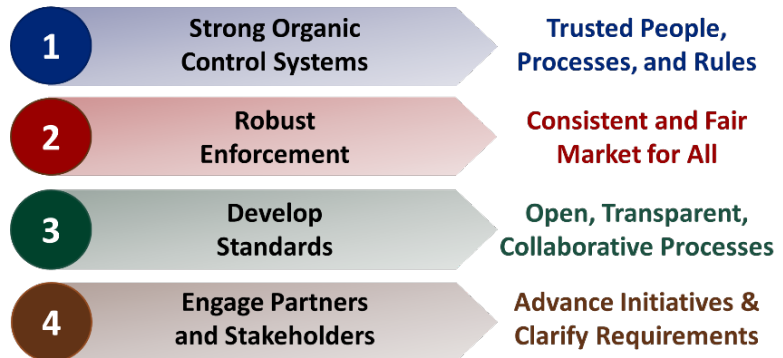




USDA Organic Oversight and Enforcement Update Summary of Activities – June 2022

The USDA Agricultural Marketing Service (AMS) National Organic Program (NOP) develops and enforces standards for agricultural products labeled organic in the United States.

Congress established NOP as a regulatory program in cooperation with states and private companies. The Program accredits and provides oversight of third-party organizations, called certifiers, who 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 integrity of the USDA organic seal.



The number of certified organic farms and businesses continues to steadily grow. At the start of 2022, there were 45,830 certified organic businesses worldwide; 28,403, about 62 percent, were in the United States. These organic farms and businesses serve a growing organic market. U.S. organic retail sales totaled a record \$61.9 billion in 2020, up approximately 13 percent from 2019. Increased funding has allowed NOP to significantly increase its staff over the past two years. As of February 2022, the program had 70 specialists providing certifier accreditation, as well as industry oversight, enforcement, training, and standards development to support organic farmers and businesses.

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:

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

Previous Organic Oversight and Enforcement Reports published in 2018, 2019, 2020, and 2021 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 <https://www.ams.usda.gov/services/enforcement/organic-enforcement-activity>.

Domestic and Overseas Investigations and Compliance Actions

In 2021, NOP continued to apply risk analysis to focus resources where they have the greatest impact in protecting organic integrity. This section of the report provides updates on the following topics:

- Complaints Overview
- Modernized Customer Complaint Portal
- Domestic and International Investigations
- Investigation Highlight: Materials Fraud
- Investigation Highlight: Grain Fraud
- Livestock Organic Compliance Initiative
- Certifier Oversight, Certifier Training, Accreditation Application Review, and Data Quality Awards
- Appeals
- Setting Standards for Consistent Certification

Additional information on Import Oversight activities is in the third section of this report.

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.

Approximately 42 percent of the concerns submitted through the NOP complaint system are actually simple questions about an operation or the organic regulations, which can be resolved quickly with educational information. In calendar year 2021, NOP closed about one-fifth of consumer concerns after confirming a farm or business was certified organic. In many other cases, while an allegation may have raised questions about an operation, it was relatively easy for staff to confirm there was no evidence of a violation of the organic rules. Handling these simpler inquiries as questions rather than investigations allowed the program to dedicate more resources to complex, higher-risk investigations with more significant market impacts.

For cases where there is evidence of a violation of the regulations, the first goal is to bring the operation back into compliance or to remove them from the market as quickly as possible. Most of our investigations are resolved when farms and businesses have fully complied with the organic rules.

850 complaints and inquires received in FY2021

42% resolved with educational information

NOP investigated or referred remaining 58% of complaints

Most common outcomes: voluntary compliance or no violation found

Examples include:

- 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.

The outcomes of substantiated complaint investigations include a range of administrative actions, such as writing warning notices to support future action, posting fraudulent certificates to the NOP website, or filing complaints for a hearing with an Administrative Law Judge.

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 in appropriate cases, refer bad actors for criminal prosecution. NOP continues to rely on the California State Organic Program and international trading partners with equivalency arrangements and agreements to investigate complaints against operations in their geographic areas, including the European Union, Canada, Israel, Japan, Korea, New Zealand, Switzerland, Taiwan, and the United Kingdom.

Overview of Complaint Case Types and Case Outcomes for 2021



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.

