

USDA Agricultural Marketing Service (AMS)
National Organic Program (NOP)

Strengthening Organic Enforcement (SOE) Final Rule Introduction

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Strengthening Organic Enforcement (SOE) Final Rule



Today's Points of Emphasis:

- Background
- What's in the Rule
- What's Next

Approaching the Rule:

- Think About Your Roadmap, Approach, and Goals
- Key: Critical Thinking and Project Management

Strengthening Organic Enforcement (SOE) Final Rule



Reduce the number of uncertified entities



Strengthen recordkeeping and supply chain traceability



Require use of electronic import certificates



Strengthen oversight of accredited certifiers



GOAL: Protect organic integrity and bolster consumer confidence in the USDA organic seal

Why Is SOE Needed?



Organic supply chains have become increasingly complex, leading to **documented cases of organic fraud and gaps in oversight.**



SOE implements provisions from the **2018 Farm Bill.**



The SOE final rule implements many **National Organic Standards Board** recommendations.

Who Does SOE Affect?



USDA accredited certifiers



Organic inspectors



Commodity brokers, traders,
exporters to the U.S., and
importers who are not certified
organic



Producers



Processors



Consumers

SOE Overview: Key Provisions



 Reduces the types of **uncertified entities**

 Requires **NOP Import Certificates**

 Clarifies the **NOP's authority to oversee certification activities**



Requires operations to:

- Improve recordkeeping and fraud prevention procedures
- Conduct supply chain traceability audits
- Share specific information
- Label nonretail containers to preserve organic identity and be traceable to records

Clarifies how operations:

- May submit changes to organic system plans
- Calculate the percentage of organic ingredients



Requires certifiers to:

- Issue standardized operation certificates from Organic Integrity Database
- Meet specific inspector qualifications and training requirements
- Conduct unannounced inspections of at least 5% of the operations they certify
- Complete mass-balance audits during inspections
- Verify traceability during inspections



- Establishes requirements for producer group operations (grower groups)
- Clarifies conditions and requirements for equivalence determinations with foreign government organic programs
- Clarifies that NOP may initiate enforcement action against uncertified operations
- Clarifies appeals and mediation processes

Highlighted Changes from Proposed Rule



PROPOSED RULE



FINAL RULE

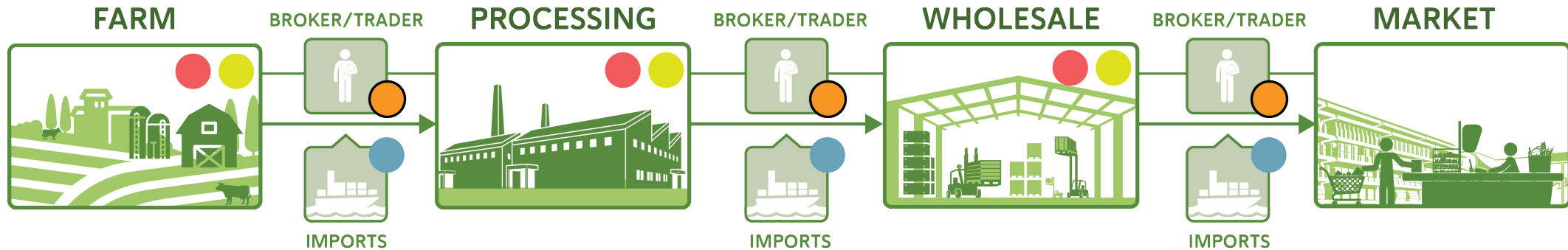
- Revised exemptions from certification to align better with Organic Foods Production Act.
- Clarified use of NOP Import Certificates and offered more certificate options to reduce paperwork burden.
- Simplified recordkeeping, traceability, and labeling requirements.
- Clarified the training/experience requirements for certifying agent personnel.
- Allowed livestock production in producer groups to be consistent with international standards.

Strengthening Organic Enforcement Final Rule:

“Overview of Amendments”

- A. Applicability and Exemptions from Certification
- B. Imports to the United States
- C. Labeling of Nonretail Containers
- D. On-Site Inspections
- E. Certificates of Organic Operation
- F. Continuation of Certification
- G. Paperwork Submissions to the Administrator
- H. Personnel Training and Qualifications
- I. Oversight of Certification Activities
- J. Accepting Foreign Conformity Assessment Systems
- K. Compliance and Noncompliance Procedures
- L. Mediation
- M. Adverse Action Appeal Process
- N. Producer Group Operations
- O. Calculating the Percentage of Organic Ingredients
- P. Supply Chain Traceability & Organic Fraud Prevention

A. Applicability and Exemptions from Certification



More types of businesses in the organic supply chain must be **certified organic**.



