

What is Strengthening Organic Enforcement (SOE)

Strengthening Organic Enforcement, or SOE, is the largest single update to the USDA organic regulation since its creation in 2002. It is intended to reduce fraud in the organic marketplace, strengthen oversight of organic producers, handlers, and certifiers, and improve USDA's enforcement mechanisms.

What Does SOE Do in a Nutshell?

The SOE rule protects organic integrity and bolsters consumer confidence in the USDA organic seal.

Topics addressed in this rulemaking include:

- **Applicability and exemptions from organic certification.**
- **Imports to the United States.**
- **Record-keeping, product traceability and fraud prevention requirements.**
- **Labeling of non-retail containers.**
- **Standardized certificates of organic operations and data reporting.**
- **On-site and unannounced inspections of certified operations.**
- **Calculating organic content of multi-ingredient products.**
- **Compliance and appeals.**
- **Certification of producer group operations in the United States.**
- **Certifying agent personnel qualifications and training.**
- **Foreign conformity assessment systems.**

This new rule reduces the types of uncertified entities in the organic supply chain that operate without USDA oversight, including importers, brokers, distributors, and traders of organic products, to safeguard organic integrity and improve traceability throughout the entire supply chain.

The definition of “handle” has been updated per §205.2, and NOP has signaled that most all activity within the supply chain will now require certification oversight:

Handle. 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.

Based on this new definition, as well as the types of certified organic products being handled, the NOP has updated §205.101. The full regulatory text can be found at this link: <https://www.ecfr.gov/current/title-7/section-205.101>

Some handlers with more complex supply chains will need to identify uncertified handlers used and determine if the activity of the uncertified handler now requires certification. Baystate has contacted all certified producers, alerting them about SOE and asking that the certified operation makes any uncertified operation within their own supply chain to be aware of the new provisions, and to complete the [Exempt Operation Affidavit](#), submitting it to Baystate Organic Certifiers as soon as possible.

[SOE Fact Sheet - Farms & Livestock](#)

[SOE Fact Sheet - Handlers](#)

Who is Exempt?

There are still a few limited low-risk exemptions from certification described in §205.101(a)-(h). Exempt operations must still follow the applicable production and handling requirements, including appropriate labeling as well as keeping required records for three years. Exempt products used as ingredients must not be represented as organic in products processed and marketed by other operations.

There is no change to the exemption at §205.101(a), which covers operations that gross \$5,000 or less, as well as the exemption for retailers that do not process and sell directly to customers. Operations that only handle products containing less than 70% organic ingredients or that only identify organic ingredients in the information panel continue to be in the exempt category.

An operation that only receives, stores and/or prepares for shipment but does not otherwise handle remains exempt; however, the scope of this is very limited. Exempt handlers in this regard must adhere to the following requirements for packaged products: Products must be enclosed in a sealed, tamper-evident package or container prior to receipt and remain in the same enclosure the entire time under the control of the operation. Tamper-evident packaging or container means, per the rule, that the contents are sealed in a manner where an attempt to break the seal, access the contents or reclose the package would be obvious. This exemption is intended

primarily for storage and warehouse facilities moving organic products within the supply chain.

An operation that only buys, receives, stores and/or prepares for shipment but does not otherwise handle organic agricultural products already labeled for retail sale may be exempt. Products must be enclosed in a sealed, tamper-evident package or container labeled for retail sale prior to receipt and remain in the same retail package or container while under control of the operation. This allowance may cover, for example, some distributors, brand name owners, and sales brokers that purchase and/or receive products in their finished retail packaging. Private labeling operations that process organic products must be certified. In addition, an operation that only arranges for the shipping, storing, transport or movement of organic agricultural products but does not otherwise handle organic products continues to be exempt. There are specific nuances that need to be considered with the new rule, and operations that aren't sure should contact Baystate Organic Certifiers. The NOP has signaled that transportation remains an activity exempt from certification; although loading or unloading of unpackaged products into or from a storage facility must be certified, as this is not a form of transportation within the exempt category.

Certified operations are responsible for verifying that products handled by uncertified entities in their supply chain remain in compliance with the organic regulations, including verifying organic products transported by an uncertified transporter. Organic system plans will need to be updated with a full description of how the certified operation verifies any uncertified operations in the supply chain. Records back to the last certified operation are required and must demonstrate prevention of commingling and contamination during transportation.

[SOE Fact Sheet - Who Is & Is Not Exempt](#)

Supply Chain Traceability & Fraud Prevention

SOE requires all certified operations to implement improved record-keeping and organic fraud prevention processes and procedures as applicable, depending on risk. New definitions for “organic fraud” and “supply chain traceability audit” were added to the regulations. Certifying agents will conduct risk-based supply chain traceability audits between certifiers to fully verify organic integrity. The OSP must also include measures implemented to prevent fraud. Baystate has provided an Organic System Plan Supplemental Form that will help each certified operation come to compliance with SOE with a required fraud prevention plan and supply chain verification.

NOP Import Certificates & Non-Retail Containers

ATTENTION IMPORTERS: Under the Strengthening Organic Enforcement final rule, all importers of organic products must now be certified. Every import requires an NOP Import Certificate generated by the certified importer. Effective September 19, 2024, the USDA will no longer allow temporary coding for organic imports without a valid certificate. Organic imports without a valid NOP Import Certificate cannot be marketed as certified organic.

Exporters will request import certificates to be issued by their certifier from the Organic Integrity Database for all imports to the United States. Import certificates must be issued for each shipment of organic product. Additionally, all import documents must identify products as organic, as well as the non-retail container carrying the organic product.

Non-retail containers are those used for shipping or storage of a product that is not used in the retail display or sale of the product. In addition to the non-retail container identifying the products as organic, a lot number, shipping identification, or other unique information that links the container to audit trail documentation must be present on the container.

Where can I find more information on SOE?

In addition to copies of the Final Rule itself, the USDA has also provided a host of other informative tools on the [Strengthening Organic Enforcement](#) webpage.