



Reinstating Suspended Operations

February 6, 2018

USDA Agricultural Marketing Service
National Organic Program



Training Objectives



- Review the key activities for certifier evaluations of reinstatement applications
- Clarify the process for submitting a reinstatement request when the application review or onsite inspection finds that the operation has sold product as organic during the suspension period



7 CFR §205.662(f)(1)

*A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. **The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part.***

NOP 2605 Reinstating Suspended Operations



Part 1: Review of Application

Evaluating Reinstatement Applications



Review of Application §205.402

- Certifiers must review the application to ensure completeness pursuant to §205.401:
- The application must include the following:
 - ✓ *Complete organic production/handling system plan(s)*
 - ✓ *Documentation to support the correction of the noncompliance(s) that led to the suspension*



Review of Application §205.402 (cont.)

- Certifiers must review the application materials to determine whether the applicant appears to comply or may be able to comply.
 - ✓ *The organic system plan(s) must demonstrate compliance with the USDA organic regulations*
 - ✓ *Submitted documentation must demonstrate that the operation has corrected the noncompliance(s) that led to the suspension*



Scenario 1

Application Review

Scenario 1: Application Review



The certifier's review of the application indicates that the operation's organic system plan is missing a completed Product Summary form and flow chart. The certification reviewer informs the operation that it must have the documents ready for collection at the inspection. The inspector collects the information during the inspection, and includes the documents with the inspector report submitted to the certifier.

Did the certifier's actions meet the requirements of an application review according to §205.402?

Scenario 1: Application Review



Answer:

No. The certification reviewer should have requested the missing information and reviewed the information for compliance prior to scheduling the onsite inspection.

Certifiers must ensure that the application is complete and verify that the applicant appears to comply through the application review process.



Part 2: Onsite Inspection

Evaluating Reinstatement Applications



Onsite Inspection §205.403

- The inspector must verify whether the operation sold, labeled, or represented as organic during the suspension period.
- The inspection report should include details of:
 - ✓ *Verification of sales and inventory records during the suspension period*
 - ✓ *Verification of current stock of products and labels*
 - ✓ *Verification of posted signs or marketing materials, including information on the operation's website*

Scenario 2: Onsite Inspection



The certifier informs the inspector that the operation is a new applicant and instructs the inspector to conduct a full, new applicant inspection. During the inspection, the inspector verifies that the operation is not currently producing organic product. After reviewing the operation's current sales and inventory records, the inspector only notes in the report that the operation is not currently producing organic products.

Did the inspector's verification meet the inspection requirements for a reinstatement inspection?

Evaluating Reinstatement Applications



Onsite Inspection (cont.)

Example – Inspection Report:

8.08: Reinstatement - Sales Did this operation refrain from the sale, labeling, and representation of all products as organic during the suspension period?

There have been no sales, organic or conventional, since the suspension was finalized on Jan 17th 2017. The last sale was an organic order on Jan 13th 2017. Both production logs and harvest logs reflect that the company performed no processing since Jan 13th 2017. The final order shipped out on Jan 13th was from a harvest on Jan 9th. All leaves from that harvest were processed into this final order so there is no inventory from this harvest that remains on site. This was the last harvest and processing process done by the company.

Evaluating Reinstatement Applications



Onsite Inspection §205.403 (cont.)

- The inspector must verify whether there is a system in place that will prevent commingling of noncompliant product produced or inventoried during the suspension period.
- The inspection report should include details of:
 - ✓ *Verification of sales and inventory records during the suspension period*
 - ✓ *System to prevent commingling of noncompliant product with compliant product, if applicable*



Scenario 2

Onsite Inspection

Scenario 2: Onsite Inspection



Answer:

No. The inspector should have also reviewed the sales and inventory records of the operation during the suspension period, and reported whether the operation sold organic product during the suspension period.

Certifiers must clearly inform the inspector of the suspended status of the operation and ensure the inspector conducts the required additional verification points and includes sufficient description of the verification in the inspection report.



Part 3: Final Review

Evaluating Reinstatement Applications



If the onsite inspection results in the identification of noncompliances, certifiers must ...

- Issue a notification of noncompliance to the operation according to §205.405(a)(1)-(3) when the correction of the noncompliance is possible.
- In order to be reinstated, the operation applying for reinstatement must demonstrate resolution of all noncompliances, including any additional noncompliances identified during the reinstatement review and inspection.

Evaluating Reinstatement Applications



IF the application review or onsite inspection finds that the operation has represented itself as certified organic or sold, labeled, or represented products as organic during the suspension period ...

- Certifiers should continue on with the reinstatement process and verify the following information:
 - How has the operation represented itself as certified organic
 - How much product was sold, labeled, or represented as organic
 - Dates when the product was sold, labeled, or represented as organic

Evaluating Reinstatement Applications



(cont.)

- Certifiers should submit the reinstatement request, along with a letter recommending denial of reinstatement of certification to AIInbox@ams.usda.gov. Include details of the violation in the letter and supporting documentation as evidence of the violation with the submission.
- The NOP will review the submission, and if warranted, issue the operation a Notice of Denial of Reinstatement.

Evaluating Reinstatement Applications



What happens next?

- The NOP Compliance and Enforcement (C&E) division will open a complaint investigation against the suspended operation.
- The investigation may result in the levying of civil penalties through a settlement agreement between the suspended operation and the NOP.
- Once the civil penalties have been paid by the operation and the settlement agreement has been executed, the NOP will inform the operation that it may request reinstatement anew. The certifier will be copied on the notice.

Reminders



- Submit all documentation in English.
- Include copies of notifications of noncompliances issued as a result of the reinstatement inspection and documentation supporting resolution of the noncompliances.
- Inform the operation not to submit its reinstatement request letter directly to the NOP. The letter should be included in the reinstatement request submitted by the certifier.
- Do not submit reinstatement requests to your accreditation manager. Send to AIInBox@ams.usda.gov
- Other complaints regarding violations by uncertified operations should continue to be submitted to the Compliance & Enforcement Division



- [NOP 2605 Reinstating Suspended Operations](#)
- [2015 NOP Training - Reinstating Suspended Operations](#)