

Exempt Handler Affidavit (EHA) Instructions

1. This form is for any handler in the supply chain of a certified operation that believes it qualifies for an exemption from certification, as defined in the Strengthening Organic Enforcement Final Rule. It will aid the certifier in verifying this exemption, and also in ensuring supply chain traceability.
2. The certified operation must complete section A. This affidavit and any sample audit trail records will become part of the certified operation's Organic System Plan (OSP).
3. The handler claiming an exemption must complete sections B through F. A separate EHA is required for each certified operation with which the handler claiming an exemption works.
4. A new EHA is required only if there is a change, including a change in activities or management of the handler claiming the exemption. An updated EHA may be requested by the certifier at any time.
5. This form is not applicable for private label owners; a separate form will be available for those handlers.
6. [Recommend something about the fee structure the certifier is using, if applicable.]

Certification is required (and this affidavit is not applicable) for:

- Storage facilities or warehouses receiving organic product that is not in sealed, tamper-evident* packaging.
- Broker, traders, wholesalers, distributors who sell organic products that are not in sealed and tamper-evident* final retail packaging.
- Importers or exporters of organic products into the United States.
- Private label or brand owners who purchase organic ingredients for their co-packers, sell organic products in nonretail packaging, or sell finished organic products in packaging that is not sealed or tamper-evident*.
- Operations that provide transport or transloading services that unload *unpacked* organic products into *uncertified* facilities or storage areas before loading into the next transport vehicle. Certification of location where unpackaged organic products are loaded/unloaded is required.
- Transporters and transloaders who combine, split, containerize, pack, repack, treat, sort, open, enclose, or label organic products.

Brokers, traders, wholesalers, distributors, importers, brand owners, and storage facilities are considered handlers per NOP § 205.2 "Handle, Handler". Exemptions from certification requirements are outlined in NOP § 205.101 and [Strengthening Organic Enforcement Final Rule](#) section A.

*"**Sealed, tamper-evident**" means the contents are sealed in a manner where an attempt to break the seal, access the contents (including to take out or put in product), or reclose the package would be obvious. Sealed, tamper-evident does not mean impermeable to gas and water. For 205.101(e) exemption to apply, either the retail or nonretail package must be sealed and tamper-evident. For 205.101(f) exemption to apply, the retail package must be sealed and tamper-evident, the nonretail package is not relevant.

- **Examples of nonretail tamper-evident packaging:** Produce boxes with "DO NOT TAMPER WITH" tape placed across box flaps, sealed bulk bags of flour, sealed drums or totes of olive oil, nonretail burlap bags that are sewn shut.
- **Examples of retail tamper-evident packaging:** Aseptically sealed jars, boxes of individually wrapped granola bars, clamshells with sticker closing the clamshell, zip-top produce bags sealed with sticker or strip that consumer must rip off to open, salad container with film top that must be ripped off to open, produce individually wrapped in plastic, mesh bags with a label that seals the bag and must be ripped off to open.
- **Examples of packaging that is NOT tamper-evident:** Clamshells without a sticker closing the clamshell, unsealed zip-top bags, mesh bags with a closure that could be removed without damaging the packaging or label, produce with PLU label not enclosed in any packaging.

Exempt Handler Affidavit (EHA)



A. Information about Certified Operation

The certified operation must complete section A.

1) Name of certified operation working with handler claiming exemption:	
2) Describe the business relationship between your operation and the handler claiming exemption. Include all of the activities performed on your behalf, by the handler claiming exemption.	

B. Handler Claiming Exemption

The handler claiming exemption must answer the questions in sections B through F.

Name of handler claiming exemption:			
Manager/Owner:			
Email:			
Phone:		Website:	
Address:			
Describe your role in the organic supply chain for the certified operation named in section A. Please describe all business activities you perform on behalf of the certified operation named in Section A.			

C. Exemptions

Handler claiming exemption – Indicate the exemption or exemptions that describe your operation, you may select more than one option:

1) I operate a storage facility used by the certified operation listed in section A to store product in sealed, tamper-evident* packaging*. NOP § 205.101(e)	This form is required ¹
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¹ This is a suggested approach based on certifiers' risk and capacity. Each certifier should assess their risk and capacity individually.

