



USDA Organic Oversight and Enforcement Update Summary of Activities, Calendar Year 2022

The USDA Agricultural Marketing Service (AMS) National Organic Program (NOP) develops and enforces standards for agricultural products labeled organic for sale in the United States. We also grow and support the sector through technical assistance and education for those interested in transitioning to organic production.



Grow and develop the organic sector through transition initiatives and technical assistance



Develop and implement organic standards through open, transparent, collaborative processes



Protect organic integrity through strong oversight systems



Protect organic integrity through robust enforcement

NOP goals continually strengthen farmer and consumer trust in the USDA Organic Label.

Congress established NOP as a regulatory program in cooperation with States and private and nonprofit companies. The Program accredits and provides oversight of third-party organizations, called certifiers, that inspect and certify organic farms and businesses that follow the USDA organic regulations. Together, USDA and accredited certifiers enforce the organic standards, protecting farmer and consumer confidence in the value and integrity of the USDA organic seal.

This report continues our ongoing updates on enforcement activities and responds to three reporting requirements in the Agriculture Improvement Act of 2018 (Farm Bill). It also provides an update for the organic community on the full range of oversight and enforcement activities being led by the agency and our partners.

Report sections include:

- New Initiatives
- Domestic and Overseas Investigations and Compliance Actions
- Organic Trade Enforcement Interagency Coordination Report
- Report on Enforcement Actions Taken on Organic Imports

At the start of 2023, there were 46,372 USDA certified organic farms, ranches, and businesses worldwide with 27,605 (60 percent) in the United States participating in the organic market. According to the most recent Organic Trade Association Industry Survey, U.S. organic retail sales totaled more than \$63 billion in 2021, representing growth of \$1.4 billion (2 percent).

NOP specialists provide organic certifier accreditation and oversight, standards development, training, trade systems development, international cooperation, and complaint investigations and enforcement. Additional funding has allowed NOP to increase its enforcement reach, and conduct more market surveillance, stakeholder engagement, and capacity building. These continue to strengthen organic farmers, businesses, and consumer confidence in the USDA organic seal.

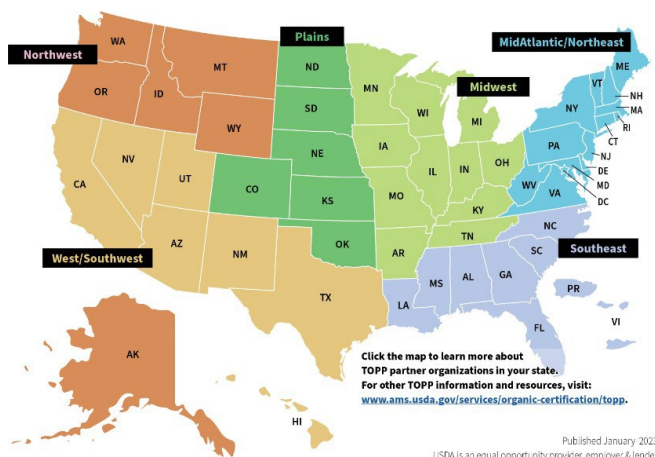
Organic Oversight and Enforcement Reports published in 2019, 2020, 2021, and 2022 are available on the USDA National Organic Program website. Enforcement actions are also reported throughout the year on the USDA Organic Enforcement Activity web page at www.ams.usda.gov/organic/enforcement.

New Initiatives

Launched in 2022, the USDA Organic Transition Initiative (OTI) is extending the capacity for the agency to support conventional farmers and ranchers interested in transitioning to organic production.

Transition to Organic Partnership Program (TOPP): Launched as part of OTI in 2022, USDA is investing up to \$100 million over 5 years through cooperative agreements with non-profit organizations to establish new support for those interested in transitioning to organic production.

TOPP is a collaborative effort already involving more than 160 partners that are actively developing programs to serve transitioning and existing organic farmers. The TOPP partnership network includes six regions: the Mid-Atlantic/Northeast, Southeast, Midwest, Plains, Northwest, and West/Southwest.



TOPP regions are set geographically and form a mix of States that are well-represented in organic and States that are currently underserved.

NOP is actively pursuing opportunities to engage with historically underserved communities to make organic an option for everyone.

More information is available at <https://www.ams.usda.gov/topp>.

Human Capital Development Initiative: In 2022, NOP partners began rolling out the results of work designed to develop and support a robust, highly skilled workforce of qualified organic professionals to meet the needs of this growing market sector. Resources developed under the Human Capital Development Initiative promote organic market development; protect organic integrity; and enhance diversity, equity, and inclusion. New resources are added frequently, such as the recently launched “Growing the Organic Workforce” module in the Organic Integrity Learning Center, which supports current and future generations of organic professionals learning the skills needed to effectively protect the USDA organic seal.

Learn more at www.ams.usda.gov/services/organic-certification/human-capital-capacity-building-initiative.



As a partner in the USDA Organic Human Capital Initiative, Tuskegee University in Louisiana started an experiential program for students at its campus organic farm. NOP Initiative Lead Laura Gallagher (far left) continues to work with the Tuskegee and other Initiative partners to deliver new tools for workforce development.

Domestic and Overseas Investigations and Compliance Actions

In 2022, NOP continued to apply risk analysis to focus surveillance and enforcement resources where they have the greatest impact. Additional information on Import Oversight activities is in the third section of this report. This section of the report provides updates on the following topics:

- Complaints Overview
- Domestic and International Investigations
- Livestock Organic Compliance Initiative
- Certifier Oversight, Training, Accreditation, and Data Quality Awards
- Appeals
- Setting Standards for Consistent Certification

From training to surveillance, directives, and criminal prosecution, NOP and its partners engage in a wide range of activities and strategies to jointly protect the USDA organic seal, support compliance, and hold those who violate the regulations accountable under the law.



Complaints Overview:

NOP applies risk analysis to focus enforcement resources where they have the greatest impact in protecting organic farmers, businesses, and consumers from fraud. This includes tiering complaints using a risk-based complaint management process to prioritize investigations that are more complex or may have high market impact.

The NOP online complaint portal has improved the customer experience by making it easier for the public to understand what information is needed for NOP to effectively evaluate a complaint. The portal speeds the intake process by automatically entering information into the NOP internal complaint management system, providing tracking information to the person filing the complaint or inquiry while allowing for anonymous tips. Approximately 64 percent of the complaints and inquiries filed with the NOP are now received through the online portal.

In 2022, of all the consumer questions received, 13 percent were simple inquiries asking whether a farm or business was really certified organic. NOP staff can quickly close these inquiries after confirming an operation's status.

