

## Who Needs to Be Certified? Questions and Answers

Most farms and businesses that grow, handle, or process organic products must be certified. The USDA organic regulations provide some exemptions and exclusions from certification including:

- Farms that sell less than \$5,000 in organic products per year (gross sales).
- Handlers that process and sell less than \$5,000 of organic products.
- Handlers that only handle packaged organic products that remain in the same package or container.
- Retail food establishments.

NOP audits of certifying agents and complaint investigations have revealed that certifiers are inconsistently applying the USDA organic regulations with respect to who needs to be certified. Some certifiers have allowed operations to process or handle organic products without independent certification. These operations have been “covered” under another operation’s certification, but have not been independently certified. Over the last two years the NOP has taken enforcement action against certifiers that have allowed uncertified operations to process organic products.

Through this certifier instruction, the NOP is reminding certifiers that organic agricultural products must be produced and handled exclusively at certified organic farms and handling operations to ensure organic integrity throughout the product’s lifecycle. This policy clarification will increase transparency throughout the supply chain and provide additional opportunities for operations currently serving the organic sector. This instruction responds to requests from the National Organic Standards Board and the Office of Inspector General.

Through discussions with certifiers, we expect that a number of uncertified operations will need to obtain certification in order to continue handling organic products. NOP is committed to providing adequate time for operations to comply with the clarified policy in a sound and sensible way. We will collaborate with certifiers to make progress towards full compliance. We are also committed to continuing our work to make organic certification affordable, attainable, and accessible through our Sound and Sensible initiative and administration of the reauthorized National Organic Certification Cost Share Program.

### Who needs to be certified organic?

Per the Organic Foods Production Act of 1990 (OFPA), agricultural products sold or labeled as organically produced must “be produced only on certified organic farms and handled only through certified organic handling operations.”

Therefore, unless explicitly exempted from certification by the USDA organic regulations, an uncertified operation can’t produce or handle products sold or labeled as organic. For example:



- An uncertified poultry producer cannot raise chickens for a certified organic handler under the handler’s Organic System Plan (OSP).
- An uncertified slaughter facility cannot slaughter cattle under a certified organic producer’s OSP.
- An uncertified olive press cannot process olive oil for an organic olive grower under the grower’s OSP.

Each certified operation must have its own organic certificate (certificates can’t be “shared” by multiple operations). However, a certified operation may continue to:

- Hire individuals or businesses to harvest crops, hull nuts, clean seeds or perform other services on the certified operation’s premises.
- Organically produce agricultural products on leased land that meets all the organic requirements;
- Organically process agricultural products using leased facilities or equipment. Leased facilities must be available for inspection while organic handling is ongoing;
- Purchase or contract for services (e.g., planting seeds, harvesting crops, providing pest control, cleaning processing lines), provided the services are conducted at the certified operation’s production unit, facility, or site, which may be leased or rented, and are described in the certified operation’s approved Organic System Plan (OSP); and
- Contract with an uncertified operation to transport its agricultural products, provided the transportation is described under the certified operation’s approved OSP (see [“NOP 5031 Certification Requirements for Handling Unpackaged Organic Products”](#)).

The leased land or equipment or the contracted services all must be described in the certified operation’s OSP and must be subject to inspection by the certifier and the NOP.

### Is this a new policy?

No. The Organic Food Production Act (OFPA)<sup>1</sup> and USDA organic regulations<sup>2</sup> have always required that organic agricultural products be produced and handled exclusively at certified organic farms and handling operations. As the organic industry has grown, so has the variety and complexity of business arrangements among operations involved in the production, processing and sales of organic products. The increasing variety and complexity of these arrangements has led certifiers to inconsistently apply the organic certification requirements.

This Instruction reminds certifiers about the certification requirements and provides adequate time for operations to come into compliance (see below).

<sup>1</sup> Organic Foods Production Act of 1990, 7 USC 6506(a)(1)

<sup>2</sup> USDA organic regulations, 7 CFR 205.102

### Why is this clarification important?

Certifiers are authorized to inspect certified operations; they don't have the authority to inspect uncertified operations. This clarified policy ensures that certifiers and the NOP can inspect all operations that produce or handle organic products throughout their lifecycle.

Consumers expect that organic products are produced and handled by certified operations throughout their lifecycle, and that these operations are inspected at least annually to ensure that they meet all requirements in the USDA organic regulations.

