

Self-Assessment - Do I Need to be Certified? (When in doubt - YES!)

More than one activity may apply; portions of your business may need to be certified while other portions may be exempt from or otherwise not covered by the certification requirement. **Such exempt or uncovered operations may still choose to become certified; contracts may also require more certification than the regulations.**

I grow organic crops, collect wild crops, or raise organic livestock.

[See Slide 2](#)

I process, package, combine, relabel, aggregate, cull, condition, pack, containerize, repack, or label organic products.

[See Slide 2](#)

I import or export organic products into the United States.

[See Slide 2](#)

I am a retail establishment.

[See Slide 3](#)

I buy or sell packaged organic products or ingredients (including ingredients sent to co-packers). I may also receive, store, and/or prepare for shipment.

[See Slide 5](#)

My gross income from organic sales is \$5000 or less annually.

[See Slide 2](#)

I handle products containing <70% organic ingredients or products that only identify organic ingredients on the ingredient panel.

[See Slide 2](#)

I am a licensed customs broker.

[See Slide 2](#)

I receive, store, and/or prepare for shipment organic products. I do not buy, sell, or import.

[See Slide 4](#)

I am a private label brand owner.

[See Slide 6](#)

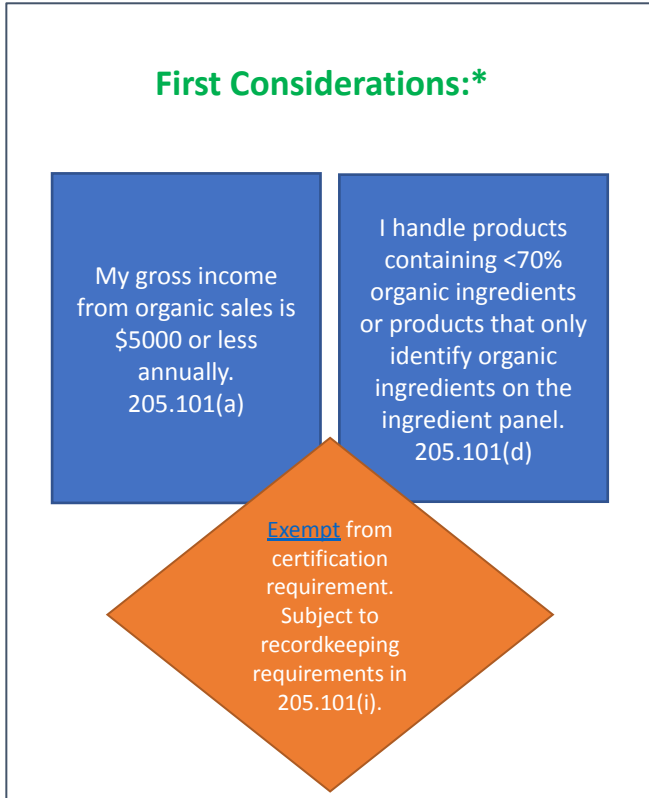
I am a logistics broker or freight forwarder.

[See Slide 2](#)

I transport or transload organic products.

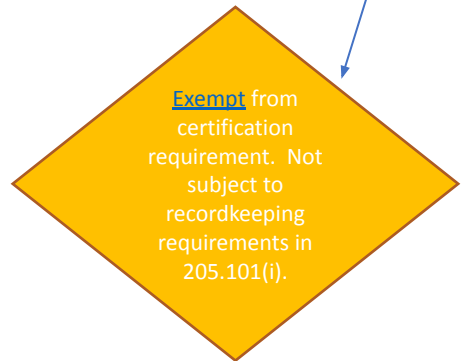
[See Slide 7](#)

SLIDE 2: Exemptions (a), (d), (g), and (h)