These may include **businesses engaged in buying, selling, or negotiating the sale of organic products**, such as:



- Commodity Brokers
- Traders



- Importers
- Exporters

A. Applicability and Exemptions from Certification



SOE **expands** the types of operations that must be certified.

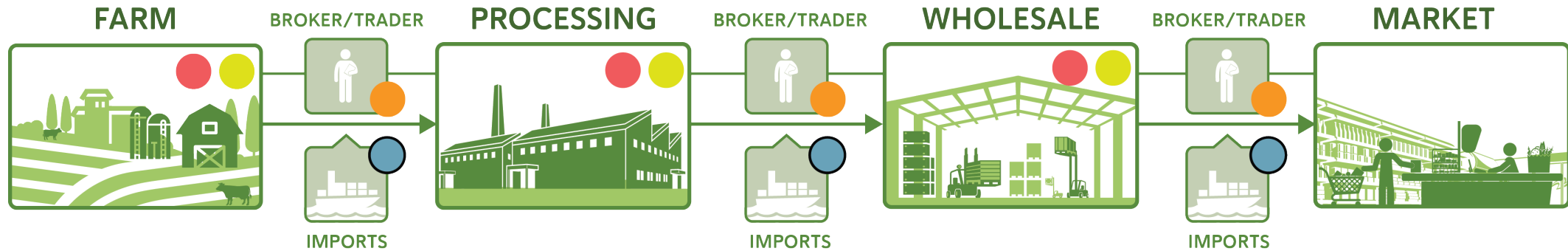
- Any operation that *produces or handles* organic products must be certified, unless they are exempt.
- *Handle* includes trade, export, import, or facilitate the sale or trade of an organic product.
- Some **supply chain intermediaries** that currently do not require certification, such as traders, commodity brokers, or importers, **must become certified**.

A. Applicability and Exemptions from Certification



- SOE allows **limited exemptions** for some low-risk businesses.
 - An operation with annual sales less than \$5000
 - A retail establishment that does not process the organic products, or only processes them at point of final sale
 - Some shipping and handling operations, under very limited conditions (e.g., they only handle products sealed in tamper-evident packaging)
 - Customs brokers
- Exempt businesses are only exempt from certification. They still have **handling and recordkeeping requirements**.

B. Imports to the U.S.: Electronic Import Certificates



Certifiers and operations must use the **electronic NOP Import Certificate** for organic products imported to the U.S.



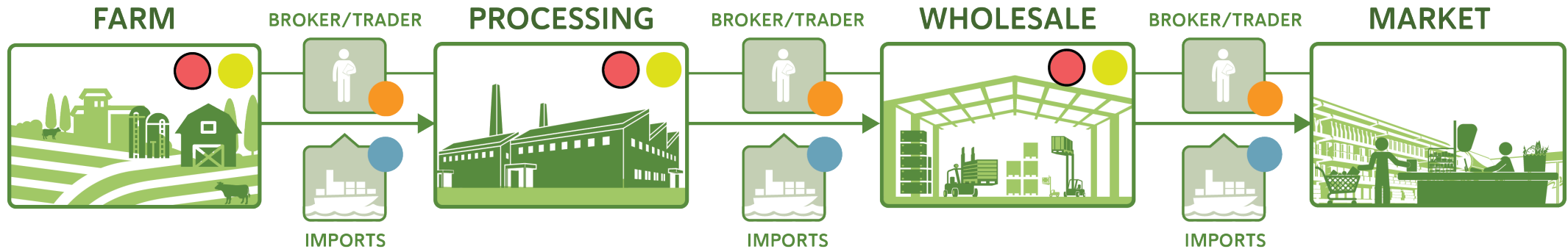
- The Import Certificate **provides traceability** to the port of entry and **ensures an auditable record trail**.
- Import certificates will be generated in NOP's **Organic Integrity Database** and entered into **CBP import system**.

B. Imports to the U.S.: Electronic Import Certificates



- Certifiers will generate the import certificates in the Organic Integrity Database, using requests provided by exporters to the U.S.
- This means some exporters outside U.S. will need to get certified, even if not required by that country's organic scheme.
- NOP will work with other country governments to facilitate inclusion of certifiers under other schemes in the Organic Integrity Database.
- Certificates may be issued that cover single or multiple shipments or a time period – issuances will depend on the certifiers' oversight system.
- NOP is building the technology now and will conduct training when launched – this will be during the implementation period.
- Certifiers need to focus on evolving their organic control systems to make sure that it only generates certificates for validated organic product.

