

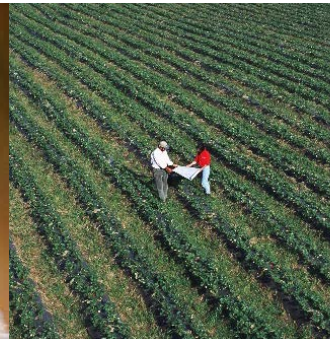


Organic Integrity in the Supply Chain

January 31, 2017

USDA Agricultural Marketing Service

National Organic Program



Is there an issue?



The inspection report of your certified processing operation stated that it had purchased wholesale fresh strawberries from a uncertified distributor. The processor had received a producer certificate listing strawberries. The strawberries were in open flat containers with a lot number and a label with the name of the distributor.



Topics

- Challenges to organic integrity in the supply chain
- Regulatory requirements
- Certifier responsibilities

Organic Produce Wholesalers Coalition



- EU certified organic product imported into U.S. from non-EU member countries
- Uncertified entities not providing sufficient documentation to link organic certificate to organic products.

Suggested solutions

- Revise EU equivalency arrangement to allow imports of EU certified organic products from any country
- Require certification of excluded handlers



Accredited Certifiers Association, Inc.'s

*Best Practices for Ensuring the Organic Integrity of Products Handled by Uncertified Wholesalers and Distributors document.
Version #2, 7.19.2016*

Challenges



- Oversight of uncertified handlers (e.g. brokers, wholesalers and distributors)
- Uncertified handlers providing organic product directly to retail operations
- Non-retail containers
- Private Labels

Organic Foods Production Act



“...agricultural product to be sold or labeled as organically produced must be produced only on certified organic farms and handled only through organic certified handling operations....”
(emphasis added)

7 USC 6506(a)(1)(A)



- 7 USC 6505(a)(1)(B)
- No person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this chapter



Are Wholesalers, Traders, Brokers, Distributors, Commissioned Merchants considered Handlers?

Yes

- §205.2 Terms Defined
- Handle is to **sell**, process, or package agricultural products...
- Handler is any person engaged in the business of handling agricultural products,...except such term shall not include final retailers that do not process agricultural products

Retail food establishment/final retailers



- Definition of handler does not include final retailers

However -

- 205.101(a)(2) A handler operation that is a final retail establishment is exempt
- Retail food establishment. A restaurant; delicatessen; bakery; grocery store; or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ready-to-eat food.



- 205.100(a)
- Except for operations exempt or excluded in 205.101, each production or handling operation that produces or handles crops, livestock, livestock products, or other agricultural products that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” ormust be certified

Regulations - Who does not need to be certified?



- **Exempt operations - § 205.101 (a)**
 - < \$5,000 in organic sales
 - Retail food establishments
 - Products that are < 70% organic, or only list organic ingredients
- **Excluded operations - § 205.101 (b)**
 - If product is packaged or otherwise enclosed in a container prior to being received or acquired, and
 - If product remains in same package or container, and is not processed further

Must these Handlers be Certified?



Some handlers may be “Excluded” from certification §205.101(b)(1)...

- If only selling organic labeled products
- Products are packaged or enclosed in a container
- Remain in the same package or container
- If not processing the product
- If not labeling the product

Handlers who do not need certification



Examples are...

- Wholesale distributors, brokers, and traders that sell boxed or otherwise sealed containers of certified organic products:
 - Boxed cereal
 - Cartons of milk
 - Bagged salad greens
- Produce handlers who do not open boxes, repack, trim, or re-label the product

Examples of packaged products handled by excluded handlers



Packaged or otherwise enclosed in a container?



Is there an issue?



The inspection report of your certified processing operation stated that it had purchased wholesale fresh strawberries from a uncertified distributor. The processor had received a producer certificate listing strawberries. The strawberries were in open flat containers with a lot number and a label with the name of the distributor.



- NOP 5031 – Guidance - Certification Requirements for Handling Unpackaged Organic Products
- All handling operations, certified, exempt, or excluded, must meet 205.272 (prevent contamination and commingling)
- Adequate records are required to demonstrate organic integrity for certified operations.



- **Define “enclosed in a container” to mean impermeable with a tamper proof seal.**
While NOP recognizes that these types of containers and sealing systems are an important tool for prevention of contamination and loss of integrity for some distribution systems (e.g. rail cars hauling grain and milk tankers), NOP has not further defined “enclosed in a container” or “packaged”.

NOP 5031 – 1 Response to Comments



- For example, produce brokers who do not open boxes, repack, trim, re-label or otherwise handle the product are excluded from certification because they handle “packaged” products. Such products do not necessarily use impermeable boxes or seals, but these products are still considered “packaged”.

Transportation company exclusion



Companies that transport organic products do not need to obtain certification if they do not handle (i.e. sell, process, or package) organic products.

Examples:

- Milk haulers that pick up certified milk to deliver to certified processors
- Truckers that move certified hay, straw, grain to certified handlers or buyers

NOP 5031 - Handlers who must be certified



Operations that handle unpackaged products (other than transporting) must be certified

Examples:

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



Certification Requirements for Handling Unpackaged Organic Products

- 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 that are not exempt or excluded from certification may not handle organic products, and therefore, may not sell, label or represent organic products.