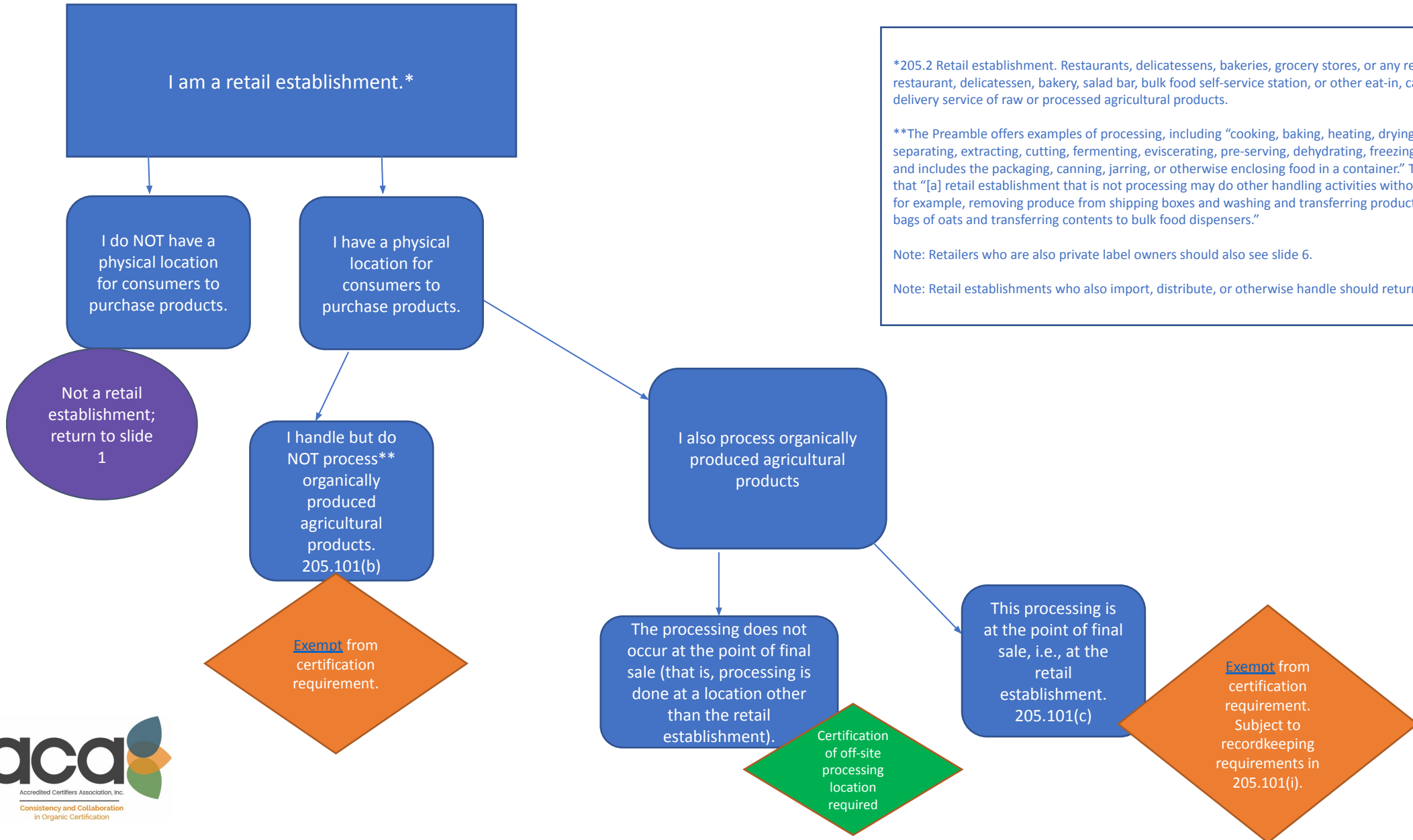


*Products subject to these exemptions may not be used as ingredients in organic products, or claimed as organic by another operation.

**205.2 Handle. To sell, process, or package agricultural products, including but not limited to trading, facilitating sale or trade on behalf of a seller or oneself, importing to the United States, exporting for sale in the United States, combining, aggregating, culling, conditioning, treating, packing, containerizing, repackaging, labeling, storing, receiving, or loading.



SLIDE 3: Exemptions (b), (c)



*205.2 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.

**The Preamble offers examples of processing, including “cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, pre-serving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing food in a container.” The Preamble goes on to state that “[a] retail establishment that is not processing may do other handling activities without certification... includ[ing], for example, removing produce from shipping boxes and washing and transferring product to display cases or opening bags of oats and transferring contents to bulk food dispensers.”