Compliance and Enforcement Division Training

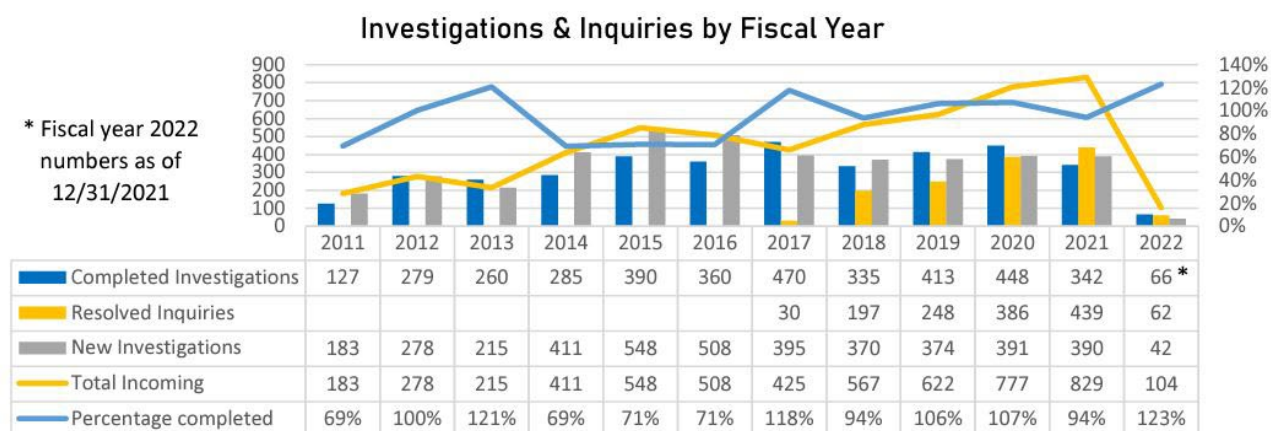
As the organic industry continues to grow, NOP has grown significantly over the last two years through increased financial resources from Congressional and Administration support. To support the growth in the Compliance and Enforcement Division, NOP has expanded training in critical practices and procedures for performing complaint investigations, issuing notices of noncompliance, the appeal process, and best practices for working with organic certifiers. Regularly reviewing processes and materials used in enforcement supports consistent case management and develops expertise to increase the likelihood of violators getting caught and increasing the cost of committing fraud in the organic market.

Modernized Customer Complaint Portal

The online complaint portal launched in 2020 makes it easier for customers to understand what information is needed for NOP staff to evaluate a complaint. The portal also speeds up the intake process by automatically entering information into the NOP COMPLIANCE database, providing tracking information to the person filing the complaint or inquiry, and still allowing for anonymous reporting. About 76 percent of the complaints and inquiries filed with the NOP are now received through the online portal.

Domestic and International Investigations

By investing in technology, staff, and training over the past two years, NOP has reduced the backlog of older complaints by nearly two-thirds. The graphic below shows the number of incoming complaints and inquiries, and the investigations completed each year since 2011.



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 2021, there were 626 operations in 47 countries that lost certification through suspension or revocation. about 80 percent of those were in the 10 countries listed in the table below.

Suspended and Revoked Operations by Country – 2021

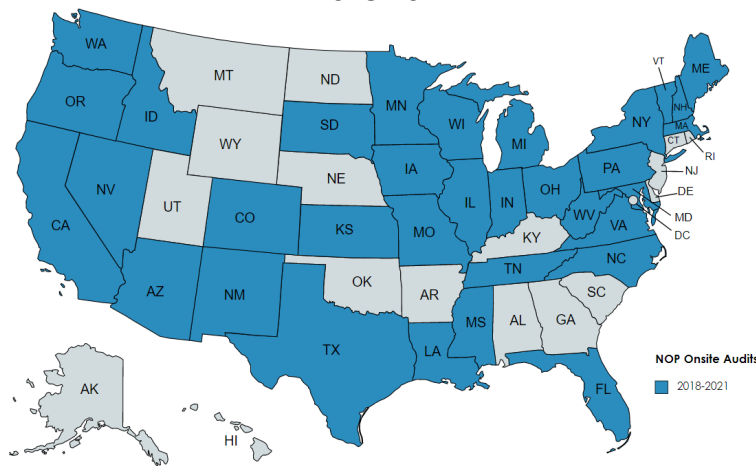
Country	Count of Operations Suspended or Revoked in 2021
United States	273
Mexico	62
Chile	40
Brazil	31
Ecuador	29
China	20
Peru	20
Thailand	15
Morocco	11
Dominican Republic	9

Note: While the number of suspended/revoked operations is highest for U.S. operations (43 percent of the total), U.S. operations represent 63 percent of the total count of certified operations. For this reason, these results do not imply that U.S. farms and businesses are suspended or revoked at a higher rate than international operations.

Organic Livestock Compliance Initiative

This initiative is a federal boots-on-the-ground surveillance program to verify compliance with the USDA organic livestock regulations. NOP selects operations to visit based on risk factors including industry trends, current events, and an operation characteristics like size, location, and compliance history. Surveillance audits cover grazing practices, feed, living conditions, animal health practices and origin of livestock.

