

NOP Compliance and Enforcement

USDA National Organic Standard Board Meeting

October 28, 2020

Betsy Rakola, Director of Compliance and Enforcement



What does NOP compliance and enforcement do?



The NOP Compliance and Enforcement (C&E) Division:

- Partners with other Federal enforcement agencies
- Surveils high-risk sectors
- Investigates complaints

NOP Goals: Fair and Fast Enforcement

In fiscal year 2021, Compliance and Enforcement will:

1. Collaborate with partners to advance high-impact or high-risk investigations.
2. Import supply chains: conduct 3 region-focused surveillance analyses.
3. Continue livestock compliance program, expanding the use of technology monitoring tools and scope of visits.
4. Close 75% of incoming complaints and inquiries within 12 months.



Office of the Inspector General



Criminal Investigations

2019: Five Guilty Pleas in Grain Fraud Scheme



AP

Missouri farmer charged in \$140M organic grain fraud scheme

By RYAN J. FOLEY December 19, 2018



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IOWA CITY, Iowa (AP) — A Missouri farmer and businessman ripped off consumers nationwide by falsely marketing more than \$140 million worth of corn, soybeans and wheat as certified organic grains, federal prosecutors said Wednesday.

The long-running fraud scheme outlined in court documents by prosecutors in Iowa is one of the largest uncovered in the fast-growing organic farming industry. The victims included food companies and their customers who paid higher prices because they thought they were buying grains that had been grown using environmentally sustainable practices.

The alleged leader of the scheme was identified as Randy Constant of Chillicothe, Missouri, who was charged with one count of wire fraud. He is expected to plead guilty during a hearing that is scheduled at the federal courthouse in Cedar Rapids, Iowa, on Thursday.

The charging document calls on Constant to forfeit \$128 million to the government along with his interest in 70 pieces of farm machinery and equipment. His attorney, Mark Weinhardt, didn't immediately return a phone message seeking comment.

Organic grain fraud case continues with fifth guilty plea



Photo: Adobe stock

05.13.2019 By Holly Demaree-Saddler



CEDAR RAPIDS, IOWA, U.S. — The organic grain fraud scandal continues as a fifth farmer, John Burton of Clarksdale, Missouri, U.S., plead guilty on May 10 to conspiracy to commit wire fraud.

According to the U.S. Attorney's Office for the Northern District of Iowa, Burton was convicted of one count of conspiracy to commit wire fraud. As part of the conspiracy, he admitted that grain grown on non-organic fields was marketed and sold as organic and that unapproved substances were used on

2020: Grain Trader Arrested in South Dakota



Grain trader accused of organic fraud

Anderson also has a history of noncompliance with regulators

By Jenny Schlecht
Agweek Content Manager

RAPID CITY, S.D. — A South Dakota man has been indicted in federal court on allegations that he was marketing conventional agricultural products as organic for at least five years and using the proceeds to propel him to an extravagant lifestyle of yachts, jewelry and fancy vehicles in a Florida mansion. But public records in North Dakota and South Dakota show that Kent Duane Anderson may have been skirting grain trading regulations and failing to pay farmers and grain elevators since at least 2006.

A federal grand jury on Feb. 4 indicted Anderson on 42 counts for the alleged scheme — one of conspiracy to commit wire fraud, 12 of wire fraud, 12 of monetary transactions to promote unlawful activity and 17 of monetary transactions in criminally derived property.

Anderson on Feb. 14 pleaded not guilty to the charges. If convicted, Anderson could face prison time and could be forced to forfeit any property related to the offenses, as well as more than \$27 million.

U.S. Magistrate Judge Daneta Wollmann ordered Anderson released from

2005, including Bar Two Bar Ranch LLC, Green Leaf Resources Inc., Green Leaf Industries LLC, Green Leaf Commodities LLC, Green Leaf Trading LLC and Green Leaf Oils LLC. The Green Leaf entities were involved in organic grain marketing. Regulators in South Dakota said during a hearing in 2019 that they may have been involved in more entities than that, but all of them seemed to have been operating as the same business.

During that hearing, South Dakota grain inspectors said Anderson had been processing canola, flax and sunflowers into oil and meal and selling them into the feed industry.

