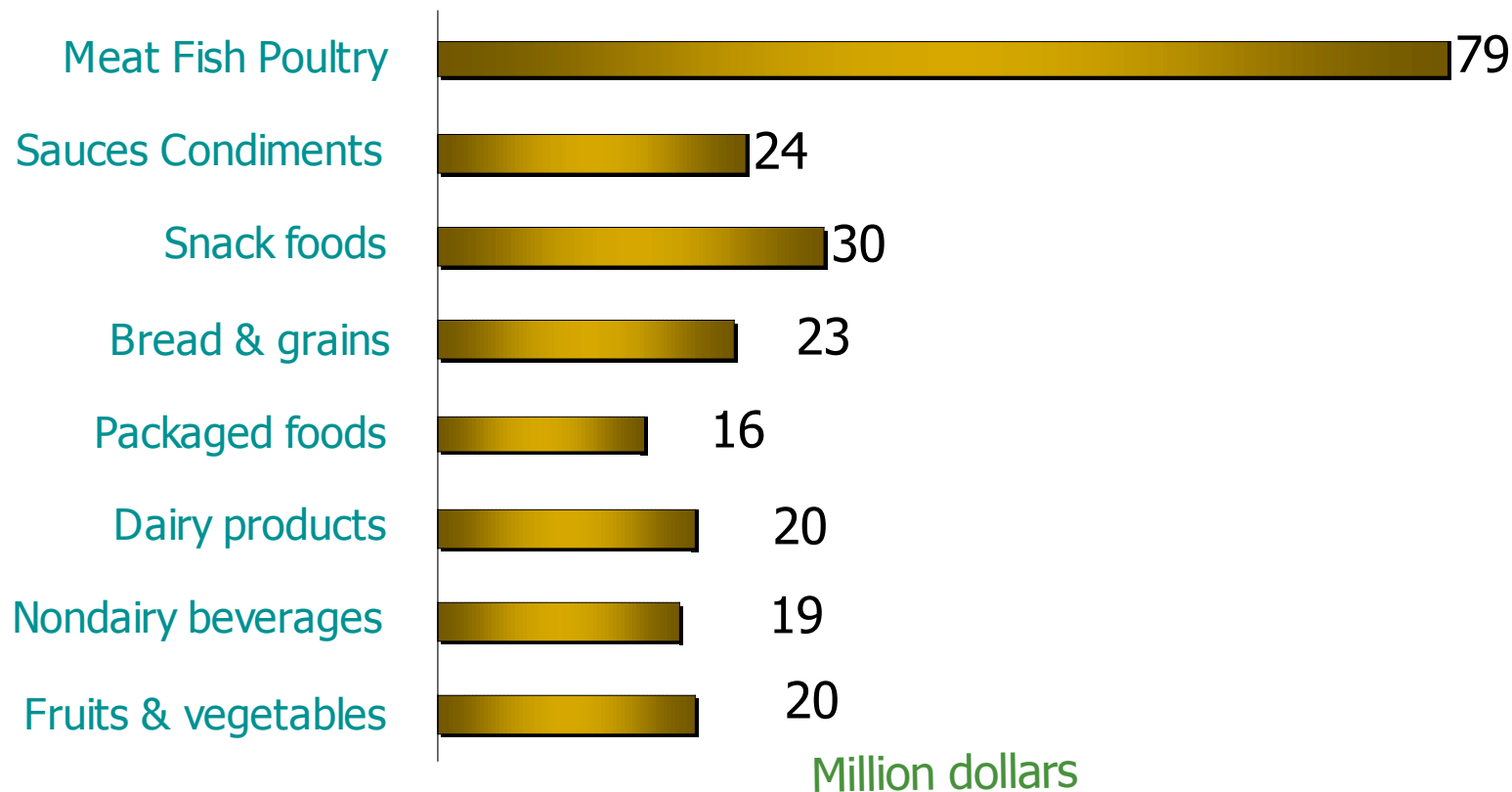
\$10.4 BILLION *IN* 2003



Source: Organic Trade Association's 2004 Manufacturer Survey

