



## **Interim Instruction Maintaining the Integrity of Organic Imports**

### **1. Purpose and Scope**

This instruction explains the current requirements of the U.S. Department of Agriculture's (USDA) organic regulations (7 CFR Part 205) for USDA-accredited certifying agents (certifiers) engaged in the oversight of organic products imported into the United States. It also recommends best practices and provides examples that certifiers may use in order to comply with the existing regulations. This instruction details the certification requirements and documentation needed to import organic products into the United States, certifiers' responsibilities in reviewing or issuing import related documents, and handling instructions needed to maintain the organic integrity of imported organic products.

This instruction applies to all USDA-accredited certifiers and accredited certifiers authorized to operate under USDA organic recognition and equivalency arrangements.

### **2. Background**

The USDA's Agricultural Marketing Service (AMS), National Organic Program (NOP), facilitates international trade of organic products by authorizing organizations around the world to certify farms and businesses to the USDA organic regulations, and by establishing trade arrangements with foreign countries. Foreign operations are subject to the same requirements as domestic operations, and organic products verified to be in compliance with the regulations or equivalency arrangements can be imported for sale into the United States.

International trade of organic products is steadily growing. International supply chains for organic products can be complex, often involving multiple businesses (certified and uncertified) working across international borders. With this growth and complexity have come questions about certifiers' responsibilities under the regulations for oversight and verification of organic products imported into the United States.

The USDA organic regulations at 7 CFR 205.402(a)(2) and § 205.403(c) require certifiers to evaluate each organic operation's Organic System Plan (OSP), verify an operation's compliance with record keeping requirements, and conduct annual on-site inspections. Operations are responsible for maintaining records concerning production, harvesting, and handling of organic product (7 CFR 205.103(a)) and maintaining an appropriate recordkeeping system as part of their OSP (7 CFR 205.201(a)(4)). Certifiers must ensure that organic operations maintain records that document a complete audit trail from the imported product back to the last operation that produced, processed, or packaged the product, in order to demonstrate compliance with the regulations (7 CFR 205.103(b)(4)).



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## USDA Certification

USDA-accredited certifiers may certify organic producers and handlers under the USDA organic regulations. USDA-accredited certifiers may be domestic or foreign entities, public or private organizations, that comply with the accreditation requirements for certifiers under the USDA organic regulations. USDA-accredited certifiers operate in the U.S. and in many foreign countries, directly certifying organic producers or handlers under the USDA organic regulations.

## Equivalency Arrangements

AMS establishes equivalency arrangements with other countries to facilitate organic trade. Equivalency arrangements allow certified organic operations in the two designated countries (for example, Canada and the U.S.) to sell their products as organic in either country. As of May 2017, AMS has established equivalency arrangements with Canada, the European Union (member states), the Republic of Korea, Japan, and Switzerland.

## Recognition Agreements

AMS has established recognition agreements with other countries to allow a foreign government to accredit certifiers in that country to the USDA organic standards. These foreign certifiers are considered to be equivalent to USDA-accredited certifiers and are authorized to certify organic operations that produce or handle products that meet or exceed all USDA organic standards. These products may then be imported for sale in the United States. As of May 2017, the USDA maintains recognition agreements with India, Israel, and New Zealand.

## 3. Policy and Procedures for Importing Organic Products

### 3.1. Certification requirements

People who sell, label, or represent agricultural products as organic in the United States must comply with the USDA organic regulations at 7 CFR Part 205. The USDA organic regulations require that all handling operations that sell, label, or represent products as organic be certified, unless exempt or excluded from certification. Handlers may be excluded from certification requirements if they receive organic products that 1) are already packaged or in a container and 2) remain in that same package or container. Other handlers, such as importers, distributors, or brokers that do not physically handle or label organic products, may be excluded from certification under these same conditions (7 CFR 205.100(a), § 205.101(b)).