The federal indictment against Anderson was unsealed Feb. 13 and explains how Anderson had been operating since about 2012. Anderson employed his sister-in-law, identified as "M.G." and a college friend, identified as "J.M.," as figurehead executives. He had them apply for U.S. Department of Agriculture certification as "handlers" organic products. The products Anderson's businesses purchased primarily were shipped to a storage and loading facility in Tappen, N.D., where he had an employee, identified as "B.M." Anderson primarily



Jenny Schlecht / Agweek

Kent Duane Anderson worked out of this Tappen, N.D., building during the years in which federal prosecutors allege he was purchasing non-organic grain and selling it as organic products. More bins were on-site at the time Anderson was using the facility. South Dakota officials say Anderson's Rapid City, S.D., facility was nothing more than a metal pole barn with an auger in and an auger out, which allowed him to move frequently

the products as organic. R.M. would tell B.M. what products and quantities to load for and ship to Anderson's customers. R.M. would prepare and email to B.M. bills of lading and invoices that reported the products were organic to accompany the outgoing shipments.

From October 2012 to December 2017, the indictment says, approximately \$11 million was transferred to Anderson's personal bank accounts. The money went toward purchases, including an \$8 million yacht, a \$250,000 sports boat, a \$2.4 million home in Florida, more than \$200,000 in jewelry and multiple expensive personal vehicles.

ic Farms, which was not a registered entity in North Dakota or South Dakota. Regulators found total outstanding payments of \$28,000 in the 2006 case and determined Anderson was not licensed and bonded as a roving grain buyer as required by law. The cease and desist order remains in effect.

In 2018, Konrad Crockford, North Dakota PSC director of compliance, told the South Dakota Public Utilities Commission that North Dakota had learned Anderson was making purchases again in North Dakota in violation of the cease and desist order and that information had been forwarded to the

NOP-OIG Partnership: Many Hands

- In 2019, NOP conducted a two-day in-service training for nearly half the OIG investigative force.
- In January 2020, OIG Special Agents and Special Agents-In-Charge trained NOP certifiers.
- Many hands support organic integrity across the government.



Other NOP Enforcement Partners

- USDA
 - Animal and Plant Health Inspection Service - APHIS
 - Foreign Agricultural Service - FAS
 - Office of the Chief Economist - OCE
 - Farm Service Agency - FSA
 - Risk Management Agency - RMA
- Federal Trade Commission (FTC)
- Food and Drug Administration (FDA)
- Customs and Border Protection (CBP)
- Environmental Protection Agency (EPA)



Import Oversight

Region-Focused Surveillance

Import oversight and data analysis



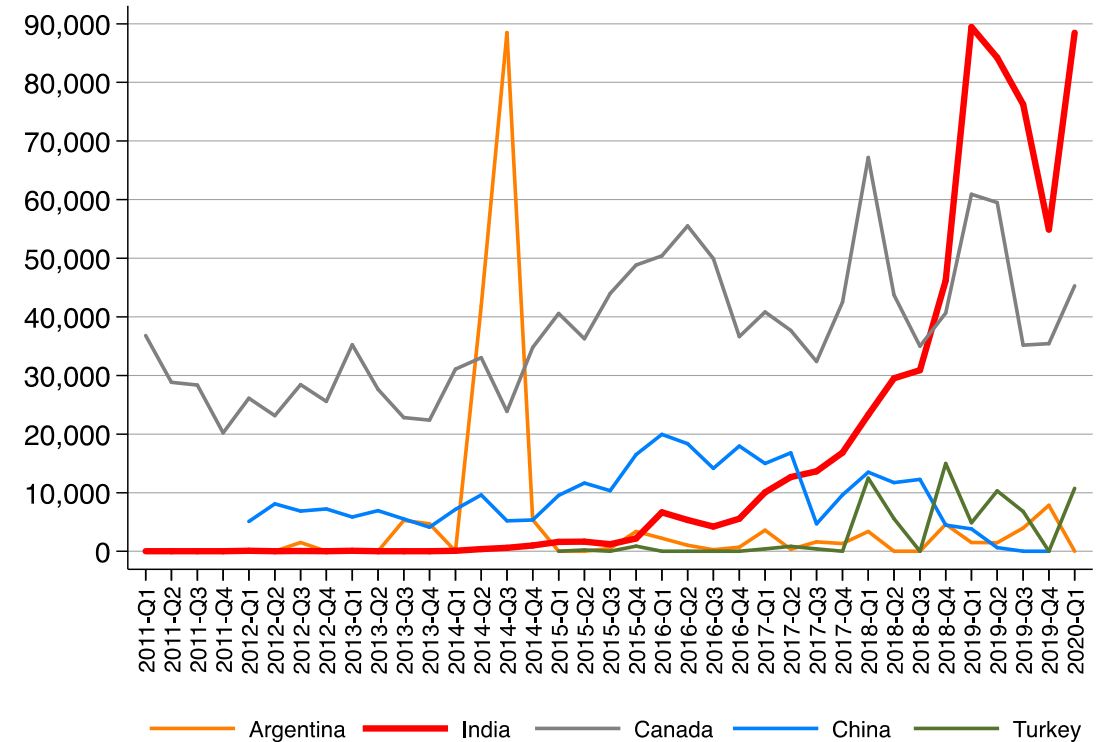
NOP uses data to:

