



Agricultural Marketing Service

Organic Oversight and Enforcement Update Summary of Activities – February 2020

The USDA Agricultural Marketing Service (AMS) National Organic Program (NOP) continues to take action around the globe to protect the integrity of the USDA organic seal.

The number of certified organic operations worldwide grew to 44,896 in 2019, a 4.4 percent increase over 2018. The net increase in U.S. certified operations was 763, for a total of 28,257 (Data Source: Organic Integrity Database, January 2, 2020). The net number of non-U.S. certified operations was 16,639. This growth demonstrates the continued trust that organic farms, businesses, and consumers have in the USDA organic label.

In May 2019, NOP published its second [Organic Oversight and Enforcement Update](#) report. 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.

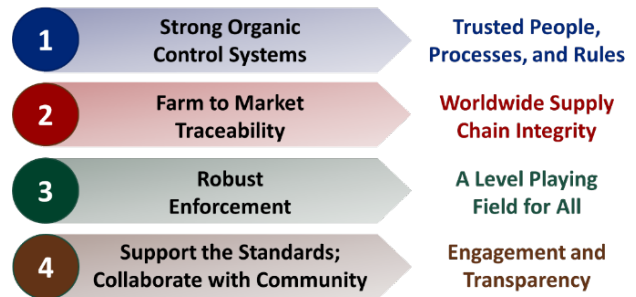
Report sections include:

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

Domestic and Overseas Investigations and Compliance Actions

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
- Domestic and International Investigations
- Investigation Highlights: Domestic Grain Fraud
- Dairy Compliance Project
- Certifier Training and Oversight
- Strengthening Organic Enforcement Rulemaking

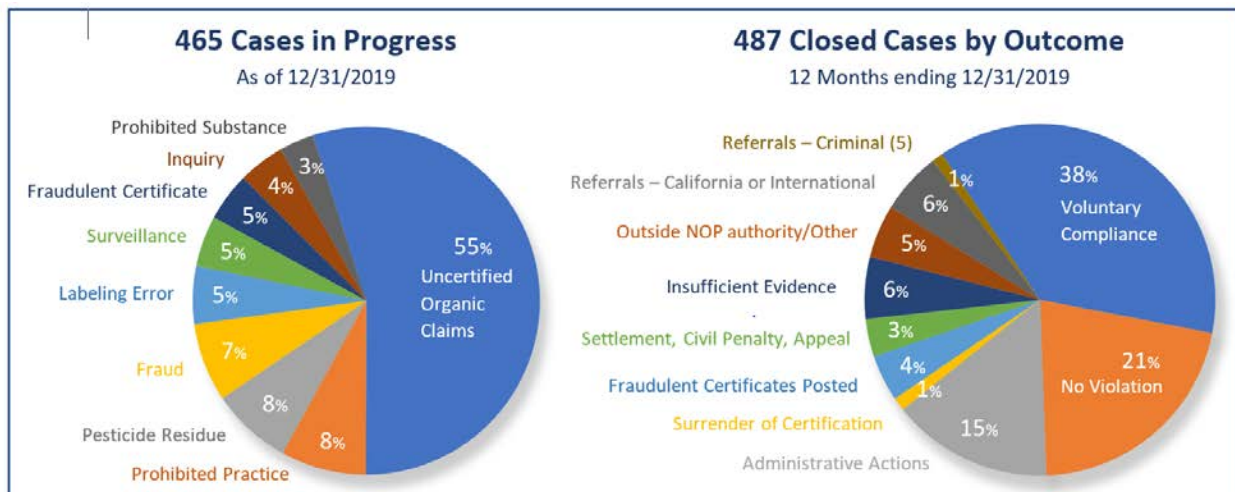


Additional information about Import Oversight activities is included in the third section of this report.

Complaints Overview

The COMPLIANCE Database, launched in March 2019, allows the NOP team to better track case progress and more quickly identify patterns and relationships across cases. The following figure describes the distribution of complaints worked on in 2019, and the outcomes of cases closed in 2019. NOP’s goal is compliance, which can include an uncertified farm or business getting certified, so it can legally label product as organic; a certified farm or business correcting noncompliances; or a certified business exiting the organic market.

