MAINE ORGANIC FARMERS & GARDENERS ASSOCIATION

MOFGA CERTIFICATION SERVICES, LLC.

ORGANIC CERTIFICATION PRACTICE MANUAL

A Guide for Producers

2012
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Principles of Organic Production and Handling
National Organic Standards Board, United States Department of Agriculture

A. Organic agriculture is an ecological production management system that promotes and enhances biodiversity, biological cycles, and soil biological activity. It emphasizes the use of management practices in preference to the use of off-farm inputs, taking into account that regional conditions require locally adapted systems. These goals are met, where possible, through the use of cultural, biological, and mechanical methods, as opposed to using synthetic materials to fulfill specific functions within the system.

B. An organic production system is designed to:
1. Optimize soil biological activity
2. Maintain long-term fertility
3. Minimize soil erosion
4. Maintain or enhance the genetic and biological diversity of the production system and its surroundings
5. Utilize production methods and breeds or varieties that are well adapted to the region
6. Recycle materials of plant and animal origin in order to return nutrients to the land, thus minimizing the use of non-renewable resources
7. Minimize pollution of soil, water, and air
8. Become established on an existing farm or field through a period of conversion (transition), during which no prohibited materials are applied and an organic plan is implemented.

C. The basis for organic livestock production is the development of a harmonious relationship between land, plants, and livestock, and respect for the physiological and behavioral needs of livestock. This is achieved by:
1. Providing good quality organically grown feed
2. Maintaining appropriate stocking rates
3. Designing husbandry systems adapted to the species' needs
4. Promoting animal health and welfare while minimizing stress
5. Avoiding the routine use of chemical allopathic veterinary drugs, including antibiotics

D. Organic handling practices are based on the following principles:
1. Organic processors and handlers implement good organic manufacturing and handling practices in order to maintain the integrity and quality of organic products through all stages of processing, handling, transport, and storage
2. Organic products are not commingled with non-organic products, except when combining organic and non-organic ingredients in finished products which contain less than 100% organic ingredients
3. Organic products and packaging materials used for organic products do not come in contact with prohibited materials
4. Proper records, including accurate audit trails, are kept to verify that the integrity of organic products is maintained
5. Organic processors and handlers use practices that minimize environmental degradation and consumption of non-renewable resources. Efforts are made to reduce packaging; use recycled materials; use cultural and biological pest management strategies; and minimize solid, liquid, and airborne emissions

E. Organic production and handling systems strive to achieve agro-ecosystems that are ecologically, socially, and economically sustainable.

F. Organic products are defined by specific production and handling standards intrinsic to the identification and labeling of such products.

G. Organic standards require that each certified operator must complete, and submit for approval by a certifying agent, an organic plan detailing the management of the organic crop, livestock, wild harvest, processing, or handling system. The organic plan outlines the management practices and inputs that will be used by the operation to comply with organic standards.

H. Organic certification is a regulatory system that allows consumers to identify and reward operators who meet organic standards. It allows consumers to be confident that organic products are produced according to approved management plans in accordance with organic standards. Certification requires informed effort on the part of producers and handlers, and careful vigilance with consistent, transparent decision making on the part of certifying agents.

I. Organic production and handling operations must comply with all applicable local, state, and federal laws.

J. Organic certification, production, and handling systems serve to educate consumers regarding the source, quality, and content of organic foods and products. Product labels must be truthful regarding product names, claims, and content.

K. Genetic engineering (recombinant DNA technology) is a synthetic process designed to control nature at the molecular level, with the potential for unforeseen consequences. As such, it is not compatible with the principles of organic agriculture (either production or handling). Genetically engineered/modified organisms (GEO/GMOs) and products produced by or through the use of genetic engineering are prohibited.

L. Although organic standards prohibit the use of certain materials such as synthetic fertilizers, pesticides, and genetically engineered organisms, they cannot ensure that organic products are completely free of residues due to background levels in the environment.
INTRODUCTION

MOFGA Certification Services (MCS) is a Limited Liability Corporation established in 2002 by the Maine Organic Farmers and Gardeners Association (MOFGA). MCS’s mission is to continue MOFGA’s venerable program of independent verification of organic food production and to provide Maine producers and processors with accredited organic certification services under the USDA National Organic Program (NOP).

Accredited by the USDA in 2002, MOFGA Certification Services has adopted the USDA National Organic Standards, which can be found in Appendix I of this manual. Our program, which includes on-farm verification, encourages production practices that promote soil health, animal welfare, and farm sustainability. MCS strives to uphold the Principles of Organic Production and Handling, developed by the USDA National Organic Standards Board. These principles appear on page i of this manual.

This manual is written to simplify the language in the National Organic Standards. All crops, livestock, and processed products labeled organic must be in full compliance with the National Organic Program Standards. The NOP regulatory text is reproduced in Appendix I and is available on the web at http://www.ams.usda.gov/nop/. Because it may be necessary to update information presented in this manual during the course of the year, MCS recommends that you check www.mofgacertification.org for the latest certification news. This news can also be found in the MOFGA Certification Newsletter that is sent to producers twice a year.

EXPLANATION OF CATEGORIES

Required: These practices are required by the National Organic Program and are not optional.
Recommended: Preferred practices or materials that maintain or improve the organic farm system, or, in the case of processing, the organic integrity of the finished products.
Permitted: Practices or materials that are permitted in specific situations.
Not Permitted: Use or practice that will disqualify crop or product for certification. In some cases, use or practice may disqualify a field from organic production for 36 months, or, in the case of livestock, may render an animal ineligible for certification.

Changes have been made to this edition of the Practice Manual. We have not marked the margins where changes occur. Therefore, we recommend that you read the whole manual.
PART I. MATERIALS & PRACTICES

AN IMPORTANT NOTE ABOUT USING PRODUCTS LIKE PESTICIDES, SOIL AMENDMENTS, AND HEALTH CARE PRODUCTS FOR LIVESTOCK

Synthetic generic materials are prohibited and natural materials are permitted, except as listed in The National List of Allowed and Prohibited Substances (Appendix I, NOP 205.600-606). As a general rule, single ingredient materials from a natural source that are minimally processed are allowed. Crushed limestone is an example of a simple, minimally processed, natural material that is permitted. A few single natural ingredient materials are exceptions, such as arsenic or nicotine sulfate (tobacco dust). They are listed as prohibited “non-synthetic” substances in the Appendix (NOP 205.602).

Multi-ingredient product formulations, on the other hand, require evaluation to make sure that prohibited ingredients have not been added to process, stabilize, or preserve the product. For example, ingredients that serve these functions in pesticides are called “inerts” because they are not the active ingredients. The Environmental Protection Agency (EPA) evaluates inert chemical ingredients. Only EPA List 4 Inerts (those “generally recognized as safe”) are permitted in organic production. Other inerts may be permitted only if they appear in Section 205.601 of the NOP Rule.

Because the manufacturer may keep formulations of commercial products proprietary, it is often not easy to determine if a product meets NOP Standards. Some manufacturers have had the Organic Materials Review Institute (OMRI) evaluate their products. OMRI publishes a brand name list of permitted products. You can search the OMRI list on the web at www.omri.org, call them at (541) 343-7600, or write them at Box 11558, Eugene, OR 94440. If you find a product that has been approved by another accredited certification program, you should always check with MCS before using it.

It is your responsibility to use only products that meet National Organic Standards. For example, if you want to use a product that is not listed by OMRI and you have reason to believe that it would meet National Organic Standards, you need to contact MCS before using the product. MCS will attempt to review the product in a timely manner. Before using the product, you must have written approval from MCS that it is approved. You put your certificate at risk using products that MCS has not approved.

Using products or inputs that you have not listed in your organic system puts your certification at risk and may result in a warning letter, a notice of non-compliance, the disqualification of land for organic production for 36 months, or the ineligibility of animals for organic meat or dairy production. Make sure to get approval from MCS before using new or different products by calling MCS Staff at 207-568-4142.
SECTION I. CROP PRODUCTION [SUBPART C of NOP RULE]

SOIL MANAGEMENT

A. Required
   1. Crop rotation including but not limited to legumes, green manures, catch crops, winter cover crops, and/or nurse crops.
   2. Must possess and implement a plan that maintains or improves soil organic matter and soil fertility.

B. Recommended
   1. Compost made using permitted materials and practices (see text box on p.4). Permitted feedstocks must be free from residues that could result in contamination.

C. Permitted
   1. Un-composted livestock manure is permitted if it is incorporated into the soil at least 120 days prior to the harvest of crops where the edible portion has direct contact with the soil or soil particles, or at least 90 days prior for crops where the edible portion does not have direct contact with the soil or soil particles. Livestock manure may be used on crops that are not for human consumption without waiting periods before harvest.
   2. Livestock bedding, including shredded newspaper, treated as un-composted livestock manure (see C1 above).
   3. Manure tea and liquid manure are permitted if treated as un-composted manure (see C1 above).
   4. Un-composted fishery and animal by-products. If processed, then the specific process must be identified by the grower and approved by MCS. (Liquid fish products can be pH adjusted with sulfuric, citric or phosphoric acid, but the amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.). Rubber bands from lobster shell waste need to be removed before applied to fields or used as a compost feedstock.
   5. Non-fortified seaweed products.
   6. Recycled, naturally occurring organic materials (such as leaves, hay, straw, peat, and crop residues, bloodmeal or bonemeal). When using products such as municipal grass cuttings, be aware that pesticide residues can be an issue.
   7. Ground rock or other natural sources of minerals including: Azomite, Boron, Colloidal Phosphate, Natural Epsom Salts, Granite, Greensand, Gypsum, Limestone, Phosphate Rock, Sodium or Chilean Nitrate (no more than 20% of a crops N needs), Sul-Po-Mag (langbeinite), Vermiculite.
   8. Wood ash when approved by MCS.
   9. Herbal and micro-organism preparations only when approved by MCS.
   10. Blended fertilizer; product must be approved by MCS before using.
   11. Compost tea from compost made as described in the text box on the next page.
   12. Micronutrients, synthetic. Use restricted to cases where soil/plant nutrient deficiency is documented by soil or tissue testing. Micronutrients include boron, cobalt, copper, iron, manganese, molybdenum, selenium, and zinc. Carriers, fillers, and chelating agents must either be nonsynthetic or on the Nat’l List. Synthetic micronutrients in either chloride or nitrate forms are prohibited. Check with MCS first before using.
IF YOU USE COMPOST OR COMPOST RELATED PRODUCTS, PLEASE READ THE FOLLOWING:

Compost Production. As long as feedstocks (ingredients) are free from chemical residues that could result in contamination, there are no specific regulations if the compost is made entirely of plant materials. If the compost contains livestock manure or animal parts, then the compost must undergo an increase in temperature to at least 131°F (55°C) and remain there for a minimum of 3 days. The compost pile must be mixed at least twice, or managed to ensure that all of the feedstocks heat to the minimum temperature. Feedstock inputs and monitoring parameters such as temperature and turning must be documented in the Organic System Plan submitted by the producer and verified during the inspection. A thermometer and a notebook with dates and records should be available at the time of inspection.

Alternatively, you can follow the manure waiting period guidelines for a manure-based compost. See Section I Crop Production/Soil Management/C.1 on page 3.

Compost teas are permitted provided that they do not contaminate soil or crops and are made from finished compost products that have met the above production guidelines.

Commercial Composts. If you use a compost product that you do not make yourself, MCS will need to be able to evaluate how the compost was made as part of your certification application. As a service to farmers and commercial compost producers, MOFGA has a program in place for evaluating commercial compost products and MOFGA maintains a list of compost manufacturers that have passed this review. Please call 568-4142 for more information. If you use a compost product that has not been reviewed by MOFGA, then responsibility for that compost review and inspection falls under your application. You will need to furnish information about how the compost was produced (feedstocks, temperature records), and the inspector may need to visit the compost-making facility. This may result in an additional charge to you to cover additional expenses. Multiple farmers using the same commercial compost may share this expense.

D. Not Permitted
1. Manure applied less than 120 days before harvesting root crops or other crops whose edible part is in direct contact with soil or soil particles, or applied less than 90 days before harvest of any other food crop, except if composted as described in Section I Crop Production/Soil Management/B.1, or treated by some other process to reduce pathogens such as heat treatment. (NOTE: livestock manure may be used on crops that are not for human consumption (e.g., hay, silage corn… without waiting periods before harvest). Side-dressing with fresh manure or improperly composted manure during the growing season is also prohibited unless the manure waiting-period can be met.
2. Manure tea applied to the edible portion of a crop less than 120 days before harvesting.
3. All chemically synthesized fertilizers and other synthetic sources of minerals, unless listed in Appendix I (NOP 205.601).
4. Highly soluble nitrate, phosphorous, and chloride, whether natural or synthetic, except as noted in Appendix I.
5. Leather by-products including leather meal, tankage or dust.
6. Urea.
7. Hydrated lime, Quicklime, Calcium Oxide, Burned or Burnt Lime
8. Sludge & sludge/ash mixtures. This includes non-municipal septage and “humanure”.
9. Spreading of raw manure between 1 December and 15 March, as per Maine Nutrient Management Law, unless a variance has been granted by the Maine Department of Agriculture.
10. Lumber treated with prohibited materials in contact with animal feed or with soil used to produce organic crops.
12. Industrial ash sources unless specifically reviewed and approved before application.
13. Any practice that contributes to contamination of crops, soil or water by plant nutrients, pathogenic organisms, heavy metals or toxic materials.

**Nutrient Balances.**
The NOP Rule (Section 205.203 (c)) requires farmers to manage “plant and animal materials (…) in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients…” As a general rule, you should not apply nitrogen to a field in excess of what your crop can take up. Excessive application(s) of nutrient amendments like manure to your fields can pollute your land and contribute to nutrient-rich runoff that can contaminate surface and groundwater, and pose problems for humans and ecosystems. Maine’s Department of Agriculture has issued Nutrient Management Guidelines, which may be helpful in managing nutrients on your land. For assistance determining how much nutrients are removed during harvest and how much nutrients are added with various amendments, you can contact your local Extension agent or MOFGA’s Agricultural Services department.

For more information about crop rotation please see Appendix III of this practice manual.

**INSECT & RODENT CONTROL**

**A. Required**
1. Producers must use management or cultural practices to prevent crop pests, weeds and diseases including but not limited to:
   a. Crop rotation.
   b. Sanitation.
   c. Cultural practices that enhance crop health.

**B. Recommended**
1. Planting resistant varieties.
2. Insect barriers.
3. Hand, mechanical, or hydraulic removal.
4. Intercropping.
5. Predatory insects, nematodes & other biological controls.
6. Row covers, nets.
7. Development of habitat for natural enemies.

**C. Permitted**
1. Microbial insecticides such as *Bacillus thuringiensis*. If you use a commercial formulation of “Bt”, make sure that the product meets the product standards for use in organic agriculture. **See warning in text box below about commercial formulations.**
2. Insect traps.
3. Botanical insecticides (pyrethrum, neem and other plant-derived substances) are permitted only when used as a last resort. The farmer must demonstrate that other pest management practices have been tried and have failed. The specific formulation and rate of application must be reported in your Organic Farm System Plan. See warning in text box below about commercial formulations.
4. Thermal insect control.
5. Dormant oil sprays (narrow range oils, see OMRI List, and text box below).
6. Insecticidal soaps. (See OMRI list)
7. Pheromones used in traps.

**Important!** Please be advised that not all commercial formulations of natural pesticides, including botanical insecticides, are permitted. Some brands contain inert ingredients in addition to the botanical extract that are not permitted in organic production. Only EPA List 4 Inerts published August 2004 are permitted. A few of the inerts on this List have been reclassified and are no longer permitted. See [http://www.epa.gov/opprd001/inerts/inerts_list4.pdf](http://www.epa.gov/opprd001/inerts/inerts_list4.pdf) for details.

**Other inerts may be permitted if they appear in Section 205.601 of the NOP Rule.** Inert ingredients are common in botanical and other pesticide formulations; however they are not always listed on the label. OMRI is able to evaluate many of these formulations by working with manufacturers and is a good resource. For more information about how to determine if a commercial formulation is allowed, see “AN IMPORTANT NOTE ABOUT USING PRODUCTS LIKE PESTICIDES …” on page 2. If in doubt about a product, check with MCS staff.

8. Boric acid—not for use on edible product parts or in direct contact with soil or plants.
9. Rodent control products when specifically approved and recorded. Sulfur dioxide in smoke bombs and vitamin D3 baits are permitted. Baits must never be in contact with soil, crop or product.
10. Other materials or methods only as specifically permitted in NOP Section 205.601 (Appendix I).

**D. Not Permitted**
2. Natural poisons that are extremely toxic or have long-term effects and are environmentally persistent, such as arsenic, lead salts, cryolite, strychnine or nicotine (See §205.602).
3. Inert ingredients, except those on EPA List 4 and those specifically permitted in The National List in Appendix I.

**NOTE:** A Pesticide Application Log must be maintained and be made available to the inspector.

**DISEASE CONTROL (FUNGI, VIRUS, BACTERIA, NEMATODES)**

**A. Required**
1. Producer must use management or cultural practices to prevent crop pests, weeds and diseases including but not limited to
   a) Crop rotation.
b) Sanitation practices (crop residue removal where appropriate, proper crop spacing, cleaning of tools and machinery where needed…).
c) Planting disease resistant varieties.

B. Permitted
1. Approved copper fungicide formulations must be used in a manner that avoids accumulation of copper in the soil. Copper is toxic for plants, invertebrates, and microbes at high concentrations; use judiciously. If used more than once, a soil test for copper must be submitted with the application prior to the second use. A request for a copper test should be made with the regular Maine soil test. See also earlier text box about Inerts.
2. Sulfur, elemental. See earlier warning about inerts.
3. Herb or homeopathic preparations such as silica teas as approved and recorded by MCS.
4. Other non-synthetic fungicides only if approved by MCS Staff.
5. Chlorine materials as algicide, disinfectants, and sanitizer (calcium hypochlorite, sodium hypochlorite (household bleach), chlorine dioxide), except that residual chlorine levels in the water shall not exceed the maximum residual limit under the safe Drinking Water Act (4 ppm).

C. Not Permitted
1. Synthetic fungicides, nematicides, or antibiotics, except those specifically permitted in The National List (NOP 205.601) in the Appendix.
2. Inert ingredients, except those on EPA List 4 and those specifically permitted in The National List in Appendix I.

WEED CONTROL

A. Required
1. Producer must use management or cultural practices to prevent crop pests, weeds and diseases including but not limited to:
   a) Crop rotation.
   b) Sanitation (e.g., preventing the introduction of weed seeds).

B. Recommended
1. Green manures.
2. Timely planting & cultivation.
3. Organic & living mulches.

C. Permitted
1. Black, colored & wavelength-selective (IRT) plastic mulch (see exception under Not Permitted, below) NOTE: Must be removed from field at end of season except on perennial crops.
2. Flame weeding.
3. Herbicidal soap & acid formulations approved by MCS (see text box about Inerts on page 6).
4. Corn gluten meal from a non-GMO source.
5. Newspaper mulch of which the glossy, colored paper is removed.

D. Not Permitted
1. Synthetically compounded or petroleum distillate herbicides.
2. Synthetic growth regulators.
3. Other synthetic material unless specifically permitted in The National List in the Appendix.
4. Photodegradable plastic mulch.
5. Biodegradable synthetic mulch.
6. Inert ingredients, except those on EPA List 4 and those specifically permitted in The National List in Appendix I.

SEEDS, SEEDLINGS, TRANSPLANTS, POTTED PLANTS, SHRUBS, TREES, & POTATO SEED

A. Required
1. Certified organic seeds except when the kind, quantity, and/or quality sought cannot be found in a certified organic form.
2. Certified organic seedlings and transplants.

B. Recommended
1. Legume inoculants (Caution: Genetically engineered strains are prohibited! Please check product labeling or contact manufacturer).

C. Permitted
1. Natural rooting hormones.
2. Perennial plants and planting stock grown using prohibited items are permitted as long as produce is not labeled organic until at least 12 months after plants have been maintained under organic management.
3. Perennial potted plants, shrubs, and trees initially grown using prohibited items may be labeled certified organic one year after changing the soil to a permitted soil mix and growing for one year according to organic standards. Does not apply to edible crops on which prohibited pesticides were used. Records should be kept that document the transition dates.
4. Non-organically grown planting stock that is treated like an annual (e.g., strawberry plugs in an annual system; onion sets) if equivalent organically produced stock is not commercially available.

D. Not Permitted
1. Conventional seeds without demonstrating that the kind (variety), quality, or quantity sought were unavailable as certified organic. You must conduct a broad search. You must keep records about your search to show to your inspector.
2. Genetically engineered seeds or inoculants.
3. Use of seed that has been treated with synthetic pesticides (e.g., fungicide treated seeds). Planting seeds treated with a prohibited substance will result in suspension of that field for 36 months.
4. Seedlings of annuals raised for transplant using synthetic fertilizer or pesticides. This includes pre-grown onion plants.
5. Potting mixes with synthetics incorporated.
6. Compost not made according to organic standards (see Section I Crop Production/Soil Management/B.1) or potting mixes made with such compost.
SECTION II. LIVESTOCK & LIVESTOCK PRODUCTS  [SUBPART C of NOP RULE]

The basic principles of organic livestock production include respect of animals' needs with regards to housing, health, feeding, and shipping. In addition, organic management requires that feeds, medicines, health care practices, and living conditions meet the federal standards (§205.237-240). The producer of an organic livestock operation must not sell, label, or represent as organic any animal or livestock product that has been treated with any of the following: (a) antibiotics; (b) any substance that contains a synthetic substance not permitted under §205.603; or (c) any substance that contains a non-synthetic substance prohibited under §205.604.

FEED

Ruminant livestock must be managed daily on pasture, and be fed no more than 70% of their daily ration in order graze 30% on average over the entire grazing season. Feed and pasture must be 100% organically produced. All purchased feed crops (hay, grains, silage…) must be certified by MCS or another USDA accredited certifying agent. Records for all purchased feeds must be kept and made available to your inspector.

A. Required
   1. Certified organic feeds including milk for calves & other young livestock.
   2. A minimum of 30% dry matter intake (DMI) on average from pasture for the entire grazing season.

B. Recommended
   1. Nonsynthetic mineral & vitamin supplements.

C. Permitted
   1. FDA approved mineral & vitamin supplements, provided that they comply with NOP Standards.
   2. Sodium bicarbonate.
   3. Salt. If salt with additives is used, it should be approved by MCS. Approval should be sought before use.
   4. Synthetic methionine (DL-Methionine, DL-Methionine-hydroxy analog, and DL-Methionine-hydroxy analog calcium)—for use as a feed supplement only in organic poultry production until Oct. 1, 2012, with the following maximum allowable limits of methionine per ton of feed: 4 pounds for layers, 5 pounds for broilers, and 6 pounds for turkeys and all other poultry.
   5. Temporary variance from feed requirements may be established by the NOP Administrator in the event of an emergency (see NOP Section 205.290 for more details).
   6. Forages produced on-farm, on land that is part of the organic farm plan and in the last year of transition to organic, may be fed to dairy animals that are transitioning to organic. Once the herd is certified, only certified organic feeds and forages are permitted.

D. Not Permitted
   Examples include but are not limited to the following:
   1. Conventionally raised forage or grain.
   2. Uncertified forage or grain, except as noted in C.6 above for transitioning herd.
   3. Any feed or milk replacer with added medication, hormones, or ionophores.
   4. Any natural or synthetic hormones.
   5. Plastic pellets for roughage.
6. Urea.
7. Manure re-feeding.
8. Milk from lactating mothers receiving antibiotics or other prohibited materials.
9. Bone meal or other slaughter by-products.
10. Feeds that have been in direct contact with prohibited materials (e.g., commingled with conventional feeds; arsenate treated lumber).

**ANIMAL HEALTH & HOUSING**

Housing for all livestock must provide adequate fresh air and daylight with clean, dry, appropriate bedding. Animals must have access to the outdoors when appropriate. Animals must always have enough room to freely get up, stretch, and lie down. Confinement to cages (except during transport) or overcrowding that prevents such movement is prohibited. Organic dairy, beef, sheep and goat livestock, at appropriate stages, must be pastured on managed pasture with edible forage during the grazing season and have access to outdoors during the non-grazing season, weather permitting (see feed section above). Certified growers must never deny treatment to an animal so that its product may be labeled "organic." If synthetic medication or antibiotics are needed for animal health they should be given. Such treated animals or animal products must then be diverted to conventional markets.

**A. Required**

1. Prevention of health problems through good farming practices including sanitation, fresh air space, light, pasture rotation, access to the outdoors, high quality feed, and clean dry bedding.
2. If bedding material is an agricultural product (hay, straw, stalks) then it must be certified organic.

**B. Recommended**

1. Nutritional supplements (e.g., minerals, salts, kelp).
2. Selection of species that are appropriate for site-specific conditions.

**C. Permitted**

1. Vaccinations.
2. Probiotics (whey, lactobacillus, and colostrum). If you wish to use a commercial formulation that contains other ingredients, first make sure that the product is permitted.
3. Homeopathic remedies.
4. Herbal treatments.
5. Non-target, natural pest controls, e.g., rock powders, diatomaceous earth, botanical pesticides (topical use only), herbs, and essential oils.
6. Parasiticides can be used on breeder stock not in the last third of gestation, and on dairy stock when used a minimum of 90 days prior to the sale of milk as organic. Synthetic parasiticides cannot be used on organic slaughter stock, including cull dairy animals. Ivermectin is the only allowed synthetic parasiticide active ingredient. The ivermectin-containing parasiticides we have reviewed and allow to present date are these:
   a. **ALLOWED:**
      - IVOMEC Pour-On for Cattle (Merial)
      - Iver-On (Med-Pharmex Inc)
      - Top Line (ivermectin) Pour-On for Cattle (AgriLabs)
      - Ivomec .08% Sheep Drench (Merial)
      - Injectable 1% (ivermectin) Injection for Cattle & Swine (Durvet)
b. **PROHIBITED:**
   Ivomec Eprinex (Merial)- this is eprinomectin (not ivermectin) we can’t approve it.
   There may be other ivermectin products that we can allow in organic production. Please let us know if there is an ivermectin product you would like to use.
   Please make sure you list parasiticides you may use in your Farm Plan paperwork. Call MCS before using a synthetic parasiticide to be sure that it is an approved product for organic production.

7. Topical iodine disinfectants.
8. Synthetic medications only when active ingredient is permitted in NOP Section 205.603 (Appendix I). MOFGA Agricultural Services can assist you with brand name products.

D. **Not Permitted**
1. Synthetic chemicals, medications, etc. or hormones (natural or synthetic) except those permitted in NOP Section 205.603 (Appendix I).
2. Routine use of synthetic parasiticides on breeding stock and dairy stock.
3. Use of synthetic parasiticides on slaughterstock.
4. Continuous total confinement of ruminants in yards, feeding pads, or feed lots.
5. Confinement of animals indoors, except for the reasons listed in NOP§205.239 (b) and (c), and as long as it is temporary (e.g., overnight during a storm or for a period of illness).

**ANIMAL PURCHASE & REPLACEMENT (ORIGIN OF LIVESTOCK)**

Slaughter stock must be organic from the last third of gestation of the mother. Dairy replacement stock must be certified organic. Poultry must be managed organically from at least the second day of life after hatching.

A. **Permitted**
1. Organic replacement animals that are purchased from certified organic livestock operations.
2. Organic replacements that are raised on your own farm.
   *Dairy stock must be maintained from birth according to organic standards. In addition, its mother must have been managed organically during the last third of its gestation (i.e., three months before the cow freshens). In other words, organic management for dairy stock begins in the womb.*
3. Breeding stock for production of slaughter stock may be bought from whatever source. HOWEVER, TAKE NOTE OF THE FOLLOWING:
   a. If breeding stock is conventional and not certified organic, it may never be sold as organic. Its meat may never be marketed as organic.
   b. If breeding stock is not certified organic and it is bred, organic management must begin before the last third of gestation in order for its offspring to be eligible for certification. Organic management for slaughterstock must be from the last third of gestation and be continuous for the rest of the animal’s life.
4. Day-old poultry may be bought from any source. Chickens must be fed and managed according to the NOP Standards from at least the second day of life regardless of whether the birds are for organic egg production or organic meat production.
B. Not Permitted

1. Purchase of animals not raised in accordance with organic standards for organic finishing.
2. Purchase of laying hens or meat birds older than 2 days not raised in accordance with organic standards for organic egg production. Birds older than two days cannot be transitioned from conventional management to organic.
3. Livestock (slaughterstock, dairy stock, egg layers) that are removed from an organic operation and subsequently managed conventionally may not be sold or labeled as organic, and the livestock products from these animals may not be sold or labeled as organic.