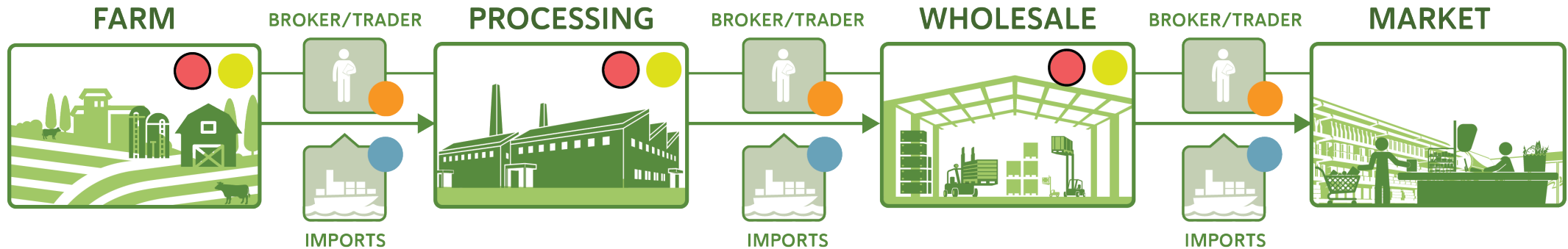
Clarify Recordkeeping Requirements



Certified operations:

- **Maintain records** that trace products back to the last certified operation (P)
 - This is another key benefit of getting everyone in your supply chain certified!
- **Document the monitoring practices** used to prevent fraud and verify suppliers and products (P)
- **Clearly identify** products as organic on records and labels (C, P)
- Submit **updates to OSPs** during certification renewal (F)

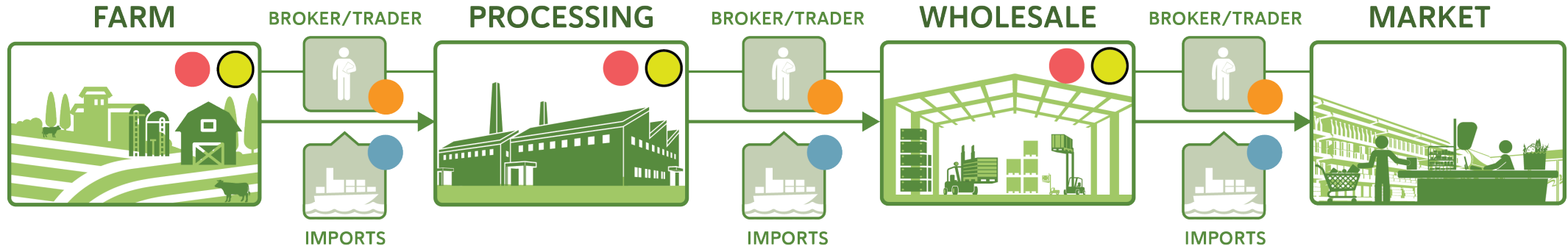
Clarify Certifier Oversight of Supply Chains



Certifiers:

- Describe the procedures used to **identify** operations and products at **high risk of organic fraud** (P)
- Conduct **supply chain traceability audits** to verify the compliance and chain of custody of high-risk products (P)
- **Share compliance-related information** about certified operations with other certifiers (P)
- Keep updated operation data – yes, including acreage! – in the **Organic Integrity Database** (G)

Clarify and Standardize Inspection Requirements



Certifiers:

- Conduct **unannounced inspections** of at least 5% of operations they certify annually (D)
- Conduct **mass-balance audits and verify product traceability** during on-site inspections (D)
- Conduct full on-site inspections **once per year** (F)
- Use inspectors and certification reviewers that meet **qualifications and training** requirements (H)
- Implement **grower group** requirements (N)

Other Regulatory Changes



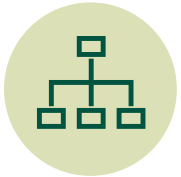
Codifies organic **equivalence determination** procedures (J)



Clarifies **mediation and appeals** processes and procedures for resolving noncompliance issues (K, L, M)



Standardizes **certificates** of organic operation (E)