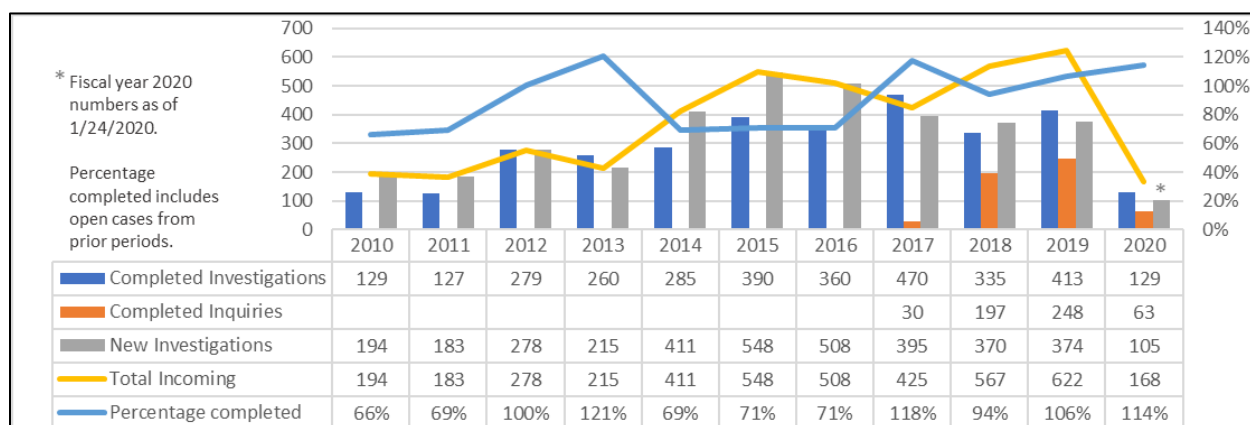
Overview of Complaint Case Types and Case Outcomes for 2019



Note: Administrative Actions refer to warnings or other similar notices to businesses, often those who are uncertified. These early notices are critical in establishing that violators are aware of the rules, to support future enforcement action if needed. Inquiries refer to questions about the status of an operation or comments about operations that do not provide any clear indicator or evidence of a violation.

The following figure shows investigative trends over the last ten years. In 2017, NOP began the risk-based approach of delineating incoming inquiries from complaints. This has increased the speed at which compliance specialists can pursue investigations that have a larger market impact.

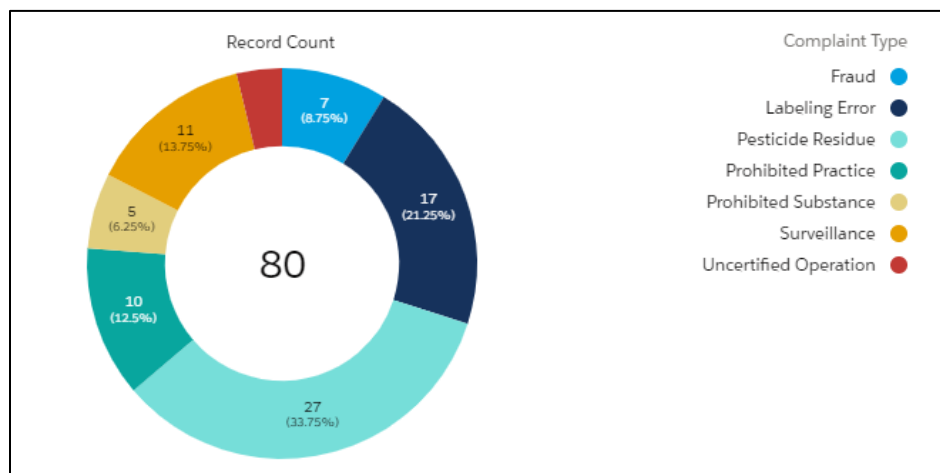
Investigative Trends Over Time: 2010-2020



Domestic and International Investigations

An important part of an organic certifier’s role is to conduct investigations of its certified farms and businesses when there are allegations of wrongdoing. Investigations may be initiated by certifiers or by investigation requests from NOP to the certifier. As an example, in a 12-month period, NOP referred 80 complaints to certifiers for initial investigations. NOP reviews certifier investigative work to determine final enforcement actions. The following figure shows the types of allegations involved in these cases.

