

CUSTOMER INFORMATION

FEBRUARY 2024



NOP FINAL RULE– STRENGTHENING ORGANIC ENFORCEMENT (SOE) – NOP IMPORT CERTIFICATES (NICs) & NON-RETAIL LABEL REQUIREMENTS

Strengthening Organic Enforcement (SOE) final rule – NOP Import Certificates (NICs) & Non-retail label requirements

Dear valued customer,

Following the communication sent to you on November 24th, 2023, we would like to remind you about the NOP final rule - Strengthening Organic Enforcement (SOE). By now, the NOP has published more information and clarification on the new requirements. To be highlighted are the NOP SOE Primers which you can find under the following link ([Strengthening Organic Enforcement - Final Primers \(usda.gov\)](https://www.usda.gov/organic/soe-primers)). The primers provide a detailed description of the final rule as well as comments and key takeaways from the NOP which help you interpret the legal text.

This communication is specifically designed to remind you about the new **NOP Import Certificate requirements** and procedures to be implemented to comply with new SOE requirements.

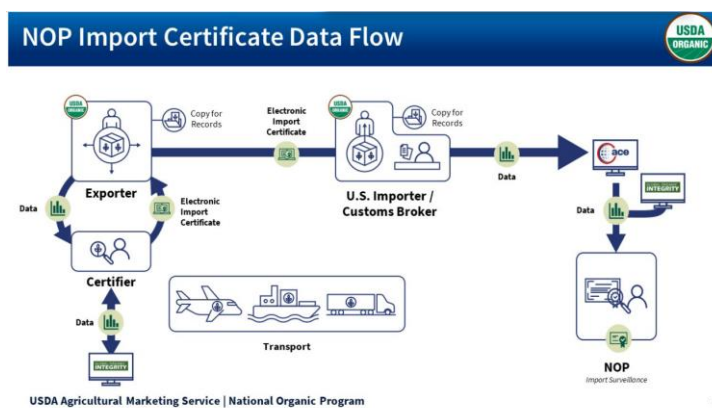
NOP Import Certificates:

(Reference: §205.273 & §205.300)

Starting March 19th, 2024, all organic products imported to the US have to be associated with a NIC issued from the Organic Integrity Database (OID). Although only obligatory starting March 19th, operations are urged to already start requesting import certificates to make themselves familiar with the procedure and requirements.

Not only NOP but also EU certified operations trading products within the terms of the EU-US organic equivalency arrangement have to be registered in the OID. These operations can be found in the Trade Partners Module in the section “EU-Germany”.

Procedure:



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- 1) The exporters must request the import certificate from their certifier **PRIOR** to export (f.ex. before the ship leaves the port).
- 2) The certifier verifies the export shipment data submitted and issues the NIC from the OID; only if everything proves to be compliant.
- 3) The certifier will provide the NIC in pdf format to the applicant (exporter) who will then forward it to the importer.
- 4) Each NOP Import Certificate will have a unique identification number. As a part of its standard filing process, the U.S. importer or customs broker enters the NOP Import Certificate number into the CBP ACE system (U.S. Customs and Border Patrol Automated Commercial Environment). This will associate the shipment details in ACE with the import certificate information. The NOP Import Certificate does not have to physically accompany the shipment as long as the data is associated with the shipment in ACE. This process is governed by timelines determined by CBP.

Transaction vs. Time Frame

Only if there is sufficient oversight to allow it, the certifier may issue the NOP Import Certificate for a single transaction, or in certain cases may issue an NOP Import Certificate for a specific time frame. If issued for a time frame, the NOP Import Certificate would cover a certain amount of product shipped over that time period. The allowance for time frame certificates can alleviate the administrative burden for operations with a high frequency of shipments, especially for fresh produce.

Responsibilities of the EXPORTER to the United States

- Request NOP import certificate from certifying agent.
- Mark products as "organic" on all export documentation, including, but not limited to, invoices, packing lists, bills of lading, and U.S. Customs and Border Protection entry data.
- Ensure that the exported product has not been exposed to a prohibited substance, treated by fumigation with a prohibited substance, or treated with ionizing radiation at any time during the movement of the products across the border.

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What do you need to submit to Kiwa BCS when requesting a NIC

- Application Form
- Invoice (Proforma invoice is possible) from exporter to importer
- Stock records (if applicable)
- Supplier certificates (> make sure that the product you request a NIC for are listed on the certificates)
- Shipping papers for importer:
Bill of Lading (B/L), Airways Bill (AWB) or CMR (for trucks)
If the exporter is not the producer of the goods: invoice of purchase and Transaction Certificate of the Control Body

If you don't have f.ex. the Bill of lading at the time of the application, Kiwa BCS might accept other kind of documents such as a contract with the buyer or delivery notes or similar until the Bill of Lading is available. Pending information has to be submitted to Kiwa BCS retroactively **latest 1 week after the shipment**. If the operator does not submit the pending information within the deadline, Kiwa BCS will remind the operator once. If the information is not submitted, Kiwa BCS will void the NOP Import Certificate in the OID.

- in case **retail labels** are used, please attach proof that labels have been approved by an accredited certification body, photo of the product showing the label; NO layout.
- in case **non-retail labels** are used, please attach the approved draft of the label, photo of the product showing the actual label (label requirement: lot no./specific information linking the product label to traceability documents + information identifying the product as organic); NO layout.
- Kiwa BCS reserves the right to ask for more information or conduct an additional inspection in case deemed necessary; if applicable before issuing the NIC.

