




Exempt Handler Affidavit - NOP





EXEMPT HANDLER AFFIDAVIT INSTRUCTIONS

- 1) The Kiwa BCS Öko-Garantie GmbH-certified operation completes section A on the following page. This affidavit and any sample audit trail records will become part of the Kiwa BCS Öko-Garantie GmbH-certified operation's Organic System Plan (OSP).
- 2) The uncertified handler completes sections B through F. If an exempt, uncertified handler works with multiple Kiwa BCS-certified operations, a separate Exempt Handler Affidavit (EHA) is required for each Kiwa BCS-certified operation as activities may differ.
- 3) A new Exempt Handler Affidavit (EHA) is only required if there is any change in the future, including a change in activities or management of the exempt handler. An updated EHA may be requested by Kiwa BCS at any time.
- 4) **Certification (not this affidavit) is required for any of the following:**
 - a) Storage facilities or warehouses receiving organic product that is not in sealed, tamper-evident* packaging.
 - b) Storage facilities where unpackaged product is loaded or unloaded before being loaded into the next transport vehicle (transporter not required to be certified unless otherwise handling).
 - c) Broker, traders, wholesalers, or distributors who sell organic products that are not in sealed and tamper-evident* final retail packaging.
 - d) Importers of organic products into the United States.
 - e) Exporters of organic products for sale in the United States.
 - f) Private label or brand owners who purchase organic ingredients for their co-packers.
 - g) Private label or brand owners who sell organic products in nonretail packaging or sell finished organic products in packaging that is not sealed or tamper-evident* unless private label brand owner can demonstrate exemption.
 - h) Transporters and transloaders who pack, repack, treat, sort, open, enclose, label, or otherwise handle organic products. These activities are not considered transportation.
 - i) Transporters and transloaders who combine, split, or containerize organic products where the activity of combining, splitting, or containerizing is not contracted by a certified organic operation or is not described in a certified operation's Organic System Plan (OSP).

Brokers, traders, wholesalers, distributors, importers, private label 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.

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- 5) ***Tamper-evident packaging** is packaging or a container that is sealed in a manner where an attempt to break the seal, access the contents, or reclose the package would be obvious. 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.
- a) **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.
 - b) **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.
 - c) **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, baled hay.
- 6) A helpful resource to determine if your operation has to be certified or not is Kiwa BCS's [NOP SOE Flowchart Exemptions.](#)

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EXEMPT HANDLER AFFIDAVIT

A. Kiwa BCS - Certified Operation

The Kiwa BCS-certified operation completes section A.

- 1) Name of Kiwa BCS operation working with uncertified handler:

Manager/Owner name:
Write name in capital letters

Signature

- 2) Describe the business relationship between your operation and the uncertified handler. Include the activities performed by the uncertified handler on your behalf.

B. Uncertified Handler

The uncertified handler completes sections B through F. By signing the document in this section, the uncertified handler automatically agrees to the statement in section F.

Uncertified handler operation name:

Manager/Owner name:

Write name in capital letters

Signature

Email:

Phone:

Website:

Address:

Describe your role in the organic supply chain for the Kiwa BCS-certified operation named in section A.

C. Exemptions

Uncertified Handler – Indicate the exemption that describes your operation, you may select more than one option:

- 1) ☐ I operate a storage facility used by the Kiwa BCS - certified operation listed in section A to store product in sealed, tamper-evident packaging*. NOP § 205.101(e) This form is **required**


- 2) ☐ I am a broker, trader, wholesaler, or distributor who takes title or physical possession of organic This form is **required**

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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 Kiwa BCS-certified operation listed in section A. *NOP § 205.101(f)*

- | | |
|--|--|
| <p>3) <input type="checkbox"/> I am a private label or brand owner and the Kiwa BCS-certified operation packs organic products into my brand(s). I do not process products. <i>NOP § 205.2 ("handle"), 205.101(b), 205.101(c), 205.101(e), 205.101(f)</i></p> | <p>This form may be required by Kiwa BCS.</p> |
| <p>4) <input type="checkbox"/> 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></p> |
| <p>5) <input type="checkbox"/> 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></p> |
| <p>6) <input type="checkbox"/> I am a transporter or transloader and am only responsible for the transport of organic products. I do not store, pack, repack, treat, sort, open, enclose, label, or otherwise handle organic product. <i>NOP § 205.2 ("handle")</i></p> | <p>This form is <i>optional</i></p> |
| <p>7) <input type="checkbox"/> I am a transporter or transloader contracted/hired by a certified operation. I may combine, split or containerize organic products as contracted by the certified operation and described in their Organic System Plan (OSP). <i>NOP § 205.2 ("handle")</i></p> | <p>This form is <i>optional</i></p> |
| <p>8) <input type="checkbox"/> I facilitate sale or trade of unpackaged product and/or live animals. <i>Certification may be required. NOP 205.2 ("handle")</i></p> | <p>This form is required.</p> |
| <p>9) <input type="checkbox"/> Other, describe activities:</p> | <p>This form is required.</p> |


Where this form is noted as optional above, Kiwa BCS reserves the right to require the form to determine compliance with NOP § 205.101.

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D. Exemption Verification

Uncertified handler, complete this section. Answer these questions about the handling you perform for the Kiwa BCS-certified operation named in section A. If you work with other Kiwa BCS-certified operations, you will need to complete additional Exempt Handler Affidavits to describe the handling you perform for each operation. Kiwa BCS will review answers to determine if exemption applies.

