Understanding Organic Fraud

Under the USDA organic regulations identifying and mitigating fraud is not optional; it is a federal requirement. This article introduces organic handlers to the reality of organic fraud, detailing who conducts it, its prevalence in the market, and the severe penalties for participation.

What You'll Learn

- The USDA definition of organic fraud and how it differs from a compliance mistake
- Conditions that make organic supply chains vulnerable to fraud, and who typically commits it
- Civil penalties, certification consequences, and criminal prosecution under the NOP enforcement framework
- Consequences for a handler who unknowingly buys fraudulent organic product
- What an Organic Fraud Prevention Plan (OFPP) must contain

Buyers pay a premium for certified organic products because they trust the USDA organic seal. When someone collects that premium without earning it, by substituting conventional goods, falsifying records, or forging certificates, the consequences don't stop with that person. They reach every handler who touches the product along the way.

The USDA defines organic fraud as the "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)).'"[1] Unlike a labeling error or miscategorization, fraud is deliberate.[2] The deliberateness of the act is what drives the severity of the penalties.

WHAT ORGANIC FRAUD LOOKS LIKE

Organic fraud takes several forms:[2]

- **Adulteration:** mixing conventional product into a certified organic load to increase volume without the added cost. This could happen at any point in the chain of custody: at storage, during transportation, and in facilities that handle both conventional and organic goods. It can be difficult to detect without testing.
- **Substitution:** selling conventional product as organic outright. The product may be identical in appearance to its organic counterpart, which is part of what makes this form of fraud hard to catch at the point of receiving.
- **Falsified records:** creating or altering documentation to support a fraudulent organic claim. This can include fabricated purchase invoices, manipulated inspection records, or altered entries in an Organic System Plan.
- **Fabricated certificates:** forging or altering an organic certificate to deceive a buyer. Because certificates can be emailed or printed, a forged document can look convincing. Verifying against the Organic Integrity Database (OID) is the only reliable check.

The common thread is intent. Getting a labeling category wrong is a compliance error. Buying conventional soybeans and selling them at organic prices is a federal crime.[2] The NOP's penalty structure reflects the difference: compliance errors are handled through corrective action and education; fraud triggers fines, loss of certification, and in serious cases, criminal prosecution.[3]

WHERE FRAUD TAKES PLACE

Perpetrators can range from uncertified brokers operating in the middle of opaque supply chains to large, established operations with industry-wide reputations.[2] Organic commands a significant price premium over conventional, and long, often complex supply chains could give fraudsters enough distance from their buyers that deception is harder to catch. The more hands a product passes through, the harder it could be for any one buyer to know what actually happened to it.[4]

The NOP requires that you verify your direct supplier's certification. If your supplier is a broker or trader, their certification needs to cover the trading or handling of that product, not just the organic product itself. You need to verify the entire supply chain back to the last certified entity that handled your delivery.[5] Verifying transportation records, including pickup and delivery addresses, and comparing that to invoice information and other onsite records can show where transactions are fraudulent.

A supplier's reputation, however long-standing, isn't a substitute for documentation. You need a paper trail that confirms what you bought, who you bought it from, and whether their certification covered that product.

That fraud ran for a decade, carried out by someone with deep community ties. It wasn't caught until the person brought in accomplices. The lesson isn't to suspect every supplier. It's that familiarity and trust aren't the same as verification.

"Fraud has been a pain in the development of organics since organic started … The guy that, according to the government, did $140 million of fraud over roughly 10 years … he started the day he went into organic … right here in the heartland of the United States, a deacon of the church, on the village board … And he got away with it until he recruited other people to help."

Lynn Clarkson
Owner
Clarkson Grain

LEARN MORE

See the article Building and Maintaining a Supplier Approval Program for more information on best practices for vetting suppliers.

WHERE FRAUD CONCENTRATES

Organic fraud does happen domestically, but the bulk of documented cases involve imported products. International supply chains can move product through multiple handlers across several countries before it reaches your receiving dock. More steps between the original producer and your operation means more opportunity for substitution or falsified records.[2]

Fraud may occur more often among commodities with a higher organic price premium, ones that sell in large volumes, or where adulteration is hard to detect without testing.

Grains and oilseeds, such as soybeans and corn, are shipped in large enough quantities that a fraudster can mix conventional product into a certified organic load without significantly changing its appearance. The price premium on organic grain is substantial, and standard grain testing doesn't reliably distinguish conventional origin.