554 complaints and inquiries received in FY2022

41% resolved with educational information

In many other cases, while an allegation may have raised questions about an operation, staff were able to confirm there was no evidence of a violation of the organic rules by using the USDA Organic Integrity Database, ongoing surveillance, and by communicating with our accredited certifying agencies or other private sector partners.

NOP investigated or referred remaining 59% of complaints

Most common outcomes: voluntary compliance or no violation found

As funding for staff, technology, and training have increased, the time needed to complete an average investigation has fallen from 14 to 4 months.

NOP also created additional templates to facilitate faster response times for frequently asked questions related to case and operation status for consumers and accredited certifiers. Managing these simpler inquiries as questions, rather than investigations, allows the program to dedicate more resources to complex, higher-risk investigations that potentially have significant market impacts.

When there is evidence of a violation of the organic regulations, the first goal is to bring farms or businesses back into compliance or to remove them from the market as quickly as possible. Many NOP investigations, 54 percent of the total complaints in 2022, were resolved when farms and businesses voluntarily complied with the organic rules.

Examples include:

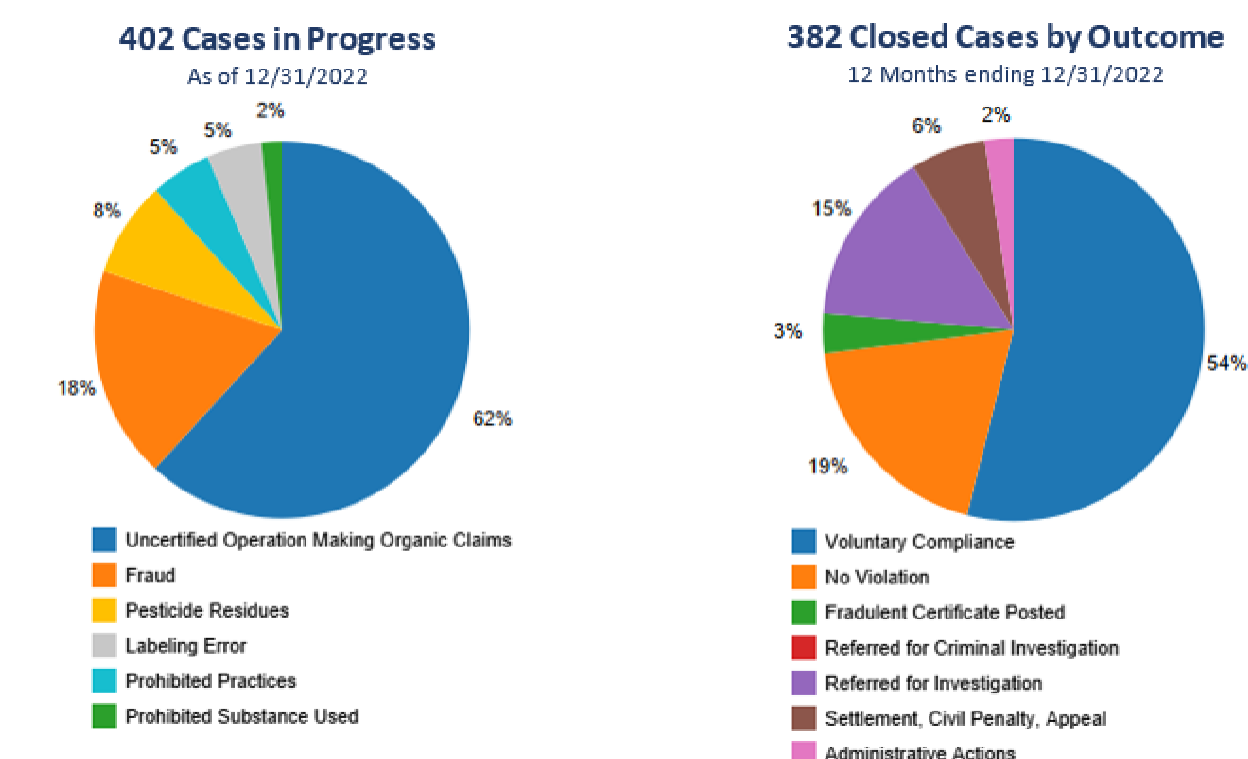
- An uncertified farm or business stops making organic claims on a website.
- An uncertified farm or business gets certified so it can legally label a product as organic.
- A certified farm or business corrects a noncompliance.
- A certified business exits the organic market.

Where complaints are substantiated through an investigation, the outcomes may include a range of administrative actions, such as warning notices to support future action, posting fraudulent certificates to the NOP website for market awareness, filing complaints for a hearing with an administrative law judge, and referring cases to other law enforcement agencies for further civil or criminal investigation and action.

When NOP has the evidence to support enforcement actions, the program may use its statutory and administrative authority to levy civil penalties, establish settlement agreements, and when appropriate, refer offenders for criminal prosecution. NOP continues to partner with the California State Organic Program and international trading partners with equivalency arrangements/agreements to investigate complaints against operations in their geographic areas, including Canada, the European Union, Israel, Japan, South Korea, New Zealand, Switzerland, Taiwan, and the United Kingdom.

Using investments in additional staff, training, and new technology, NOP has significantly decreased the number of days it takes to bring the investigation of an average complaint to closure, from just over 13 months in 2018 to less than 4 months in 2022. This means NOP can take enforcement actions where needed and protect the integrity of the USDA organic seal by removing false claims from the market and increasing consistency across certified operations.

Overview of Complaint Case Types and Case Outcomes for 2022



Cases in Progress are based on allegations, complaints, and surveillance and are not in themselves proof of wrongdoing.

Administrative Actions are warnings/notices to businesses, often uncertified, and are critical in establishing that violators are aware of the rules, to support future enforcement action.

Domestic and International Investigations:

NOP staff continue to deepen partnerships with enforcement agencies to advance priority initiatives and amplify our ability to protect the organic market and the integrity of the organic seal for farmers and consumers.

Collaborative Partnerships: Sharing information and working with other enforcement agencies allows NOP staff to leverage additional authorities that are used to protect the organic market. This two-way street also enables other agencies to use information from NOP to achieve their regulatory mission and objectives. This “many hands” approach supports enforcement across the organic community both domestically and internationally.

During 2022, NOP staff collaborated on investigations of grain fraud with the USDA Office of the Inspector General and the Assistant United States Attorney’s offices in New Jersey, Minnesota, and Maryland, resulting in Grand Jury indictments and criminal prosecutions for misuse of the USDA organic label. NOP staff have focused enforcement resources on surveillance of grain markets in recent years, because of its impact as feed for organic livestock, dairy, poultry, and egg markets.

In August 2022, NOP collaborated with the USDA Risk Management Agency to cross-train their staff on organic regulations and crop insurance to help mitigate insurance fraud in organic markets and increase understanding of risk management for organic producers. This partnership has led to further collaboration, amplifying the ability of both agencies to enforce regulations and inform decision-making.