- Analyze market intelligence that alerts the NOP to suspicious activities
- Identify fraud indicators & begin surveillance

Regular import assessments



- Methods include:
 - Monitoring trade data
 - Developing baselines and benchmarks
 - Identify sudden spikes
- Used data to stop non-organic soybean imports from India



Training on Yield Analysis



**Average organic
wheat yield:
31 bushels/acre**

0.6 yield ratio



**Average conventional
wheat yield:
54 bushels/acre**



Organic Livestock Compliance

Technology tools & onsite visits

Livestock Organic Compliance Program



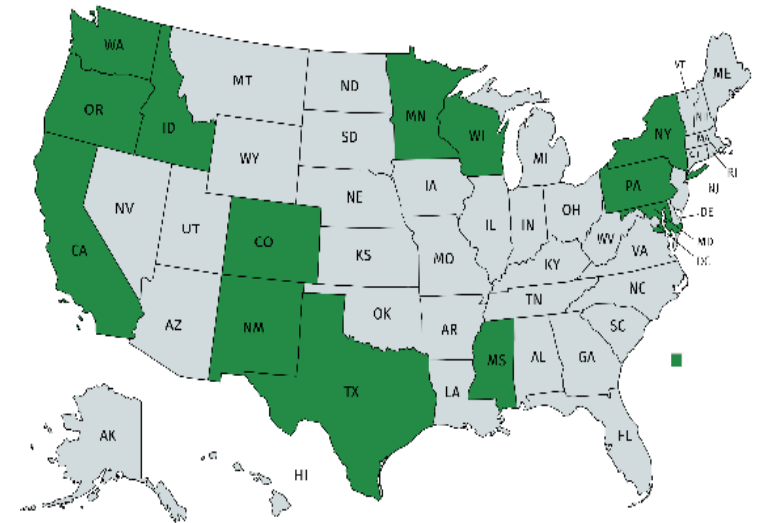
What is it?

- Unannounced, boots-on-the-ground visits
- Verifying compliance with organic pasture practice standards
- Highly-trained Federal livestock auditing staff
- Dairies selected for geographical area, market impact, certifier compliance evaluation, and complaints to NOP

Livestock Organic Compliance: 2019 Impacts



- Most dairies were in compliance
 - Cows grazed 120 or more days
- 2 dairies surrendered certification
- 1 dairy received a proposed suspension
- 1 certifier entered into a settlement agreement with USDA
- 5 certifiers received noncompliances
- Dairy/Livestock training added to the Organic Integrity Learning Center to increase certifier consistency



Livestock Organic Compliance: New in 2020



- Multi-day training in California for Federal auditors, State organic program, and certifiers
- Expansion: new states, new certifiers, new dairies
- Investigations of live animal sales activity
- **Focus:** assessing temporary confinement