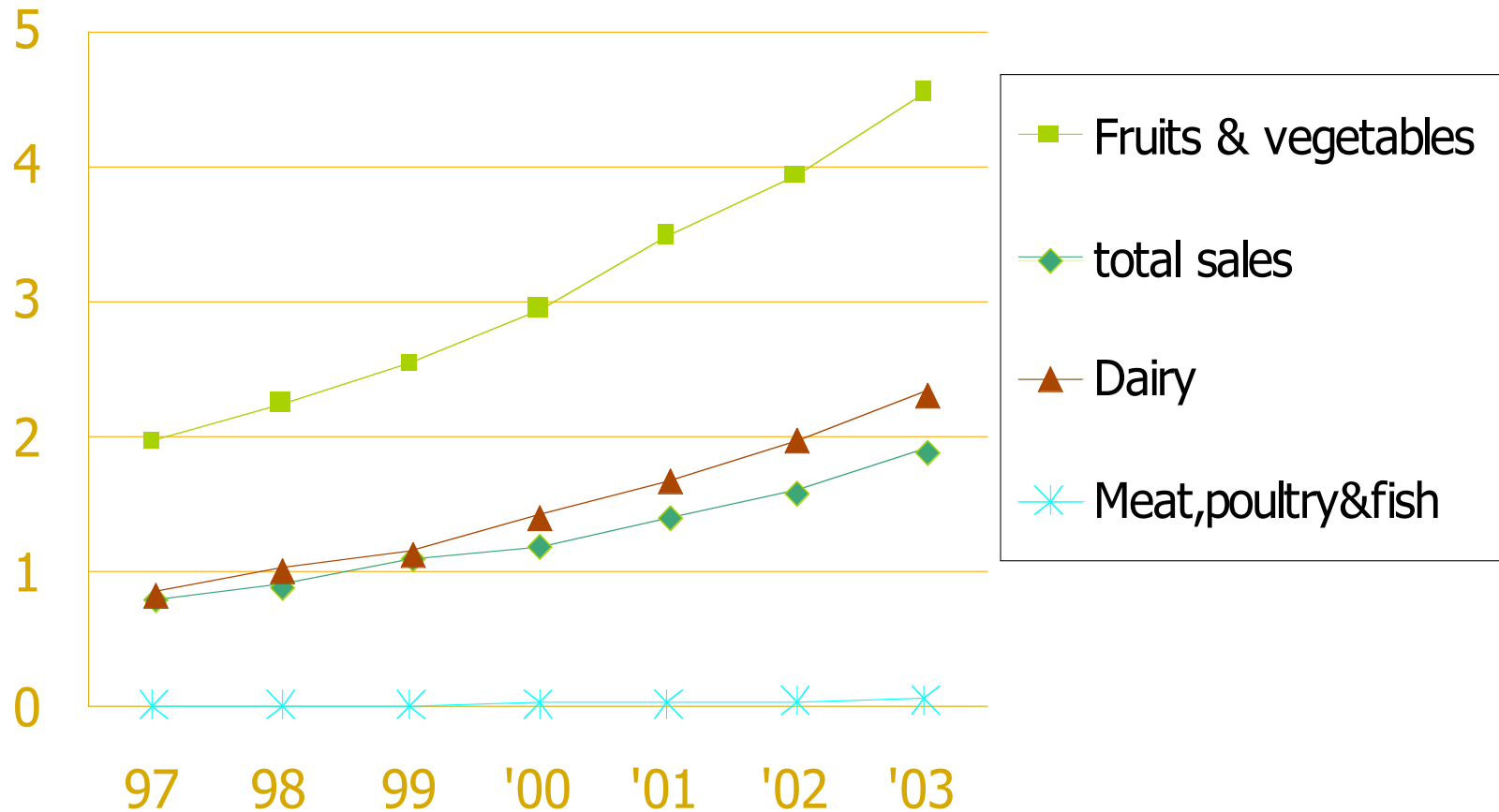
US RETAIL SALES OF ORGANIC FOOD

Per Cent Growth in 2003



Source: Organic Trade