In December 2022, NOP collaboration with the USDA Food Safety and Inspection Service (FSIS) resulted in the referral of a complaint against a suspended operation falsely representing grass-fed beef products as organic. FSIS has the authority to investigate labeling claims and require adequate support for labeling claims on meat and poultry products.

High Volume-High Value Commodity: As a result of ongoing surveillance and investigations involving detection of prohibited substances on U.S.-grown organic sweet potatoes, NOP staff traced the exports back to a small group of certified handlers located in the Southeast United States. Thanks to information sharing with an international equivalence partner, NOP investigations identified a trend indicating that certified sweet potato handlers in this region were not effectively implementing measures to prevent commingling and contact with prohibited substances. In addition, at least one certifier was not adequately verifying preventative measures. During the investigations, NOP determined that some certified organic sweet potato handlers that also provide conventional processing sometimes used prohibited post-harvest materials to combat pest and disease issues on shared packing lines and foggers in shared storage areas.

As a result of the investigation, the certifier worked to bring all operations back into full compliance, updated its procedures and conducted training for its inspectors, and focused on first-hand oversight to verify processors have adequate measures in place to prevent commingling of organic with conventional produce and prevent contact with prohibited substances. Additionally, the trend in prohibited residue detections on organic sweet potatoes led NOP to broaden its surveillance to include the review of additional domestic commodities commonly grown in specific geographic regions with higher risk factors.

Imported Blackberries from Mexico: In 2022, NOP concluded a supply chain investigation of 23 operations involved in the production, handling, import, export, and distribution of blackberries from Mexico. The NOP investigation found that the source of blackberries imported to the United States from one specific region in Mexico could not be traced to a specific certified farm, which flagged potential fraud occurring at the exporter level. As a result, nine certified businesses exited the organic market either through voluntary surrender or suspension of their organic certification.

These case studies illustrate the range of investigations undertaken each year by NOP staff. Raising the profile of the small number of serious violations also sends a signal to everyone in the supply chain from farm to processor and brands that violators will be held accountable, reinforcing farmer and consumer confidence in the integrity of organic products sold in the United States.

One objective measure of the impact of NOP and certifier investigations is the number of certified operations that lost certification because of enforcement actions. In 2022, nearly 1,000 operations in 55 countries lost certification through suspension or revocation. About 85 percent of those were in the 10 countries listed in the table below.

Suspended and Revoked Operations by Country

Country	Count of Operations Suspended or Revoked in 2022
United States	452
Peru	95
Mexico	88
Ecuador	50
India*	43
Brazil	39
Chile	33
Tunisia	16
Indonesia	14
Morocco	13

Note: While the number of suspended/revoked operations is highest in the United States (46 percent of the total), U.S. operations represent 60 percent of the total count of certified operations. Therefore, these results do not imply that U.S. farms and businesses are suspended or revoked at a higher rate than international operations.

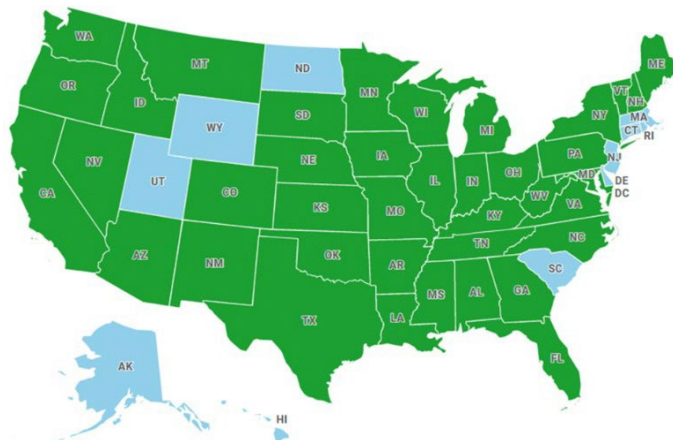
*See the section below “Global Organic Control Systems—Equivalence and Recognition” for more detail on certified operations in India.

Livestock Organic Compliance Initiative

This ongoing Federal boots-on-the-ground surveillance program assesses compliance with the USDA organic livestock regulations. Active surveillance improves consistency in organic practices and enforcement, supports a level playing field across the organic livestock industry, and strengthens producer and consumer confidence in the organic livestock market. As a result of this surveillance, NOP staff have seen significant improvements by certified organic dairy operations and certifiers, including improved recordkeeping systems, increased grazing periods

with less confinement of animals, updated healthcare practices across organic dairy operations, and improved inspection and review processes for organic dairies.

NOP selects operations for surveillance based on risk factors including industry trends, current events, and operation characteristics such as size, location, and compliance history. Surveillance audits cover grazing practices, feed, living conditions, animal health practices, and origin of livestock. In 2022, USDA livestock technical experts reviewed the work of certifiers overseeing 52 percent of domestic ruminant livestock operations in the United States to confirm consistent and complete implementation of the organic regulations. NOP worked with certifiers to address 16 findings of deficiencies in verifying requirements related to:



Ongoing surveillance of livestock operations has grown to cover all the States colored green above. This work also provides insights that guide development of training for inspectors and flags areas for increased surveillance like cattle auctions.

- Origin of livestock, animal feed used, animal healthcare, and livestock housing at slaughter and auction facilities.
- The percentage of dry matter intake obtained from pasture at dairy operations.
- Access to pasture throughout the entire grazing season for ruminants.
- Verification of organic status of the animals through traceback and mass balance exercises.

Additional Livestock Compliance Program Activities: In January 2022, NOP conducted virtual training for certifiers on methods for assessing whether, under continuous organic management from the last third of gestation, cattle are fed only certified organic feed, and animals have access to water until slaughter.

Throughout the year, NOP livestock technical experts contributed to two new Organic Integrity Learning Center livestock trainings: Origin of Livestock (focused on the recently published regulation) and Organic Dairy Compliance 2 (advanced training based on insights from previous surveillance seasons). NOP livestock technical experts also participated in multiple certifier accreditation audits by providing detailed certification file reviews and visiting certifiers and operations.

Case Highlight-Livestock Handlers: Through the surveillance of multiple cattle brokers and dealers, NOP has identified several operations that have sold nonorganic cattle to certified organic slaughter facilities throughout the United States. NOP consulted with organic certifiers and experts from the AMS Packers and Stockyards, USDA Animal and Plant Health Inspection Service, and several State agriculture departments to acquire additional information and evidence. Based on this work, NOP has directly initiated multiple enforcement actions that are now on appeal. NOP investigators are also working with the USDA Office of the Inspector General to advance additional cases involving livestock dealers.