NEW PASTURE RULE

The National Organic Program (NOP) Rule was amended on February 12, 2010. The changes are effective immediately for new operations, and will be enforced on June 17, 2011 for existing organic farms.

Key components of the pasture rule for all livestock (e.g., cattle, goats, sheep, llamas, alpacas, bison, deer, pigs, poultry, rabbits…):

1. All livestock must have clean, dry bedding. If the bedding is an agricultural roughage (hay, straw, hulls, stocks, etc) it has to be certified organic.
2. All farms with livestock must manage manure to improve the soil and protect water quality.
3. Animal feeds must be 100% certified organic, as before. They must not contain mammalian or poultry slaughter bi-products if fed to mammals and poultry. Antibiotics and ionophores are not allowed in feeds and supplements.
4. All livestock must have access to outdoor areas that have shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight.
5. All livestock must have year-round outdoor access. For dairy cattle, they have to be going outside by age 6 months old, all year round. Here are the exceptions. You can temporarily keep animals inside if:
   a) Their stage of life requires it. This might be chickens during feathering. Lactation and breeding are not stages of life.
   b) Inclement weather: this means violent weather, extreme high and low temperatures, and excessive precipitation. These are short-term events.
   c) The health, safety, or wellbeing of the animals is at risk. Is it too windy? -30°F? You know when your animals are stressed; good judgment is in order. If it is too icy, this is a temporary condition. MCS will expect that you get out there and do something about it.
   d) Soil or water quality is at risk.
   e) For preventative healthcare procedures, treating illness or injury.
   f) You’re sorting and shipping animals.
   g) The animal is going to 4-H and other youth projects—1 week before and 1 day after.
   h) For breeding—animals confined for breeding with AI or a bull must still have daily access to the outdoors, and must achieve 30% DMI from pasture for 120 days during that season.
   i) Prior to birthing—for 3 weeks, during birthing, and one week just after birthing.
   j) For short periods for shearing fiber animals.
   k) For short periods for milking dairy animals.
   l) 1 week for drying off dairy animals, for keeping her off pasture but still having outdoor access.

Any confinement of animals must be temporary. The rule says temporary means: “occurring for a limited time only (e.g. overnight, throughout a storm, during a period
of illness…), not permanent or lasting.” You must keep records to show that you are using these exemptions correctly.

**Key components of the pasture rule for ruminant livestock (e.g., cattle, goats, sheep, llamas, alpacas, and deer):**

1. All ruminants must be managed daily on pasture throughout the grazing season. Pasture has to have high quality forage available for grazing.
2. You cannot provide more than 70% of the animals’ dry matter intake (DMI) from dry matter fed during the grazing season. Dry matter fed is the hay, baleage, silage, or other forage crops that are brought to the animal, minus the water that may be in those feeds (realize that some silages/baleage is up to 70% water). In other words, the animals must go out and graze at least 30% of their total dry intake from pasture. Pasture is standing rooted forage, and residual forage that may be cut and left to lie in place in the pasture.
3. The 30% DMI from pasture will be averaged over the length of the grazing season. You can do your own pasture DMI calculations, but you need to show us the numbers you are using, and the methods that you use to calculate it, so we can double-check and agree upon your % DMI.
4. The grazing season must be defined with beginning and ending dates for each individual farm. The grazing season is considered to be the period of time when pasture is readily available for grazing. The grazing season must be 120 days or more, but does not have to be continuous (for example, dry weeks during the summer do not have to count as the grazing season, but the time has to be “made up” in the fall to be at least 120 days).
5. Yards and feeding pads can be used to provide outdoor access during the non-grazing season, and supplemental feeding during the grazing season. These yards have to be large enough to hold the entire herd or flock, without crowding or competition for food. They need to be kept in good condition and managed to prevent nutrient runoff.
6. Breeding bulls do not have to be managed on pasture, but if they are not, then they cannot be sold as organic for slaughter stock.
7. After 6 months of age, dairy stock must be housed and managed in groups—no more individual housing.
8. For finishing ruminant slaughter stock, animals must still have access to pasture but do not need to be getting the 30% from grazing. In other words, you can provide them with 100% of their diet from feeds, as long as they have the choice of going out to pasture, if it is pasture season while they are finishing. The finishing period can be no longer than 1/5 of the animal’s life span, or 120 days, whichever is shorter.

**Dry Matter Intake Calculations**

MCS is using the subtraction method to determine dry matter intake (DMI) from pasture. We will be happy to send you the forms we are using, and to show you how to use them. The math involved is addition and multiplication. It is best if you have dry matter figures from feed tests for your own stored forages, but if you don’t have them, you can use average book figures.

The key to this system will be recording the amounts of stored feeds that you feed during the grazing season (pounds of silage, hay, and grain). If you have questions about dry matter calculations, please feel free to call us for help 568-4142.
## DRY MATTER DEMAND (DMD) TABLES for Ruminants

### Ruminant Groups: DMD as a percentage of body weight

<table>
<thead>
<tr>
<th>Ruminant Groups</th>
<th>DMD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dairy cows</td>
<td>3.5%</td>
</tr>
<tr>
<td>Dry dairy cows</td>
<td>1.8%</td>
</tr>
<tr>
<td>Bred dairy heifers (14-24 months of age)</td>
<td>2.5%</td>
</tr>
<tr>
<td>Unbred dairy heifers (6-14 months of age)</td>
<td>2.5%</td>
</tr>
<tr>
<td>Beef cattle (more than 1 year of age)</td>
<td>2.25%</td>
</tr>
<tr>
<td>Beef cattle (weaned, less than 1 year of age)</td>
<td>2.75%</td>
</tr>
<tr>
<td>Sheep (brooding or milking animals)</td>
<td>3.65%</td>
</tr>
<tr>
<td>Goats (brooding or milking animals)</td>
<td>4%</td>
</tr>
<tr>
<td>Sheep (weaned, slaughter or replacement stock)</td>
<td>3.3%</td>
</tr>
<tr>
<td>Goats (weaned, slaughter or replacement stock)</td>
<td>2.25%</td>
</tr>
</tbody>
</table>

### Dairy Cows—Daily DMD based on milk production

<table>
<thead>
<tr>
<th>Average milk per day</th>
<th>Small breed &lt;900-1200# body weight DMD</th>
<th>Large breed 1200-1400#+ bodyweight DMD</th>
</tr>
</thead>
<tbody>
<tr>
<td>10#</td>
<td>21#</td>
<td>27#</td>
</tr>
<tr>
<td>15#</td>
<td>23#</td>
<td>28#</td>
</tr>
<tr>
<td>20#</td>
<td>24#</td>
<td>30#</td>
</tr>
<tr>
<td>25#</td>
<td>26#</td>
<td>31#</td>
</tr>
<tr>
<td>30#</td>
<td>28#</td>
<td>33#</td>
</tr>
<tr>
<td>35#</td>
<td>30#</td>
<td>34#</td>
</tr>
<tr>
<td>40#</td>
<td>31#</td>
<td>36#</td>
</tr>
<tr>
<td>45#</td>
<td>33#</td>
<td>37#</td>
</tr>
<tr>
<td>50#</td>
<td>35#</td>
<td>39#</td>
</tr>
<tr>
<td>55#</td>
<td>36#</td>
<td>40#</td>
</tr>
<tr>
<td>60#</td>
<td>38#</td>
<td>42#</td>
</tr>
<tr>
<td>65#</td>
<td>40#</td>
<td>43#</td>
</tr>
<tr>
<td>70#</td>
<td>42#</td>
<td>45#</td>
</tr>
<tr>
<td>75#</td>
<td>43#</td>
<td>46#</td>
</tr>
<tr>
<td>80#</td>
<td>45#</td>
<td>48#</td>
</tr>
</tbody>
</table>

### BEEF CATTLE

<table>
<thead>
<tr>
<th>Current body weight (lbs)</th>
<th>Lbs of DM</th>
<th>% bodyweight</th>
</tr>
</thead>
<tbody>
<tr>
<td>300</td>
<td>10.1</td>
<td>3.35%</td>
</tr>
<tr>
<td>350</td>
<td>11.3</td>
<td>3.23%</td>
</tr>
<tr>
<td>400</td>
<td>12.5</td>
<td>3.12%</td>
</tr>
<tr>
<td>450</td>
<td>13.6</td>
<td>3.03%</td>
</tr>
<tr>
<td>500</td>
<td>14.8</td>
<td>2.95%</td>
</tr>
<tr>
<td>550</td>
<td>15.9</td>
<td>2.89%</td>
</tr>
<tr>
<td>600</td>
<td>16.9</td>
<td>2.82%</td>
</tr>
<tr>
<td>650</td>
<td>17.9</td>
<td>2.76%</td>
</tr>
<tr>
<td>700</td>
<td>18.0</td>
<td>2.58%</td>
</tr>
<tr>
<td>750</td>
<td>18.9</td>
<td>2.53%</td>
</tr>
<tr>
<td>800</td>
<td>20.2</td>
<td>2.51%</td>
</tr>
<tr>
<td>850</td>
<td>21.0</td>
<td>2.47%</td>
</tr>
<tr>
<td>900</td>
<td>21.8</td>
<td>2.44%</td>
</tr>
<tr>
<td>950</td>
<td>22.6</td>
<td>2.39%</td>
</tr>
<tr>
<td>1050</td>
<td>24.5</td>
<td>2.33%</td>
</tr>
<tr>
<td>1150</td>
<td>26.1</td>
<td>2.27%</td>
</tr>
</tbody>
</table>
**Pasture Rule Recordkeeping.** Keep records that will show your farm’s compliance with the pasture rule. These include:

1. Grazing season records to show the length of the grazing season meets the standard;
2. Records to verify that the cows have daily access to pasture (and outdoor access in winter), noting days when the cows are confined and the reason for confinement;
3. Ration records indicating the amounts of hay, silage and grain fed to your animals during the grazing season and during the non-grazing season. This can be daily group records or individual cow records.
4. Records that show your grazing system;
5. Records to show you are maximizing pasture quality.

**New requirement: a Pasture Plan.** The NOP requires that your OSP contain a written pasture plan, one that answers the following questions:

1. What kinds of pastures do you provide to your livestock?
2. What practices do you use to make sure that there is plenty of feed on the pasture for the whole season?
3. How long is your grazing season?
4. How many acres of permanent pasture are there?
5. How many cropped acres do you graze?
6. What kinds of grazing methods do you use?
7. What do you do for pasture soil fertility?
8. How about seeding pasture?
9. What do you do to prevent erosion?

**Dairy Herd Conversion to Organic**

MCS requires dairies to inform MCS of their intent to become certified organic at the beginning of the transition year. This is accomplished by completing a 2-page "Intent to Transition" form and submitting it to MCS staff.

This form allows us to begin the process of verifying compliance with the Standards in anticipation of the receipt of your application for certification, which is due on or before the 6th month of your transition year.

Applications from dairies that have not submitted an “intent to transition” form at the start of their transition year may be accepted, but acceptance of the application in this instance will mark the start of the transition year.

If you are not transitioning a herd to organic, but instead buying certified organic animals to create an organic dairy herd, you do not have to file an “intent to transition” form. However, if your farm and fields are not already certified, you must apply for certification at the start of the growing season in order for us to be able to verify by inspection your cropping systems and your approach to organic land management.

When an entire distinct herd is converted to organic production, **the producer must provide 100% organic feed for the entire 12-month transition period.** All purchased or off-farm feeds must be certified organic by a USDA-accredited certifier. Feeds produced on-farm from land that is certifiable or in the last year of transition may be used. During this 12-month transition period, all other management (health care, outdoor access, etc.) must meet the standards. Once converted to organic production, all animals shall be managed organically from the last third of gestation.
**HANDLING**

Organic meat must come from organic livestock that meet organic standards from the last third of gestation and be slaughtered at a facility that has been inspected and demonstrates to the certifier the ability to maintain the organic integrity of the product. If the slaughterhouse is not already certified as an organic processor and is not interested in becoming certified, then that operation must receive an inspection as part of the farmer’s application for certification. The farmer will be responsible for any additional expenses for this additional inspection. If several farmers use the same processor, then the expense of this inspection may be shared.

**POLICY FOR LIVESTOCK RECORD KEEPING**

As your certifier, we must be able to verify that the livestock and livestock products produced on your organic farms meet organic standards. We must confirm that producers can reliably and accurately identify their organic animals. We must have confidence that the records producers keep for their animals concerning origins, health care practices, and ultimate fates are accurate and that such information can be easily associated with the correct animals in the field or barn.

If subject to an audit or a compliance investigation, you must be able to prove to MCS that a particular animal has a verifiable identity and that it has been managed according to the organic standards. Identification methods that are not easily tampered with and a commitment to record keeping are necessary tools to protect the integrity of the organic label. Please bear in mind that our purpose for identifying animals is not in any way associated with the National Animal Identification System and our operational approach is very different, as you will see below.

**A. Identification Methods.**

The following are permitted methods, subject to review and inspection, for large animals used including cows, pigs, sheep, and goats:

1. Photos (and associated names/numbers) for animals (other than poultry) that have distinguishing marks or features. In the case of cattle, a calf stage photo is expected, unless animal arrives as an adult from outside the farm.
2. For animals lacking distinguishing features (e.g., jersey cows), tattoos are recommended.
3. Ear tags and ankle bracelets will be permitted in some circumstances. Unique, consecutive long numbers must be used (e.g., DHIA ear tags, USDA 840 ear tags) and an additional identifier such as a farm name is expected to appear on the tag/charm as well. Be advised that we are considering phasing out ear tags altogether because they are easily tampered with and impermanent.
4. Ear notching of pigs will be permitted in cases where other methods (e.g., photos, tattoo) will not work. Notching should be done on piglets no more than a few days old.

Producers are expected to fully describe their method of identification in the farm plan. Producers who desire to use alternative methods of identification are expected to prove to MCS that the system is reliable, credible and defensible against potential complaints.

**B. Record Keeping Requirements**

Farmers are expected to keep records for the animals they raise for milk, meat or dairy replacements. An MCS inspector will annually perform spot checks of animals on your farm
and will ask to see records. Records should include origins, healthcare, and management (see Pasture Rule Section above). An inspector may ask to see records for an animal that was on the farm the previous year. Farmers are expected to keep records for at least five years and in the case of an animal that is recently deceased, sold or shipped for slaughter, the inspector expects to be able to see a record about this animal. An inspector may also ask to see receipts and other documentation for new animals in order to verify organic status.

MCS recommends a system of individual animal records that contains the origins, health care, breeding, and final fates of each dairy or meat animal that is certified on the farm. There are a number of card-type systems out there that are designed to fit into a loose-leaf binder. Your milk distributor may have cards for you to use.

MCS accepts a variety of systems provided that the producer demonstrates a commitment to using it and that the inspector can access and interpret records without great effort. MCS will evaluate record keeping systems on a case-by-case basis, with the help of the inspector’s evaluation.

C. Purchasing Dairy and Other Non-Poultry Animals

All purchased animals must be permanently identified using accepted methods (see above) with a receipt of purchase and a certificate of certification. If animals are from out-of-state, they must comply with the State of Maine animal importation regulations. Dairies that have started the transition to organic are also required to purchase certified replacements with these same restrictions.

D. Poultry Record Keeping

Producers are expected to keep records about the purchase of eggs (for incubation), day old chicks or already certified organic chicks or birds. To be eligible for certification, organic management must begin by the second day of life. Producers must keep records on flocks of birds that can verify compliance with the Standards. Use of different breeds and leg bands are methods of flock identification. Conventional layers or layers that are ineligible for certification must be kept separate from organic layers since eggs will be easily commingled.
SECTION III. MAPLE SYRUP

GENERAL MANAGEMENT PRACTICES

The guidelines for maple syrup production are consistent with the rest of MOFGA’s organic production guidelines. Materials listed as prohibited elsewhere in the certification guidelines are not permitted in the maple sugar lots. Weed and pest control, as well as fertilization, must be in compliance with the National Organic Standards. Producers must complete a field history form for each distinct stand that is tapped. The field history must chronicle management activities including materials/products applied to trees or land for at least the last three years. Keep in mind that if you plan to market syrup to Canada then sodium nitrate is NOT allowed as a fertility input.

Species diversity provides stability to the forest community. Producers are expected to manage the woods using accepted forestry practices such as thinning that selects for healthy, vigorous trees and a stand composed of mixed young and mature maples, as well as other tree species.

Producers are expected to minimize impact to the forest and the trees. Nails and other hardware inserted into tree trunks to hold up lines must be kept to a minimum. Paint must not be applied to tree trunks that are tapped because paint is a synthetic substance and not permitted in organic crop production (NOP 205.601). Producers are expected to select trees that are healthy and to tap them in a sustainable way. Only sap collected from inspected sugar bush may be used in production of certified organic maple syrup.

We realize that many maple syrup producers do not own the tracts of forest that they tap. Each land owning company may have standards concerning tapping and forest maintenance for its lessees. These standards may differ from those of MOFGA and the NOP. If you seek certification from MOFGA, you must be prepared to meet our standards regardless of what the landowner permits or what you have negotiated in your lease agreement. For instance, we do not allow tapping trees that are less than 10 inches in diameter at breast height (DBH), no matter what your landowner permits or expects you to tap. Please review our standards carefully before applying for certification.

INSPECTION & FEES

Inspection of mid and large-scale maple syrup operations will take place during the production season. Given the relatively brief time period for production and the remoteness of some sugar camps, we must receive applications and updates (using the current year’s paperwork) by the published deadlines. Operations seeking first time certification from MCS will not be considered for certification if they submit an application to MCS after the deadline. MCS renews its Practice Manual and forms by January 10th each year. Certified maple syrup producers will automatically receive their renewal paperwork in the mail in mid January. Producers not already certified must submit application forms dated for the current year that are posted on our website early in January or that are available by mail for a fee. Renewal paperwork and certification applications for maple syrup are due on February 15th, 2012.

LEAD

MCS recommends that producers periodically test their equipment and products for lead contamination. MCS reserves the right to test for lead contamination if inspectors observe metal supplies and equipment that are suspect or are used in ways that may increase risk. Evaporator pans and galvanized buckets manufactured before 1995 pose a greater risk.
Evaporator pans should have smooth, non-corroded surfaces. Pits, crevices and poor welds raise concerns about lead contamination. For more information about keeping lead out of maple syrup see http://www.uvm.edu/~pmrc/LeadOut.pdf from the University of Vermont.

TAPPING

(\textit{DBH means diameter of tree trunk at breast height or approximately 54 inches or 1.3 m from base of tree.})

A. **Recommended**
   1. Health spouts.
   2. One tap per tree per season.

B. **Permitted**
   1. Standard metal taps.
   2. Lead free metal sap buckets and food grade plastic buckets. Producers using older galvanized metal sap buckets should retire them by 2013.
   3. Plastic tubing system.
   4. Vacuum pumps are permitted with monitoring of the pressure levels at the taps. Producers should maintain as low a pressure as possible.
   5. Multiple taps per tree are permitted based on the size of the tree (see chart below).

   \begin{center}
   \begin{tabular}{|c|c|c|}
   \hline
   Trunk Diameter at Breast Height in inches & Trunk Circumference at Breast Height in inches & Number of taps \\
   \hline
   10-20 & 31-63 & 1 \\
   21-25 & 64-79 & 2 \\
   >25 & >79 & 3 \\
   \hline
   \end{tabular}
   \end{center}

C. **Not Permitted**
   1. Galvanized buckets that pose a risk of lead contamination.
   2. Synthetic fungicides, antibiotics, fumigants, sterilants, etc., in contact with trees.
   3. Excessive tapping.
   4. Tapping trees in poor health with weak crowns.
   5. Tapping trees less than 10" DBH.
   6. Successive year tap holes closer than 6" side to side and 12" up/down. In other words, do not cluster tap holes.
   7. Sap collection containers previously used for holding a prohibited substance.
   8. Leaving spouts in trees 60 days after the end of sap flow.
   9. Re-tapping a previously tapped tree during the same season ("double tapping") or reaming (freshening) the tap hole.

PUMP STATIONS AND SAP STORAGE

A. **Recommended**
   1. Stainless steel tank.
   2. Lids to prevent things from falling into sap.

B. **Permitted**
   1. Food-grade plastic holding tank.

C. **Not Permitted**
1. Equipment that routinely emits oil or other prohibited materials into environment.
2. Gas and diesel engines in the same enclosed space as the sap collection tank.
3. Galvanized metal storage tanks or containers are not allowed. MCS reserves the right to test for lead.

**Filtration and Processing of Sap**

**A. Permitted**
1. Sand filters*.
2. Cloth/felt filters*.
3. Reverse osmosis*.

*How filters and filtering equipment are maintained, cleaned and stored must be disclosed in the organic system plan or a separate SOP. All materials and products used to clean, disinfect and store filters must be listed in the plan. Only those approved by MCS can be used.

**B. Not Permitted**
1. Use of materials that release toxic substances by oxidation, chemical reaction, or diffusion.
2. Cleaning agents and sanitizers that are persistent. Fabric filters must be well rinsed before reusing.

**Evaporation of Sap**

**A. Permitted**
1. Certified organic defoaming agents (milk, butter, vegetable oil) are required.

    **CAUTION!** Food allergies are on the rise and new federal labeling laws are expected in the near future. Dairy products and oils derived from soybeans and peanuts are known allergens. If an allergen-containing defoamer is used, we recommend providing information about it on your label.

2. Air injectors in evaporator are permitted provided that a carbon filter is used and that the air intake for the injector is outside the building and away from exhaust fumes and vents. A protocol for changing the filter is required and records must be kept.

**B. Not Permitted**
1. Synthetic defoaming agents.
3. Defoaming agents that are not certified organic.
4. Evaporator pans that are in poor condition. Evaporator pans manufactured prior to 1995 may require additional verification to rule out the potential for lead contamination. MCS reserves the right to test for lead.

**Filtration of Syrup**

**A. Permitted**
1. Paper, felt, or synthetic fiber used as syrup filters. If felt/fiber filters are washed and reused, cleaning agents and rinsing protocols must be disclosed in organic system plan.
2. Food-grade diatomaceous earth or silica powder as processing (filtering) aids. Syrup filtered with diatomaceous earth or silica powder may be labeled “Organic”. The “100% Organic” label, however, must **not** be used.
B. Not Permitted
1. Use of asbestos as a filtering material.
2. Products added to syrup to enhance taste, color, or texture.
3. Preservatives.

CAUTION! Remember that syrup having a density reading below 66% Brix is in violation of Maine state law. Such syrup is more likely to ferment. Syrup with a density above 68% Brix may crystallize, causing consumer complaint.

STORAGE & CANNING

A. Recommended
1. Stainless steel drums for bulk storage.
2. Glass containers for retail packaging.

B. Permitted
1. Metal containers with food-grade coatings and plastic tops are permitted.
2. Epoxy painted metal drums provided that the paint is not flaking, chipping or cracking. Producers must have a protocol to check for this.
3. Food grade plastic containers.

C. Not Permitted
1. Materials or practices that do not meet the State of Maine handling or sanitation requirements.
2. Galvanized metal storage barrels. MCS reserves the right to test for lead.
3. Drums with chipped epoxy paint, rust or other imperfections that can impact syrup quality.

PRODUCT LABELING

Barrels should be labeled with a lot number that can be traced back to a production date. Organic syrup should be identified as such and include the name of the certifier.

CLEANING & STORAGE OF EQUIPMENT

A. Permitted
1. Approved chlorine materials may be used up to the maximum labeled rate for disinfecting and sanitizing lines, pans, tanks and other sap or syrup contact surfaces. Rinsing is not required unless mandated by the label.
2. Biodegradable detergents, vinegar, sodium bicarbonate, food-grade hydrogen peroxide, sodium hydroxide and phosphoric acid are permitted. Producer must take steps to ensure that equipment is thoroughly rinsed to avoid contaminating syrup.
3. Propylene glycol for filter storage provided that adequate rinsing is done and documented before sap is processed.

B. Not Permitted
1. Storing filters or equipment near pesticides, fumigants, or other volatile substances. For example, mothballs, a common household pest repellent, must not be used inside production facilities for rodent control or for any other purposes. Items used in maple syrup production must be kept clean and free from contaminants.
Records

Section 205.103 of the National Organic Standards specifies that certified operations must maintain records concerning the production and handling of agricultural products that are intended to be sold, labeled or represented as organic. Records must be sufficient to demonstrate compliance with the NOP Rule.

All producers must keep the following records and have them available at the time of inspection:

1. Field activity log for all forest activities such as thinning, line and pump station maintenance, tapping and tap removal.
2. A field history for each separate tract of land to be tapped.
3. Receipts for all purchased inputs (defoamers, filters, DE, cleaning materials).
4. Standard operating procedures (SOP’s) for cleaning/sanitizing of equipment, pans etc., including names and manufacturers of all materials used OR cleaning logs.
5. Pest control records (if applicable).
6. Lot numbers must be displayed on retail and wholesale containers.
7. Production and sales records for the current year and the past year.

SECTION IV HONEYBEES & HONEY and SECTION V MUSHROOMS

Honey is difficult to certify to recognized organic standards in the populated northeast. If you are interested in discussing organic apiculture, please contact the office.

MCS will certify organic mushroom production: please contact the office for standards.
SECTION VI. PROCESSING, HANDLING, & PRESERVING FOOD AND OTHER PRODUCTS [SUBPART C of NOP RULE]

GENERAL GUIDELINES

For these standards, processing is defined as the modification of a raw agricultural product. "Handling" means to sell, process or package agricultural products (but does not include the sale or transportation of crops from the producer to a handler). The NOP standards require handlers and processors of organic products to be certified, with exemptions for final retailers and distributors who do not process products.

Processing covered under this section includes:

1. Freezing, chilling, dehydrating, drying, pickling, canning and other ways of preserving fruits, vegetables, meats and herbs
2. Milling grain
3. Fermenting (production of wine, cheese, yogurt, etc.), churning
4. Pasteurization
5. Mixing, separating, combining materials to create new product (jams, spreads, creams)
6. Cooking, baking, curing, heating
7. Pressing (for cider or oil), extracting, distilling
8. Slaughtering, grinding, eviscerating
9. Packaging or repackaging (i.e., handling)

Minimal modification as part of normal on-farm post harvest handling is permitted without an application for processing certification. Minimal modification includes washing, filtering, cleaning, trimming of produce, and bagging, boxing or labeling of produce by the producer. However, information about all such post harvest handling must be included in the organic system plan and reviewed during the annual inspection.

Processors or handlers of organic agricultural products who are not primarily a farm operation must complete an Organic Handling Plan. In addition, an organic product profile and label for each product to be sold as organic must be submitted.

Farms, with livestock and/or crops, who also process products, must also submit an Organic Handling Plan. For instance, if you are a certified livestock producer and also make your own organic pork sausages that you sell to local stores, your sausage product is not automatically certified as part of your farm and livestock application. An organic product profile and proposed label for each product to be sold as organic must be submitted.

FACILITIES

A. Required

1. Processing facilities must have current, applicable state and federal licenses and these must be available at the time of inspection.
2. Water Quality: Water used while making or washing processed products must be suitable for drinking and must meet State of Maine water quality standards. The state-required water quality test results must be on hand at the time of inspection.
B. Permitted
   1. **Contracted facilities**: An applicant for certification of a processed product may use facilities that he or she does not own or manage, as part of a contractual relationship with that processing facility.
      a. A separate organic handling plan must be completed for each contracted facility, and the applicant for certification will be held accountable for organic compliance at all contracted facilities.
      b. Furthermore, the applicant or designated representative must be present and involved in the inspection and is responsible for all record keeping requirements.
      c. The organic certification of the contracted facility ("co-packer") will only apply to products produced for each individual MOFGA certified client. Subcontracted organic processing services apply to individual MOFGA clients only and do not imply certification of the entire facility or other production lines.