Note: Retailers who are also private label owners should also see slide 6.

Note: Retail establishments who also import, distribute, or otherwise handle should return to slide 1.

SLIDE 4: Exemption (e)

I receive, store, and/or prepare for shipment* organic products. I do not buy, sell, or import.
Examples: storage facility, warehouse facility, cold storage facility, ports of entry

I also do other handling** such as repack, relabel, cull, treat, condition, combine, split, sort, containerize
Examples: controlled atmosphere, ethylene treatment

Certification required

I do NOT do any other handling (as defined in 205.2),** including buying, selling, or importing.

Product is not in sealed, tamper-evident packaging when I receive it

Certification required

Product is in sealed, tamper-evident packaging when I receive it

Product does NOT stay in the same sealed, tamper-evident packaging while in my control (including package being opened or altered)

Certification required

Product stays in the same sealed, tamper-evident packaging while in my control 205.101(e)

Exempt from certification requirement. Subject to recordkeeping requirements in 205.101(i).

*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.

**205.2 Handle. To sell, process, or package agricultural products, including but not limited to trading, facilitating sale or trade on behalf of a seller or oneself, importing to the United States, exporting for sale in the United States, combining, aggregating, culling, conditioning, treating, packing, containerizing, repackaging, labeling, storing, receiving, or loading.

It is also important to distinguish between exemptions (e) and (f). For (e) to apply, either the retail or nonretail packaging must be sealed and tamper-evident. For (f) to apply, the **retail** packaging must be sealed and tamper-evident (emphasis added). This means that private label owners and brokers are only exempt if the retail package is sealed and tamper-evident. In practice, this looks as follows:

Example - a case of apples in which the apples are unwrapped, but are in a case that is glued shut on the bottom, and taped shut on the top. A storage facility handling the apples could be exempt because the nonretail case is sealed and tamper-evident. But the private label owner and the broker *selling* the apples would not be exempt (and would need to be certified), because the *retail* packaging is not sealed and tamper-evident. The retail packaging is critical to eligibility for exemption (f).

SLIDE 5: Exemption (f)

I buy or sell packaged organic products or ingredients. I may also receive, store, and/or prepare for shipment*.
Examples: Brokers, Traders, Wholesalers, Distributors, Sales Brokers

I also do other handling such as process, repack, relabel, cull, treat, condition.

Certification required.

I do NOT do any other handling (as defined in 205.2)**

Product that I buy or sell is NOT labeled for retail sale; it is labeled for nonretail sale, bulk, or unpackaged.

Certification required.

Product that I buy or sell is labeled for retail sale

Product is NOT in sealed, tamper-evident retail*** packaging while in my control.

Certification required.

Product is in sealed, tamper-evident retail*** packaging while in my control.

Retail labelled product does NOT stay in the same sealed, tamper-evident packaging while in my control

Certification required.

Retail labelled product stays in the same sealed, tamper-evident packaging while in my control 205.101(f)

Exempt from certification requirement. Subject to recordkeeping requirements in 205.101(i).

*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.