Types of Complaint Referrals to Certifiers



This figure defines the types of allegations that led to investigative referrals. However, a direct and effective measure of the impact of certifier investigations is the number of certified operations that lost their certification as a result of enforcement actions, and the resulting higher percentage of compliant operations. In 2019, 722 operations in 50 countries around the world lost their certification through suspension or revocation. Approximately 86 percent of those were in the ten countries in the table below.

Suspended and Revoked Operations in Different Countries - 2019

Country	Number of Suspended and Revoked Operations in 2019
United States of America (the)	383
Mexico	101
Turkey	37
China	23
Ecuador	23
Peru	20
Colombia	11
Morocco	11
Kazakhstan	9
Tunisia	7

The remaining countries, with six or fewer suspensions or revocations, included: the Dominican Republic, Indonesia, the Russian Federation, Kyrgyzstan, Moldova, the Netherlands, Jamaica, Armenia, Uzbekistan, Argentina, Nepal, Italy, Chile, Thailand, Afghanistan, Brazil, the Philippines, Bosnia and Herzegovina, Costa Rica, Viet Nam, Papua New Guinea, Uruguay, Bolivia, Canada, Jordan, Ukraine, Nicaragua, Vanuatu, Lesotho, Côte d'Ivoire, France, Uganda, Madagascar, Guatemala, Mali, India, South Africa, Ethiopia, Sri Lanka, and Iran.

Note: While the number of suspended/revoked operations is highest for U.S. operations (53 percent of the total), U.S. operations represent 63 percent of the total count of certified operations. As such, these results do not imply that U.S. farms and businesses are suspended or revoked at a higher rate than international operations.

Investigation Highlights: Domestic Grain Fraud

Domestic grain fraud investigations continue to be a significant theme for the NOP. Many hands support the NOP in this enforcement work. In particular, the USDA Office of Inspector General (OIG) has become an important investigative and enforcement contributor advancing the NOP mission. In June 2019, NOP held face-to-face training with more than 40 OIG agents to teach them the organic regulations and NOP's adverse action approach. In turn, OIG shared case studies and best practices for gathering evidence to support criminal investigations. OIG field agents also provided face-to-face training with domestic certifiers in January 2020.

This collaborative work is directly impacting the organic market. In August 2019, the U.S. Attorney's office for the Northern District of Iowa announced sentences for four plaintiffs in an organic grain fraud scheme. Four individuals pled guilty to approximately \$140 million in fraudulent organic sales of non-organic grains and feedstuffs over several years. The multi-state farms and handling facilities were primarily located in Missouri and Nebraska. In November, a fifth conspirator was sentenced to 22-months in prison, \$1 million in asset forfeitures, and a \$100,000 fine. These investigations involved the Department of Justice, OIG, and NOP.

In a separate case with OIG, in February 2020, a man was arrested in South Dakota on charges of wire fraud in organic grain and oilseed sales. NOP casework had previously resulted in

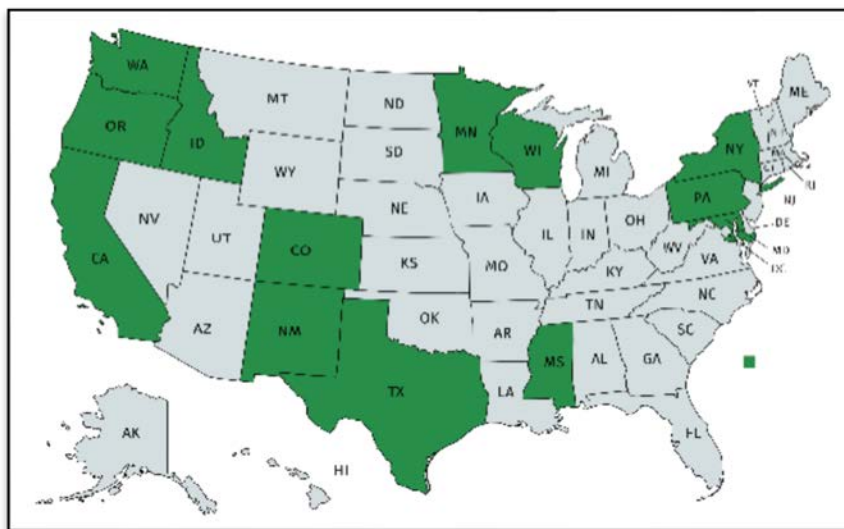
revocations of organic certificates connected to the suspect and had resulted in enforcement action against the operation's certifier.