Under the USDA organic regulations, certified handlers must meet three critical components required for organic certification: maintain and implement an OSP, maintain records that demonstrate compliance, and undergo annual on-site inspections.

Certifier Responsibility: In verifying these requirements for operations that import or export organic products, the regulations require that certifiers:

- Conduct annual on-site inspections of all certified organic farms, ranches, and businesses in the United States and around the world (7 CFR 205.403(a)).
- Collect and test samples for the presence of prohibited substances and investigate instances of positive residue tests (7 CFR 205.670).



- Verify that the certified operation is maintaining appropriate records for imported and exported products, such as organic certificates, import or attestation certificates where required, sales receipts, bills of lading, and labels (7 CFR 205.403(c), § 205.103(b)(2) and (4)).
- Verify that the certified operation maintained the organic integrity of imported product by preventing commingling, avoiding fumigation with prohibited substances, and not irradiating (7 CFR 205.403(c), § 205.272, § 205.105). (See 3.2 Handling Instructions below)

### **Organic System Plan (OSP)**

Certified operations that export or import organic products must develop and maintain an OSP that contains the following information:

- A list of each product or substance to be used as a production or handling input. The list must include the source of each product or ingredient. As an example, items on this list may include organic ingredients, processing aids, pest control products, soil amendments, etc. (7 CFR 205.201(a)(2)).
- A description of the operation's recordkeeping system. This system should guarantee that the operation maintains records that are adequate to fully demonstrate compliance with the USDA organic regulations, including the compliance of any imports or exports (7 CFR 205.103 and § 205.201(a)(4)).
- A description of procedures for verifying that imported organic products comply with the USDA organic regulations. For example, these procedures may describe how the certified operation verifies the validity of import and other audit trail documentation, organic certificates, certifiers or other entities issuing documentation, etc. (7 CFR 205.201(a)(4)).
- A description of procedures to prevent the commingling of organic and nonorganic products; protect organic products from contact with prohibited substances; ensure that any container used for organic products is clean of non-organic products or prohibited substances; and implement proper clean-out and transportation procedures to prevent organic product from coming into contact with non-organic product (7 CFR 205.201(a)(5) and § 205.272).

Certifier Responsibility: In reviewing an operation's OSP, certifiers must verify the following information for import and/or export activities, as applicable, to comply with the regulations at 7 CFR 205.402(a)(2), § 205.403(c)(2):

- Determine if the certified operation imports or purchases imported product, or exports product under a U.S. equivalency arrangement.
- Determine whether or not the operation maintains and implements adequate procedures for verifying the organic integrity of organic products.
- Determine whether or not the operation maintains an appropriate recordkeeping system for product traceability.
- Determine whether or not the certified operation properly completes and provides documentation required for export under a U.S. equivalency arrangement.



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## Audit Trail Records

Certified operations must maintain records that are adapted to the particular operation and fully disclose all activities and transactions in sufficient detail to be readily understood and audited, as well as demonstrate compliance with the Organic Foods Production Act (7 U.S.C. 6501-6522) and the USDA organic regulations.

Certifier Responsibility: Certifiers are responsible for verifying that an operation is implementing an effective recordkeeping system, as described in the OSP, by reviewing and auditing the records maintained by the farm or business. Certifiers must verify that an operation's records meet the requirements under the USDA organic regulations, meet any additional requirements under applicable equivalency arrangements/recognition agreements, and provide a complete audit trail allowing the certifier to trace products back to the last certified handler to verify organic integrity (7 CFR 205.403(c)(2), § 205.201(a)(4) and (6)).

