

## Complying with SOE: Importing/Exporting Organic Products to the U.S.

- **What has changed:** With the implementation of USDA’s Strengthening Organic Enforcement (SOE) rule, electronic import certificates will be required for all imported organic products entering the U.S., regardless of their origin or how they are packaged. SOE also requires certification of all exporters and importers of organic products.
- **When does it change:** March 19, 2024
- **Who is impacted:** Exporters, **Exporter’s Certifiers**, Importers, **Importer’s Customs Broker**, **Importer’s Certifier**.
- **What is my responsibility:**

### DEFINITION

### REQUIREMENTS



#### Organic Exporter

*A certified exporter of organic agricultural product(s) who facilitates the trade of, consigns, or arranges for the transport/shipping of organic agricultural products from a foreign country to the United States.*

- **Organic exporters** shipping to the U.S. must be certified by a certifying agent accredited by the **USDA or a foreign certifying agent** authorized under an organic trade arrangement.
- **Exporters** must provide export data to the **Exporter’s Certifier** to get issued the NOP Import Certificates for the organic products.
- Organic products exported to the U.S. must be clearly identified and marked as organic on all import documents, including but not limited to invoices, packing lists, bills of lading, and **U.S. Customs and Border Protection** entry data.
- **Exporters** must provide the issued NOP Import Certificate to the **Organic Importer**.



#### Exporter’s Certifier

*Any entity accredited by the U.S. Secretary of Agriculture as a certifying agent for organic production or handling operations. Can be a USDA-accredited certifying agent or a foreign certifying agent authorized under an organic trade arrangement.*

- **Exporter’s Certifier** uploads **Exporter’s** certification information into NOP’s Organic Integrity Database.
- **Exporter’s Certifier** uses NOP’s Organic Integrity Database to issue NOP Import Certificates to **Exporter**.
- **Exporter’s Certifier** must review NOP Import Certificate requests and determine whether the given export complies with the USDA organic regulations and must have a control system for approving or rejecting the validity of an NOP Import Certificate request.
- **Exporter’s Certifier** must use on-site inspections to audit quantities of the **Exporter’s** produced or purchased accounts for the **Exporter’s** organic product(s) used, stored, sold, or transported.
- **Exporter’s Certifier** must verify that the **Exporter** can trace the organic product(s), including NOP Import Certificate documentation, from the time of purchase or acquisition through production to sale or transport.

## DEFINITION

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### Transporter/ Transportation

Transport of agricultural products does not require certification. Transport generally refers to the movement of products in commerce.

Any activities other than the movement of products on a transportation vehicle or moving products between transportation vehicles (transloading) are considered handling and require certification. Examples of adjacent activities that do not qualify as transport include combining, splitting, containerizing, packing/repacking, treating, sorting, opening, enclosing, or labeling/relabeling. In addition, loading or unloading unpackaged products into or from a storage facility is not a form of transportation; this activity must be certified.

- **Transporters** that strictly transport organic products do not require organic certification. Transport is not included in the regulatory or statutory definitions of handling. SOE requires that **Importers** use audit trails and traceability to verify that uncertified **transporters** don't compromise integrity.



### Organic Importer

The operation responsible for accepting imported organic agricultural products within the United States and ensuring NOP Import Certificate data is entered into the U.S. Customs and Border Protection import system of record.

- **Organic Importers** to the U.S. must be certified by a **certifying agent** accredited by the USDA and listed in NOP's Organic Integrity Database.
- **Importers** must obtain NOP Import Certificates from **Organic Exporters** and provide them to the Importer's Customs Broker for customs clearance.
- Organic imports to the U.S. must be clearly identified and marked as organic on all import documents, including but not limited to invoices, packing lists, bills of lading, and **U.S. Customs and Border Protection** entry data.



### Importer's Customs Brokers:

A Customs Broker is defined by 19 CFR 111.1 as: "a person who is licensed under this part to transact customs business on behalf of others."

