

USDA Organic Oversight and Enforcement Update Summary of Activities – Calendar Year 2023



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.



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, who inspect and certify organic farms and businesses to 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:

- Program 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 43,583 USDA certified organic farms, ranches, and businesses worldwide, with 26,531 (61 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 \$67.6 billion in 2022, representing growth of \$4.6 billion (4 percent) over 2021.

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 actions

continue to strengthen organic farmer, business, and consumer confidence in the USDA organic seal.

Previous Organic Oversight and Enforcement Reports published in 2019, 2020, 2021, 2022, and 2023 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/services/enforcement/organic-enforcement-activity.

Program Initiatives

Throughout 2023, USDA continued to support conventional farmers and ranchers interested in transitioning to organic production through the Organic Transition Initiative (OTI) **Transition to Organic Partnership Program (TOPP)**, which was launched in 2022.

Through TOPP, USDA is investing up to \$100 million over 5 years through cooperative agreements with nonprofit organizations. Partners are providing mentoring services, technical assistance, community building, and organic workforce development in six regions of the United States: 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.

TOPP is a collaborative effort between 6 regional leads, 2 national leads, and more than 180 State-level partners who, in 2023, reached more than 21,000 attendees at 285 events, such as workshops, webinars, and field days. Topics covered at these events include organic production practices, conservation planning, business development, supply chains, regulations, and marketing. Regional leads and their partners continue to develop programming and events to serve transitioning and existing organic farmers, such as the TOPP mentorship program, which pairs experienced organic producers with mentees new to organic, or those looking to expand their existing organic operations.

Mentors and mentees meet one-on-one to discuss how to navigate the organic transition and certification process, discuss organic best practices, and network with other organic farmers in the community. Through TOPP programming and mentorships, NOP has been able to engage with historically underserved communities to provide the resources and tools needed so that organic is an option for everyone.

More information about the TOPP initiative and success stories highlighting the work being done in each region is available at www.ams.usda.gov/services/organic-certification/topp.



Organic certification reviewers and inspectors took part in an Organic Transition Tour with West/Southwest TOPP Technical Assistance recipient Domitila Tapia (bottom left).

NOP's ongoing **Human Capital Capacity Building Initiative** continued in 2023 and is preparing students for meaningful employment in the organic sector. Through a cooperative agreement with Tuskegee University, students from traditionally underrepresented backgrounds participated in a preexisting experiential organic farm training program to gain a foundation of practical and academic knowledge in organic farming. Tuskegee University has also been working with the International Organic Inspectors Association and Accredited Certifiers Association to develop an undergraduate-level course focused on organic inspection. The model curriculum will be shared with other universities that may implement similar programs.

Throughout 2023, NOP continued to develop and publish free, online resources designed to build and develop a robust, highly skilled workforce of qualified organic professionals and promote organic market development, protect organic integrity, and enhance diversity, equity, and inclusion. Eleven new courses were added to the Organic Integrity Learning Center under the "Growing the Organic Workforce" module. Courses such as *Organic Internship Best Practices*, *DEIA Resources for the Organic Sector*, and *Organic Education Curriculum Resources* support current and future generations of organic professionals with the skills needed to effectively protect the USDA organic seal. More than 7,000 users have participated in courses from this module, and users have praised the courses as helpful in identifying new paths to increasing participation and overcoming barriers to recruitment.

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



As a partner in the USDA Human Capital Capacity Building Initiative, Tuskegee University students participated in an experiential program at its campus organic research farm. Pictured above are the 2023 summer interns gathered for their graduation ceremony.

Domestic and Overseas Investigations and Compliance Actions

In 2023, NOP continued to engage in surveillance and enforcement activities around the world. 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, and Data Quality Awards
- Appeals
- Setting Standards for Consistent Certification and Enforcement

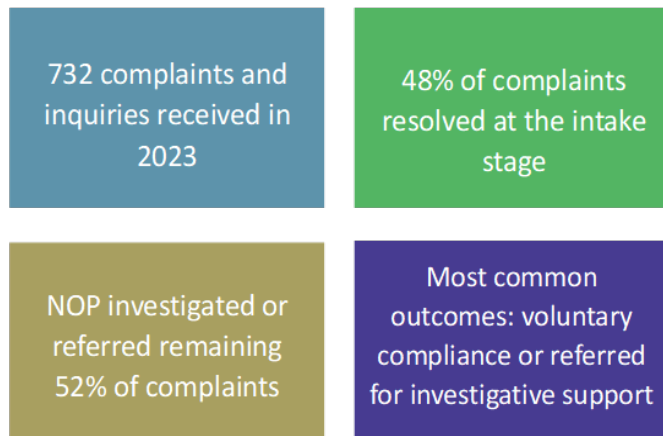
From training to surveillance, directives, and criminal prosecution, NOP and its partners engage in a wide range of activities and strategies to jointly protect the USDA organic seal, support compliance, and hold those who violate the regulations accountable under the law.



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 higher market impact. For example, a complaint from an industry member that alleges organic grain fraud would be prioritized over a complaint about temporary signage at the farmer’s market. While both would be investigated, the complaint with broader market impact would be escalated.