Association's 2004 Manufacturer Survey

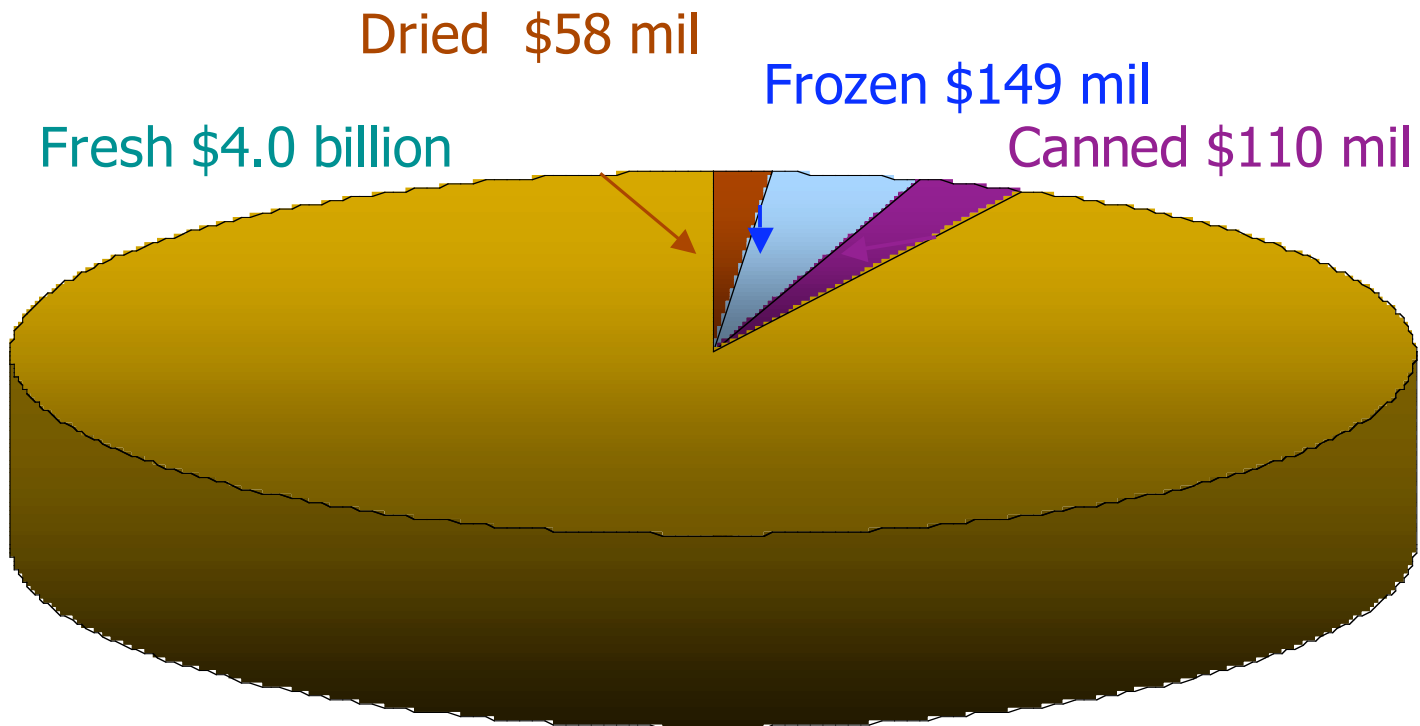
US ORGANIC FOOD SALES MARKET PENETRATION 1997 - 2003



