

Organic Agriculture Standards: Oversight and Enforcement

January 30, 2025

Congressional Research Service

<https://crsreports.congress.gov>

R48379



R48379

January 30, 2025

Zachary T. Neuhofer
Analyst in Agricultural
Policy

Organic Agriculture Standards: Oversight and Enforcement

The National Organic Program (NOP) is a voluntary program administered by the U.S. Department of Agriculture's (USDA's) Agricultural Marketing Service (AMS). The Organic Food and Production Act of 1990 (OFPA), enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 farm bill; P.L. 101-624), authorized the creation of NOP. Under NOP, agricultural products are produced and certified according to USDA organic regulations. For example, USDA organic certified products must be produced without the use of biotechnology, antibiotics, growth hormones, and many synthetic chemicals. Congress and other stakeholders have been concerned with enforcement of the organic regulations and organic certification fraud since the passage of OFPA.

A stated goal of AMS is to “protect organic integrity” so that consumers can trust that a product with the *USDA Organic* label has been produced and handled according to NOP standards. AMS submits an annual report to Congress on the agency's oversight actions and enforcement of NOP. The report includes information about complaints submitted to AMS regarding operations' compliance with the organic regulations. The most common complaint received is that an uncertified operation is making organic claims or engaging in fraud. *Organic fraud* is defined in regulation as the deceptive representation, sale, or labeling of nonorganic agricultural products as organic (7 C.F.R. Part 205). AMS also reports on ongoing and closed investigations. Most cases are resolved by voluntary compliance with the organic regulations, such as by attaining organic certification. Other case outcomes include referrals to an outside partner for investigation, settlement agreements, and civil penalties.

USDA organic regulations are enforced by AMS and USDA-accredited third-party certifying agents that are authorized to conduct inspections and investigations of operations. AMS receives and reviews complaints regarding potential violations of the organic regulations by operations and may initiate an investigation if the complaint falls within AMS's jurisdiction. AMS may levy a civil penalty on the operation or refer an operation for criminal investigation. An operation's certifying agent typically investigates complaints against the operation. If an operation is found to be noncompliant with the organic regulations, a certifying agent is authorized to suspend or revoke the operation's certification. AMS oversees all certification activities of certifying agents. In some instances, an AMS investigation may reveal noncompliance by the certifying agent. The agent would be given an opportunity to comply; in the case of continued noncompliance, the agent's accreditation may be suspended or revoked.

AMS maintains a public database known as the Organic Integrity Database (OID). The OID identifies all certified organic operations, both foreign and domestic. The database contains current information on certified operations, such as their location, certification status, and the products for which they are certified. Certifying agents are required to maintain up-to-date, accurate information in the OID on the operations they certify. The OID is one resource used to inform USDA's enforcement of the organic regulations, as the data entered by the certifying agent may determine if an operation has committed potential violations.

Enforcement of the organic regulations has been addressed by USDA through independent actions and by Congress through legislation, including the Agriculture Improvement Act of 2018 (2018 farm bill; P.L. 115-334). The 2018 farm bill directed USDA to make changes to how the organic regulations are enforced, leading to publication of the final rule known as the “Strengthening Organic Enforcement” (SOE) rule. This rule, which became effective in March 2023, updated the organic regulations in the areas of enforcement and oversight.

Issues of potential interest to Congress may include whether implementation of the SOE rule addresses congressional and other stakeholders' concerns relating to enforcement of organic regulations. Some stakeholders, including some Members of Congress and USDA, have expressed concerns about challenges associated with implementation of and compliance with the new regulations. In debating the next farm bill, Congress may consider whether to require USDA to study the cost of enforcing organic standards on products not currently under the enforcement authority of NOP, such as dietary supplements.

Contents

Introduction	1
Background	1
National Organic Program	1
Organic Fraud.....	2
Enforcement Procedures.....	4
Role of the Agricultural Marketing Service	4
Complaint Procedures.....	4
Accreditation and Investigations of Certifiers	5
Role of Certifying Agents	6
Organic Integrity Database.....	6
Legislative and Regulatory History	7
2014 Farm Bill Provisions	7
2018 Farm Bill Provisions	8
Organic Imports	8
Reductions in Uncertified Operations in Supply Chains	8
Certifying Agents	9
Appropriations.....	9
Mandatory	9
Discretionary	9
Administrative Actions by USDA.....	10
Strengthening Organic Enforcement Rule	10
Selected Issues for Congress	11

Figures

Figure 1. AMS Organic Enforcement Complaint Case Types and Outcomes, 2023	3
---	---

Contacts

Author Information.....	13
-------------------------	----

Introduction

The National Organic Program (NOP) is a voluntary program under which agricultural products are produced and certified to a specific national standard. The U.S. Department of Agriculture's (USDA's) Agricultural Marketing Service (AMS) administers NOP. A stated goal of AMS is to "protect organic integrity" so that consumers can trust that a product with the *USDA Organic* label has been produced and handled according to NOP standards.¹

Fraudulent organic claims by producers undermine the integrity of the *USDA Organic* label. Enforcement of federal organic regulations and organic fraud have been issues of concern since enactment of the Organic Food and Production Act of 1990 (OFPA).² Congress passed enforcement related amendments to OFPA in the Agricultural Act of 2014 (2014 farm bill; P.L. 113-79) and the Agriculture Improvement Act of 2018 (2018 farm bill; P.L. 115-334). Additionally, Congress has authorized appropriations toward strengthening organic enforcement. USDA's 2023 final rule, "Strengthening Organic Enforcement" (SOE), applies new requirements, including those mandated by Congress, to improve NOP's ability to enforce operation adherence to organic standards.³ Congress has continued to show interest in organic integrity and enforcement, including with legislation introduced in the 118th Congress such as the Rural Prosperity and Food Security Act (S. 5335) and the Continuous Improvement and Accountability in Organic Standards Act (H.R. 5973).