**CONTROL OF PESTS**

A. Required
   1. Control of pests inside processing facilities must be accomplished using practices and materials that adhere to the same principles as those stated in “Part I, Section I” for growing organic crops.
   2. Preventive management practices to control and prevent pest infestations, including but not limited to removal of pest habitat, food sources, breeding areas, use of screening, etc., are required. Additional preventive methods include control of temperature, light, humidity, or other environmental factors.

B. Permitted
   1. Pests may also be controlled by mechanical methods (traps) or by using lures or repellants, provided the substances are approved on the National List. If these methods are not sufficient to control pests, materials approved for organic use may be used.
   2. Additional pest control materials that are not consistent with The National List may be used if no other method has proved effective provided that MCS reviews and approves the materials/method first, and that no contact with organic ingredients or products occurs.

**SANITATION**

A. Required
   1. Materials used in direct contact with organic products, such as sanitizers in hydrocoolers or flume water must be listed as permitted in §205.605 of the NOP rule.
   2. All cleaning and sanitizing materials must be listed in the Organic Handling Plan. The use of materials should also be described in the Organic Handling Plan.

B. Permitted
   1. Other materials, as approved by MCS, may be used to clean equipment that is in contact with food provided the equipment is subject to an intervening event (rinse with hot water, purge with non-organic product) to prevent contact of cleaning materials with organic food.
   2. Surfaces that are not in contact with organic products (floors, walls, drains, areas outside of production areas) may be cleaned with any material.
**Use Of Chlorine Materials In Organic Handling**

For *food handling* facilities and equipment, APPROVED chlorine materials may be used up to maximum-label rates for disinfecting and sanitizing food contact surfaces. Rinsing is not required unless mandated by the label. Water used as an ingredient must be potable. It can contain no more than 4ppm chlorine.

Water used in direct crop or food contact is permitted to contain chlorine levels approved by FDS or EPA (must document this in your organic system plan), however, rinsing with potable water (4ppm chlorine or less) MUST follow this step.

Please remember that any material to be used as a sanitizer or disinfectant needs to meet the following MCS requirements: (1) It must be listed in your farm or processing plan and be approved by MCS prior to use, (2) It must be labeled for the intended commercial use and (3) It must be used according to label instructions.

We have had numerous instances of certified operations using regular household bleach from the grocery store as a sanitizer. Regular household bleach contains surfactants and/or fragrances that are not allowed in organic production and is not labeled for sanitization. We do allow *Ultra Clorox Germicidal Bleach (EPA Reg. No. 67619-8)*, which comes recommended by food safety experts at the University of Maine. It does not have these additional ingredients and is labeled for a variety of commercial disinfecting uses. Inexpensive chlorine test strips are available which you should use to check the strength of your chlorine solution before each day’s use (this is necessary as chlorine molecules are unstable). Please contact MCS if you have any questions or concerns about the use of chlorine materials.

**PRODUCT FORMULATION / INGREDIENTS**

**A. Required**
1. Agricultural ingredients that are certified organic. See B below for more details.
2. Water that meets state and federal drinking water standards.

**B. Permitted**
Permitted ingredients vary based on label category: “100% Organic”, “Organic” or “Made with Organic (Specified Ingredients or food groups)”.

1. For products labeled “100% Organic” products must be composed entirely of organic ingredients (that also qualify as 100% organic). Any processing aids used must also be certified organic.
2. For products labeled “organic”, the product must have a minimum of 95% organic agricultural ingredients by weight or fluid volume (excluding water and salt) and may also include:
   a. Non-organic ingredients listed in the National List in 205.605, (according to any restrictions listed)
   b. Non-organic agricultural ingredients listed in 205.606, provided documentation is kept to indicate lack of commercially available organic sources.
3. Products labeled “Made with organic (specified ingredients or food groups)” must contain a minimum of 70% organic agricultural ingredients by weight or fluid volume (excluding water and salt). Remaining ingredients or processing aids may be:
   a. Non-organic substances listed in the National List in 205.605, (according to any restrictions described)
   b. Non-organic agricultural ingredients that may be produced using substances not on the National List in 205.605.

Please refer to the National Organic Program Rule in Appendix I. See §205.105, §205.300-205.311, and §205.605-205.606.

C. Not Permitted
   1. Genetically engineered ingredients. Genetic engineering is an excluded method.
   2. Ingredients made with the use of sewage sludge.
   3. Ingredients treated with ionizing radiation.
   4. Synthetic solvents used in or on a processed product or in or on any organic ingredient for all label classes.
   5. For products labeled “organic” and “100% organic”, no sulfites, nitrates, or nitrites may be used, except sulfites may be used in wine labeled as “made with organic grapes”.
   6. For products labeled “100 % organic” and “organic”- use of nonorganic agricultural ingredients when organic ingredients are available.
   7. Inclusion of non-organic and organic forms of the same ingredient.
   8. Synthetic ingredients or materials except those permitted in The National List (205.605) in Appendix I, except for those used incidentally in formulating non-organic ingredients in products labeled as “Made with Organic Ingredients”.

PROCESSING METHODS

A. Recommended
   1. Processing should not excessively diminish the nutritional value of the food.

B. Permitted
   1. Drying, Dehydrating
   2. Canning
   3. Freezing, Chilling
   4. Heating, Cooking
   5. Fermenting
   6. Smoking, Curing
   7. Vacuum packing
   8. Milling
   9. Pressing, Distilling
   10. Packaging, Repackaging
   11. Pasteurizing
   12. Cutting, Mixing

C. Prohibited
   1. Irradiation*

*FDA-approved ionizing radiation for the purpose of food inspection (such as x-rays) is permitted, as is ultraviolet light for water disinfection, and microwave radiation for cooking. Prohibited forms are described at 21CFR 179.26.
PACKAGING & HANDLING

A. Required
1. All packaging must be free of fungicides, preservatives, fumigants, and contaminants.
2. Only FDA-approved materials may be used.
3. Lot numbers must appear on all products for audit information.
4. All certified organic ingredients must be traceable back to the farm and field by means of an audit trail. Processors are responsible for establishing a record keeping system that accurately tracks all ingredients from purchase to final product sales.

B. Recommended
1. Use of new containers or packages.

C. Permitted
1. Recycled containers must be properly sanitized and labeled.

LABELING

A. Required
1. All packaged produce and products must be labeled according to the appropriate organic labeling category—“100% Organic,” “Organic,” and “Made with Organic (specified ingredients or food group(s)).” See “Product Formulation” of this section, and NOP Subpart D (Labels, Labeling, and Market Information) §205.300-§205.309 for more information. Labels must be submitted to MCS for approval before sending them to the printer.
2. If you use any of these three types of product labels, you must also identify the certifying agent with the statement “Certified Organic by MOFGA” on the information panel, below the information identifying the certified handler or distributor.
3. Growers supplying other growers, wholesale distributors, parallel growers, processors and growers selling crops bought from other growers, must clearly label their packages and maintain an audit trail (see Part 3 Additional Provisions).

USE OF THE USDA ORGANIC SEAL AND THE MOFGA CERTIFIED ORGANIC SEAL

A. Permitted
1. The USDA seal may only be used on products labeled 100% Organic or Organic.
2. The MOFGA seal may be used on all three product/label types including “Made with Organic (ingredients)”. The certified producer must either be a member of MOFGA or have paid a surcharge for its use (see G. MOFGA Membership below). The MOFGA seal must not be displayed more prominently than the USDA seal.
B. Not Permitted
   1. The USDA seal must not be used on products labeled “Made with Organic…(specified ingredient(s)).”

LABELING OF LIVESTOCK FEED

Livestock feed is only eligible for labeling as “100% Organic” or “Organic”. There is no provision for livestock feed to be labeled as “Made with Organic (Specified) Ingredients”. See sections 205.237, 205.301(a), and 205.306 of the NOP rule for more information.

A. Required.
   1. Labeling of livestock feed must comply with other Federal agency or State Feed labeling requirements.
   2. Label must state “Certified Organic by MOFGA” (or similar phrase) below the information stating the name of handler or distributor on the information panel.

B. Recommended
   1. Livestock feed products may display on any package panel the following information:
      a. The statement “100% Organic” or “Organic”.
      b. All organic ingredients may be identified in the ingredients list, by use of the word “organic” as an adjective, or by use of an asterisk to identify organic ingredients.
      c. Use of USDA seal.
      d. Use of MOFGA logo, which cannot be more prominent than the USDA seal.

C. Prohibited
   1. Use of nonorganic agricultural ingredients.
   2. Use of any feed additives or supplements that are not specifically listed at NOP §205.603 (c-d).

RECORDS

Records are of utmost importance. All aspects of one’s organic system plan should be verifiable with records and these must be well-organized and ready for review at the time of inspection. Standard operating protocols for processing, cleaning, and pest control must be written and accessible to employees. Written logs documenting when activities occur should
be established for cleaning and pest control. Documentation for purchased ingredients must include quantity purchased, date of purchase, and certification status. When the inspector visits, he or she must be able to do a mass balance and an audit trail using your records for ingredients and production. The inspector must also be able to trace a finished product on a store shelf back to the ingredient lots that were used to produce it.

**OPERATIONS THAT ALSO PROCESS NON-ORGANIC PRODUCT**

It is possible to certify a processing facility that makes organic product as well as conventional products. Such operations need to have accurate records of all inventory, separate or clearly marked storage areas for organic ingredients and products, and procedures that prevent contamination or commingling of organic product. See Section VII for more information.
SECTION VII. CONVENTIONAL (NON-ORGANIC) PRODUCTION

Some farmers and processors also sell products that they produce by conventional agricultural (non-organic) methods, in addition to those products that they produce organically. Although this practice is permitted, MCS needs information about the non-organic production happening at your farm or facility. You need to provide MCS information on how systems and products are kept separate to maintain the organic integrity of your certified organic products.

DEFINITIONS

There are several categories of conventional production:

- **Parallel Producers**—produce and market same product(s) organically and non-organically (e.g., organic and conventional apples).
- **Split Producers**—produce and market some conventional products, but these products are not the same as the organic ones (e.g., organic tomatoes and conventional sweet corn).
- **Transitional Producers**—produce products from fields that have entered the 36-month transition period from conventional management to organic management. From a practical standpoint, transitional farms or fields are being managed organically and current production should not pose a risk to certified organic production. However, please note that these products cannot yet be certified organic. Date of harvest of product as organic must be at least 36 months from the last date of application of any prohibited materials or products.

OPERATIVE PRINCIPLE

A. **Recommended**
   1. Manage entire operation and produce all products organically.

B. **Permitted**
   1. All parallel growers, producers, and processors must maintain an audit trail for all crop and product sales, both organic and conventional, submit a sample of the audit trail system with their application, and have the full audit trail available at the farm or processing facility at the time of inspection.
   2. A farmer, producer, or processor who chooses to use equipment and facilities in parallel or split production must use sufficient care in the pre-use cleaning and application of the equipment and facilities so that any risk of contamination and commingling of the organic product is negligible and the organic integrity of that product will match that of a similar crop grown by a farmer who is 100% organic. An equipment clean out log should be kept.
   3. For parallel or split processing facilities; running organic products at the beginning of a shift or day's operation, in order to separate organic from non-organic product and document necessary intervention after use of cleaning materials.

**Note for Parallel Producers**: Because of the possibility of confusion, no product can be MOFGA certified if the same crop is also produced elsewhere on the farm using non-organic methods unless the farmer can clearly demonstrate to MCS that there exist both the physical facilities and the organizational ability to ensure that there is no possibility of mixing. Production will be expected to coincide with acreage. A map or plan is required for greenhouse production and processing facilities where there is a question about separation of organic products.
STORAGE/PACKING FACILITIES

A. Recommended
   1. Separate storage and packing facilities.
   2. Use of new containers or packages.

B. Permitted
   1. Shared storage facilities with clearly marked, physically separated lots of organic and non-organic crops, provided that no unauthorized materials (disinfectants, fungicides, etc.) are applied.
   2. Use of recycled bags or containers if they have been thoroughly cleaned.

C. Prohibited
   1. Organic apples may not be stored in a controlled atmosphere (CA) storage unit with conventional apples if the conventional apples have been treated with diphenylamine (DPA).
   2. Use of packaging/ storage containers or bins that contain synthetic preservatives, fumigants, or fungicides.
   3. Storage of organic ingredients or finished products in areas subject to fumigation or sanitation with prohibited materials.
   4. Use of unapproved pest control materials in a processing facility.
   5. Use of unapproved sanitizing/cleaning materials in contact with organic product.
PART 2. ADDITIONAL PROVISIONS

A. Collecting Wild Crops (Wildcrafting)

Wildcrafting is the act of gathering plants or fungi in their native habitat; a “wild crop” is the actual material harvested; (e.g., leaves, berries, shoots, fruiting bodies).

Firstly, to be eligible as a wild crop the species may be terrestrial or aquatic and must be fixed to a defined location by a species part; a species part being defined as a root, holdfast, mycelial thread etc.

Secondly, only minimal agricultural practices may be employed. By minimal the NOP lists re-seeding, pruning and removal of non-native species from the habitat. Management practices that go beyond these are indicators of crop production and the crop production standards for soil fertility and crop nutrient management practices (205.203), Crop rotation (205.205) and Pest, weed and disease control standards (205.206) must be implemented.

The following are the components of wild crop harvesting that need to be made a part of the Organic System Plan (your annual update/application):

a. Map of the harvest area showing boundaries, borders, buffer zones if necessary and any point or non-point sources of contamination
b. Field History and Landowner Affidavit that the area has been free of prohibited materials for 3 years
c. You must have permission to collect on land that you do not own
d. Description of the natural environment (e.g. hardwood forest)
e. Proposed ecosystem management and harvesting practices
f. Statement of the impact of harvesting on the long-term viability of the wild crop
g. Information on any equipment used to manage or harvest the wild crop and ecosystem
h. What monitoring system will be used to document the sustainable harvest and maintenance of the habitat/ecosystem
i. List of any rare, threatened or endangered species that occur in the harvested area
j. Procedures employed to prevent contamination from adjoining land use
k. Training and monitoring procedures for all collectors of wild crops

We expect organic producers who want to certify their wildcrafted harvests to know their plants and mushrooms. There are toxic plants and mushrooms in Maine and these must not be mistaken for edible ones. If the State passes laws regulating wild mushroom collecting, certified organic wildcrafters must be in compliance with these laws. As a general rule, the majority of a population must not be harvested. The actual percentage of what is left behind (untouched) will vary by species. You must do your research and justify the percentage you plan to take. If you collect on public, state or federally owned lands, you must get a permit or written permission. Avoid collecting plants from areas with heavy use, such as along a popular dog-walking path.

B. Genetically Engineered Crops & Livestock Products

No genetically engineered agricultural crop or livestock products may be grown or sold as organic, and no product of genetic engineering may be used as a direct production aid or ingredient.

C. Labeling

See page 27 under SECTION VI. PROCESSING, HANDLING, & PRESERVING FOOD AND OTHER PRODUCTS for details about labeling packaged goods.
Agricultural products that are not packaged may use the term “100 percent organic” or “organic” as applicable. If product is prepared in a certified facility, the retail display, labeling, and display containers may use the USDA seal and the MOFGA logo (providing that the MOFGA logo is not displayed more prominently than the USDA Organic seal). These seals can be found on page 27.

D. MOFGA Certification Logo

All certified organic growers, producers and processors who are members of MOFGA are entitled to use the MOFGA Certification logo on products that we have certified. All certified organic growers, producers and processors who are not members of MOFGA must pay a $35.00 surcharge for this privilege.

E. Open Door Policy

All applicants and certified producers shall adhere to the "open door policy" and shall permit inspection of operations to determine their conformity to the current standards. This includes unannounced inspections. See the Organic Producers Endorsement form, which clients must sign if they are to receive our certification services.

F. Packaging

All raw or processed agricultural plant products shall be packaged in new containers, or in clean, used containers which have never been treated with pesticides and have previously been used only to package raw or processed organic agricultural plant products.

G. Drift & Buffers

If your organic fields are adjacent to conventional fields or other land uses that pose a contamination risk, you are required to establish a large enough buffer that will protect your organic crops from contamination. You are expected to identify buffers on your farm map and your inspector is expected to evaluate them in his or her inspection report. If you have not established a buffer, your inspector will note that as a concern and he or she will report to MCS a buffer width that they feel is appropriate for the circumstances. MCS may require you to increase the width of a buffer if near-by land uses warrant it. Please note that buffers can include windbreaks, hedgerows, etc.

Historically, MOFGA recommended a buffer of at least 100 feet between fields on which certified organic crops are to be produced and any field receiving applications of prohibited materials. The National Organic Standards do not mandate a particular buffer size, but state that an adequate buffer must exist to prevent unintended application of prohibited materials (NOP§205.202). A buffer in excess of 100’ is required if there is aerial pesticide spraying taking place or if a GE corn crop is planted close to an organic corn crop that flowers at the same time. A buffer that is less than 100’ is adequate in certain circumstances. The farmer must be prepared to defend the buffer that he or she has established and may be required to have documentation to prove the case. An example might be a written “no-spray” agreement with DOT for a stretch of highway that is adjacent to an organic field.

If any drift incident occurs, immediately contact the MCS office at 568-4142 and the Maine State Board of Pesticides Control at 287-2731.
H. State Mandated Pesticide Spraying or Other Emergency Treatment

When a prohibited substance is applied to a certified operation due to a Federal or State emergency pest or disease treatment program the organic status of the operation shall not be affected. However, any crop or product that has had contact with the prohibited material cannot be sold or represented as organically produced or fed to livestock to be sold as organic. And, any livestock so treated with a prohibited material cannot be sold or represented as organic, except that milk may be labeled organic beginning 12 months after the treatment. Offspring of treated mammalian breeding stock may be considered organic if the treatment was before the last third of gestation.

I. Post-harvest Treatment

Pre- and post-harvest handling procedures should ensure maximum freshness and nutritional quality as well as maintain high organic integrity. Manual and mechanical control of the temperature and humidity of the storage atmosphere is permitted. Ice or cold-water cooling is permitted pending MCS approval of the water source and methods utilized. Post-harvest fumigation or any treatment with prohibited materials is not permitted.

Water used in direct crop or food contact is permitted to contain chlorine materials up to the maximum-labeled rate and must immediately be followed with a rinse such that the residual chlorine levels in the rinse water do not exceed 4ppm. Water used in the production of organic products must not exceed 4ppm.

J. Soil Tests

Soil quality maintenance and/or improvement are central requirements for organic certification. Soil quality is reflected in the physical, chemical, and biological condition of the soil. The evaluation of soil quality is a major component of both our application review process and our on-site inspections for organic certification. Soils tests by the University of Maine or equivalent laboratory are an excellent and affordable way to demonstrate that your farm practices maintain or improve soil quality. Although MCS can no longer require soil tests, any submitted test results will be added to your farm plan records. In addition, fees for soil tests performed in the last 12 months and submitted to MCS are eligible for the 75% federal cost-sharing program being administered by the State of Maine. MCS reserves the right to test soil to verify that soil quality is being maintained.

K. Valid Representation

An individual may represent any of his/her crops as "certified" only if MCS maintains evidence that the crop(s) have been awarded certification for the date(s) that the crop(s) are so presented.

L. Waiting Period for Fields Previously Treated with any Non-Permitted Materials

A field is not eligible for production of certified crops for thirty-six (36) months following the application of any prohibited fertilizers, pesticides, or other prohibited items noted in the National Organic Standards.

M. Water Quality

Permitted soil amendments such as manure must be managed in such a way so as not to contaminate water sources with nutrients, heavy metals, and pathogenic organisms.
Water used in making processed products must be suitable for drinking and must meet State of Maine water quality standards.

N. Buying in Farm Products for Resale Under Your Own Farm Name

If you purchase any farm products for resale, you must let MCS know about this practice. You must be able to show records for these purchases to your organic inspector. If you are reselling organic produce, you need to have receipts and documentation that the produce is organic. If the produce is not organic, you must disclose how you prevent co-mingling or mixing with organic produce. Your marketing must not mislead customers. Your record keeping must provide the details necessary for an inspector to perform an audit trail that matches production plus purchases versus sales on any of your farm products that we certify. Since MOFGA Certification Services is concerned about misleading marketing practices when it comes to organic labeling, we expect farmers to identify conventional (uncertified) produce they grow or buy for resale as such, so that customers do not make incorrect assumptions about organic status.

Farmers who participate in farmers markets must be aware that Maine State Law limits the percentage of produce you sell that is grown by other farmers to 25%. If you participate in an organized Farmers Market, be aware that the Market is permitted to restrict that percentage even further. The State does not require farmers to identify products purchased for resale from another farmer. However, the State does expect farmers to be able to verify the origin of the products they sell through production records, invoices, etc. and you may be subject to an inspection.

O. Organic System Plan

Your organic system plan - the information you provide MCS about your operations - must be kept up to date. Major changes, such as using insect control products not mentioned on your farm plan, producing new products, use of a new label for organic products, etc. should be reported to MOFGA Certification Services. This can be done by email, phone call or with the use of the Organic System Plan Change Form, available for download on the MOFGA Certification Services website (www.mofgacertification.org) and included with your update/application package. Please be aware that when adding new fields to your organic system plan, these should be done by May 31 and before inspection.

P. Chlorine Materials-Clarification

For crop operations an APPROVED chlorine material may be used up to maximum-labeled rates for disinfecting and sanitizing equipment or tools. A rinse step is not necessary before sanitized equipment is used.

For livestock operations an APPROVED chlorine materials may be used up to maximum-labeled rates for sanitizing equipment or tools (including dairy pipelines and tanks). Label instructions must be followed regarding requirements for rinsing prior to the equipment’s next use.

For food handling facilities and equipment, APPROVED chlorine materials may be used up to maximum-label rates for disinfecting and sanitizing food contact surfaces. Rinsing is not required unless mandated by the label. Water used as an ingredient must be potable. It can contain no more than 4ppm chlorine.
Water used in direct crop or food contact is permitted to contain chlorine levels approved by FDA or EPA (must document this in your organic system plan), however, rinsing with potable water (4ppm chlorine or less) MUST follow this step.

Please remember that any material to be used as a sanitizer or disinfectant needs to meet the following MCS requirements: (1) It must be listed in your farm or processing plan and be approved by MCS prior to use, (2) It must be labeled for the intended commercial use and (3) It must be used according to label instructions.

We have had numerous instances of certified operations using regular household bleach from the grocery store as a sanitizer. Regular household bleach contains surfactants and/or fragrances that are not allowed in organic production and is not labeled for sanitization. We do allow Ultra Clorox Germicidal Bleach (EPA Reg. No. 67619-8), which comes recommended by food safety experts at the University of Maine. It does not have these additional ingredients and is labeled for a variety of commercial disinfecting uses. Inexpensive chlorine test strips are available which you should use to check the strength of your chlorine solution before each day’s use (this is necessary as chlorine molecules are unstable). Please contact MCS if you have any questions or concerns about the use of chlorine materials.

**PART 3. AUDIT TRAIL & RECORD KEEPING**

**A. Audit Trail**

Producers are expected to keep track of the organic crops or processed products they produce. Harvest and production amounts must be recorded as well as amounts used and/or sold. What constitutes sufficient detail in an audit trail record system will depend on the complexity and scale of the farm or handling operation. A lot numbering system may be required that enables an inspector to trace a finished product back to ingredient lots. Similarly, a system that permits an inspector to trace a shipment of an organic crop (e.g., a pallet of potatoes) back to the field it was grown in and the date it was harvested may be needed.

**NOTE:** All parallel growers must maintain an audit trail for all crop sales, both organic and conventional, and submit a sample of the audit trail system with their application.

All livestock and livestock product producers must maintain an audit trail. Individual animals must be identified and records maintained to be able to track from time of birth to time of sale or slaughter. Records must be maintained for all medications administered to each individual animal. Records of livestock products (milk, cheese, eggs, etc.) must be maintained to track from production to leaving the farm with sufficient detail and lot numbering identification to allow tracing of product back to the specific animals from which it was produced and the date produced.

**B. Inspection of Audit Trail**

Audit trail must be complete and up to date and made available to the inspector at the time of the farm inspection.

**C. Records**

Records for all aspects of farm, kitchen or processing plant production must be maintained and made available for inspection. Field activities on the farm should be documented in
some fashion (e.g., notebook, journal, calendar…) and include events like manure application, pest control, and harvest. The cleaning of equipment, machines, and facilities should be logged. All aspects of compost production should be documented.

For more information about record keeping at crop farms please see Appendix II of this practice manual.

PART 4. ADMINISTRATIVE PROCEDURES AND POLICIES

A. Certification Fees (§205.642)

Fees are based on gross annual income for all organic products. Producers must keep records verifying sales income. If a producer is marketing an organic product for the first time this year, income level should be based on an estimate of what you expect to earn.

There are two fee schedules—Tier 1 and Tier 2. Tier 1 is designed for farmers with minimal processing. Farmers with processing, maple syrup producers and all non-farm processors and/or handlers will use Tier 2. Certification of processed products requires additional and sometimes specialized resources both in the office and during the inspection. This is why we charge more for it.

How does a farm know if its processing activities make it a Tier 2 operation? Below are three questions we will use to guide us. A positive answer to any one will likely mean that Tier 2 is the appropriate fee schedule.

- Are sales of processed products 25% or more of your overall sales? If yes, use Tier 2.
- Is off-farm or purchased ingredient significant to your on-farm processing? If yes, use Tier 2.
- Are you requesting certification for more than three types of processed products? If yes, use Tier 2.

In other words, farms use Tier 1 fees when they are minimally processing or handling that which they produce on their own farm. Examples are always helpful. If you are a farmer with raw vegetables or other crop products, animals stock, or other livestock products and these products do not involve significant on-farm handling and packaging use Tier 1. For instance, a farm with vegetables and eggs for sale or a farm shipping bulk milk and selling organic beef cuts using a certified organic slaughterhouse use Tier 1. A blueberry grower bagging and freezing a portion of her crop on-farm will also use Tier 1. An herb grower who sells his product dried also uses Tier 1. We consider that minimum processing and packaging with simple production records relating to harvest.

When on-farm processing or handling becomes more complex (chicken slaughtering or cheese making, for example), we will pause to look at the scope and scale of that activity. When products with multiple ingredients are being produced and not all ingredients are coming from one’s own farm, apply Tier 2 fees. For instance, if an herb grower is also buying in organic dried herbs and creating mixes, he will use Tier 2. In this instance, off-farm ingredients are significant and the handling system and audit trail can be expected to become more complicated. We realize that farmers may have questions about the fee tiers. MCS staff is ready to help farmers figure out which tier applies to them.

Some additional fees apply and are described on page 39. Please make sure you review these carefully and determine if they will apply to you. Late applications are charged a late
fee (see Late Fee). If your operation is spread out over a large area and requires additional
time and driving by the inspector, an additional fee applies (see Multiple Locations Charge).
If you use a subcontractor in the production of your organic product, additional paperwork
and fees will apply (see Third-Party Certification Expenses). Illegible or incomplete
applications will be returned. Reprocessing will cost an additional $50 (see Return Fee).
New applicants are charged an additional $25 processing fee (see New Applicant Fee).

Lumping multiple separate business entities under one certificate and organic system plan is
a practice we want discontinued, especially when production activities require multiple or
separate inspections. Operations that are separate entities may need to submit separate
organic system plans and corresponding fees. Factors used in determining whether a
system plan file should be submitted as two or more separate system plans (and resulting in
separate certificates) will include looking at the legal structures of the operations in question
and the interconnectedness of the operations.