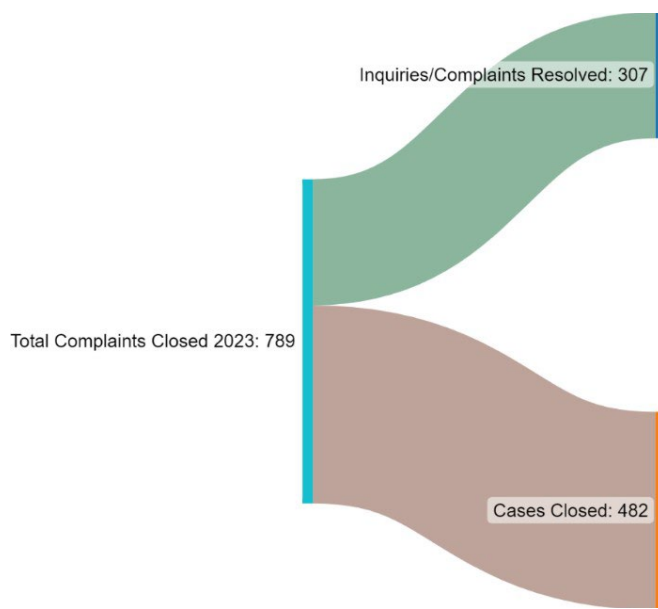
The NOP online complaint portal has improved the customer experience by making it easier for the public to understand what information is needed for NOP to effectively evaluate a complaint. The portal expedites the intake process by automatically entering information into the NOP internal complaint management system, providing tracking information to the person filing the complaint or inquiry, while allowing for anonymous tips. Approximately 72 percent of the complaints and inquiries filed with the NOP were received through the online portal.



In 2023, 12 percent of consumer questions were simple inquiries asking if a farm or business was really certified organic. NOP can quickly close these inquiries after confirming an operation’s status.

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, conducting ongoing surveillance, and communicating with our accredited certifying agencies or other private sector partners.

Total Inquiries/Complaints Resolved at Intake and Total Cases Closed



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, high-risk investigations that may have significant market impact.

When there is evidence of a violation of the organic regulations, NOP’s first goal is to bring the farm or business back into compliance or to remove them from the market as quickly as possible. Most NOP investigations, 43 percent of the total complaints in 2023, were resolved when farms and businesses voluntarily complied with the organic regulations.

Examples of voluntary compliance include:

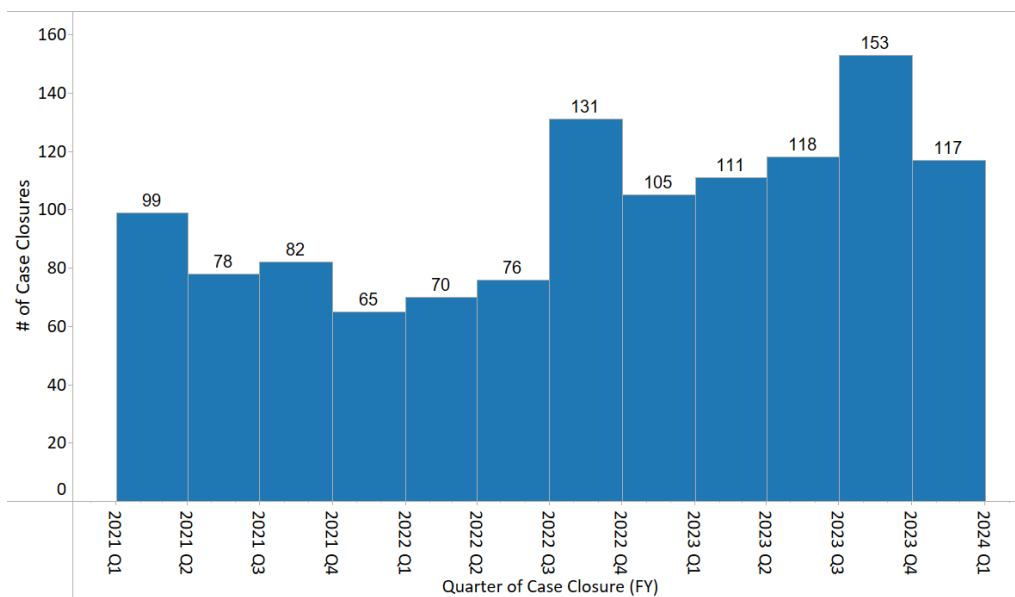
- An uncertified farm or business stops making organic claims on a website.
- An uncertified farm or business gets certified so it can legally label product as organic.
- A certified farm or business corrects a noncompliance.
- A certified business exits the organic market.

Where complaints are substantiated through an investigation, the outcomes may include a range of administrative actions, such as issuing 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.

Technological enhancements to internal systems continued to streamline our enforcement response in 2023, significantly decreasing the number of outstanding cases and days it takes to bring the investigation of an average complaint to closure. This calendar year, the number of cases that were closed in four months doubled, resulting in 30 percent more cases being closed in this timeframe than in 2022. These quicker case closures allowed the NOP to protect the integrity of the USDA organic seal by removing false claims and bad actors from the market, increasing consistency across certified operations, and protecting those playing by the rules.

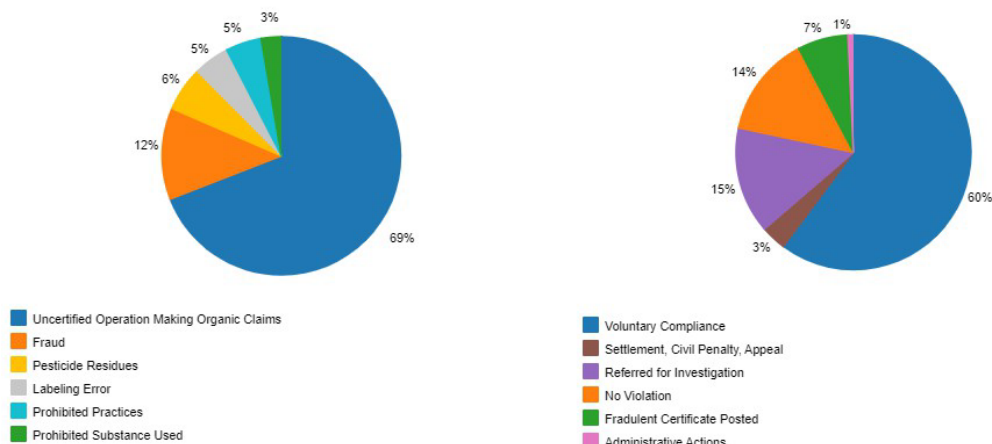
Overview of Total Cases Closed and Case Turnover for 2023



Overview of Complaint Case Types and Case Outcomes for 2023

327 Cases in Progress
As of 12/31/2023

499 Closed Cases by Outcome
12 Months Ending 12/31/2023



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.

