



## Instruction Reinstating Suspended Operations

Links Update: September 13, 2018

### 1. Purpose and Scope

This instruction provides procedures for USDA-accredited certifying agents (certifiers) and suspended operations to request certification reinstatement. It also provides procedures and decision-making criteria for National Organic Program (NOP) officials when considering requests for reinstatement. These procedures apply to all certifiers as well as organic operations that are subject to the USDA organic regulations at [7 C.F.R. Part 205](#).

### 2. Background

[7 C.F.R. § 205.662\(f\)](#) describes how an operation that has been suspended may request reinstatement of its certification. The NOP reviews such requests, and then approves or denies them, based on evidence that an operation has corrected all previously cited noncompliances and otherwise fully complies with the regulations.

### 3. Policy and Procedure

Once an operation's certification has been suspended, only the NOP has the authority to approve its reinstatement. Certifiers may not approve or deny certification of a suspended operation without the NOP's written approval. Suspended operations must complete a new application for certification with a certifier before requesting reinstatement in order to demonstrate compliance with the regulations.

The suspended operation can request reinstatement of its organic certification either directly to the NOP, which acts on behalf of the Secretary of Agriculture, or to its certifier, who will forward the request to the NOP. To request reinstatement, a suspended operation must submit a written request for reinstatement as described in [7 C.F.R. § 205.662\(f\)](#), and explained in section 3.3 below. The reinstatement request must include evidence showing that all of the operation's noncompliances have been corrected, and should include copies of the original Notices of Noncompliance, Proposed Suspension, and Suspension, as well as a copy of the full onsite inspection report of the operation, conducted within the three months preceding the reinstatement request. These steps are outlined further below.

If the operation submits the reinstatement request to the certifier, the certifier will send the request to the NOP along with evidence from the certification process. When forwarding a request for reinstatement, the certifier's cover letter to the NOP must state whether the onsite inspection and review showed that the operation had corrected all previously cited noncompliances and was otherwise in full compliance with the regulations. If the operation's reinstatement request includes documented evidence of full compliance, then the NOP will



approve reinstatement. If not, then the NOP will deny the reinstatement request, and the suspension will remain in effect.

If the NOP approves the reinstatement, it will notify the operation and its certifier that the operation's organic certification has been reinstated. The certifier will then issue a new organic certificate to the operation. The effective date of certification is the date the NOP reinstates the operation's organic certification.

Suspended operations may not sell, label or represent products as "100% organic," "organic," or "made with organic (specified ingredients or food group(s))." Agricultural products that are produced and/or handled prior to reinstatement may not be sold, labeled, or represented as "100% organic," "organic," or "made with organic (specified ingredients or food group(s))."

This includes:

- crops harvested prior to reinstatement;
- stored crops from previous harvests;
- milk or eggs produced prior to reinstatement;
- animals slaughtered prior to reinstatement;
- products processed prior to reinstatement; and
- products packaged or labeled prior to reinstatement.

Any crops harvested, livestock products produced (e.g., eggs, milk, meat, fiber), and products processed or packaged *after* reinstatement may be sold, labeled, or represented as "100% organic," "organic," or "made with organic (specified ingredients or food group(s))" as stated on the organic certificate issued to the operation.

### **3.1. When does the NOP typically approve a reinstatement request?**

As with applications for certification, a certifier must accept any reasonable request for reinstatement within its administrative capacity. The certifier must verify that the operation: 1) meets all the requirements for organic certification; and 2) is capable of remaining in compliance with all the applicable regulatory requirements.

The NOP will typically approve a reinstatement request that includes:

1. A written request for reinstatement from the suspended operation;
2. A statement of compliance with the regulations (see Exhibit B) from the operation's certifier; and
3. Documented evidence from the operation's certifier demonstrating compliance with all applicable USDA organic regulations, as described in section 3.4 below.

If the NOP approves the reinstatement, the certifier is to issue a new certificate to the operation.

### **3.2. When does the NOP typically deny a reinstatement request?**

If the certifier's documentation shows evidence of outstanding noncompliances, the NOP will deny the request for reinstatement, and the operation's suspension will continue.



Some operations will not be able to demonstrate full compliance during the reinstatement process. If the certifier finds evidence that the suspended operation does not comply with the regulations, then it should issue a Notice of Noncompliance to the operation in accordance with [7 C.F.R. § 205.662\(a\)](#). The Notice of Noncompliance will usually give the operation 30 days to respond with its proposed corrective actions. If the operation fails to respond to the Notice, or it responds but the certifier finds its corrective actions are insufficient, then the certifier should describe the outstanding noncompliances in its cover letter to the NOP. This letter should describe why the certifier recommends denying reinstatement of certification. See part 3.4(e) below for detailed instructions regarding noncompliant operations.