This report describes fraud in the USDA-certified organic food and related products and details the enforcement procedures followed by AMS and certifying agents. The report also describes congressional efforts to address organic fraud, highlights changes to organic regulations enforcement following USDA's 2023 SOE final rule, and provides selected policy issues of potential interest to Congress.

Background

National Organic Program

Congress passed the Organic Foods Production Act (OFPA) as part of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 farm bill; P.L. 101-624). OFPA authorized the Secretary of Agriculture to establish an "organic certification program for producers and handlers of agricultural products that have been produced using organic methods." This program became the National Organic Program, administered by the Agricultural Marketing Service (AMS). Among other requirements, USDA certified organic products must be produced without the use of

¹ U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), "National Organic Program; Strengthening Organic Enforcement," 88 *Federal Register* 3548-3627, January, 19, 2023 (hereinafter SOE final rule, 88 *Federal Register* 3548-3627).

² USDA, AMS, *NOSB Meeting Minutes and Transcripts: 1992-2009*, 2009, <https://www.ams.usda.gov/sites/default/files/media/NOSB%20Meeting%20Minutes%26Transcripts%201992-2009.pdf>.

³ SOE final rule, 88 *Federal Register* 3548-3627.

biotechnology, antibiotics, growth hormones, and many synthetic chemicals.⁴ As of January 29, 2025, there are 47,566 operations certified under NOP.⁵

AMS oversight includes regulations on standards for the production of organic products, requirements for organic agriculture certification, criteria for materials used in organic agriculture, and related policies.⁶ Under NOP, AMS accredits and oversees third-party certifiers (known as certifying agents) who certify and inspect organic operations.⁷ AMS also investigates complaints of violations of USDA organic standards and enforces the organic regulations for production, handling, and labeling.⁸

Selected Regulatory Definitions (7 C.F.R. §205.2)

Certifying agent. Any entity accredited by the Secretary of Agriculture for the purpose of certifying a production or handling operation as a certified operation.

Certified operation. A crop or livestock production, wild-crop harvesting or handling operation, or portion of such operation that is certified by an accredited certifying agent as using a system of organic production or handling as described by the Organic Foods Production Act and related regulations.

Handle. To sell, process, or package agricultural products, including but not limited to trading, facilitating sale or trade on behalf of a seller or oneself, importing to the United States, exporting for sale in the United States, combining, aggregating, culling, conditioning, treating, packing, containerizing, repackaging, labeling, storing, receiving, or loading.

Handling operation. Any operation that handles agricultural products, except final retailers of agricultural products that do not process agricultural products.

Organic fraud. Deceptive representation, sale, or labeling of nonorganic agricultural products or ingredients as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”

Organic Integrity Database. The National Organic Program’s electronic, web-based reporting tool for the submission of data, completion of certificates of organic operation, and other information.

Organic Fraud

The 2018 farm bill, as extended, requires AMS to submit an annual organic standard enforcement report to Congress that includes the number of new complaints and inquiries, ongoing investigations, and closed investigations.⁹ In its most recent report, *USDA Organic Oversight and Enforcement Update: Summary of Activities – Calendar Year 2023*, AMS reported 732 new consumer complaints and inquiries in 2023.¹⁰

⁴ 7 C.F.R. Part 205. For additional background on the legal framework of USDA organic certification, see CRS In Focus IF11652, “Organic” Certification: An Overview of the Legal Framework, by Nina M. Hart. For further inquiry, congressional offices may contact Zachary T. Neuhofer.

⁵ USDA, *Count of USDA-NOP Certified Organic Operations by Country*, January 29, 2025, <https://organic.ams.usda.gov/integrity/Reports/DataHistoryReport?id=4&ret=Reports/Reports&retName=Reports>.

⁶ The National Organic Program (NOP) is informed by the National Organic Standards Board (NOSB), which advises USDA on establishing standards for substances used in organic production and the creation of the organic standards. The NOSB is made up of 15 volunteers from the organic community.

⁷ USDA, AMS, *The National Organic Program*, November 2016, <https://www.ams.usda.gov/sites/default/files/media/TheNationalOrganicProgramNov2016.pdf>.