Referred for Criminal Investigation are cases referred to the Office of Inspector General (OIG).

Domestic and International Investigations

NOP continues 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 the NOP to leverage additional authorities that can be used to protect the organic market and 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 FY 2023, NOP collaborated on investigations of backlogged complaints filed by our trade partner, the European Union (EU). The closure of these complaints resulted in the NOP honoring its commitments to international trade partners and providing strong oversight of the organic community domestically and abroad.

NOP also collaborated with the USDA, Foreign Agricultural Service (FAS) in Santiago, Chile, to contact two Chilean berry operations under investigation for several violations, including for organic sales while suspended from certification and use of fraudulent organic certificates. In one case, the NOP worked with FAS and the suspended operation's former certifying agent to obtain

payment of a civil penalty. The United States imports high volumes of organic produce from Chile every year, especially during the winter months, which indicates the need for strong enforcement partnerships in this part of the world. FAS has specialized local access to international contact information that can help NOP establish direct communication with unresponsive parties outside the United States.

In July of 2023, after difficulty establishing contact with an Oregon seed operation engaged in product misrepresentation, the NOP referred an investigation to the Oregon Department of Agriculture (ODA) Seed Regulatory Program (SRP). ODA SRP is responsible for regulating the sale and labeling of agricultural and vegetable seed sold, offered for sale, or transported within Oregon under the Federal Seed Act. This partnership resulted in ODA SRP determining the operation was not licensed and following up to obtain compliance. Leveraging our partnership with State officials to protect the integrity of the organic market and maintain consumer confidence is an effective tool in the NOP toolbox.

In August 2023, the NOP signed a new agreement with the USDA, Federal Grain Inspection Service (FGIS). This new partnership allows FGIS to sample imported organic commodities on behalf of NOP, helping USDA better monitor import supply chains and determine compliance with the requirements of the Strengthening Organic Enforcement (SOE) final rule. Information from this project may also help address stakeholder concerns regarding adulteration of imported organic commodities. NOP is using field-based, geographically dispersed FGIS inspectors to sample organic commodities, namely grains and oil seed meals, at strategic locations, including U.S. ports of entry and certified handling sites. A USDA laboratory is analyzing these samples for prohibited substances, such as pesticide and solvent residues. The scope of work includes up to 80 onsite sampling events over a 1-year period. Sampling is focusing on high-volume exporters in regions where NOP has identified an elevated risk for fraud. Partnering with FGIS expands our enforcement footprint at the U.S. border.

Case Highlight—High-Volume, High-Value Commodity: The U.S. sweet potato industry has grown significantly in the last 20 years. Consumer demand for sweet potatoes has increased as the health benefits and various methods of preparation have become more widely known. In particular, the southeast United States has experienced marked production expansion and benefited from increased commodity prices in response to rising export volumes and domestic demand. Market research suggests that the global sweet potato sector is expected to grow at a compound annual rate of 5.90 percent, reaching \$50.5 billion by 2030. According to the Organic Trade Association’s 2023 Organic Industry Survey, U.S. organic rice, grain, and potatoes accounted for \$387 million in sales in 2022, and the breads and grains category reported the highest growth rate, growing by 10.2 percent.

As a result of ongoing surveillance and investigations, prohibited substances were detected on U.S.- grown organic sweet potatoes intended for export to international markets. NOP traced the exports in question back to a small group of certified handlers located in the southeast United States. During the investigation, NOP determined that some certified organic sweet potato handlers, that also provide conventional processing, were at times using prohibited, post-harvest materials to combat pest and disease issues on shared packing lines and foggers in shared storage areas.

Once the certifier became aware of the NOP’s investigation, the certifier proactively worked with the NOP to bring all operations back into full compliance, including firsthand oversight to verify processors have adequate measures in place to prevent commingling of organic and conventional produce and

prevent contact with prohibited substances. Additionally, in June 2023, NOP issued a directive to all USDA-accredited certifying agents, alerting them to the trend in prohibited residue detections on organic sweet potatoes and adding a new requirement to conduct unannounced inspections of certified operations handling organic sweet potatoes. This demonstrates how the NOP expanded its investigative work to include domestic commodity surveillance, intended to create a level playing field for certified organic operations in the United States. The NOP used the public-private partnership with accredited certifiers to educate certifiers, producers, and processors, take appropriate enforcement actions, and protect the integrity of the organic market.