The State of Maine Department of Agriculture administers a federal cost-sharing program
that reimburses certified organic growers and handlers within Maine 75% of their certification
expenses. The cap on the reimbursement is $750. Processors and handlers are also
included this program. Payments are issued at the end of the year by the State based on
data provided to them by MCS. In addition, MOFGA will further offset the cost of certification
for producers grossing under $10K per year by refunding a part of the out-of-pocket expense.
Eligible producers may want MOFGA to keep these funds for agricultural programming and
they should not ☑ the MOFGA Reimbursement box on the fee form.

<table>
<thead>
<tr>
<th>TIER 1    2012 FEES</th>
<th>Actual Expense After Federal Rebate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income at Least ($)</td>
<td>But less than ($)</td>
</tr>
<tr>
<td>0</td>
<td>2,500</td>
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<td>5,000</td>
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<td>750,000</td>
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<tr>
<td>750,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Over 1,000,000</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TIER 2    2012 FEES</th>
<th>Actual Expense after Rebate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income at Least ($)</td>
<td>But less than ($)</td>
</tr>
<tr>
<td>0</td>
<td>2,500</td>
</tr>
<tr>
<td>2,500</td>
<td>5,000</td>
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<tr>
<td>300,000</td>
<td>500,000</td>
</tr>
</tbody>
</table>
In addition to the certification fees, the following fees may be applicable to you:

- **New Applicant Fee.** Operations that were not certified the previous year must pay an initial $25 New Operator Fee in addition to the annual certification fee.

- **Late Fee.** An application submitted after the designated deadline (see B, p. 40) for that type of operation must also enclose a late fee. **Late fees increase over time.** Check the separate Fee Sheet for the schedule. Please note that late fees are excluded from reimbursement programs.

- **Multiple Locations Charge.** If your operation involves multiple fields or facilities within Maine and the total travel distance connecting all sites exceeds 25 miles, an extra charge may apply to cover inspector time and mileage.

<table>
<thead>
<tr>
<th>Total mileage between sites</th>
<th>Additional Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 25 but less than 50</td>
<td>$25</td>
</tr>
<tr>
<td>At least 50 but less than 75</td>
<td>$35</td>
</tr>
<tr>
<td>Over 75 miles.</td>
<td>Contact MCS for determination</td>
</tr>
</tbody>
</table>

- **Subcontractor and Third-party Certification Expenses.** What occurs in a subcontracted operation must be documented in your organic system plan and reviewed for compliance with the organic standards. In addition, if this subcontracted operation is not certified organic to process or handle organic product, we are required to inspect this operation as part of your organic system plan. $200 is the minimum additional amount charged for this service. If special inspection skills and/or travel are deemed necessary to accomplish this work, these additional expenses will be charged. Contact MCS for an estimate.

- **Return Fee.** Applications need to be legible. Please use blue or black ink when completing all forms. Questions are expected to have complete answers. Any questions that do not appear to apply to your operation should be marked with “**Not Applicable**” or “**N/A.**” We do not want to see blanks. Any application that is incomplete or illegible, or provides insufficient information upon which to base a review, will be returned to the applicant. If an application is returned to you for these reasons a Return Fee of $50 may be charged in addition to your other fees in order for your resubmitted application to be accepted.

- **Bounced Check Fee.** $25 is due for each bounced check.

- **File copying fee.** Photocopies of your organic system plan and other file documents are available at 20 cents per copy page plus $4.75 for postage and handling.

**All checks must be made out to MOFGA. The Fees Form must be completed and included with your payment.**

Certification fees and all additional fees must be paid in full when the application (or annual update) is submitted. Partial payment plans may be developed with MCS at the staff’s discretion and must be done so before your paperwork is due and submitted. If your organic plan involves inspecting multiple facilities or performing inspections over multiple days, MCS reserves the right to charge you for these additional inspection costs.

**REFUNDS:**
75% of fees paid if withdrawn before Administrative Review
50% of fees paid if withdrawn before Technical Review
25% of fees paid if withdrawn after Technical Review but before Inspection
0% of fees paid if withdrawn after or on Inspection
0% of fees paid after a Denial of Certification has been issued

B. Deadlines for 2012

DEADLINES FOR OPERATIONS CURRENTLY CERTIFIED BY MOFGA: Regardless of when you were certified or when you filed an update in 2011, these deadlines apply to you in 2012. The only exceptions are those granted in writing by MCS.

Deadlines for completing the 2012 update:

<table>
<thead>
<tr>
<th>Type of Production</th>
<th>Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certified Sugarbush Farm (Maple Syrup)</td>
<td>21 February 2012</td>
</tr>
<tr>
<td>Certified Dairy</td>
<td>1 March 2012</td>
</tr>
<tr>
<td>Certified Farm</td>
<td>18 March 2012</td>
</tr>
<tr>
<td>Certified Processor/Handler</td>
<td>May vary by producer; many are due 27 Aug 2011</td>
</tr>
<tr>
<td>Certified Winter Greenhouse Production</td>
<td>Varies by operation.</td>
</tr>
</tbody>
</table>

You should receive your 2011 update about one month before your deadline. It will remind you when your updated paperwork and fees are due. If you have a question about your deadline, please call MCS.

Please make sure your forms are mailed and postmarked by the appropriate deadline. If you mail your forms after the deadline, please include the appropriate late fee. Non-compliance notices may be issued to those operations that fail to file an update or surrender their certificates approximately 30 days after the deadline. For more information about your certificate, please see G on page 38 of this section.

DEADLINES FOR APPLICANTS: If you are NOT certified or did not file an update in 2012 you are considered an applicant. The following deadlines apply to you.

<table>
<thead>
<tr>
<th>Type of Production</th>
<th>Deadlines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dairy</td>
<td>If you are transitioning a herd, you must file the &quot;INTENT TO TRANSITION&quot; form during the first month of the transition year. Information about submitting a full application is on page 15. Call MCS for more information. If you are buying already certified animals and using on-farm forage and feeds, application must be received at the start of the growing season and in time for an inspector to see fields and crops. Call MCS for more information.</td>
</tr>
<tr>
<td>Farms: Any size with CROPS</td>
<td>24 April 2012 Applications received after 24 April must include a late fee. Applications will not be accepted after 30 June 2012.</td>
</tr>
<tr>
<td>Farms: Any size, LIVESTOCK ONLY</td>
<td>If livestock species consumes primarily purchased feeds, then application can be accepted year-round. If livestock species consumes primarily on-farm pasture or crops, then application must be submitted at the start of the growing season and in time for an inspector to see fields and crops. Call MCS for more information.</td>
</tr>
</tbody>
</table>
If you submit your application after the deadline for your type of operation, then you must include a late fee in your fees schedule on the green fee form.

C. Review Committees

There are several Review Committees consisting of volunteers specializing in different areas of agricultural production and processing. Members provide staff with important insights about those areas of production, assist staff when questions arise, and help the program develop policies. Members include farmers, regulators, university researchers, and MOFGA technical staff.

For more information on our certification process, see Appendix V.

D. Request for Mediation and the Appeals Process with the USDA

Producers may request mediation for a negative decision (e.g., proposed suspension). The producer must submit a written request for mediation to MCS within the time frame specified in the Notice. MCS may decide to accept or reject mediation. If MCS accepts mediation, the producer will meet with representatives of staff and the board of directors. If MCS accepts mediation but decides to uphold the negative decision, the producer may submit a written appeal to the USDA NOP Administrator within 30 days from termination of mediation. If MCS rejects the request for mediation, the producer may submit a written appeal to the USDA within 30 days of receipt of the written notice of mediation rejection from MCS. For more information about the appeals process with the USDA, see NOP §205.663, which can be found in Appendix I of this manual.

E. MOFGA Certification Services LLC Board

The MCS Board has five members: Tina Wilcoxson, Ned Daly, Mark Davis, Izzy McKay and Rick Kersbergen. The MCS Board is responsible for oversight of the program, including hiring and firing of the MCS Director. The Board President has ultimate decision-making authority for all applicants for certification. The MCS Director makes recommendations for certification to the MCS Board President, who must ratify those decisions. The MCS Board meets at least once per quarter.

F. Conflict of Interest with Program Participants

Participants in the certification program (staff, board, committee member, inspector) are expected to provide MCS with an annual list of potential certification clients with whom they may have conflicts of interest. Participants will not participate in the evaluation, inspection or final decision-making concerning that producer.

G. Duration of Certificate

Certification is valid from the effective date. Certificates do not have an expiration date. Certificates are good until surrendered by the producer, or suspended or revoked by the certifying agent or the NOP Administrator.
Certified operations must file an annual update according to the deadlines and policies set by MCS. The annual update involves forms and a fee. If you do not file an update by the deadline, an additional late fee may be assessed and a warning notice may be sent.

Certified operations that are more than 30 days late with an update may receive a notice of noncompliance. Failure to resolve the noncompliance with MCS in the time frame identified will result in a notice of proposed suspension of your certificate. Failure to resolve this notice will result in suspension from certification. Please be advised that all such notices are copied to USDA National Organic Program and that suspension or revocation of your certification may have consequences on future certification. If you have decided not to continue to be certified, you need to contact the MCS office immediately and surrender your certificate. A form for surrendering your certificate is enclosed with your annual update and must be sent to MCS. Ignoring the deadline, the warning letters, and the notices are not the best options. It is your responsibility to keep the certifying agent informed about your operation.

H. Grower Applications, Files & Records, and What We Make Public

Certified operations must keep their files for 5 years. All operations are expected to make a copy of their completed certification forms for their own files.

MOFGA publishes a list of certified producers in its member newsletter or in a separate print publication. The information we publish is limited to contact information (name, address, phone, email and web site) and what it is you produce organically. We also publish where consumers can find your products (markets) and your conventional production (if any). Please let us know on the crop supplement of your farm plan, if you do not want us to publish this marketing information. We offer the same information to the public on a web-based database via www.mofga.org; however.

I. Confidentiality

MCS will keep files and applications for 10 years. MCS maintains strict confidentiality with respect to the information in the application. The only information that is available to members of the public is certificates, crops or products produced, grower’s name, address, email, phone number, and marketing outlets during the current and 3 preceding calendar years. Results of all analyses and tests performed during an inspection will be available for public access unless testing is part of an ongoing investigation.

J. Infraction of Standards

If a certified grower or processor violates the National Organic Standards, certification may be suspended or revoked, and use of the MOFGA Certification Organic seal/NOP-USDA seal prohibited. If a grower or processor seeking organic certification violates the National Organic Standards, certification may be denied.

A notice of non-compliance may be issued when (1) review of an operation’s application for certification reveals a non-compliance or an inability to comply with the Act; (2) an inspector’s report identifies a non-compliance; or (3) inspection and testing of a certified operation has revealed non-compliance or substantiated a report of a violation. The notice of noncompliance will provide a time frame for response, which can include a corrective action or rebuttal. If resolved to the satisfaction of MCS and/or the review committees, a letter of non-compliance resolution will be sent to the operation. Failure to resolve the noncompliance will result in a notice of proposed suspension or revocation. Failure to
resolve this notice will result in suspension or revocation of certification. In the case of applicants seeking certification, unresolved noncompliances will result in a denial notice. Notices list the reasons for suspension, revocation, or denial, and identify the rights of the applicant or operator. All Notices are copied to the NOP Administrator. Producers may at any time surrender their certificates, or withdraw their application for certification.

K. Inspection/Inspectors

MCS employs inspectors and determines assignments. Operations must be inspected at least once annually. Farms must accommodate an inspection during the growing season. On-farm inspections should be viewed as verification of organic farming practices and information reported in the applicant’s Farm Plan. Inspection reports are submitted to MCS staff and MCS pays inspectors for their services. MCS staff review and respond to inspection reports in writing, with input as appropriate from review committees.

NOTE: The inspector expects to conduct an inspection with at least one of the two people named in the file as either the applicants or the certificate holders. The inspector expects this person to be knowledgeable about the operation and to have access to records. If these responsibilities are delegated to other employees not known to MCS, the applicant or the certificate holder must inform MCS in writing that he or she has authorized another person or persons to conduct the inspection on your behalf.

The inspector is an impartial and independent reporter of the applicant’s compliance with the organic standards. The inspector shall not be party to any transactions involving the certified products. Information gathered during an inspection is considered confidential and is meant for application evaluation only. Everyone involved in inspection and/or application evaluation pledges not to disclose this information to any third party, nor to use confidential information for personal gain.

1. The inspector will tour the farm or plant and reviews audit trails. The inspector may recommend to MCS the granting or denial of certification.
2. Inspectors may provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Rule. Inspectors are not permitted to give any advice on production materials or practices. Consultation with an inspected party for an additional fee at any time within the certification year is not permitted and constitutes grounds not only for dismissing the inspector, but also for revoking the certification of the farmer.
3. The inspector, when instructed by MCS, shall have the right to make unannounced inspection visits. The inspector may be instructed by MCS to take samples for residue tests at MCS’s expense if use of prohibited substances or practices is suspected.

L. Inspector Qualification

Inspectors shall be professional, objective observers competent to evaluate and report on the conditions and practices on the farm and to verify information submitted in the application. The inspector shall have professional training or equivalent experience in agriculture and organic farming and/or processing practices. MCS encourages its inspectors to enroll in formal certification inspector training. There shall be no conflict of interest in that the inspector shall be financially independent of both the farmer’s and the buyer’s interests. The inspector is bound by confidentiality. MCS pays the inspectors. The inspector may not assist a producer by offering advice on organic practices and he or she may not endorse specific commercial products. Consultation with an organic producer for an additional fee at any time within the certification year is unacceptable and constitutes grounds for dismissing the inspector.
M. Meetings of the Review Committees

Staff strives to meet with committees at least once a year in person and as needed electronically or by phone. In addition, the LLC Board, staff and Review Committees will meet concurrently near the end of each year to discuss the program's operations and to identify ways to improve the program in the coming year.

N. Review of Applications for Certification

For more information on our certification process, see Appendix V.

O. Policy on Inspection & Testing of Agricultural Products to be Sold or Labeled as “Organic” & Exclusion of Contaminated Products from Organic Sale

All agricultural products that are to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (xyz)” must be made accessible by the producer to the certifying agent.

Residue level is not MOFGA's measure of organic. Residue testing shall only be done in cases where it is deemed necessary by MCS Staff in order to determine use of prohibited materials or a pesticide drift incident. If there is reason to believe that the agricultural product or input has come into contact with a prohibited substance or has been produced using excluded methods or materials, MCS or the NOP Administrator may require pre-harvest and post-harvest testing. MCS will conduct such tests at our expense. We will arrange to have a staff member take samples. All residue testing will be performed at an accredited laboratory. Lab results will be reported immediately to the NOP Administrator and will be made available for public access, except in instances where testing is part of an ongoing compliance investigation.

Should test results reveal residue levels that exceed the Food and Drug Administration’s or the Environmental Protection Agency’s regulatory tolerances for that substance, then MCS will report the data to the appropriate federal health agency. In the event that residue-testing reveals prohibited substances, excluded materials and/or excluded methods, MCS may determine that the product in question may not be sold, labeled or represented as organically produced. MCS has the right to investigate the operation to determine the cause of the contamination. The NOP Administrator has this right as well.

P. Non-Discrimination Policy

MCS does not discriminate on the basis of race, color, national or ethnic origin, gender, religion, age, disability, political beliefs, sexual orientation, marital or family status, or veteran status in any of its policies, functions, or activities.

Q. Gifts

Employees, inspectors, contractors, and other personnel are prohibited from accepting payments, gifts, or favors, other than prescribed fees, for the application process.

R. Geographical Scope of Operation

MCS accepts applications from producers who have operations based in Maine. We may on occasion accept a client from a neighboring state in cooperation with the certifiers who normally operate in that state.
S. Timetable for Certification Process

The process for making a certification decision may take several weeks to several months. Several individuals read each application for certification and provide comments. An inspection should take place during production, which means that for some producers (e.g., farmers producing crops in fields) there are times of the year when an inspection is not feasible. If questions or compliance issues are identified at any point in the process, these must be addressed in writing. An incomplete application (fees are considered part of the application) must be made complete before certification can be granted. Because of these factors, it is not possible to guarantee certification within a certain time frame, but our advice to potential applicants is to plan ahead and submit a complete application a couple of months before you anticipate needing certification. **Dairy farmers need to be aware that we require a 2-page “Intent To Transition Form” at the start of the 12-month transition process for a herd.** Dairy farmers should go to page 14 of this manual to read more about the specific application requirements for this category of organic production.

More information about the certification process can be found in Appendix V (Certification Process) of this practice manual.

PART 5 – TRANSACTION AND EXPORT CERTIFICATES

Section 1 - Requirements for Requesting Transaction Certificates

MOFGA Certification Services has initiated the following procedures to supply Transaction Certificates or Export Certificates for our producers. Certified producers will be notified by mail of export requirements within 14 days of notification by USDA-NOP of approval. Transaction Certificates will be provided for documentation of a specific customer's purchase of organic product from the producer. Transaction Certificates will be generated only for products listed in the producers Organic System Plan on file with MOFGA Certification Services at the time of the request.

Export Certificates will be provided to document production of products produced under the USDA-NOP rule that also meets the requirements of export agreements with Taiwan or Japan. Transaction Certificates will be generated only for products listed in the producers Organic System Plan on file with MOFGA Certification Services at the time of the request. In addition, producers must documentation that the product meets requirement for export as noted below. Producers with an interest in exporting to Taiwan or Japan should indicate so on their certification application or update.

To order a Certificate:

1. Complete the Transaction/Export Certificate Request Form
2. Enclose Invoice or Bill of Lading for shipment
3. For Export Certificates enclose a completed USDA TM-11 form. TM-11 forms are available from this office or from the USDA NOP website.
4. Enclose appropriate fee(s).
   a) For each Transaction Certificate $10.00.
   b) For each Export Certificate $40.00
5. Certificates will be returned to the Producer. Producers should keep copies of all certificates for review during their annual inspection.
Designated Staff Persons Responsible for Issuing Transaction and Export Certificates

Primary Person: MCS Associate Director of Processor/Handling (currently)
Kate Newkirk
email: knewkirk@mofga.org
PO Box 170
Unity, ME 04988
207-568-4142

Secondary Person: MCS Director (currently)
Mary Yurlina
email: yurlina@mofga.org
PO Box 170
Unity, ME 04988
207-568-4142

Section 2 – Compliance Requirements for Export Certificates to Taiwan and Japan

In addition to the above information, product exported to Taiwan or Japan must meet the following specific compliance requirements. Note that Export Certificates are for USDA-NOP compliant products being exported to Japan or Taiwan and should not be confused with being certified to Japan's or Taiwan's organic standards.

If requesting export certificates please to sure to note this on your Certification Application and your inspector will review documentation for all certificates issued during your annual inspection.

Requirements for Export of U.S. Organic Raw and Processed Agricultural Products to Taiwan

Country: Taiwan
Country Code: TW
NOTE: Until further notice, TM-11 Certificates issued for Taiwan must only be issued for products that can carry the USDA Organic Seal.
Compliance Statements:
For Processed Products and Crops:
"Organic agricultural products and organic processed products, accompanied by this certificate, were produced or processed using zero prohibited substances."
For Livestock and meat products:
"Organic livestock products, accompanied by this certificate, were managed and produced without the use of systemic pain killers or analgesics, including the use of Lidocaine or Procaine."

Requirements for Export of U.S. Organic Raw and Processed Agricultural Products to Japan

Country: Japan
Country Code: JP
Compliance Statement:
"Products covered under this export certificate are not known to be produced with alkali-extracted humic acid or lignin sulfonate as a flotation agent."

For information on selling MOFGA Certified products in Canada, read Appendix IV.
PART 205—NATIONAL ORGANIC PROGRAM

Subpart A—Definitions

Sec. 205.1 Meaning of words.

205.2 Terms defined.

Subpart B—Applicability

205.100 What has to be certified?

205.101 Exemptions and exclusions from certification.

205.102 Use of the term, “organic.”

205.103 Recordkeeping by certified operations.

205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.

Subpart C—Organic Production and Handling Requirements

205.200 General.

205.201 Organic production and handling system plan.

205.202 Land requirements.

205.203 Soil fertility and crop nutrient management practice standard.

205.204 Seeds and planting stock practice standard.

205.205 Crop rotation practice standard.

205.206 Crop pest, weed, and disease management practice standard.

205.207 Wild-crop harvesting practice standard.

205.236 Origin of livestock.

205.237 Livestock feed.

205.238 Livestock health care practice standard.

205.239 Livestock living conditions.

205.240 Pasture practice standard.

205.270 Organic handling requirements.

205.271 Facility pest management practice standard.

205.272 Commingling and contact with prohibited substance prevention practice standard.

205.290 Temporary variances.

Subpart D—Labels, Labeling, and Market Information

205.300 Use of the term, “organic.”

205.301 Product composition.

205.302 Calculating the percentage of organically produced ingredients.

205.303 Packaged products labeled “100 percent organic” or “organic.”

205.304 Packaged products labeled “made with organic (specified ingredients or food group(s)).”

205.305 Multi-ingredient packaged products with less that 70 percent organically produced ingredients.

205.306 Labeling of livestock feed.

205.307 Labeling of nonretail containers used for only shipping or storage of raw or processed agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”

205.308 Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as “100 percent organic” or “organic.”

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Source: 65 FR 80637, Dec. 21, 2000, unless otherwise noted.

Subpart A—Definitions
§ 205.1 Meaning of words.
For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand.

§ 205.2 Terms defined.
Accreditation. A determination made by the Secretary that authorizes a private, foreign, or State entity to conduct certification activities as a certifying agent under this part.
Action level. The limit at or above which the Food and Drug Administration will take legal action against a
product to remove it from the market. Action levels are based on unavoidability of the poisonous or deleterious substances and do not represent permissible levels of contamination where it is avoidable. **Administrator.** The Administrator for the Agricultural Marketing Service, United States Department of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

**Agricultural inputs.** All substances or materials used in the production or handling of organic agricultural products.

**Agricultural product.** Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in the United States for human or livestock consumption.

**Agricultural Marketing Service (AMS).** The Agricultural Marketing Service of the United States Department of Agriculture.

**Allowed synthetic.** A substance that is included on the National List of synthetic substances allowed for use in organic production or handling.


**Animal drug.** Any drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 321), that is intended for use in livestock, including any drug intended for use in livestock feed but not including such livestock feed.

**Annual seedling.** A plant grown from seed that will complete its life cycle or produce a harvestable yield within the same crop year or season in which it was planted.

**Area of operation.** The types of operations: crops, livestock, wild-crop harvesting or handling, or any combination thereof that a certifying agent may be accredited to certify under this part.

**Audit trail.** Documentation that is sufficient to determine the source, transfer of ownership, and transportation of any agricultural product labeled as “100 percent organic,” the organic ingredients of any agricultural product labeled as “organic” or “made with organic (specified ingredients)” or the organic ingredients of any agricultural product containing less than 70 percent organic ingredients identified as organic in an ingredients statement.

**Biodegradable.** Subject to biological decomposition into simpler biochemical or chemical components.

**Biologics.** All viruses, serums, toxins, and analogous products of natural or synthetic origin, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases of animals.

**Breeder stock.** Female livestock whose offspring may be incorporated into an organic operation at the time of their birth.

**Buffer zone.** An area located between a certified production operation or portion of a production operation and an adjacent land area that is not maintained under organic management. A buffer zone must be sufficient in size or other features (e.g., windbreaks or a diversion ditch) to prevent the possibility of unintended contact by prohibited substances applied to adjacent land areas with an area that is part of a certified operation.

**Bulk.** The presentation to consumers at retail sale of an agricultural product in unpackaged, loose form, enabling the consumer to determine the individual pieces, amount, or volume of the product purchased.

**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.

**Certified operation.** A crop or livestock production, wild-crop harvesting or handling operation, or portion of such operation that is certified by an accredited certifying agent as utilizing a system of organic production or handling as described by the Act and the regulations in this part.

**Certifying agent.** Any entity accredited by the Secretary as a certifying agent for the purpose of certifying a production or handling operation as a certified production or handling operation.

**Certifying agent’s operation.** All sites, facilities, personnel, and records used by a certifying agent to conduct certification activities under the Act and the regulations in this part.

**Claims.** Oral, written, implied, or symbolic representations, statements, or advertising or other forms of communication presented to the public or buyers of agricultural products that relate to the organic certification process or the term, “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” or, in the case of agricultural products containing less than 70 percent organic ingredients, the term, “organic,” on the ingredients panel.

**Class of animal.** A group of livestock that shares a similar stage of life or production. The classes of animals are those that are commonly listed on feed labels.
Commercially available. The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.

Commingling. Physical contact between unpackaged organically produced and nonorganically produced agricultural products during production, processing, transportation, storage or handling, other than during the manufacture of a multingredient product containing both types of ingredients.

Compost. The product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil. Compost must be produced through a process that combines plant and animal materials with an initial C:N ratio of between 25:1 and 40:1. Producers using an in-vessel or static aerated pile system must maintain the composting materials at a temperature between 131 °F and 170 °F for 3 days. Producers using a windrow system must maintain the composting materials at a temperature between 131 °F and 170 °F for 15 days, during which time, the materials must be turned a minimum of five times.

Control. Any method that reduces or limits damage by populations of pests, weeds, or diseases to levels that do not significantly reduce productivity.

Crop. Pastures, cover crops, green manure crops, catch crops, or any plant or part of a plant intended to be marketed as an agricultural product, fed to livestock, or used in the field to manage nutrients and soil fertility. 

Crop residues. The plant parts remaining in a field after the harvest of a crop, which include stalks, stems, leaves, roots, and weeds.

Crop rotation. The practice of alternating the annual crops grown on a specific field in a planned pattern or sequence in successive crop years so that crops of the same species or family are not grown repeatedly without interruption on the same field. Perennial cropping systems employ means such as alley cropping, intercropping, and hedgerows to introduce biological diversity in lieu of crop rotation.

Crop year. That normal growing season for a crop as determined by the Secretary.

Cultivation. Digging up or cutting the soil to prepare a seed bed; control weeds; aerate the soil; or work organic matter, crop residues, or fertilizers into the soil.

Cultural methods. Methods used to enhance crop health and prevent weed, pest, or disease problems without the use of substances; examples include the selection of appropriate varieties and planting sites; proper timing and density of plantings; irrigation; and extending a growing season by manipulating the microclimate with green houses, cold frames, or wind breaks.

Detectable residue. The amount or presence of chemical residue or sample component that can be reliably observed or found in the sample matrix by current approved analytical methodology.

Disease vectors. Plants or animals that harbor or transmit disease organisms or pathogens which may attack crops or livestock.

Drift. The physical movement of prohibited substances from the intended target site onto an organic operation or portion thereof.

Dry lot. A fenced area that may be covered with concrete, but that has little or no vegetative cover.

Dry matter. The amount of a feedstuff remaining after all the free moisture is evaporated out.

Dry matter demand. The expected dry matter intake for a class of animal.

Dry matter intake. Total pounds of all feed, devoid of all moisture, consumed by a class of animals over a given period of time.

Emergency pest or disease treatment program. A mandatory program authorized by a Federal, State, or local agency for the purpose of controlling or eradicating a pest or disease.

Employee. Any person providing paid or volunteer services for a certifying agent.

Excipients. Any ingredients that are intentionally added to livestock medications but do not exert therapeutic or diagnostic effects at the intended dosage, although they may act to improve product delivery (e.g., enhancing absorption or controlling release of the drug substance). Examples of such ingredients include fillers, extenders, diluents, wetting agents, solvents, emulsifiers, preservatives, flavors, absorption enhancers, sustained-release matrices, and coloring agents.

Excluded methods. A variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods include cell fusion, microencapsulation and macroencapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

Feed. Edible materials which are consumed by livestock for their nutritional value. Feed may be concentrates (grains) or roughages (hay, silage, fodder). The term, “feed,” encompasses all agricultural commodities,
including pasture ingested by livestock for nutritional purposes.

**Feed additive.** A substance added to feed in micro quantities to fulfill a specific nutritional need; i.e., essential nutrients in the form of amino acids, vitamins, and minerals.

**Feedlot.** A dry lot for the controlled feeding of livestock.

**Feed supplement.** A combination of feed nutrients added to livestock feed to improve the nutrient balance or performance of the total ration and intended to be:

1. Diluted with other feeds when fed to livestock;
2. Offered free choice with other parts of the ration if separately available; or
3. Further diluted and mixed to produce a complete feed.

