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## **Instruction**

### **USDA NRCS Conservation Activity Plan 138 for Organic System Plans and Requirements for Certifying Agent Technical Service Providers**

#### **1. Purpose**

This instruction clarifies the use of USDA Natural Resources Conservation Service's (NRCS) Conservation Activity Plan (CAP) 138 as a complete or partial substitute for an Organic System Plan (OSP) and requirements for certifying agent staff when serving as NRCS Technical Service Providers (TSP).

#### **2. Scope**

This instruction affects USDA accredited certifying agents, who provide service within the United States and its territories, for OSP review and verification for compliance to the USDA organic regulations.

#### **3. Background**

The USDA National Organic Program (NOP) collaborated with the USDA NRCS to develop the CAP 138 conservation plan supporting organic certification. A CAP 138 is a detailed resource inventory documenting resource conditions and practice recommendations for crop or livestock producers to use to develop a future conservation plan with NRCS or Technical Service Provider (TSP) technical assistance. The CAP 138 assists the producer to transition from conventional farming or ranching systems to an organic production system. Both certified organic producers converting additional land to organic production and producers applying for initial organic certification may utilize this CAP to complete a resource inventory, which may fulfill all or several requirements of an OSP. The substitution of a CAP 138 Resource Inventory, together with the necessary Resource Inventory Supplements, for an OSP or a portion of an OSP may reduce the paperwork burden on organic producers participating in both programs. The USDA organic regulations under 7 CFR § 205.201(b) allows a producer to substitute a plan prepared for other Federal programs to meet the requirements of an OSP.

Organic certification results from the determination of the OSP's compliance with the USDA organic regulations, as verified by an onsite inspection. The NOP Final Rule preamble, published on December 21, 2000, describes the OSP as a certification agreement that must be negotiated, enacted, and amended through an informed dialogue between certifying agent and producer or handler and it must be responsive to the unique characteristics of each operation (65 FR 80558). An operation that applies for organic certification must create a written OSP specific to its activities (crop production, livestock production, wild crop, or handling). The OSP must outline the operation's plans for achieving and maintaining compliance with the regulations. The certifying agent must review the operation's OSP to determine whether there is sufficient evidence to show that the operation complies, or may be able to comply, with the regulations,



and the certifying agent must then verify the practices described in the OSP are being implemented during an onsite inspection.

To participate in the NRCS conservation program and utilize a CAP 138 Resource Inventory as an OSP, producers must work with a qualified TSP to complete the CAP 138. This plan is specifically formulated for organic production. Qualified TSP's are individuals or businesses certified by NRCS to help agricultural producers plan and apply conservation practices on their land. Eligibility criteria for NRCS TSP certification are available at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/technical/tsp/>. USDA accredited certifying agent staff may qualify as certified TSP's for the NRCS conservation programs as long as the certifying agent staff prevent conflicts of interest as required by the USDA organic regulations, § 205.501(a)(11)(iv). Guidance on preventing conflicts of interest with the regulations is described in section 4.2.

## 4. Policy

### 4.1 Acceptance of CAP 138 Resource Inventory as a complete or as a partial OSP

Accredited certifying agents must accept a completed Resource Inventory—Section 1 of the NRCS CAP 138—when submitted by a certified organic operation adding land to their organic production, or an initial applicant for certification, as complete or partial fulfillment of OSP requirements. In conjunction with the Section 1 Resource Inventory, operations may submit a Resource Inventory Supplement which may constitute a complete or partial OSP (Resource Inventory) available at this link: <https://www.ams.usda.gov/sites/default/files/media/2616.pdf>. Certifying agents must not require these operations to complete additional OSP forms which duplicate the contents of the CAP. NOP expects certifying agents to request, if necessary, only that information which is required to complete the OSP as required by the regulations in § 205.201.

While no CAP 138 resource inventory will be the same, they should provide the following information on each operation:

- Field maps
- Natural resource assessment
- Planned practices<sup>1</sup>
- Pest management practices
- Soil fertility management
- Crop rotation
- Crop or livestock Inputs
- Grazing practices

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<sup>1</sup> USDA organic regulations, § 205.201, a producer or handler intending to sell, label or represent agricultural product as “100 percent organic,” “organic,” or “made with organic” must develop an organic system plan that meets the requirements for organic production as described in § 205.201.



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Certifying agents should also ensure that an operation's OSP include the following additional information that may or may not be included within a CAP 138 resource inventory:

- Land use history
- Production practices
- Recordkeeping
- Prevention of commingling and contamination

Similar to amendments to the USDA organic regulations, which result in changes in required OSP information, certifying agents serving as TSP's should monitor NRCS amendments to the CAP 138 resource inventory using the web link previously cited in this section.

#### **4.2 Preventing conflicts of interests with TSPs**

As required by the USDA organic regulations, § 205.501(a)(11)(iv), accredited certifying agents must prevent conflicts of interest by not giving advice or providing consultancy services to applicants for certification and certified operations for overcoming barriers to certification. Instruction on technical assistance that may be provided to organic producers by certifying agents is described in the NOP Handbook, NOP 2614. As described in this instruction, TSPs are consulting when they provide direct technical assistance and deliver conservation services in completing the CAP 138. Therefore, if NOP certification staff,<sup>2</sup> as defined in this instruction, have served as a TSP for a certified organic or an operation seeking initial organic certification, this individual may not:

- Review the operation's OSP for completeness or compliance with the USDA organic regulations.
- Conduct inspections or review findings from organic inspections on the operation.
- Review the operation's corrective actions to identified noncompliances, or
- Be involved in any certification decisions on the operation.

To prevent conflicts of interest, any NOP certification staff,<sup>2</sup> as defined in this instruction, who served as a TSP for an organic operation will not perform any of the above organic certification procedures and decisions for that operation for no less than two years from the date of the organic certification decision resulting from the latest TSP consultation.

## **5. References**

### **USDA Organic Regulations**

- 7 CFR 205.201 Organic production and handling system plan
- 7 CFR 205.501 General requirements for accreditation

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<sup>2</sup> NOP certification staff: all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services



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## **NOP Program Handbook**

NOP 2614 Instruction, Technical Assistance

NOP 2615 Instruction, Organic System Plans (OSP), OSP Updates, and Notification of Changes

NOP 2616 Resource Inventory Supplements for Producers Participating in USDA Natural  
Resource Conservation Service Conservation Activity Plan 138

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