**Location of Onsite Audits Organic Livestock Compliance Project
2018-2021**



In 2021, NOP issued seven notices of noncompliance to certifiers for not verifying:

- the percentage of dry matter intake obtained from pasture,
- that all ruminants have access to pasture throughout the entire grazing season, and
- that temporary confinement events conform to all criteria.

NOP surveillance improves consistent application of organic practices and enforcement to support an even playing field across the organic livestock industry and is vital to protecting organic producer and consumer confidence. As a result of this surveillance, the NOP has seen significant improvements by certified organic dairy operations and certifying agents, including improved recordkeeping systems, increased grazing periods with less confinement of animals, and updated healthcare practices across organic dairy operations. Certifying agents also improved inspection and review processes for organic dairies.

In 2021, NOP expanded its surveillance scope to organic beef to verify the eligibility of organic slaughter stock. Federal auditors now visit organic auction barns and slaughterhouses to perform traceback and mass balance exercises to verify the organic status of the animals. Initial reviews and the results from onsite audits identified a need for additional training for certifiers to improve consistency.

Therefore, in January 2022, NOP conducted virtual training with certifiers on methods for verifying that:

- organic slaughter stock is organic from the last third of gestation,
- cattle are fed only certified organic feed, and
- animals have access to water until slaughter.

Now that this training is complete, the NOP will follow-up with certifiers to implement compliance and enforcement actions where needed to bring the certifiers, and their clients, into compliance.

Additional livestock compliance program activities include:

- NOP collaborated with USDA and State Agencies including AMS Livestock and Poultry Program, AMS Packers and Stockyards, APHIS Investigative and Enforcement Services, Office of the Inspector General, the California State Organic Program, and various State Departments of Agriculture. These partnerships enhance NOP's livestock oversight through additional onsite audits, evidence sharing for high profile and complex investigations, and other key activities.
- Newly hired NOP staff with livestock expertise now participate in certifier accreditation audits. The detailed livestock review ensures consistent practices among certifiers and uniform implementation of the USDA organic regulations across livestock producers.

Certifier Oversight

NOP accredits and oversees 76 third-party certifiers that operate in the United States and around the world. Some of these certifiers maintain separate satellite offices that require separate oversight and audits.

NOP continues to work closely with certifiers to ensure their programs are compliant with the USDA organic regulations and certifiers are enforcing the organic regulations consistently all over the world.



In response to COVID-19 travel restrictions, NOP developed new protocols to conduct accreditation virtual audits.

The NOP's 2021 certifier audits focused on verifying whether certifiers had a sufficient number of adequately trained personnel, expertise in the type of operations they were certifying, and whether certifiers were conducting robust annual internal audits. Due to ongoing COVID-19 travel restrictions, NOP conducted virtual audits of its accredited certifiers to ensure continuous, strong oversight of the certifiers. NOP auditors were able to safely complete 44 virtual audits of certifiers located in 13 different countries. The virtual audits are an effective and efficient tool for verifying a certifier's organic control system for compliance with USDA accreditation requirements.

In cases where a certifier fails to meet accreditation compliance criteria, NOP issues noncompliances to the certifier. The certifier is given an opportunity to provide corrective actions to bring their program into compliance with the USDA organic regulations. If these corrective actions are insufficient, NOP proposes the suspension of the certifier's accreditation. NOP may also encourage the certifier to surrender its accreditation or, in some cases, may choose to enter into settlement agreements to bring the certifier back into full compliance.

For example, after receiving feedback from NOP during audits and carefully reviewing its administrative capacity to serve its clients, one State Department of Agriculture certifier decided to surrender its organic certification program in 2021. The program subsequently successfully transitioned into an outreach program that educates organic and transitioning operations within its state on the USDA organic regulations. A second state program decided to do the same in spring 2022.

Accreditation Application Review

In 2021, NOP received a significant number of applications from prospective certifiers for USDA accreditation. In response to the increased number of applications received, the NOP established a new, risk-based accreditation application preliminary review process for verifying three critical personnel requirements: staff qualifications, knowledge, and expertise. The new preliminary review process allows NOP to efficiently and effectively determine whether a certifier has the ability to implement a compliant certification program. As a result, NOP successfully completed 17 accreditation application preliminary reviews in 2021.

Certifier Training

The Organic Integrity Learning Center, launched in April 2019, 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.

As of December 2021, there are 102 lessons across 28 courses and 11 microlearning modules (short courses) in the Learning Center, covering topics from basic certification to advanced enforcement techniques. Examples of courses added in 2021 include: Risk-based Oversight, Organic Regulations and Retail Labeling, International Organic Trade Arrangements, and Organic Seed Search. As of December 2021, more than 7,500 people have accounts in the Learning Center.

