



# New and Updated NOP Instructions

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USDA Agricultural Marketing Service  
National Organic Program  
San Diego, CA



# Overview



- Organic Certification Process, *NOP 2601*
- Technical Assistance, *NOP 2614*
- Internal Program Reviews, *NOP 2025*
- Performance Evaluations, *NOP 2027*
- Separation of Duties, *NOP 2006*
- Reinstating suspended operations, *NOP 2605*

# Updated instructions



- In 2013, the NOP revised the former “5 Steps to Certification” instruction, which is now called “The Organic Certification Process”
- The revised instruction is written for certifiers and explains the NOP’s expectations
- The new instruction, “Organic System Plans,” is written for producers and handlers, and it clarifies the process for annual updates and notifications of changes



- The NOP will verify the following:
  - How does the certifier get application forms to applicants?
  - What other information do they provide?
  - Is the fee schedule publicly available and readily understood?

# Initial reviews : §205.402



- The regulations state that initial reviews for all first-time applications
- The inspector may complete the initial review
- The certifier must record how it communicates its findings of the initial review to the applicant

# Initial reviews continued



- Initial reviews should cover:
  - Inputs & ingredients
  - Products produced
  - Practices
  - Any category-specific items relevant to the operation, such as field maps or labels

# Product reviews



- During the initial review, **certifiers** must review all multi-ingredient products to ensure
  - Proper labeling category
  - Integrity of organic inputs
    - ✓ Ingredients, processing aids
- The **inspector** should review a representative sample of these products on site to confirm proper labeling and the integrity of inputs



- **Certifiers** must review/approve all unique retail labels individually
- Nonretail labels must be clear enough to maintain the audit trail
- The **inspector** should review a representative sample of product labels onsite
- The inspector should review all input materials onsite

# Questions for success: Initial reviews



- Does the certifier determine whether applicants appear to be able to comply with the regulations?
- Does the certifier communicate its finding to the applicant?
- **Does the certifier collect sufficient information for the review?**
  - If not, do they obtain information later?

# Questions for success: Initial reviews (continued)



- Does the OSP include enough information to determine whether the operation appears to comply (§205.402(a)(2))?
  - Should give inspector a roadmap
- How much information is left to be collected onsite?
  - Should just be details & specifics

# Onsite inspections: §205.403



- Inspections are the key to verifying organic compliance
- Inspectors **may** collect some information during the onsite inspection
- **The Organic Certification Process instruction describes specific expectations for different kinds of inspection activities**

# Inspector roles



- The inspector is a representative of the certifier
- Certifiers are responsible for the inspector's performance and conduct
- The certifier's business processes will define inspector roles for tasks, such as the number of product and label reviews

# Questions for success: Inspections



- Did the inspector view each production unit, facility, and site?
- Did the inspector review records?
- Did the inspector conduct an audit appropriate for the operation?
- Did the inspector provide sufficient technical information?
- Did the inspector refrain from consulting?
- During the exit interview, did the inspector properly classify any issues of concern?

# Questions for success: Inspections (continued)



- Does the certifier have clear procedures for how inspectors should collect and record information onsite?
- If an OSP is updated onsite, does the inspector ensure that the operation and the certifier both receive a copy?
- Does the certifier still require adequate OSPs and updates, even if the inspector collects some information onsite?

# Final application reviews: §205.404(a)



- Should cover all available information
  - OSP
  - Inspection report
  - Any other submitted evidence
- If the certifier cannot verify compliance, then they should issue
  - a notice, or
  - request additional information

# Noncompliances: not discussed here



- Notices of Noncompliance may be issued at any time during the continuing certification process
- The NOP will cover this topic during the afternoon

# Questions for success: Final application reviews



- Does the review include all available evidence?
- Is the recommended action appropriate to the situation?
- Did the certifier record the date of the final review?

# What is considered a Certification Decision?



Defined as the granting (or denial) of:

- ✓ Initial certification
- ✓ Continuing certification

and,

- ✓ Issuing of adverse action notices  
(proposed or final suspensions and  
revocations, denials of certification)

# Questions for success: Certification decisions



- Was the decision made by someone other than the inspector?
- Was the decision completed in a reasonable timeframe (6 months)?
- How is the decision recorded?
- Was the decision communicated to the applicant in writing?

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- Certifiers must provide sufficient information to persons seeking certification to enable them to comply with the regulations (§ 205.501(a)(8))
- Certifiers must not give advice or provide consultancy services (§ 205.501(a)(11)(iv))

# Examples of sufficient information



- USDA organic regulations
- NOP Program Handbook
- OSP templates
- Certifier-specific guidance
- ATTRA information
- eOrganic webinar information

# Technical Assistance vs. Consulting



## Technical Assistance

- Broad/general information
- Educational
- Available to everyone, including the general public

## Consulting

- Specific advice
- Directed at an individual operation
- Not publicly available



- Participating in operation's activities; designing operation's products or methods; preparing operation's manuals or procedures
- Advice to specific operation on development of its procedures
- Suggesting certification process would be easier or less expensive if specific activities were undertaken
- Suggesting actual changes to bring operation into compliance

# Questions for success: Technical assistance



- Does the certifier provide general information and educational resources that are publicly available?
- Does the certifier refrain from giving specific advice to an individual operation?
- Does the certifier communicate these policies to inspectors?

