

# PUBLIC SUBMISSION

<b>As of:</b> January 23, 2024 <b>Tracking No.</b> lr6-q0ad-tu8h <b>Comments Due:</b> January 22, 2024
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**Docket:** [AMS-NOP-23-0052](#)

National Organic Program: Notice of Intent to Extend and Revise a Previously Approved Information Collection (2024)

**Comment On:** [AMS-NOP-23-0052-0001](#)

National Organic Program: Notice of Intent to Extend and Revise a Previously Approved Information Collection (2024)

**Document:** [AMS-NOP-23-0052-0005](#)

Comment from Penny Newman Grain Co

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## Submitter Information

**Organization:** Penny Newman Grain Co

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## General Comment

Dear NOP,

After reading the changes in the Strengthening Organic Enforcement (SOE), we have identified the following areas of concern for business/entities performing transloading services in the organic sector.

Concern 1.

Organic Importer is defined as the operation responsible for accepting imported organic agricultural products within the United States and ensuring NOP import certificate data are entered into the U.S. Customs and Border Protection import system of record.

This definition implies the entity physically accepting the organic product is responsible for entering the NOP import certificate into the CBP import system of record. However, in situations where product goes into a transload facility/Certified Handler, and not product owner's facility, this requirement becomes impossible as the receiving facility/Certified Handler is only providing a service and not taking ownership of the product and has no insight to product documents. Additionally, this definition contradicts the established definition of CBP. According to CBP, the importer of record is defined as the owner, purchaser, or consignee of the goods or their agent (e.g a licensed customs broker). The importer of record is the individual or firm liable for payment of all duties and meeting all statutory and regulatory requirements incurred as a result of importation, as described in 19 CFR 141.1(b). Lastly, given how the Automated Commercial Environment (ACE) system operates, only the product owners, or agents, would receive notification of any issues present within the shipment. The only way the receiving facility would be notified, would be if the product owner, or agent, would pass that information onto them. A multitude of variables can influence the speed and entirety at which information is conveyed to the Certified Handler, or if conveyed at all.

Concern 2.

Providing exceptions to operations that only receive, store, and/or prepares for shipment, but does not otherwise handle, organic agricultural products that: are enclosed in sealed, tamper-evident packages or containers prior to being received or acquired by the operation; and remain in the same sealed, tamper-evident packages or containers and are not otherwise handled while in the control of the operation.

By providing an exemption to organic cargo shipped in containers, the risk of organic fraud is amplified to the end user. Below is an example of a scenario in which the fraud is amplified to the end user:

A few containers are sold delivered to an organic dairy grower. These containers do not have to go through the additional processes established by the SOE and can be shipped with goods that have been exposed to prohibited items at origin, or other materials that would cause the product to be decertified. Since the containers are provided this exemption, tainted product can easily flow into the United States, be fed to organic livestock, and products from that livestock be put on shelves for consumers.

While the argument can be made that shipping containers is \$30-60 per ton more expensive than bulk vessel freight, providing this exemption, and the premium of Organic, can make that price difference more palatable for anyone seeking to commit organic fraud.

Thank you for considering our input on behalf of a certified organic operation.

Sincerely,  
Alejandro Hernández  
Compliance Manager  
Penny Newman Grain Co