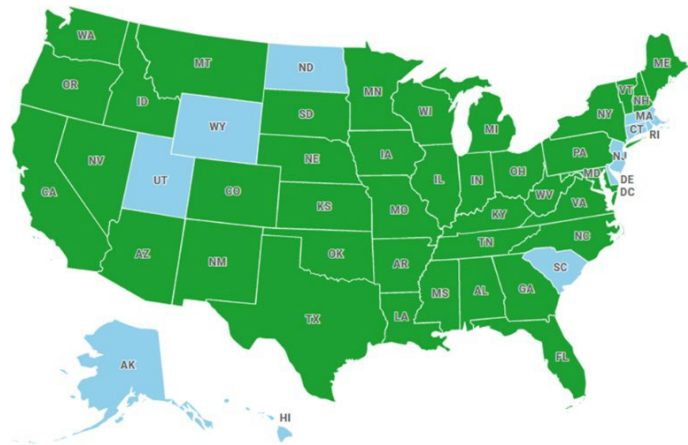
The sweet potato case study illustrates the type of investigations the NOP prioritized this year in its risk-based approach to protecting the organic industry based on market impact. Raising the profile of the small number of serious violations also sends a signal to the entire supply chain from farm to processor and brands that NOP is watching, and violators will be held accountable, reinforcing confidence from the farmer to the consumer in the integrity of organic products sold in the United States.

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, certified organic dairy operations have improved record keeping systems and compliance with grazing requirements, and there is more consistency in certifier oversight of organic livestock handlers.

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 and 2023, USDA livestock technical experts reviewed 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 related to:

- Origin of livestock, animal feed used, animal healthcare, and livestock housing at slaughter and auction facilities.



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.

- 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 2023, NOP conducted virtual training for certifiers on methods for assessing whether cattle are fed only certified organic feed when under continuous organic management from the last third of gestation, and whether animals have access to water until slaughter. Additionally, the training covered how to perform tracebacks to verify organic livestock sources and mass balance exercises to verify an operation’s production feasibility.

Also in January 2023, the NOP issued a Livestock Directive to all certifiers that certify U.S. livestock producers and handlers. The directive required that certifiers provide the NOP with updated organic system plans and inspection report templates that verify compliance with livestock regulations at livestock processors/handlers. The directive also requires that certifiers evaluate livestock handlers, identify risk factors, and issue noncompliances or adverse actions as necessary. As a result of the Directive, certifiers are submitting noncompliances issued to their operations to the NOP, which reviews the noncompliances and works with certifiers to get bad actors out of the market. NOP and certifier enforcement actions have led to the suspension and market exit of four high-volume organic livestock handlers.

Throughout the year, NOP livestock technical experts contributed to a new Organic Integrity Learning Center module, *Livestock Traceability*, which covers how to conduct livestock traceability at inspections and verify handler and processor compliance with organic livestock regulations. NOP livestock technical experts also participated in multiple certifier accreditation audits, providing detailed certification file reviews and visiting certifiers and operations.

The NOP continues to collaborate with other AMS programs for onsite audits of organic livestock operations and held an inperson training to ensure consistent and thorough oversight of organic livestock activities. The training focused on new requirements in the Origin of Livestock final rule, conducting mass balance audits, and verifying organic slaughter eligibility. The NOP has also initiated surveillance to oversee compliance with the Origin of Livestock final rule.

Case Highlight—Livestock Handlers: Through the surveillance of multiple cattle brokers and dealers, NOP identified a certified organic broker that sold nonorganic cattle to certified organic slaughter facilities throughout the United States. NOP investigated the operation further and obtained sufficient evidence to issue a Notice of Proposed Revocation to the operation. NOP investigators are also working with the Office of the Inspector General to advance additional cases involving livestock dealers.

Certifier Oversight

In 2023, 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. During 2023, NOP conducted audits of 42 certifiers inperson in 13 countries.

In March and October 2023, a team of NOP auditors conducted onsite surveillance activities in India as part of NOP’s country-focused surveillance activities. Since the termination of the U.S.-India Recognition Arrangement in July 2021, NOP has been in regular communication with certifiers operating in India about the challenges of offering certification services in the country. The surveillance activities in India assessed compliance of certifiers and operations with the USDA organic regulations as well as certifier compliance with the NOP’s March 2022 directive to certifiers operating in India.



In 2023, a team of NOP auditors conducted focused onsite visits to certifiers and certified operations in India as part of NOP’s country-focused surveillance activities.

An important focus of NOP certifier audits is verification that they are following the appropriate process for verifying operation compliance and taking enforcement action against certified operations, when warranted. In 2023, NOP auditors specifically assessed whether certifiers are sufficiently verifying an operation’s compliance during onsite inspections, conducting sufficient reviews of operation materials-use, and whether certifiers are following the noncompliance process required by the USDA organic regulations.

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 their 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 domestic certifier and one international certifier surrendered their accreditation in 2023.

Certifier Training

Since its launch in 2019, the Organic Integrity Learning Center has grown into a robust community of more than 10,000 registered users around the world. 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 December 2023, there are 171 lessons across 39 courses and 29 microlearnings (short trainings) in the Learning Center, covering topics from advanced organic supply chain traceability to the SOE final rule. Examples of courses recently added include:

- Scenario-Based Inspector Training
- Growing the Organic Workforce
- Organic Field Crop Practices
- Advanced Traceability and Mass Balance Techniques
- Livestock Traceability
- Keep it Organic While Handling and Processing
- SOE Final Rule Core Course

Certifier Data Quality Awards

In January 2024, 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. Nine certifiers were recognized for exceeding requirements for delivering high quality data to the Organic Integrity Database in 2023.

Up-to-date public information about organic operations helps buyers and sellers find each other in the marketplace, making data an 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 see the products that each farm and business has to offer. Quality data is also integral to surveillance across supply chains.