Certifier Oversight

In 2022, NOP provided oversight and training of 75 third-party accredited certifiers that operate in the United States and around the world. NOP continues to work closely with certifiers through directives and training to continually strengthen their organic certification programs, enforce compliance with the USDA organic regulations, and confirm they are enforcing the organic regulations consistently worldwide.

Certifier audits are an effective and efficient tool for verifying a certifier's organic control system for compliance with USDA accreditation requirements. With the lifting of many travel restrictions, NOP auditors have resumed onsite oversight activities. Audits of 36 certifiers were conducted in-person in 15 countries, with an additional 5 certifier audits conducted virtually.



In 2022, an expanded team of NOP auditors and investigators accelerated on-site visits to certified operations around the world.

The NOP audit team also piloted a

newly developed certifier material review audit process. This focused audit activity confirms whether there is sufficient oversight and consistency in a certifier's oversight of the use of allowed materials by their certified operations.

An important focus of NOP certifier audits is verification that they employ enough adequately trained personnel and have sufficient resources to take on new clients while overseeing the operations they currently certify. In 2022, NOP auditors also specifically assessed whether certifiers are sufficiently verifying an operation's compliance with the natural resource requirements of the USDA organic regulations. This was done to determine whether certified operations have practices in place to maintain and improve natural resources, including soil and water quality.

In cases where a certifier fails to meet accreditation compliance criteria, NOP issues a non-compliance to identify the deficiency and the certifier is given an opportunity to provide corrective actions to bring its program back into compliance with the USDA organic regulations. If corrective actions are insufficient, NOP proposes the suspension of accreditation. NOP may also encourage the certifier to surrender its accreditation or, in some cases, may choose to enter into a settlement agreement to bring the certifier back into full compliance more quickly. One international certifier surrendered its accreditation in 2022.

With respect to enforcement actions against certifiers, in August 2022, USDA denied an appeal by the Texas Department of Agriculture (TDA) organic certification program, which had been issued a Notice of Proposed Suspension of Accreditation in February 2022. TDA has been found to be not compliant with the USDA organic regulations. TDA has requested a hearing with the USDA administrative law judge.

Certifier Training

In just five years, the **Organic Integrity Learning Center** has grown into a robust community of more than 11,000 registered users in 93 countries. The Learning Center continues to provide free, on-demand, online training to support the professional development and continuing education of certifier staff, inspectors, and compliance specialists working to protect organic integrity. Farmers, ranchers, and businesses also benefit from the availability of courses that explain what the regulations require.

As of January 2023, there are 134 lessons across 35 courses and 21 microlearning

modules (short courses) in the Learning Center, covering topics from basic to advanced organic workforce development and organic field crop practices. Examples of courses recently added include:

- Advanced Compliance and Enforcement Topics
- Growing the Organic Workforce
- National Organic Program: People, Processes, and Policy
- Organic Dairy Compliance 2
- Organic Field Crop Practices
- Origin of Livestock
- Scenario-Based Inspector Training

Certifier Data Quality Awards

In January 2023, NOP recognized the work of accredited organic certifiers with awards for extraordinary support of the National Organic Standards. The awards were presented at the annual NOP Certifier Training for USDA-accredited organic certifiers and organic inspectors from around the world. In 2022, 10 certifiers were recognized for exceeding requirements for delivering high-quality data to the Organic Integrity Database.

Up-to-date public information about organic operations helps buyers and sellers find each other in the marketplace, making data an



Surveillance projects help identify future training needs and create opportunities for NOP specialists to document real-life on farm scenarios for future learners.



The 2023 Data Quality Award Winners with NOP Deputy Administrator Jennifer Tucker (left) and Accreditation Director Robert Yang (far right).

important market development tool. The USDA Organic Integrity Database makes it easy for anyone to look up the status of a certified organic operation and view the products that each farm and business has to offer. Quality data is also integral to surveillance across supply chains.

The 2023 Investing in Integrity Data Quality Award winners were:

- CCOF Certification Services – Santa Cruz, CA
- Marin Organic Certified Agriculture – Novato, CA
- Primus Auditing Operations – Santa Maria, CA
- Yolo County Department of Agriculture – Woodland, CA
- New Hampshire Department of Agriculture, Markets & Food – Concord, NH
- ACO Certification Ltd. – Queensland, Australia
- Aus-Qual Pty. Ltd. – Queensland, Australia
- IMOCert Latinoamerica LTDA – Cochabamba, Bolivia
- Certificadora Mexicana de Productos y Procesos Ecologicos SC – Oaxaca, Mexico
- Bio Latina S.A.C. – Lima, Peru

Over the past year, three certifiers also stood out for their consistent, effective communication and collaboration with NOP staff on a wide range of issues and day-to-day operations, including fraud investigations. Their regular, open collaboration with the Program provided increased insight into the real-world application of the organic standards while allowing the NOP to increase certifier consistency in applying the standards for USDA-certified farms and businesses.

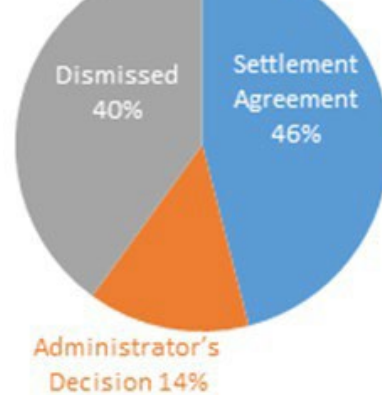
For their outstanding contributions to work in organic certification, the 2023 National Organic Program Director’s Award winners were:

- CCOF Certification Services, LLC (CCOF) – Santa Cruz, CA
- Pennsylvania Certified Organic (PCO) – Spring Mills, PA
- Midwest Organic Services Association, Inc. (MOSA) – Viroqua, WI

Appeals

AMS and NOP address appeals of proposed adverse actions, such as proposed suspensions and revocations, when the organic rules have been broken. This work is an important component of the program’s enforcement mission because it provides due process to organic certifiers, farms, and businesses. Appeals also help the program assess and improve the quality of enforcement actions taken both by certifiers and the program.

Outcomes of 87 Appeal Closures 2022



In 2022, the program received 85 new appeals and the team resolved 87 appeals during the year. Of these, 14 percent (12) resulted in an AMS Administrator’s Decision upholding the certifier or NOP proposed action. An additional 46 percent (40) were resolved using a settlement agreement designed to bring the appellant into full compliance more quickly using alternative dispute resolution techniques. The remaining 40 percent (35) resulted in dismissals because they were either received after the allowable time period or the incoming appeal was not in response to an appealable action.

