

NEW Strengthening Organic Enforcement (SOE)

The USDA will implement Strengthening Organic Enforcement (SOE) on March 19, 2024. The new updates will impact all segments of the organic industry.

The changes aim to protect integrity in the organic supply chain and build consumer and industry trust in the USDA organic label by strengthening organic control systems, improving farm to market traceability, and providing robust enforcement of the USDA organic regulations.

Who needs to be certified?

Anyone that produces or handles organic products.

Produce means: to grow or raise...

Handle means: 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.

SOE adds more specific activities to “handle,” including trade, facilitate sale (broker), import, and export. Even businesses that **don’t physically handle products may still need to be certified** if they conduct one of these activities.

Who qualifies for an exemption under SOE?

USDA will provide very few exemptions for organic certification under SOE, and only operations conducting low-risk activities will be eligible to receive an exemption.

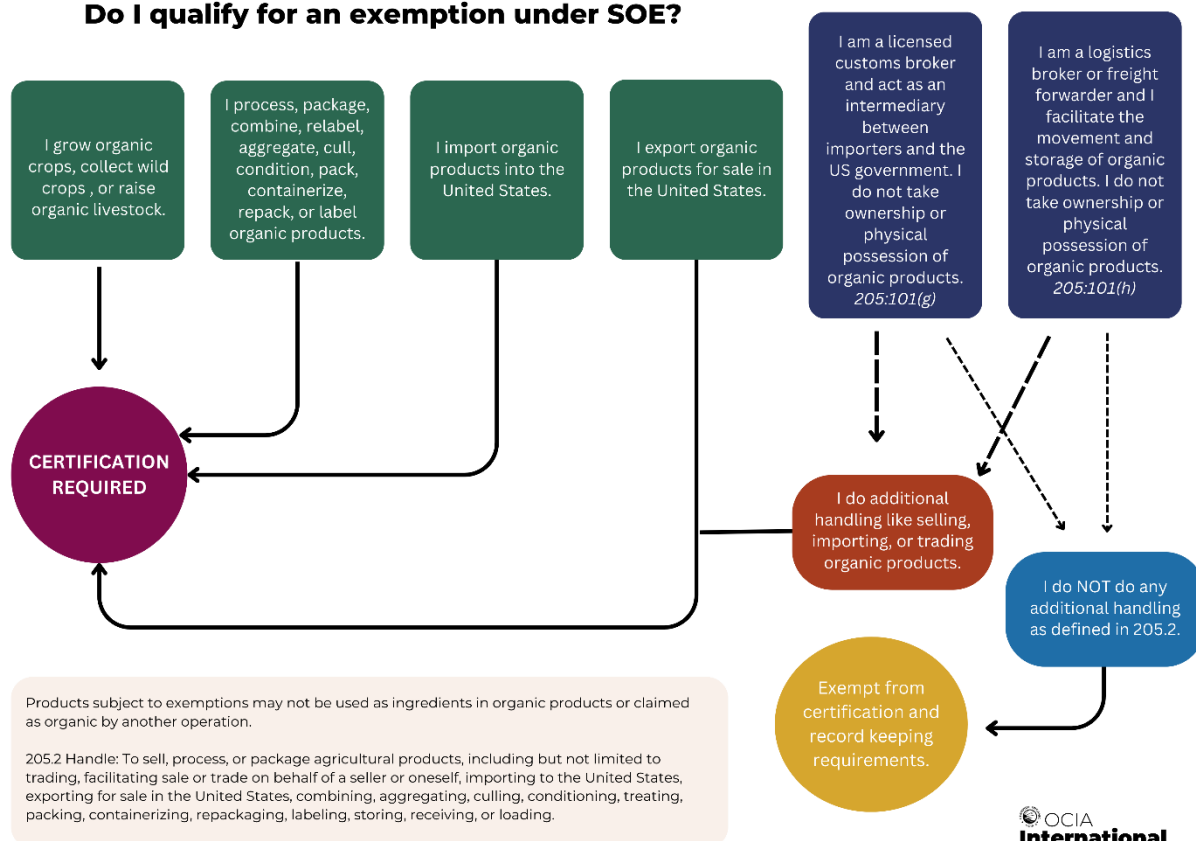
Operations eligible for exemptions include:

- Retail establishments that sell certified organic products directly to consumers without alteration, such as a grocery store with an organic section or a bakery that sells pre-packaged organic goods.
- Restaurants that prepare raw and ready-to-eat food from products that were originally labeled as “100 percent organic,” “organic,” or “made with organic”.
- Warehouses and cold storage facilities that exclusively handle tamper-proof packaged organic products.

The below chart illustrates who is likely to be granted an exemption and who is unlikely to be granted an exemption. Processors and handlers should still plan to consult an accredited certifier to confirm eligibility for an exemption. A larger version of the chart can be viewed [HERE](#).

Strengthening Organic Enforcement

Do I qualify for an exemption under SOE?



What is Organic Fraud?

Definitions

Organic fraud is defined as “**Deceptive representation, sale, or labeling of nonorganic agricultural products** or ingredients as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”

Supply chain traceability audit is defined as “The process of **identifying and tracking the movement, sale, custody, handling, and organic status** of an agricultural product along a supply chain **to verify the agricultural product’s compliance** with this part.”

The SOE Final Rule defines this new term for **traceability audits** to help to specify how audits can support a **risk-based approach in organic fraud prevention**. The rule also includes details about how the recordkeeping of audit trails will help stakeholders to meet the requirements set forth in the updated Recordkeeping regulations (§205.103). (For organic imports and traceability of imported goods and their certificates, see Lesson 3.)