Responsibilities of the importer

- Ensure that the import is accompanied by accurate NOP import certificate data.
- Ensure products are labelled "organic" on all import documentation, including but not limited to invoices, packing lists, bills of lading, and U.S. Customs and Border Protection entry dates.
- Have import documents on site and available for inspection.
- Ensure that the shipment has not been exposed to prohibited substances or ionizing radiation since export. The organic importer must have a documented organic control system in place to perform this verification (reference: Fraud Prevention Plan).

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Things to know

- The NIC has to be requested by the exporter and issued by the certifier PRIOR to export.
- The NOP Import Certificate can be valid for a single shipment or a period of time (up to 12 months, with extension up to 18 months as determined by the Certifier). This means the maximum time you can request in the first original request are 12 months. The certifier can only edit the certificate as long as it is valid. If you would like to request an extension, you need to do that BEFORE the NIC expires and leave sufficient time for the certifier to verify your request and issue the NIC.
- One NOP Import Certificate can be issued per commodity or HTS code.
- To be mentioned on the NOP Import Certificate, the final handler, the importer and the exporter have to be certified organic and listed in the OID.
- You will be able to include a COR compliance statement on the NIC in case you already have one on your NOP organic certificate.
In this case, please also submit the NOP certificate including the COR compliance statement.
- Kiwa BCS reserves the right to not issue or invalidate a NIC in case of incomplete and/or unclear documentation and/or misbehaviour.
Major Non-Compliances which question the organic integrity of the product are for example but not limited to:
 - No traceability of the goods
 - Significant overproduction
 - Positive residue analysis
 - Major non-compliances from inspections that affect the integrity of the goods.
- Any field on Draft import certificates can be edited (NIC not published yet).
- The following fields on Published import certificates can be edited:
 - Certificate end date
 - Estimated total net weight in kg
 - Estimated total number of containers
 - Shipping identification (which may include flight or vessel number, container number, lot number, etc.)
 - Remarks

Non-retail labelling requirements (§205.307):

(a) Nonretail containers used to ship or store certified organic agricultural products **must** display:

(1) **Identification** of the product as **organic**; and
(2) The production lot **number**, **shipping identification**, or other unique **information** that **links the container to audit trail documentation**.

(b) Audit trail documentation for nonretail containers must identify the **last certified operation** that handled the agricultural product.

(c) Paragraph (a)(1) of this section does not apply to nonretail containers used to ship or store agricultural products packaged for retail sale with organic identification visible on the retail label.

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Explanation:

(a) risk-based approach by only requiring the most critical information on nonretail container labels: organic identification and information that links the container to audit trail documentation.

(1) Clear identification reduces the likelihood of accidental contamination or commingling. “Organic identification” can be anything that allows someone to clearly and immediately identify the contents as organic, such as a short statement, “organic,” an abbreviation, an acronym, or a USDA seal. Operations may use temporary signs or labels for containers that are difficult to label due to size, shape, material, etc.

(2) linking a container to audit trail documentation reduces information on labels without sacrificing the ability to trace or verify products. Audit trail documentation allows someone to determine the source, transfer of ownership, and transport of a product. Operations may include additional information on labels such as special handling instructions, operation or certifier names, and contact information.

(b) This reinforces an SOE recordkeeping requirement to trace back to the last certified operation in a supply chain. (See § 205.103(b)(2) and the primer on “Supply Chain Traceability and Organic Fraud Prevention”).

IMPORTANT:

- Each individual retail label has to be approved by Kiwa BCS or another accredited certification body prior to use. If labels don't comply and/or no official approval is available, the NIC can't be issued.
- Nonretail labels will be verified for compliance latest prior to be used for export during the NIC application process. We urge you to verify your labels already prior to submitting the application. If labels don't comply, the NIC can't be issued.

What is the timeline?

SOE is effective March 20th, 2023.

There is a 14-month implementation period that started since its publication on January 19th, 2023.

Full implementation date is **March 19th, 2024**.

Be reminded that your operation has to comply with the new requirements by March 19th, 2024. This means that as of this date, Kiwa BCS will issue non-compliances if your operation does not comply. Compliance may be verified at any time, including the possibility of conducting additional inspections, announced or un-announced.

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Where can I find information about SOE and a link to the final rule?

You can find the link to the final rule as well as other supporting information under the link provided below, including a side-by-side comparison sheet of the former NOP rule and SOE as well as a SOE fact sheet, the SOE Primers and detailed information on NOP Import Certificates.

- [Strengthening Organic Enforcement | Agricultural Marketing Service \(usda.gov\)](https://www.usda.gov/organic/ams/organic-integrity)
> some of the information is also available in Spanish.

More useful links?

- Organic Integrity Database (OID) <https://organic.ams.usda.gov/integrity/>

Questions?

Although we have informed your company about the most important changes of SOE, you will not be able to bypass reading the legal text of the regulation in detail. Kiwa therefore strongly advises you to do just that.

Change can be challenging, but we're here to help! For SOE-questions, please contact, depending on where your operation is located, your local office (China, Turkey, Latin-America, etc.), your assigned Kiwa service team (Germany, Austria, etc.) or DE.Info.BCS@kiwa.com (Eastern-Europe, South Africa, Asia, etc.). For NOP Import Certificate questions, please contact either your local office or for Eastern Europe, South Africa, Asia, etc. the team in Germany at de.tc.in.bcs@kiwa.com.

This will help us organize your questions and respond adequately.

Kind regards

Kiwa BCS Öko-Garantie GmbH

Marientorgraben 3-5
90402 Nürnberg
Deutschland / Germany
T +49 (0)911 42439-48
F +49 (0)911 42439-72
E DE.Info.BCS@kiwa.com