Setting Standards for Consistent Certification and Enforcement

Developing and supporting a fair and competitive market starts with sound and sensible regulations. In 2022, AMS published seven rules to update the organic regulations. Each year there are multiple opportunities for stakeholders to provide input on rulemaking, advocate for continuous improvement, and share industry information that helps NOP keep pace with changes in the growing organic market.

Strengthening Organic Enforcement (SOE) Final Rule: This final rule was published in the Federal Register on January 20, 2023. The rule increases USDA enforcement and oversight authority in response to increasingly complex supply chains. It includes provisions related to certification of handlers and brokers, certifier oversight, and requires the use of electronic organic import certificates. The final rule implements requirements from the 2018 Farm Bill, other provisions informed by program experience, and recommendations from the National Organic Standards Board (NOSB).

Origin of Livestock Final Rule: This final rule was published in the Federal Register on April 5, 2022. This rule clarifies requirements for the transition of dairy animals into organic production and implements NOSB recommendations. This change to the USDA organic regulations promotes a fairer and more competitive market for all organic dairy producers by making sure that certified USDA organic dairy products are produced to the same consistent standard.

Organic Livestock and Poultry Standards (OLPS) Proposed Rule: The OLPS proposed rule was published in August 2022, and the public comment period closed on November 10, 2022, with 39,712 comments. AMS also hosted a virtual listening session in August 2022, to take public input regarding this proposed rule. AMS anticipates publication in the near future.

National List of Allowed and Prohibited Substances Rules: Materials and ingredients that support organic crop and livestock production and processing are vital for the day-to-day work of organic farms and businesses. Three final rules were published in 2022 to amend the National List:

- A final rule added fatty alcohols and potassium hypochlorite to the National List and removed dairy cultures from the National List in response to recommendations received from the NOSB in 2019.
- A final rule was published on February 14, 2022, to add paper pots and low-acyl gellan gum to the National List as well as to correct the spelling of “wood resin.”

- A final rule published on February 28, 2022, that removed 14 nonorganic ingredients from the National List of Allowed Substances. The rule also removes the option for organic producers to use one soil amendment and one animal drug in organic crop and livestock production. The amendments are based on recommendations from the NOSB and public comments.

Inert Ingredients in Pesticides for Organic Production: In 2022, NOP solicited public input through an Advanced Notice of Proposed Rulemaking comment period on Inert Ingredients. The proposed rulemaking would address the use of substances considered “inert” in pesticides used in organic production. Future rulemaking is needed to update the National List to resolve the references to expired EPA reference lists, to provide market certainty, and to maintain industry confidence in the National List process.

Nitrogen Proposed Rule: AMS is working on a proposed rule to respond to NOSB recommendations from Fall 2021 and Spring 2022 meetings. This proposed rule would amend the National List to restrict use of high-nitrogen fertilizers in organic crop production.

Market Development Proposed Rule: This draft rule would propose regulations to support specific standards for the production of organic mushrooms and pet food in response to NOSB recommendations and public comments regarding rulemaking priorities for the program.

Regulatory Priorities: In Spring 2022, AMS conducted a listening session and invited written and oral input from the organic community to help identify key regulatory priorities. NOP is using information received to guide the prioritization of ongoing organic standards development, such as the projects above.

The program’s work on organic standards is supported by the NOSB, a 15-member volunteer Federal advisory committee. The Board reviews and recommends changes to the National List of Allowed and Prohibited Substances and considers a wide range of other issues important to organic farmers, businesses, and consumers. Each member, by law, is appointed to represent the interests of a specific part of the community including producers, handlers/processors, certifiers, retailers, consumers/public interest advocates, environmentalists/resource conservationists, and scientists. During 2022, USDA hosted two public meetings to support transparency in Board activities.

Organic Trade Enforcement Interagency Coordination Report

In the 2018 Farm Bill, Congress called on the Secretaries of Agriculture and Homeland Security to establish an “Organic Agricultural Product Imports Interagency Working Group.” The official U.S. Customs and Border Protection (CBP)–USDA Interagency Organic Working Group, now in its fourth year, has furthered coordination and strengthened the relationship between CBP, AMS, and the USDA Animal and Plant Health Inspection Service (APHIS) regarding organic import oversight, organic enforcement, and data sharing.

This report outlines the actions being taken by the Working Group to identify and resolve barriers to cooperation between the agencies involved in organic product import oversight, advance activities that integrate organic trade enforcement into import inspection procedures and identify needed training on organic product oversight. The major priorities and initiatives that the Working Group focused on in 2022 were:

Organic Import Certificate Pilot: NOP has received over 2,000 voluntary electronic organic

import certificates since launching the technology in the CBP Automated Commercial Environment (ACE). NOP continues to work with U.S. importers and customs brokers to create an end-to-end process for entering import certificate data with a focus on minimal data entry requirements while ensuring full and accurate certificate information at filing. Valuable feedback has been provided throughout the year by the voluntary participants to help NOP staff design and craft a system that minimizes the impact on trade activities while maximizing the data available to support oversight of international supply chains from the retailer back to the farm.

NOP staff also held a series of workshops with USDA organic certifiers in collaboration with the Accredited Certifiers Association to collect feedback on an electronic import certificate proof of concept from October to December 2022. When electronic import certificates are mandated through full implementation of the Strengthening Organic Enforcement Final Rule, the new system will further improve risk-based oversight by providing critical import data to USDA and the organic sector.

Government members of the Working Group also provided valuable feedback to NOP in development of the Strengthening Organic Enforcement Final Rule. Stakeholder engagement increased this year, with 17 meetings held in 2022 to discuss the rule and the technology that will accompany it. Stakeholder meetings focused on common workflows that will not impede trade or be disruptive to the current supply chain while allowing NOP staff to capture the data necessary to fulfill 2018 Farm Bill requirements.

Commercial Targeting and Analysis Center Activity: In 2022, NOP staff continued to strengthen the partnership with the Commercial Targeting and Analysis Center (CTAC). This law enforcement data center is based at CBP and staffed by 13 Federal Agencies with border enforcement authority. In 2022, NOP increased its access to trade and import data, which enhances our ability to identify and track potentially fraudulent organic shipments. This enabled NOP staff to access previously unavailable shipment data and import documentation as part of ongoing surveillance of high-volume markets and high-value commodities worldwide.

Through CTAC, NOP staff coordinated the review and physical inspection of multiple shipments of organic products to confirm compliance with USDA organic regulations. During the year, NOP staff worked with USDA labs to sample and test multiple suspect shipments of soy products. As a result of sharing the outcomes with certifiers, brokers, and buyers, multiple shipments were stopped from entering organic markets in the United States. The team also identified a large shipment of olive oil fraudulently labeled as organic by an uncertified company and prevented it from entering the market. Through the CTAC partnership, that importer has been referred to law enforcement and the Food and Drug Administration for further investigation.