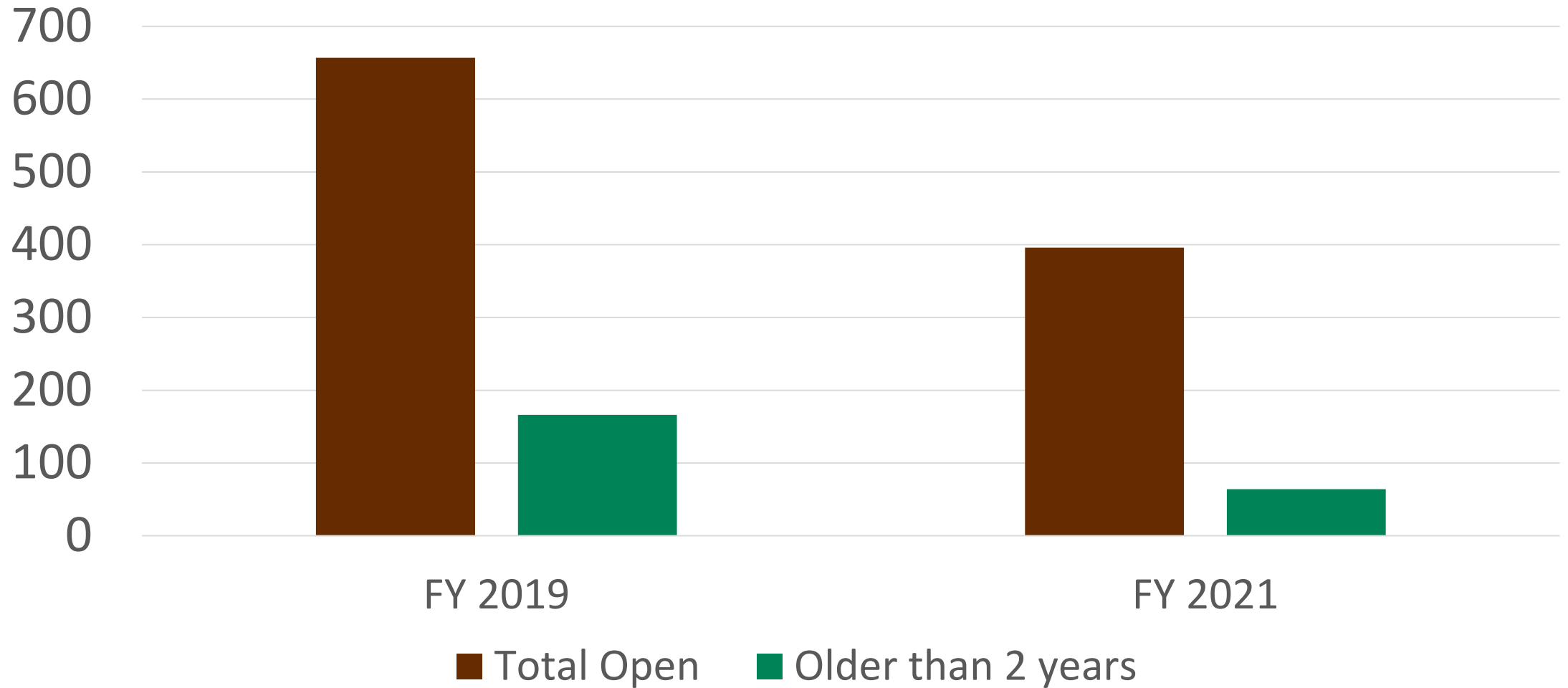




Complaints & Inquiries

Enforcement Operations & Dashboard

Investigative Complaints: Backlog Reduced



NOP Compliance Investigations

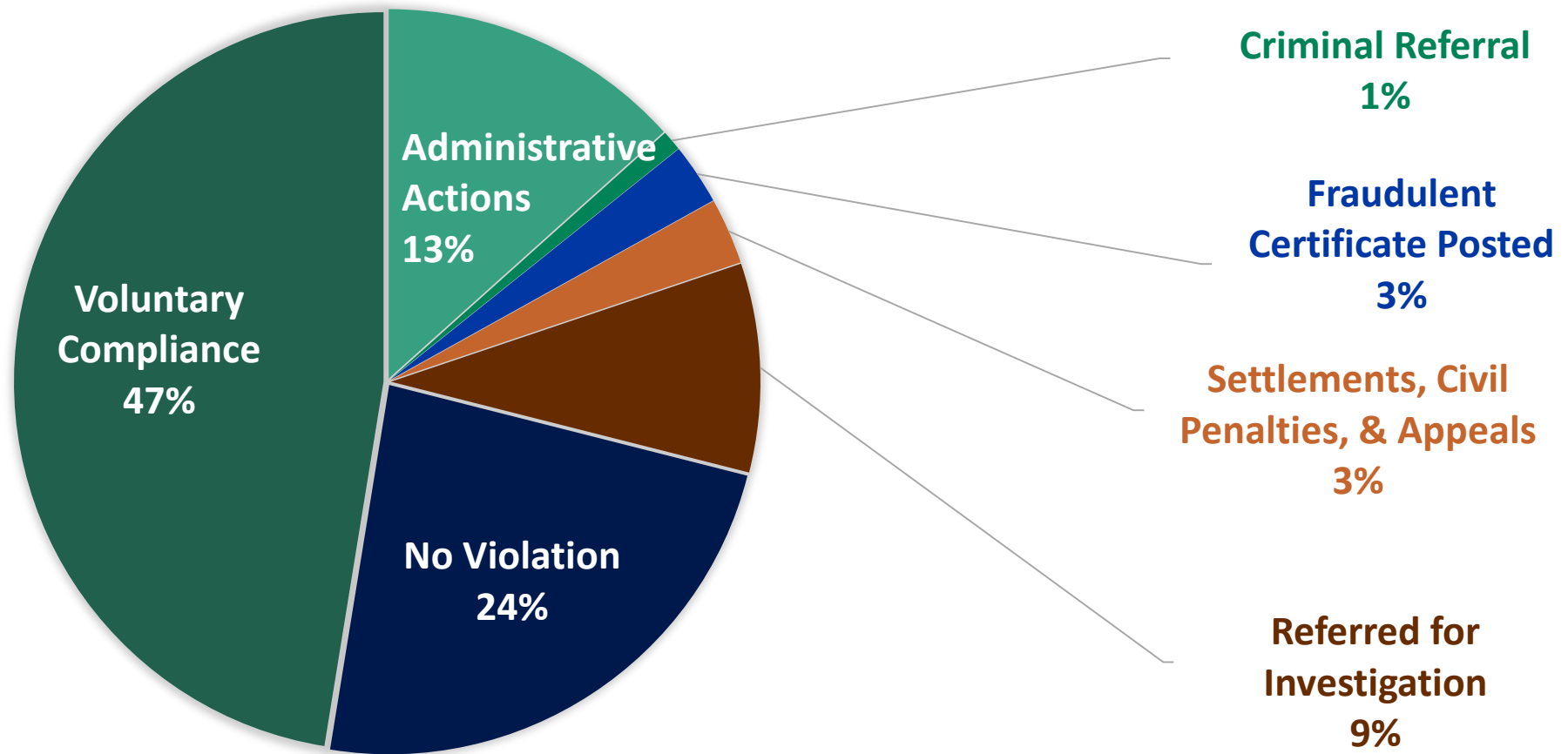
Over 750 complaints and inquiries received each year

40% resolved with educational information to address customer needs

C&E investigates or refers remaining 60% of complaints, asking: did someone break the organic rules?