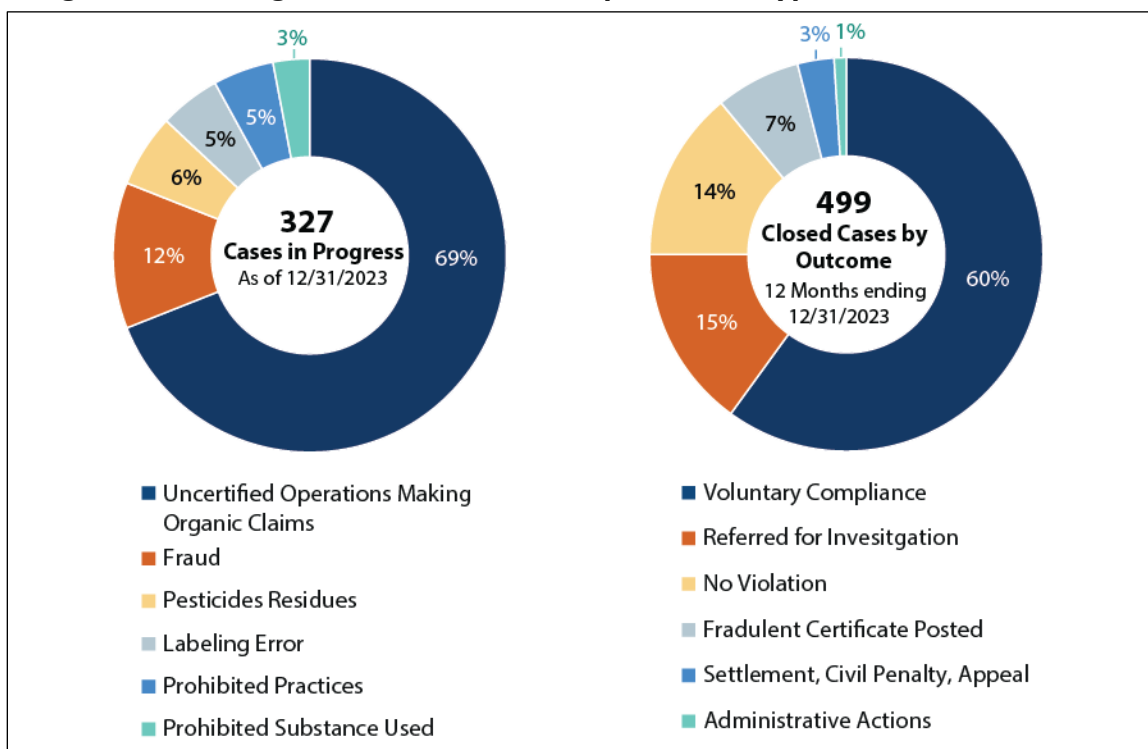
⁸ For additional background on NOP, see CRS In Focus IF10278, *U.S. Farm Policy: USDA-Certified Organic Production*, by Renée Johnson.

⁹ The 2018 farm bill required an annual organic enforcement and investigation report through March 1, 2023 (P.L. 115-334 §10104; 7 U.S.C. §6521(d)). The 2018 farm bill has been extended for an additional year twice—in P.L. 118-22, Division B, §102, and P.L. 118-158, Division D.

¹⁰ USDA, AMS, *USDA Organic Oversight and Enforcement Update: Summary of Activities – Calendar Year 2023*, (continued...)

AMS’s annual enforcement report describes the different types of complaints recorded for cases in progress (see **Figure 1**).¹¹ Anyone who suspects a violation of USDA organic regulations may file a complaint. According to AMS, the majority of complaints involve an uncertified operation making organic claims, such as on a website. Another type of complaint is *organic fraud*, which involves any kind of “deceptive representation, sale, or labeling of nonorganic agricultural products or ingredients as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”¹² Other complaint types involve errors in USDA organic labeling; potential traces of pesticide residues; prohibited practices in the production or handling of a product labeled organic; and use of a prohibited substance.¹³

Figure 1. AMS Organic Enforcement Complaint Case Types and Outcomes, 2023



Source: Figure created by CRS from U.S. Department of Agriculture, Agricultural Marketing Service (AMS), *USDA Organic Oversight and Enforcement Update: Summary of Activities – Calendar Year 2023, 2024* <https://www.ams.usda.gov/sites/default/files/media/NOP2024SummaryofActivitiesReport.pdf>.

Notes: AMS states that cases in progress are based on allegations, complaints, and surveillance and are not in themselves proof of wrongdoing. Percentages may not sum due to rounding.

The AMS report also describes the outcomes of closed cases. The most common outcome is *voluntary compliance*, when an operation chooses to comply with the organic regulations. An example given by USDA is “an uncertified farm or business gets certified so it can legally label a

2024, <https://www.ams.usda.gov/sites/default/files/media/NOP2024SummaryofActivitiesReport.pdf> (hereinafter USDA, AMS, *USDA Organic Oversight*, 2024).

¹¹ USDA, AMS, *USDA Organic Oversight*, 2024.

¹² 7 C.F.R. §205.2.

¹³ For the list of prohibited pesticides, practices, and other substances in the USDA organic regulations, see 7 C.F.R. §§205.600-606.

product as organic.”¹⁴ AMS also can perform “administrative actions,” which are “warnings/notices to businesses” to ensure that violators of the USDA organic regulations are aware of those regulations to “support future enforcement action.”¹⁵

AMS reported 327 cases in progress at the end of 2023.¹⁶ AMS states majority of these cases involved uncertified organic operations making organic claims (69%), followed by fraud (12%) and pesticide residues (6%). AMS reported that it closed 499 complaint cases in 2023 and found no violation had occurred in 14% of the complaints.¹⁷ Operators resolved 60% of these cases by voluntarily complying with USDA organic regulations.¹⁸ AMS referred 15% of cases for further investigation. **Figure 1** describes the complaint case types and outcomes in 2023.