Trademark Authority: In June 2022, AMS recorded its trademark of the USDA organic seal with the CBP Intellectual Property Rights Coordination Center. This action significantly increases CBP authority to enforce the trademark at the border and substantively increases the cost of organic import fraud. Registration increased the number of Federal agencies with authority to enforce the trademark and gave CBP the authority to detain, seize, forfeit, and potentially destroy products that fraudulently use the USDA organic seal.

Registration of the organic seal grants additional intellectual property rights to further restrict the use of the trademark or a confusingly similar one by uncertified farms and businesses. The trademark registration works in conjunction with the Organic Food Production Act and the

organic regulations, providing another enforcement tool against misuse of the seal. As the trademark owner, USDA can seek additional civil remedies such as injunctive relief and monetary damages under the Lanham Act. Operations trafficking in counterfeit organic goods or otherwise willfully misusing the USDA organic seal may now also be subject to fines and imprisonment under the Trademark Counterfeiting Act. Trademark authority and penalties for misusing the seal are in effect regardless of whether the ® symbol is included.

The new authority was tested at the border in 2022 when a fraudulently labeled shipment was identified, seized, and destroyed, resulting in a total financial loss for the owner.

Increasing Organic Harmonized Tariff Schedule (HTS) Codes: The strategic partnership between AMS and the International Trade Commission led to a continued increase in the number of Organic HTS Codes. In 2022, AMS added over 30 new organic HTS codes bringing the total available for identifying organic goods to 129. More than 40 additional codes are planned for 2023. HTS codes are product classification codes used by CBP and all other members of the World Customs Organization to classify goods for customs purposes.

The availability of codes for more products and sub-sets of products increases the level of detail and visibility of organic products coming into the United States. The increase in the specificity of available organic HTS codes, along with the implementation of electronic import certificates, allows NOP staff to take a more proactive approach in monitoring and accurately reporting commodities entering the United States. Currently, NOP is receiving more real-time import data and can track commodities through the supply chain from final handler and overseas exporter to the recipient in the United States faster and more efficiently than in any previous year.

New Data Technology Projects: NOP continues to invest resources in new technology including the electronic organic import certificate generation proof of concept. This system pulls organic certifier, farm, and business contact information from the USDA Organic Integrity Database onto a single NOP Organic Import Certificate, which improves supply chain traceability, improving risk-based oversight of organic imports. This information is housed in the new Global Organic Data Reporting Warehouse, which provides real-time certifier, import, enforcement, and operation data in visual dashboard formats to facilitate analysis. NOP is building on this foundation for the influx of import certificates when 2018 Farm Bill requirements are fully implemented and mandated by the Strengthening Organic Enforcement Final Rule.

Report on Enforcement Actions Taken on Organic Imports

The 2018 Farm Bill required that USDA and the U.S. Customs and Border Protection (CBP) provide a report with specific quantitative measures on organic imports oversight, including:

- Quantitative data on imports of agricultural products represented as organically produced but found to be fraudulent or lacking documentation at the port of entry.
- Data on domestic enforcement actions taken on imported agricultural products represented as organically produced, including the number and type of actions taken by U.S. officials at ports of entry.
- Data on fumigation of agricultural products represented as organically produced at ports of entry and notifications of fumigation actions.
- Information on enforcement activities under this chapter involving overseas

investigations and compliance actions.

For the first two items above, NOP and CBP continue to make progress in piloting the newly programed electronic organic import certificate. The Strengthening Organic Enforcement final rule will fully implement mandatory import certificate requirements necessary to provide the detailed quantitative data requested for these reports.

Import Oversight

As the value of imported organic agricultural goods into the United States grows, NOP continues to prioritize import oversight and enforcement by analyzing import trends to inform risk-based enforcement practices in partnership with USDA Foreign Agricultural Service and CBP. Industry estimates indicate that U.S. buyers import between 70-85 percent of organic soybeans needed to meet the domestic demand for organic livestock feed. In 2022, these imports were primarily shipped through ports in the Black Sea region, Canada, India, Argentina, and Russia.

Trade Data Analyses

NOP staff use import data and analysis from multiple sources to screen for shipping activity that may indicate the need for closer inquiry. Key indicators include things like changes in volume, region/port history of compliance, and unexpected spikes or shifts in production. When anomalies are identified for any product, NOP staff initiate surveillance of the commodity, growers, handlers, and exporters in that supply chain so that product fraudulently represented as organic does not disrupt U.S. organic markets or create a competitive disadvantage for organic operations that play by the rules. Visible surveillance and actions taken against offenders in the supply chain have already proven to be a significant deterrent to fraud and support fair competition and prices that accurately respond to supply and demand.

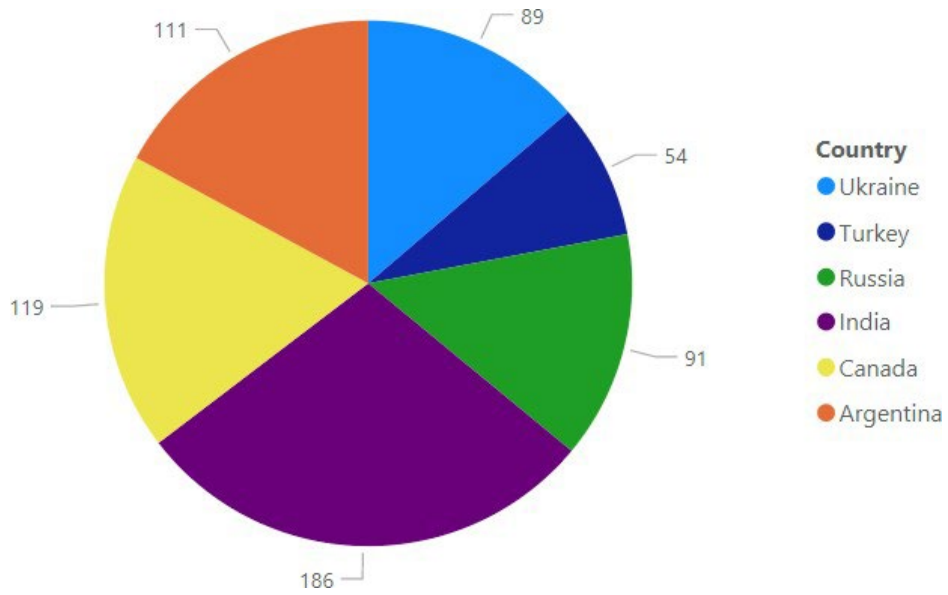
Soybean Market Surveillance: Long supply chains, shelf life, and price premiums make organic soybeans an attractive market for fraud. In 2022, NOP staff surveilled multiple soybean supply chains. This work included checking audit trail documentation to examine omissions, discrepancies, and unclear information. In addition, NOP staff reviewed the procedures of importers and handlers involved to verify the integrity of suppliers and imported shipments.