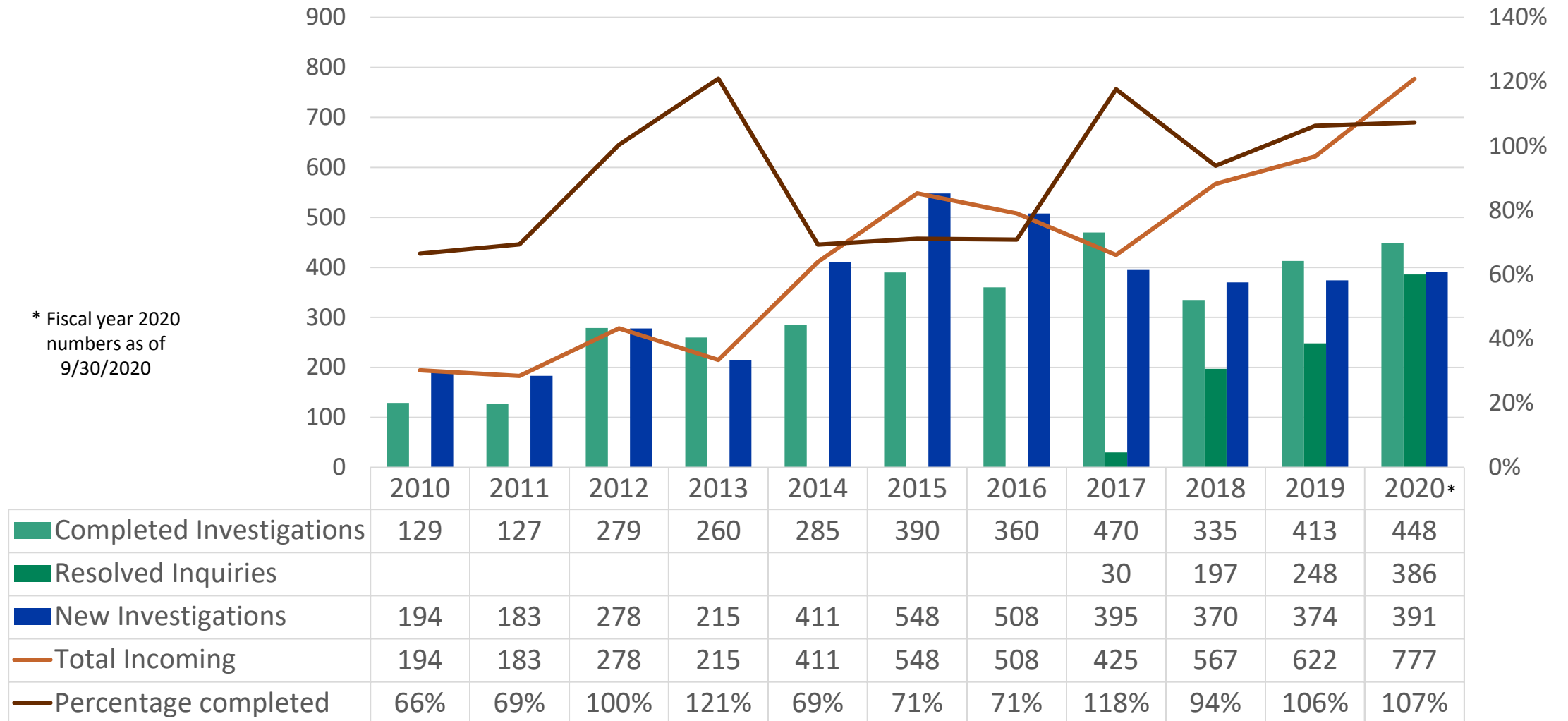
Most common outcomes: voluntary compliance, no violation found

