



Guidance

Certification Requirements for Handling Unpackaged Organic Products

Links Update: September 5, 2018

1. Purpose

This guidance document describes the certification requirements for operations that handle unpackaged organic products.

2. Scope

This guidance applies to all accredited certifying agents, certified organic producers and handlers, and non-certified handlers of certified organic products. This guidance does not apply to handling operations that are retail food establishments.

3. Background

The U.S. Department of Agriculture (USDA) organic regulations require handlers of organic products to be certified unless specifically exempt or excluded. (See [§ 205.101\(b\)](#)). In an October 2010 recommendation, the National Organic Standards Board (NOSB) expressed concern that certain products were moving through unregulated segments of the marketing chain. The NOSB recommendation noted that noncertified brokers, distributors, and traders lack the regular oversight of accredited certifying agents and the USDA National Organic Program (NOP), opening the door for conventional products to be mislabeled as organic.

To address this, the NOSB requested that the NOP clarify that only operations that receive and distribute products in the same container—without opening, relabeling or otherwise processing them—are excluded from the certification requirements of the regulations. In its recommendation, the NOSB stated that handlers of unpackaged organic products, such as grain, soybeans, hay, milk, and livestock, are not excluded from certification unless they meet these criteria.

The NOP is issuing this guidance in response to the NOSB recommendation to explain how the exclusion applies to different types of handling operations, including those that handle unpackaged organic products.

4. Policy

4.1 An operation is excluded from certification if:

- *It only* handles organic products that are *enclosed in a package or container*;
- *The products remain* in the same package or container for the entire period handled; and
- It does not process organic products.



In other words, the excluded operation must receive certified organic products in wholesale or retail containers and distribute them in the same wholesale or retail containers without opening, reconstituting, altering, repackaging, processing, or relabeling the products.

Examples of operations that are excluded and do not need to be certified:

- Wholesale distributors, brokers, and traders that sell boxed or otherwise sealed containers of certified organic products (e.g., sealed tote bags, 55 gallon juice drums, boxed cereal, milk in cartons);
- Trucking or other transportation companies that transport boxed or otherwise sealed containers of certified organic products; and
- Produce handlers who do not open, repack, trim, or relabel certified organic products (e.g., bagged salad greens, boxed produce).

4.2 An operation that transports unpackaged organic products does not need to obtain certification if it does not handle (i.e., sell, process, or package) organic products.

The certified organic operation responsible for the organic products that are transported must:

- Maintain records in sufficient detail as to be readily understood and audited;
- Maintain the audit trail and traceability of organic products;
- Prevent commingling and contamination of the certified organic products during transportation;
- Fully describe the transportation practices in the organic system plan; and
- Ensure that the transportation records for organic products are available for inspection.

Examples of operations that do not need to obtain certification include:

- Transportation companies that move certified organic hay or straw (wrapped or unwrapped) or milk from a certified organic farm to a certified organic buyer or processing facility;
- Transportation companies that transport certified organic grain from certified operations to a certified handling facility; and
- Transportation companies that move certified organic livestock from a certified organic farm to a certified organic slaughter facility.

4.3 An operation that handles unpackaged organic products (other than transporting), and is not an exempt or excluded handling operation, must be certified.

Examples of operations that handle unpackaged organic products and must be certified:

- Operations that handle certified organic hay or straw (wrapped or unwrapped) by combining or splitting loads or lots;
- Operations that handle unpackaged grain, including combining or splitting loads or lots, package, or otherwise handle the product other than for transport; and



- Fruit and vegetable wholesalers that package or label containers of certified organic produce for sale as organic.

4.4 Additional requirements

All handling operations, whether certified or not, must prevent commingling with nonorganic products and contact with prohibited substances. (See [§ 205.272](#).)

Handlers that handle unpackaged organic products must maintain adequate records.

Examples of records documenting compliance with the USDA organic regulations:

- Clean truck affidavits, records of cleaning and sanitizing materials, and procedures used to clean trucks;
- Bills of lading, manifests, transaction certificates, shipping records, delivery records, invoices, lot numbers, and other audit trail documents; and
- Records documenting the audit trail, chain of custody, tanker seals, wash tags, truck and trailer numbers.

4.5 Compliance

This policy ensures that certifying agents have appropriate oversight over unpackaged organic products from initial production to final sale. Certifying agents must ensure that certified producers and handlers receive hay, grain, milk, livestock, or other unpackaged organic products via handlers who are in compliance with [§ 205.101\(b\)](#) of the regulations and meet the specifications described in this guidance document.

Unpackaged certified organic products that are handled (other than transported) by an uncertified, non-retail operation lose their certified organic status and may no longer be sold, labeled or represented as organic. Handlers currently engaged in brokering, trading or distributing organic products beyond the exclusions provided in [§ 205.101\(b\)](#) are not in compliance with the USDA organic regulations and may be subject to civil penalties of up to \$11,000 pursuant to [§ 205.100\(c\)\(1\)](#).

Certified organic operations that receive unpackaged products from uncertified handlers and subsequently label the products as organic, use as feed for organic livestock, or use as ingredients for organic products are in violation of USDA organic regulations, and may be subject to proposed suspension or revocation of certification and possible civil penalties. Certifying agents are required to ensure producers and handlers receive hay, grain, milk, livestock, or other unpackaged organic products from a certified organic operation.



5. References

USDA organic regulations ([7 CFR Part 205](#))

§ 205.2 Terms defined.

Audit trail. Documentation that is sufficient to determine the source, transfer of ownership, and transportation of any agricultural product labeled as “100 percent organic,” the organic ingredients of any agricultural product labeled as “organic” or “made with organic (specified ingredients)” or the organic ingredients of any agricultural product containing less than 70 percent organic ingredients identified as organic in an ingredients statement.

Commingling. Physical contact between unpackaged organically produced and nonorganically produced agricultural products during production, processing, transportation, storage or handling, other than during the manufacture of a multi-ingredient product containing both types of ingredients.

Handle. To sell, process, or package agricultural products, except such term shall not include the sale, transportation, or delivery of crops or livestock by the producer thereof to a handler.

Handler. Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.

Handling operation. Any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

Lot. Any number of containers which contain an agricultural product of the same kind located in the same conveyance, warehouse, or packing house and which are available for inspection at the same time.

Organic system plan. A plan of management of an organic production or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production or handling described in the Act and the regulations in subpart C of this part.

Processing. Cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.



§ 205.100 What has to be certified.

...

(c) Any operation that:

- (1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than 3.91(b)(1)(xxxvii) of this title per violation.

§ 205.101 Exemptions and exclusions from certification.

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(b) *Exclusions.* (1) A handling operation or portion of a handling operation is excluded from the requirements of this part, except for the requirements for the prevention of commingling and contact with prohibited substances as set forth in § 205.272 with respect to any organically produced products, if such operation or portion of the operation only sells organic agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” that:

- (i) Are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and
- (ii) Remain in the same package or container and are not otherwise processed while in the control of the handling operation.

§ 205.272 Commingling and contact with prohibited substance prevention practice standard.

- (a) The handler of an organic handling operation must implement measures necessary to prevent the commingling of organic and nonorganic products and protect organic products from contact with prohibited substances.

NOSB Recommendations

[NOSB Final Recommendation, October 2010. Clarifying the Limitations of § 205.101\(b\).](#)

Approved on January 17, 2014