Enforcement Procedures

Both AMS and USDA-accredited certifying agents are involved in the enforcement of the organic regulations. The roles of AMS include investigating complaints submitted to NOP; overseeing certifiers and conducting audits of their certification activities; issuing notices of warning and cease and desist orders; suspending or revoking the accreditation of certifiers or the certification of operations based on the outcome of audits or investigations; and issuing civil penalties.¹⁹

The roles of certifying agents include conducting standard annual inspections, unannounced inspections, and compliance inspections of certified operations. Certifying agents also collect samples to analyze any potential use of prohibited pesticides and other substances. They may also conduct investigations on behalf of USDA for alleged violations of the organic regulations. Additionally, they may issue noncompliance notices to operations when violations of the organic regulations are found, enter settlement agreements, and suspend or revoke USDA organic certification if an operation continues to be noncompliant with the organic regulations.²⁰

Role of the Agricultural Marketing Service

Complaint Procedures

Potential violations of USDA organic regulations can be reported through a complaint filed with AMS. The content of a complaint is to include the nature of the violation and as much information as the complaint filer knows, such as the product’s brand name, the product’s certifying agent, and a detailed explanation of the alleged regulatory violation.²¹

AMS reviews and evaluates the complaints. AMS first determines if the complaint is within its jurisdiction; if not, the complaint is referred to the appropriate authority (e.g., a food safety-

¹⁴ USDA, AMS, *USDA Organic Oversight*, 2024.

¹⁵ USDA, AMS, *USDA Organic Oversight*, 2024.

¹⁶ USDA states that cases in progress are “based on allegations, complaints, and surveillance and are not in themselves proof of wrongdoing.” USDA, AMS, *USDA Organic Oversight*, 2024.

¹⁷ The closed case figures include those opened in previous years.

¹⁸ Examples include the following: an uncertified operation stops making organic claims on a website; an uncertified operation becomes certified so it can legally label its product as organic; a certified operation corrects an instance of noncompliance; or a certified business exits the organic market.

¹⁹ USDA, AMS, “Organic Enforcement,” <https://www.ams.usda.gov/services/enforcement/organic>.

²⁰ USDA, AMS, “Organic Enforcement,” <https://www.ams.usda.gov/services/enforcement/organic>.

²¹ USDA, AMS, “How to File a Complaint on Organic Regulations,” <https://www.ams.usda.gov/services/enforcement/organic/file-complaint>.

related complaint may be referred to the Food and Drug Administration). If the complaint falls within AMS's jurisdiction, the agency determines whether the complaint alleges a violation of USDA organic regulations.²² AMS determines whether there is enough evidence to warrant investigation. If the evidence is insufficient to investigate, NOP is unable to move forward with any further review or investigation and closes the case. AMS investigates complaints against uncertified operations through the NOP Compliance and Enforcement Division. For complaints against certified operations, AMS typically refers cases to the certifying agent to conduct the investigation on behalf of AMS. Complaints against operations in California are investigated by the California State Organic Program, and complaints that concern operations in which an organic trade agreement is in place are referred to the countries' organic governing bodies.²³

When violations of the organic regulations are confirmed, AMS may issue a cease and desist letter, a notice of warning, or in more serious cases, suspension or revocation of the operation's organic certification.²⁴ In addition, an operation may be subject to a civil penalty for each violation, be held criminally liable, or both.²⁵ In some cases, operations may appeal an AMS decision to a USDA administrative law judge.²⁶

Accreditation and Investigations of Certifiers

Another role of AMS is to accredit certifying agents and oversee their certification activities. Certifying agents can be governmental or private entities. AMS must assess whether a potential certifying agent meets all requirements of the organic regulations, such as having expertise in organic production or handling, reviewing applications, conducting on-site inspections, and ensuring all personnel associated with the certifying agent are qualified and adequately trained to comply with and implement USDA organic regulations.²⁷

Additionally, AMS oversees all certification activities by certifying agents to ensure that the standards for accreditation are met. AMS may conduct an inspection, investigation, or review of a certifying agent that is suspected to be in violation of the USDA organic regulations. In these cases, AMS is to provide a written notice of noncompliance to the certifying agent.²⁸ The notification must provide descriptions of the instances of noncompliance, the facts on which the notification is based, and the date on which the certifying agent must either rebut or correct each noncompliance and submit supporting documentation on corrections made.²⁹ If the certifying

²² In some cases, complaints may not be violations of the organic regulations, such as a complaint pertaining to a substance that is allowed in organic production.

²³ USDA, AMS, *How to File a Complaint on Organic Regulations*, <https://www.ams.usda.gov/sites/default/files/media/How%20to%20File%20Complaint%20about%20Organic.pdf>. Organic trade agreements include equivalency agreements and recognition agreements. An *equivalency agreement* allows a product to be certified in accordance with another country's standard and sold in the United States as "organic" and vice versa. A *recognition agreement* allows foreign governments to accredit certifying agents as meeting all USDA organic standards. The United States has equivalency agreements with Canada, the European Union, Switzerland, Japan, South Korea, Taiwan, and the United Kingdom and has recognition agreements with Israel and New Zealand.

²⁴ USDA, AMS, "Protecting Organic Integrity through Enforcement," <https://www.ams.usda.gov/blog-post/protecting-organic-integrity-through-enforcement>.

²⁵ See 7 C.F.R. §205.662(g); 7 C.F.R. §205.100.7; and 7 U.S.C. §6519(c). The civil penalty for each violation as of June 7, 2024, is \$22,392, in accordance with 7 C.F.R. §3.91(b)(1)(xxxvi). This value is adjusted for inflation as per the Bipartisan Budget Act of 2015 (P.L. 114-74).

²⁶ USDA, AMS, "Administrative Law Judge Decisions," <https://www.ams.usda.gov/services/enforcement/organic/law-judge-decisions>.