The NOP and OIG collaborated in processing enforcement actions in a much faster timeframe than in the past, allowing us to stop fraud before it reaches a larger scale. The upcoming Strengthening Organic Enforcement rule (discussed below) will provide key tools for overseeing critical brokers in the organic agriculture supply chains, giving us more insight into complex businesses. NOP continues to work closely with OIG on other significant cases.

Dairy Compliance Project

In 2018, AMS initiated a Dairy Compliance Project to better assess industry compliance with the USDA organic regulations, particularly with respect to the pasture standard. This initiative was expanded in 2019, with unannounced, on-the-ground visits by Federal auditors to assess both certifier and operation compliance. All AMS visits conducted for the Dairy Compliance Project were unannounced. A risk-based approach was used to select the participants; factors included size, previous compliance history, and farm characteristics such as herd size.

Location of Unannounced Visits for Dairy Compliance Project - 2019



The 2019 visits confirmed that all the targeted dairies demonstrated at least 120 days of grazing and all cows received at least 30 percent dry matter intake from pasture during the season. Several correctable issues were identified, requiring action from both certifiers and operations.

Based on findings from the Dairy Compliance project, the NOP launched a Dairy Compliance Course in the Organic Integrity Learning Center in October 2019. The course provides an overview of the USDA organic livestock standards, with a special focus on dairy operations. Key audiences include certifiers, inspectors, and reviewers who assess organic dairies for compliance with the USDA organic regulations, as well as organic livestock and dairy operations interested in gaining a better understanding of the federal requirements.

Additional activities related to dairy compliance and enforcement have included the following:

- In December 2019, NOP livestock specialists visited California Department of Food and Agriculture staff to discuss ways to improve dairy surveillance best practices. California runs the only State Organic Program in the country and is responsible for state-level compliance activities on the full range of organic agricultural products. The NOP will conduct face-to-face training on dairy compliance with California state and county organic inspectors in March 2020.
- In December 2019, NOP initiated corrective actions with two additional certifiers regarding organic dairy controls. One failed to correct a dairy that confined cows for reasons not allowed, and the other failed to demonstrate capacity to adequately oversee a complex dairy. A total of 5 certifiers have received noncompliances as a result of dairy surveillance visits or investigations since the Dairy Compliance Project began.
- AMS is currently working on the Origin of Livestock final rule, which will clarify requirements for transitioning livestock into organic production. This rule, expected in 2020, will increase consistency and provide a level playing field across organic dairy operations.

Certifier Training and Oversight

Congress established NOP as a public/private partnership, with 78 Federally accredited certifiers and their inspectors operating around the world. All play a critical role in organic oversight and enforcement, and NOP invests significant resources to develop their capabilities and oversee their work. Every certified operation must be inspected by its certifier every year. Additional unannounced visits and testing are based on market risk, including factors like operation complexity, location, compliance history, and commodity.

The **Organic Integrity Learning Center**, launched in April 2019, provides free online training available 24/7 to support the professional development and continuing education of individuals working to protect organic integrity. There are now 10 publicly available courses in the Learning Center, addressing such topics as Fundamentals of Inspection, Advanced Investigations, Certification Administration, Dairy Compliance, Import Oversight, and Sound and Sensible Certification. As of February 2020, more than 2,000 people have accounts in the Learning Center.

In January and February 2020, the NOP conducted face-to-face training with more than 280 certifier leaders, staff, and inspectors representing almost all domestic and international certifiers. This annual training is a vital part of our enforcement mission. Sessions included an OIG presentation about domestic grain investigations, an update on the ongoing Dairy Compliance project for domestic certifiers, an overview of evidence collection and reporting techniques, and an overview of yield analysis methods for international certifiers.

