

**AMERICERT INTERNATIONAL**

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Rev 101123

**Uncertified Operation Affidavit**

Under the NOP Strengthening Organic Enforcement published rule, effective March 20, 2023, the NOP has severely limited the types of operations in organic supply chains that are NOT required to be certified organic. Exemptions are intended only for low-risk activities. The NOP has indicated a bias towards certification. Unless qualifying for an exemption, any operation that produces, handles, or stores organic agricultural products must be certified organic. Exemptions are found in 7 CFR §205.101(a)-(h). Brokers, traders, wholesalers, distributors, importers, brand owners, and storage facilities are considered handlers per NOP §205.2 “Handle, Handler.” Certification will be required unless the operation qualifies for one of the few strict exemptions listed in the NOP Final Rule. When in doubt, operations are encouraged to get certified.

**Instructions**

1. This form is to be completed by any operation, in an organic supply chain or audit trail of a certified organic grower or handler, that is not certified organic by an accredited organic certifying agent and believes it qualifies for an exemption from organic certification. This form will aid the certifier in verifying this exemption and also in ensuring supply chain traceability.
2. The Americert-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). The uncertified operation claiming an exemption must complete Sections B - E.
3. This form must be maintained and be current. It must be updated annually.
4. Americert requires this form in the following scenarios:
  - Warehouses: An Americert-certified operation contracts with a storage or warehouse for storage of organic crops, ingredients, or product. This form is required to be completed by each such storage or warehouse.
  - Transporters: If an Americert-certified operation arranges transport (inbound, outbound, or from last certified organic source to customer) AND the organic item (crop, ingredient, or product) transported is UNPACKAGED within the transport vehicle, this form is required to be completed by each transporter involved in transport of that item.
  - Purchase or Sale: If an Americert-certified operation purchases, buys, brokers, trades, or distributes FROM an operation other than the last certified organic source, this form is required to be completed by each such seller, broker, trader, or distributor.
  - Import or Export: If an Americert-certified operation purchases, buys, brokers, trades, or distributes product it receives from an uncertified operation that has imported products into the U.S. this form is required to be completed by each such importer, exporter, seller, broker, trader, or distributor.
5. Retail establishments must have a physical location and sell directly to consumers, end-users, or the public. Wholesalers are not retail establishments. Retail establishments include restaurants, delicatessens, bakeries, grocery stores, or any retail business with a restaurant, delicatessen, bakery, salad bar, bulk food self-service station, or other eat-in, carry-out, mail-order, or delivery service of raw or processed agricultural products. Retail establishments may do activities such as removing produce from shipping boxes, washing and transferring product to display cases, or opening bags of oats and transferring contents to bulk food dispensers.

**Section A: Information about Certified Operation**

The certified operation must complete Section A.

1. Name of certified operation working with the uncertified operation claiming exemption:	
2. Describe the business relationship between the certified operation and the uncertified operation claiming exemption. Include all of the activities performed on the certified operation’s behalf by the uncertified operation claiming exemption.	

**Section B: Applicability and Information of the Uncertified Operation**

The uncertified operation claiming exemption must answer the questions in Sections B - E.

1. Name of Uncertified Operation Claiming Exemption:	
2. Address for Uncertified Operation:	
3. Person Completing Affidavit as Authorized Representative,	