The USDA organic regulations describe general recordkeeping requirements for certified operations. The regulations also give certifiers authority to require operations to provide any additional information necessary to evaluate and confirm compliance with the regulations (7 CFR 205.201(a)(6)). The following are examples of records that certifiers may require, as a best practice, in order to verify the organic integrity of imported products and ensure compliance with the regulations:

- Organic certificates for each product or ingredient received.
- Invoices and purchase orders with information identifying the specific product(s), such as lot numbers, quantities, and supply chain entities.
- Shipping documents, such as booking sheets or bills of lading, with information such as lot numbers, product volume, handling instructions and the name of the last certified organic operation.
- Weigh tickets, receipts, and tags
- Clean truck/container affidavit for bulk product verifying that truck/container was thoroughly cleaned and poses no risk of contact with prohibited substances.
- Phytosanitary certificates from the last country of export.
- Receiving records showing organic status, quantity of organic product received, and source of product.
- Certificates of Analyses or Product Specification Sheets.
- Product inventory and storage records.
- NOP Import Certificates.
- TraceNet certificates (Applies to products certified in India to the USDA organic standards).
- Attestation statements (Applies to products certified to the Canadian organic standards).



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## Inspection

Certified operations must permit complete access to their facilities, offices and records for certifiers and USDA National Organic Program personnel during normal business hours for inspection (7 CFR 205.400(c) and (d), § 205.403, § 205.103(c)).

Certifier Responsibility: The USDA organic regulations require that certifiers conduct annual on-site inspections for all certified operations to verify the following information:

- The OSP is up-to-date, accurately represents the certified operation's import/export activities or use of imported products, and identifies any planned changes to the operation involving such products (7 CFR 205.403(c)(2)).
- Proper documentation for imported products. As an example, documentation may include organic certificates, import certificates, attestation statements, sales receipts, bills of lading, labels, and other records that the certifier deems necessary. (7 CFR 205.103 and 205.201(a)(6))
- Proper documentation for exported products. Examples may include export certificates, attestation statements, sales records, etc. (7 CFR 205.103(b)(2) and (4))
- The operation verified the validity of import documentation for each product. (7 CFR 205.103, § 205.201(a)(3), § 205.403(c)(3))
- The operation verified the validity of the certifier issuing the documentation for each imported product. (7 CFR 205.103, § 205.201(a)(3), § 205.403(c)(3))
- The operation took measures to confirm that the imported product's organic integrity was maintained in the supply chain, especially with respect to fumigation with prohibited substances and/or irradiation. (7 CFR 205.105, §205.103, § 205.201(a)(3), § 205.403(c)(3)).

## 3.2. Handling Instructions

To ensure compliance with the USDA organic regulations, certifiers must verify that operations can confirm the organic integrity of imported products and have taken appropriate steps to safeguard the organic integrity of exported products under the operation's control.

7 CFR 205.307(a)(3) allows operations to include "special handling instructions needed to maintain the organic integrity of the product" on nonretail ("bulk") labels. As a best practice, the NOP recommends that exporting operations include a statement such as "Organic product, do not fumigate or treat with irradiation" on the bulk label and on other import documents, where instructions may be read by government officials responsible for pest mitigation and plant protection.

However, certifiers should be aware that some federal and state pest mitigation practices require chemical or irradiation treatments that do not comply with the USDA organic regulations. For example, for products entering the U.S., the U.S. Customs and Border Protection Agriculture Specialists perform inspections to ensure shipments do not pose a risk to U.S. agriculture or natural resources. Some commodities may require treatment upon entry into the U.S., either because plant pests or diseases are detected, or as a mandatory condition of entry. Treatment of



imported agricultural products may involve fumigation with substances prohibited for use in organic production, such as methyl bromide, sulfuryl fluoride, and phosphine (aluminum phosphide or magnesium phosphide). Imported agricultural products may be subject to ionizing radiation, which is also prohibited for use in organic production and handling. Certifiers should review the potential for such treatments during annual inspections of operations which import organic products.