International Certifiers and NOP Staff During Training in Nurnberg, Germany - February 2020



Ten certifiers were recognized in January 2020 for exceptional quality and timeliness of data provided to the Organic INTEGRITY Database. Better data deters fraud by making it faster for investigators to identify higher risk activities and focus additional enforcement resources. The regulations currently require the annual reporting of basic facts regarding certified operations. All USDA accredited certifiers met the January 2, 2020, annual deadline for reporting the minimum information required.

The ten certifiers receiving awards significantly exceeded minimum requirements, supplying additional detail on their certified operations and submitting updates on a rolling basis throughout the year. Five certifiers also received Director Awards for their outstanding support of investigations spanning multiple certifiers across complex supply chains. The Strengthening Organic Enforcement rule is expected to significantly increase mandatory reporting requirements and data sharing for all certifiers.

Winners of the 2020 Data Quality Awards and Director's Awards for Excellence in Enforcement - January 2020



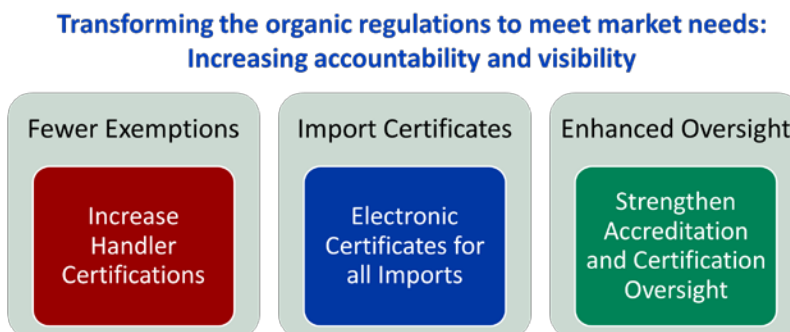
In cases where a certifier fails to meet accreditation compliance criteria, NOP may propose the suspension of a certifier’s accreditation, or encourage the certifier to modify the geographic scope of its coverage or surrender its accreditation. In some cases, NOP may choose to enter into [settlement agreements](#) to bring the certifier into compliance.

Strengthening Organic Enforcement Rulemaking

The increased complexity of organic trade and supply chains has highlighted the need for changes to the USDA organic regulations. To this end, AMS has completed a draft proposed rule, Strengthening Organic Enforcement, to strengthen the oversight and enforcement of the production, handling, and sale of organic products.

The proposed rule would implement provisions related to handler certifications, import certificates, and certifier oversight called for in the 2018 Farm Bill. It also proposes other provisions, based on NOP’s experience and National Organic Standards Board (NOSB) recommendations.

Upon completion of inter-agency review, AMS expects to publish the proposed rule in early 2020, opening a 60-day public comment period.



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 formal duties of the Working Group as described in the Farm Bill were to:

- Identify barriers impacting coordination between CBP, AMS, and the Animal and Plant Health Inspection Service (APHIS) regarding organic import oversight,
- Integrate organic enforcement into the CBP inspection process,
- Identify systems that track fumigated imports and verify import certificates, and
- Train CBP inspection personnel on the new process and establish methods for ensuring that imports are organic.

The first official CBP–USDA Interagency Organic Working Group meeting was held in June 2019. As required in the Farm Bill, the group consists of representatives from CBP, AMS and APHIS, and has met regularly since the initial kickoff date.

Interagency Organic Working Group – June 2019



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 has focused on in the past 8 months are:

- **Electronic Import Certificate:** The NOP and CBP have completed the regulatory assessment and technology requirements needed to integrate a new message set into the Automated Commercial Environment (ACE) for organic import certificates. The message set development began in November 2019 and is targeted for Spring 2020 completion. This work will support enhanced reporting and enforcement activities for both USDA and

CBP. Training on the system will be launched once the message set is completed.

