



Resolving Proposed Suspension and Revocation

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2. Resolving Proposed Suspension and Revocation: What Is and Is not Allowed
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Refresher: When do You Propose Suspension or Revocation?



1. After issuance of a Notice of Noncompliance (NONC) when:
 - Rebuttal of the NONC is unsuccessful
 - Corrective action is not completed within an established timeframe (including no corrective action proposed by an operation at all)
2. After willful violation of the OFPA or the USDA organic regulations

What Resolves or Stays Proposed Suspensions and Revocations?



Only:

- Acceptance or no appeal of the proposed suspension or revocation by the operation
- Mediation or
- Appeal

What Does **Not** Resolve Proposed Suspensions or Revocations?



- Correction of violations cited in the NONC that led to the proposal
- Surrender of certification

What about 205.662(e)(1)?



Suspension or revocation. (1) If the certified operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal of the proposed suspension or revocation of certification, the certifying agent or State organic program's governing State official shall send the certified operation a written notification of suspension or revocation.

The Process for Getting to Proposed Suspension or Revocation is Sequential



When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the certifying agent or State organic program's governing State official shall send the certified operation a written notification of proposed suspension or revocation....

7 CFR 205.662(c)

The Regulations Specifically Provide for **Only** Three Responses to a Proposed Suspension or Revocation



1. Acceptance of the suspension or revocation, i.e. no appeal [7 CFR 205.662\(e\)](#)
2. A request for mediation [7 CFR 205.662\(c\)\(4\)](#)
3. Appeal [7 CFR 205.662\(c\)\(4\)](#)

What if an Operation Corrects Noncompliance after Receiving a Proposed Suspension or Revocation?



For example:

- Pays overdue fees
- Submits an updated OSP
- Submits records that demonstrate compliance

Mediation: Not so Difficult



- You must follow the required steps for mediation in 7 CFR 205.663
- But, it can be relatively informal, quick and you have a lot of latitude regarding the process

Can Surrender of Certification Resolve a Proposed Suspension or Revocation?



No.

- As shown above, only acceptance, mediation or appeal are allowed in response to a proposed suspension or revocation.
- A proposed suspension or revocation is an adverse action documenting noncompliance - noncompliance that must be corrected prior to any future certification.

Questions?