This surveillance includes ongoing monitoring of how certifiers are implementing a March 16, 2022, Certifier Directive on oversight of organic operations in India. The directive requires certifiers to inspect, sample, and test all organic soybean meal exports to the United States. This visible side of surveillance sends a message to the market that there is increased risk and costs of being caught, which helps deter attempted fraud. Further review of 2022 results of the 2022 directive will also help determine the effectiveness of the current sampling procedures for pesticide residue testing and provide data to continually improve future surveillance practices.

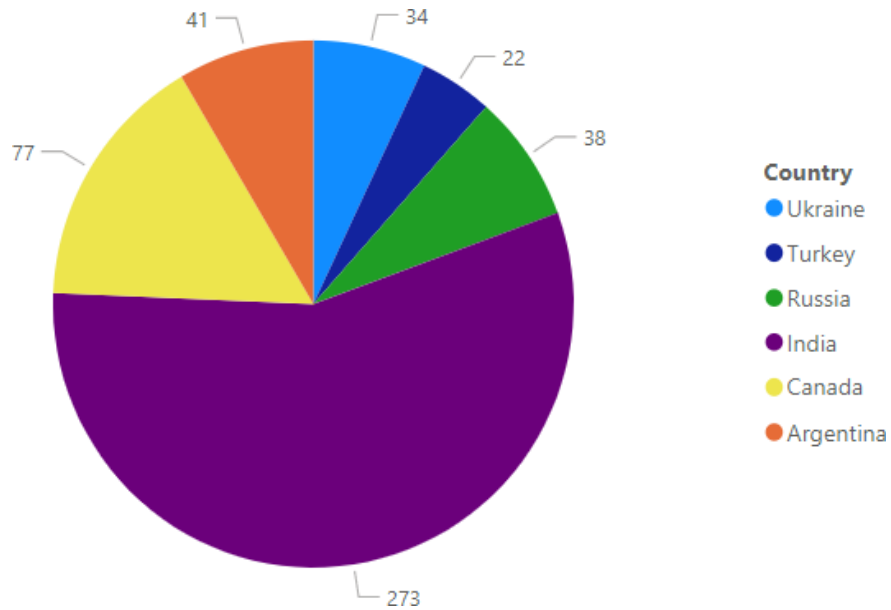
Another result of the public aspects of surveillance across international soy supply chains has been increased voluntary use of organic HTS codes reported in the CBP import system. As more importers utilize these codes to satisfy buyers requiring increased traceability of organic goods, the true volume of organic soy imports becomes easier to track. Use of organic HTS codes will become mandatory for all organic imports with full implementation of the Strengthening Organic Enforcement final rule in March 2024. See above for more details on organic HTS codes.

U.S. Imports of Organic Soy by Value (\$M)

Jan – Oct 2022 total \$650 million (Origins by Country)



Jan – Dec 2020 total \$485 million (Origins by Country)



Data from HTS codes available at the time for organic soybean, soy meal, and soy cake.

January through October 2022 represents the most current data available.

Source: USDA Foreign Agricultural Service, Global Agricultural Trade System Database

Investigation Highlight-Soybean Shipment from Turkey: In 2022, one NOP investigation into soybean shipments from Turkey was sparked by credible concerns raised while a ship was enroute to the United States. The ship contained approximately 6,000 metric tons of soybeans labeled organic, with an estimated market value of \$7.7 million. NOP staff, in cooperation with the domestic buyer and in consultation with the AMS Federal Grain Inspection Service (FGIS), developed a plan for NOP staff to collect samples of the incoming shipment and test for prohibited pesticides and genetically modified organisms (GMOs) while the U.S. buyer voluntarily held the shipment



NOP staff now have the capacity, in partnership with CBP, to collect samples of soybeans for residue and GMO testing at ports of entry when evidence raises questions about an incoming shipment.

in storage and did not distribute pending the results.

Test results revealed the presence of GMOs at levels that could not be explained as incidental contamination. The exporter involved is no longer certified. The results of this investigation demonstrate how increased voluntary cooperation between NOP and U.S. importers and buyers has a positive impact on supply chain traceability and the integrity of the organic market.

Yield Analysis-Mexico Blueberries: Another effective tool for surveilling international supply chains is yield analysis. In 2022, NOP staff completed a yield analysis of organic blueberries imported from Mexico. This work established a benchmark range of expected yields for organic blueberries grown in containers. Blueberries were selected for surveillance because this country/commodity pair has high value/high impact to the market, showed increased import volumes, and had experienced recent changes in production technology that raised interest within the sector. This analysis found that yields increased by 27 percent from 2020-2021 and indicated wide variation between producers. The differences were attributable to factors including age and variety of cultivars, plant density, and crop management. NOP did not find violations of the organic standards that required further investigation in this case. The data available as a result of the project now provides certifiers and NOP investigators with key benchmarks to speed future yield analyses, audits, and investigations related to containerized blueberry production.

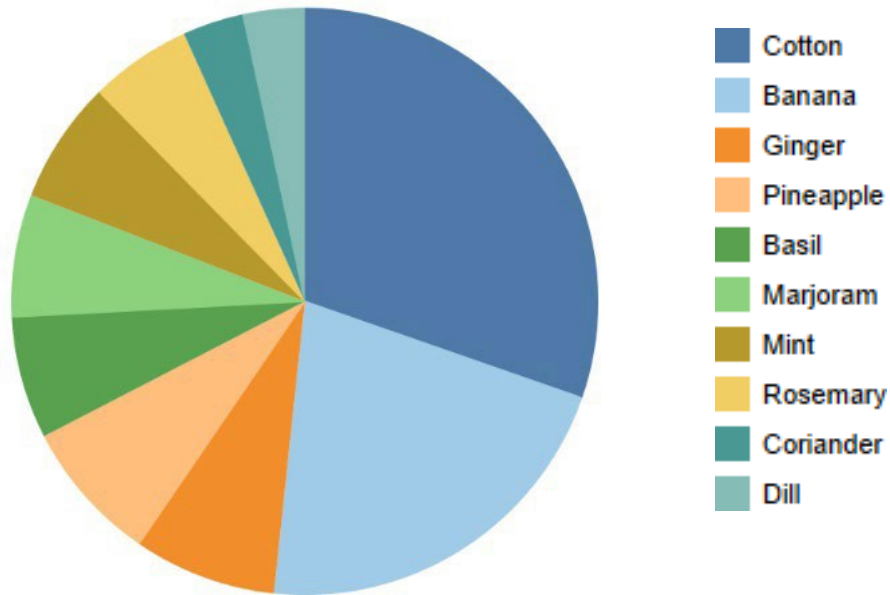
Fumigation Update

NOP continues to work with APHIS to identify options for aligning fumigation reporting with the existing CBP import system and the upcoming electronic organic import certificates that will be required when the Strengthening Organic Enforcement rule is fully implemented in March 2024. This will allow immediate identification when an organic shipment is fumigated. APHIS is also working with CBP directly to facilitate more robust data sharing.