- **Updated Memorandum of Understanding (MOU):** CBP and AMS collaborated to outline changes needed to the MOU governing AMS access to data in CBP systems. CBP has provided significant guidance in identifying changes that will support future organic reporting and investigations. A new MOU was signed between the two agencies in July 2019. The new MOU has provided AMS with access to specific trade and shipment data at the manifest level.
- **Commercial Targeting and Analysis Center:** AMS is currently drafting an MOU that will allow a NOP staff person to be fully embedded within the Commercial Targeting and Analysis Center at CBP. The person in this position, along with members of more than 20 other federal agencies, will have access to CBP's entire suite of data enforcement tools that will allow NOP to further its enforcement and compliance mission and deepen our coordination with other Federal agencies with an interest in organic trade.
- **Strengthening Organic Enforcement Rule:** Working Group members have provided valuable feedback to NOP on the proposed Strengthening Organic Enforcement rule. This rule will improve farm-to-market traceability and import oversight and facilitate robust enforcement of USDA organic regulations. CBP is currently building the technology proposed within the rule.
- **Intellectual Property Rights:** CBP and AMS are partnering on a new effort to protect the USDA organic seal from the perspective of trademark infringement. AMS has submitted over 30 seals, logos, and shield for legal review and for processing at the U.S. Patent and Trademark Office. Once the seals and shields are trademarked, CBP will add the logos into its border enforcement operations and seize any fraudulent imports bearing USDA logos. Securing AMS intellectual property rights is one more step in protecting and ensuring organic integrity.
- **“One USDA” Interagency Data Sharing Initiative:** AMS and APHIS are actively reviewing their data sharing MOUs to identify redundant data flows and data gaps, and to seek opportunities to create interagency partnerships to share data, and trade systems, where possible. This is particularly vital for effectively identifying any product labeled as organic that is fumigated on entry to the U.S.
- **Stakeholder Engagement:** A key outcome of the Working Group to date has been the true partnerships created as a result of the group formation. Key contacts at agencies have been established, reducing wait times for interagency questions and decisions. Outreach events and communications are coordinated by the Working Group to ensure consistency and clarity in messaging to key stakeholders.

Report on Enforcement Actions Taken on Organic Imports

The 2018 Farm Bill included the requirement 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 United States 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.

Imported Organic Products

For the first two items above, NOP and CBP continue to make strong progress in programming the required organic message sets (organic import certificate) into the ACE system. We anticipate completing the programming for pilot testing in spring 2020. Because the system is not yet complete and in use, we cannot yet provide the detailed quantitative data outlined in the Farm Bill. This reporting remains a goal that will be facilitated by implementation of both the organic message set technology underway and by the Strengthening Organic Enforcement Rule, which is expected to codify the Farm Bill reporting requirements within the USDA organic regulations.

Fumigation Update

NOP continues to work with APHIS to identify options for aligning fumigation reporting with CBP's existing import system and the upcoming organic import certificates, so organic shipments that undergo fumigation will be immediately flagged. This will be supported by APHIS' concurrent work on a core message set in ACE, laying the groundwork for stronger data partnerships. These technology connections between NOP, CBP, and APHIS will take time to develop.

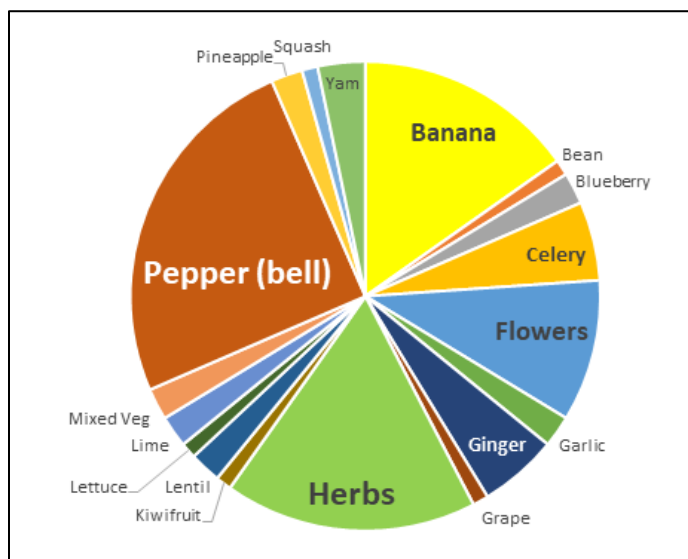
While this technology development is underway, APHIS has been providing NOP with general data updates about fumigated products potentially labeled as organic. Early work in 2018 by NOP and APHIS focused on identifying and resolving reporting challenges and increasing personnel training on how to recognize organic products. This was needed because of early "false positives," where products coded as organic by field personnel were subsequently confirmed by organic certifiers to never have been represented or sold as organic.