Herbs, spices, and olive oil share a similar profile: high value, often imported through multitier supply chains, and difficult to test conclusively. Berries are more at risk of potential fraud because they are high value, often sourced from many small producers across different countries, and documentation requirements can be applied inconsistently across certifying agents in different jurisdictions.

If you source any of these from import channels, design a rigorous verification protocol in your supplier approval process. The fraud history doesn't mean you can't buy them. It means you need stronger documentation. As a regulatory measure to combat fraud, all imported organic products require an NOP Import Certificate generated from the OID.

"When I think about where all of the scrutiny is in the organic world, more than half, more than probably 80-90% is on the imported market. We see the most fraud coming in from imports … [where] you just see the most opaque supply chains."

Nate Powell-Palm
Founder
Powell-Palm Ag Services LLC

LEARN MORE

Importing Organic Products is covered in full detail in Chapter 10 of this Guide.

THE PENALTIES

Civil penalties for knowingly selling or labeling nonorganic products as organic can be quite severe, ranging in amount according to the specific infractions, and each fraudulent transaction can be counted separately.[6] These penalties are assessed at the federal level and can accumulate quickly when multiple sales are involved. Refer to 7 CFR §3.91 for more information on monetary penalties.

Certification consequences follow a separate track. When a certifying agent or the NOP identifies a serious noncompliance, the process typically begins with a Notice of Noncompliance. If the problem isn't corrected, or if the violation identifies systemic concerns or willful misrepresentation, the certifying agent may issue a proposed suspension. The operation has the right to due process, to appeal and/or mediate the proposed suspension. However, once suspended, an operation may not sell, label, or represent products as organic for the duration of the suspension.[7]

Revocation is the termination of organic certification for a period of five years. The key difference from suspension is permanence: certification can be reinstated if the suspended operation corrects the problem; revocation ends the certification entirely. Once revoked, the operation, along with anyone "responsibly connected" to it, cannot reapply for certification for five years. Revocation can be pursued directly for the most serious violations.[7]

HANDLER TIP

"Responsibly connected" means more than the person who signed the paperwork. Under the USDA organic regulations, a "responsibly connected" is "any person who is a partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification or accreditation."[9] If a company loses its certification through revocation, those individuals may be barred from reapplying for certification for five years, even if they weren't directly involved in the fraud. If you have ownership or management responsibility in a certified operation, what happens to the certification is also personal to you.

Under the Organic Foods Production Act, knowingly making a false statement to the Secretary, a State organic program official, or a certifying agent triggers criminal statutes. When violations involve federal crimes like wire or mail fraud, the NOP may work with the Office of Inspector General on criminal prosecution. Under 18 U.S.C. §1001, a false statement to a federal official can also mean fines and imprisonment.[8]

The Reach of NOP Enforcement

Financial	Certification	Criminal
Civil Penalties **Substantial monetary penalties per 7 CFR §3.91.** **Each fraudulent sale may be counted as a separate violation.**	**Suspension / Revocation** **Suspension: Operation may not sell, label, or represent products as organic. Remains in effect unless reinstated.** **Revocation: Certification terminated. Operation and all responsibly connected persons (partners, officers, directors) barred from reapplying for five years.**	**OIG Referral & Federal Charges** **When violations involve wire or mail fraud, the NOP refers the case to the Office of Inspector General for criminal investigation. A false statement to a federal official carries potential fines and imprisonment under 18 U.S.C. §1001.**

COLLATERAL RISK

Buying fraudulent product, even without knowing it, has real consequences. If an ingredient you purchased turns out to be fraudulent, your finished products can be stripped of their organic status. Not knowing the ingredient was fraudulent isn't a defense. You must have a robust verification process in place to catch organic fraud before making purchases. It is your responsibility to know your supply chain.

"I did have an instance early on … We had bought some grain from a broker. The broker said it was certified organic. They gave us an organic certificate. The gist of it was somebody was cheating. It was not organic grain; it was being sold as organic grain … There will always be cheaters who try to make money fraudulently. So I learned from that moment on that I only wanted to buy from farmers that I knew … I would say 'know your farmer, know your supply."

Jill Brockman
Mill Manager
Janie's Mill

Brockman's experience highlights an important point: a certificate handed to you by a supplier is not the same as a verified one. Checking it against the Organic Integrity Database, requiring a Certificate Addendum for processed ingredients, and keeping documented supplier records are what protect you if a problem surfaces later.