A customs business is further defined in 19 CFR 111.1 and includes "activities involving transactions with CBP [U.S. Customs and Border Protection] concerning the entry and admissibility of merchandise . . . payment of duties, taxes, or other charges . . . the preparation . . . of documents in any format and the electronic transmission of documents . . . intended to be filed with CBP in furtherance of any other customs business activity . . ."

## DEFINITION

## REQUIREMENTS



### Importer's Certifier

Any entity accredited by the U.S. Secretary of Agriculture as a certifying agent for organic production or handling.

- **Importer's Certifier** must use on-site inspections to audit and verify quantities of the **Importer's** produced or purchased products account for the **Importer's** organic product(s) used, stored, sold, or transported.
- **Importer's Certifier** must verify that the **Importer** can trace the organic product(s), including NOP Import Certificate documentation, from the time of purchase or acquisition through production to sale or transport, including NOP Import Certificate documentation.



### U.S. Customs and Border Protection

- Manages import data flow through the Automated Commercial Environment system and provides import data to **NOP**.



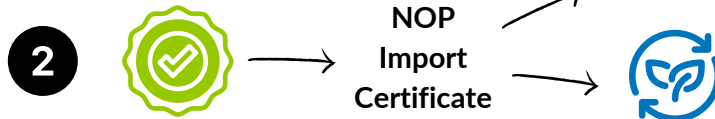
### National Organic Program (NOP)

- Monitors mass balance information and runs analytics to verify crop acreage data matches imports. Initiates and conducts investigations as necessary directly or with **Importer's Certifier** or **Exporter's Certifier**.

## > NOP Import Certificate Process and Data Flow



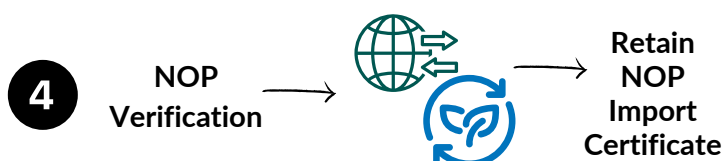
To prepare a shipment for export, a **Certified Exporter** in the origin country sends export shipment data to their **Certifier** and requests an NOP Import Certificate. The **Exporter** must identify products as organic on all export documents, including but not limited to invoices, packing lists, bills of lading, and U.S. Customs and Border Protection entry data.



The **Certifier**, which is either USDA-accredited or accredited by another government under a trade arrangement, verifies the shipment is compliant and then issues the NOP Import Certificate from the USDA Organic INTEGRITY database. Each NOP Import Certificate has its own unique identification number. The **Certifier** electronically transfers the import certificate and data to the **Exporter**, who then transfers it to the **Importer** in the U.S. Physical copies are not required.



The U.S. **Importer** verifies compliance of the import, including a valid import certificate associated with the specific shipment, and they (or a **Customs Broker**) upload the import certificate data into CBP's Automated Commercial Environment (ACE), the system used by the government to determine admissibility to the U.S. The **Importer** must identify products as organic on all export documents, including but not limited to invoices, packing lists, bills of lading, and CBP entry data. The **Importer** must have a control system in place to verify each shipment has had no contact with prohibited substances or exposure to ionizing radiation during **transportation**.



Import data entered into the ACE system is used by NOP to verify the validity of import certificates, track shipment quantities, and conduct traceability investigations. The NOP Import Certificate should be retained by the **Exporter** and **Importer** for review.



NOP Import Certificates are audited by **Exporter's Certifier** during **Exporter's** annual inspection. NOP Import Certificates are audited by **Importer's Certifier** during **Importer's** annual inspection.

## > Additional Resources

[USDA Electronic Organic Import Certificates](#) | Summary of NOP Import Certificate process

[NOP Strengthening Organic Enforcement Final Rule Primers](#) | Condensed version of regulatory text with plain-language description of what the text means; Primer Document 3 covers NOP Import Certificates

[Organic INTEGRITY Database](#)

Organic INTEGRITY Learning Center: Relevant Courses

- Import Oversight Essentials (NOP-060)
- How to Create Electronic Organic Import Certificates (NOP-997 Microlearning module)
- NOP Import Certificate Data Flow (NOP-997 Microlearning module)