²⁷ For the requirements for agent certification, see 7 C.F.R. §§205.500-205.511.

²⁸ 7 C.F.R. §205.665(a)(1).

²⁹ 7 C.F.R. §205.665(a)(2).

agent does not resolve the noncompliance issues or willfully violates the organic regulations, AMS may suspend or revoke the agent's accreditation.³⁰

Role of Certifying Agents

Certifying agents have various roles in organic enforcement. One role is to conduct on-site inspections, including for initial organic certification and annually for an operation to maintain organic certification. The annual on-site inspection is to be comprehensive—all aspects of an operation are to be inspected to ascertain that the operation complies with the USDA organic regulations and OFPA.³¹ Additional on-site inspections may be conducted as needed. Operations must be able to demonstrate that the products can be traced through the supply chain to the last certified operation.³² The on-site inspections must include a mass balance audit to verify that quantities of organic inputs match the quantities of organic outputs.³³ Certifying agents also may test product samples or inputs to ensure that prohibited substances have not been used in production.³⁴

Annually, certifying agents are to conduct unannounced inspections on at least 5% of the operations they certify. An unannounced inspection is to be done without advance notice to the operation and may be limited in scope to a portion of the operation or its activities.³⁵

When AMS receives complaints or has reason to believe a certified operation is in violation of the organic regulations, an investigation, inspection, or review may occur.³⁶ An investigation typically would be carried out by a certifying agent on behalf of AMS. If an investigation of an operation reveals noncompliance with USDA organic standards, a written notification with descriptions and facts of each instance of noncompliance is sent. The operation receives a deadline to correct or rebut the issues and submit supporting documentation.³⁷ Depending on the outcome of the noncompliance investigation as determined by the certifying agent, the agent may send a resolution to the certified operation or propose a suspension or revocation of the operation's certification.³⁸

Organic Integrity Database

The OID is AMS's public database identifying all certified organic operations, both foreign and domestic.³⁹ AMS developed the OID using funding provided by the 2014 farm bill (P.L. 113-79) and released it in September 2015.⁴⁰ It replaced a paper-based system that had been annually

³⁰ 7 C.F.R. §205.665(c-e).

³¹ 7 C.F.R. §205.403(a)(1). For more information about on-site inspections, see 7 C.F.R. §205.403. Inspections vary depending on the type of operation.

³² For more information about verifying information collected during on-site inspections, see 7 C.F.R. §205.403(d).

³³ 7 C.F.R. §205.403(d)(4). Mass balances verify that “quantities of organic product and ingredients produced or purchased account for organic product and ingredients used, stored, sold, or transported (that is, inputs account for outputs).”

³⁴ 7 C.F.R. §205.403(d)(3).

³⁵ 7 C.F.R. §205.403(b).

³⁶ 7 C.F.R. §205.661; and 7 C.F.R. §205.662.

³⁷ 7 C.F.R. §205.662(a).

³⁸ 7 C.F.R. §205.662(b-c).

³⁹ USDA, AMS, “Organic Integrity Database,” <https://organic.ams.usda.gov/integrity>.

⁴⁰ USDA, AMS, “About INTEGRITY,” last updated March 20, 2024, <https://organic.ams.usda.gov/integrity/About>.

updated. With the OID, certifying agents are required to directly update data on operations and their products in real time.⁴¹

The OID contains current information on all USDA-certified organic operations, including the operation's name; its certifier, location, and current certification status (i.e., certified, surrendered, revoked, or suspended); the scope for which the operation is certified (crops, livestock, wild crops, or handling); and the organic commodities and services that operations offer.⁴²

AMS relies on the OID to enforce USDA organic regulations. Data in the OID help AMS determine the scope of the operation and its organic certification status and can be used to determine whether the operation in question has committed potential violations.⁴³ The OID also contains documents needed to verify the organic status of both domestic and foreign operations. These documents include NOP import certificates, which are used to verify the organic status of imported products, and certificates of organic operation.⁴⁴ When an operation has been issued a notification of suspension or revocation of their organic status, the certifying agent must update the operation's status in the OID within three business days.⁴⁵ Producers and sellers can use the database to ensure operations at earlier stages in the supply chain maintain certified status.

Legislative and Regulatory History

Congress and USDA have amended organic standards enforcement since the creation of NOP. Congress has changed enforcement-related authorities periodically through farm bills and appropriations. Congress also created the National Organic Standards Board (NOSB) to assist USDA in establishing standards for prohibited substances and otherwise implementing the goals of NOP.⁴⁶ NOSB holds regular stakeholder meetings, and enforcement of organic regulations has been a recurring topic since the inception of NOP.⁴⁷

2014 Farm Bill Provisions

The 2014 farm bill (P.L. 113-79) made changes to organic standards enforcement, including those related to the investigative powers of USDA and penalties for violations, and provided funds to establish the OID.⁴⁸

The 2014 farm bill required additional recordkeeping by certifying agents and certified operations; changed procedures for an operation losing certification or certifying agent losing

⁴¹ USDA, AMS, "About INTEGRITY," last updated March 20, 2024, <https://organic.ams.usda.gov/integrity/About>.

⁴² USDA, AMS, "About INTEGRITY," last updated March 20, 2024, <https://organic.ams.usda.gov/integrity/About>.

⁴³ USDA, AMS, *USDA Organic Oversight*, 2024.

⁴⁴ See 7 U.S.C. §6502(13) for NOP import certificate requirements. See 7 C.F.R. §205.404 for certificate of organic operation requirements.