The 2024 Investing in Integrity Data Quality Award winners were:

- CCOF Certification Services, LLC – Santa Cruz, CA
- Clemson University – Pendleton, SC
- Colorado Department of Agriculture – Broomfield, CO
- Public Institution “Ekoagros” – Kaunas, Lithuania
- Marin Organic Certified Agriculture – Novato, CA
- MOFGA Certification Services, LLC – Unity, ME
- Oregon Tilth Certified Organic – Corvallis, OR
- Quality Certification Services – Gainesville, FL
- Yolo County Department of Agriculture – Woodland, CA



Representatives of the award-winning certifiers with NOP Accreditation Division Director Robert Yang (far left), Trade Systems Director Jon Veley (center with glasses), and Compliance and Enforcement Director Lori Tortora (second from right).

Over the past year, three certifiers also stood out for their consistent, effective communication and collaboration with NOP 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 2024 National Organic Program Director’s Award winners were:

- Ecocert SAS – L’isle Jourdain, France
- Oregon Tilth Certified Organic – Corvallis, OR
- Organic Crop Improvement Association – Lincoln, NE

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.

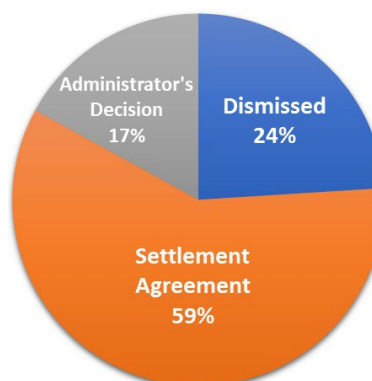
In 2023, the program received 74 new appeals and the team resolved 83 appeals during the year. Of these, 17 percent (14) resulted in an AMS Administrator’s Decision upholding the certifier or NOP’s proposed adverse action, or denial of certification.

An additional 59 percent (49) were resolved using a settlement agreement, designed to bring the appellant into full compliance more quickly using alternative dispute resolution techniques. The remaining 24 percent (20) resulted in dismissals because the appeals were filed after the appeal deadline, or the appeals were not in response to an appealable action.

The program also receives reports of breached Settlement Agreements from certifiers. This occurs when an operation has failed to correct problems that led to a proposed adverse action, and additional enforcement action is needed. Of the 27 reports of breached Settlement Agreements received, 7 resulted in Administrator’s Decisions affirming the certifier’s finding of ongoing violations, 14 were resolved when the operation was brought into compliance, 1 resulted in a Settlement Agreement with additional terms, and 5 are still pending a response from the operation and/or certifier. This continued oversight helps ensure that operations comply the terms of Settlement Agreements and the organic regulations overall.

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. The Appeal Decision found that TDA’s program was not compliant with the USDA organic regulations. TDA

**Outcomes of 83 Appeal Closures
2023**



subsequently requested a hearing with a USDA Administrative Law Judge. The formal Administrative Hearing was held between January 29 and February 2, 2024. AMS is seeking to suspend TDA's organic certification program.

Setting Standards for Consistent Certification and Enforcement

Developing and supporting a fair and competitive market starts with sound and sensible regulations. Each year NOP provides 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. In 2023, NOP published two final practice standards and a Federal Register Notice that renewed 76 substances on the National List of Allowed and Prohibited Substances.

Strengthening Organic Enforcement (SOE) Final Rule: This final rule was published in the Federal Register on January 19, 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 and certifier oversight, and it 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). March 19, 2024, is the implementation date. NOP conducted many conference presentations and more than 100 webinars with trade associations in 2023 to prepare the sector for rule implementation.

Organic Livestock and Poultry Standards (OLPS) Final Rule: The OLPS Final Rule published on November 2, 2023. It amends the organic livestock and poultry production requirements by adding new provisions for livestock handling and transport, slaughter, and avian (poultry) living conditions. It also expands and clarifies existing requirements covering livestock care and production practices and nonavian living conditions. These changes will ensure organically produced foods meet a transparent and consistent standard to allow the industry to maintain consumer confidence in USDA organic products, to align with consumer expectations regarding outdoor access, and to further facilitate interstate commerce of organic products.

NOP conducted a public webinar on November 16, 2023, to help stakeholders understand the new requirements. Organic operations must comply with the rule by January 2, 2025; however, poultry operations have an additional four years (January 2, 2029) to comply with the following requirements: outdoor spacing requirements for layers; indoor and outdoor stocking density requirements for broilers; and exit area requirements for layers and broilers.

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. A Federal Register Notice, published on April 14, 2023, renewed 76 substances on the National List. The NOSB reviewed these substances, which were scheduled to sunset from the National List in 2023 and 2024, and the Board recommended that the substances remain on the National List.

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. In 2023, AMS shared the comments with the Board and requested a recommendation for rulemaking. The Board will discuss the topic at their biannual public meetings, and a recommendation is anticipated in 2024. Once received, AMS will draft a proposed rule to resolve

the references to expired EPA reference lists, to provide market certainty, and to maintain industry confidence in the National List process.

Nitrogen Rule: NOP 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: NOP has drafted a rule to propose organic regulations for pet food and mushroom production. The draft rule responds to NOSB recommendations for pet food and mushroom standards from 2008 and 2001, respectively. The proposed rule is expected to be published in spring 2024.

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 2023, USDA appointed two new members to the Board and 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 2023 were:

Electronic Organic Import Certificates: NOP expanded the functionality of the USDA Organic Integrity Database by launching a new module in October 2023, called the Global Organic Integrity Database (GLOBAL INTEGRITY). GLOBAL INTEGRITY includes a Trade Partner page within the Organic Integrity Database that lists operations certified organic under an organic equivalence or recognition partner program that export organic products to the United States.

In addition, all authorized accredited certifiers (governed by USDA and trade partners) can use the new module to generate and issue electronic NOP Import Certificates for organic agricultural products being exported to the United States. NOP collaborated with certifiers accredited under the USDA and Canadian organic regulations to test the new module and used their feedback to

refine the system and develop future enhancements. Since the module's release, NOP has already received hundreds of import certificates.