Noting the changes in business arrangements in portions of the organic sector, both the National Organic Standards Board and the Office of Inspector General have expressed concern that certain products were moving through unregulated segments of the marketing chain.

This clarified policy will increase consistency and transparency in the marketplace, allowing a complete audit trail and protecting organic integrity from farm to market.

### What are the benefits?

Organic certification is the cornerstone of USDA's organic program. This instruction reaffirms that all operations that produce and/or handle products sold, labeled, or represented as organic are certified and inspected annually. This clarification will assure consumers that organically produced products meet a consistent standard throughout its lifecycle.

Clarifying and reaffirming these certification requirements will increase consistency and will better level the playing field for certifiers and operations. Additionally, new certified organic processing and handling operations provide benefits across the organic sector:

- Certified organic farmers and ranchers will have increased access to organic processors and handlers. These new certified operations could help organic farmers and ranchers reduce their transportation costs and address key limitations in the organic sector (such as increasing the availability of certified organic slaughterhouses).
- Once certified, processors and handlers will have increased business opportunities, allowing them to serve additional organic farmers, ranchers, and other handlers. In many cases, since these operations were already under the scrutiny of certifiers (just not certified), it should be relatively easy for them to get certified.

Through its Sound and Sensible initiative, the NOP is working to streamline the certification process and record-keeping requirements. These process improvements will make it easier for uncertified operations to obtain certification.

Additionally, the Agricultural Act of 2014 ("Farm Bill") reauthorizes the National Organic Certification Cost Share Program, which allows State departments of agriculture to reimburse certified organic farmers, ranchers, and handlers for as much of 75 percent of their certification costs—up to a

maximum of \$750 a year.

## For Operations

### **Can I send my certified organic products to an offsite, uncertified operation for production or processing?**

No. The uncertified operation must be certified to produce or process your product. Examples of non-compliant, offsite activities:

- An uncertified poultry producer can't raise chickens on his/her farm for a certified organic handler under the handler's Organic System Plan (OSP).
- An uncertified slaughter facility can't slaughter cattle under a certified organic producer's OSP.
- An uncertified olive press facility can't process olive oil for an organic olive grower under the grower's OSP.

You should discuss your site-specific questions with your certifier and develop a plan (as needed) to come into compliance with the Instruction.

### **My operation is certified organic. Can I have an uncertified operator perform production or handling services on my premises?**

Yes. Since your operation is certified and all activities will occur on your farm, these activities will be reviewed as part of your annual inspection. Examples of allowed, onsite activities:

- An uncertified business can plant, spray, or harvest crops or clean seeds on a certified organic farm under a certified organic producer's OSP.
- An uncertified business can press olives on a certified organic farm under a certified organic producer's OSP.

Such activities must be part of the certified operation's approved OSP.

### **I'm not certified, but an organic certifier inspects my operation every year. Why do I have to pay certification fees and complete paperwork to continue producing or processing organic products?**

Organic agricultural products must be produced and handled at certified organic farms and handling operations. The required certification process assures consumers that organic products meet



consistent standards throughout their lifecycle. Certification provides a complete audit trail and protects organic integrity from farm to market.

Once certified, you can serve multiple organic operations and can market your business as certified organic. Organic agriculture is one of the fastest-growing agricultural sectors in the U.S., creating jobs and both domestic and international trade opportunities for small businesses.

### **How long will I have to come into compliance with the clarified policy?**

The NOP understands that it will take time for some operations to fully comply with the clarified policy. You should contact your certifier and discuss the available options. For example, your off-site producers and/or handlers could get certified organic or you could transfer these activities to a certified organic operation (as reflected in your updated OSP).

The NOP will work closely with certifiers to move towards full compliance with the clarified policy. During the 2014 accreditation audits, NOP will assess certifiers' compliance with these requirements.

When determining enforcement actions, the NOP will use the appropriate discretion, taking into account the time and effort it will take for some certifiers to come into full compliance.

### **How do I get certified organic?**

For an overview of the certification process, a list of certifiers, information on the Organic Certification Cost Share Program, and links to more detailed information, visit <http://www.ams.usda.gov/NOPFAQsHowCertified>.

The NOP has made several process improvements to streamline the certification process and record-keeping requirements. These "sound and sensible" enhancements help make organic certification affordable, attainable, and accessible for all operations.