Source: Organic Trade Association's 2004 Manufacturer Survey

US ORGANIC FRUIT *and* VEGETABLES

\$4.3 billion in retail sales - 2003



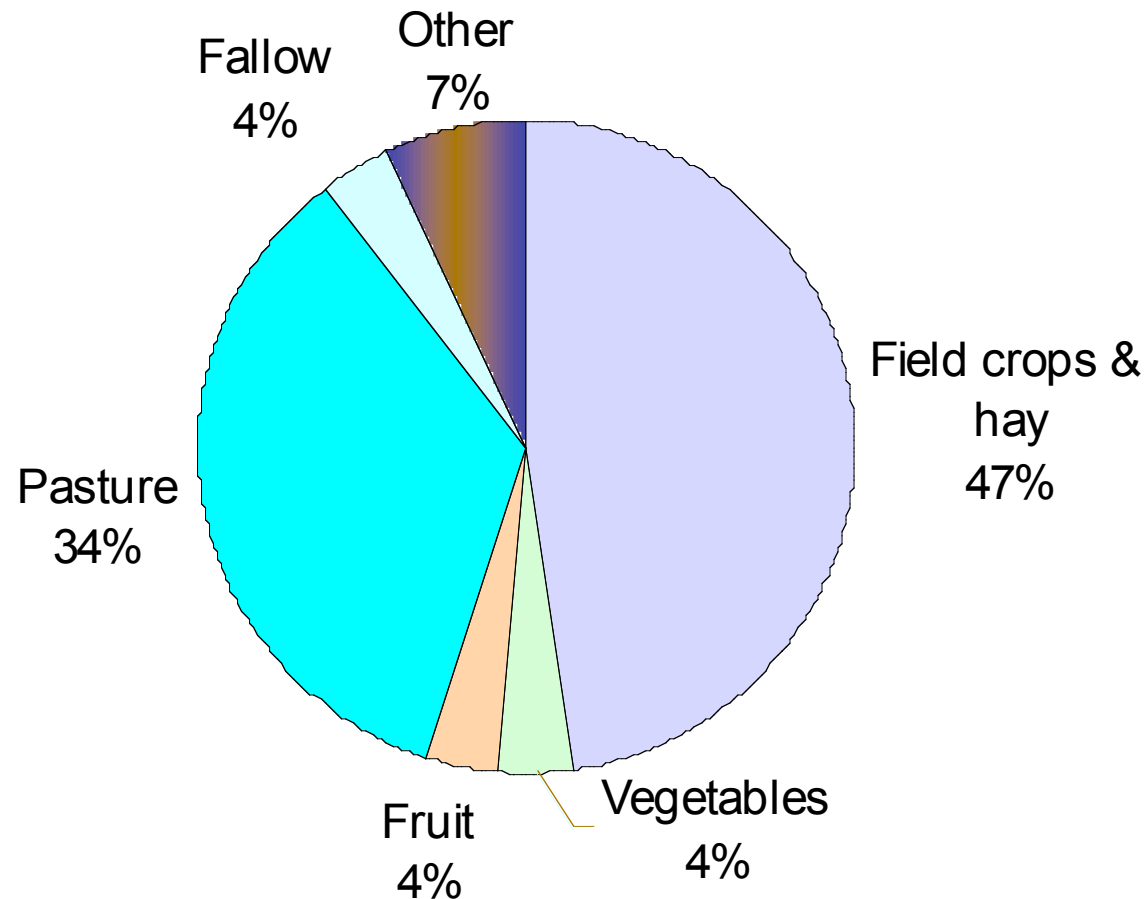
Source: Organic Trade Association's 2004 Manufacturer Survey

US CERTIFIED ORGANIC PASTURE *AND* CROPLAND 2003

State	Number of Certified Operations	Cropland (Acres)	Pasture % Rangeland	Total Acres
US Total	8,035	1,451,601	745,273	2,196,874
California	1,907	176,507	44,446	220,953
CA % of total	24%	12%	6%	10%
Texas	157	56,906	256,343	313,248
TX % of total	2%	4%	34%	14%