**Fertilizer.** A single or blended substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

**Field.** An area of land identified as a discrete unit within a production operation.

**Forage.** Vegetative material in a fresh, dried, or ensiled state (pasture, hay, or silage), which is fed to livestock.

**Governmental entity.** Any domestic government, tribal government, or foreign governmental subdivision providing certification services.

**Graze.** (1) The consumption of standing or residual forage by livestock.
(2) To put livestock to feed on standing or residual forage.

**Grazing.** To graze.

**Grazing season.** The period of time when pasture is available for grazing, due to natural precipitation or irrigation. Grazing season dates may vary because of mid-summer heat/humidity, significant precipitation events, floods, hurricanes, droughts or winter weather events. Grazing season may be extended by the grazing of residual forage as agreed in the operation's organic system plan. Due to weather, season, or climate, the grazing season may or may not be continuous. Grazing season may range from 120 days to 365 days, but not less than 120 days per year.

**Handle.** To sell, process, or package agricultural products, except such term shall not include the sale, transportation, or delivery of crops or livestock by the producer thereof to a handler.

**Handler.** Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.

**Handling operation.** Any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

**Immediate family.** The spouse, minor children, or blood relatives who reside in the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent. For the purpose of this part, the interest of a spouse, minor child, or blood relative who is a resident of the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent shall be considered to be an interest of the certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent.

**Inclement weather.** Weather that is violent, or characterized by temperatures (high or low), or characterized by excessive precipitation that can cause physical harm to a given species of livestock. Production yields or growth rates of livestock lower than the maximum achievable do not qualify as physical harm.

**Inert ingredient.** Any substance (or group of substances with similar chemical structures if designated by the Environmental Protection Agency) other than an active ingredient which is intentionally included in any pesticide product (40 CFR 152.3(m)).

**Information panel.** That part of the label of a packaged product that is immediately contiguous to and to the right of the principal display panel as observed by an individual facing the principal display panel, unless another section of the label is designated as the information panel because of package size or other package attributes (e.g., irregular shape with one usable surface).

**Ingredient.** Any substance used in the preparation of an agricultural product that is still present in the final commercial product as consumed.

**Ingredients statement.** The list of ingredients contained in a product shown in their common and usual names in the descending order of predominance.

**Inspection.** The act of examining and evaluating the production or handling operation of an applicant for certification or certified operation to determine compliance with the Act and the regulations in this part.

**Inspector.** Any person retained or used by a certifying agent to conduct inspections of certification applicants or certified production or handling operations.
Label. A display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

Labeling. All written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.

Livestock. Any cattle, sheep, goats, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other nonplant life, except such term shall not include aquatic animals for the production of food, fiber, feed, or other agricultural-based consumer products.

Lot. Any number of containers which contain an agricultural product of the same kind located in the same conveyance, warehouse, or packing house and which are available for inspection at the same time.

Manure. Feces, urine, other excrement, and bedding produced by livestock that has not been composted.

Market information. Any written, printed, audiovisual, or graphic information, including advertising, pamphlets, flyers, catalogues, posters, and signs, distributed, broadcast, or made available outside of retail outlets that are used to assist in the sale or promotion of a product.

Mulch. Any nonsynthetic material, such as wood chips, leaves, or straw, or any synthetic material included on the National List for such use, such as newspaper or plastic that serves to suppress weed growth, moderate soil temperature, or conserve soil moisture.

Narrow range oils. Petroleum derivatives, predominately of paraffinic and naphthenic fractions with 50 percent boiling point (10 mm Hg) between 415°F and 440°F.

National List. A list of allowed and prohibited substances as provided for in the Act.

National Organic Program (NOP). The program authorized by the Act for the purpose of implementing its provisions.

National Organic Standards Board (NOSB). A board established by the Secretary under 7 U.S.C. 6518 to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of the National Organic Program.

Natural resources of the operation. The physical, hydrological, and biological features of a production operation, including soil, water, wetlands, woodlands, and wildlife.

Nonagricultural substance. A substance that is not a product of agriculture, such as a mineral or a bacterial culture, that is used as an ingredient in an agricultural product. For the purposes of this part, a nonagricultural ingredient also includes any substance, such as gums, citric acid, or pectin, that is extracted from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.

Nonsynthetic (natural). A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. 6502(21)). For the purposes of this part, nonsynthetic is used as a synonym for natural as the term is used in the Act.

Nonretail container. Any container used for shipping or storage of an agricultural product that is not used in the retail display or sale of the product.

Nontoxic. Not known to cause any adverse physiological effects in animals, plants, humans, or the environment.

Organic. A labeling term that refers to an agricultural product produced in accordance with the Act and the regulations in this part.

Organic matter. The remains, residues, or waste products of any organism.

Organic production. A production system that is managed in accordance with the Act and regulations in this part to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.

Organic system plan. A plan of management of an organic production or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production or handling described in the Act and the regulations in subpart C of this part.

Pasture. Land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources.

Peer review panel. A panel of individuals who have expertise in organic production and handling methods and certification procedures and who are appointed by the Administrator to assist in evaluating applicants for accreditation as certifying agents.

Person. An individual, partnership, corporation, association, cooperative, or other entity.

Pesticide. Any substance which alone, in chemical combination, or in any formulation with one or more
substances is defined as a pesticide in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u) et seq).

**Petition.** A request to amend the National List that is submitted by any person in accordance with this part.

**Planting stock.** Any plant or plant tissue other than annual seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers, used in plant production or propagation.

**Practice standard.** The guidelines and requirements through which a production or handling operation implements a required component of its production or handling organic system plan. A practice standard includes a series of allowed and prohibited actions, materials, and conditions to establish a minimum level performance for planning, conducting, and maintaining a function, such as livestock health care or facility pest management, essential to an organic operation.

**Principal display panel.** That part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for sale.

**Private entity.** Any domestic or foreign nongovernmental for-profit or not-for-profit organization providing certification services.

**Processing.** Cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

**Processing aid.** (1) Substance that is added to a food during the processing of such food but is removed in some manner from the food before it is packaged in its finished form;
(2) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and
(3) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.

**Producer.** A person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

**Production lot number/identifier.** Identification of a product based on the production sequence of the product showing the date, time, and place of production used for quality control purposes.

**Prohibited substance.** A substance the use of which in any aspect of organic production or handling is prohibited or not provided for in the Act or the regulations of this part.

**Records.** Any information in written, visual, or electronic form that documents the activities undertaken by a producer, handler, or certifying agent to comply with the Act and regulations in this part.

**Residual forage.** Forage cut and left to lie, or windrowed and left to lie, in place in the pasture.

**Residue testing.** An official or validated analytical procedure that detects, identifies, and measures the presence of chemical substances, their metabolites, or degradations products in or on raw or processed agricultural products.

**Responsible connected.** Any person who is a partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification or accreditation.

**Retail food establishment.** A restaurant; delicatessen; bakery; grocery store; or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ready-to-eat-food.

**Routine use of parasiticide.** The regular, planned, or periodic use of parasiticides.

**Secretary.** The Secretary of Agriculture or a representative to whom authority has been delegated to act in the Secretary's stead.

**Sewage sludge.** A solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes but is not limited to: domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

**Shelter.** Structures such as barns, sheds, or windbreaks; or natural areas such as woods, tree lines, large hedge rows, or geographic land features, that are designed or selected to provide physical protection or housing to all animals.

**Slaughter stock.** Any animal that is intended to be slaughtered for consumption by humans or other animals.

**Soil and water quality.** Observable indicators of the physical, chemical, or biological condition of soil and water, including the presence of environmental contaminants.

**Split operation.** An operation that produces or handles both organic and nonorganic agricultural products.

**Stage of life.** A discrete time period in an animal's life which requires specific management practices different
than during other periods (e.g., poultry during feathering). Breeding, freshening, lactation and other recurring events are not a stage of life.

State. Any of the several States of the United States of America, its territories, the District of Columbia, and the Commonwealth of Puerto Rico.

State certifying agent. A certifying agent accredited by the Secretary under the National Organic Program and operated by the State for the purposes of certifying organic production and handling operations in the State.

State organic program (SOP). A State program that meets the requirements of section 6506 of the Act, is approved by the Secretary, and is designed to ensure that a product that is sold or labeled as organically produced under the Act is produced and handled using organic methods.

State organic program's governing State official. The chief executive official of a State or, in the case of a State that provides for the statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official who administers a State organic certification program.

Synthetic. A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Temporary and Temporarily. Occurring for a limited time only (e.g., overnight, throughout a storm, during a period of illness, the period of time specified by the Administrator when granting a temporary variance), not permanent or lasting.

Tolerance. The maximum legal level of a pesticide chemical residue in or on a raw or processed agricultural commodity or processed food.

Transplant. A seedling which has been removed from its original place of production, transported, and replanted.

Unavoidable residual environmental contamination (UREC). Background levels of naturally occurring or synthetic chemicals that are present in the soil or present in organically produced agricultural products that are below established tolerances.

Wild crop. Any plant or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.

Yards/Feeding pad. An area for feeding, exercising, and outdoor access for livestock during the non-grazing season and a high traffic area where animals may receive supplemental feeding during the grazing season.

Subpart B—Applicability

§ 205.100 What has to be certified.

(a) Except for operations exempt or excluded in § 205.101, each production or handling operation or specified portion of a production or handling operation that produces or handles crops, livestock, livestock products, or other agricultural products that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be certified according to the provisions of subpart E of this part and must meet all other applicable requirements of this part.

(b) Any production or handling operation or specified portion of a production or handling operation that has been already certified by a certifying agent on the date that the certifying agent receives its accreditation under this part shall be deemed to be certified under the Act until the operation's next anniversary date of certification. Such recognition shall only be available to those operations certified by a certifying agent that receives its accreditation under this part shall be deemed to be certified under the Act until the operation's next anniversary date of certification.

Subpart B—Applicability

§ 205.101 Exemptions and exclusions from certification.

(a) Exemptions. (1) A production or handling operation that sells agricultural products as “organic” but whose gross agricultural income from organic sales totals $5,000 or less annually is exempt from certification under subpart E of this part and from submitting an organic system plan for acceptance or approval under § 205.201 but must comply with the applicable organic production and handling requirements of subpart C of this part and the labeling requirements of § 205.310. The products from such operations shall not be used as ingredients identified as organic in processed products produced by another handling operation.

(2) A handling operation that is a retail food establishment or portion of a retail food establishment that handles organically produced agricultural products but does not process them is exempt from the
requirements in this part.

(3) A handling operation or portion of a handling operation that only handles agricultural products that contain less than 70 percent organic ingredients by total weight of the finished product (excluding water and salt) is exempt from the requirements in this part, except:

(i) The provisions for prevention of contact of organic products with prohibited substances set forth in §205.272 with respect to any organically produced ingredients used in an agricultural product;

(ii) The labeling provisions of §§205.305 and 205.310; and

(iii) The recordkeeping provisions in paragraph (c) of this section.

(4) A handling operation or portion of a handling operation that only identifies organic ingredients on the information panel is exempt from the requirements in this part, except:

(i) The provisions for prevention of contact of organic products with prohibited substances set forth in §205.272 with respect to any organically produced ingredients used in an agricultural product;

(ii) The labeling provisions of §§205.305 and 205.310; and

(iii) The recordkeeping provisions in paragraph (c) of this section.

(b) Exclusions. (1) A handling operation or portion of a handling operation is excluded from the requirements of this part, except for the requirements for the prevention of commingling and contact with prohibited substances as set forth in §205.272 with respect to any organically produced products, if such operation or portion of the operation only sells organic agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” that:

(i) Are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and

(ii) Remain in the same package or container and are not otherwise processed while in the control of the handling operation.

(2) A handling operation that is a retail food establishment or portion of a retail food establishment that processes, on the premises of the retail food establishment, raw and ready-to-eat food from agricultural products that were previously labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” is excluded from the requirements in this part, except:

(i) The requirements for the prevention of contact with prohibited substances as set forth in §205.272; and

(ii) The labeling provisions of §205.310.

(c) Records to be maintained by exempt operations. (1) Any handling operation exempt from certification pursuant to paragraph (a)(3) or (a)(4) of this section must maintain records sufficient to:

(i) Prove that ingredients identified as organic were organically produced and handled; and

(ii) Verify quantities produced from such ingredients.

(2) Records must be maintained for no less than 3 years beyond their creation and the operations must allow representatives of the Secretary and the applicable State organic programs’ governing State official access to these records for inspection and copying during normal business hours to determine compliance with the applicable regulations set forth in this part.

§ 205.102 Use of the term, “organic.”

Any agricultural product that is sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be:

(a) Produced in accordance with the requirements specified in §205.101 or §§205.202 through 205.207 or §§205.236 through 205.240 and all other applicable requirements of part 205; and

(b) Handled in accordance with the requirements specified in §205.101 or §§205.270 through 205.272 and all other applicable requirements of this part 205.

[65 FR 80637, Dec. 21, 2000, as amended at 75 FR 7193, Feb. 17, 2010]

§ 205.103 Recordkeeping by certified operations.

(a) A certified operation must maintain records concerning the production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”

(b) Such records must:

(1) Be adapted to the particular business that the certified operation is conducting;

(2) Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;

(3) Be maintained for not less than 5 years beyond their creation; and

(4) Be sufficient to demonstrate compliance with the Act and the regulations in this part.

(c) The certified operation must make such records available for inspection and copying during normal business hours by authorized representatives of the Secretary, the applicable State program’s governing State official, and the certifying agent.
§ 205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.
To be sold or labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” the product must be produced and handled without the use of:
(a) Synthetic substances and ingredients, except as provided in § 205.601 or § 205.603;
(b) Nonsynthetic substances prohibited in § 205.602 or § 205.604;
(c) Nonagricultural substances used in or on processed products, except as otherwise provided in § 205.605;
(d) Nonorganic agricultural substances used in or on processed products, except as otherwise provided in § 205.606;
(e) Excluded methods, except for vaccines: Provided, That, the vaccines are approved in accordance with § 205.600(a);
(f) Ionizing radiation, as described in Food and Drug Administration regulation, 21 CFR 179.26; and
(g) Sewage sludge.

Subpart C—Organic Production and Handling Requirements
§ 205.200 General.
The producer or handler of a production or handling operation intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must comply with the applicable provisions of this subpart. Production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation, including soil and water quality.

§ 205.201 Organic production and handling system plan.
(a) The producer or handler of a production or handling operation, except as exempt or excluded under § 205.101, intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic production or handling. An organic production or handling system plan must include:
(1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;
(2) A list of each substance to be used as a production or handling input, indicating its composition, source, location(s) where it will be used, and documentation of commercial availability, as applicable;
(3) A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented;
(4) A description of the recordkeeping system implemented to comply with the requirements established in § 205.103;
(5) A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances; and
(6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.
(b) A producer may substitute a plan prepared to meet the requirements of another Federal, State, or local government regulatory program for the organic system plan: Provided, That, the submitted plan meets all the requirements of this subpart.

§ 205.202 Land requirements. Any field or farm parcel from which harvested crops are intended to be sold, labeled, or represented as “organic,” must:
(a) Have been managed in accordance with the provisions of §§ 205.203 through 205.206;
(b) Have had no prohibited substances, as listed in § 205.105, applied to it for a period of 3 years immediately preceding harvest of the crop; and
(c) Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the unintended application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management.

§ 205.203 Soil fertility and crop nutrient management practice standard.
(a) The producer must select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.
(b) The producer must manage crop nutrients and soil fertility through rotations, cover crops, and the application of plant and animal materials.
(c) The producer must manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic
organisms, heavy metals, or residues of prohibited substances. Animal and plant materials include:
(1) Raw animal manure, which must be composted unless it is:
   (i) Applied to land used for a crop not intended for human consumption;
   (ii) Incorporated into the soil not less than 120 days prior to the harvest of a product whose edible portion has
direct contact with the soil surface or soil particles; or
   (iii) Incorporated into the soil not less than 90 days prior to the harvest of a product whose edible portion
does not have direct contact with the soil surface or soil particles;
(2) Composted plant and animal materials produced though a process that:
   (i) Established an initial C:N ratio of between 25:1 and 40:1; and
   (ii) Maintained a temperature of between 131 °F and 170 °F for 3 days using an in-vessel or static aerated
pile system; or
   (iii) Maintained a temperature of between 131 °F and 170 °F for 15 days using a windrow composting
system, during which period, the materials must be turned a minimum of five times.
(3) Uncomposted plant materials.
(d) A producer may manage crop nutrients and soil fertility to maintain or improve soil organic matter content
in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic
organisms, heavy metals, or residues of prohibited substances by applying:
(1) A crop nutrient or soil amendment included on the National List of synthetic substances allowed for use in
organic crop production;
(2) A mined substance of low solubility;
(3) A mined substance of high solubility: Provided, That, the substance is used in compliance with the
conditions established on the National List of nonsynthetic materials prohibited for crop production;
(4) Ash obtained from the burning of a plant or animal material, except as prohibited in paragraph (e) of this
section: Provided, That, the material burned has not been treated or combined with a prohibited substance or
the ash is not included on the National List of nonsynthetic substances prohibited for use in organic crop
production; and
(5) A plant or animal material that has been chemically altered by a manufacturing process: Provided, That,
the material is included on the National List of synthetic substances allowed for use in organic crop
production established in § 205.601.
(e) The producer must not use:
(1) Any fertilizer or composted plant and animal material that contains a synthetic substance not included on
the National List of synthetic substances allowed for use in organic crop production;
(2) Sewage sludge (biosolids) as defined in 40 CFR part 503; and (3) Burning as a means of disposal for
crop residues produced on the operation: Except, That, burning may be used to suppress the spread of
disease or to stimulate seed germination.
§ 205.204 Seeds and planting stock practice standard.
(a) The producer must use organically grown seeds, annual seedlings, and planting stock: Except, That,
(1) Nonorganically produced, untreated seeds and planting stock may be used to produce an organic crop
when an equivalent organically produced variety is not commercially available: Except, That, organically
produced seed must be used for the production of edible sprouts;
(2) Nonorganically produced seeds and planting stock that have been treated with a substance included on
the National List of synthetic substances allowed for use in organic crop production may be used to produce
an organic crop when an equivalent organically produced or untreated variety is not commercially available;
(3) Nonorganically produced annual seedlings may be used to produce an organic crop when a temporary
variance has been granted in accordance with § 205.290(a)(2);
(4) Nonorganically produced planting stock to be used to produce a perennial crop may be sold, labeled, or
represented as organically produced only after the planting stock has been maintained under a system of
organic management for a period of no less than 1 year; and
(5) Seeds, annual seedlings, and planting stock treated with prohibited substances may be used to produce
an organic crop when the application of the materials is a requirement of Federal or State phytosanitary
regulations.
(b) [Reserved]
§ 205.205 Crop rotation practice standard.
The producer must implement a crop rotation including but not limited to sod, cover crops, green manure
crops, and catch crops that provide the following functions that are applicable to the operation:
(a) Maintain or improve soil organic matter content;
(b) Provide for pest management in annual and perennial crops;
(c) Manage deficient or excess plant nutrients; and
(d) Provide erosion control.

§ 205.206 Crop pest, weed, and disease management practice standard.

(a) The producer must use management practices to prevent crop pests, weeds, and diseases including but not limited to:

(1) Crop rotation and soil and crop nutrient management practices, as provided for in §§ 205.203 and 205.205;
(2) Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and
(3) Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases.

(b) Pest problems may be controlled through mechanical or physical methods including but not limited to:

(1) Augmentation or introduction of predators or parasites of the pest species;
(2) Development of habitat for natural enemies of pests;
(3) Nonsynthetic controls such as lures, traps, and repellents.

(c) Weed problems may be controlled through:

(1) Mulching with fully biodegradable materials;
(2) Mowing;
(3) Livestock grazing;
(4) Hand weeding and mechanical cultivation;
(5) Flame, heat, or electrical means; or
(6) Plastic or other synthetic mulches: Provided, That, they are removed from the field at the end of the growing or harvest season.

(d) Disease problems may be controlled through:

(1) Management practices which suppress the spread of disease organisms; or
(2) Application of nonsynthetic biological, botanical, or mineral inputs.

(e) When the practices provided for in paragraphs (a) through (d) of this section are insufficient to prevent or control crop pests, weeds, and diseases, a biological or botanical substance or a substance included on the National List of synthetic substances allowed for use in organic crop production may be applied to prevent, suppress, or control pests, weeds, or diseases: Provided, That, the conditions for using the substance are documented in the organic system plan.

(f) The producer must not use lumber treated with arsenate or other prohibited materials for new installations or replacement purposes in contact with soil or livestock.

§ 205.207 Wild-crop harvesting practice standard.

(a) A wild crop that is intended to be sold, labeled, or represented as organic must be harvested from a designated area that has had no prohibited substance, as set forth in § 205.105, applied to it for a period of 3 years immediately preceding the harvest of the wild crop.

(b) A wild crop must be harvested in a manner that ensures that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop.

§§ 205.208-205.235 Origin of livestock.

(a) Livestock products that are to be sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation or hatching: Except, That:

(1) Poultry. Poultry or edible poultry products must be from poultry that has been under continuous organic management beginning no later than the second day of life;
(2) Dairy animals. Milk or milk products must be from animals that have been under continuous organic management beginning no later than 1 year prior to the production of the milk or milk products that are to be sold, labeled, or represented as organic, Except,

(i) That, crops and forage from land, included in the organic system plan of a dairy farm, that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12-month period immediately prior to the sale of organic milk and milk products; and
(ii) That, when an entire, distinct herd is converted to organic production, the producer may, provided no milk produced under this subparagraph enters the stream of commerce labeled as organic after June 9, 2007: (a) For the first 9 months of the year, provide a minimum of 80-percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements; and (b) Provide feed in compliance with § 205.237 for the final 3 months.

(iii) Once an entire, distinct herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.

(3) Breeder stock. Livestock used as breeder stock may be brought from a nonorganic operation onto an organic operation at any time: Provided, That, if such livestock are gestating and the offspring are to be raised as organic livestock, the breeder stock must be brought onto the facility no later than the last third of
(b) The following are prohibited:
(1) Livestock or edible livestock products that are removed from an organic operation and subsequently managed on a nonorganic operation may not be sold, labeled, or represented as organically produced.
(2) Breeder or dairy stock that has not been under continuous organic management since the last third of gestation may not be sold, labeled, or represented as organic slaughter stock.
(c) The producer of an organic livestock operation must maintain records sufficient to preserve the identity of all organically managed animals and edible and nonedible animal products produced on the operation.

§ 205.237 Livestock feed.

(a) The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and handled by operations certified to the NOP, except as provided in § 205.236(a)(2)(i), except, that, synthetic substances allowed under § 205.603 and nonsynthetic substances not prohibited under § 205.604 may be used as feed additives and feed supplements. Provided, That, all agricultural ingredients included in the ingredients list, for such additives and supplements, shall have been produced and handled organically.
(b) The producer of an organic operation must not:
(1) Use animal drugs, including hormones, to promote growth;
(2) Provide feed supplements or additives in amounts above those needed for adequate nutrition and health maintenance for the species at its specific stage of life;
(3) Feed plastic pellets for roughage;
(4) Feed formulas containing urea or manure;
(5) Feed mammalian or poultry by-products to mammals or poultry;
(6) Use feed, feed additives, and feed supplements in violation of the Federal Food, Drug, and Cosmetic Act;
(7) Provide feed or forage to which any antibiotic including ionophores has been added; or
(8) Prevent, withhold, strain, or otherwise restrict ruminant animals from actively obtaining feed grazed from pasture during the grazing season, except for conditions as described under § 205.239(b) and (c).
(c) During the grazing season, producers shall:
(1) Provide not more than an average of 70 percent of a ruminant's dry matter demand from dry matter fed (dry matter fed does not include dry matter grazed from residual forage or vegetation rooted in pasture). This shall be calculated as an average over the entire grazing season for each type and class of animal. Ruminant animals must be grazed throughout the entire grazing season for the geographical region, which shall be not less than 120 days per calendar year. Due to weather, season, and/or climate, the grazing season may or may not be continuous.
(2) Provide pasture of a sufficient quality and quantity to graze throughout the grazing season and to provide all ruminants under the organic system plan with an average of not less than 30 percent of their dry matter intake from grazing throughout the grazing season: Except, That,
(i) Ruminant animals denied pasture in accordance with § 205.239(b)(1) through (8), and § 205.239(c)(1) through (3), shall be provided with an average of not less than 30 percent of their dry matter intake from grazing throughout the periods that they are on pasture during the grazing season;
(ii) Breeding bulls shall be exempt from the 30 percent dry matter intake from grazing requirement of this section and management on pasture requirement of § 205.239(c)(2); Provided, That, any animal maintained under this exemption shall not be sold, labeled, used, or represented as organic slaughter stock.
(d) Ruminant livestock producers shall:
(1) Describe the total feed ration for each type and class of animal. The description must include:
(i) All feed produced on-farm;
(ii) All feed purchased from off-farm sources;
(iii) The percentage of each feed type, including pasture, in the total ration; and
(iv) A list of all feed supplements and additives.
(2) Document the amount of each type of feed actually fed to each type and class of animal.
(3) Document changes that are made to all rations throughout the year in response to seasonal grazing changes.
(4) Provide the method for calculating dry matter demand and dry matter intake.

§ 205.238 Livestock health care practice standard.

(a) The producer must establish and maintain preventive livestock health care practices, including:
(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites;
(2) Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber (ruminants);

(3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites;

(4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;

(5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and

(6) Administration of vaccines and other veterinary biologics.

(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, a producer may administer synthetic medications: Provided, That, such medications are allowed under § 205.603. Parasiticides allowed under § 205.603 may be used on:

(1) Breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are to be sold, labeled, or represented as organically produced; and

(2) Dairy stock, when used a minimum of 90 days prior to the production of milk or milk products that are to be sold, labeled, or represented as organic.

(c) The producer of an organic livestock operation must not:

(1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under § 205.603, or any substance that contains a nonsynthetic substance prohibited in § 205.604.

(2) Administer any animal drug, other than vaccinations, in the absence of illness;

(3) Administer hormones for growth promotion;

(4) Administer synthetic parasiticides on a routine basis;

(5) Administer synthetic parasiticides to slaughter stock;

(6) Administer animal drugs in violation of the Federal Food, Drug, and Cosmetic Act; or

(7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. Livestock treated with a prohibited substance must be clearly identified and shall not be sold, labeled, or represented as organically produced.

§ 205.239 Livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain year-round livestock living conditions which accommodate the health and natural behavior of animals, including:

(1) Year-round access for all animals to the outdoors, shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight, suitable to the species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with §§ 205.239(b) and (c). Yards, feeding pads, and feedlots may be used to provide ruminants with access to the outdoors during the non-grazing season and supplemental feeding during the grazing season. Yards, feeding pads, and feedlots shall be large enough to allow all ruminant livestock occupying the yard, feeding pad, or feedlot to feed simultaneously without crowding and without competition for food. Continuous total confinement of any animal indoors is prohibited. Continuous total confinement of ruminants in yards, feeding pads, and feedlots is prohibited.

(2) For all ruminants, management on pasture and daily grazing throughout the grazing season(s) to meet the requirements of § 205.237, except as provided for in paragraphs (b), (c), and (d) of this section.

(3) Appropriate clean, dry bedding. When roughages are used as bedding, they shall have been organically produced in accordance with this part by an operation certified under this part, except as provided in § 205.236(a)(2)(i), and, if applicable, organically handled by operations certified to the NOP.

(b) The producer of an organic livestock operation may provide temporary confinement or shelter for an animal because of:

(1) Inclement weather;

(2) The animal's stage of life: Except, that lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this regulation;
(3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;
(4) Risk to soil or water quality;
(5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);
(6) Sorting or shipping animals and livestock sales: Provided, that, the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;
(7) Breeding: Except, that, bred animals shall not be denied access to the outdoors and, once bred, ruminants shall not be denied access to pasture during the grazing season; or
(8) 4-H, Future Farmers of America and other youth projects, for no more than one week prior to a fair or other demonstration, through the event and up to 24 hours after the animals have arrived home at the conclusion of the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event.