In January 2022, NOP conducted virtual training with more than 750 certifier staff and inspectors, representing almost all domestic and international certifiers. This annual training is a vital part of our enforcement mission to further develop certifier oversight and enforcement capabilities. Sessions included Risk-Based Oversight, Remote Audit Framework, Livestock Compliance Program Progress, Import Oversight and International Investigations, and Human Capital Development. Based on feedback from certifiers, NOP plans to conduct smaller, specialized group training and technical assistance sessions with certifiers, starting with State certification programs in March.

Certifier Data Quality Awards

In January 2022, NOP recognized the work of 10 accredited organic certifiers for delivering high quality data to the Organic INTEGRITY Database. Two certifiers were also recognized with a Director's Award for outstanding contributions to work in organic certification.

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.

The fifth annual **Investing in INTEGRITY** Data Quality Award winners were:

- CCOF Certification Services, LLC - Santa Cruz, CA
- Certificadora Mexicana de Productos y Procesos Ecologicos SC - Oaxaca, Mexico
- Clemson University - Pendleton, SC
- Iowa Department of Agriculture and Land Stewardship - Des Moines, IA
- LACON GmbH - Offenburg, Germany
- Marin Organic Certified Agriculture - Novato, CA
- MOFGA Certification Services, LLC - Unity, ME
- New Hampshire Department of Agriculture, Markets & Food - Concord, NH
- Primus Auditing Operations - Santa Maria, CA
- Quality Certification Services - Gainesville, FL



Photo compilation of certifier staff contributing to 2021 Data Quality Awards

NOP also gave Director's Awards to two certifiers who stood out for their consistent, effective communication and collaboration with program 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 NOP to more effectively ensure certifiers are consistently applying the standards for USDA certified farms and businesses located in the U.S. and around the world.

- Oregon Tilth Certified Organic (OTCO) - Corvallis, OR
- MOFGA Certification Services, LLC (MCS) - Unity, ME

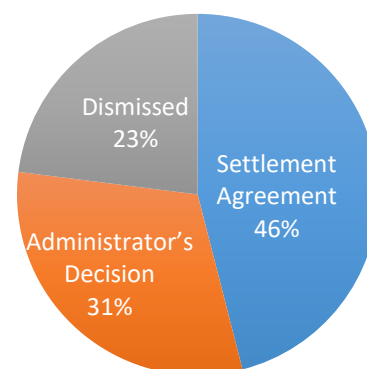
Appeals

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; and assesses enforcement actions taken both by certifiers and the program itself.

The program received 57 appeals in 2021. The team resolved 70 appeals during the year, a significantly higher rate of case closures than in previous years.

Of these, 31 percent resulted in an AMS Administrator's Decision upholding the certifier or NOP proposed action. An additional 46 percent were resolved using a settlement agreement, designed to bring the appellant into full compliance using alternative dispute resolution techniques. The remaining appeals were dismissed because they were either received after the allowable time period or the incoming appeal was not in response to an appealable adverse action.

Distribution of 70 Appeal Closures for 2021



Setting Standards for Consistent Certification

Developing and supporting a fair and competitive market starts with sound and sensible regulations. To continually improve these standards, AMS has a number of rulemaking priorities in progress:

- **Strengthening Organic Enforcement (SOE) Final Rule:** In August 2020, AMS published the SOE proposed rule to strengthen the oversight and enforcement of organic control systems. This was needed to respond to the increasing complexity of organic supply chains and market growth. A final rule is now in USDA review; it includes provisions related to handler certifications, import certificates, and certifier oversight. The final rule will implement requirements from the 2018 Farm Bill, other provisions informed by program experience, and several recommendations from the National Organic Standards Board (NOSB).
- **Origin of Livestock (OOL) Final Rule:** In 2015, NOP published the Origin of Livestock (OOL) proposed rule to clarify requirements for the transition of dairy animals into organic production. The OOL rulemaking is intended to implement previous NOSB recommendations. Two subsequent public comment periods provided valuable feedback to the program in crafting a final rule. The final rule was published on April 5, 2022.
- **Organic Livestock and Poultry Standards (OLPS):** The Organic Livestock and Poultry Practices (OLPP) final rule was originally published under Secretary Vilsack in 2017 and withdrawn under Secretary Perdue in 2018. A new proposed rule – Organic Livestock and Poultry Standards (OLPS) – has been written and, as of May 2022, was under review at the Office of Management and Budget (OMB).