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# Purpose of a program review



- Evaluation of certification system and procedures
- Continuous improvement
- Identify areas of strength and areas needing improvement



Who may conduct program reviews?

- Certifier's staff
- Outside auditor
- Consultant

Qualified program reviewers must have expertise, including knowledge of certification, auditing, and the requirements of USDA organic regulations



A successful program review report includes the following information:

- Dates that the review was conducted
- Any findings
- That corrective actions are implemented
- Follow-up from any prior program reviews

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# Performance evaluation requirements



Who must have performance evaluations?

- Reviewers of applications and certification documents
- Inspectors
- Certification decision makers and personnel that make recommendations concerning certification
- Contracted personnel that perform any of the above roles

# Performance evaluation requirements



- Evaluate personnel's performance
  - E.g. Knowledge, Skills, and Abilities; Personal Attributes; and Responsibilities
- Should conduct annual field evaluations on inspectors
- Performance evaluations are to be conducted by a supervisor or peer

# Questions for success: Performance evaluations



- Each year, has the certifier confirmed that all personnel meet performance criteria that it has established?
- If personnel have not met performance criteria, did the **certifier must implement measures to correct any deficiencies in certification services?**

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# What is considered a Certification Decision?



Review:

Defined as the granting (or denial) of:

- ✓ Initial certification
  - ✓ Continuing certification
- and,
- ✓ Issuing of adverse action notices

# USDA Organic Regs & ISO 17001



- ✓ **Both standards** require separation of the duties of the on-site inspector and final certification decision-maker
- ✓ The individual **who conducted the on-site inspection cannot conduct a final review of documents or make a certification decision** for the operation they inspected for **12-months** after the date of that inspection

# Roles Defined



Decisions are typically a three person process:

## Reviewer of Documents

- Reviews the application, the OSP or annual update, inspection reports, and any other related documents

## Inspector

- Conducts the on-site inspection and audit

## Decision-maker

- Makes the final decision to certify or deny certification to an operation, based on a review of the documents



- ✓ **Two people may fill these roles**, so long as the person who conducted the on-site inspection does not conduct the final review of documents and make the final certification decision.
- ✓ The **individual who conducted the on-site inspection cannot conduct a final review of the documents or make a certification decision** for the operation they inspected for 12-months after that inspection.



- ✓ Certifiers are **encouraged to use 3 different individuals** for the continuation and adverse action process: reviewer, inspector, and certification/adverse action decision-maker.
- ✓ All **inspectors and reviewers must have sufficient expertise** in organic production and handling standards and practices.

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# Policy updates and clarifications



- A certifier must accept any reasonable request for reinstatement within its administrative capacity
- 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

# Noncompliances during reinstatement



- If you find evidence of noncompliances during the reinstatement process, then issue a notice of noncompliance
- If the operation does not correct the noncompliance, then do NOT proceed to a proposed suspension or denial of certification
- Instead, explain your findings in your cover letter to the NOP, and submit this information along with the reinstatement request

# Noncompliant requests



- The NOP will only approve requests supported by evidence from the certifier showing that the operation is in **full compliance with all organic regulations**

# Operations changing certifiers



- If an operation has been suspended by another certifier, it must seek reinstatement if it wants to be certified again
- If a certifier grants certification to an operation which is suspended by another certifier, then the NOP will declare that certificate invalid
- Certifying a suspended operation without reinstatement is not compliant with 205.662(f)(1)

# Reinstatement is NOP responsibility



- Not certified until NOP's reinstatement date
  - NOP's date will be the certificate effective date
- No organic sales, labeling or representation until reinstatement
- Don't mislead applicants (either during inspection or in certifier correspondence) that applicants can sell organic
- Certifier support of reinstatement doesn't mean automatic NOP approval
- Remember certifiers don't decide reinstatement, NOP does

# No organic sales until reinstatement



- **IMPORTANT:** Agricultural products that are produced and/or handled during the time between suspension and reinstatement **may not be** sold, labeled, or represented as “100% organic,” “organic,” or “made with organic (specified ingredients or food group(s))” during suspension or after reinstatement

# Certifier responsibility: sales records



- Certifiers must assess whether the operation sold, labeled or represented products as organic while suspended.

# Questions?



- Contact your Accreditation Manager
- If you are unsure of your Accreditation Manager, please contact the Accreditation and International Activities Team at [AIInbox@ams.usda.gov](mailto:AIInbox@ams.usda.gov)

**Thank you!**