Based on the resulting data quality improvements, in 2019, fewer than 90 organic food imports were reported as fumigated on entry to the U.S. Of these, four shipments of fumigated organic imports were investigated and relabeled as conventional, thanks to a pilot project with a port of entry. Due to the current lack of organic import data from the ACE system, and the current exemptions/exclusions in the USDA organic regulations related to organic traders, organic

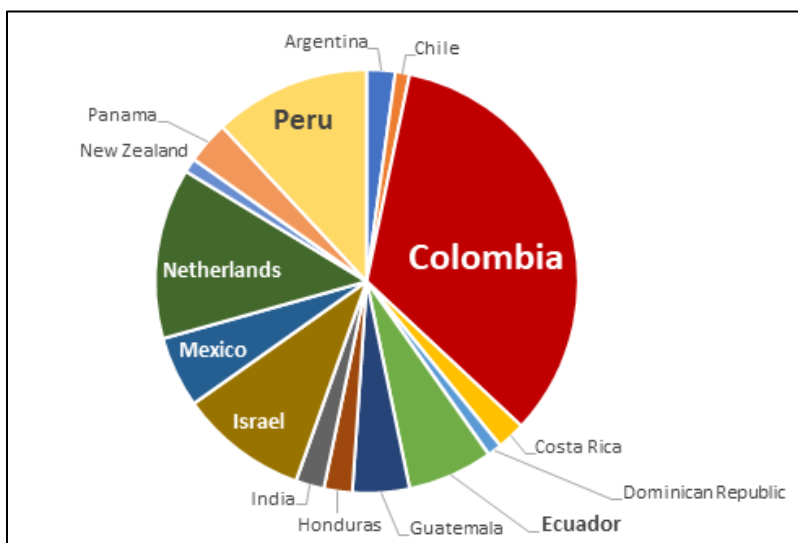
certifiers did not have oversight of the remaining imports. This is another area where the Strengthening Organic Enforcement rule, accompanied by technology development, is expected to significantly impact the NOP's ability to oversee the market.

The two figures below describe the types of organic products that were reported as fumigated in 2019 and their originating countries. Approximately 15 kinds of organic products were fumigated in 2019; nearly all were fruits or vegetables. The top three fumigated items were bell peppers, bananas, and herbs. Most fumigated organic imports come from Central and South America. Colombia is the biggest source of fumigated organic imports, along with Peru and Ecuador. The bell peppers were primarily from the Netherlands and Israel.

Most Commonly Fumigated Organic Imports - 2019



Origin of Fumigated Organic Products - 2019

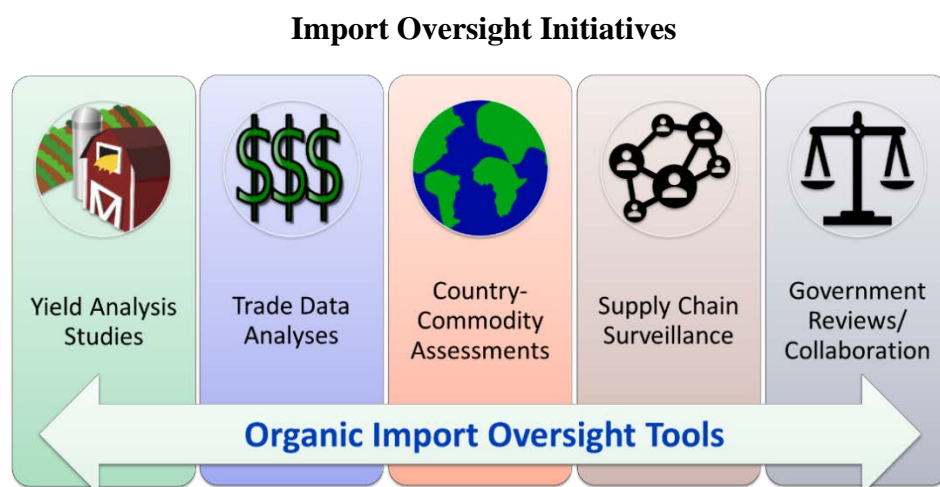


In our annual face-to-face training sessions with organic certifiers in January 2020, NOP reiterated the need for organic certifiers to confirm that organic importers have strong organic

control systems in place. These systems are needed to ensure that supply chain participants are notified if fumigation of a product labeled as organic occurs at the port.