⁴⁵ 7 C.F.R. §205.662(e)(3). If an operation has surrendered its certification, the certifying agent must update the Organic Integrity Database (OID) within three business days of the effective surrender date.

⁴⁶ OFPA, 7 U.S.C. §6518.

⁴⁷ USDA, AMS, *NOSB Meeting Minutes and Transcripts: 1992-2009*, 2009, <https://www.ams.usda.gov/sites/default/files/media/NOSB%20Meeting%20Minutes%26Transcripts%201992-2009.pdf>.

⁴⁸ For more information on the enforcement provisions in the 2014 farm bill, see CRS Report R43076, *The 2014 Farm Bill (P.L. 113-79): Summary and Side-by-Side*, coordinated by Ralph M. Chite. USDA, AMS, "Organic Integrity Database," <https://organic.ams.usda.gov/integrity>. For follow up, congressional offices may contact Section Research Manager Frank Gottron. For more information on the organic provisions in the 2014 farm bill, see CRS Report R43632, *Specialty Crop Provisions in the 2014 Farm Bill (P.L. 113-79)*, by Renée Johnson.

accreditation; established civil monetary penalties for violations; and provided USDA authority to subpoena witnesses during an investigation, including imposing penalties for false statements.⁴⁹

The 2014 farm bill appropriated \$5,000,000 in Commodity Credit Corporation funds to “modernize the database and technology systems of the NOP.”⁵⁰ AMS used this money to create the OID for data collection and investigation.

2018 Farm Bill Provisions

The 2018 farm bill (P.L. 115-334) also made changes to organic standards enforcement. These changes included creating additional requirements related to organic imports, directing AMS to issue regulations to reduce the number of operations exempt from certification, and requiring an annual organic import enforcement report.⁵¹

Organic Imports

The 2018 farm bill required changes in processes for tracking organic imports and USDA’s coordination with U.S. Customs and Border Protection (CBP) on processing organic imports.⁵² It requires all organic imports, regardless of origin, to have an NOP import certificate to improve the ability of USDA to track imports and investigate possible violations.

The 2018 farm bill also required AMS to annually report its domestic and international investigations, compliance actions and organic trade enforcement activities it coordinated with CBP and the Animal and Plant Health Inspection Service.⁵³

The 2018 farm bill appropriated \$5,000,000 in Commodity Credit Corporation funds for the inspection of imports, trade data collection, and enforcement.⁵⁴

Reductions in Uncertified Operations in Supply Chains

Some operations in the organic supply chain are exempt from organic certification requirements, such as those that have less than \$5,000 of gross income from organic sales annually and retail establishments that do not process organic products.⁵⁵ The 2018 farm bill requires that USDA implement regulations to reduce the number of operations in the supply chain that are exempt from organic certification.⁵⁶ In some cases, exempt operations in a supply chain were a source of fraud.⁵⁷ Reducing the number of exempt operations would increase USDA oversight over the supply chain. USDA included such provisions in the SOE (see “Strengthening Organic Enforcement Rule,” below).

⁴⁹ P.L. 113-79, §10005.

⁵⁰ P.L. 113-79, §10004.

⁵¹ P.L. 115-334, §10104. For additional information on selected changes in the 2018 farm bill related to organic agriculture, see CRS In Focus IF11317, *2018 Farm Bill Primer: Specialty Crops and Organic Agriculture*, by Renée Johnson; and CRS In Focus IF12017, *Farm Bill Primer: Horticulture Title and Related Provisions*, by Renée Johnson.

⁵² P.L. 115-334, §10104.

⁵³ P.L. 115-334, §10104.

⁵⁴ Congress appropriated an additional \$1,000,000 for this purpose for FY2024 in the Continuing Appropriations and Other Extensions Act (P.L. 118-15).

⁵⁵ The full list containing the type of operations exempt from certification is found in 7 C.F.R. §205.101.

⁵⁶ P.L. 115-334, §10104(a).

⁵⁷ USDA, AMS, “National Organic Program; Strengthening Organic Enforcement,” 85 *Federal Register* 47536-47592, August 5, 2020.

Certifying Agents

The 2018 farm bill provided certifying agents the authority to require operations to provide additional documentation to help the certifying agent evaluate potential compliance risks.⁵⁸ Additionally, the 2018 farm bill clarified that AMS may suspend the accreditation of a certifying agent or portion of a certifying agent's activities for violations. Certifying agents must also notify AMS about the opening of a new office performing certification activities no later than 90 days after its opening.

Appropriations

USDA does not report the amount of AMS funding that it allocates specifically to organic regulatory enforcement in its budget documents. Similarly, Congress does not typically allocate specific amounts of AMS appropriations for organic regulatory enforcement activities. Congress has occasionally provided direction related to additional funds or directed the allocation of funds for specific organic enforcement-related activities.

Mandatory

Congress has periodically provided mandatory funding for organic enforcement activities. In the 2014 farm bill (P.L. 113-79), Congress appropriated \$5,000,000 in FY2014 from the Commodity Credit Corporation to “modernize the database and technology systems of the NOP,” which became the OID. In the 2018 farm bill (P.L. 115-334), Congress appropriated \$5,000,000 in Commodity Credit Corporation funds to maintain, update, and improve access to the OID. In FY2024, the Continuing Appropriations and Other Extensions Act (P.L. 118-15) appropriated \$1,000,000 in Commodity Credit Corporation funds to further assist organic trade data collection, inspections, and enforcement.

