



WEBINAR SERIES

# How To Be Ready For the USDA's New "Strengthening Organic Enforcement (SOE)" Rule



ReposiTrak

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# NGA/ReposiTrak Traceability Resource Center

ReposiTrak is the **official compliance and traceability partner** of the National Grocers Association

<https://www.nationalgrocers.org/m/repositrak/resources/>

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## TRACEABILITY RESOURCE CENTER

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**FSMA 204 is Here. Are you ready?**

The FDA's final rule on traceability – the Food Safety Modernization Act Section 204(d) or FSMA 204 – has changed the records management requirements of every shipment and delivery for every food store, restaurant, foodservice company, restaurant and distribution company in the country.

Privacy - Terms

# Presenter



ReposiTrak

**Derek Hannum**

*Chief Customer Officer*  
ReposiTrak



The ReposiTrak Traceability Network®

# **How To Be Ready For the USDA's New "Strengthening Organic Enforcement (SOE)" Rule**

Understanding the new rule's requirements for  
traceability and documentation  
February 15, 2024

**REPOSITRAK.COM**

# Purpose of the SOE Rule

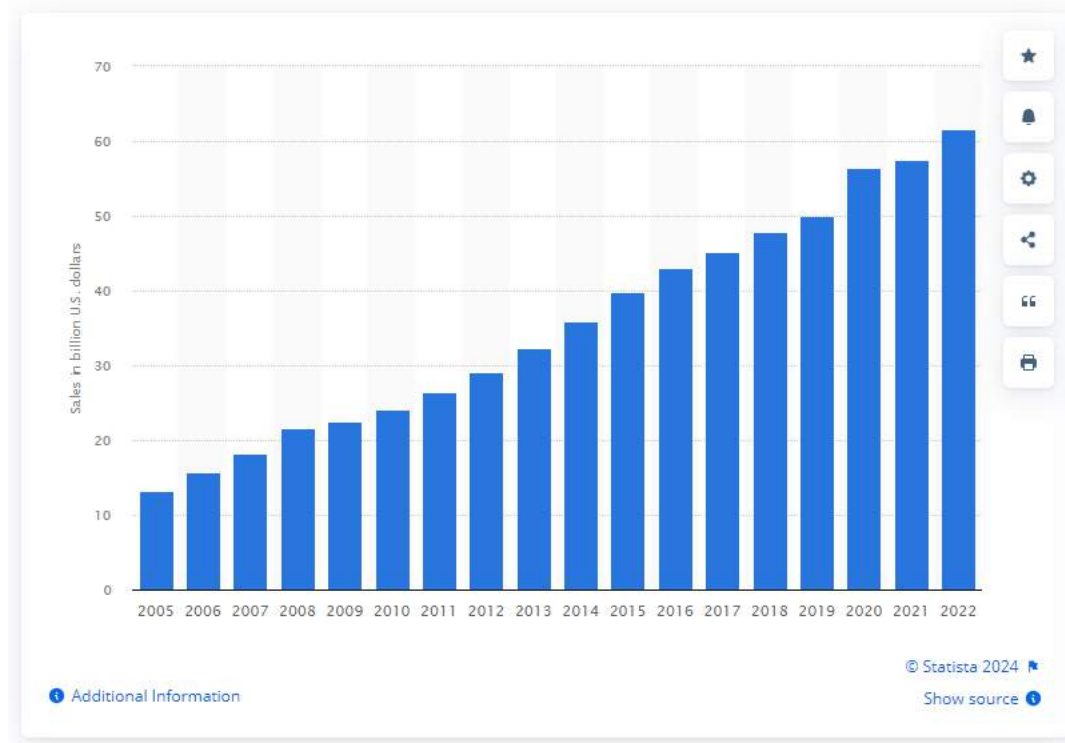
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- The USDA's Strengthening Organic Enforcement (SOE) rule aims to enhance oversight and enforcement of the production, handling, and sale of organic products and prevent economic fraud.
- Focuses on improving organic control systems, farm-to-market traceability, and enforcing organic regulations more robustly.
- Most significant update to organic regulations since the original Organic Foods Production Act of 1990.