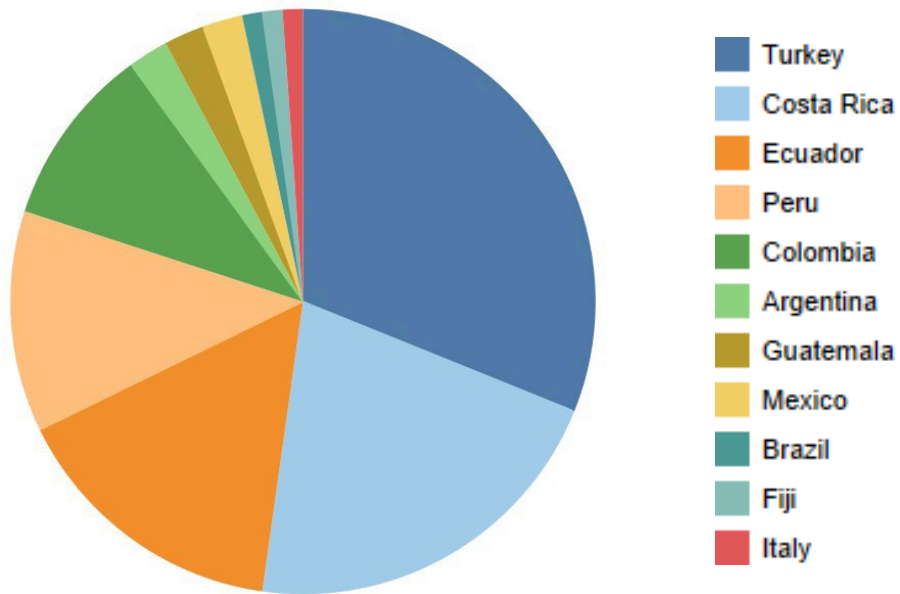
In 2022, fewer than 80 shipments of imported organic food were reported as fumigated on entry to the United States, a very small percentage of incoming organic goods. Fumigated products are not eligible to be sold as organic. USDA investigations indicate that many of the fumigated commodities were relabeled for the conventional market. However, due to the current lack of mandatory organic import data and the current exemptions/exclusions in the USDA organic regulations related to organic traders, USDA cannot conclusively determine the ultimate relabeling and sale of these products in nonorganic markets.

The two figures below describe the types of organic products that were reported as having been fumigated in 2022 and their originating countries. The top five fumigated items were cotton, bananas, ginger, pineapple, and herbs. Countries in Central and South America were the largest suppliers of fumigated organic imports to the United States, particularly fresh produce. In 2022, several shipments of cotton from Turkey were fumigated.

Top 10 Organic Imports Fumigated at U.S. Ports – 2022
 (Not Eligible for Organic Sale Post-Fumigation)



Origin of Organic Products Fumigated at U.S. Ports – 2022
 (Not Eligible for Organic Sale Post-Fumigation)



Global Organic Control Systems — Organic Equivalence and Recognition

Organic trade arrangements, including equivalence and recognition arrangements, support global organic control systems and market access. The United States has equivalence arrangements with Canada, the European Union, Japan, South Korea, Switzerland, Taiwan, and the United Kingdom and recognition arrangements with Israel and New Zealand.

In 2022, NOP staff met with authorities from all nine equivalence and recognition countries via formal working group sessions and informal meetings. In the case of some countries, multiple meetings were held during the year to address priority issues. These meetings support the maintenance of established trade arrangements and promote information-sharing and collaboration between organic regulators on certifier oversight, international investigations and other surveillance and enforcement activities.

Given ongoing concerns about potential market fraud, the NOP and Canadian Food Inspection Agency collaborated on a Traceability Project to assess compliance of each step in the global supply chain for imported organic products that are considered high-risk for fraud, such as soybeans and leafy greens.

NOP International Activities Division staff also conducts regular reviews of NOP trade arrangements to ensure they continue to function in compliance with the established terms and that adequate oversight is maintained. In 2022, division staff completed virtual audits of both the Israel and New Zealand recognition agreements. Onsite peer reviews of the South Korea and United Kingdom equivalence arrangements were also conducted. The United Kingdom peer review was groundbreaking, as it was conducted jointly with the Canadian organic authority. This new joint audit approach further facilitates information-sharing and collaboration with trade partner authorities to protect the integrity of organic imports.

The International team also provides real-time audit support and training resources for NOP Accreditation Division staff during audits of USDA-accredited certifiers to ensure certifier and operators conformance with trade arrangement requirements. The International team formally served on the audits of five certifiers that collectively certify more than 5,200 USDA operations around the world. As a result of noncompliances identified, certifiers are implementing corrective actions to ensure compliant trade under organic equivalence and recognition arrangements.

Arrangement partners are each responsible for investigating complaints concerning products produced or handled within its jurisdiction. In collaboration with NOP Compliance and Enforcement Division, the international team monitors and follows up on complaint referrals through completion. This two-way sharing of information supports transparency across supply chains, further decreasing the opportunity for those who would attempt to commit fraud.

In 2022, NOP completed the transition of operations doing business in India to direct USDA oversight, providing greater supply chain transparency. NOP ended its recognition arrangement with India in January 2021 due to ongoing concerns regarding oversight and enforcement capacity. An 18-month transition period was provided for organic operations previously certified by India-accredited certifiers that want to continue selling organic products in the United States. Prior to ending the recognition arrangement more than 4,000 operations in India had been certified under the USDA organic regulations by India-accredited certifiers. At the end

of the transition period on July 12, 2022, approximately 1,100 operations in India had successfully transitioned to direct USDA certification.

In 2023, NOP staff are formalizing a new country-level surveillance project to better target oversight resources in regions with high-volume or high-value organic products, beginning with India. Two audit teams will conduct on-site activities and a third will conduct a remote material input review of certifiers and of their operations in organic soybean production and handling. Audit activities will include residue sampling and short-notice and unannounced visits to certified operations. Phase One will determine certifier and operation capacity and compliance, which will lay the groundwork for follow-up activities later this year.

In conclusion, farmers and consumers choose the organic option for many reasons. Our goal is to protect that choice as we work toward our ongoing vision: **organic integrity from farm to table, consumers trust the organic label.**

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June 2023