Discretionary

For FY2018, Congress directed an increase of \$3 million in NOP funding for “robust fraud detection and oversight to ensure the USDA organic seal remains verified and trusted.”⁵⁹ For FY2019, Congress directed an additional \$2 million to AMS for NOP, and further direction for enforcement of the organic standards was given by House and Senate appropriators.⁶⁰ Similarly, for FY2020, Congress provided an additional \$2 million for AMS, directing it to NOP while stating that “the agreement recognizes the importance of consumer confidence in the integrity of the USDA Organic Seal.”⁶¹

For FY2021, Congress directed an increase in appropriations of \$2 million to AMS for NOP, and directed that AMS continue to resolve “inconsistencies in enforcement,” of organic regulations, among other direction to AMS.⁶² For FY2022, Congress directed an increase in appropriations of \$2 million to the National Organic Standards program.⁶³ The Senate appropriators directed AMS

⁵⁸ P.L. 115-334, §10104.

⁵⁹ H. Comm. Prt. 29-456 to accompany the Consolidated Appropriations Act, 2018 (P.L. 115-141).

⁶⁰ H.Rept. 116-9 to accompany the Consolidated Appropriations Act, 2019 (P.L. 116-6). H.Rept. 115-706. S.Rept. 115-259.

⁶¹ H. Comm. Prt. 38-679 to accompany the Further Consolidated Appropriations Act, 2020 (P.L. 116-94).

⁶² H. Comm. Prt. 43-749 to accompany the Consolidated Appropriations Act, 2021 (P.L. 116-260).

⁶³ H. Comm Prt. 47-047 to accompany the Consolidated Appropriations Act, 2022 (P.L. 117-103).

to provide resources for NOP to provide the “strongest possible oversight” before allowing the granting of the organic seal.⁶⁴

For FY2023, Congress appropriated \$2 million to AMS for the National Organic Standards program and provided direction to enforce organic production standards for dairy operations and to provide “risk-based oversight particularly for large, complex dairy operations.”⁶⁵ In FY2024, Senate appropriators directed AMS to use some of the NOP appropriated funds to address organic regulation oversight and enforcement and to report to Congress on expenditures on activities related to compliance and enforcement.⁶⁶

Administrative Actions by USDA

USDA began what it called an “age of enforcement” in 2009.⁶⁷ Its stated goals included the introduction of a penalty matrix that included civil penalties, requiring unannounced inspections from certifying agents, using pesticide residue sampling for testing, and developing a system of risk-based inspection.⁶⁸

The NOSB recommended in 2003 that NOP provide written guidance to help certifiers determine appropriate penalties and increase consistency in enforcement. The initial NOP penalty matrix was released in 2012 and has been updated by the SOE rule.⁶⁹ USDA also issued a final rule in 2012 regarding the use of mandatory pesticide residue testing of organic products by certifiers.⁷⁰ Further enforcement actions, such as unannounced inspections and risk-based inspection methods, were supported but not required until the effective date of the SOE final rule in 2023.

Strengthening Organic Enforcement Rule

As directed by the 2018 farm bill, AMS proposed the SOE rule in 2020 to amend USDA organic regulations.⁷¹ AMS issued the SOE final rule in 2023.⁷² According to AMS, the SOE final rule is intended to address

- the mishandling of organic products in complex supply chains,
- organic fraud, and
- issues in USDA organic certification and organic imports.

The final rule required all certified operations to be in full compliance with the new regulations by March 19, 2024. The SOE final rule amended recordkeeping requirements for certified

⁶⁴ S.Rept. 117-34 to accompany S. 2599.

⁶⁵ H. Comm. Pt. 50-047 to accompany the Consolidated Appropriations Act, 2023 (P.L. 117-328).

⁶⁶ S.Rept. 118-44 to accompany S. 2131.

⁶⁷ USDA, *Organic 101: Complaints and How They're Handled*, April 13, 2012, <https://www.usda.gov/media/blog/2012/04/13/organic-101-complaints-and-how-they-re-handled>.

⁶⁸ Miles McEvoy, deputy administrator, National Organic Program, “National Organic Program Report,” presented at the NOSB Meeting, Washington, DC, November 3, 2009.

⁶⁹ USDA, AMS, *Enforcement of the USDA Organic Regulations: Penalty Matrix*, March 20, 2024, <https://www.ams.usda.gov/sites/default/files/media/4002.pdf>.

⁷⁰ USDA, AMS, “National Organic Program; Periodic Residue Testing,” 77 *Federal Register* 67239-67251, November 9, 2012.

⁷¹ USDA, AMS, “National Organic Program; Strengthening Organic Enforcement,” 85 *Federal Register* 47536-47592, August 5, 2020.

⁷² SOE final rule, 88 *Federal Register* 3548-3627.

operations.⁷³ Operations must maintain records, including their fraud prevention plan, audit trail documentation, traceability to the last certified operation, and descriptions of their plans to prevent fraud and verify the organic status of their products.

