

**FORMAL RECOMMENDATION BY THE  
NATIONAL ORGANIC STANDARDS BOARD (NOSB)  
TO THE NATIONAL ORGANIC PROGRAM (NOP)**

**Date:** November 30 2007

**Subject:** **Standardized Certificates**

**Chair:** **Andrea Caroe** \_\_\_\_\_  
(sign)

**Recommendation**

The NOSB hereby recommends to the NOP the following:

Rulemaking Action: XXXXXXXX

Guidance Statement: \_\_\_\_\_

Other: \_\_\_\_\_

**Statement of the Recommendation (including Recount of Vote):**

The NOSB Certification, Accreditation, and Compliance (CAC) Committee recommends that the NOP implement rule change and policies and procedures to expand the information required on certificates of organic operation; standardize the terminology used on certificates, and provide a standard format for complete understanding of the certificate's contents and length, to ensure consistent application and facilitate thorough certificate review.

Board Vote Motion: Jennifer Hall Second : Joe Smillie

15 – Yes 0 – No 0 – Abstain 0 - Absent

**Rationale Supporting Recommendation (including consistency with OFPA and NOP):**

The CAC makes the following recommendation recognizing there is an existing formal recommendation to the NOP regarding expiration dates on certificates. Submitted on October 19, 2006, "The NOSB recommend(ed) that the NOP implement a rule change for **205.404 Granting certification** and **205.406 Continuation of certification** to require expiration dates on certificates (to) improve compliance and enforcement capabilities."

Addressing both the content in the recommendation herein and the duration of effective certification in the previous recommendation on November 11, 2006, the combined additions will add credibility and ease to implementation and renewal of organic certification. Consumers, applicants and certifiers will be aided by a mutual understanding of what needs to be included on certificates and definitive expiration dates, increasing the accountability of all parties in the industry.

**Response by the NOP:**

**We understand it has been scheduled for rule-making**

*dated 2/25/05*

**National Organic Standards Board  
Certification, Accreditation, and Compliance Committee**

**Standardized Certificates**

**November 30, 2007**

**I. Introduction**

The NOP and NOSB have received correspondence and public comments about deficiencies in the current requirements for information on “certificates of organic operation” (hereafter referred to as “certificates”). The NOSB Certification, Accreditation, and Compliance Committee (CACC) recommends that the NOP implement policy changes to allow for comprehensive information on certificates.

As indicated below, there is a need to provide comprehensive and accurate information on certificates to: bring consistency to the certification process; facilitate commerce of organic products; and improve compliance and enforcement capabilities.

The CAC makes the following recommendation recognizing there is an existing formal recommendation to the NOP regarding expiration dates on certificates. Submitted on October 19, 2006, “The NOSB recommend(ed) that the NOP implement a rule change for **205.404 Granting certification** and **205.406 Continuation of certification** to require expiration dates on certificates (to) improve compliance and enforcement capabilities.”

Addressing both the content in the recommendation herein and the duration of effective certification in the previous recommendation on November 11, 2006, the combined additions will add credibility and ease to implementation and renewal of organic certification. Consumers, applicants and certifiers will be aided by a mutual understanding of what needs to be included on certificates and definitive expiration dates, increasing the accountability of all parties in the industry.

**II. Background**

**A. Issues of Concern**

There are many types and styles of certificates issued by accredited certifying agents. The National Organic Program Final Rule currently requires that certificates specify the: name and address of the certified operation; effective date of certification; categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and the name, address, and telephone number of the certifying agent. The NOP requirements are the minimum information which must appear on certificates. Additional optional information is allowed.

There is no requirement that certificates specify the standard to which an operation is certified. This presents a verification and compliance problem, since the NOP accredits numerous certifying agents around the world who certify to multiple standards, in addition to the NOP standard. The name and address of the Accredited Certifying Agent (ACA) is not sufficient to determine if the operation listed on the certificate is indeed certified to the NOP standard. While the NOP has encouraged certifiers to include statements of compliance to NOP regulations, ACAs should be required to issue certificates which explicitly state that the operation listed on the certificate complies with the NOP.

The NOP has approved several foreign government accreditation programs. The certifiers recognized under such arrangements are not directly accredited by the NOP. There is a need for certificates issued by such certification bodies to be able to indicate which operations they certify comply with the NOP. There is presently no requirement and no mechanism to convey such information.

The “categories of organic operation” (crops, wild crops, livestock, or processed products) listed in the NOP rule are extremely broad. These broad categories don’t provide buyers, inspectors, certifiers, or regulatory officials with sufficient information to determine if an operation is certified to produce and/or handle the specific types of products offered for sale. While some ACAs currently do so on a voluntary basis, there is a need to require that all ACAs provide more detailed information on certificates about the types of production and/or handling activities conducted by the certified operation. In addition, where a processed product is used as an ingredient by an organic end user, it is imperative that the label claim of the organic ingredient is clearly indicated on that product’s certificate. In this way, the end user can demonstrate compliance with the organic content requirements for the product they are producing.