The certifier must forward all reinstatement requests to the NOP, even if it finds evidence that the operation does not comply with all of the regulations. The NOP will only approve requests supported by evidence from the certifier showing that the operation is in full compliance. If the certifier detects evidence of willful violations during the reinstatement process, it should send this information to the NOP Compliance and Enforcement Division for a complaint investigation, pursuant to [NOP 4001 NOP Complaint Handling Procedure](#). This includes evidence that an operation sold product as organic while suspended.

### 3.3. Steps for Requesting Reinstatement by Certified Operations

The following steps are required for reinstatement consideration. The suspended operation must:

- a) Correct all noncompliances, including those that led to the suspension, as well as any outstanding noncompliances subsequently identified by the certifier.
- b) Ensure that its organic system plan (OSP) is complete, that the OSP complies with the regulations, and that the OSP is being implemented.
- c) Contact a certifier and submit a new application for certification. If the new certifier is different from the certifier that issued the suspension, the operator must inform the new certifier of its suspended status and the reasons for the suspension.
- d) Pay all fees required by the certifier.
- e) Complete a full onsite inspection, during which the inspector will review all relevant aspects of the operation. The inspection is to be conducted pursuant to [7 C.F.R. § 205.403\(a\)\(1\)](#).
- f) Prepare a letter addressed to the Secretary of Agriculture, care of the NOP, requesting certification reinstatement. See Exhibit A for a sample letter showing the information to be included. Send the letter either to the certifier, or directly to the NOP at:  
USDA, AMS, National Organic Program  
1400 Independence Avenue, SW  
Room 2648, Stop 0268  
Washington, DC 20250  
Or [AIAInBox@ams.usda.gov](mailto:AIAInBox@ams.usda.gov)  
Shipping services that require a telephone number may use (202) 720-3252.
- g) Retain all documents related to the request for reinstatement for future audit by the certifier and the NOP.



### 3.4. Steps for Evaluating Reinstatement Applications for Certifiers

Upon receipt of an operation's request for reinstatement, the certifier will:

- a) Conduct a compliance review of the certification application, including the OSP, to ensure that all provisions of the regulations are met.
- b) Notify the operation of any noncompliances according to [7 C.F.R. § 205.662\(a\)](#). (Any noncompliances discovered after suspension as well as any remaining noncompliances that led to the operation's suspension must be addressed.)
- c) Schedule a full onsite inspection to verify the operation's compliance with the regulations, provided that the OSP is deemed to comply. The inspection must include verification of whether (1) products were sold, labeled, or represented as organic during the suspension period, and (2) there is a system in place that will prevent comingling of noncompliant product produced or inventoried during the suspension period. Onsite inspections should occur within the three month period prior to the NOP receiving the reinstatement request. Deviations from this procedure are to be justified and approved by the NOP.
- d) If the certifier finds evidence of a noncompliance during the application review or inspection process, then it should issue a Notice of Noncompliance to the operation. In order to be reinstated, the operation applying for reinstatement must demonstrate resolution of all noncompliances, including those that led to the suspension and any additional noncompliances identified during the reinstatement review and inspection.
- e) Prepare a signed letter to the Secretary of Agriculture, care of the NOP. There are two types of letters: one if the operation requesting reinstatement has met all the requirements of the regulations; the other if it has not.

If the certifier verifies that the operation is in full compliance, then the letter should affirmatively state that:

- The certifier has conducted an NOP compliance review of the operation's OSP;
- The review found that the OSP adequately addressed the noncompliance(s) that led to the suspension, and complies with the regulations; and
- The certifier conducted an onsite inspection of the operation and found the operation to fully comply and/or be capable of remaining in compliance with the regulations. If the certifier issued a Notice of Noncompliance to the operation as a result of the onsite inspection, and the operation submitted sufficient corrective actions, then the certifier should state this as well.

See Exhibit B for a sample letter showing the information to be included.

If the certifier did not find the operation to be able to come into full compliance with the regulations during the application process, then the letter should state that:

- The certifier has conducted an NOP compliance review of the operation's OSP;
- The review found evidence of outstanding noncompliance(s) that led to the suspension, or new noncompliance(s) that prevent certification;
- The certifier conducted an onsite inspection of the operation and found the operation unable to comply and/or not capable of remaining in compliance with the regulations.



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If the certifier issued a Notice of Noncompliance to the operation as a result of the onsite inspection, and the operation submitted insufficient corrective actions, then the certifier should state this as well.

Certifiers are not to issue Denials of Certification to suspended operations requesting reinstatement. Only the NOP has the authority to make reinstatement decisions.