<p>2) I am a broker, trader, wholesaler, or distributor who takes title or physical possession of organic products. Products are sealed in tamper-evident* final retail packaging and remain in that packaging while in my control. That product (retail labeled, sealed, tamper-evident*) is supplied to the certified operation listed in section A. <i>NOP § 205.101(f)</i></p>	<p>This form is required²</p>
<p>3) I am a private label or brand owner who contracts a [certifier name]-certified co-packer to produce my products. The co-packer purchases or produces the ingredients used in my products. I do not purchase ingredients, I only sell finished, retail labeled products in sealed, tamper-evident* retail packaging. <i>NOP § 205.101(f)</i></p>	<p>This form is <i>optional</i>³</p>
<p>4) I am a licensed customs broker who does not take ownership or physical possession of organic products. I do not sell, import, or trade organic products. <i>NOP § 205.101(g)</i></p>	<p>This form is <i>optional</i>⁴</p>
<p>5) I am a logistics broker, e.g., freight forwarder. I arrange for movement and storage but do not take ownership or physical possession of organic products. I do not sell, import, or trade organic products. <i>NOP § 205.101(h)</i></p>	<p>This form is <i>optional</i>⁵</p>
<p>6) I am a transporter or transloader and am only responsible for the transport of <i>packaged</i> organic products. I do not store, combine, split, containerize, pack, repack, treat, sort, open, enclose, or otherwise label organic product. <i>NOP § 205.2 (“handle”)</i></p>	<p>This form is <i>optional</i>⁶</p>
<p>7) I am a transporter or transloader and am only responsible for the transport of <i>unpackaged</i> organic products. I do not store, combine, split, containerize, pack, repack, treat, sort, open, enclose, or otherwise label organic product. Locations where I load or unload are <i>certified</i>. <i>NOP § 205.2 (“handle”)</i></p>	<p>This form is <i>optional</i>⁷</p>
<p>8) Other, describe activities:</p>	<p>This form is required⁸</p>

² This is a suggested approach based on certifiers’ risk and capacity. Each certifier should assess their risk and capacity individually.

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⁴ This is a suggested approach based on certifiers’ risk and capacity. Each certifier should assess their risk and capacity individually.

⁵ This is a suggested approach based on certifiers’ risk and capacity. Each certifier should assess their risk and capacity individually.

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⁷ This is a suggested approach based on certifiers’ risk and capacity. Each certifier should assess their risk and capacity individually.

⁸ This is a suggested approach based on certifiers’ risk and capacity. Each certifier should assess their risk and capacity individually.

D. Exemption Verification

Handlers claiming exemption must complete this section. Answer these questions about the handling you perform for the certified operation named in section A. If you work with other certified operations, you will need to complete an additional Exempt Handler Affidavit to describe the handling you perform for each operation.

Yes No

1) Do you ever handle any organic products that are not enclosed in a sealed, tamper-evident* package or container when you receive them?

a) If yes or unsure,
describe:

2) Do you ever combine or split loads of bulk/unpackaged products?

a) If yes or unsure,
describe:

3) Do you ever combine, split, containerize, enclose, or open packages or containers of organic products?

a) If yes or unsure,
describe:

4) Do you ever relabel, repack, package, or apply any label that alters or obscures the original label or lot number/code? *Repacking includes placing product into other packaging that displays organic claims.*

a) If yes or unsure,
describe:

5) Do you ever sort, recondition, cull, ice, hydro cool, hydro vacuum, or otherwise process organic product in any way?

a) If yes or unsure,
describe:

6) Do you ever treat organic products or apply any substance to the organic product such as water, ethylene, sanitizers, pesticides, or controlled atmosphere treatment?

a) If yes or unsure,
describe:

7) Does organic product ever contact cleaners, sanitizers, pest control materials, nonorganic products, water that has contacted nonorganic products, or other materials while under your control?

a) If yes or unsure,
describe:

8) Do you import organic products into the United States which are then supplied to the certified operation?

a) If yes or unsure,
describe:

9) Do you export organic products from a foreign country to the United States which are then received by the certified operation?

Exporters are responsible for facilitating the trading, selling, consigning, shipping, or exporting of organic product from a foreign country to the United States. An organic exporter must be certified organic by certifying agents accredited by the USDA or certifying agents authorized by a trade arrangement or agreement. Organic exporters may be the final physical handler of organic products within a foreign country, or they may be the entities that facilitate, sell, or arrange the sale of organic products shipped to the United States.

a) If yes or unsure,
describe:

10) Is the organic product packaged or enclosed in a sealed, tamper-evident* package or container prior to being received and does it remain in that same sealed, tamper-evident* container while under your control?

a) If yes, describe how the package or container is sealed and tamper-evident* or attach a photo:

b) If no,
describe.

11) Is the organic product you handle, buy, or sell in final retail labeling when you receive, acquire, or purchase it? Attach an example of the labeling on products you handle.

Retail label attached

NA, product is labeled nonretail. Attach label.

NA, product is unlabeled bulk.

12) Do your audit trail records for each shipment include the information described in section E below? You may attach sample documents to demonstrate your system; all records must be provided to the certified operation and will be verified during inspections.

