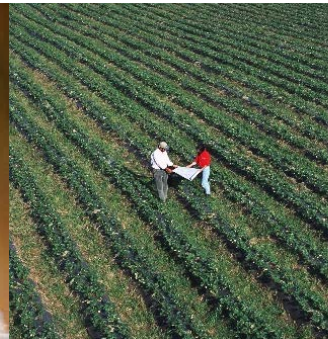




# Verifying Organic Imports

February 6, 2018

USDA Agricultural Marketing Service  
National Organic Program



# Key questions



- How do you, as a certifier, ensure full product traceability before issuing either an operation-level organic certificate or an organic transaction certificate?
- If an operation fails to demonstrate full traceability, what do you do?



## Training objective:

- Verify the integrity of complex and bulk product supply chains
- Identify unique risks at border crossings
- Prevent products which have come into contact with prohibited substances from entering organic supply chains



## Concerns

- Application of prohibited substances to organically-labeled products
- Lack of controls over excluded brokers and traders
- Handling of bulk products by uncertified operations
- False or incomplete applications to certifiers

# § 205.103(b) Recordkeeping by certified operations



§ 205.103(b) ... Records must:

- (1) Be **adapted** to the particular business that the certified operation is conducting;
- (2) **Fully disclose** all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;
- (3) Be maintained for not less than **5 years** beyond their creation; and
- (4) Be sufficient to demonstrate compliance with the Act and the regulations in this part

# § 205.103(c) Recordkeeping by certified operations



§ 205.103(c) The certified operation must **make such records available** for inspection and copying during normal business hours by authorized representatives of the Secretary, the applicable State program's governing State official, **and the certifying agent.**

# Who Needs to be Certified?



Instruction NOP 4009, *Who Needs to be Certified*:

“The OFPA requires that agricultural products sold or labeled as organically produced must be produced only on certified farms and handled only through certified handling operations (see 7 USC § 6506(a)(1)).”

[www.ams.usda.gov/NOPProgramHandbook](http://www.ams.usda.gov/NOPProgramHandbook)

# Who Needs to be Certified?



A certified operation may not allow an uncertified operation to produce or handle agricultural products, under contract or other arrangement, on the uncertified operation's land or premises (i.e., at units, facilities, or sites not explicitly subject to inspection or compliance action by the NOP or a certifying agent).





## Instruction NOP 5031, *Certification Requirements for Handling Unpackaged Organic Products*

- Operations that handle unpackaged grain, including combining or splitting loads or lots, package, or otherwise handle the product other than for transport, **must be certified**

[www.ams.usda.gov/NOPProgramHandbook](http://www.ams.usda.gov/NOPProgramHandbook)



## Case studies

1. Fumigation of fruits and vegetables at US port of entry
2. Sales of non-organic, fumigated soybeans as organic by overseas exporter



## Case Study 1

### Fumigated Fruits and Vegetables at a U.S. Port of Entry



- The US requires fumigation at the ports for numerous fruits and vegetables as a “condition of entry”
- Other products may be fumigated on an ad hoc basis, if a visual inspection at a port of entry shows the presence of invasive pests
  - Examples: stink bugs, kapra beetle

# Case study: Asparagus from Peru



## Asparagus from Peru

**Concern:** USDA Animal and Plant Health Inspection Service reported fumigation of organically-labeled Peruvian asparagus at a U.S. port of entry





- Green asparagus from Peru is fumigated upon arrival as a condition of entry
  - ALL green asparagus from Peru is fumigated
  - All fumigants (methyl bromide, aluminum phosphide, magnesium phosphide) are prohibited substances under the USDA organic regulations

# Conclusion



- Green asparagus from Peru cannot be imported into the U.S. for sale as organic, because it will always be fumigated
- One example of many – how are you as a certifier preventing such products from entering the stream of commerce as organic?

# Case study: Celery from Mexico



## Celery from Mexico

**Concern:** USDA Animal and Plant Health Inspection Service reported fumigation of organically-labeled Mexican celery at a U.S. port of entry







- Celery from Mexico is **NOT** fumigated upon arrival as a condition of entry
- However, plant pests may be detected during inspections at U.S. ports of entry
- These detections may require fumigation



- Fumigation at U.S. ports is documented through the use of Emergency Action Notification forms
- Updated forms now state that products fumigated with prohibited substances no longer comply with OFPA requirements, may not be sold as organic
- More information will be available from APHIS later in the week

# PPQ Form 429, Fumigation Record

The PPQ Form 429 is to be used as a station record for all treatments conducted in approved chambers or in temporary enclosures (tarpaulin, in containers, truck vans, railroad cars, ships, warehouses, or other enclosures). Treatments conducted under temporary enclosures require minimum gas concentration readings be reported. CPHST-AQI tracks MB fumigant usage in an electronic [429 database](#). Contact CPHST-AQI for username and password.