YOUR DUTY TO REPORT

Your obligation under the USDA organic regulations doesn't stop at keeping fraud out of your own operation. Once certified, you must report updates to your certifier, including supplier changes. In addition, the regulations require certifiers to report credible evidence of organic fraud.[10] While deciding not to buy from a questionable supplier and moving on satisfies the requirement to prevent fraud on your operation, it is a best practice to report known violations to your certifier so they can do their part to root fraud out of the organic industry. You can also file a voluntary complaint directly with the NOP.

Proof of fraud is not required to have a credible concern that fraud is occurring. A credible concern means a specific, documented basis for suspicion: a certificate that covers a product the supplier wasn't certified to sell; an invoice that doesn't match the supplier name in the OID record; suddenly available supply during a known organic shortage; a price significantly below the organic market rate with no explanation. If you have that kind of specific, documented discrepancy, you're encouraged to act on it.

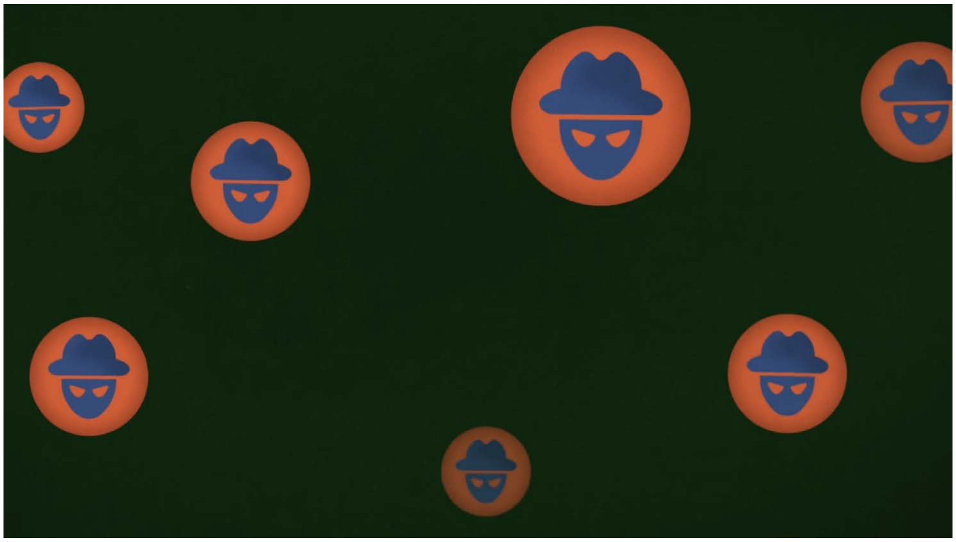
Filing a complaint with the NOP triggers a review by its enforcement staff. Your identity can be protected, and you aren't required to have conducted your own investigation before filing. You're providing information; the NOP decides whether and how to pursue it. Before you file, document what you observed, note the specific records or discrepancies that raised the concern, and keep copies of any relevant certificates or invoices.

HANDLER TIP

If you spot a red flag, such as a certificate that doesn't match the OID, a price that seems too low for certified organic, or a supplier selling outside their certified scope, do your part and report it if the evidence points to fraud.[11] Learn more in the article Ongoing Monitoring and Reporting Suspected Fraud.

"Pay attention and follow the strings when you have concerns. If you as a business identify a concern and you ignore it, you are responsible for the consequence of that action … If you have an issue in your supply chain and you fail to pay attention to it, monitor it, make adjustments and/or report it, if you have a concern that it's fraud, you have just violated a federal regulation."

Johanna Phillips
Director of Business Development and Regulatory Affairs
Strengthening Organic Systems



LEARN MORE

To file a fraud complaint with the NOP, visit ams.usda.gov/services/enforcement/organic/file-complaint.

THE ORGANIC FRAUD PREVENTION PLAN

The USDA organic regulations require every certified operation to maintain a written Organic Fraud Prevention Plan (OFPP) as part of its Organic System Plan (OSP). It's a planning document, not a response plan. You're required to identify where fraud could enter your operation and put controls in place before something goes wrong.[11]

The regulation specifies three things an OFPP must address.[11] First, how you verify that the organic products and ingredients you purchase are legitimately certified, such as your process for checking the OID, reviewing certificates, and confirming that the supplier's certification scope covers what they're selling you. Second, how you verify that what you actually receive matches what you ordered and what the certification covers, and that all products are identified as organic on receiving paperwork. Third, how you prevent fraudulent products from entering your supply chain, such as who is authorized to approve suppliers and what happens when something looks wrong. These three areas map directly onto the supplier verification, receiving inspection, and fraud response components your certifier will look for when reviewing your OSP.