	Yes	No
1) Do you handle unpackaged products? Examples: tankers, grain elevators or silos, bulk railcars/truckloads of unpackaged product, livestock. <i>Operations that store, sell, or otherwise handle unpackaged products must be certified. Transport of unpackaged products or livestock may not require certification, provided the certified operation's Organic System Plan describes transport practices and records.</i> a) If yes or unsure, describe:	<input type="checkbox"/>	<input type="checkbox"/>
2) Do you combine, split, or containerize organic products? a) If yes or unsure, describe:	<input type="checkbox"/>	<input type="checkbox"/>
3) Do you relabel, repack, package, enclose, 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:	<input type="checkbox"/>	<input type="checkbox"/>
4) Do you sort, recondition, cull, ice, hydro cool, hydro vacuum, or otherwise process organic product in any way? a) If yes or unsure, describe:	<input type="checkbox"/>	<input type="checkbox"/>
5) Do you 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:	<input type="checkbox"/>	<input type="checkbox"/>
6) 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:	<input type="checkbox"/>	<input type="checkbox"/>
7) Do you import organic products into the United States? a) If yes or unsure, describe:	<input type="checkbox"/>	<input type="checkbox"/>
8) Do you export organic products from a foreign country to the United States? a) If yes or unsure, describe:	<input type="checkbox"/>	<input type="checkbox"/>
9) Is the organic product packaged or enclosed in a sealed, tamper-evident* container prior to being received or acquired by your operation, and does it remain in that same sealed, tamper-evident* container while under your control? a) If yes, describe how packaging is sealed and tamper-evident* or attach a photo: b) If no, describe:	<input type="checkbox"/>	<input type="checkbox"/>

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10) How is the organic product labeled when you receive, acquire, or purchase it? Attach an example of product labeling. ☐ ☐

☐ Product is in final retail labeling. Attach example label. *Retail label = Labels affixed to containers intended to be purchased and carried home by a consumer (retail purchaser).*

☐ Product is labeled nonretail. Attach example label. *Nonretail = Any container used to ship or store organic products, other than containers used for retail sale of the product. Nonretail labels must identify product as organic and display the lot number or other unique information that links to the audit trail records.*

☐ Product is unlabeled bulk. Attach example signage. *Temporary signage must indicate organic status and include lot number.*

☐ Not applicable, I do not receive, acquire, or purchase the organic product, describe:

11) 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 Kiwa BCS-certified operation and will be verified during Kiwa BCS inspections. ☐ ☐

Your audit trail records must link back to the last certified organic operation.

12) Do you take physical possession of organic products; are organic products received at a location that you own or lease? ☐ ☐

13) Do you buy (take ownership/title), sell, or trade organic products, or facilitate the sale or trade of organic products on behalf of a seller or yourself? ☐ ☐

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

a) If you facilitate the sale or trade of organic products, describe:

14) 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.

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

15) 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. Transport of unpackaged products or livestock may not require certification, provided the certified operation's Organic System Plan describes transport practices and records.* ☐ ☐

☐ Not applicable, I am not a transporter or transloader.

16) Private label brand owner – Do you ever purchase ingredients sent to co-packers? ☐ ☐

☐ Not applicable, I am not a private label brand owner.

a) If yes, are purchased ingredients in sealed, tamper-evident, retail packaging?

☐ No, purchased ingredients are nonretail packaged or not in tamper-evident packaging. *Certification of label owner is required; certificate must list purchased ingredients.*

☐ Yes. Attach example label.


17) Private label brand owner – Do you ever take physical possession of ingredients sent to co-packers? ☐ ☐

☐ Not applicable, I am not a private label brand owner

a) If yes, are ingredients in sealed, tamper-evident packaging?

☐ No, ingredients are not in tamper-evident packaging. *Certification of label owner as a storage facility is required.*

☐ Yes. Attach photo showing how packaging is tamper-evident.

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18) Private label brand owner – Attach any additional information including references to USDA NOP regulations or other regulations that you believe justify your activities as exempt from certification. ☐ ☐
Certification may not be required if you qualify for exemption under 205.101(b), 205.101(e), 205.101(f), or do not perform any activities outlined in 205.2 “Handle.”

- ☐ Not applicable, I am not a private label brand owner
☐ Attached

19) Storage facility – indicate the type of storage:

- ☐ Not applicable, I am not a storage facility ☐ Dry Storage ☐ Cold storage ☐ Freezer storage
☐ Other, describe:

20) Broker, trader, wholesaler, distributor

- ☐ Not applicable, I am not a broker



a) Describe how frequently you change organic suppliers:

E. Audit Trail Records

Uncertified Handler – Kiwa BCS-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:

- 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:
 - 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.
- 3) 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 AND
 - If product passes through multiple uncertified exempt operations in sequence, documents must trace product lot number through all uncertified operations back to the last certified handler.
- 4) For each shipment, exempt handlers 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 exempt handler must be provided to the Kiwa BCS-certified operation.
 - Exempt handler audit trail records must link directly back to the last certified operation, including transport, storage, processing/handling, 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.
- 6) All certified suppliers must be approved by Kiwa BCS as part of the certified operation's Organic System Plan (OSP). Notify your Kiwa BCS-certified buyer prior to changing suppliers.

Exempt operations must maintain records per NOP § 205.101(i). Kiwa BCS-certified operations must maintain records per NOP § 205.103. If Kiwa BCS inspectors cannot track organic product back to the last certified operation, sourcing organic products from the exempt handler may be considered a noncompliance.

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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. Note that per NOP 205.100(c)(2), any person falsifying statements to an accredited certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

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