# Growth in Demand Has Created More Fraud

Organic food sales in the United States from 2005 to 2022  
(in billion U.S. dollars)



© Statista 2024

Show source

<https://www.statista.com/statistics/196952/organic-food-sales-in-the-us-since-2000/>

# “Why” and “Who”

## Why is SOE Needed?

Organic supply chains have **become increasingly complex, reducing transparency** in the market and leading to **documented cases of organic fraud**.

## Who is Impacted by SOE?

- USDA accredited certifying agents
- Organic inspectors
- Producers
- Processors
- Brokers, traders, exporters, and importers who are not certified organic

The SOE rule **protects organic integrity and bolsters consumer confidence in the USDA organic seal.**



The final SOE rule:

-  **Reduces** the number of uncertified entities in the organic supply chain.
-  **Requires** use of electronic import certificates.
-  **Strengthens** recordkeeping and supply chain traceability.
-  **Clarifies** AMS's authority to oversee and enforce organic trade.
-  **Strengthens** oversight of accredited certifying agents.



# “When” and “What”

## SOE History

### Proposed Rule

- SOE implements three provisions from the 2018 Farm Bill.
- SOE implements many National Organic Standards Board recommendations.
- Published as proposed rule in October 2020.

### Public Comment

- 60-day public comment period.
- 1,525 comments received.

### Final Rule

- Policy updated based on public comment.
- Final rule published in **January 2023**.

### Enforcement

- 14-month implementation period.

- The rule covers all organic products, requiring more businesses in the organic supply chain, like brokers and traders, to be certified.
- It mandates NOP Import Certificates for all organic imports and necessitates organic identification on nonretail containers.

**Deadline for compliance is less than 1 month away!**

# Resources from USDA AMS

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*Except for...exempt operations...each operation...that produces or handles [organic] agricultural products must be certified.*

## Defining the term "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.*

 Agricultural Marketing Service  
U.S. DEPARTMENT OF AGRICULTURE

## **Strengthening Organic Enforcement (SOE)**

### Final Rule Primers

Final Rule available at: [www.ams.usda.gov/rules-regulations/strengthening-organic-enforcement](http://www.ams.usda.gov/rules-regulations/strengthening-organic-enforcement)  
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# Exemptions

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- **Small Producers:** Operations with organic sales totaling \$5,000 or less annually.
- **Retail Establishments:** Retailers that do not process organic products, including most grocery stores.
- **Retail Processors at Point of Final Sale:** Retail establishments that process organic products at the point of final sale (like restaurants and stores that prepare food on-site).
- **Handlers of Products with Less than 70% Organic Ingredients:** Handling operations that only handle agricultural products containing less than 70% organic ingredients or that only identify organic ingredients on the information panel.
- **Storage Operations with Sealed Packaging:** Operations that only receive, store, and ship organic products enclosed in sealed tamper-evident packages or containers.
- **Wholesalers with Sealed Retail-Packaged Products:** Wholesalers that only sell organic products labeled for retail sale and enclosed in sealed tamper-evident packages or containers.
- **Customs Brokers:** Customs brokers that only conduct customs business.
- **Logistics Brokers and Transporters:** Operations that only arrange for the shipping, storing, transport, or movement of organic agricultural products.