NOP worked with CBP's Trade Support Network - Technical Advisory Group on the design and development of a new organic message set in the CBP Automated Commercial Environment (ACE) that uses the electronic NOP import certificate data, allowing importers to enter the unique import certificate numbers into ACE for organic shipments.

Stakeholder engagement also increased in 2023 with over 50 meetings held to discuss SOE regulations and the new technology supporting the rule. Meetings focused on educational outreach on the components of the final rule, with multiple international trade organizations assisting NOP with messaging on SOE awareness and implementation to their stakeholder networks.

GLOBAL INTEGRITY provides an auditable record trail of the import process and support traceability and verification of organic integrity. The data collected through import certificates will also allow NOP to monitor market trends, surveil imports, and detect and prevent fraud.

Commercial Targeting and Analysis Center Activity: In 2023, NOP continued its partnership with the CBP's 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 2023, NOP leveraged its access to trade and import data to increase its oversight of organic imports through surveillance of known violators and targeting of potentially fraudulent organic shipments.

Through CTAC, NOP conducted document reviews and/or coordinated physical examinations of more than 40 imported organic shipments to confirm compliance with USDA organic regulations. These reviews are part of ongoing surveillance of high-volume and high-value commodities worldwide, supporting NOP investigations and identifying new violative products and operators.

In addition, the NOP increased its import oversight and initiated a sampling and testing program for organic grains imported into the United States. This year, the NOP sampled and tested a dozen containers of organic soybean meal imported into the Port of Baltimore. These samples were tested for prohibited substances residues and the presence of genetically modified organisms (GMO). This round of sampling was successful in that no traces of prohibited substances or GMOs were found in any of the samples taken. NOP continues to conduct spot checks as part of the overall compliance and enforcement process.

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 increased CBP authority to enforce the trademark at the border and substantively increased the cost of organic import fraud. Registration of the trademark increased the number of Federal agencies with authority to enforce the trademark and gives CBP the authority to detain, seize, forfeit, and



Soybean meal sampling at the Port of Baltimore.

potentially destroy products that fraudulently use the USDA organic seal and potentially contain harmful ingredients. Registration of the organic seal grants additional intellectual property rights to further restrict the use of the trademark or a confusingly similar marking, 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.

In 2023, in partnership with CBP, the NOP coordinated the seizure and/or denial of entry of 32 imported shipments with a market value of over \$85,000 that was found to be in violation of the USDA organic regulations. These seizures/denials of entry consisted of shipments of sealed, prepackaged essential oils, dietary supplements and millet grain which were marked with the USDA organic seal without authorization or certification, or confusingly similar markings. Intercepted shipments ranged from one individual container to more than 3,000 individually packaged pieces. One fraudulently labeled shipment was identified, detained, and re-exported, triggering communication and violation corrections from a product owner that ceased responding during an earlier complaint investigation.



Shipment of dietary supplements denied entry into United States due to fraudulent organic markings.

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 2023 AMS added more than 40 new organic HTS codes, bringing the total available for identifying organic goods to more than 150. More than 20 additional codes are planned for 2024. 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 addition of these codes dramatically improves NOP’s reporting capability by making it possible to properly account for organic commodities covered by the codes. Improvement in metrics helps us understand the true volume of imports arriving in the United States and allows greater visibility and oversight into the supply chain, fortifying the integrity of the USDA Organic seal.

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 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 more quickly and efficiently than in any previous year.

Report on Enforcement Actions Taken on Organic Imports

The 2018 Farm Bill required that USDA and 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 and conducting outreach for the newly released electronic organic import certificate. The SOE final rule will fully implement mandatory import certificate requirements needed to provide the detailed quantitative data 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 FAS and CBP. Industry estimates indicate that U.S. buyers import between 70 and 85 percent of organic soybeans needed to meet the domestic demand for organic livestock feed. In 2023, these imports were primarily exported from ports in the Black Sea region, Canada, Argentina, Russia, and West Africa.

In September 2023, the NOP proactively contacted more than 110 importers to provide information and resources regarding the SOE regulatory requirements and deadlines. This outreach effort targeted potentially uncertified importers responsible for cumulative organic product imports exceeding \$500 million in the past year. The NOP also assessed and confirmed the organic certification status of more than 150 of the most prolific importers of organic products.

Trade Data Analyses

NOP uses 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, unexpected spikes or shifts in production, and discrepancies in import information provided by certifiers and CBP ACE data. When anomalies are identified for shipments, NOP initiates surveillance of the commodity, growers, handlers, exporters, and/or importers in that supply chain so the 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.

In 2023, NOP trialed a new surveillance approach, using trade data to identify inbound shipments from a specific supplier suspected of distributing contaminated soybean meal. This information led to targeted sampling by the importer’s certifier upon arrival. The sample tested positive for multiple pesticide residues, ultimately resulting in investigation and enforcement action by the supplier’s certifier.

