

Certification Recommendations -- 1994

NATIONAL ORGANIC STANDARDS BOARD FINAL RECOMMENDATION REQUIREMENTS FOR HANDLER CERTIFICATION

Adopted: June 4, 1994
Location: Santa Fe, New Mexico

COMMENTARY

"The term 'handle' means to sell, process, or package agricultural products." (OFPA Section 2103(8)) "The term 'handler' means any person engaged in the business of handling agricultural products, except such term shall not include final retailers of agricultural products that do not process agricultural products." (OFPA Section 2103(9)) "The term 'handling operation' means any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that receives or otherwise acquires agricultural products and processes, packages, or stores such products" (OFPA Section 2103(10)). Thus, the definition of "handling operation" further defines "handle" and "handler" to limit the meaning of these terms to individuals and businesses that "receive or otherwise acquire agricultural products and processes, packages, or stores such products." For example, a broker falls under the definition of "handler" as someone who sells organic products. But, in the case of a broker who does not "receive or otherwise acquire" the organic products, the broker is not a "handling operation." Thus, such a broker does not need to be certified under the OFPA as an organic handling operation. The Board thinks that clarification of the types of handlers who must be certified under the OFPA as organic handling operations is necessary.

RECOMMENDATION

The N.O.S.B. recommends that, for the purposes of the OFPA, "receive or otherwise acquire" means to take legal title to the organic product. Handlers who hold legal title to organic products should and must be responsible for maintaining the organic integrity of the organic products they handle. Handlers who must be certified under the OFPA include distributors, food services, jobbers, packers, shippers, and processors who take legal title to organic products, including livestock feed, as well as retailers who process organic agricultural products. Some common definitions of food handlers are included in Attachment 1.

The activity of individuals or businesses who do not take legal title to organic products but act as agents, licensees, employees, contractors, or subcontractors and who process, package, or store organic agricultural products for a certified organic handling operation will be covered by the certification of that organic handling operation. Such activity must be described in the Organic Handling Plan and inspected and scrutinized with the same rigor and to the same standards as certified entities as part of the certification requirement of the certified organic handling operation for which they act as agent, licensee, employee, contractor, or subcontractor. Examples include co-packers and co-processors.

Individuals and businesses that do not need to be certified under the OFPA include brokers, commission merchants, truckers, and warehousemen which do not take legal title to organic products.

A small farmer/handler/processor selling no more than \$5,000 annually would be exempt from the above [OFPA Sec. 2106 (d)].

ATTACHMENT 1

Common Definitions of Food Handlers

1. Brokers

A broker acts as an agent for others in negotiating a sales contract. A selling broker generally represents the shipper, a buying broker acts as a purchasing agent for a distant buyer. A broker who does not take legal title to organic products does not need to be certified as an organic handler under the OFPA.

2. Commission Merchants

A commission merchant acts as an agent for the sale of merchandise on consignment. A commission merchant who does not take legal title to organic products does not need to be certified as an organic handler under the OFPA.

3. Distributors

A distributor purchases product under its own name, usually from shippers, processors, or other distributors, and generally sell outside their local area. Distributors may or may not take physical possession of the merchandise. A distributor must be certified as an organic handler under the OFPA.

4. Food Services

A food service company buys and receives produce and/or processed products for distribution to institutional accounts such as schools and restaurants. A food service company must be certified as an organic handler under the OFPA.

5. Jobbers

A jobber sells locally in small lots and purchases from receivers on the local market. A jobber must be certified as an organic handler under the OFPA.

6. Packers

A produce packing operation receives raw agricultural products and packs the products for shipping. A produce packer may also store products and apply postharvest materials. A meat packer converts live animals to carcass meats and possibly to primal cuts or boxed meat and other fresh meat forms. A packer that takes legal title to the organic product must be certified as an organic handler under the OFPA.

7. Receivers

A receiver purchases and takes physical possession of truck lots or car lots and resells them intact or in jobbing lots in the local area. Receivers are at destination points. A receiver that takes legal title to the organic product must be certified as an organic handler under the OFPA.

8. Repackers

A repacker receives products from growers or other sources, removes the products from the original container, may or may not sort the product, and repacks the product for resale either in the original container or in a different container. A repacker that takes legal title to the organic product must be certified as an organic handler under the OFPA.

9. Shippers

A shipper is located at growing or other shipping/intermediate points. A shipper sells products that is has grown and/or packed under its own name. A shipper may sell for the account of growers or other shippers. A shipper that takes legal title to the organic product must be certified as an organic handler under the OFPA.

10. Processors [refer to OFPA Sec. 2103 (17)]

A processor cooks, bakes, heats, dries, mixes, grinds, churns, separates, extracts, cuts, ferments, eviscerates, preserves, dehydrates, freezes, otherwise manufactures, packages, cans, jars, or otherwise encloses food in a container. A meat processor converts fresh meat items to comminuted and/or seasoned products such as sausages, corned beef and cured and/or smoked products. A processor must be certified as an organic handler under the OFPA.

11. Co-Processor

A processor who does not take legal title to the ingredients or the final product which is manufactured for another party. A co-processor does not need to be certified as an organic handler but its activities as agent, licensee, employee, contractor, or subcontractor for a certified organic handler must be covered under the certification of that handler.

12. Truckers

A trucker transports products between farms, processing plants, other handling operations, or other facilities. A trucker does not open product containers or mix, combine, or otherwise handle the product while it is in its custody. A trucker does not need to be certified as an organic handler under the OFPA.

13. Warehousers

A warehouser receives and stores products. A warehouser does not take legal title to the product. A warehouser does not open product containers or mix, combine, or otherwise handle the product while it is in its custody. A warehouser does not need to be certified as an organic handler under the OFPA.