Import Oversight

Import oversight and enforcement continues to be an area of focus for NOP around the world, with five key initiatives that directly support enforcement.



- **Yield Analysis Studies:** NOP continues to apply a focus on farm-level activities in high volume regions with multiple risk factors. In early 2019, these analyses focused on Black Sea Region farms. Later in 2019, NOP expanded this work into South America, where the program examined farm-level records, region-level data and international weather models. This work ultimately led to a large-scale audit in Argentina in November 2019, that included an evaluation of significant organic grain supply chains. Argentina is a major organic animal feed supplier to the U.S. The investigation resulted in multiple surrenders of grain handlers and a noncompliance for a certifier operating in the country.

NOP continues to provide training for certifiers on how to use these new analytical tools for researching regional data on yields, equipping participants to evaluate farm-level records against a range of open-source data as a part of organic certification.

- **Trade Data Analyses:** USDA's Foreign Agricultural Service (FAS) provides reports on foreign markets through the Global Agriculture Information Network (GAIN) database. GAIN reports are compiled by the FAS global market intelligence network, which includes FAS foreign service officers and locally engaged staff in over 90 overseas offices worldwide. NOP analyzes GAIN data on organic grains on a quarterly basis, to identify new areas for surveillance as the origin of imports shifts over time. FAS personnel also provide valuable on-the-ground intelligence, insight, and analysis on foreign agricultural markets, crop conditions, and agro-political dynamics to support NOP research and surveillance work.
- **Country-Commodity Assessments:** In January 2020, NOP completed two collaborative country-commodity studies with the International Organic Accreditation Service (IOAS). One commodity studied was a grain in the Black Sea region. The other was a specialty

crop in Central America. These studies increase NOP capacity for effective import surveillance and setting risk-based audit priorities. The project also included training and discussions about future investigations and enforcement capability development. These studies have reaffirmed the importance of implementing Farm Bill provisions related to uncertified handlers, import certificates, and certifier oversight.

- **Supply Chain Surveillance:** NOP has continued to investigate specific supply chains when evidence supports allegations of fraud. Increased visibility into CBP's ACE now allows NOP to view data for specific shipments at the manifest level, facilitating rapid research and investigations. To date, all shipments have been traceable back to certified organic farms and handlers. In the future, the implementation of electronic organic import certificates will facilitate greater reporting and targeted surveillance.
- **Government Reviews and Collaboration:** NOP works with government partners around the world to build strong global organic control systems. Organic trade arrangements, such as equivalency and recognition arrangements, are an important component of country-level organic oversight.

In December 2019, the NOP team updated organic equivalency partners on new outreach and data analysis tools that support ongoing compliance and enforcement at the Organic Equivalency Arrangement Working Group annual meeting in Ottawa, Canada. The meeting included bilateral discussions with Canada, the European Union, Japan, and Switzerland to improve coordinated enforcement activities among the countries with which the U.S. has organic equivalence arrangements.

The NOP is also working with officials in India to address concerns with their oversight of USDA organic certification. The U.S. currently holds a recognition agreement with India, which allows India to accredit certifiers that certify organic operations to the USDA organic regulations in that country. In July 2019, senior NOP staff spent two weeks in India as part of this work.

NOP continues to explore new and expanded equivalency arrangements as well. For example, Japan has requested an expansion of its equivalency arrangement with the U.S. to include livestock. NOP completed a peer review of Japan's organic livestock program in October 2019. In November 2019, USDA representatives visited Taiwan to continue talks related to an equivalency arrangement.

NOP's import oversight work continues to impact the organic market. More than 275 operations have exited organic certification in the Black Sea region, a number of certified farms and businesses have exited the organic market in South America, and a number of certifiers have decreased their geographic range of certification coverage to better manage risk.

In conclusion, USDA continues its work to maintain a level playing field for all certified organic producers and businesses. The top priority of the NOP is protecting the value of the organic seal – a value that is directly related to our collective ability to effectively trace products across the supply chain, ensure the integrity of organic products, and enforce the standards worldwide.

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