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Manager, or Owner of Uncertified Operation Named Above:	
4. Email:	
5. Phone:	
6. Website:	
7. Type of Activities Conducted by Uncertified Operation with Organic Crops, Ingredients, or Products: <b>[SELECT ALL THAT APPLY]</b>	<input type="checkbox"/> Dry storage <input type="checkbox"/> Freezer storage <input type="checkbox"/> Trader <input type="checkbox"/> Distributor <input type="checkbox"/> Transporter <input type="checkbox"/> Business to Business Sales of Non-Retail Organic Products or Crops <input type="checkbox"/> Other: <input type="checkbox"/> Cold storage <input type="checkbox"/> Broker <input type="checkbox"/> Wholesaler <input type="checkbox"/> Seller, Distributor <input type="checkbox"/> Importer or Exporter
8. Select from the list to the right the category under which this operation is claiming exemption: <b>[SELECT ALL THAT APPLY]</b>	<input type="checkbox"/> § 205.101(a): Organic Sales < \$5,000 <input type="checkbox"/> § 205.101(b): Retail Establishment That Does Not Process Agricultural Products. <input type="checkbox"/> § 205.101(c): Retail Establishment That Does Process Agricultural Products. <input type="checkbox"/> § 205.101(d): Operation That Makes Agricultural Products with Less than 70% Organic Ingredients or That Only Identify Organic Ingredients on the Information Panel. <input type="checkbox"/> § 205.101(e): Operations That Store, Receive, or Prepare for Shipment Organic Products That Are Packaged in Sealed, Tamper-Evident Packaging or Containers. Examples include storage facilities used by the certified operation listed in Section A to store product in sealed, tamper-evident packaging. <input type="checkbox"/> § 205.101(f): Operations That Buy, Sell, Receive, Store, or Prepare for Shipment Organic Products Packaged in Sealed, Tamper-Evident Retail Packaging or Retail Containers. Examples include: <ul style="list-style-type: none"> <li>➢ Brokers, traders, wholesalers, or distributors that take title or physical possession of organic product that are sealed in tamper-evident final RETAIL packaging and remain in that packaging while in the uncertified operation’s control; the retail labeled, sealed, tamper-evident product is supplied to the certified operation listed in Section A.</li> <li>➢ Private label or brand owners that contract a certified organic copacker to produce their products; the copacker purchases or produces the ingredients used in the products; the private label or brand owner does not purchase ingredients; the brand owner only sells finished, retail labeled products in sealed, tamper-evident retail packaging.</li> </ul> <input type="checkbox"/> § 205.101(g): Customs Broker. Examples include a licensed customs broker that does not take ownership or physical possession of organic products and that does not sell, import, or trade organic products. <input type="checkbox"/> § 205.101(h): Transporters and Operations That Only Arrange for the Shipping, Storing, Transport, or Movement of Organic Products. Examples include logistics brokers (such as freight forwarders) that arrange for movement and storage but do not take ownership or physical possession of organic products and also does not sell, import, or trade organic products. Additional examples are: <ul style="list-style-type: none"> <li>➢ Transporters or transloaders that are only responsible for the transport of PACKAGED organic products and that do not store, combine, split, containerize, pack, repack, treat, sort, open, enclose, or otherwise label organic product.</li> <li>➢ Transporters or transloaders that are only responsible for the transport of UNPACKAGED organic products and that do not store, combine, split, containerize, pack, repack, treat, sort, open, enclosed, or otherwise label organic product; locations where loading or unloading occur are certified organic.</li> </ul>

**Section C: Exemption Verification**

Uncertified operations claiming exemption must complete Section C. Answer these questions about the activities performed for the certified operation named in Section A. If this uncertified operation also works with other certified operations, this uncertified operation will need to complete an additional Uncertified Operation Affidavit to describe the handling performed for each certified operation.

1. Have you read the Guidance document and instructions for completing this form, including the definition of “tamper-evident	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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packaging or container"? (link here: <a href="#">Guidance on Uncertified Operations and Affidavit</a> )	
2. Do you ever handle or sell any organic products that are not enclosed in a sealed, tamper-evident package or container when you receive or sell them? (Please read the definition of sealed, tamper-evident packaging)	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
3. Do you ever combine or split loads of bulk/unpackaged organic products?	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
4. Do you ever combine, split, containerize, enclose, or open packages or containers of organic products (even if just to conduct sampling activities or sample analysis)?	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
5. Do you ever relabel, repack, package, or apply any label that alters or obscures the original label or lot number/code?  Note: Repacking includes placing product into other packaging that displays organic claims.	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
6. Do you ever sort, recondition, cull, ice, hydro cool, hydro vacuum, or otherwise process organic product in any way?	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
7. Do you ever treat organic products or apply any substances to the organic product such as water, ethylene, sanitizers, pesticides, or controlled atmosphere or gas treatment?	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
8. Does organic product ever contact cleaners, sanitizers, pest control materials, nonorganic products, water that has contacted nonorganic products, or other prohibited materials while under your control?	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
9. Do you import organic products into the United States which are then supplied to the certified operation?	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
10. Do you export organic products from a foreign country to the United States which are then received by the certified operation?  Note: 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes or unsure, describe:
11. 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?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Is the organic product you handle, buy, or sell in final retail labeling when you receive, acquire, or purchase it? Final retail labeling is labeling which meets the requirements of section 205.303 or 205.304 of the NOP organic regulations.	<input type="checkbox"/> Yes. <input type="checkbox"/> No. Product is labeled nonretail. <input type="checkbox"/> N/A, product is unlabeled bulk.
13. Do you handle unpackaged products? Examples: tankers, grain elevators or silos, bulk railcars/truckloads of unpackaged product, livestock. Note: Operations that store or sell unpackaged products must be certified. Transport of unpackaged products or livestock may be exempt.	<input type="checkbox"/> Yes <input type="checkbox"/> No
14. Do you take physical possession of organic products (e.g., organic products are received at a location that you own or lease)?	<input type="checkbox"/> Yes <input type="checkbox"/> No