Risk-Based Approach to Improving Traceability and Preventing Organic Fraud

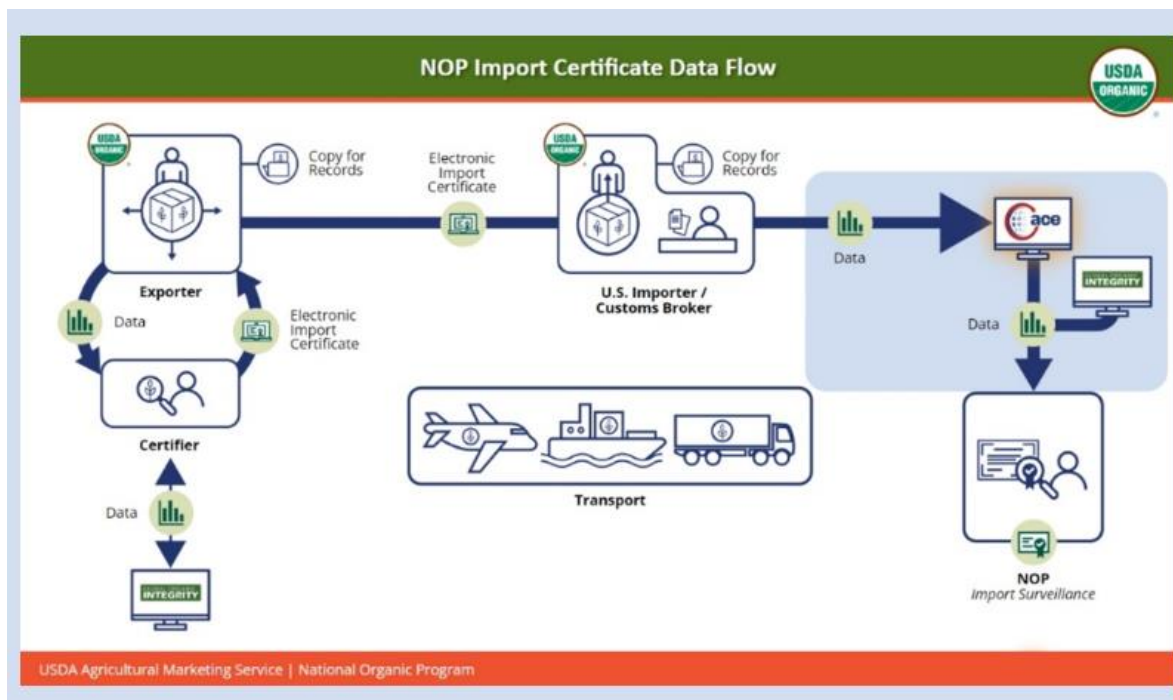
Having a risk-based approach is beneficial both to those entities producing and handling organic products as well as the certifiers who oversee those activities.

Provisions of the SOE Final Rule require accredited certifiers to conduct traceability audits and share information with other certifiers to assist with enforcing and ensuring compliance with the organic regulations.

Which certified operation applied for NOP Import Certificates?

The changes to be implemented from the SOE Final Rule can be summarized as follows.

- A new section was added specifically to address imports to the United States.
- All organic imports must be:
 - Certified pursuant to subparts E and D of this part (Part 205).
 - Declared as organic to U.S. Customs and Border Protection.
 - Associated with valid NOP Import Certificate data.
- Individuals exporting organic agricultural products to the U.S. must request an Import Certificate from their certifier.
- If the export complies with the organic regulations, the NOP Import Certificate is issued by a certifier through the Organic INTEGRITY Database.
- Each import must be declared organic, and certificate data must be entered into the U.S. Customs and Border Protection's Automated Commercial Environment (ACE) system by the importer.
- The import must be associated with Import Certificate data to verify that organic integrity has been maintained.



Where are issued Certificates of Organic Operation after SOE?

The SOE Final Rule introduces a new definition of the Organic INTEGRITY Database (INTEGRITY) functions and new details for when a certifier issues a certificate of organic operation.

Per 7 CFR §205.2 Terms defined, the Organic Integrity Database is now defined as "*The National Organic Program's electronic, web-based reporting tool for the submission of data, completion of certificates of organic operation, and other information, or the tool's successors.*"

Per 7 CFR §205.404 (b):

"The certifying agent must issue a certificate of organic operation. The certificate of organic operation must be generated from the Organic Integrity Database and may be provided to certified operations electronically."

Certifiers must generate certificates of organic operation in INTEGRITY. They cannot use their own formats

What changes on labeling of Nonretail Containers?

The SOE Final Rule clarifies the definition of a nonretail container as any container used for shipping or storage of an agricultural product that is not used in the retail display or sale of the product.

Per the [SOE Final Rule](#), **nonretail containers may** include:

- "Produce boxes, totes, bulk containers, bulk bags, flexible bulk containers, harvest crates, and bins;
- Boxes, crates, cartons, and master cases of wholesale packaged products; and
- Trailers, tanks, railcars, shipping containers, vessels, cargo holds, freighters, barges, grain elevators, silos, grain bins, or other methods of bulk transport or storage.

How is define the Producer group operation Certification in SOE ?

- **Producer group operation:** A group of individual farmers who are collectively certified under one organic certificate.
- **Producer group member:** A single farmer within a producer group.
- **Producer group production units:** A collection of members in the same area who produce the same commodity. A producer group can have several production units, or just one.
- **Internal control system (ICS):** A quality management system that establishes and governs the review, monitoring, training, and inspection of the producer group operation—and the procurement and distribution of shared production and handling inputs and resources—to maintain compliance with the USDA organic regulations.



Producer Group Relationships

Producer Group Operation

(Group of Farmers Producing Similar Agricultural Products)