- **National List of Allowed/Prohibited Substances Rules and Inert Ingredients in Pesticides for Organic Production:** Materials and ingredients that support organic crop and livestock production and organic processors are vital for the day-to-day work of organic farms and businesses. In addition to ongoing rulemaking to maintain and change the National List in response to NOSB recommendations, AMS is finalizing an Advanced Notice of Proposed Rulemaking to address the use in organic production of “inert” substances, which is currently based on Environmental Protection Agency (EPA) regulatory reference lists that have expired. Future rulemaking is needed to update the National List to resolve the references to the expired EPA reference lists, to provide market certainty, and to maintain industry confidence in the National List process.

In addition to this rulemaking, AMS published a Regulatory Priorities Notice in Spring 2022, with both oral and written comment opportunities, to invite input from the organic sectors on upcoming standards projects. USDA will use information received through public comments to guide the prioritization of future organic standards development.

The NOP’s work on organic standards is supported by the 15 volunteer members who serve on USDA’s NOSB. The NOSB 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 is appointed to represent the interests of a specific area of the community, including producers, handlers/processors, certifiers, retailers, consumers/public interest advocates, environmentalists/resource conservationists, and scientists. During 2021, USDA announced four new members of the Board and hosted two virtual public meetings to support 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 group was to involve USDA and U.S. Customs and Border Protection (CBP) for coordination and information sharing related to organic imports and supply chain integrity.

The official CBP–USDA Interagency Organic Working Group, now in its third 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 training needs on organic product oversight.

The major priorities and initiatives that the Working Group focused on in 2021 were:

Organic Import Certificate Pilot: After completing the launch of the electronic organic import certificate technology in CBP’s Automated Commercial Environment (ACE), NOP worked with U.S. Importers and Customs Brokers to successfully work through an end-to-end process for

entering import certificate data. Valuable feedback was captured from both parties as we designed and crafted a mutually efficient workflow for both handling and processing import certificates. NOP also held a series of workshops with USDA organic certifiers to identify needs for a similarly efficient process when issuing and maintaining and updating import certificates. When import certificates are fully implemented and mandated, the new system will provide critical import data to USDA, the organic sector, and consumers.

Strengthening Organic Enforcement Rule: Government members of the Working Group provided valuable feedback to NOP as it developed the final version of the Strengthening Organic Enforcement rule. Over 10 stakeholder meetings were held this year 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, all while allowing NOP to capture the data necessary to fulfill Farm Bill requirements. CBP, APHIS and the National Customs Brokers and Freight Forwarders Association (NCBFAA) have been instrumental in assisting NOP with messaging on the status of the rule to their stakeholder networks.

Commercial Targeting and Analysis Center Activity: In 2021, the NOP continued its strong partnership with the Commercial Targeting and Analysis Center (CTAC) – a division within U.S. Customs and Border Protection. This law enforcement data center is based at CBP and staffed by 13 Federal Agencies with border enforcement authority. This year, NOP enhanced its relationships with CBP Field Offices and Ports of Entry and other participating government agencies to increase oversight of imported organic commodities. CBP declared 2021 as the “Year of Organic” and identified Organic Agriculture as one of the 12 Priority Trade Initiatives. This special directive mandated all CBP Ports of Entry to increase screening and detainment of organic commodities to prove authenticity.

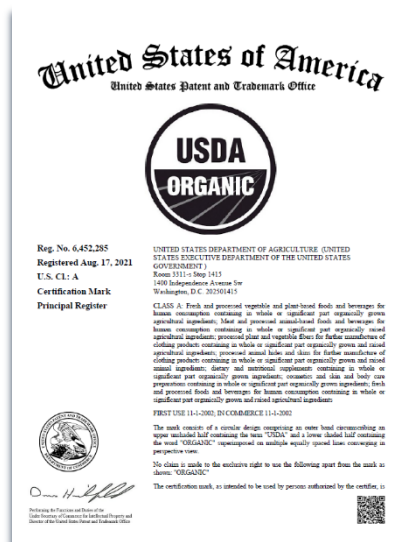
In the spring, NOP conducted sampling and testing of organic soybean meal imported into the Port of Baltimore. This effort identified multiple non-compliant shipments and led to civil penalties of over \$150K. In June, NOP, CTAC, and CBP officers from the Port of NY/Newark were recognized for intercepting a large olive oil shipment from Turkey that inappropriately claimed to be organic. USDA and CBP determined this olive oil shipment to be deemed excluded and non-compliant with U.S. trade requirements for organic imports. The shipment was subsequently denied entry.



National Organic Program’s Brett Merkel and Andrew Regalado, at the Port of Baltimore, teamed up with multiple federal agencies to share sampling techniques to support investigations.

Intellectual Property Protection: AMS received the final trademark approval on the USDA organic seal from the U.S. Patent and Trademark Office in August 2021. This key milestone allows the program to take the next step in registering the trademark with U.S. Customs and Border Protection and the National Intellectual Property Rights Coordination Center. This will further increase the number of Federal agencies that are helping to protect the organic seal and that take enforcement actions against those who use it illegally.