(c) The producer of an organic livestock operation may, in addition to the times permitted under § 205.239(b), temporarily deny a ruminant animal pasture or outdoor access under the following conditions:
(1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;
(2) In the case of newborn dairy cattle for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: Provided, That, an animal shall not be confined or tethered in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;
(3) In the case of fiber bearing animals, for short periods for shearing; and
(4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient grazing time to provide each animal with an average of at least 30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.

(d) Ruminant slaughter stock, typically grain finished, shall be maintained on pasture for each day that the finishing period corresponds with the grazing season for the geographical location: Except, that, yards, feeding pads, or feedlots may be used to provide finish feeding rations. During the finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feed lot to feed simultaneously without crowding and without competition for food. The finishing period shall not exceed one-fifth (1/5) of the animal's total life or 120 days, whichever is shorter.

(e) The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage pastures and other outdoor access areas in a manner that does not put soil or water quality at risk.

[65 FR 80637, Dec. 21, 2000, as amended at 75 FR 7193, Feb. 17, 2010]

§ 205.240 Pasture practice standard.
The producer of an organic livestock operation must, for all ruminant livestock on the operation, demonstrate through auditable records in the organic system plan, a functioning management plan for pasture.

(a) Pasture must be managed as a crop in full compliance with §§ 205.202, 205.203(d) and (e), 205.204, and 205.206(b) through (f). Land used for the production of annual crops for ruminant grazing must be managed in full compliance with §§ 205.202 through 205.206. Irrigation shall be used, as needed, to promote pasture growth when the operation has irrigation available for use on pasture.

(b) Producers must manage pasture in compliance with § 205.239(a)(2) and manage pasture to comply with the requirements of: § 205.237(c)(2), to annually provide a minimum of 30 percent of a ruminant's dry matter intake (DMI), on average, over the course of the grazing season(s); § 205.238(a)(3), to minimize the occurrence and spread of diseases and parasites; and § 205.239(e) to refrain from putting soil or water quality at risk.

(c) A pasture plan must be included in the producer's organic system plan, and be updated annually in accordance with § 205.406(a). The producer may resubmit the previous year's pasture plan when no change has occurred in the plan. The pasture plan may consist of a pasture/rangeland plan developed in cooperation with a Federal, State, or local conservation office: Provided, that, the submitted plan addresses all of the requirements of § 205.240(c)(1) through (8). When a change to an approved pasture plan is contemplated, which may affect the operation's compliance with the Act or the regulations in this part, the producer shall seek the certifying agent's agreement on the change prior to implementation. The pasture plan shall include a description of the:
(1) Types of pasture provided to ensure that the feed requirements of § 205.237 are being met.
(2) Cultural and management practices to be used to ensure pasture of a sufficient quality and quantity is available to graze throughout the grazing season and to provide all ruminants under the organic system plan, except exempted classes identified in § 205.239(c)(1) through (3), with an average of not less than 30 percent of their dry matter intake from grazing throughout the grazing season.
(3) Grazing season for the livestock operation's regional location.
(4) Location and size of pastures, including maps giving each pasture its own identification.
(5) The types of grazing methods to be used in the pasture system.
(6) Location and types of fences, except for temporary fences, and the location and source of shade and the location and source of water.
(7) Soil fertility and seeding systems.
(8) Erosion control and protection of natural wetlands and riparian areas practices.

[75 FR 7194, Feb. 17, 2010]

§ 205.270 Organic handling requirements.
(a) Mechanical or biological methods, including but not limited to cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, distilling, extracting, slaughtering, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing, and the packaging, canning, jarring, or otherwise enclosing food in a container may be used to process an organically produced agricultural product for the purpose of retarding spoilage or otherwise preparing the agricultural product for market.

(b) Nonagricultural substances allowed under § 205.605 and nonorganically produced agricultural products allowed under § 205.606 may be used:
(1) In or on a processed agricultural product intended to be sold, labeled, or represented as “organic,” pursuant to § 205.301(b), if not commercially available in organic form.
(2) In or on a processed agricultural product intended to be sold, labeled, or represented as “made with organic (specified ingredients or food group(s)),” pursuant to § 205.301(c).

(c) The handler of an organic handling operation must not use in or on agricultural products intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” or in or on any ingredients labeled as organic:

(1) Practices prohibited under paragraphs (e) and (f) of § 205.105.
(2) A volatile synthetic solvent or other synthetic processing aid not allowed under § 205.605: Except, That, nonorganic ingredients in products labeled “made with organic (specified ingredients or food group(s))” are not subject to this requirement.

§ 205.271 Facility pest management practice standard.
(a) The producer or handler of an organic facility must use management practices to prevent pests, including but not limited to:

(1) Removal of pest habitat, food sources, and breeding areas;
(2) Prevention of access to handling facilities; and
(3) Management of environmental factors, such as temperature, light, humidity, atmosphere, and air circulation, to prevent pest reproduction.

(b) Pests may be controlled through:

(1) Mechanical or physical controls including but not limited to traps, light, or sound; or
(2) Lures and repellents using nonsynthetic or synthetic substances consistent with the National List.

(c) If the practices provided for in paragraphs (a) and (b) of this section are not effective to prevent or control pests, a nonsynthetic or synthetic substance consistent with the National List may be applied.

(d) If the practices provided for in paragraphs (a), (b), and (c) of this section are not effective to prevent or control facility pests, a synthetic substance not on the National List may be applied: Provided, That, the handler and certifying agent agree on the substance, method of application, and measures to be taken to prevent contact of the organically produced products or ingredients with the substance used.

(e) The handler of an organic handling operation who applies a nonsynthetic or synthetic substance to prevent or control pests must update the operation's organic handling plan to reflect the use of such substances and methods of application. The updated organic plan must include a list of all measures taken to prevent contact of the organically produced products or ingredients with the substance used.

(f) Notwithstanding the practices provided for in paragraphs (a), (b), (c), and (d) of this section, a handler may otherwise use substances to prevent or control pests as required by Federal, State, or local laws and regulations: Provided, That, measures are taken to prevent contact of the organically produced products or ingredients with the substance used.

§ 205.272 Commingling and contact with prohibited substance prevention practice standard.
(a) The handler of an organic handling operation must implement measures necessary to prevent the
commingling of organic and nonorganic products and protect organic products from contact with prohibited substances.

(b) The following are prohibited for use in the handling of any organically produced agricultural product or ingredient labeled in accordance with subpart D of this part:

1. Packaging materials, and storage containers, or bins that contain a synthetic fungicide, preservative, or fumigant;
2. The use or reuse of any bag or container that has been in contact with any substance in such a manner as to compromise the organic integrity of any organically produced product or ingredient placed in those containers, unless such reusable bag or container has been thoroughly cleaned and poses no risk of contact of the organically produced product or ingredient with the substance used.

§ 205.290 Temporary variances.
(a) Temporary variances from the requirements in §§ 205.203 through 205.207, 205.236 through 205.240 and 205.270 through 205.272 may be established by the Administrator for the following reasons:

1. Natural disasters declared by the Secretary;
2. Damage caused by drought, wind, flood, excessive moisture, hail, tornado, earthquake, fire, or other business interruption; and
3. Practices used for the purpose of conducting research or trials of techniques, varieties, or ingredients used in organic production or handling.

(b) A State organic program’s governing State official or certifying agent may recommend in writing to the Administrator that a temporary variance from a standard set forth in subpart C of this part for organic production or handling operations be established: Provided, That, such variance is based on one or more of the reasons listed in paragraph (a) of this section.

(c) The Administrator will provide written notification to certifying agents upon establishment of a temporary variance applicable to the certifying agent’s certified production or handling operations and specify the period of time it shall remain in effect, subject to extension as the Administrator deems necessary.

(d) A certifying agent, upon notification from the Administrator of the establishment of a temporary variance, must notify each production or handling operation it certifies to which the temporary variance applies.

(e) Temporary variances will not be granted for any practice, material, or procedure prohibited under § 205.105.

[65 FR 80637, Dec. 21, 2000, as amended at 75 FR 7194, Feb. 17, 2010]

Subpart D—Labels, Labeling, and Market Information

§ 205.300 Use of the term, “organic.”
(a) The term, “organic,” may only be used on labels and in labeling of raw or processed agricultural products, including ingredients, that have been produced and handled in accordance with the regulations in this part. The term, “organic,” may not be used in a product name to modify a nonorganic ingredient in the product.

(b) Products for export, produced and certified to foreign national organic standards or foreign contract buyer requirements, may be labeled in accordance with the organic labeling requirements of the receiving country or contract buyer: Provided, That, the shipping containers and shipping documents meet the labeling requirements specified in § 205.307(c).

(c) Products produced in a foreign country and exported for sale in the United States must be certified pursuant to subpart E of this part and labeled pursuant to this subpart D.

(d) Livestock feeds produced in accordance with the requirements of this part must be labeled pursuant to subpart E of this part and labeled pursuant to this subpart D.

§ 205.301 Product composition.
(a) Products sold, labeled, or represented as “100 percent organic.” A raw or processed agricultural product sold, labeled, or represented as “100 percent organic” must contain (by weight or fluid volume, excluding water and salt) 100 percent organically produced ingredients. If labeled as organically produced, such product must be labeled pursuant to § 205.303.

(b) Products sold, labeled, or represented as “organic.” A raw or processed agricultural product sold, labeled, or represented as “organic” must contain (by weight or fluid volume, excluding water and salt) not less than 95 percent organically produced raw or processed agricultural products. Any remaining product ingredients must be organically produced, unless not commercially available in organic form, or must be nonagricultural substances or nonorganically produced agricultural products produced consistent with the National List in subpart G of this part. If labeled as organically produced, such product must be labeled pursuant to § 205.303.

(c) Products sold, labeled, or represented as “made with organic (specified ingredients or food group(s)).” Multiingredient agricultural product sold, labeled, or represented as “made with organic (specified ingredients or food group(s))” must contain (by weight or fluid volume, excluding water and salt) at least 70 percent
organically produced ingredients which are produced and handled pursuant to requirements in subpart C of this part. No ingredients may be produced using prohibited practices specified in paragraphs (f)(1), (2), and (3) of § 205.301. Nonorganic ingredients may be produced without regard to paragraphs (f)(4), (5), (6), and (7) of § 205.301. If labeled as containing organically produced ingredients or food groups, such product must be labeled pursuant to § 205.304.

(d) **Products with less than 70 percent organically produced ingredients.** The organic ingredients in multiingredient agricultural product containing less than 70 percent organically produced ingredients (by weight or fluid volume, excluding water and salt) must be produced and handled pursuant to requirements in subpart C of this part. The nonorganic ingredients may be produced and handled without regard to the requirements of this part. Multiingredient agricultural product containing less than 70 percent organically produced ingredients may represent the organic nature of the product only as provided in § 205.305.

(e) **Livestock feed.** (1) A raw or processed livestock feed product sold, labeled, or represented as “100 percent organic” must contain (by weight or fluid volume, excluding water and salt) not less than 100 percent organically produced raw or processed agricultural product.

(2) A raw or processed livestock feed product sold, labeled, or represented as “organic” must be produced in conformance with § 205.237.

(f) All products labeled as “100 percent organic” or “organic” and all ingredients identified as “organic” in the ingredient statement of any product must not:

(1) Be produced using excluded methods, pursuant to § 201.105(e) of this chapter;

(2) Be produced using sewage sludge, pursuant to § 201.105(f) of this chapter;

(3) Be processed using ionizing radiation, pursuant to § 201.105(g) of this chapter;

(4) Be processed using processing aids not approved on the National List of Allowed and Prohibited Substances in subpart G of this part: Except, That, products labeled as “100 percent organic,” if processed, must be processed using organically produced processing aids;

(5) Contain sulfites, nitrates, or nitrites added during the production or handling process, Except, that, wine containing added sulfites may be labeled “made with organic grapes”;

(6) Be produced using nonorganic ingredients when organic ingredients are available; or

(7) Include organic and nonorganic forms of the same ingredient.

### § 205.302 Calculating the percentage of organically produced ingredients.

(a) The percentage of all organically produced ingredients in an agricultural product sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” or that include organic ingredients must be calculated by:

(1) Dividing the total net weight (excluding water and salt) of combined organic ingredients at formulation by the total weight (excluding water and salt) of the finished product.

(2) Dividing the fluid volume of all organic ingredients (excluding water and salt) by the fluid volume of the finished product (excluding water and salt) if the product and ingredients are liquid. If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation should be made on the basis of single-strength concentrations of the ingredients and finished product.

(3) For products containing organically produced ingredients in both solid and liquid form, dividing the combined weight of the solid ingredients and the weight of the liquid ingredients (excluding water and salt) by the total weight (excluding water and salt) of the finished product.

(b) The percentage of all organically produced ingredients in an agricultural product must be rounded down to the nearest whole number.

(c) The percentage must be determined by the handler who affixes the label on the consumer package and verified by the certifying agent of the handler. The handler may use information provided by the certified operation in determining the percentage.

### § 205.303 Packaged products labeled “100 percent organic” or “organic.”

(a) Agricultural products in packages described in § 205.301(a) and (b) may display, on the principal display panel, information panel, and any other panel of the package and on any labeling or market information concerning the product, the following:

(1) The term, “100 percent organic” or “organic,” as applicable, to modify the name of the product;

(2) For products labeled “organic,” the percentage of organic ingredients in the product; (The size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting.)

(3) The term, “organic,” to identify the organic ingredients in multiingredient products labeled “100 percent organic”;
(4) The USDA seal; and/or
(5) The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the finished product and any other certifying agent which certified production or handling operations producing raw organic product or organic ingredients used in the finished product: Provided, That, the handler producing the finished product maintain records, pursuant to this part, verifying organic certification of the operations producing such ingredients, and: Provided further, That, such seals or marks are not individually displayed more prominently than the USDA seal.

(b) Agricultural products in packages described in § 205.301(a) and (b) must:
   (1) For products labeled “organic,” identify each organic ingredient in the ingredient statement with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.
   (2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by * * *,“ or similar phrase, identify the name of the certifying agent that certified the handler of the finished product and may display the business address, Internet address, or telephone number of the certifying agent in such label.

§ 205.304 Packaged products labeled “made with organic (specified ingredients or food group(s)).”
(a) Agricultural products in packages described in § 205.301(c) may display on the principal display panel, information panel, and any other panel and on any labeling or market information concerning the product:
   (1) The statement:
       (i) “Made with organic (specified ingredients)”: Provided, That, the statement does not list more than three organically produced ingredients; or
       (ii) “Made with organic (specified food groups)”: Provided, That, the statement does not list more than three of the following food groups: beans, fish, fruits, grains, herbs, meats, nuts, oils, poultry, seeds, spices, sweeteners, and vegetables or processed milk products; and, Provided further, That, all ingredients of each listed food group in the product must be organically produced; and
       (iii) Which appears in letters that do not exceed one-half the size of the largest type size on the panel and which appears in its entirety in the same type size, style, and color without highlighting.
   (2) The percentage of organic ingredients in the product. The size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting.
   (3) The seal, logo, or other identifying mark of the certifying agent that certified the handler of the finished product.

(b) Agricultural products in packages described in § 205.301(c) must:
   (1) In the ingredient statement, identify each organic ingredient with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.
   (2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by * * *,“ or similar phrase, identify the name of the certifying agent that certified the handler of the finished product: Except, That, the business address, Internet address, or telephone number of the certifying agent may be included in such label.

(c) Agricultural products in packages described in § 205.301(c) must not display the USDA seal.

§ 205.305 Multi-ingredient packaged products with less than 70 percent organically produced ingredients.
(a) An agricultural product with less than 70 percent organically produced ingredients may only identify the organic content of the product by:
   (1) Identifying each organically produced ingredient in the ingredient statement with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced, and
   (2) If the organically produced ingredients are identified in the ingredient statement, displaying the product’s percentage of organic contents on the information panel.
(b) Agricultural products with less than 70 percent organically produced ingredients must not display:
   (1) The USDA seal; and
   (2) Any certifying agent seal, logo, or other identifying mark which represents organic certification of a product or product ingredients.

§ 205.306 Labeling of livestock feed.
(a) Livestock feed products described in § 205.301(e)(1) and (e)(2) may display on any package panel the following terms:
(1) The statement, “100 percent organic” or “organic,” as applicable, to modify the name of the feed product; 
(2) The USDA seal;
(3) The seal, logo, or other identifying mark of the certifying agent which certified the production or handling 
operation producing the raw or processed organic ingredients used in the finished product, Provided, That, 
such seals or marks are not displayed more prominently than the USDA seal;
(4) The word, “organic,” or an asterisk or other reference mark which is defined on the package to identify 
ingredients that are organically produced. Water or salt included as ingredients cannot be identified as 
organic.

(b) Livestock feed products described in § 205.301(e)(1) and (e)(2) must:
(1) On the information panel, below the information identifying the handler or distributor of the product and 
preceded by the statement, “Certified organic by * * *,” or similar phrase, display the name of the certifying 
agent that certified the handler of the finished product. The business address, Internet address, or telephone 
number of the certifying agent may be included in such label.
(2) Comply with other Federal agency or State feed labeling requirements as applicable.

§ 205.307 Labeling of nonretail containers used for only shipping or storage of raw or processed 
agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified 
ingredients or food group(s)).”
(a) Nonretail containers used only to ship or store raw or processed agricultural product labeled as containing 
organic ingredients may display the following terms or marks:
(1) The name and contact information of the certifying agent which certified the handler which assembled the 
final product;
(2) Identification of the product as organic;
(3) Special handling instructions needed to maintain the organic integrity of the product;
(4) The USDA seal;
(5) The seal, logo, or other identifying mark of the certifying agent that certified the organic production or 
handling operation that produced or handled the finished product.
(b) Nonretail containers used to ship or store raw or processed agricultural product labeled as containing 
organic ingredients must display the production lot number of the product if applicable.
(c) Shipping containers of domestically produced product labeled as organic intended for export to 
international markets may be labeled in accordance with any shipping container labeling requirements of the 
foreign country of destination or the container labeling specifications of a foreign contract buyer: Provided, 
That, the shipping containers and shipping documents accompanying such organic products are clearly 
marked “For Export Only” and: Provided further, That, proof of such container marking and export must be 
maintained by the handler in accordance with recordkeeping requirements for exempt and excluded 
operations under § 205.101.

§ 205.308 Agricultural products in other than packaged form at the point of retail sale that are sold, 
labeled, or represented as “100 percent organic” or “organic.”
(a) Agricultural products in other than packaged form may use the term, “100 percent organic” or “organic,” 
as applicable, to modify the name of the product in retail display, labeling, and display containers: Provided, 
That, the term, “organic,” is used to identify the organic ingredients listed in the ingredient statement.
(b) If the product is prepared in a certified facility, the retail display, labeling, and display containers may use:
(1) The USDA seal; and
(2) The seal, logo, or other identifying mark of the certifying agent that certified the production or handling 
operation producing the finished product and any other certifying agent which certified operations producing 
raw organic product or organic ingredients used in the finished product: Provided, That, such seals or marks 
are not individually displayed more prominently than the USDA seal.

§ 205.309 Agricultural products in other than packaged form at the point of retail sale that are sold, 
labeled, or represented as “made with organic (specified ingredients or food group(s)).”
(a) Agricultural products in other than packaged form containing between 70 and 95 percent organically 
produced ingredients may use the phrase, “made with organic (specified ingredients or food group(s)),” to 
modify the name of the product in retail display, labeling, and display containers.
(1) Such statement must not list more than three organic ingredients or food groups, and
(2) In any such display of the product's ingredient statement, the organic ingredients are identified as 
“organic.”
(b) If prepared in a certified facility, such agricultural products labeled as “made with organic (specified 
ingredients or food group(s))” in retail displays, display containers, and market information may display the 
certifying agent's seal, logo, or other identifying mark.

§ 205.310 Agricultural products produced on an exempt or excluded operation.
(a) An agricultural product organically produced or handled on an exempt or excluded operation must not:
   (1) Display the USDA seal or any certifying agent's seal or other identifying mark which represents the exempt or excluded operation as a certified organic operation, or
   (2) Be represented as a certified organic product or certified organic ingredient to any buyer.
(b) An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multicomponent product produced by the exempt or excluded operation. Such product or ingredient must not be identified or represented as “organic” in a product processed by others.
(c) Such product is subject to requirements specified in paragraph (a) of § 205.300, and paragraphs (f)(1) through (f)(7) of § 205.301.

§ 205.311 USDA Seal.

(a) The USDA seal described in paragraphs (b) and (c) of this section may be used only for raw or processed agricultural products described in paragraphs (a), (b), (e)(1), and (e)(2) of § 205.301.
(b) The USDA seal must replicate the form and design of the example in figure 1 and must be printed legibly and conspicuously:
   (1) On a white background with a brown outer circle and with the term, “USDA,” in green overlaying a white upper semicircle and with the term, “organic,” in white overlaying the green lower half circle; or
   (2) On a white or transparent background with black outer circle and black “USDA” on a white or transparent upper half of the circle with a contrasting white or transparent “organic” on the black lower half circle.
   (3) The green or black lower half circle may have four light lines running from left to right and disappearing at the point on the right horizon to resemble a cultivated field.

Subpart E—Certification

§ 205.400 General requirements for certification.

A person seeking to receive or maintain organic certification under the regulations in this part must:
(a) Comply with the Act and applicable organic production and handling regulations of this part;
(b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in § 205.200;
(c) Permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas, structures, and offices by the certifying agent as provided for in § 205.403;
(d) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow authorized representatives of the Secretary, the applicable State organic program's governing State official, and the certifying agent access to such records during normal business hours for review and copying to determine compliance with the Act and the regulations in this part, as provided for in § 205.104;
(e) Submit the applicable fees charged by the certifying agent; and
(f) Immediately notify the certifying agent concerning any:
   (1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and
   (2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.

§ 205.401 Application for certification.

A person seeking certification of a production or handling operation under this subpart must submit an application for certification to a certifying agent. The application must include the following information:
(a) An organic production or handling system plan, as required in § 205.200;
(b) The name of the person completing the application; the applicant's business name, address, and telephone number; and, when the applicant is a corporation, the name, address, and telephone number of the person authorized to act on the applicant's behalf;
(c) The name(s) of any organic certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, when available, a copy of any notification of noncompliance or denial of certification issued to the applicant for certification; and a description of the actions taken by the applicant to correct the noncompliances noted in the notification of noncompliance, including evidence of such correction; and
(d) Other information necessary to determine compliance with the Act and the regulations in this part.

§ 205.402 Review of application.
(a) Upon acceptance of an application for certification, a certifying agent must:
   (1) Review the application to ensure completeness pursuant to § 205.401;
   (2) Determine by a review of the application materials whether the applicant appears to comply or may be
able to comply with the applicable requirements of subpart C of this part;
(3) Verify that an applicant who previously applied to another certifying agent and received a notification of noncompliance or denial of certification, pursuant to § 205.405, has submitted documentation to support the correction of any noncompliances identified in the notification of noncompliance or denial of certification, as required in § 205.405(e); and
(4) Schedule an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals that the production or handling operation may be in compliance with the applicable requirements of subpart C of this part.
(b) The certifying agent shall within a reasonable time:
(1) Review the application materials received and communicate its findings to the applicant;
(2) Provide the applicant with a copy of the on-site inspection report, as approved by the certifying agent, for any on-site inspection performed; and
(3) Provide the applicant with a copy of the test results for any samples taken by an inspector.
(c) The applicant may withdraw its application at any time. An applicant who withdraws its application shall be liable for the costs of services provided up to the time of withdrawal of its application. An applicant that voluntarily withdrew its application prior to the issuance of a notice of noncompliance will not be issued a notice of noncompliance. Similarly, an applicant that voluntarily withdrew its application prior to the issuance of a notice of certification denial will not be issued a notice of certification denial.
§ 205.403 On-site inspections.
(a) On-site inspections. (1) A certifying agent must conduct an initial on-site inspection of each production unit, facility, and site that produces or handles organic products and that is included in an operation for which certification is requested. An on-site inspection shall be conducted annually thereafter for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue.
(2) (i) A certifying agent may conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with the Act and the regulations in this part.
(ii) The Administrator or State organic program’s governing State official may require that additional inspections be performed by the certifying agent for the purpose of determining compliance with the Act and the regulations in this part.
(iii) Additional inspections may be announced or unannounced at the discretion of the certifying agent or as required by the Administrator or State organic program's governing State official.
(b) Scheduling. (1) The initial on-site inspection must be conducted within a reasonable time following a determination that the applicant appears to comply or may be able to comply with the requirements of subpart C of this part: Except, That, the initial inspection may be delayed for up to 6 months to comply with the requirement that the inspection be conducted when the land, facilities, and activities that demonstrate compliance or capacity to comply can be observed.
(2) All on-site inspections must be conducted when an authorized representative of the operation who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable provisions of subpart C of this part can be observed, except that this requirement does not apply to unannounced on-site inspections.
(c) Verification of information. The on-site inspection of an operation must verify:
(1) The operation's compliance or capability to comply with the Act and the regulations in this part;
(2) That the information, including the organic production or handling system plan, provided in accordance with §§ 205.401, 205.406, and 205.200, accurately reflects the practices used or to be used by the applicant for certification or by the certified operation;
(3) That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the certifying agent, may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples.
(d) Exit interview. The inspector must conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector must also address the need for any additional information as well as any issues of concern.
(e) Documents to the inspected operation. (1) At the time of the inspection, the inspector shall provide the operation's authorized representative with a receipt for any samples taken by the inspector. There shall be no charge to the inspector for the samples taken.
(2) A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent.
§ 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.

§ 205.405 Denial of certification.
(a) When the certifying agent has reason to believe, based on a review of the information specified in § 205.402 or § 205.404, that an applicant for certification is not able to comply or is not in compliance with the requirements of this part, the certifying agent must provide a written notification of noncompliance to the applicant. When correction of a noncompliance is not possible, a notification of noncompliance and a notification of denial of certification may be combined in one notification. The notification of noncompliance shall provide:
(1) A description of each noncompliance;
(2) The facts upon which the notification of noncompliance is based; and
(3) The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.
(b) Upon receipt of such notification of noncompliance, the applicant may:
(1) Correct noncompliances and submit a description of the corrective actions taken with supporting documentation to the certifying agent;
(2) Correct noncompliances and submit a new application to another certifying agent: Provided, That, the applicant must include a complete application, the notification of noncompliance received from the first certifying agent, and a description of the corrective actions taken with supporting documentation; or
(3) Submit written information to the issuing certifying agent to rebut the noncompliance described in the notification of noncompliance.
(c) After issuance of a notification of noncompliance, the certifying agent must:
(1) Evaluate the applicant's corrective actions taken and supporting documentation submitted or the written rebuttal, conduct an on-site inspection if necessary, and
(i) When the corrective action or rebuttal is sufficient for the applicant to qualify for certification, issue the applicant an approval of certification pursuant to § 205.404; or
(ii) When the corrective action or rebuttal is not sufficient for the applicant to qualify for certification, issue the applicant a written notice of denial of certification.
(2) Issue a written notice of denial of certification to an applicant who fails to respond to the notification of noncompliance.
(3) Provide notice of approval or denial to the Administrator, pursuant to § 205.501(a)(14).
(d) A notice of denial of certification must state the reason(s) for denial and the applicant's right to:
(1) Reapply for certification pursuant to §§ 205.401 and 205.405(e);
(2) Request mediation pursuant to § 205.663 or, if applicable, pursuant to a State organic program; or
(3) File an appeal of the denial of certification pursuant to § 205.681 or, if applicable, pursuant to a State organic program.
(e) An applicant for certification who has received a written notification of noncompliance or a written notice of denial of certification may apply for certification again at any time with any certifying agent, in accordance with §§ 205.401 and 205.405(e). When such applicant submits a new application to a certifying agent other than the agent who issued the notification of noncompliance or notice of denial of certification, the applicant for certification must include a copy of the notification of noncompliance or notice of denial of certification and a description of the actions taken, with supporting documentation, to correct the noncompliances noted in the notification of noncompliance.
(f) A certifying agent who receives a new application for certification, which includes a notification of noncompliance or a notice of denial of certification, must treat the application as a new application and begin a new application process pursuant to § 205.402.

