



## Exempt Handler Affidavit (EHA) Instructions

According to the National Organic Standards §205.101 and the [Strengthening Organic Enforcement Final Rule](#) section A, limited handling operations may be exempt from certification. Exempt Handlers must meet at least one exemption in §205.101, and the applicable requirements in Subpart C (production/handling), Subpart D (labeling) and §205.101(i) (recordkeeping). The purpose of this form is for PCO to verify that the handler claiming exemption from certification meets the applicable terms.

### This affidavit is required for:

- Storage facilities, or other handling operations, that only receive, store or prepare for shipment<sup>1</sup> organic product in sealed, tamper-evident packaging<sup>2</sup>. §205.101(e)
- Brokers, traders, wholesalers, distributors, or similar handling operations, who buy and/or sell organic product that is in sealed, tamper-evident final retail packaging and remains in that packaging while in their control. Product may also be received, stored or prepared for shipment<sup>1</sup>, but no other handling must occur. §205.101(f)
- Any other type of operation, if requested by PCO, for PCO to further evaluate activities to determine the need for certification.

### This affidavit is not required for:

- Production or handling operations, and retail establishments<sup>3</sup> claiming an exemption from certification per §205.101(a-d). Certified operations purchasing products from such operations should review §205.310 for restrictions on the use of products produced or processed by an exempt operation.
- Private label companies (private label owners, brand owners or similar operations) claiming an exemption from certification. If you are working with such operations, the PCO Private Label Agreement must be completed.
- Licensed customs brokers §205.101(g) or logistics brokers<sup>4</sup> §205.101(h) claiming exemption from certification. If you are working with such operations, you must document the details in the Fraud Prevention section of your OSP(s).
- Transporters/transloaders. If you are working with such operations, you must document the details in the Transportation section of your OSP(s).

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

- Storage facilities or warehouses handling organic product that is not in sealed, tamper-evident packaging<sup>2</sup>.
- Broker, traders, wholesalers, distributors who sell organic products not in sealed, tamper-evident retail packaging<sup>2</sup>.
- 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, tamper-evident<sup>2</sup>.
- Transporters/transloaders 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/transloaders who combine, split, containerize, pack, repack, treat, sort, open, enclose or label.

### Instructions:

- The certified operation must complete section A of this form. This affidavit and any sample audit trail records will become part of the certified operation's Organic System Plan (OSP).
- The handler claiming an exemption must complete sections B through E of this form. A separate EHA is required for each certified operation with which the handler claiming an exemption works.
- 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 PCO at any time.

<sup>1</sup> **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 or retail displays of organic products, packing individual packaged products onto a shipping pallet, loading/unloading packaged products onto or from transport vehicles, and placing individual retail packages into a retail display which the certifying agent of the last certified handling operation has verified as compliant. Tasks must be performed with the sealed, tamper-evident packaging remaining intact and without altering product contents or any retail labeling.

<sup>2</sup> **Sealed, tamper-evident** = 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.

- **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 nonretail tamper-evident packaging:** Produce boxes with "DO NOT TAMPER WITH" tape across flaps, sealed bulk bags of flour, sealed drums/totes of olive oil, sewn shut nonretail burlap bags.

<sup>3</sup> **Retail establishment** = 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. Businesses which sell to other businesses (wholesale) do not qualify as retail establishments. Retail establishments may use virtual transactions for sales, but they must also have a physical location for consumers to purchase products. Portions of your business may need to be certified while other portions may be exempt.

<sup>4</sup> **Logistics brokers** = operations that only arrange for the shipping, storing, transport, or movement of organic agricultural products but does not otherwise handle organic products. These operations only secure transport/storage to meet the needs of a third party who owns or is responsible for the agricultural product. Freight Forwarders or Freight Brokers may also be considered Logistics Brokers.

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# Exempt Handler Affidavit (EHA)

## A. Information about PCO Certified Operation

*The PCO 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.	

