



# The Organic Sprout

MOFGA's Newsletter for Organic Producers

## USDA National Organic Program Proposes New Strengthening Organic Enforcement Rule (SOE):

What MCS Certified Organic Operations Need to Know

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**O**n August 5, 2020, the United States Department of Agriculture (USDA-AMS) published [Strengthening Organic Enforcement \(SOE\) Proposed Rule](#), the largest single piece of rulemaking since the National Organic Program (NOP) regulations went into effect in 2002. The SOE aims to transform the oversight and enforcement of organic production, domestically and internationally.

The SOE incorporates 2018 Farm Bill provisions into the NOP regulations that protect organic integrity, deter fraud in the organic supply chain, and reinforce consumer trust in the USDA organic label. The proposed rule will accomplish this by strengthening organic control systems, improving oversight on imports, and codifying and clarifying specific sections of the USDA organic regulations.

### Why is there a need for the proposed SOE rule?

The SOE was developed in response to growth in the organic market, increasing complexity in the organic supply chain, and increased price premiums for organic products. This environment has revealed vulnerabilities to oversight and enforcement capabilities of the current rule, especially in light of several high-profile fraud cases. The SOE's purpose is to respond to the growing organic sector and address

gaps in the current rule in order to ensure the integrity of the organic label.

The following is an excerpted summary in the Federal Register that describes the scope of the proposed rule:

“The United States Department of Agriculture (USDA) Agricultural Marketing Service (AMS) proposes amending the USDA organic regulations to strengthen oversight and enforcement of the production, handling, and sale of organic agricultural products. The proposed amendments are intended 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. Topics addressed in this proposed rule include: applicability of the regulations and exemptions from organic certification; import certificates; recordkeeping and product traceability; certifying agent personnel qualifications and training; standardized certificates of organic operation; unannounced on-site inspections of certified operations; oversight of certification activities; foreign conformity assessment systems; certification of grower group operations; labeling of nonretail containers; annual update requirements for certified operations; compliance and appeals processes; and calculating organic content of multi-ingredient products.”

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## New Strengthening Organic Enforcement Rule (SOE) *(continued from Page 1)*

### What changes will come with the proposed SOE rule?

Many of the changes proposed in the SOE rule will codify existing NOP guidance that MCS already follows.

Other parts of the proposed rule will:

- Reduce the types of operations exempt from organic certification
- Require the use of electronic import certificates for all organic products entering the United States.
- Change the required documentation submitted by the operation to the certifier annually
- Require certification agencies to expand and keep up to date information about certified operations in the USDA Organic Integrity Database

Increase oversight in the following areas:

#### 1. Inspections

Unannounced inspections will be codified in the regulation and required; inspector training requirements will increase; traceability and mass balance audits will be required for every inspection.

#### 2. Confirming organic status

Nonretail labeling requirements will include additional elements to increase traceability; organic certificates will be consistent across certifiers; recordkeeping requirements will increase to verify the organic status of all organic products and ingredients; and there will be increased attention to the monitoring of practices and procedures that uphold the organic integrity of organic products.

#### 3. Certifier accreditation

Increased minimum training requirements for all certification staff and inspectors; supply

chain auditing requirements; changes to data reporting and certifier information sharing; new considerations for certified organic grower groups to be certified within the US.

### Does the Proposed Rule Apply to Me?

The proposed rule may impact:

- Current NOP-certified organic production and handling operations, and those considering certification in the future
- Entities that trade, broker or import organic products and are not currently certified under the NOP regulations
- Entities that use non-retail containers for storing or shipping organic products
- Retail operations that sell organic products
- Operations that review or receive organic certificates to verify compliance with NOP regulations
- USDA-accredited certifying agencies and staff
- Organic inspectors
- Operations that import or export organic products to or from the United States

### What's next for the proposed SOE and MCS certified operations?

The public comment period for the proposed SOE closed on October 5, 2020. MCS submitted comments in support of many of the proposed changes, but also acknowledged that several of the proposed changes will impact small certifiers like MCS more than larger certifiers as well as small to midsize operations.

MCS provided comments that the NOP include considerations for the financial burden that certifiers like MCS will incur from the implementation of additional oversight requirements in the proposed rule. MCS asserted the perspective that, as a Federal program, additional appropriations from Congress to the NOP should be considered to cover the implementation of these costs.

USDA-AMS is proposing that all requirements in the proposed rule be implemented within ten months of the effective date of the final rule. MCS will be sure to keep you, our certified producers, up to date on decision making and final rule changes as more information comes forward.

### Where can I learn more?

For more resources about the Proposed SOE rule: <https://www.ams.usda.gov/rules-regulations/strengthening-organic-enforcement-proposed-rule>

Contact the MCS office if you have specific questions – [certification@mofga.org](mailto:certification@mofga.org) or 207-568-6030.