(g) Notwithstanding paragraph (a) of this section, if a certifying agent has reason to believe that an applicant for certification has willfully made a false statement or otherwise purposefully misrepresented the applicant's operation or its compliance with the certification requirements pursuant to this part, the certifying agent may deny certification pursuant to paragraph (c)(1)(ii) of this section without first issuing a notification of noncompliance.

§ 205.406 Continuation of certification.
(a) To continue certification, a certified operation must annually pay the certification fees and submit the following information, as applicable, to the certifying agent:

1. An updated organic production or handling system plan which includes:
   i. A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year; and
   ii. Any additions or deletions to the previous year's organic system plan, intended to be undertaken in the coming year, detailed pursuant to § 205.200;

2. Any additions to or deletions from the information required pursuant to § 205.401(b);

3. An update on the correction of minor noncompliances previously identified by the certifying agent as requiring correction for continued certification; and

4. Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.

(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.

(c) If the certifying agent has reason to believe, based on the on-site inspection and a review of the information specified in § 205.404, that a certified operation is not complying with the requirements of the Act and the regulations in this part, the certifying agent shall provide a written notification of noncompliance to the operation in accordance with § 205.662.

(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).

Subpart F—Accreditation of Certifying Agents
§ 205.500 Areas and duration of accreditation.
(a) The Administrator shall accredit a qualified domestic or foreign applicant in the areas of crops, livestock, wild crops, or handling or any combination thereof to certify a domestic or foreign production or handling operation as a certified operation.

(b) Accreditation shall be for a period of 5 years from the date of approval of accreditation pursuant to § 205.506.

(c) In lieu of accreditation under paragraph (a) of this section, USDA will accept a foreign certifying agent's accreditation to certify organic production or handling operations if:

1. USDA determines, upon the request of a foreign government, that the standards under which the foreign government authority accredited the foreign certifying agent meet the requirements of this part; or

2. The foreign government authority that accredited the foreign certifying agent acted under an equivalency agreement negotiated between the United States and the foreign government.

§ 205.501 General requirements for accreditation.
(a) A private or governmental entity accredited as a certifying agent under this subpart must:

1. Have sufficient expertise in organic production or handling techniques to fully comply with and implement the terms and conditions of the organic certification program established under the Act and the regulations in this part;

2. Demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart;

3. Carry out the provisions of the Act and the regulations in this part, including the provisions of §§ 205.402 through 205.406 and § 205.670;
(4) Use a sufficient number of adequately trained personnel, including inspectors and certification review personnel, to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part; 
(5) Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned. 
(6) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services; 
(7) Have an annual program review of its certification activities conducted by the certifying agent's staff, an outside auditor, or a consultant who has expertise to conduct such reviews and implement measures to correct any noncompliances with the Act and the regulations in this part that are identified in the evaluation; 
(8) Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Act and the regulations in this part; 
(9) Maintain all records pursuant to § 205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official; 
(10) Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (with the exception of the Secretary or the applicable State organic program's governing State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations in this part, except as provided for in § 205.504(b)(5); 
(11) Prevent conflicts of interest by: 
(i) Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification; 
(ii) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification; 
(iii) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected: Except, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a comparable recognition of not-for-profit status from its government, may accept voluntary labor from certified operations; 
(iv) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification; 
(v) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and 
(vi) Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection. 
(12)(i) Reconsider a certified operation's application for certification and, if necessary, perform a new on-site inspection when it is determined, within 12 months of certifying the operation, that any person participating in the certification process and covered under § 205.501(a)(11)(ii) has or had a conflict of interest involving the applicant. All costs associated with a reconsideration of application, including onsite inspection costs, shall be borne by the certifying agent. 
(ii) Refer a certified operation to a different accredited certifying agent for recertification and reimburse the operation for the cost of the recertification when it is determined that any person covered under § 205.501(a)(11)(i) at the time of certification of the applicant had a conflict of interest involving the applicant. 
(13) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to § 205.500; 
(14) Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced; 
(15) Submit to the Administrator a copy of:
(i) Any notice of denial of certification issued pursuant to § 205.405, notification of noncompliance, notification of noncompliance correction, notification of proposed suspension or revocation, and notification of suspension or revocation sent pursuant to § 205.662 simultaneously with its issuance; and
(ii) A list, on January 2 of each year, including the name, address, and telephone number of each operation granted certification during the preceding year;
(16) Charge applicants for certification and certified production and handling operations only those fees and charges for certification activities that it has filed with the Administrator;
(17) Pay and submit fees to AMS in accordance with § 205.640;
(18) Provide the inspector, prior to each on-site inspection, with previous on-site inspection reports and notify the inspector of its decision regarding certification of the production or handling operation site inspected by the inspector and of any requirements for the correction of minor noncompliances;
(19) Accept all production or handling applications that fall within its area(s) of accreditation and certify all qualified applicants, to the extent of its administrative capacity to do so without regard to size or membership in any association or group; and
(20) Demonstrate its ability to comply with a State's organic program to certify organic production or handling operations within the State.
(21) Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.

(b) A private or governmental entity accredited as a certifying agent under this subpart may establish a seal, logo, or other identifying mark to be used by production and handling operations certified by the certifying agent to indicate affiliation with the certifying agent: Provided, That, the certifying agent:
(1) Does not require use of its seal, logo, or other identifying mark on any product sold, labeled, or represented as organically produced as a condition of certification and
(2) Does not require compliance with any production or handling practices other than those provided for in the Act and the regulations in this part as a condition of use of its identifying mark: Provided, That, certifying agents certifying production or handling operations within a State with more restrictive requirements, approved by the Secretary, shall require compliance with such requirements as a condition of use of their identifying mark by such operations.

(c) A private entity accredited as a certifying agent must:
(1) Hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of the Act and the regulations in this part;
(2) Furnish reasonable security, in an amount and according to such terms as the Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the Act and the regulations in this part; and
(3) Transfer to the Administrator and make available to any applicable State organic program's governing State official all records or copies of records concerning the person's certification activities in the event that the certifying agent dissolves or loses its accreditation; Provided, That, such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.

(d) No private or governmental entity accredited as a certifying agent under this subpart shall exclude from participation in or deny the benefits of the National Organic Program to any person due to discrimination because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status.

§ 205.502 Applying for accreditation.
(a) A private or governmental entity seeking accreditation as a certifying agent under this subpart must submit an application for accreditation which contains the applicable information and documents set forth in §§ 205.503 through 205.505 and the fees required in § 205.640 to: Program Manager, USDA-AMS-TMP-NOP, Room 2945—South Building, P.O. Box 96456, Washington, DC 20090-6456.
(b) Following the receipt of the information and documents, the Administrator will determine, pursuant to § 205.506, whether the applicant for accreditation should be accredited as a certifying agent.

§ 205.503 Applicant information.
A private or governmental entity seeking accreditation as a certifying agent must submit the following information:
(a) The business name, primary office location, mailing address, name of the person(s) responsible for the certifying agent's day-to-day operations, contact numbers (telephone, facsimile, and Internet address) of the applicant, and, for an applicant who is a private person, the entity's taxpayer identification number;
(b) The name, office location, mailing address, and contact numbers (telephone, facsimile, and Internet address) for each of its organizational units, such as chapters or subsidiary offices, and the name of a contact person for each unit;
(c) Each area of operation (crops, wild crops, livestock, or handling) for which accreditation is requested and the estimated number of each type of operation anticipated to be certified annually by the applicant along with a copy of the applicant's schedule of fees for all services to be provided under these regulations by the applicant;
(d) The type of entity the applicant is (e.g., government agricultural office, for-profit business, not-for-profit membership association) and for:
   (1) A governmental entity, a copy of the official's authority to conduct certification activities under the Act and the regulations in this part,
   (2) A private entity, documentation showing the entity's status and organizational purpose, such as articles of incorporation and by-laws or ownership or membership provisions, and its date of establishment;
   (e) A list of each State or foreign country in which the applicant currently certifies production and handling operations and a list of each State or foreign country in which the applicant intends to certify production or handling operations.

§ 205.504 Evidence of expertise and ability.
A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques; its ability to fully comply with and implement the organic certification program established in §§ 205.100 and 205.101, §§ 205.201 through 205.203, §§ 205.300 through 205.303, §§ 205.400 through 205.406, and §§ 205.661 and 205.662; and its ability to comply with the requirements for accreditation set forth in § 205.501:
(a) **Personnel.** (1) A copy of the applicant's policies and procedures for training, evaluating, and supervising personnel;
   (2) The name and position description of all personnel to be used in the certification operation, including administrative staff, certification inspectors, members of any certification review and evaluation committees, contractors, and all parties responsibly connected to the certifying agent;
   (3) A description of the qualifications, including experience, training, and education in agriculture, organic production, and organic handling, for:
      (i) Each inspector to be used by the applicant and
      (ii) Each person to be designated by the applicant to review or evaluate applications for certification; and
   (4) A description of any training that the applicant has provided or intends to provide to personnel to ensure that they comply with and implement the requirements of the Act and the regulations in this part.
(b) **Administrative policies and procedures.** (1) A copy of the procedures to be used to evaluate certification applicants, make certification decisions, and issue certification certificates;
   (2) A copy of the procedures to be used for reviewing and investigating certified operation compliance with the Act and the regulations in this part and the reporting of violations of the Act and the regulations in this part to the Administrator;
   (3) A copy of the procedures to be used for complying with the recordkeeping requirements set forth in § 205.501(a)(9);
   (4) A copy of the procedures to be used for maintaining the confidentiality of any business-related information as set forth in § 205.501(a)(10);
   (5) A copy of the procedures to be used, including any fees to be assessed, for making the following information available to any member of the public upon request:
      (i) Certification certificates issued during the current and 3 preceding calendar years;
      (ii) A list of producers and handlers whose operations it has certified, including for each the name of the operation, type(s) of operation, products produced, and the effective date of the certification, during the current and 3 preceding calendar years;
      (iii) The results of laboratory analyses for residues of pesticides and other prohibited substances conducted during the current and 3 preceding calendar years; and
      (iv) Other business information as permitted in writing by the producer or handler; and
   (6) A copy of the procedures to be used for sampling and residue testing pursuant to § 205.670.
(c) **Conflicts of interest.** (1) A copy of procedures intended to be implemented to prevent the occurrence of conflicts of interest, as described in § 205.501(a)(11).
   (2) For all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent, a conflict of interest disclosure report, identifying any food- or agriculture-related business interests, including business interests of immediate family members, that cause a conflict of interest.
(d) **Current certification activities.** An applicant who currently certifies production or handling operations must submit: (1) A list of all production and handling operations currently certified by the applicant;
(2) Copies of at least 3 different inspection reports and certification evaluation documents for production or handling operations certified by the applicant during the previous year for each area of operation for which accreditation is requested; and
(3) The results of any accreditation process of the applicant's operation by an accrediting body during the previous year for the purpose of evaluating its certification activities.
(e) Other information. Any other information the applicant believes may assist in the Administrator's evaluation of the applicant's expertise and ability.

§ 205.505 Statement of agreement.
(a) A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including:
(1) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to § 205.500;
(2) Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced;
(3) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services;
(4) Have an annual internal program review conducted of its certification activities by certifying agent staff, an outside auditor, or a consultant who has the expertise to conduct such reviews and implement measures to correct any noncompliances with the Act and the regulations in this part;
(5) Pay and submit fees to AMS in accordance with § 205.640; and
(6) Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.
(b) A private entity seeking accreditation as a certifying agent under this subpart must additionally agree to:
(1) Hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of the Act and the regulations in this part;
(2) Furnish reasonable security, in an amount and according to such terms as the Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the Act and the regulations in this part; and
(3) Transfer to the Administrator and make available to the applicable State organic program's governing State official all records or copies of records concerning the certifying agent's certification activities in the event that the certifying agent dissolves or loses its accreditation; Provided, That such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.

§ 205.506 Granting accreditation.
(a) Accreditation will be granted when:
(1) The accreditation applicant has submitted the information required by §§ 205.503 through 205.505;
(2) The accreditation applicant pays the required fee in accordance with § 205.640(c); and
(3) The Administrator determines that the applicant for accreditation meets the requirements for accreditation as stated in § 205.501, as determined by a review of the information submitted in accordance with §§ 205.503 through 205.505 and, if necessary, a review of the information obtained from a site evaluation as provided for in § 205.508.
(b) On making a determination to approve an application for accreditation, the Administrator will notify the applicant of the granting of accreditation in writing, stating:
(1) The area(s) for which accreditation is given;
(2) The effective date of the accreditation;
(3) Any terms and conditions for the correction of minor noncompliances; and
(4) For a certifying agent who is a private entity, the amount and type of security that must be established to protect the rights of production and handling operations certified by such certifying agent.
(c) The accreditation of a certifying agent shall continue in effect until such time as the certifying agent fails to renew accreditation as provided in § 205.510(c), the certifying agent voluntarily ceases its certification activities, or accreditation is suspended or revoked pursuant to § 205.665.

§ 205.507 Denial of accreditation.
(a) If the Program Manager has reason to believe, based on a review of the information specified in §§ 205.503 through 205.505 or after a site evaluation as specified in § 205.508, that an applicant for accreditation is not able to comply or is not in compliance with the requirements of the Act and the
regulations in this part, the Program Manager shall provide a written notification of noncompliance to the applicant. Such notification shall provide:

(1) A description of each noncompliance;
(2) The facts upon which the notification of noncompliance is based; and
(3) The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(b) When each noncompliance has been resolved, the Program Manager will send the applicant a written notification of noncompliance resolution and proceed with further processing of the application.

(c) If an applicant fails to correct the noncompliances, fails to report the corrections by the date specified in the notification of noncompliance, or is unsuccessful in its rebuttal, the Program Manager will provide the applicant with written notification of accreditation denial. An applicant who has received written notification of accreditation denial may apply for accreditation again at any time in accordance with § 205.502, or appeal the denial of accreditation in accordance with § 205.681 by the date specified in the notification of accreditation denial.

(d) If the certifying agent was accredited prior to the site evaluation and the certifying agent fails to correct the noncompliances, fails to report the corrections by the date specified in the notification of noncompliance, or fails to file a rebuttal of the notification of noncompliance by the date specified, the Administrator will begin proceedings to suspend or revoke the certifying agent's accreditation. A certifying agent who has had its accreditation suspended may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its accreditation. 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. A certifying agent whose accreditation is revoked will be ineligible for accreditation for a period of not less than 3 years following the date of such determination.

§ 205.508 Site evaluations.

(a) Site evaluations of accredited certifying agents shall be conducted for the purpose of examining the certifying agent's operations and evaluating its compliance with the Act and the regulations of this part. Site evaluations shall include an on-site review of the certifying agent's certification procedures, decisions, facilities, administrative and management systems, and production or handling operations certified by the certifying agent. Site evaluations shall be conducted by a representative(s) of the Administrator.

(b) An initial site evaluation of an accreditation applicant shall be conducted before or within a reasonable period of time after issuance of the applicant's "notification of accreditation." A site evaluation shall be conducted after application for renewal of accreditation but prior to the issuance of a notice of renewal of accreditation. One or more site evaluations will be conducted during the period of accreditation to determine whether an accredited certifying agent is complying with the general requirements set forth in § 205.501.

§ 205.509 Peer review panel.

The Administrator shall establish a peer review panel pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 et seq.). The peer review panel shall be composed of not less than 3 members who shall annually evaluate the National Organic Program's adherence to the accreditation procedures in this subpart F and ISO/IEC Guide 61, General requirements for assessment and accreditation of certification/registration bodies, and the National Organic Program's accreditation decisions. This shall be accomplished through the review of accreditation procedures, document review and site evaluation reports, and accreditation decision documents or documentation. The peer review panel shall report its findings, in writing, to the National Organic Program's Program Manager.

§ 205.510 Annual report, recordkeeping, and renewal of accreditation.

(a) Annual report and fees. An accredited certifying agent must submit annually to the Administrator, on or before the anniversary date of the issuance of the notification of accreditation, the following reports and fees:

(1) A complete and accurate update of information submitted pursuant to §§ 205.503 and 205.504;
(2) Information supporting any changes being requested in the areas of accreditation described in § 205.500;
(3) A description of the measures implemented in the previous year and any measures to be implemented in the coming year to satisfy any terms and conditions determined by the Administrator to be necessary, as specified in the most recent notification of accreditation or notice of renewal of accreditation;
(4) The results of the most recent performance evaluations and annual program review and a description of adjustments to the certifying agent's operation and procedures implemented or to be implemented in response to the performance evaluations and program review; and
(5) The fees required in § 205.640(a).

(b) Recordkeeping. Certifying agents must maintain records according to the following schedule:

(1) Records obtained from applicants for certification and certified operations must be maintained for not less
than 5 years beyond their receipt;
(2) Records created by the certifying agent regarding applicants for certification and certified operations must be maintained for not less than 10 years beyond their creation; and
(3) Records created or received by the certifying agent pursuant to the accreditation requirements of this subpart F, excluding any records covered by §§ 205.510(b)(2), must be maintained for not less than 5 years beyond their creation or receipt.
(c) **Renewal of accreditation.** (1) The Administrator shall send the accredited certifying agent a notice of pending expiration of accreditation approximately 1 year prior to the scheduled date of expiration.
(2) An accredited certifying agent's application for accreditation renewal must be received at least 6 months prior to the fifth anniversary of issuance of the notification of accreditation and each subsequent renewal of accreditation. The accreditation of certifying agents who make timely application for renewal of accreditation will not expire during the renewal process. The accreditation of certifying agents who fail to make timely application for renewal of accreditation will expire as scheduled unless renewed prior to the scheduled expiration date. Certifying agents with an expired accreditation must not perform certification activities under the Act and the regulations of this part.
(3) Following receipt of the information submitted by the certifying agent in accordance with paragraph (a) of this section and the results of a site evaluation, the Administrator will determine whether the certifying agent remains in compliance with the Act and the regulations of this part and should have its accreditation renewed.
(d) **Notice of renewal of accreditation.** Upon a determination that the certifying agent is in compliance with the Act and the regulations of this part, the Administrator will issue a notice of renewal of accreditation. The notice of renewal will specify any terms and conditions that must be addressed by the certifying agent and the time within which those terms and conditions must be satisfied.
(e) **Noncompliance.** Upon a determination that the certifying agent is not in compliance with the Act and the regulations of this part, the Administrator will initiate proceedings to suspend or revoke the certifying agent's accreditation.
(f) **Amending accreditation.** Amendment to scope of an accreditation may be requested at any time. The application for amendment shall be sent to the Administrator and shall contain information applicable to the requested change in accreditation, a complete and accurate update of the information submitted pursuant to §§ 205.503 and 205.504, and the applicable fees required in § 205.640.

**Subpart G — Administrative**

**The National List of Allowed and Prohibited Substances**

§ 205.600 **Evaluation criteria for allowed and prohibited substances, methods, and ingredients.** The following criteria will be utilized in the evaluation of substances or ingredients for the organic production and handling sections of the National List:
(a) Synthetic and nonsynthetic substances considered for inclusion on or deletion from the National List of allowed and prohibited substances will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).
(b) In addition to the criteria set forth in the Act, any synthetic substance used as a processing aid or adjuvant will be evaluated against the following criteria:
(1) The substance cannot be produced from a natural source and there are no organic substitutes;
(2) The substance's manufacture, use, and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling;
(3) The nutritional quality of the food is maintained when the substance is used, and the substance, itself, or its breakdown products do not have an adverse effect on human health as defined by applicable Federal regulations;
(4) The substance's primary use is not as a preservative or to recreate or improve flavors, colors, textures, or nutritive value lost during processing, except where the replacement of nutrients is required by law;
(5) The substance is listed as generally recognized as safe (GRAS) by Food and Drug Administration (FDA) when used in accordance with FDA's good manufacturing practices (GMP) and contains no residues of heavy metals or other contaminants in excess of tolerances set by FDA; and
(6) The substance is essential for the handling of organically produced agricultural products.
(c) Nonsynthetics used in organic processing will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).

§ 205.601 **Synthetic substances allowed for use in organic crop production.** In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production: Provided, That, use of such substances do not contribute to contamination of crops, soil, or water. Substances allowed by this section, except disinfectants and sanitizers in paragraph (a) and
those substances in paragraphs (c), (j), (k), and (l) of this section, may only be used when the provisions set forth in § 205.206(a) through (d) prove insufficient to prevent or control the target pest.

(a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems.

(1) Alcohols.

(i) Ethanol.

(ii) Isopropanol.

(2) Chlorine materials—Except, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

(3) Copper sulfate—for use as an algicide in aquatic rice systems, is limited to one application per field during any 24-month period. Application rates are limited to those which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.

(4) Hydrogen peroxide.

(5) Ozone gas—for use as an irrigation system cleaner only.

(6) Peracetic acid—for use in disinfecting equipment, seed, and asexually propagated planting material.

(7) Soap-based algicide/demossers.

(8) Sodium carbonate peroxyhydrate (CAS #-15630-89-4)—Federal law restricts the use of this substance in food crop production to approved food uses identified on the product label.

(b) As herbicides, weed barriers, as applicable.

(1) Herbicides, soap-based—for use in farmstead maintenance (roadways, ditches, right of ways, building perimeters) and ornamental crops.

(2) Mulches.

(i) Newspaper or other recycled paper, without glossy or colored inks.

(ii) Plastic mulch and covers (petroleum-based other than polyvinyl chloride (PVC)).

(c) As compost feedstocks—Newspaper or other recycled paper, without glossy or colored inks.

(d) As animal repellents—Soaps, ammonium—for use as a large animal repellent only, no contact with soil or edible portion of crop.

(e) As insecticides (including acaricides or mite control).

(1) Ammonium carbonate—for use as bait in insect traps only, no direct contact with crop or soil.

(2) Aqueous potassium silicate (CAS #-1312-76-1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.

(3) Boric acid—structural pest control, no direct contact with organic food or crops.

(4) Copper sulfate—for use as tadpole shrimp control in aquatic rice production, is limited to one application per field during any 24-month period. Application rates are limited to levels which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.

(f) As insect management. Pheromones.

(1) Sulfur dioxide—underground rodent control only (smoke bombs).

(2) Vitamin D3.

(g) As rodenticides.

(1) Sulfur dioxide—underground rodent control only (smoke bombs).

(2) Vitamin D3.

(h) As slug or snail bait. Ferric phosphate (CAS # 10045-86-0).

(i) As plant disease control.

(1) Aqueous potassium silicate (CAS #-1312-76-1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.

(2) Coppers, fixed—copper hydroxide, copper oxide, copper oxychloride, includes products exempted from EPA tolerance, Provided, That, copper-based materials must be used in a manner that minimizes accumulation in the soil and shall not be used as herbicides.

(3) Copper sulfate—Substance must be used in a manner that minimizes accumulation of copper in the soil.

(4) Hydrated lime.

(5) Hydrogen peroxide.

(6) Lime sulfur.
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(7) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.
(8) Peracetic acid—for use to control fire blight bacteria.
(9) Potassium bicarbonate.
(10) Elemental sulfur.
(11) Streptomycin, for fire blight control in apples and pears only.
(12) Tetracycline, for fire blight control only and for use only until October 21, 2012.
(j) As plant or soil amendments.
(1) Aquatic plant extracts (other than hydrolyzed)—Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount used is limited to that amount necessary for extraction.
(2) Elemental sulfur.
(3) Humic acids—naturally occurring deposits, water and alkali extracts only.
(4) Lignin sulfonate—chelating agent, dust suppressant, floatation agent.
(5) Magnesium sulfate—allowed with a documented soil deficiency.
(6) Micronutrients—not to be used as a defoliant, herbicide, or desiccant. Those made from nitrates or chlorides are not allowed. Soil deficiency must be documented by testing.
(i) Soluble boron products.
(ii) Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt.
(7) Liquid fish products—can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.
(8) Vitamins, B, C, and E.
(9) Sulfurous acid (CAS # 7782-99-2) for on-farm generation of substance utilizing 99% purity elemental sulfur per paragraph (j)(2) of this section.
(k) As plant growth regulators. Ethylene gas—for regulation of pineapple flowering.
(l) As floating agents in postharvest handling.
(1) Lignin sulfonate.
(2) Sodium silicate—for tree fruit and fiber processing.
(m) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.
(1) EPA List 4—Inerts of Minimal Concern.
(2) EPA List 3—Inerts of unknown toxicity—for use only in passive pheromone dispensers.
(n) Seed preparations. Hydrogen chloride (CAS # 7647-01-0)—for delinting cotton seed for planting.
(o)-(z) [Reserved]

§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.
The following nonsynthetic substances may not be used in organic crop production:
(a) Ash from manure burning.
(b) Arsenic.
(c) Calcium chloride, brine process is natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake.
(d) Lead salts.
(e) Potassium chloride—unless derived from a mined source and applied in a manner that minimizes chloride accumulation in the soil.
(f) Sodium fluoaluminate (mined).
(g) Sodium nitrate—unless use is restricted to no more than 20% of the crop’s total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.
(h) Strychnine.
(i) Tobacco dust (nicotine sulfate).
(j)-(z) [Reserved]

§ 205.603 Synthetic substances allowed for use in organic livestock production.
In accordance with restrictions specified in this section the following synthetic substances may be used in organic livestock production:
(a) As disinfectants, sanitizer, and medical treatments as applicable.
(1) Alcohols.
(i) Ethanol-disinfectant and sanitizer only, prohibited as a feed additive.
(ii) Isopropanol-disinfectant only.
(2) Aspirin-approved for health care use to reduce inflammation.

(3) Atropine (CAS #:51-55-8)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:
(i) Use by or on the lawful written order of a licensed veterinarian; and
(ii) A meat withdrawal period of at least 56 days after administering to livestock intended for slaughter; and a milk discard period of at least 12 days after administering to dairy animals.

(4) Biologics—Vaccines.
(5) Butorphanol (CAS #:42408-82-2)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR Part 205, the NOP requires:
(i) Use by or on the lawful written order of a licensed veterinarian; and
(ii) A meat withdrawal period of at least 42 days after administering to livestock intended for slaughter; and a milk discard period of at least 8 days after administering to dairy animals.

(6) Chlorhexidine—Allowed for surgical procedures conducted by a veterinarian. Allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness.
(7) Chlorine materials—disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.
(i) Calcium hypochlorite.
(ii) Chlorine dioxide.
(iii) Sodium hypochlorite.
(8) Electrolytes—without antibiotics.

(9) Flunixin (CAS #:38677-85-9)—in accordance with approved labeling; except that for use under 7 CFR part 205, the NOP requires a withdrawal period of at least two-times that required by the FDA.
(10) Furosemide (CAS #:54-31-9)—in accordance with approved labeling; except that for use under 7 CFR part 205, the NOP requires a withdrawal period of at least two-times that required that required by the FDA.
(11) Glucose.
(12) Glycerine—Allowed as a livestock teat dip, must be produced through the hydrolysis of fats or oils.
(13) Hydrogen peroxide.
(14) Iodine.

(15) Magnesium hydroxide (CAS #:1309-42-8)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires use by or on the lawful written order of a licensed veterinarian.
(16) Magnesium sulfate.
(17) Oxytocin—use in postparturition therapeutic applications.
(18) Paraciticides. Ivermectin—prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for 90 days following treatment. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period for breeding stock.
(19) Peroxyacetic/peracetic acid (CAS #:79-21-0)—for sanitizing facility and processing equipment.
(20) Phosphoric acid—allowed as an equipment cleaner, Provided, That, no direct contact with organically managed livestock or land occurs.
(21) Poloxalene (CAS #:9003-11-6)—for use under 7 CFR part 205, the NOP requires that poloxalene only be used for the emergency treatment of bloat.
(22) Tolazoline (CAS #:59-98-3)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:
(i) Use by or on the lawful written order of a licensed veterinarian;
(ii) Use only to reverse the effects of sedation and analgesia caused by Xylazine; and
(iii) A meat withdrawal period of at least 8 days after administering to livestock intended for slaughter; and a milk discard period of at least 4 days after administering to dairy animals.
(23) Xylazine (CAS #:7361-61-7)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:
(i) Use by or on the lawful written order of a licensed veterinarian;
(ii) The existence of an emergency; and
(iii) A meat withdrawal period of at least 8 days after administering to livestock intended for slaughter; and a milk discard period of at least 4 days after administering to dairy animals.