*The handler claiming exemption must complete and answer the questions in sections B through E.*

## B. Handler Claiming Exemption

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, and include the type of product handled (e.g. totes, barrels, retail packaging on pallets, etc.).			

## C. Exemption Verification

Handlers claiming exemption must 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.

1. Do you buy (take ownership/title of) organic products?

- ☐ Yes  
☐ No

2. Do you sell organic products?

- ☐ Yes  
☐ No

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

- ☐ Yes  
☐ No

4. Do you prepare organic products for shipment<sup>1</sup>?

- ☐ Yes  
☐ No

a) If yes, describe how you prepare products for shipment:

5. Do you handle unpackaged products?

Examples: tankers, grain elevators/silos, bulk railcars/truckloads of unpackaged product/livestock. *Operations that handle unpackaged products must be certified. Transport of unpackaged products/livestock may be exempt.*

- ☐ Yes  
☐ No

6. Do you ever handle any organic products that are not enclosed in a sealed, tamper-evident package or container<sup>2</sup>?

- ☐ Yes  
☐ No

a) If yes or unsure, describe:

7. Is the organic product packaged or enclosed in a sealed, tamper-evident container<sup>2</sup> prior to being received and does it remain in that same sealed, tamper-evident container while under your control?

- ☐ Yes  
☐ No

a) If yes or unsure, describe how packaging is sealed, tamper-evident or attach a photo:

8. Is the organic product you handle (including buying/selling) in final retail labeling when you receive, acquire, or purchase it? Attach an example of the labeling on products you handle.

- ☐ Retail label attached
- ☐ N/A, product is labeled nonretail. Attach label.
- ☐ N/A, product is unlabeled bulk.

9. Do you ever combine or split loads of bulk/unpackaged products?

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

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

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

11. 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.*

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

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

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

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

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

14. 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?

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

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

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

16. 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 U.S. An organic exporter must be certified organic by certifying agents accredited by the USDA or certifying agents authorized by a trade arrangement/agreement. Organic exporters may be the final physical handler of organic products within a foreign country, or the entities that facilitate, sell, or arrange the sale of organic products shipped to the U.S.*

- ☐ Yes
- ☐ No

a) If yes or unsure, describe:

17. If you are a Transporter or transloader – Do you load or unload unpackaged products at uncertified locations?  
*Location(s) where unpackaged products are loaded or unloaded must be certified. Transporter or transloader is only required to be certified if other handling occurs, e.g. combining.*

- ☐ N/A, not a transporter or transloader
- ☐ Yes
- ☐ No

18. If you are a storage facility describe the type of storage (e.g. dry, cold, freezer, etc.) in the space below:

- ☐ N/A, not a storage facility

19. If you are a broker, trader, wholesaler, distributor describe how frequently you change organic suppliers in the space below:

☐ N/A, not a broker, trader, wholesaler or distributor.

## D. Audit Trail Records

Certified operations may only work with exempt handlers who provide full traceability back to the last certified operation for each shipment. Operations exempt at §205.101(f) must maintain records per §205.101(i). Certified operations must maintain records per §205.103. If inspectors cannot trace organic product back to the last certified operation, sourcing organic products from the exempt handler may be considered a noncompliance. Review the requirements, and answer the question below.

Do your audit trail records for each shipment include all information required for traceability?

☐ Yes

☐ No

*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.*

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 that the organic status and amount 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 PCO as part of the certified operation's Organic System Plan (OSP). Notify your certified buyer prior to changing suppliers.

## E. 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 PCO 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 or Owner of Handler claiming exemption)	Signature (Typing your name in the signature line above constitutes a signature)	Date

*PCO reserves the right to inspect any facility handling organic product(s) owned by a certified operation (§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. PCO will report uncertified handlers who are handling organic products but are not exempt to the USDA NOP for investigation and potential civil penalties.*

**For information about how to apply for certification visit [paorganic.org](http://paorganic.org). Questions about the certification process? Email [cst@paorganic.org](mailto:cst@paorganic.org)**