Outcomes: 448 closed cases in 12 months

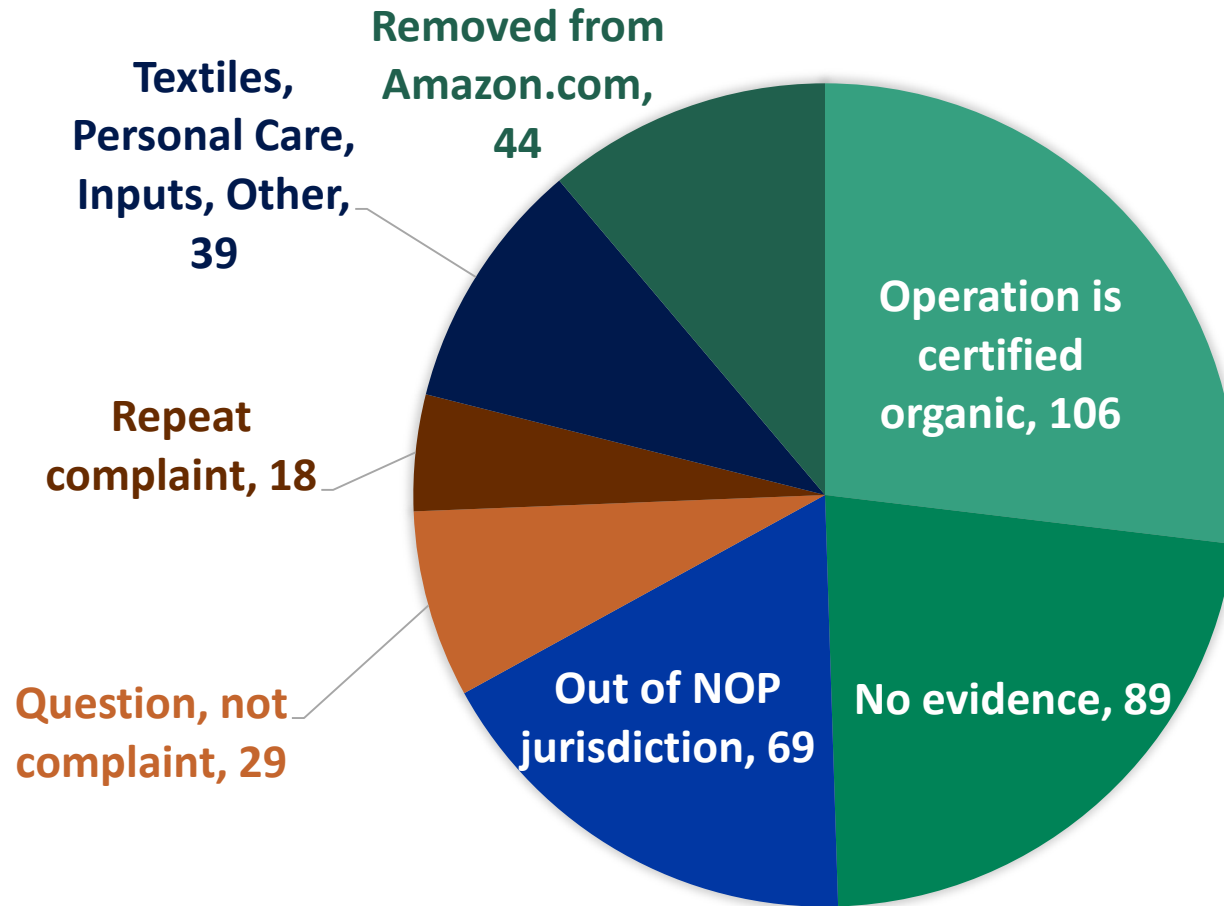


12 Months Ending 9/30/2020

Complaint & Inquiry Trends



Inquiries Not Accepted for Investigation



Customer Experience: Online Complaint Form



- Launched February 2020
- 370 inquiries submitted
- Clear filing instructions
- Inquiry tracking numbers
- Complaints still accepted by email, phone, and postal mail

The screenshot shows the 'Complaint Page' of the USDA NOP Online Complaint Portal. The page features a green header with the USDA logo and 'United States Department of Agriculture Agricultural Marketing Service' on the left, and 'USDA ORGANIC' on the right. Navigation links for 'NOP Home | AMS Home | USDA' are in the top right. A progress bar indicates the current step is 'Complaint Page', with 'Thank You Page' and 'Attachments Page' as subsequent steps. A disclaimer box states: 'Disclaimer: The identities of complainants will be considered confidential and will be protected to the greatest extent permissible by law.' Below this is a checkbox for 'Do you wish to stay Anonymous?'. The 'Complainant Information' section includes a placeholder 'Please enter your contact information below.' and several input fields: First Name, Last Name, Phone, Email, Address, City, State, Zip Code, and Country. At the bottom of this section is a radio button question: 'Are you submitting on behalf of an Organization?' with 'Yes' and 'No' options. The 'Complained Party Information' section at the bottom has a radio button question: 'What is the subject of your complaint?' with 'Individual' and 'Organization' options.

Thank you!

Betsy Rakola

Director, USDA NOP Compliance and Enforcement