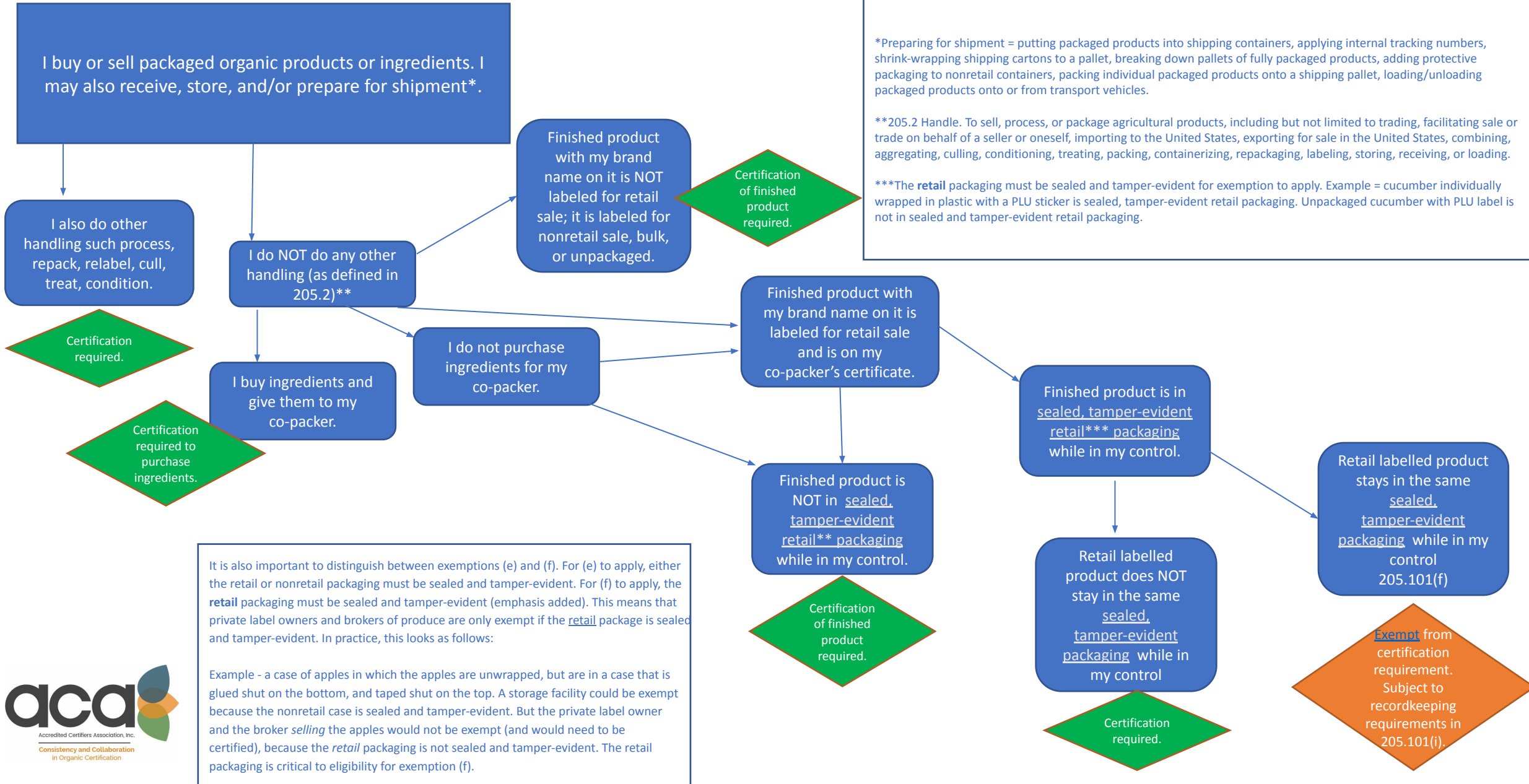
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***The **retail** packaging must be sealed and tamper-evident for exemption to apply. Example = cucumber individually wrapped in plastic with a PLU sticker is sealed, tamper-evident retail packaging. Unpackaged cucumber with PLU label is not in sealed and tamper-evident retail packaging.