# Traceability Requirements

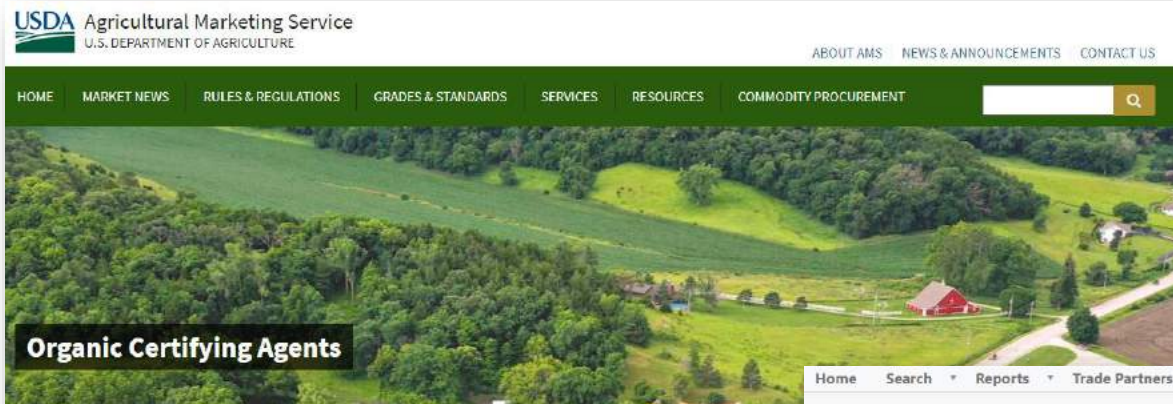
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- **Supply Chain Traceability Audits:**
  - Certifiers must conduct risk-based supply chain traceability audits to verify the compliance of agricultural products with organic regulations.
  - These audits aim to trace products across multiple supply chain links, ensuring traceability between operations.
- **Onsite Inspection Requirements:**
  - Onsite inspections must verify that organic products and ingredients are traceable from the time of purchase or acquisition through production to sale or transport, ensuring compliance back to the last certified operation.
  - Inspections must assess the internal control system's compliance, including a review of internal inspections and conducting witness audits of internal control system inspectors.
  - Certifiers are required to perform mass-balance or “in-out” audits during full annual onsite inspections to confirm that inputs match outputs, which helps in detecting and discouraging fraud.
- **Recordkeeping for Traceability:**
  - Operations must fully disclose all activities and transactions in sufficient detail to be readily understood and audited.
  - Records must span from the time of purchase or acquisition through production to sale or transport and be traceable back to the last certified operation.
  - All records must be maintained for no less than 3 years beyond their creation, and the operations must allow representatives of the Secretary and the applicable State organic programs’ governing State official access to these records for inspection and copying during normal business hours.

# USDA SOE vs FDA FSMA 204

Topic Area	USDA's SOE Rule	FDA's FSMA 204 Rule
<b>Scope and Focus</b>	Targets organic products; strengthens oversight and enforcement of organic production and handling	Broader focus on general food safety; applies to a range of FTL food products
<b>Certification Requirements</b>	More businesses in organic supply chain require certification	Does not require certification; focuses on maintaining records for FTL Foods
<b>Import Requirements</b>	NOP Import Certificates required for all organic imports	Enhanced tracking and documentation for imported foods, but no specific import certificates
<b>Traceability Methodology</b>	Emphasizes traceability from farm to market, focusing on organic integrity	Focuses on 'critical tracking event' and 'key data element' approach, targeting points in supply chain with highest risk of foodborne illness
<b>Product Labeling</b>	Requires organic identification on nonretail containers	No specific labeling related to food safety; requires records for tracking of FTL Foods
<b>Enhanced Traceability</b>	Yes	Yes
<b>Recordkeeping Requirements</b>	Yes 36 months	Yes 24 months
<b>Focus on Supply Chain Integrity</b>	Yes, specifically for organic products	Yes, for a broader range of food products
<b>Audit and Inspection</b>	Yes	Yes

# Find A Certifying Agent



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Nearly 80 agents are currently authorized to certify farms and businesses to certifying agents are allowed to certify farms and businesses anywhere in the country. You can choose to work with any USDA-accredited certifying agent.

To help you find a certifying agent, the Organic INTEGRITY Database (INTEGRITY) Certifier Locator is updated regularly by the National Organic Program and the Organic Integrity database, it provides the most accurate information about accredited certifying agents.

Once you click the "Locator" button, INTEGRITY opens the "Certifier Locator" and search field to find one or more certifiers. You can use the navigation buttons on the left to list or export search results to an Excel spreadsheet. For questions regarding the Certifier Locator, please contact the National Organic Program at the right of the page; otherwise, please contact individual certifying agents for more information.