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15. Do you take ownership/title of organic products?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Do you sell or trade organic products? Note: Exemption §205.101(e) does not apply if you sell or trade organic products.	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Do you prepare organic products for shipment?  Note: Examples of “preparing for shipment” include 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, describe how you prepare products for shipment:
18. Transporter or transloader: Do you load or unload unpackaged products at uncertified locations?  Note: 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> N/A, not a transporter or transloader
19. If you are a Broker, trader, wholesaler, distributor, importer, or seller, how frequently do you change organic suppliers?	<input type="checkbox"/> N/A. Not a broker, trader, wholesaler, distributor, importer, or seller. Describe how frequently you change organic suppliers:

### **Section D: Records**

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 uncertified operation may be considered a noncompliance.

Do your audit trail records for each shipment include the information described below?	<input type="checkbox"/> Yes <input type="checkbox"/> No You may attach sample documents to demonstrate your system. All records must be provided to the Americert-certified operation and will be verified during Americert inspections. If your audit trail records do not trace back to the last certified organic operation, the Americert-certified operation will not be able to work with you until you improve your records.
Americert-certified operations may only work with exempt handlers who provide full supplier traceability back to the last certified operation for each shipment. The following are required for traceability:	
1) 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.	
2) Purchase invoices, receipts, bills of lading (BOL), and other audit trail records must: <ul style="list-style-type: none"> <li>➤ Designate products as organic AND</li> <li>➤ Include a description of the product, date of transaction, &amp; amount transferred. You may strike out pricing information, provided organic status &amp; quantity are legible.</li> </ul>	
3) Uncertified operations and the last certified operation’s must link: <ul style="list-style-type: none"> <li>➤ The last certified operation that handled the product must be listed on the uncertified operation’s invoices/records AND/OR</li> <li>➤ Lot numbers applied by the last certified operation to nonretail containers must match lot numbers on uncertified operation audit trail records.</li> <li>➤ If product passes through multiple uncertified exempt operations in sequence, documents must trace through all uncertified operations back to the last certified handler.</li> </ul>	

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- 4) For each shipment, uncertified operations must provide a complete, current organic certificate for the last certified operation.
- 5) Documents generated by the last certified operation proving purchase, delivery, and/or transfer to the uncertified operation must be provided to the Americert certified operation. Uncertified operation’s 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 and that organic products did not come into contact with nonorganic products or prohibited materials such as fumigants.
- 6) All certified suppliers to the uncertified operation must be approved by Americert as part of the certified operation’s Organic System Plan (OSP). Notify your certified organic buyer prior to changing suppliers.

**Section E: Uncertified Operation 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 Americert-certified operation and understand that failure to meet the audit trail record requirements or disclose records to the Americert-certified operation may be cause for Americert to rescind approval of my operation as an approved uncertified exempt organic handler and may be cause for compliance action against the Americert-certified entity. I agree to supply records to the certified operation adequate to perform traceability.

Certification of broker/trader/wholesaler/distributor/importer/storage facilities/sellers is straightforward and allows you to protect the identity of your suppliers. Visit [www.americertorganic.info](http://www.americertorganic.info) to apply for certification. Questions about the certification process? Email Americert@Americertorganic.info.

Americert reserves the right to inspect any facility storing or handling organic product owned by an Americert-certified operation per NOP § 205.400(c). If the uncertified operation 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 Americert-certified operation working with the uncertified operation will be notified. The Americert-certified operation will be held responsible for correcting any noncompliance issues. Americert will report uncertified handlers who are handling organic products but are not exempt to the USDA NOP for investigation and potential civil penalties.

Name (Manager/Owner of Operation Claiming Exemption)	
Signature (Needs More Than a Typed Signature)	
Date	