



AMS Compliance Office General Procedures

Purpose

The AMS Compliance Office provides enforcement mechanisms for the consistent and correct implementation of the National Organic Program (NOP) regulations. The Compliance Office, with NOP oversight, monitors the non-compliance proceedings initiated by accredited certifying agents, reviews complaints and takes appropriate action to resolve them, reviews and drafts appeal decisions, and prepares litigation referrals for formal administrative proceedings.

Organizational Structure

The Associate Deputy Administrator, Compliance, Safety and Security, supervises the NOP-related activities conducted by compliance office personnel.

The Associate Deputy Administrator for Compliance, Safety and Security determines the response to enforcement action requests from the Associate Deputy Administrator, NOP.

Compliance Officers, who handle appeals, complaints and monitoring, report directly to the Associate Deputy Administrator for Compliance, Safety and Security. These Compliance Officers may refer cases for enforcement to the Associate Deputy Administrator for Compliance, Safety and Security, who in turn may solicit recommendations for action from the Associate Deputy Administrator, NOP.

When directed by the Associate Deputy Administrator for Compliance, Safety and Security, the Chief Compliance Officer oversees Compliance Officers who prepare litigation referrals and investigate allegations of NOP violations for possible civil or criminal penalties.

Operations

Monitoring Certifier Compliance Actions. Accredited certifying agents are responsible for initiating and enforcing the adverse action process where violations involve their certified operators. In accordance with NOP regulations §205.501(15)(i), certifying agents must submit to the Administrator, notifications pertaining to non-compliance proceedings. These notifications are routed to the Compliance Officers designated to NOP activities in order to monitor adherence to the standards and provisions for due process. The Compliance Officers screen notification letters for the inclusion of the elements specified by the regulations, suitability of the penalty, proper mailing service, and timing and sequence of the notifications. Should an appeal be filed, a certifying agent's adverse action procedures may impact the appeal decision. The Compliance Officer may request clarifications, additional information or provide guidance to certifying agents in their noncompliance actions. In cases where a certifying agent's actions are questionable, the Compliance Officer will confer with the Associate Deputy Administrator for Compliance, Safety and Security and/or the NOP Associate Deputy Administrator to determine a response. Should the conduct of the certifying agent require the initiation of noncompliance proceedings, these actions will be guided by NOP procedures for suspending or revoking accreditation.

General Complaints Procedure. Any member of the general public may submit a complaint regarding organic products, organic operators, certifying agents, State Organic Programs or the NOP through



designated resources including telephone hotline, email and postal address. The procedures for handling complaints are outlined in NOP complaints policies and procedures. A Compliance Officer designated to NOP activities, is responsible for acknowledging receipt of the complaint and determining whether it will be dismissed, referred or retained for further review. As a standard procedure, the Compliance Office refers complaints regarding certified operators to the certifying agent for resolution. All complaints involving regulatory interpretations are referred to the NOP. A Compliance Officer may directly intervene when the complaint involves allegations against an uncertified entity, certifying agent, State Organic Program or the NOP. Complaints that remain unresolved, require thorough investigation or involve willful violations are referred to the Associate Deputy Administrator for Compliance, Safety and Security who may recommend, or solicit from the NOP Associate Deputy Administrator, an appropriate course of action. All enforcement actions, including the assessment of civil penalties are initiated by the NOP Associate Deputy Administrator, but may utilize Compliance Office resources in preparation and execution of these activities.

General Appeals Procedures. A Compliance Officer(s) is designated to handle appeals on behalf of the AMS Administrator. Appeals are accepted from certifying agents and operators as detailed in NOP accreditation and certification appeals procedures, respectively. Certain requirements must be fulfilled in order for an appeal to proceed beyond the initial review to a substantive evaluation of the merits. Appeals must be timely filed with the required documentation, and fall within the purview of the NOP. The complete file is reviewed from the point of the entity initiating the adverse action in order to determine whether the appellant has been afforded proper due process. The appeal decision is generated and drafted in the Compliance Office. The views of the Associate Deputy Administrator for Compliance, Safety and Security, the NOP Associate Deputy Administrator and the Office of General Counsel may be solicited prior to referral to the AMS Administrator for decision. Although the views of the NOP may be sought in evaluating accreditation appeals, draft decisions are not subject to NOP clearance prior to the final decision. After independently reviewing the appeal and considering the views of all parties, the AMS Administrator determines the final appeal ruling. A copy of the final appeal decision is transmitted to the appellant and certifying agent, if applicable.

When an appeal is denied and/or civil penalties are proposed, the case is referred to the Chief Compliance Officer. The Compliance Officers reporting to the Chief Compliance Officer work to perfect the record in preparation for litigation to suspend, revoke, or deny accreditation or certification.