"Sadly, there are some bad actors out there, and it really takes the supply chain to be able to identify when there is fraud and act quickly so it doesn't perpetuate through the supply chain. So, requiring a fraud prevention plan from all these handlers … is really key to the integrity of the organic seal."

Mike Dill
Director of Advocacy and Sustainability
Organically Grown Company (OGC)

CONCLUSION

Organic fraud shows up regularly in supply chain segments many handlers use. The penalties for getting caught up in it, even as a buyer who didn't know, are serious. Protect yourself and help protect the organic industry by thoroughly verifying all organic products you purchase. Ensure you provide complete documentation for all products you sell forward into the supply chain to help your buyers. The rest of this chapter covers what you're required to have in place and what to do when something looks wrong. The integrity of the organic industry rides on preventing and rooting out fraud.

LEARN MORE

More information on what an OFPP must contain and how to document your prevention controls is covered in the article Building an Effective Organic Fraud Prevention Plan.

ACTION ITEMS

- Flag any current suppliers of high-risk commodities for focused verification.
- For any new supplier, check their certification in the Organic Integrity Database before placing your first order.
- Confirm the certificate matches what you are buying.
- If you are already certified, confirm your Organic System Plan includes a written Organic Fraud Prevention Plan. If it doesn't, add it to your list of items to address at your next certification review.
- Bookmark the NOP fraud complaint portal (ams.usda.gov/services/enforcement/organic/file-complaint) so you have it ready if a concern comes up.
- Follow up on any discrepancies and document your action.

SOURCES CITED

1. USDA National Organic Program, 7 CFR §205.2 ("Organic Fraud").

2. Organic Trade Association. *Organic Fraud Prevention Solutions Guide: A Guide to Developing an Organic Fraud Prevention Plan.* Retrieved from https://ota.com/sites/default/files/legacy/indexed_files/ExecSummary-OTA-GOSCI-Guide-0304.pdf

3. U.S. Department of Agriculture, Agricultural Marketing Service. (2024, March 20). *NOP 4002 Enforcement of the USDA Organic Regulations: Penalty Matrix.* Retrieved from https://www.usda.gov/guidance-documents/nop-4002/ams/enforcement-usda-organic-regulations-penalty-matrix

4. U.S. Department of Agriculture, Agricultural Marketing Service. *NOP-100 Organic Fraud and the Criminal Mind.*

5. USDA National Organic Program, 7 CFR §205.103(b)(2).

6. U.S. Department of Agriculture, 7 CFR §3.91(b)(1)(xxxvi).

7. USDA National Organic Program, 7 CFR §205.662(f).

8. United States Code, 18 U.S.C. §1001.

9. USDA National Organic Program, 7 CFR §205.2 ("Responsibly connected").

10. USDA National Organic Program, 7 CFR §205.504(b)(2).

11. USDA National Organic Program, 7 CFR §205.201(a)(3).

DIG DEEPER

1. Organic Trade Association. *OTA Fraud Complaint Template.* Retrieved from https://ota.com/sites/default/files/legacy/indexed_files/OrganicFraudPreventionSolutions_ComplaintTemplate.pdf

2. Organic Trade Association. (2023). *Organic Fraud Prevention Guide: Ensuring Global Organic Supply Chain Integrity.* Retrieved from https://ota.com/sites/default/files/legacy/indexed_files/OrganicFraudPreventionGuide_OrganicTradeAssociation%20-%202023%20Update.pdf

3. U.S. Department of Agriculture, Agricultural Marketing Service. *Organic Enforcement Activity.* Retrieved from https://www.ams.usda.gov/services/enforcement/organic-enforcement-activity

4. U.S. Department of Agriculture, Agricultural Marketing Service. *Organic Fraud Complaint Filing Portal*. Retrieved from https://www.ams.usda.gov/services/enforcement/organic/file-complaint

5. U.S. Department of Agriculture, Agricultural Marketing Service. *Organic Integrity Database.* Retrieved from https://organic.ams.usda.gov/integrity/

United States Department of Agriculture
Agricultural Marketing Service
National Organic Program