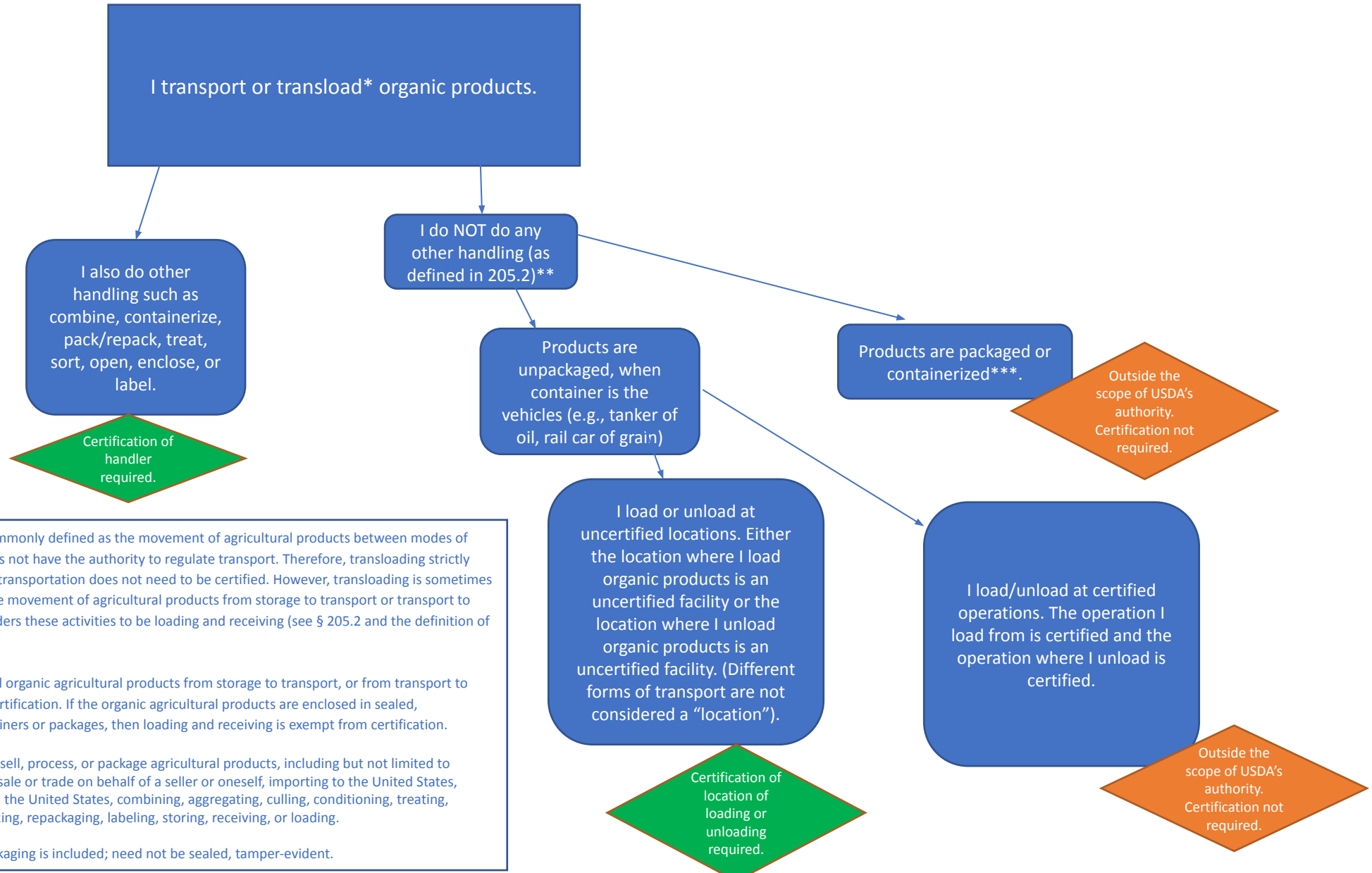
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Example - a case of apples in which the apples are unwrapped, but are in a case that is glued shut on the bottom, and taped shut on the top. A storage facility handling the apples could be exempt because the nonretail case is sealed and tamper-evident. But the private label owner and the broker *selling* the apples would not be exempt (and would need to be certified), because the *retail* packaging is not sealed and tamper-evident. The retail packaging is critical to eligibility for exemption (f).

Slide 6: Exemption (f) - Private Label Owners



SLIDE 7: Transportation or Transloading - Generally outside the scope of USDA's authority



*Transloading is commonly defined as the movement of agricultural products between modes of transport. AMS does not have the authority to regulate transport. Therefore, transloading strictly between modes of transportation does not need to be certified. However, transloading is sometimes used to describe the movement of agricultural products from storage to transport or transport to storage. AMS considers these activities to be loading and receiving (see § 205.2 and the definition of handle).

Moving unpackaged organic agricultural products from storage to transport, or from transport to storage, requires certification. If the organic agricultural products are enclosed in sealed, tamper-proof containers or packages, then loading and receiving is exempt from certification.

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***Any type of packaging is included; need not be sealed, tamper-evident.