Source: Economic Research Service, USDA

US CERTIFIED ORGANIC ACREAGE *by* CATEGORY, 2003



Source: Economic Research Service, USDA

CA PERCENTAGE *of* US CERTIFIED ORGANIC ACREAGE, 2001

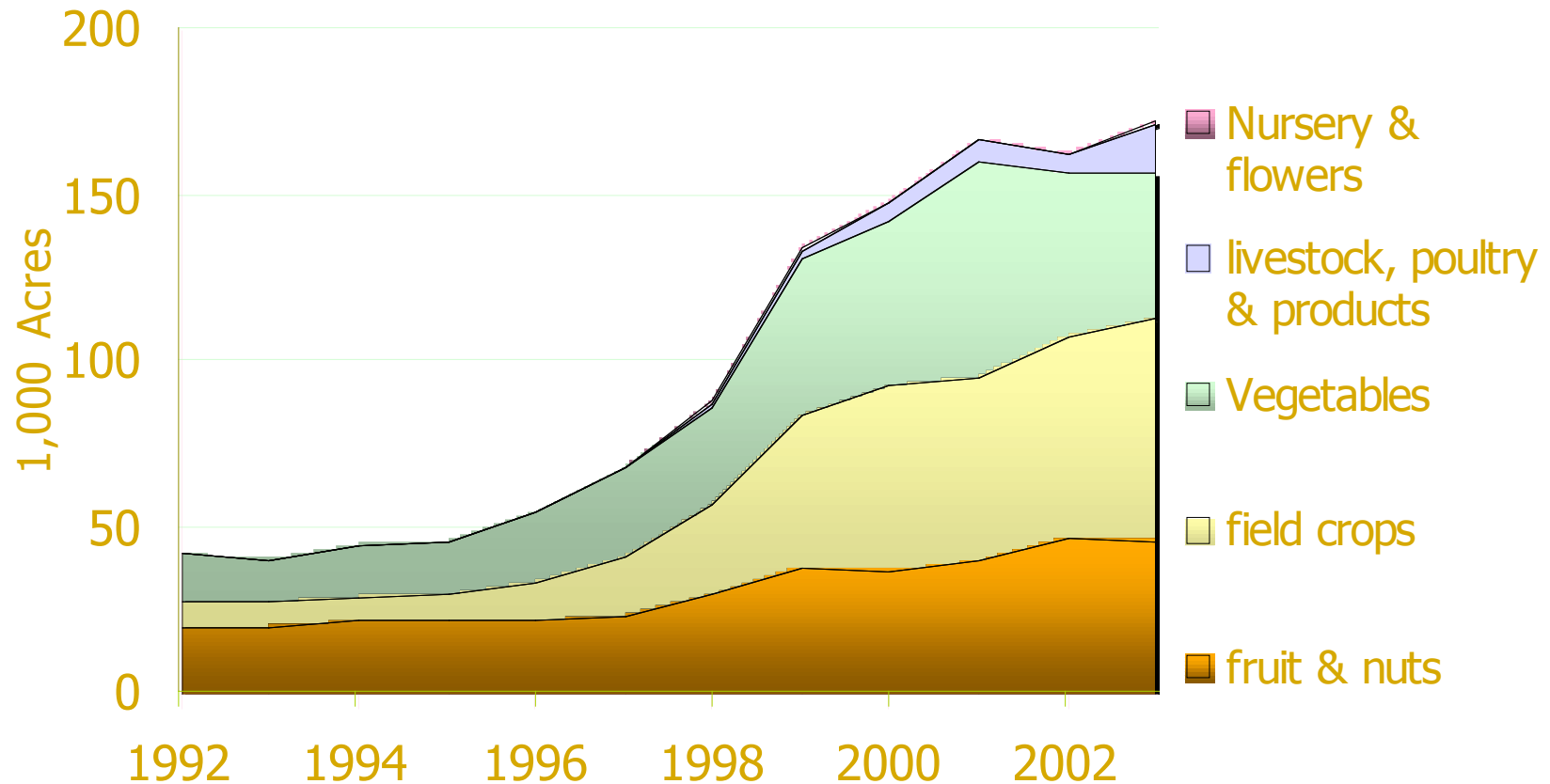
CA 163,158 acres, US 2,343,924 acres
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Source: Economic Research Service, USDA