There is also a need for the use of standardized terms to identify the types of crops, livestock, products, and/or processes for which an operation is certified. For example, if a certificate says “corn,” there is no way of knowing if the operation is certified to produce and sell organic yellow corn, white corn, blue corn, sweet corn, or popcorn. NOP should develop and issue a standardized list of terms that can be used to identify the products and processes listed on certificates.

ACAs are required by § 205.406(d) to issue an “updated certificate” if “any of the information specified on the certificate of organic operation has changed” when an operation is continuing its certification. When an operation adds new fields, crops, farms, and/or facilities, this information should be reflected in an updated certificate. At the present time, some ACAs issue updated certificates annually. Instead of updating the certificate to reflect new information, letters of compliance are issued by others. This is a cumbersome process, since buyers need to have certificates on file from their suppliers.

### **C. Regulatory Framework**

“Certificate of organic operation” is not defined in § 205.2, but is referenced in the definition of “certification or certified”:

#### **§ 205.2 Terms defined.**

Certification or certified. A determination made by a certifying agent that a production or handling operation is in compliance with the Act and the regulations in this part, which is documented by a certificate of organic operation.

The minimum information required to appear on certificates of organic operation is specified in § 205.404(b):

#### **§ 205.404 Granting certification.**

(a) Within a reasonable time after completion of the initial on-site inspection, a certifying agent must review the on-site inspection report, the results of any analyses for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this part and that the applicant is able to conduct operations in accordance with the plan, the agent shall grant certification. The certification may include requirements for the correction of minor noncompliances within a specified time period as a condition of continued certification.

(b) The certifying agent must issue a certificate of organic operation which specifies the:

- (1) Name and address of the certified operation;
- (2) Effective date of certification;
- (3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and
- (4) Name, address, and telephone number of the certifying agent.

(c) Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, the State organic program's governing State official, or the Administrator.

§ 205.406(b) and (d) discuss the issuance of updated certificates:

#### **§ 205.406 Continuation of certification.**

(b) Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to § 205.403: Except, That, when it is impossible for the certifying agent to conduct the annual on-site inspection following receipt of the certified operation's annual update of information, the certifying agent may allow continuation of certification and issue an updated certificate of organic operation on the basis of the information submitted and the most recent on-site inspection conducted during the previous 12 months: Provided, That, the annual on-site inspection, required pursuant to § 205.403, is conducted within the first 6 months following the certified operation's scheduled date of annual update.

(d) If the certifying agent determines that the certified operation is complying with the Act and the regulations in this part and that any of the information specified on the certificate of organic operation has changed, the certifying agent must issue an updated certificate of organic operation pursuant to § 205.404(b).

§ 205.501 requires ACAs to maintain certification records and make them available to the NOP or SOP; maintain confidentiality regarding certain business information; accept certification decisions of all other ACAs; and annually submit to the NOP a list of all certified operations;

## Recommendation

The NOSB Certification, Accreditation, and Compliance (CAC) Committee recommends that the NOP implement rule change and policies and procedures to expand the information required on certificates of organic operation; standardize the terminology used on certificates, and provide a standard format for complete understanding of the certificate's contents and length, to ensure consistent application and facilitate thorough certificate review.

The CAC Committee recommends the following rule change:

### § 205.404 Granting certification.

(a) Within a reasonable time after completion of the initial on-site inspection, a certifying agent must review the on-site inspection report, the results of any analyses for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this part and that the applicant is able to conduct operations in accordance with the plan, the agent shall grant certification. The certification may include requirements for the correction of minor noncompliances within a specified time period as a condition of continued certification.

(b) The certifying agent must issue a certificate of organic operation which specifies the:

- (1) The phrase, "Certified as compliant with the USDA's National Organic Program (7 CFR Part 205)";
- (2) Name and address of the certified operation;
- (3) Effective date of certification;
- (4) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation;
- (5) At a minimum, the common trade name of each organic crop and/or product produced by the operation. For extensive lists, additional pages may be used as per § 205.404 c. 2
- (6) Products listed to be either "100% organic," "organic" or "made with organic;"
- (7) Name, address, and telephone number of the certifying agent; and

(c) The certificate of organic operation is to be formatted to:

- (1) Be written in English, or contain an English translation of contents;
- (2) Allow for the use of additional pages for any other information, provided that the number of additional pages is specified on the certificate.

(d) Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation, suspended or revoked by the certifying agent, the State organic program's governing State official, or the Administrator ~~or should the certification be allowed to expire.~~

The CAC Committee recommends the following policy changes:

- 1) Require that certificates issued by "recognized" certification bodies indicate which operations comply with the NOP;
- 2) Provide standardized terms for the identification of products and processes to be listed on certificates;

**Committee vote**

08/29/2007

Motion made by Joe Smillie

Seconded by Bea James

Yes – 5

No – 0

Absent – 1

11/29/07 Yes 6 No – 0 Absent - 0

**Minority opinion**

None

**Conclusion**

The NOSB Certification, Accreditation, and Compliance (CAC) Committee recommends that the NOP implement policy changes to allow for comprehensive information on certificates.