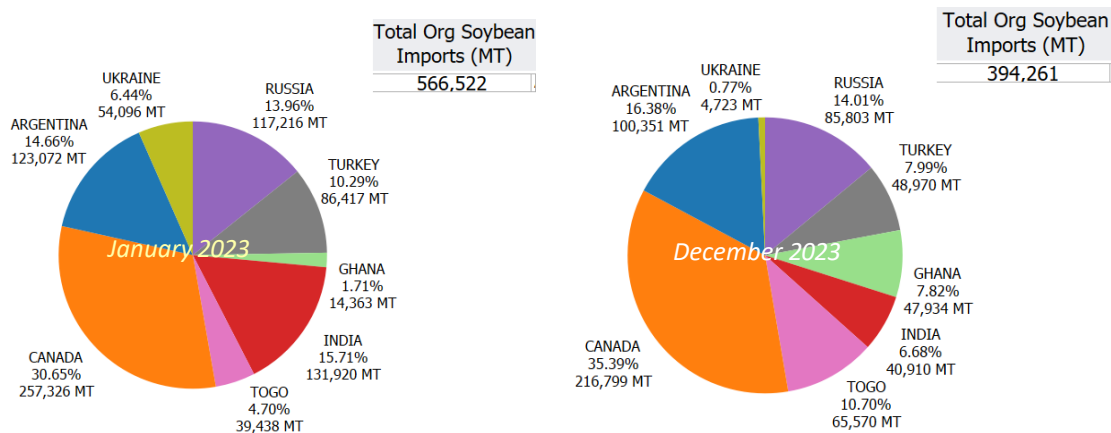
Soybean Market Surveillance: Long supply chains, shelf life, and price premiums make organic soybeans an attractive market for fraud. In 2023, NOP surveilled multiple soybean supply chains to include the biggest export markets to the United States. This work included examining audit trail documentation to identify omissions, discrepancies, and unclear information. In addition, NOP reviewed the procedures of importers and handlers involved to verify the integrity of suppliers and imported shipments.

Surveillance Highlight - Soybean Meal Exports from India: In March 2022, NOP issued a Certifier Directive on oversight of organic operations in India which required certifiers to inspect, sample and test all organic soybean meal exports to the United States. Using the newly available data from this directive, the NOP initiated surveillances in 2023 to verify traceability of ineligible lots of soybean meal and confirm exclusions from the organic market. The NOP also identified discrepancies in the exports reported to certifiers compared to the amounts imported into the United States. Surveillance and further investigation discovered use of fraudulent documentation to represent products as organic. Certifier enforcement actions resulted in suspension of three exporters in India, as well as issuance of noncompliances to four additional exporters. Due to these surveillances, the NOP characterized new risk factors for consideration in import monitoring and identified compliance concerns pertaining to processes for pesticide residue sampling response, certifier investigation, and adverse action.

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 use 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 became mandatory for all organic imports with implementation of the SOE final rule in March 2024. See above for more details on organic HTS codes.

U.S. Imports of Organic Soy by Quantity (Metric Tons)

January 1, 2023-December 6, 2023 (Origin by country)

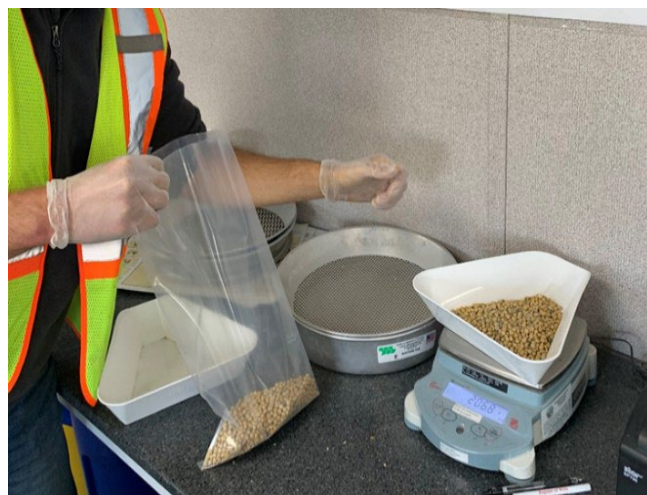


Data from HTS codes available at the time for organic soybean, soy meal, and soy cake.
Source: USDA FAS, Global Agricultural Trade System Database

Total organic soy imports in 2023 decreased by more than 170,000 metric tons compared to 2022. Imports from several origins decreased, while quantities of soy imported from Ghana and Togo increased. Organic soy imports from India began to decline in 2021 when NOP announced the end of the US-India Recognition Agreement. The decline continued throughout 2023 and soy imports from India were less than one-third of the quantity imported the previous year.

Soy Imports from Africa

In 2023, the NOP began monitoring imported soy products from several African countries after data from CBP ACE showed dramatic increases in imported product compared to the previous year. Shortly thereafter, the NOP received information from industry about risks to organic integrity of soy imported from specific operations in East and West Africa. The NOP initiated surveillance of 10 certified organic operations in 3 supply chains that sourced soy products from Togo, Ghana, and Ethiopia.



NOP has 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.

The NOP's surveillance activities led to certifier enforcement actions for four of these operations and pointed to compliance issues such as incomplete records and inadequate oversight of grower groups. Based on these findings, the NOP expanded its surveillance activities to collect soy samples from several high-volume exporters in Benin and Ethiopia. The USDA lab tested the samples and did not detect any pesticide residues in the imported soy products. The NOP will continue to monitor this region/commodity pairing and will collect additional samples of imported soy products in 2024.

Fumigation Update

If APHIS determines that a shipment at a port of entry is infested with a pest that poses a threat to the United States, APHIS may require the shipment to be fumigated to prevent the introduction of that pest. Fumigated products are not eligible to be sold as organic.

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 SOE final rule is fully implemented in March 2024. This will allow for immediate identification when an organic shipment is fumigated. APHIS is also working with CBP directly to facilitate more robust data sharing.

In 2023, 18 shipments of imported organic food were reported as fumigated on entry to the United States, a very small percentage of incoming organic goods. USDA investigations indicate that many of the fumigated commodities were relabeled for the conventional market.

