



Instruction

Who Needs to be Certified?

1. Purpose and Scope

This instruction clarifies the certification requirements for operations that produce or handle agricultural products to be sold, labeled or represented as organic. This instruction affects accredited certifying agents that certify operations to the U.S. Department of Agriculture (USDA) organic regulations.

2. Background

Certification is the process by which certifying agents and the USDA National Organic Program (NOP) ensure that agricultural products sold, labeled or represented as organic are produced and handled in compliance with the Organic Foods Production Act (OFPA) (7 USC 6501 *et seq.*) and the USDA organic regulations (7 CFR part 205). NOP Instruction 4009 was originally issued in 2014 to support consistent application of the regulations in determining who needs to be certified given the great variety of business arrangements found in organic agriculture. In 2023, the Strengthening Organic Enforcement final rule (88 FR 3548) updated many sections of the organic regulations including the applicability of the regulations and exemptions from organic certification.

3. Policy

The OFPA requires that agricultural products sold or labeled as organically produced must be produced only on certified farms and handled only through certified handling operations (see 7 USC 6506(a)(1)). The USDA organic regulations reiterate these requirements and specify the types of operations that are exempt from certification (see 7 CFR 205.100-101.)¹

Certified operations commonly contract with other businesses for goods and services. Such contracts may be permissible, as long as they do not involve the production or handling of organic agricultural products not explicitly subject to inspection by a certifying agent or the NOP. (See 7 CFR 205.400, 205.403 and 205.660.) In other words, an uncertified operation may not produce or process, on its own land or premises, agricultural products to be sold, labeled, or represented as organic on behalf of a certified operation.

Specifically, a certified operation may:

¹ The USDA organic regulations also provide for several exemptions from the certification requirements. However, operations eligible for such exemptions are not within the scope of this instruction.



- Organically produce agricultural products on leased land that meets all the organic requirements;
- Organically process agricultural products using leased facilities or equipment. Leased facilities must be available for inspection while organic handling is ongoing;
- Purchase or contract for services (e.g., planting seeds, harvesting crops, providing pest control, cleaning processing lines), provided the services are conducted at the certified operation's production unit, facility, or site, which may be leased or rented, and are described in the certified operation's approved Organic System Plan (OSP); and
- Contract with an uncertified operation to transport its agricultural products, provided the transportation is described under the certified operation's approved OSP.

When organically producing or handling agricultural products, a certified operation may not: Allow an uncertified operation to produce or handle agricultural products, under contract or other arrangement, on the uncertified operation's land or premises (i.e., at units, facilities, or sites not explicitly subject to inspection or compliance action by the NOP or a certifying agent).

4. References

Organic Foods Production Act of 1990 ([7 U.S.C. 6501 et seq.](#))

§ 6506. General requirements

USDA Organic Regulations ([7 CFR part 205](#))

7 CFR 205.100 What has to be certified.

7 CFR 205.101 Exemptions from certification.

7 CFR 205.400 General requirements for certification.

7 CFR 205.403 On-site inspections.

7 CFR 205.660 General [Compliance].

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