- 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 organic products from uncertified handlers (that are not excluded from certification) 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.

Labeling and Organic Integrity



- **§205.303** Packaged products labeled “100 percent organic” or “organic.”
- **§205.307** Labeling of nonretail containers used for only shipping or storage of raw or processed agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”

Retail Label must...



§205.303 Packaged products labeled “100 percent organic” or “organic.”

(b) Agricultural products in packages described in §205.301(a) and (b) must:

(1) For products labeled “organic,” identify each organic ingredient in the ingredient statement with the word, “organic,” ...

(2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by * * *,”

...

Nonretail labels must...



§205.307 Labeling of nonretail containers used for only shipping or storage of raw or processed agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”

(b) Nonretail containers used to ship or store raw or processed agricultural product labeled as containing organic ingredients must display the production lot number of the product if applicable.

Non-retail labeling



Lot code – 2ecl?
or
Red?

Needs to comply with
205.307 – must display
production lot number
if applicable



Certified Private Label Operation

- OSP, private label agreement, all requirements of organic handler certification.
- No changes to labels, formulas, processes, packaging, etc. without obtaining certifier approval.

Certifier of Private Label Operation

- Fully responsible for ensuring compliance.
- Review product formulas or ingredient lists against label.
- Obtain confirmation from co-packer's certifier that product is approved.
- Provide organic certificate (or addendum) listing individual products, brands, flavors, etc.
- Primary point of contact for consumers able to answer all questions about the product.



Certified Co-packer

- OSP, private label agreement, all requirements of organic handler certification.
- Obtain separate approvals for identical products for different brands.
- No changes to labels, formulas, processes, packaging, etc. without obtaining certifier approval.

Certifier of Co-packer

- Fully responsible for ensuring compliance.
- Final authority over product approval as certifier with full product knowledge.
- Review product formulas or ingredient lists against label.
- Provide organic certificate (or addendum) listing individual products, brands, flavors, etc.
- Communicate directly with the private label operation's certifier to obtain and share all information necessary to guarantee full compliance.

NOP Initiatives





- NOP Import Certificate – proposed rule
- Enforcement improvements
 - Improving oversight and control of organic trade
 - Eliminating exclusions for brokers and importers
 - Expiration dates on certificates
 - Unannounced inspections
 - Identification of non-retail organic products
 - Private label certification requirements



What certifiers can do:

Ensure compliance of existing regulations



Organic System Plan

- §205.201(a)(2) – a list of each input to be used as a handling input, indicating its composition, source,
- Organic product and organic ingredients are handling inputs
- §205.201(a)(4) recordkeeping system – describe how they fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited



§205.103 – Recordkeeping

- (a) A certified operation must maintain records concerning the production, harvesting, and handling of agricultural products that are sold, labeled, or represented as organic
- (b) Such records must:
 - (1) Be adapted to the particular business
 - (2) fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited

NOP 2602 Recordkeeping



- Receiving Records – records that verify that product received was organic and records that verify the amount of organic product received
- Organic certificate for each organic product or organic ingredient received
- Clean truck affidavit for bulk product– verifies that truck was cleaned prior to hauling organic products
- Invoices, purchase orders, bills of lading, scale tickets
- Handler organic certificates and contracts
- Certificates of analyses or Product Specification Sheets
- Raw product inventory reports and records
- Weigh tickets, receipts, and tags

Recordkeeping requirements



Who keeps records for organic products, if the supplier is not certified?

- If the supplier is uncertified, the **records must be kept by certified parties**

The certified operation responsible for the product (buyer or seller)

- Records must have enough detail
- Must maintain traceability. Demonstrate through an audit trail
- Document prevention of contamination and commingling
- Records must be available for inspection

Certified operation requirements



Certified handlers must have procedures in place and records demonstrating that all organic products/ingredients received are compliant with USDA organic regulations.

Examples

- Organic certificate from suppliers
- Organic transaction certificate
- Attestation statement
- NOP Import Certificate

And, any Additional information deemed necessary by the certifier



What is not acceptable...

1. Certified operations accepting organic products without verifying source and certification of the product
 - Especially critical when receiving products from uncertified handlers
2. Certified operations that do not clearly identify organic products in their records (e.g. receiving documents, inventory records, manifest, bill of lading, purchase orders)

Certifiers should be looking for...



- Procedures and documentation that verifies source and certification of organic inputs
- Verifying that imported organic products were not treated at port of entry
 - Request to review records of any APHIS Plant Protection and Quarantine directed treatments (PPQ 523 – Emergency Action Notice and PPQ 429 Fumigation Record)
- Canada - Verify attestation statements
- EU, Swiss, Japan, Korea – NOP Import certificates



- Are OSP templates asking operations to identify uncertified suppliers?
- Are OSP templates asking operations to identify imported organic products?
- Are inspectors verifying that all organic products/ingredients received comply with USDA organic regulations?



- Are inspectors conducting thorough trace-back audits to verify traceability and recordkeeping requirements?
- Are certifiers notifying NOP C&E when handlers are identified that are handling organic products but are not excluded from certification?



Most ACA Best Practices* are required practices; although there may be alternative methods that could verify organic product status

*Best Practices for Ensuring the Organic Integrity of Products Handled by Uncertified Wholesalers and Distributors, Version #2, 7.19.2016

Questions?