[Organic Certifier Locator](#)

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Drag a column header and drop it here to group by that column

Program	Certifier	Info	Headquarters State/Province	Headquarters Country
USDA-NOP	Enter Certifier Acronym or Name...			
USDA-NOP	<a href="#">[ACD] ACO Certification Ltd.</a>	1	Queensland	Australia
USDA-NOP	<a href="#">[ASCO] Agricultural Services Certified Organic</a>	1	California	United States of America
USDA-NOP	<a href="#">[AI] Americert International</a>	1	Florida	United States of America
USDA-NOP	<a href="#">[BOS] Baystate Organic Certifiers</a>	1	Massachusetts	United States of America
USDA-NOP	<a href="#">[BIOL] Bio Latina S.A.C.</a>	1		Peru
USDA-NOP	<a href="#">[BIQ] Bio Insecta</a>	1		Switzerland
USDA-NOP	<a href="#">[BAC] BioAgriCert</a>	1	Bologna (BO)	Italy
USDA-NOP	<a href="#">[BIQH] Bio-Hellas S.A.</a>	1		Greece
USDA-NOP	<a href="#">[CAAE] CAAE Certification Service</a>	1	Andalucia	Spain
USDA-NOP	<a href="#">[CAST] CAJASCERT LLC</a>	1		Georgia

1 - 10 of 15 items

# Steps to take NOW

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## **Certified Organic Product Suppliers**

1. Evaluate your non-retail packaging for traceability compliance.
2. Integrate the work into a broader traceability system....some customers are tracing all food products.
3. Make sure your management team understands the risk of customer fragmentation and look for technical solutions that require little to no new work or cost for you or your customers.

## **Wholesalers/Distributors/Self-Distributed Retailers Handling Organic Products**

1. If you aren't exempt, get certified.
2. Identify the products and suppliers you need to track/trace...this is not easy!
3. Identify the DC/warehouse systems and processes that need to change.
4. Identify and establish the human and technology infrastructure required to support traceability.

**Currently...**

**2,000+**

Suppliers in  
Queue

**25+**

DCs/Warehouses

**5,000+**

Retail Stores

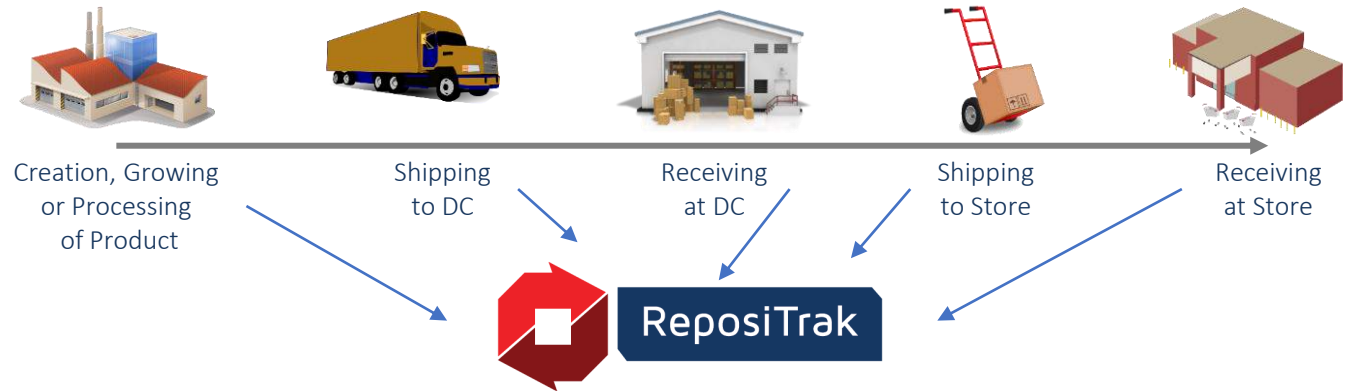


The ReposiTrak Traceability Network<sup>®</sup>

**Others are talking about FSMA 204 food traceability,  
but ReposiTrak is doing it.**



The same  
traceability  
technology used  
today that tracks  
millions of items  
into stores,  
annually!



- **ReposiTrak Gathers Electronic Documents**

- We gather normally incompatible information into our system via electronic documents currently being used today when a product moves from shipper to receiver (ASNs, BOLs, etc.)

- **ReposiTrak Extracts and Maintains all Data Elements**

- We **extract all data elements** from the documents and **maintain them with** their shipper and receiver relationships
- We require **no special data formats** or communication type, we can translate from ANY format and have been for over 20 years
- Some of the KDEs are NOT found today on labels or in standard barcodes

- **ReposiTrak Creates the NEW Required Record**

- We **combine required KDEs** from multiple documents sourced from both the shipper and the receiver and create the new record required by FDA





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Questions?



ReposiTrak

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# Thank You