Shipments of Organic Imports Fumigated at U.S. Ports – 2023
(Not Eligible for Organic Sale Post-Fumigation)

| | Commodity | Country Origin |
|----|---------------------------------|-----------------------|
| 1 | Asparagus | Peru |
| 2 | Basil, Rosemary, Marjoram, Mint | Colombia |
| 3 | Ginger | Peru |
| 4 | Mint | Colombia |
| 5 | Lemon | Peru |
| 6 | Solidago (Goldenrod) | Ecuador |
| 7 | Mint | Guatemala, Colombia |
| 8 | Ginger | Peru |
| 9 | Lettuce | Mexico |
| 10 | Mint, Basil, Marjoram, Rosemary | Colombia |
| 11 | Marjoram, Mint, Rosemary | Colombia, Guatemala |
| 12 | Kiwifruit | Italy |
| 13 | Grapes | Chile |
| 14 | Cotton | Turkey |
| 15 | Cotton | Turkey |
| 16 | Cotton | Turkey |
| 17 | Cotton | Turkey |
| 18 | Cotton | Turkey |

Global Organic Control Systems — Organic Equivalence and Recognition

Oversight of Organic Trade Arrangements: 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. These arrangements facilitate global trade between partners by accepting each other’s certification standard. Additionally, the United States has recognition arrangements with Israel and New Zealand. In these arrangements, the United States has authorized a foreign government to implement the USDA organic program, allowing that country to certify USDA organic products for export to the United States.

In 2023, the NOP International Team met with government authorities from all nine equivalence and recognition countries via formal Organic Working Group sessions and informal meetings. The frequency with which the NOP meets with each trade partner varies, depending on peer review activities, compliance concerns, regulatory revisions, and other priority topics. 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.

NOP conducts regular reviews of USDA organic trade arrangements to ensure they continue to function in compliance with the established terms and that strong oversight is maintained. In 2023, staff completed onsite audits of both the Israel and New Zealand recognition agreements. The NOP also received onsite peer reviews from South Korea and the European Union as part of routine assessment of our respective equivalence arrangements.

Under organic equivalence arrangements, partners are each responsible for investigating complaints referred by the other country concerning products produced or handled under their scheme. In collaboration with the NOP Compliance and Enforcement Division, the NOP International Team has begun improvements to the process for handling complaints received from and referred to equivalence partners, including communication with the foreign government. This two-way sharing of information has supported transparency across supply chains, further decreasing the opportunity for those who would attempt to commit fraud.

The NOP International Team also supports NOP audits of USDA-accredited certifiers, helping ensure that certifiers and certified operators conform with trade arrangement requirements. In 2023, the International Team formally served on the audits of 12 international certifiers that collectively certify more than 5,600 USDA operations around the world. As a result of noncompliances identified, certifiers are implementing corrective actions to ensure improved compliance trade under organic equivalence and recognition arrangements.

Organic Infant Formula Compliance: In late 2023, the NOP acted quickly, in partnership with USDA leadership, several U.S. Government agencies, and the United Kingdom's (U.K.) Department for Environment Food and Rural Affairs (DEFRA), to take action against noncompliant imports of infant formula labeled as organic. NOP investigations identified two foreign producers of infant formula illegally representing their product as organic in the United States. One of these operations was importing under the U.S.-U.K. Organic Equivalence Arrangement without complying with the arrangement terms. As of January 2024, DEFRA agreed to the USDA's terms and acted with the U.K. infant formula manufacturer, and its organic certifier, to remove organic claims on the formula labels and stop exporting noncompliant product to the U.S. market by the end of February 2024. The second foreign formula producer agreed to the same terms. These enforcement activities illustrate how NOP works with other governments and certifiers to ensure that all imports comply with trade arrangements and the USDA organic regulations, and to protect organic farms and businesses that are following the rules around the globe.

Organic Equivalence Arrangement Working Group: In 2023, the NOP was elected to a 3-year term as Chair of the Organic Equivalence Arrangements Working Group (OEAWG), an intergovernmental group of organic authorities from countries that have established organic trade arrangements. The OEAWG promotes collaboration between key organic trading partners to improve the management of organic equivalence arrangements and strengthen oversight of international organic trade. In 2023, the OEAWG collaborated on a multi-country, multi-product traceability project to assess compliance of each step in the global supply chain and carried out a joint peer review of the United Kingdom's organic program.

NOP Import Certificate for Equivalence and Recognition Partners: NOP conducted significant outreach to organic trade partner governments and their organic certifiers in 2023 as part of implementing the NOP Organic Import Certificate requirement. This included educating partners on the Organic Integrity Database's (INTEGRITY) expanded functionality with the new GLOBAL INTEGRITY module. International certifiers participating in an organic equivalence or recognition partner program must list their farms and businesses that export organic products to the United States. Integrating trade partners into the system provides them with access to trade information and allows their certifiers to generate the new NOP Import Certificate for all organic agricultural products entering the United States to meet the March 2024 compliance deadline required by the SOE final rule.

To facilitate onboarding organic trade partners in GLOBAL and rollout of the NOP Import Certificate, NOP implemented a pilot project with Canada in early 2023 to test and fine tune the new system. Throughout the remainder of the year, NOP provided nine virtual training sessions to organic trade partners across the globe on how to register for and use GLOBAL and generate NOP Import Certificates. This ongoing outreach work will promote compliance with the NOP Import Certificate requirement and mitigate disruptions in trade once it becomes mandatory. NOP Import Certificates are a key part of the SOE integrated oversight strategy. By providing an auditable record trail of the import process, import certificates support traceability and verification of organic integrity. The data collected from import certificates will also allow NOP to monitor market trends, surveil imports, and detect and prevent fraud.

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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