USDA-APHIS			1. STATION REPORTING				2. PEST AND INTERCEPTION NUMBER		
FUMIGATION RECORD									
3. CARRIER			4. DATE OF ARRIVAL		5. DATE INTERCEPTED		6. ORIGIN		
7. PLACE OF ARRIVAL					8. DATE CONFIRMED		9. PORT OF LADING		
10. FUMIGATION CONTRACTOR					11. DATE FUMIGATION ORDERED		12. COMMODITY		
13. FUMIGATION SITE					14. DATE FUMIGATED		15. QUANTITY		
16. MARKS		17. B/L NO.	18. ENTRY NO.		19. SHIPPER		20. CONSIGNEE		
21. FUMIGANT AND TREATMENT SCHEDULE				22. TEMPERATURE a. Space                      b. Commodity		23. GAS ANALYZER (Type and Ser. No.)			
24. ENCLOSURE		25. WEATHER CONDITIONS		26. CUBIC CAPACITY		27. TREATMENT UNDER SECTION 1B EXEMPTION <input type="checkbox"/> Yes <input type="checkbox"/> No			
28. NO. OF FANS		29. TOTAL CFM'S FANS		30. TIME FANS OPERATED		31. FOOD OR FEED COMMODITY <input type="checkbox"/> Yes <input type="checkbox"/> No			
32. GAS INTRODUCTION a. Start                      b. Finish		33. AMT. GAS INTRODUCED		34. GAS ADDED		35. RESIDUE SAMPLE TAKEN <input type="checkbox"/> Yes <input type="checkbox"/> No		Sample No.	
<b>GAS CONCENTRATIONS</b> (grams per cubic meter (oz./1000 cu. ft.)) <i>(To be prepared for fumigations when gas concentration readings are required while treatment is in progress.)</i>									
36. DATE-TIME		37. PLACEMENT OF TEST LINES						38. TIME INTERVAL (FROM 32. B)	INSPECTOR'S INITIALS
		SPACE			COMMODITY				
		FRONT	CENTER	REAR					

# Conclusion



- If visual inspections at ports of entry detect pests, any imported shipment may be fumigated before it enters the U.S.
- Brokers and traders are notified of fumigation in writing, and therefore know that fumigation has occurred.
- Unclear whether certified importers know about these fumigation events, if brokers are the notified parties.



## Investigative challenges

- Brokers were not certified, claimed not to know about organic produce
- Paperwork did not identify final US importer (bulk or retail)
- Fumigation notifications do not include:
  - Labels, photographs, or certifier names
  - How, where, and when products were sold

# Questions for certified operations



- Questions for organic system plans:
  - Are any of these products fumigated as a condition of entry?
    - Example: asparagus from Peru
  - How do you verify that imported produce was not fumigated?
    - Concern: excluded brokers
  - Do you receive phytosanitary certificates, fumigation records, or Emergency Action Notifications?

# Questions for certified operations



## Possible questions for onsite inspections

- Who is your customs broker/consignee?
- Have you verified that products you import are not fumigated as a condition of entry?
- How do you ensure that products you import are not fumigated due to ad hoc pest detections?
- If you learn that a product was fumigated, what do you do?

# Scope and scale



- Since the NOP and APHIS activated data sharing on fumigation of organically-labeled imports, the NOP has received several hundred reports of fumigated products with organic labels
- How are you protecting organic integrity through your oversight of imported products?
- Has anyone here identified fumigated organic imports?





## USDA Animal Plant and Health Inspection Service guides:

- APHIS [Fruits and Vegetables Imports Requirements database](#)
- [APHIS fruits and vegetables import manual](#) – country-by-country listing
- [APHIS treatment manual](#) – explanation of codes for treatment actions



## Case Study 2

**Overseas grain and oilseed handler exported non-organic, fumigated soybeans to the U.S., where they were sold as organic**

# Discrepancies



NOP evidence showed fumigation of the soybeans in Ukraine, prior to export to Turkey

- The Turkish re-export phytosanitary certificate stated “no fumigation” but referenced the Ukrainian phytosanitary certificate, which stated “fumigation”
- Ukrainian phytosanitary certificates listed handlers at the port of export who were not certified organic

# Further discrepancies



- Evidence obtained by the NOP differed from documents provided to the certifier
  - One set of documents labeled soybeans “non-GMO,” another stated “organic”
- One uncertified handler stated affirmatively to the NOP that they had no certified organic operations in Ukraine

# Red flags



- Operations changed certifiers every 1-2 years
- Operation harvested product prior to inspection
- Dual certification – possible discrepancies in mass balance, inflating organic stock
- Operation refused inspection, surrendered shortly thereafter



NOP investigation results since April 2017:

- 2 overseas operations revoked, several others surrendered
- Other overseas operations requested hearings
- 1 shipment refused entry to the US
- Various importers advised that imports may not meet the requirements of the USDA organic regulations
- Certifiers adverse actions are in progress



- Handlers of unpackaged bulk products must be certified
  - Example: transloader at ports of export and ports of entry
- Operations must maintain sufficient records to demonstrate compliance with the regulations
- Operations must provide such documents to their certifier

# Roles and responsibilities



- Government-issued documents, such as phytosanitary certificates, provide critical evidence of 1) supply chain integrity and 2) presence or absence of fumigation with prohibited substances
- It is the responsibility of the operation, not the certifier, to obtain, maintain and provide these documents as evidence of organic integrity



# Roles and responsibilities continued



- In the absence of such evidence, certifier should follow normal procedures to
  - Request additional documents necessary to demonstrate compliance
  - Issue Notices of Noncompliance if the operation does not comply
  - Proceed to adverse actions if the operation refuses to provide necessary documents

# Questions for certified operations



Possible questions for onsite inspections:

- How do you prevent commingling and/or ensure traceability of bulk grains and oilseeds?
- Why did you leave your last certifier?
- (If dual certified) do you get transaction certificates from other certifiers?
- What documentation do you have for border crossings of this product?



- [Interim instruction: Maintaining the Integrity of Organic Imports](#)
- [YouTube training videos](#)
- [NOP enforcement decisions](#)



Organic integrity from farm to table  
Consumers trust the organic label