If your audit trail records do not trace back to the last certified organic operation, the certified operation will not be able to work with you until you improve your records.

13) Do you handle unpackaged products? Examples: tankers, grain elevators or silos, bulk railcars/truckloads of unpackaged product, livestock.

Operations that store or sell unpackaged products must be certified. Transport of unpackaged products or livestock may be exempt.

14) Do you take physical possession of organic products, e.g. organic products are received at a location that you own or lease?

15) Do you take ownership/title of organic products?

16) Do you sell or trade organic products?

Exemption 205.101(e) does not apply if you sell or trade organic products.

17) Do you prepare organic products for shipment?

Preparing for shipment = putting packaged products into shipping containers, applying internal tracking numbers, shrink-wrapping shipping cartons to a pallet, breaking down pallets of fully packaged products, adding protective packaging to nonretail containers, packing individual packaged products onto a shipping pallet, loading/unloading packaged products onto or from transport vehicles.

If yes, describe how you prepare products for shipment:

18) Transporter or transloader – Do you load or unload unpackaged products at uncertified locations?

Certification of location(s) where unpackaged products are loaded or unloaded is required. Certification of transporter only required if other handling occurs, e.g., combining, buying, or selling

NA, not a transporter or transloader

19) Storage facility – indicate the type of storage:

NA, not a storage facility Dry storage Cold storage Freezer storage

Other, describe:

20) Broker, trader, wholesaler, distributor

NA, not a broker

Describe how frequently you change organic suppliers:

To be exempt from certification, the answer to questions 1-9 must be “NO”, question 12 must be “YES.” Answers to other questions will be reviewed to determine if exemption applies.

E. Audit Trail Records

Handler claiming exemption – certified operations may only work with exempt handlers who provide full traceability back to the last certified operation for each shipment. The following are required for traceability:

- Nonretail containers used to ship or store organic products must identify product as organic and display the production lot number, shipping identification, or other unique information that links to the audit trail records.

- Purchase invoices, receipts, bills of lading (BOL), and other audit trail records must:
 - Designate products as organic AND
 - Include a description of the product, date of transaction, and amount transferred. You may strike out pricing information, provided organic status and quantity is legible.
- Exempt handler records and the last certified operation's records must link:
 - The last certified operation that handled the product must be listed on exempt handler invoices/records AND/OR
 - Lot numbers applied by the last certified operation to nonretail containers must match lot numbers on exempt handler audit trail records.
 - If product passes through multiple uncertified exempt operations in sequence, documents must trace through all uncertified operations back to the last certified handler.
- For each shipment, exempt handlers must provide a complete, current organic certificate for the last certified operation.
- Documents generated by the last certified operation proving purchase, delivery, and/or transfer to the exempt handler must be provided to the certified operation.
 - Exempt handler audit trail records must link directly back to the last certified operation, including transport, storage, shipping, and/or distribution. Documents must show that organic integrity was maintained; organic products did not come into contact with nonorganic products or prohibited materials such as fumigants.
- All certified suppliers to the uncertified handler must be approved by certifier as part of the certified operation's Organic System Plan (OSP). Notify your certified buyer prior to changing suppliers.

Operations exempt at 205.101(a) and (c)-(f) must maintain records per NOP § 205.101(i). All exempt operations must comply with applicable organic production and handling requirements and with any applicable labeling requirements. Certified operations must maintain records per NOP § 205.103. If inspectors cannot track organic product back to the last certified operation, sourcing organic products from the exempt handler may be considered a noncompliance.

F. Exempt Handler Statement

I, the owner or legally authorized representative, attest that I am qualified to assess the validity of the statements in this affidavit and the statements are true and accurate to the best of my knowledge.

I acknowledge the above requirements for audit trail records and disclosure to the certified operation and understand that failure to meet the audit trail record requirements or disclose records to the certified operation may be cause for certifier to rescind approval of my operation as an approved exempt organic handler and may be cause for compliance action against the certified entity. I agree to supply records to the certified operation adequate to perform traceability.

Name (Manager/Owner of Handler claiming exemption)	Signature	Date

Visit [\[insert website\]](#) to apply for certification. Questions about the certification process? Email [\[email address\]](#).

Certifier reserves the right to inspect any facility storing or handling organic product owned by a certified operation per NOP 205.400(c). If the exempt handler misrepresents policies or procedures as stated on this affidavit or acts in a manner that might jeopardize organic integrity or tracking of the organic product, the certified operation working with the exempt handler will be notified. The certified operation will be held responsible for correcting any noncompliance issues. Certifier will report uncertified handlers who are handling organic products but are not exempt to the USDA NOP for investigation and potential civil penalties.