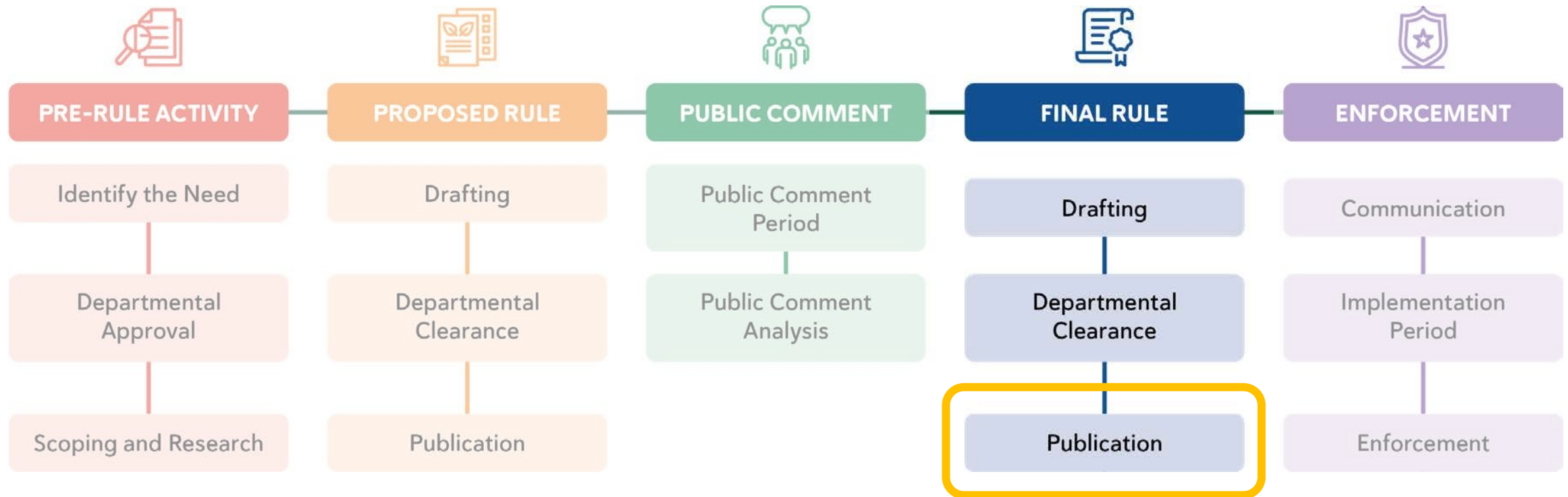


Strengthens oversight of certifier “**satellite offices**” (I)



Clarifies how to calculate the **percentage of organic ingredients** in multi-ingredient products (O)

All businesses must comply with the final rule 14 months after publication: **March 19, 2024.**



First Steps for Affected Organizations



Read the Rule

- Reading **what** and **why** points to **how**
- Determine **provisions** that apply to you

Assess Systems & Supply Chain

- Assess **control system** update needs
- Communicate need to **get certified** across supply chain

Design Implementation Plan

- Implement control system **updates**
- **Communicate, cascade, train, repeat**

Do You Need to Get Certified?



Adopt organic practices, select certifier, apply

Application Review

On-Site Inspection

Full Review for Compliance

Certification Approval or Denial

<https://www.ams.usda.gov/services/organic-certification/becoming-certified>

Start Soon to Complete Certification by March 19, 2024!

What NOP Will Be Doing in Implementation Period



EARLY

- Publicize rule publication
- Outreach to trade on need for certification
- Continue to develop import certificate technology (well underway!)
- Assess outreach and training needs for Learning Center
- Assess & begin updating NOP control systems across program

LATER

- Implement NOP control system updates
- Launch training where most needed
- Launch import certificate technology with certifiers & trade partners
- Update NOP Handbook and existing training
- Work with trade partners to update arrangements

We Also Continue to Protect Existing Regulations!



Training and
Outreach to Build
Capabilities

Surveillance
(Operations,
Certifiers, Sectors,
Countries)

Complaint
Investigations &
Resulting Actions

Certifier Directives,
Testing and Related
Actions

Loss of Certification
(Suspension,
Revocation) under
NOP

Legal Penalties
Covered by
Trademark
Protections

Significant
Fees and Fines
(Civil Penalties)

Prison Time

USDA
(Many Agencies)

Customs and Border
Protection (CBP)

Department of
Justice (DOJ)

Effectively Launching SOE – Part of NOP's 2023 Goals



Grow and develop the organic sector through transition initiatives and technical assistance



Develop and implement organic standards through open, transparent, collaborative processes



Protect organic integrity through strong oversight systems



Protect organic integrity through robust enforcement

Organic Integrity From Farm to Table



Consumers Trust the Organic Label