**Imported organic products treated with ionizing radiation or a substance prohibited by the USDA organic regulations may not be sold, labeled, or represented as organic or organically produced or handled.**

Therefore, certifiers and their operations should be aware of the USDA Animal and Plant Health Inspection Service's (APHIS) Fruit and Vegetables Import Requirement (FAVIR). The FAVIR database explains which products require pest mitigation and what methods are acceptable. NOP issued an AMS Notice to Trade on this topic on July 13, 2016 (see <https://www.ams.usda.gov/notices>).

Certifiers can also access the APHIS Plant Protection and Quarantine (PPQ) Permit Services customer support telephone line at (301) 851-2046, the automated system at 877-770-5990, or the email address [plantproducts.permits@aphis.usda.gov](mailto:plantproducts.permits@aphis.usda.gov), to assist with any questions.

### **3.3. Equivalency and Recognition**

The NOP website includes information about existing equivalency and recognition arrangements, including the scope and the process for importing products under each arrangement.

## **4. Example scenarios**

The following sections provide examples of audit trail verification practices that strengthen compliance with the USDA organic regulations.

### **4.1. Certified handler buys USDA certified organic rice from Thailand from an uncertified broker.**

In this scenario, the NOP's experience has been that when the handler simply obtains the organic certificate for the last certified operation, it is often insufficient documentation to verify the product's organic integrity. The documents that the NOP would expect from the certified handler to verify compliance in this case may include:

- The organic certificate for the last certified organic operation.
- Invoice showing purchase of product from certified operation.
- Clean truck/container affidavits.
- Weigh tickets.
- Phytosanitary certificate.





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- Booking sheet for shipper.
  - Receiving records.

Records should list lot numbers, volume, name of last certified operation, receiving party, etc. so that product can be traced through the supply chain.

#### 4.2. Certified handler buys USDA certified organic coffee from Ethiopia from a certified broker in that country.

NOP experience has shown that even in scenarios where organic product is traded between two certified operations, an organic certificate may not be sufficient documentation to verify a product's organic integrity. In this case, if the certified handler purchasing the coffee only maintains a copy of the broker's organic certificate there is not adequate documentation to demonstrate that the product's organic integrity is maintained in the supply chain. The documents that the NOP would expect from the certified handler to verify compliance in this case may include:

- The broker's organic certificate.
- The coffee grower group's organic certificate.
- A transaction certificate completed by a USDA accredited organic certifier.
- Phytosanitary certificate.
- Shipping documents that demonstrate that integrity was maintained (e.g. clean truck/container affidavits, phytosanitary certificate).

## 5. References

### **Organic Foods Productions Act of 1990, as amended**

7 U.S.C. 6505(b) Compliance Requirements. Imported Products.

### **USDA Organic Regulations ([7 CFR Part 205](#))**

#### **Program Handbook Documents**

**NOP 2602:** Instruction on Recordkeeping

**NOP 2615:** Instruction on Organic System Plans, Organic System Plan Updates, and Notification of Changes

#### **5.1. Resources**

##### **NOP Trade Page**

<https://www.ams.usda.gov/services/organic-certification/international-trade>



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## **Lists of certifiers accredited by partner countries**

Canada - <http://www.inspection.gc.ca/food/organic-products/certification-and-verification/certification-bodies/eng/1327860541218/1327860730201>

EU – [http://ec.europa.eu/agriculture/ofis\\_public/r8/ctrl\\_r8.cfm?targetUrl=home](http://ec.europa.eu/agriculture/ofis_public/r8/ctrl_r8.cfm?targetUrl=home)

India – <https://www.ams.usda.gov/services/organic-certification/international-trade/India>

Japan – <http://www.maff.go.jp/e/policies/standard/jas/specific/organic.html>

Korea – [http://enviagro.go.kr/portal/help/help\\_organ\\_i\\_list.do#nohref](http://enviagro.go.kr/portal/help/help_organ_i_list.do#nohref)

Switzerland –  
<https://www.blw.admin.ch/blw/en/home/instrumente/kennzeichnung/biolandbau.html>

## **Reporting Fraudulent Certificates** [Fraudulent Certificates](#)