- f) Submit the letter (along with the operation's request for reinstatement), as well as the following:
- Initial Notice of Noncompliance, Notice of Proposed Suspension, Notice of Suspension;
  - Copy of the inspection report, including the results of verification of whether (1) products were sold, labeled, or represented as organic during the suspension period, and (2) there is a system in place that will prevent comingling of noncompliant product produced or inventoried during the suspension period; and
  - Notice(s) of Noncompliance issued as result of the onsite inspection and documented objective evidence to demonstrate that the operation has corrected the noncompliance(s).
- g) Retain all documents related to the request for reinstatement for future NOP audits.

### 3.5. Steps for Evaluating Reinstatement Requests for the NOP

Once the NOP receives a reinstatement request, it should complete the following steps within approximately 30 days, although reinstatement requests with evidence of noncompliance may take longer:

- a) Review the request for reinstatement along with the supporting documentation and contact the certifier if questions remain regarding the request. **If the operation was suspended for a specific period of time, then the NOP may deny the request for reinstatement without further review until the suspension period has ended.** If the certifier recommends reinstatement before completion of the suspension period, the certifier should explain to the NOP the rationale for doing so.
- b) Approve the request if:
- All required documents have been submitted;
  - The documentation clearly demonstrates the operation has corrected previously cited noncompliances, is in compliance with the regulations and is capable of remaining in compliance; and
  - The review of the documentation does not find that the operation has an ongoing history of noncompliance indicating an inability or unwillingness to remain in compliance.
- c) If the request is approved, the NOP will remove the operation from the public list of suspended operations. The NOP will issue a letter to the operation, with a copy to the certifier, stating that the NOP reinstates the organic certification of the operation, and all documents related to the reinstatement must be retained for future audit by the NOP.
- d) If the request is denied, the NOP will issue a letter to the operation, with a copy to the certifier, stating the reasons for denying reinstatement.



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- e) Review all documentation related to the reinstatement at the certifier's next onsite audit.

#### 4. References

##### USDA Organic Regulations ([7 C.F.R. Part 205](#))

7 C.F.R. § 205.403 On-site inspections.

7 C.F.R. § 205.662 Noncompliance procedure for certified operations.

Approved on February 5, 2015



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**Exhibit A: Sample Letter from Suspended Operation Requesting Reinstatement**

[Date]

Secretary of Agriculture  
c/o USDA, AMS, National Organic Program  
1400 Independence Avenue SW  
Room 2648, Stop 0268  
Washington, DC 20250

Dear Secretary Vilsack:

We formally request reinstatement of organic certification of our [organic farm or handling facility] pursuant to § 205.662(f)(1) of the USDA organic regulations.

On [date of suspension], [name of certifier] suspended our certification for [briefly state reason(s) for suspension]. Those noncompliances have been corrected, and on [date of inspection], [name of current or new certifier] conducted a full onsite inspection to verify our compliance with the regulations.

We have asked [name of certifier] to provide you with the necessary supporting documentation. We would appreciate your prompt consideration of this request for reinstatement.

Sincerely,

*/Signature/*

[Name of person responsible for program]  
[Title]  
[Name of company, if any]



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**Exhibit B: Sample Letter from Certifier**  
**Requesting Reinstatement of Suspended Operation**

[Date]

Secretary of Agriculture  
c/o USDA, AMS, National Organic Program  
1400 Independence Avenue SW  
Room 2648, Stop 0268  
Washington, DC 20250

Dear Secretary Vilsack:

This letter provides the necessary statements of compliance to support a reinstatement request from [name of organic operation] to reinstate its USDA organic certification pursuant to § 205.662(f)(1) of the USDA organic regulations. Enclosed is a letter from our client requesting reinstatement.

On [date of suspension], [name of certifier] suspended [name of operation] for [briefly state reason(s) for suspension]. Since that time, [name of operation] has corrected the noncompliances identified in the notice of suspension and has requested reinstatement. In order to verify our [client's or applicant's] eligibility for certification, we have:

1. Reviewed the [client's or applicant's] proposed corrective actions and found that all identified noncompliances have been fully addressed;
2. Conducted a complete review of their organic system plan (OSP) and found it to be in compliance with the regulations; and
3. Conducted a full onsite inspection of the operation on [date of inspection] and determined that [name of operation] has fully implemented their OSP and is capable of remaining in compliance with the regulations.

If you have questions or other concerns regarding their eligibility for reinstatement, please contact [name of certifier contact] at [phone number] or by email at [email address].

Sincerely,

*/Signature/*

[Name of certifier representative]  
[Title]  
[Name of certifier]

Enclosure