At Right: The official Certification Mark from the U.S. Patent and Trademark Office, officially recognizing the USDA Organic Seal trademark.



Increasing Organic Harmonized Tariff Schedule (HTS) Codes: In a strategic partnership between AMS and the International Trade Commission (ITC), the agency was successful this year increasing the number of Organic HTS Codes. HTS codes are product classification codes used by U.S. Customs and all other members of the World Customs Organization to classify goods for customs purposes. The expansion of codes allows AMS better visibility into organic products coming into the US and provides another tool in the enforcement toolbox. The increase in organic HTS codes, along with the implementation of import certificates will allow NOP to begin a more proactive approach to commodities entering the US. This will be the first time that we will receive real-time import data and be able to track commodities and importers at the same time.

New Data Technology Projects: NOP continued to invest capital and resources in new technology through the Global Organic Oversight Project. In September, NOP launched the Global Organic Data Reporting Warehouse, which provides real-time certifier, import, enforcement, and operational data in visual dashboard formats. This key deployment has already improved program reporting and increased efficiency across the program. The data warehouse project also lays the foundation for the new influx of import certificates that will be introduced in 2022.

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 the newly programmed electronic organic import certificate. The Strengthening Organic Enforcement final rule will fully implement import certificate requirements that NOP needs to provide the detailed quantitative data outlined in the Farm Bill.

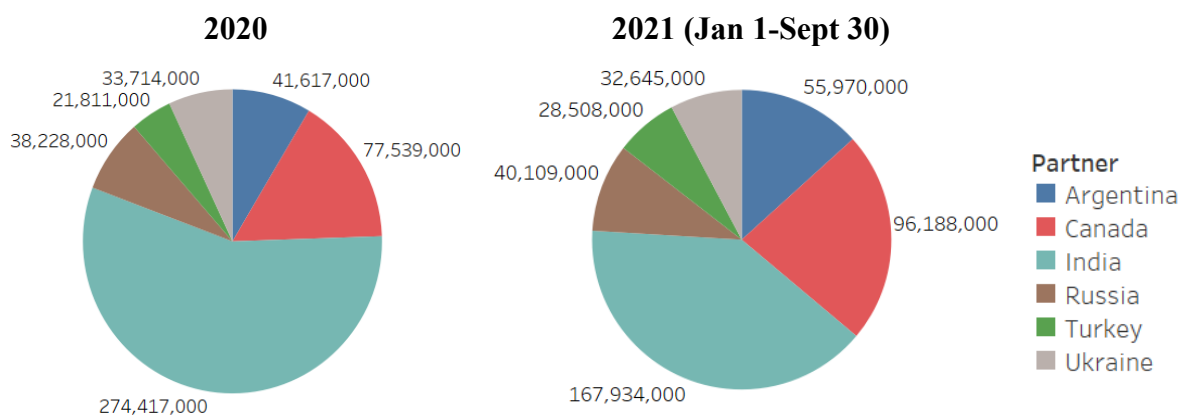
Import Oversight

As the value of imported organic agricultural goods into the United States grows, NOP continues to focus on import oversight and enforcement globally by analyzing import trends to inform risk-based enforcement practices. Imported organic feedstuffs continued to represent a strong portion of the U.S. organic livestock feed supply. To produce organic livestock or products such as organic eggs or organic milk, animals must eat only organic feed. Domestic production of organic livestock feed has not increased enough to keep pace with growing demand.

Soybeans are a primary ingredient in livestock feed. To meet the domestic demand, industry estimates the U.S. imports between 70-85 percent of its organic soybeans. In 2021, these imports came primarily from the Black Sea region, Canada, Argentina, and India.

- **Trade Data Analyses:** NOP uses import data to screen for activity that may require closer inquiry. NOP looks at the volumes and sources of imported commodities to detect unexpected shifts in production. When indicated by data analysis, NOP opens surveillance of a commodity to look for fraudulent practices in the supply chain. In 2021, NOP continued to monitor trade flows and investigate operations worldwide related to livestock feed to ensure that overseas growers, handlers, and exporters are following the organic regulations so that product fraudulently represented as organic doesn't disrupt the U.S. organic market and create a competitive disadvantage for organic operations that play by the rules. Strong oversight of the market for livestock feed deters fraud and supports fair competition and prices that accurately respond to supply and demand.

U.S. Imports of Organic Soy (\$) – 2020 vs 2021



Notes: Graph includes organic soybeans, organic soy meal and cake, and soy cake and meal. Due to data availability, these statistics reflect data only through September 2021. Source: USDA Foreign Agricultural Service's Global Agricultural Trade System Database.