ACRES OF CA ORGANIC COMMODITIES

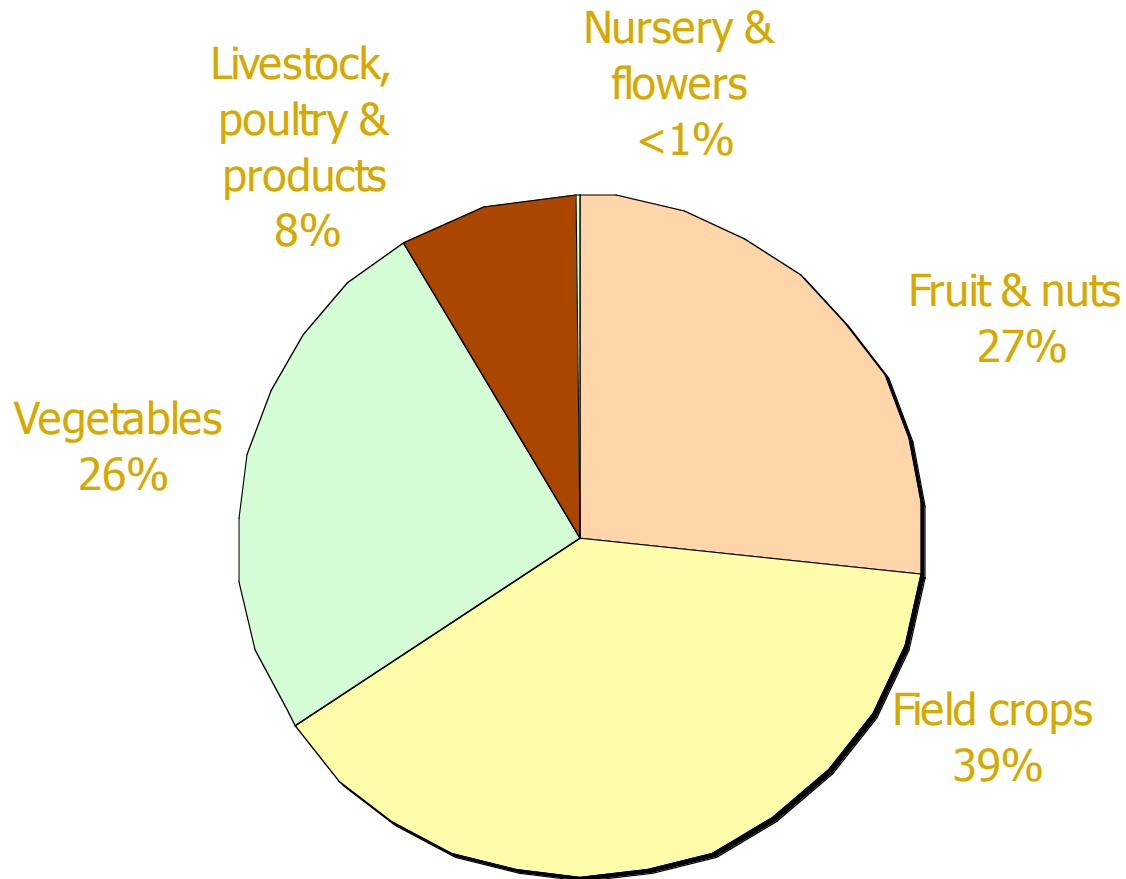
2003 – 172,233 ACRES



Source: CDFA Organic Program

ACRES OF CA ORGANIC COMMODITIES

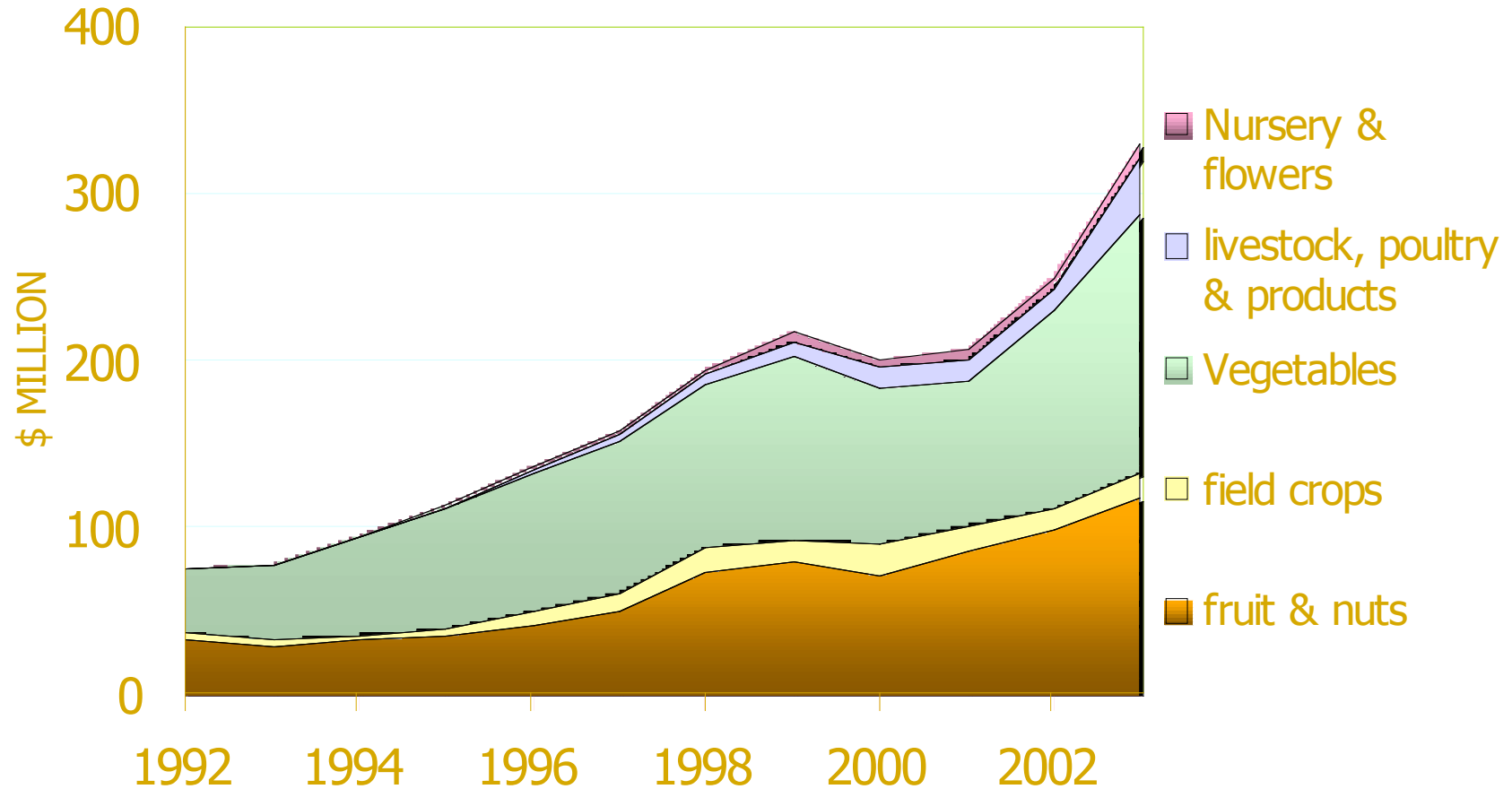
2003 – 172,233 ACRES



Source: CDFA Organic Program

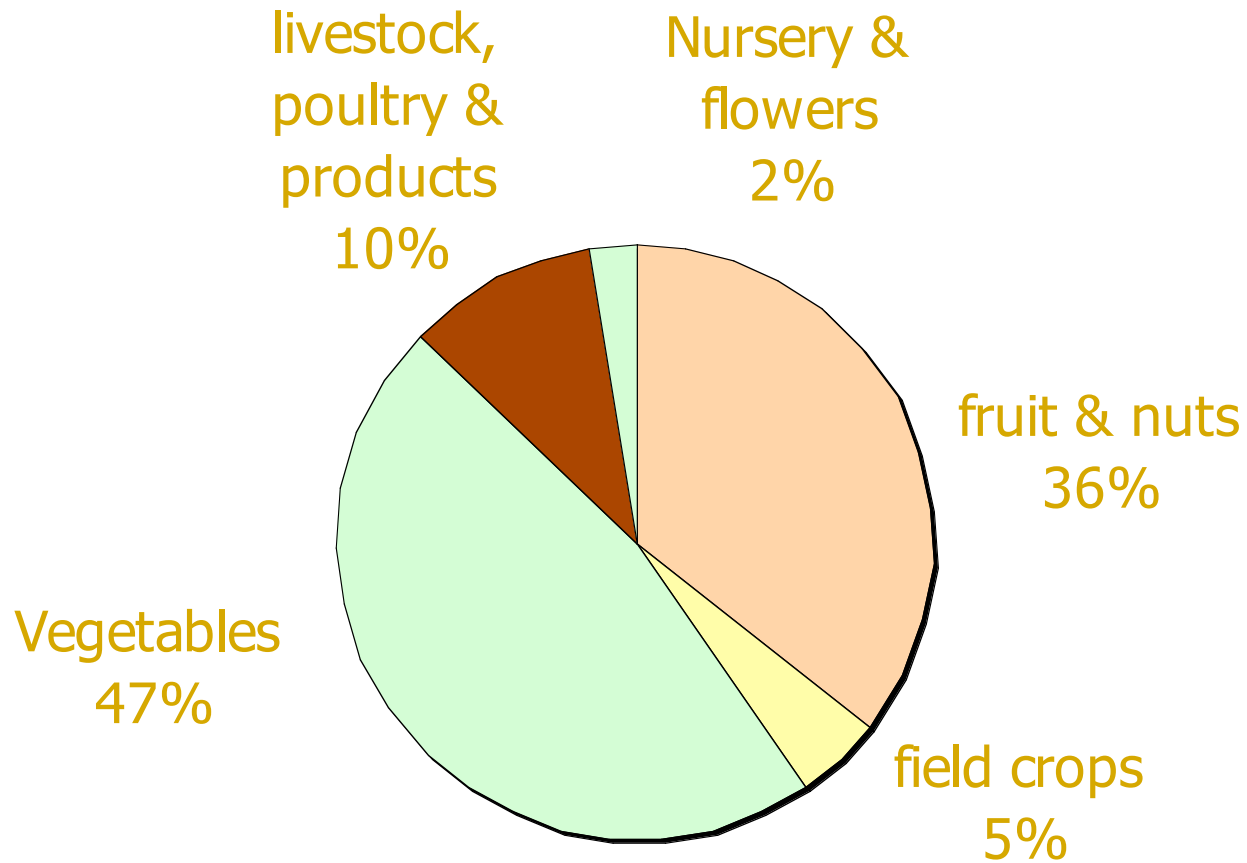
SALES OF ORGANIC COMMODITIES

2003 SALES - \$330 MILLION



Source: CDFA Organic Program

CA ORGANIC SALES, 2003 – \$330 MILLION



Source: CDFA Organic Program

ORGANIC AGRICULTURE in the 2002 FARM BILL



EXEMPTION FROM ASSESMENT UNDER A COMMODITY PROMOTION LAW

- Allows a person who produces and markets only 100 percent organic products to be exempt from the payments of an assessment under a commodity promotion law.
 - The Secretary was required to develop regulations by May 13, 2002.
 - Initial regulations only grower/handlers were exempt. Eventually, all 100 percent organic growers were exempt.
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ORGANIC AGRICULTURE RESEARCH *AND* EXTENSION INITIATIVE

- Authorizes \$3 million a year in new **mandatory** appropriations for 6 years.
 - Funds will be used to administer competitive research grants through CSREES.
 - Research will include marketing, production, and marketing and policy constraints.
 - On farm research for marketing, production and socioeconomic research.
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NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM

- Producers and handlers of organic products grossing over \$5,000 per year are required to be certified under OFPA.
 - Provides \$5 million in 2002 to be available until expended.
 - Maximum cost share is 75% annually and \$500 per producer or handler.
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MARKETING *AND* CONSERVATION PROGRAMS

- Organically produced products now qualify for value – added market development grants.
 - Agricultural Management Assistance now specifically mentions organic farming as a practice that qualifies for assistance.
 - Conservation Security Program provides payments to farmers for adopting practices common to organic farming systems.
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OTHER PROGRAMS AUTHORIZED

- Required data development on organic agricultural production and marketing as part of USDA baseline data collection.
 - International Organic Research Collaboration National Ag. Library and ERS to facilitate access to research conducted outside of the US.
 - A study of availability of key inputs into organic production, including organically produced feedstuffs.
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