The SOE final rule requires the use of risk-based evaluation as a tool used in oversight of organic operations. It requires certifying agents to use risk-based supply-chain traceability audits (SCT) to trace products through the supply chain and to help agents detect fraud, conduct investigations, and verify the compliance of products and operations.⁷⁴ These audits must be conducted based on the risk of fraud or mishandling of organic products at the operation. The rule also increased the civil monetary penalty amount for each violation of OFPA.⁷⁵

The SOE final rule details the use and scope of unannounced inspections by certifying agents.⁷⁶ Before the rule, AMS allowed and recommended unannounced inspections. The updated regulations require that unannounced inspections be conducted on a minimum of 5% of a certifying agent's operations each year. The rule also requires mass balance audits and SCT audits during on-site inspections.⁷⁷ The rule specifies that certifying agents must conduct a scheduled on-site inspection of every operation they certify once per calendar year.

The SOE final rule requires certifying agents use the OID in specified ways.⁷⁸ AMS states that the accessibility and security of the data will “reduce administrative burden on certified operations that purchase organic products and ingredients, as well as certifying agents and inspectors who monitor compliance.”⁷⁹ The rule also describes the data updates certifying agents must maintain on the operations they certify.

The SOE final rule defines *certification activity* that is subject to AMS oversight and describes AMS authority to issue noncompliance notices to certifying agents and its ability to suspend or revoke accreditation for a portion of a certifying agent's activities.⁸⁰

Selected Issues for Congress

Oversight of organic production and enforcement of standards is part of maintaining consumer trust in USDA organic labeling. Since the implementation of the SOE rule, some Members of Congress and USDA have reported some difficulties with implementation and compliance under the rule. The 118th Congress considered some legislation that would have affected organic enforcement activities. Additionally, the 118th Congress considered an appropriations bill that would have directed USDA to address organic standards enforcement.

Stakeholders have reported challenges in meeting compliance requirements of the SOE rule. For example, some Members of Congress have expressed concern about the inability of operations to receive their newly required certification due to encountering a wait list for certifiers to process certifications.⁸¹ Additionally, USDA reports that it has “struggled with the sheer volume of [newly

⁷³ 7 C.F.R. §205.103(b); and 7 C.F.R. §205.201(a).

⁷⁴ 7 C.F.R. §205.501(a)(21).

⁷⁵ The SOE rule increased the maximum penalty from \$10,000 to \$22,392 (7 C.F.R. §3.91(xxxvi)).

⁷⁶ 7 C.F.R. §205.403.

⁷⁷ 7 C.F.R. §205.403(d)(4); and 7 C.F.R. §205.2.

⁷⁸ 7 C.F.R. §205.2; and 7 C.F.R. §§205.404(b)-(c).

⁷⁹ SOE final rule, 88 *Federal Register* 3548-3627.

⁸⁰ 7 C.F.R. §205.501.

⁸¹ Letter from Rep. Nicholas A. Langworthy et al. to Dr. Jennifer Tucker, deputy administrator of USDA, AMS, NOP, (continued...)

required] import certificates,” and it has had difficulty tracing the source of organic products from countries with an equivalence agreement in some cases due to transshipments from other countries.⁸² If Congress chooses to address these issues, potential options include providing additional resources to help certifiers process certifications or providing guidelines to aid USDA in evaluating import certificates and tracing the source of organic imports.

The 118th Congress considered legislation that would have affected organic enforcement activities. Two proposals would have required USDA to periodically request public recommendations for changing the organic program and amending the program as appropriate (H.R. 5973 and S. 5335). Such recommendations would have likely included changes to enforcement activities given the interest on that issue in previous public meetings.⁸³

S. 5335 would have also required USDA to assess fraudulent organic claims for dietary supplements, which falls outside the enforcement authority of USDA.⁸⁴ It would have required USDA to assess any additional staffing and resource needs for NOP to expand organic standard enforcement to include dietary supplements. Additionally, the proposal would have required USDA to analyze the potential effects of “broadening the enforcement authority of NOP on domestic farmers, handlers, and consumers.”⁸⁵

The 118th Congress considered but did not pass an appropriations bill that would have addressed organic standards enforcement. The Senate Appropriations Committee report (S.Rept. 118-193) to accompany the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2025 (S. 4690), would have “encouraged” the USDA Office of the General Counsel to “prioritize the hiring of staff with expertise in the Organic Foods Production Act to address the backlog of organic standards updates within the National Organic Program.” It also would have directed AMS to provide NOP with the resources to “deliver the strongest possible oversight” of its standards and report on NOP’s expenditures on compliance and enforcement activities. AMS would have been directed to use appropriations to “seek strong enforcement of organic dairy production standards.”⁸⁶ The FY2025 House-reported Agriculture appropriations bill, H.R. 9027 (including H.Rept. 118-583), did not include specific direction to AMS regarding organic integrity or enforcement.

September 19, 2024, <https://www.wswa.org/sites/default/files/2024-09/Quill%20-%20Letter%20-L20906%20-%20USDA%20Ext%20of%20NOP%20SOE%20Rule%20-%202009-19-2024.pdf>.

⁸² “USDA’s Organic Program Sees Early Success but also New Compliance Challenges,” *S&P Global*, October 23, 2024 (requires subscription). A transshipment implies a product that is shipped from a country to a country that is an organic trade partner. One example mentioned in the article is organic products that are shipped into Canada and then imported into the United States.

⁸³ See NOSB meeting minutes and transcripts, available <https://www.ams.usda.gov/rules-regulations/organic/nosb/meetings>. For example, the meeting transcripts for spring and fall 2024 include discussion of enforcement and perspectives of the NOSB.

⁸⁴ S. 5335, §10008.

⁸⁵ S. 5335, §10008.

⁸⁶ S.Rept. 118-193.

Author Information

Zachary T. Neuhofer
Analyst in Agricultural Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.