- **Yield Analysis Training:** NOP added a new course, Conducting Yield Analysis, to the Organic Integrity Learning Center (OILC) in June 2021. Yield Analysis is a critical tool to determine the feasibility of reported organic yields. Discrepancies where the operation's reported organic yield is higher than the estimated organic baseline may be an indicator of organic fraud. The course is intended for certifiers and inspectors and explains how to conduct and evaluate a yield analysis using hands-on exercises.
- **Black Sea Yield Analysis:** In 2021, NOP concluded a yield analysis of organic grains grown in the Black Sea region. This work was undertaken due to the increased volume of imported organic grains, the number of newly certified operations, and prior compliance issues in that region. NOP estimated the expected organic yields for soybeans, sunflower, wheat, and corn grown in Russia, Ukraine, and Kazakhstan using historical yield data for conventional grains. The yield analysis found that multiple organic operations in the Black Sea region reported crop yields that are significantly higher than expected or feasible for organic production. As a result, NOP pivoted to evaluate certification practices for operations in this region.
- **Certifier-Specific Audit:** The Compliance & Enforcement Division participated in NOP's compliance audit of the certifier responsible for certifying nearly 40 percent of the crop operations in Russia, Ukraine, and Kazakhstan. The audit focused on the certifier's ability to trace products from shipping point back to the farm plot and the certifier's use of yield analyses for their certified operations. NOP also examined potential explanations for high crop yields and learned about data challenges for yield analysis in that region. NOP will continue to monitor certifier performance and additional risk indicators associated with organic imports from the Black Sea region.
- **Country-Commodity Studies:** In 2021, NOP concluded surveillance on pineapples from Costa Rica and sugar from Colombia; these studies did not reveal any conclusive evidence of organic fraud. NOP surveillance of blueberries from Mexico and olive oil from Turkey is ongoing. NOP continues to monitor commodities for potential surveillance and uses the findings to inform subsequent audits and investigations.

Investigation Highlight: India Oversight

In 2021, NOP collected samples of soybean meal from an organic grain broker that imported over \$4.5 million of organic-labeled soy and soy products from India. The NOP consulted experts with the AMS Federal Grain Inspection Service (FGIS) and AMS Science and Technology (S&T) on sampling approach and techniques. NOP also coordinated with enforcement officers at U.S. Customs and Border Protection to secure access to restricted port sites. The samples were collected at a major port of entry and analyzed by AMS S&T labs in Gastonia, NC. The lab results confirmed the presence of residues of prohibited substances at violative levels in the soybean meal samples, in addition to the presence of genetically modified organism (GMO) traits. This led to a negotiated settlement agreement and a \$155,000 civil penalty for the violative importer. The agreement required the importer to perform residue tests

for all incoming shipments from its soybean suppliers in India and provide results to NOP. In addition to crucial data for supply chain surveillance, NOP has solidified a process, partners, and tools for investigations of imported products that will help with future investigations.

Fumigation Update

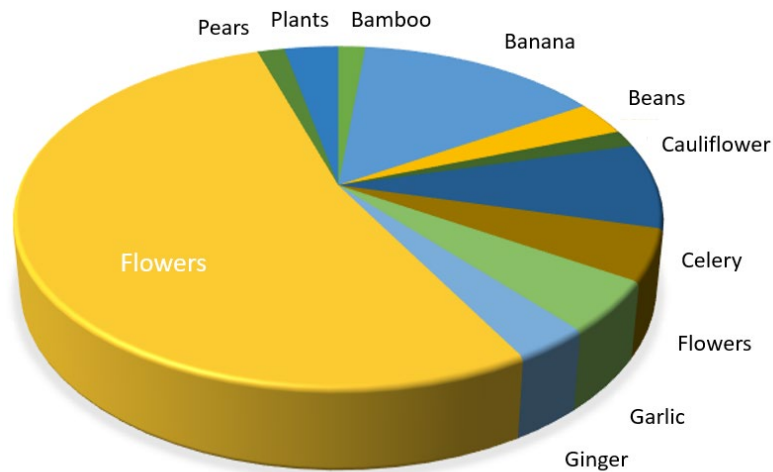
NOP continues to work with APHIS to identify options for aligning fumigation reporting with the existing CBP import system and the upcoming organic import certificates. This will allow organic shipments that undergo fumigation to be immediately flagged. Concurrently, APHIS is working with CBP to facilitate stronger data partnerships.

In 2021, a small percentage of shipments of imported organic food, fewer than 100, were reported as fumigated on entry to the United States. Fumigated products are not eligible to be sold as organic. NOP has trained certifiers on requirements for removing organic labels from fumigated products. USDA investigations indicate that many of the fumigated commodities were relabeled for the conventional market. However, due to the current lack of organic import data and the current exemptions/exclusions in the USDA organic regulations related to organic traders, USDA cannot conclusively determine the ultimate labeling and sale of these imports. This is another area where the Strengthening Organic Enforcement rule, accompanied by technology development, is expected to significantly impact NOP's ability to oversee the market.

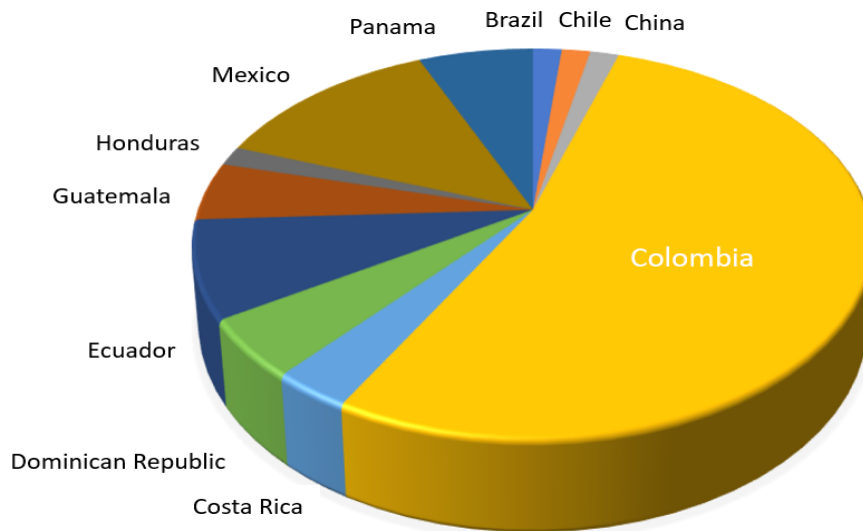
The two figures below describe the types of organic products that were reported as fumigated in 2021 and their originating countries. Approximately 11 kinds of organic products were fumigated in 2021; nearly all were fruits or vegetables. The top four fumigated items were herbs, bananas, celery, and garlic bulbs. Similar to prior years, most fumigated organic imports came from Central and South America. This region was the largest supplier of organic imports to the United States, particularly fresh produce.

Colombia was the biggest source of organic imports fumigated at U.S. ports, accounting for most of the organic herb imports. Fumigated bananas came from Costa Rica, Ecuador, and Honduras. Mexico supplied the fumigated celery. Once the Strengthening Organic Enforcement rule is finalized, the proposed expanded authorities over handlers brokering imported organic products will ensure additional controls on fumigated imports.

Organic Imports Commonly Fumigated at U.S. Ports – 2021
(Not Eligible for Organic Sale Post-Fumigation)



Origin of Organic Products Fumigated at U.S. Ports – 2021
(Not Eligible for Organic Sale Post-Fumigation)



Global Organic Control Systems: Equivalency and Recognition

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

- In 2021, NOP met with authorities from all nine of its 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.

- NOP’s International Activities Division, which maintains and conducts periodic reviews of organic trade arrangements, also brings its expertise to USDA certifier audits. The International team’s participation in certifier audits ensures certifier and operators’ conformance with trade arrangement requirements. As a result of this approach, NOP has identified areas of noncompliance, and certifiers are implementing corrective actions to ensure compliant trade under organic equivalence and recognition.
- Under organic trade arrangements, NOP and the foreign government refer complaints to each other that involve products traded under each arrangement. NOP’s International Activities Division continues to monitor and ensure closure of complaint referrals and follows up to obtain closure on complaints referred to other countries. Referral, investigation, and closure of international complaint referrals supports a global organic control system with greater oversight.

The success of organic trade arrangements requires strong oversight and enforcement by both participant countries. In January 2021, AMS announced it is **ending U.S.-India organic recognition**, which has been in place since 2006. This action was necessary because NOP audits consistently found India’s organic control system to be insufficient to protect the integrity of the USDA organic seal. AMS’s announcement started an 18-month transition period, which allows organic operations previously certified by India-accredited certifiers to continue exporting organic goods from India to the U.S. if they applied to a USDA-accredited certifier by July 12, 2021. More than 2,000 operations met this first deadline. These operations must complete USDA certification by July 12, 2022, bringing those organic operations previously certified by India-accredited certifiers into direct certification and oversight by USDA-accredited certifiers.

AMS and USDA’s Foreign Agricultural Service (FAS) have been working to ensure a smooth transition of India operations to direct USDA oversight through coordination with certifiers and Indian authorities. The agencies have also been monitoring enforcement actions by India and the European Union (EU) to avoid disruptions of legitimate organic exports and inform future USDA oversight activities.

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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