(b) As topical treatment, external parasiticide or local anesthetic as applicable.

(1) Copper sulfate.
(2) Iodine.
(3) Lidocaine—as a local anesthetic. Use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.
(4) Lime, hydrated—as an external pest control, not permitted to cauterize physical alterations or deodorize animal wastes.
(5) Mineral oil—for topical use and as a lubricant.
(6) Procaine—as a local anesthetic, use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.
(7) Sucrose octanoate esters (CAS #s-42922-74-7; 58064-47-4)—in accordance with approved labeling.

(c) As feed supplements—None.

(d) As feed additives.

(1) DL-Methionine, DL-Methionine—hydroxy analog, and DL-Methionine—hydroxy analog calcium (CAS #-59-51-8; 63-68-3; 348-67-4)—for use only in organic poultry production until October 1, 2012, at the following maximum levels of synthetic methionine per ton of feed: laying chickens—4 pounds; broiler chickens—5 pounds; turkeys and all other poultry—6 pounds.
(2) Trace minerals, used for enrichment or fortification when FDA approved.
(3) Vitamins, used for enrichment or fortification when FDA approved.

(e) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

(1) EPA List 4—Inerts of Minimal Concern.
(2) [Reserved]

(f) Excipients, only for use in the manufacture of drugs used to treat organic livestock when the excipient is: Identified by the FDA as Generally Recognized As Safe; Approved by the FDA as a food additive; or Included in the FDA review and approval of a New Animal Drug Application or New Drug Application.

(g)-(z) [Reserved]

§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production.
The following nonsynthetic substances may not be used in organic livestock production:

(a) Strychnine.

(b)-(z) [Reserved]

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”
The following nonagricultural substances may be used as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s))” only in accordance with any restrictions specified in this section.

(a) Nonsynthetics allowed:

Acids (Alginic; Citric—produced by microbial fermentation of carbohydrate substances; and Lactic). Agar-agar.
Animal enzymes—(Rennet—animals derived; Catalase—bovine liver; Animal lipase; Pancreatin; Pepsin; and Trypsin).
Bentonite.
Calcium carbonate.
Calcium chloride.
Calcium sulfate—mined.
Carrageenan.
Dairy cultures.
Diatomaceous earth—food filtering aid only.
Egg white lysozyme (CAS # 9001-63-2)
Enzymes—must be derived from edible, nontoxic plants, nonpathogenic fungi, or nonpathogenic bacteria.
Flavors, nonsynthetic sources only and must not be produced using synthetic solvents and carrier systems or any artificial preservative.
Gellan gum (CAS # 71010-52-1)—high-acyl form only.
Glucono delta-lactone—production by the oxidation of D-glucose with bromine water is prohibited.
Kaolin.
L-Malic acid (CAS # 97-67-6).
Magnesium sulfate, nonsynthetic sources only.
Microorganisms—any food grade bacteria, fungi, and other microorganism.
Nitrogen—oil-free grades.
Oxygen—oil-free grades.
Perlite—for use only as a filter aid in food processing.
Potassium chloride.
Potassium iodide.
Sodium bicarbonate.
Sodium carbonate.
Tartaric acid—made from grape wine.
Waxes—nonsynthetic (Carnauba wax; and Wood resin).
Yeast—nonsynthetic, growth on petrochemical substrate and sulfite waste liquor is prohibited (Autolysate; Bakers; Brewers; Nutritional; and Smoked—nonsynthetic smoke flavoring process must be documented).
(b) Synthetic allowed:
Activated charcoal (CAS #s 7440-44-0; 64365-11-3)—only from vegetative sources; for use only as a filtering aid.
Alginates.
Ammonium bicarbonate—for use only as a leavening agent.
Ammonium carbonate—for use only as a leavening agent.
Ascorbic acid.
Calcium citrate.
Calcium hydroxide.
Calcium phosphates (monobasic, dibasic, and tribasic).
Carbon dioxide.
Cellulose—for use in regenerative casings, as an anti-caking agent (non-chlorine bleached) and filtering aid.
Chlorine materials—disinfecting and sanitizing food contact surfaces, Except, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite).
Cyclohexylamine (CAS # 108-91-8)—for use only as a boiler water additive for packaging sterilization.
Diethylenetriaminopropylamine (CAS # 100-37-8)—for use only as a boiler water additive for packaging sterilization.
Ethylene—allowed for postharvest ripening of tropical fruit and degreasing of citrus.
Ferrous sulfate—for iron enrichment or fortification of foods when required by regulation or recommended (independent organization).
Glycerides (mono and di)—for use only in drum drying of food.
Glycerin—produced by hydrolysis of fats and oils.
Hydrogen peroxide.
Lecithin—bleached.
Magnesium carbonate—for use only in agricultural products labeled “made with organic (specified ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.
Magnesium chloride—derived from sea water.
Magnesium stearate—for use only in agricultural products labeled “made with organic (specified ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.
Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods.
Octadecylamine (CAS # 124-30-1)—for use only as a boiler water additive for packaging sterilization.
Ozone.
Pectin (low-methoxyl).
Peracetic acid/Peroxyacetic acid (CAS # 79-21-0)—for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces.
Phosphoric acid—cleaning of food-contact surfaces and equipment only.
Potassium acid tartrate.
Potassium carbonate.
Potassium citrate.
Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process.
Potassium iodide—for use only in agricultural products labeled “made with organic (specified ingredients or
food group(s))," prohibited in agricultural products labeled “organic”.
Potassium phosphate—for use only in agricultural products labeled “made with organic (specific ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.
Silicon dioxide.
Sodium acid pyrophosphate (CAS # 7758-16-9)—for use only as a leavening agent.
Sodium citrate.
Sodium hydroxide—prohibited for use in lye peeling of fruits and vegetables.
Sodium phosphates—for use only in dairy foods.
Sulfur dioxide—for use only in wine labeled “made with organic grapes,” Provided, That, total sulfite concentration does not exceed 100 ppm.
Tartaric acid—made from malic acid.
Tetrasodium pyrophosphate (CAS # 7722-88-5)—for use only in meat analog products.
Tocopherols—derived from vegetable oil when rosemary extracts are not a suitable alternative.
Xanthan gum.
(c)-(z) [Reserved]
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.”
Only the following nonorganically produced agricultural products may be used as ingredients in or on processed products labeled as “organic,” only in accordance with any restrictions specified in this section, and only when the product is not commercially available in organic form.
(a) Casings, from processed intestines.
(b) Celery powder.
(c) Chia (Salvia hispanica L.).
(d) Colors derived from agricultural products.
(1) Annatto extract color (pigment CAS # 1393-63-1)—water and oil soluble.
(2) Beet juice extract color (pigment CAS # 7659-95-2).
(3) Beta-carotene extract color, derived from carrots (CAS # 1393-63-1).
(4) Black currant juice color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(5) Black/Purple carrot juice color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(6) Blueberry juice color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(7) Carrot juice color (pigment CAS # 1393-63-1).
(8) Cherry juice color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(9) Chokeberry—Aronia juice color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(10) Elderberry juice color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(12) Grape skin extract color (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(13) Paprika color (CAS # 68917-78-2)—dried, and oil extracted.
(14) Pumpkin juice color (pigment CAS # 127-40-2).
(15) Purple potato juice (pigment CAS #’s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
(18) Saffron extract color (pigment CAS # 1393-63-1).
(19) Turmeric extract color (CAS # 458-37-7).
(e) Dillweed oil (CAS # 8006-75-5).
(f) Fish oil (Fatty acid CAS #’s: 10417-94-4, and 25167-62-8)—stabilized with organic ingredients or only with ingredients on the National List, §§ 205.605 and 205.606.
(g) Fortified cooking wines.
(1) Marsala.
(2) Sherry.
(h) Fructooligosaccharides (CAS # 308066-66-2).
(i) Galangal, frozen.
(j) Gelatin (CAS # 9000-70-8).
(k) Gums—water extracted only (Arabic; Guar; Locust bean; and Carob bean).
(l) Hops (Humulus lupulus).
(m) Inulin-oligofructose enriched (CAS # 9005-80-5).
(n) Kelp—for use only as a thickener and dietary supplement.
(o) Konjac flour (CAS # 37220-17-0).
(p) Lecithin—unbleached.
(q) Lemongrass—frozen.
(r) Orange shellac-unbleached (CAS # 9000-59-3).
(s) Pectin (high-methoxy).
(t) Peppers (Chipotle chile).
(u) Starches.
(1) Cornstarch (native).
(2) Rice starch, unmodified (CAS # 977000-08-0)—for use in organic handling until June 21, 2009.
(3) Sweet potato starch—for bean thread production only.
(v) Tragacanth gum (CAS # 9000-65-1).
(w) Turkish bay leaves.
(x) Wakame seaweed (Undaria pinnatifida).
(y) Whey protein concentrate.
§ 205.607 Amending the National List.
(a) Any person may petition the National Organic Standard Board for the purpose of having a substance evaluated by the Board for recommendation to the Secretary for inclusion on or deletion from the National List in accordance with the Act.
(b) A person petitioning for amendment of the National List should request a copy of the petition procedures from the USDA at the address in § 205.607(c).
(c) A petition to amend the National List must be submitted to: Program Manager, USDA/AMS/TMP/NOP, 1400 Independence Ave., SW., Room 4008-So., Ag Stop 0268, Washington, DC 20250.
§ 205.620 Requirements of State organic programs.
(a) A State may establish a State organic program for production and handling operations within the State which produce and handle organic agricultural products.
(b) A State organic program must meet the requirements for organic programs specified in the Act.
(c) A State organic program may contain more restrictive requirements because of environmental conditions or the necessity of specific production or handling practices particular to the State or region of the United States.
(d) A State organic program must assume enforcement obligations in the State for the requirements of this part and any more restrictive requirements approved by the Secretary.
(e) A State organic program and any amendments to such program must be approved by the Secretary prior to being implemented by the State.
§ 205.621 Submission and determination of proposed State organic programs and amendments to approved State organic programs.
(a) A State organic program's governing State official must submit to the Secretary a proposed State organic program and any proposed amendments to such approved program.
(1) Such submission must contain supporting materials that include statutory authorities, program description, documentation of the environmental conditions or specific production and handling practices particular to the State which necessitate more restrictive requirements than the requirements of this part, and other information as may be required by the Secretary.
(2) Submission of a request for amendment of an approved State organic program must contain supporting materials that include an explanation and documentation of the environmental conditions or specific production and handling practices particular to the State or region, which necessitates the proposed amendment. Supporting material also must explain how the proposed amendment furthers and is consistent with the purposes of the Act and the regulations of this part.
(b) Within 6 months of receipt of submission, the Secretary will: Notify the State organic program’s governing
§ 205.622 Review of approved State organic programs.

The Secretary will review a State organic program not less than once during each 5-year period following the date of the initial program approval. The Secretary will notify the State organic program’s governing State official of approval or disapproval of the program within 6 months after initiation of the review.

Fees

§ 205.640 Fees and other charges for accreditation.

Fees and other charges equal as nearly as may be to the cost of the accreditation services rendered under the regulations, including initial accreditation, review of annual reports, and renewal of accreditation, shall be assessed and collected from applicants for initial accreditation and accredited certifying agents submitting annual reports or seeking renewal of accreditation in accordance with the following provisions:

(a) **Fees-for-service.** (1) Except as otherwise provided in this section, fees-for-service shall be based on the time required to render the service provided calculated to the nearest 15-minute period, including the review of applications and accompanying documents and information, evaluator travel, the conduct of on-site evaluations, review of annual reports and updated documents and information, and the time required to prepare reports and any other documents in connection with the performance of service. The hourly rate shall be the same as that charged by the Agricultural Marketing Service, through its Quality Systems Certification Program, to certification bodies requesting conformity assessment to the International Organization for Standardization “General Requirements for Bodies Operating Product Certification Systems” (ISO Guide 65).

(2) Applicants for initial accreditation and accredited certifying agents submitting annual reports or seeking renewal of accreditation during the first 18 months following the effective date of subpart F of this part shall receive service without incurring an hourly charge for service.

(3) Applicants for initial accreditation and renewal of accreditation must pay at the time of application, effective 18 months following February 20, 2001, a nonrefundable fee of $500.00 which shall be applied to the applicant's fees-for-service account.

(b) **Travel charges.** When service is requested at a place so distant from the evaluator's headquarters that a total of one-half hour or more is required for the evaluator(s) to travel to such place and back to the headquarters or at a place of prior assignment on circuitous routing requiring a total of one-half hour or more to travel to the next place of assignment on the circuitous routing, the charge for such service shall include a mileage charge administratively determined by the U.S. Department of Agriculture and travel tolls, if applicable, or such travel prorated among all the applicants and certifying agents furnished the service involved on an equitable basis or, when the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. Travel charges shall become effective for all applicants for initial accreditation and accredited certifying agents on February 20, 2001. The applicant or certifying agent will not be charged a new mileage rate without notification before the service is rendered.

(c) **Per diem charges.** When service is requested at a place away from the evaluator's headquarters, the fee for such service shall include a per diem charge if the employee(s) performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants and certifying agents will cover the same period of time for which the evaluator(s) receives per diem reimbursement. The per diem rate will be administratively determined by the U.S. Department of Agriculture. Per diem charges shall become effective for all applicants for initial accreditation and accredited certifying agents on February 20, 2001. The applicant or certifying agent will not be charged a new per diem rate without notification before the service is rendered.

(d) **Other costs.** When costs, other than costs specified in paragraphs (a), (b), and (c) of this section, are associated with providing the services, the applicant or certifying agent will be charged for these costs. Such costs include but are not limited to equipment rental, photocopying, delivery, facsimile, telephone, or translation charges incurred in association with accreditation services. The amount of the costs charged will be determined administratively by the U.S. Department of Agriculture. Such costs shall become effective for all applicants for initial accreditation and accredited certifying agents on February 20, 2001.

§ 205.641 Payment of fees and other charges.

(a) Applicants for initial accreditation and renewal of accreditation must remit the nonrefundable fee, pursuant to § 205.640(a)(3), along with their application. Remittance must be made payable to the Agricultural Marketing Service, USDA, and mailed to: Program Manager, USDA-AMS-TMP-NOP, Room 2945-South Building, P.O. Box 96456, Washington, DC 20090-6456 or such other address as required by the Program.
Manager.
(b) Payments for fees and other charges not covered under paragraph (a) of this section must be:
(1) Received by the due date shown on the bill for collection;
(2) Made payable to the Agricultural Marketing Service, USDA; and
(3) Mailed to the address provided on the bill for collection.
(c) The Administrator shall assess interest, penalties, and administrative costs on debts not paid by the due
date shown on a bill for collection and collect delinquent debts or refer such debts to the Department of
Justice for litigation.
§ 205.642 Fees and other charges for certification.
Fees charged by a certifying agent must be reasonable, and a certifying agent shall charge applicants for
certification and certified production and handling operations only those fees and charges that it has filed with
the Administrator. The certifying agent shall provide each applicant with an estimate of the total cost of
certification and an estimate of the annual cost of updating the certification. The certifying agent may require
applicants for certification to pay at the time of application a nonrefundable fee which shall be applied to the
applicant's fees-for-service account. The certifying agent may set the nonrefundable portion of certification
fees; however, the nonrefundable portion of certification fees must be explained in the fee schedule
submitted to the Administrator. The fee schedule must explain what fee amounts are nonrefundable and at
what stage during the certification process fees become nonrefundable. The certifying agent shall provide all
persons inquiring about the application process with a copy of its fee schedule.
Compliance
§ 205.660 General.
(a) The National Organic Program's Program Manager, on behalf of the Secretary, may inspect and review
certified production and handling operations and accredited certifying agents for compliance with the Act or
regulations in this part.
(b) The Program Manager may initiate suspension or revocation proceedings against a certified operation:
(1) When the Program Manager has reason to believe that a certified operation has violated or is not in
compliance with the Act or regulations in this part; or
(2) When a certifying agent or a State organic program's governing State official fails to take appropriate
action to enforce the Act or regulations in this part.
(c) The Program Manager may initiate suspension or revocation of a certifying agent's accreditation if the
certifying agent fails to meet, conduct, or maintain accreditation requirements pursuant to the Act or this part.
(d) Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed
suspension or revocation, and suspension or revocation issued pursuant to § 205.662, § 205.663, and §
205.665 and each response to such notification must be sent to the recipient's place of business via a
delivery service which provides dated return receipts.
§ 205.661 Investigation of certified operations.
(a) A certifying agent may investigate complaints of noncompliance with the Act or regulations of this part
concerning production and handling operations certified as organic by the certifying agent. A certifying agent
must notify the Program Manager of all compliance proceedings and actions taken pursuant to this part.
(b) A State organic program's governing State official may investigate complaints of noncompliance with the
Act or regulations in this part concerning organic production or handling operations operating in the State.
§ 205.662 Noncompliance procedure for certified operations.
(a) Notification. When an inspection, review, or investigation of a certified operation by a certifying agent or a
State organic program's governing State official reveals any noncompliance with the Act or regulations in this
part, a written notification of noncompliance shall be sent to the certified operation. Such notification shall
provide:
(1) A description of each noncompliance;
(2) The facts upon which the notification of noncompliance is based; and
(3) The date by which the certified operation must rebut or correct each noncompliance and submit
supporting documentation of each such correction when correction is possible.
(b) Resolution. When a certified operation demonstrates that each noncompliance has been resolved, the
certifying agent or the State organic program's governing State official, as applicable, shall send the certified
operation a written notification of noncompliance resolution.
(c) Proposed suspension or revocation. 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 of
certification of the entire operation or a portion of the operation, as applicable to the noncompliance. When
correction of a noncompliance is not possible, the notification of noncompliance and the proposed
suspension or revocation of certification may be combined in one notification. The notification of proposed suspension or revocation of certification shall state:

(1) The reasons for the proposed suspension or revocation;
(2) The proposed effective date of such suspension or revocation;
(3) The impact of a suspension or revocation on future eligibility for certification; and
(4) The right to request mediation pursuant to § 205.663 or to file an appeal pursuant to § 205.681.

(d) Willful violations. Notwithstanding paragraph (a) of this section, if a certifying agent or State organic program's governing State official has reason to believe that a certified operation has willfully violated the Act or regulations in this part, the certifying agent or State organic program's governing State official shall send the certified operation a notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance.

(e) 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.

(2) A certifying agent or State organic program's governing State official must not send a notification of suspension or revocation to a certified operation that has requested mediation pursuant to § 205.663 or filed an appeal pursuant to § 205.681, while final resolution of either is pending.

(f) Eligibility. (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.

(2) A certified operation or a person responsibly connected with an operation whose certification has been revoked will be ineligible to receive certification for a period of 5 years following the date of such revocation, except that, the Secretary may, when in the best interest of the certification program, reduce or eliminate the period of ineligibility.

(g) Violations of Act. In addition to suspension or revocation, any certified operation that:

(1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than the amount specified in § 3.91(b)(1)(xxvii) of this title* per violation.

(2) Makes a false statement under the Act to the Secretary, a State organic program's governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code. [65 FR 80637, Dec. 21, 2000, as amended by 75 FR 17560, Apr. 7, 2010]

§ 205.663 Mediation.

Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this part may be mediated at the request of the applicant for certification or certified operation and with acceptance by the certifying agent. Mediation shall be requested in writing to the applicable certifying agent. If the certifying agent rejects the request for mediation, the certifying agent shall provide written notification to the applicant for certification or certified operation. The written notification shall advise the applicant for certification or certified operation of the right to request an appeal, pursuant to § 205.681, within 30 days of the date of the written notification of rejection of the request for mediation. If mediation is accepted by the certifying agent, such mediation shall be conducted by a qualified mediator mutually agreed upon by the parties to the mediation. If a State organic program is in effect, the mediation procedures established in the State organic program, as approved by the Secretary, will be followed. The parties to the mediation shall have no more than 30 days to reach an agreement following a mediation session. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 days from termination of mediation to appeal the certifying agent's decision pursuant to § 205.681. Any agreement reached during or as a result of the mediation process shall be in compliance with the Act and the regulations in this part. The Secretary may review any mediated agreement for conformity to the Act and the regulations in this part and may reject any agreement or provision not in conformance with the Act or the regulations in this part.

§ 205.665 Noncompliance procedure for certifying agents.

(a) Notification. When an inspection, review, or investigation of an accredited certifying agent by the Program Manager reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certifying agent. Such notification shall provide:

(1) A description of each noncompliance;
(2) The facts upon which the notification of noncompliance is based; and
(3) The date by which the certifying agent must rebut or correct each noncompliance and submit supporting documentation of each correction when correction is possible.
(b) Resolution. When the certifying agent demonstrates that each noncompliance has been resolved, the Program Manager shall send the certifying agent a written notification of noncompliance resolution.
(c) Proposed suspension or revocation. When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the Program Manager shall send a written notification of proposed suspension or revocation of accreditation to the certifying agent. The notification of proposed suspension or revocation shall state whether the certifying agent's accreditation or specified areas of accreditation are to be suspended or revoked. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation may be combined in one notification. The notification of proposed suspension or revocation of accreditation shall state:
   (1) The reasons for the proposed suspension or revocation;
   (2) The proposed effective date of the suspension or revocation;
   (3) The impact of a suspension or revocation on future eligibility for accreditation; and
   (4) The right to file an appeal pursuant to §205.681.
(d) Willful violations. Notwithstanding paragraph (a) of this section, if the Program Manager has reason to believe that a certifying agent has willfully violated the Act or regulations in this part, the Program Manager shall send a written notification of proposed suspension or revocation of accreditation to the certifying agent.
(e) Suspension or revocation. When the accredited certifying agent fails to file an appeal of the proposed suspension or revocation of accreditation, the Program Manager shall send a written notice of suspension or revocation of accreditation to the certifying agent.
(f) Cessation of certification activities. A certifying agent whose accreditation is suspended or revoked must:
   (1) Cease all certification activities in each area of accreditation and in each State for which its accreditation is suspended or revoked.
   (2) Transfer to the Secretary and make available to any applicable State organic program's governing State official all records concerning its certification activities that were suspended or revoked.
(g) Eligibility. (1) A certifying agent whose accreditation is suspended by the Secretary 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 accreditation. 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.
   (2) A certifying agent whose accreditation is revoked by the Secretary shall be ineligible to be accredited as a certifying agent under the Act and the regulations in this part for a period of not less than 3 years following the date of such revocation.
§205.668 Noncompliance procedures under State organic programs.
(a) A State organic program's governing State official must promptly notify the Secretary of commencement of any noncompliance proceeding against a certified operation and forward to the Secretary a copy of each notice issued.
(b) A noncompliance proceeding, brought by a State organic program's governing State official against a certified operation, shall be appealable pursuant to the appeal procedures of the State organic program. There shall be no subsequent rights of appeal to the Secretary. Final decisions of a State may be appealed to the United States District Court for the district in which such certified operation is located.
(c) A State organic program's governing State official may review and investigate complaints of noncompliance with the Act or regulations concerning accreditation of certifying agents operating in the State. When such review or investigation reveals any noncompliance, the State organic program's governing State official shall send a written report of noncompliance to the Program Manager. The report shall provide a description of each noncompliance and the facts upon which the noncompliance is based.
Inspection and Testing, Reporting, and Exclusion from Sale
§205.670 Inspection and testing of agricultural product to be sold or labeled “organic.”
(a) All agricultural products that are to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be made accessible by certified organic production or handling operations for examination by the Administrator, the applicable State organic program's governing State official, or the certifying agent.
(b) The Administrator, applicable State organic program's governing State official, or the certifying agent may require preharvest or postharvest testing of any agricultural input used or agricultural product to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods. Such tests must be conducted by the applicable State organic program's governing State official or the certifying agent at the official's or certifying agent's own expense.
(c) The preharvest or postharvest tissue test sample collection pursuant to paragraph (b) of this section must be performed by an inspector representing the Administrator, applicable State organic program's governing State official, or certifying agent. Sample integrity must be maintained throughout the chain of custody, and residue testing must be performed in an accredited laboratory. Chemical analysis must be made in accordance with the methods described in the most current edition of the *Official Methods of Analysis of the AOAC International* or other current applicable validated methodology determining the presence of contaminants in agricultural products.

(d) Results of all analyses and tests performed under this section:
(1) Must be promptly provided to the Administrator; *Except*, That, where a State organic program exists, all test results and analyses shall be provided to the State organic program's governing State official by the applicable certifying party that requested testing; and
(2) Will be available for public access, unless the testing is part of an ongoing compliance investigation.

(e) If test results indicate a specific agricultural product contains pesticide residues or environmental contaminants that exceed the Food and Drug Administration's or the Environmental Protection Agency's regulatory tolerances, the certifying agent must promptly report such data to the Federal health agency whose regulatory tolerance or action level has been exceeded.

§ 205.671 Exclusion from organic sale.
When residue testing detects prohibited substances at levels that are greater than 5 percent of the Environmental Protection Agency's tolerance for the specific residue detected or unavoidable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced. The Administrator, the applicable State organic program's governing State official, or the certifying agent may conduct an investigation of the certified operation to determine the cause of the prohibited substance.

§ 205.672 Emergency pest or disease treatment.
When a prohibited substance is applied to a certified operation due to a Federal or State emergency pest or disease treatment program and the certified operation otherwise meets the requirements of this part, the certification status of the operation shall not be affected as a result of the application of the prohibited substance: *Provided*, That:

(a) Any harvested crop or plant part to be harvested that has contact with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program cannot be sold, labeled, or represented as organically produced; and

(b) Any livestock that are treated with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program or product derived from such treated livestock cannot be sold, labeled, or represented as organically produced: *Except*, That:

(1) Milk or milk products may be sold, labeled, or represented as organically produced beginning 12 months following the last date that the dairy animal was treated with the prohibited substance; and

(2) The offspring of gestating mammalian breeder stock treated with a prohibited substance may be considered organic: *Provided*, That, the breeder stock was not in the last third of gestation on the date that the breeder stock was treated with the prohibited substance.

Adverse Action Appeal Process

§ 205.680 General.
(a) Persons subject to the Act who believe they are adversely affected by a noncompliance decision of the National Organic Program's Program Manager may appeal such decision to the Administrator.

(b) Persons subject to the Act who believe that they are adversely affected by a noncompliance decision of a State organic program may appeal such decision to the State organic program's governing State official who will initiate handling of the appeal pursuant to appeal procedures approved by the Secretary.

(c) Persons subject to the Act who believe that they are adversely affected by a noncompliance decision of a certifying agent may appeal such decision to the Administrator, *Except*, That, when the person is subject to an approved State organic program, the appeal must be made to the State organic program.

(d) All written communications between parties involved in appeal proceedings must be sent to the recipient's place of business by a delivery service which provides dated return receipts.

(e) All appeals shall be reviewed, heard, and decided by persons not involved with the decision being appealed.

§ 205.681 Appeals.
(a) *Certification appeals*. An applicant for certification may appeal a certifying agent's notice of denial of certification, and a certified operation may appeal a certifying agent's notification of proposed suspension or revocation of certification to the Administrator, *Except*, That, when the applicant or certified operation is subject to an approved State organic program the appeal must be made to the State organic program which
will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.

(1) If the Administrator or State organic program sustains a certification applicant's or certified operation's appeal of a certifying agent's decision, the applicant will be issued organic certification, or a certified operation will continue its certification, as applicable to the operation. The act of sustaining the appeal shall not be an adverse action subject to appeal by the affected certifying agent.

(2) If the Administrator or State organic program denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice or the State organic program's rules of procedure.

(b) Accreditation appeals. An applicant for accreditation and an accredited certifying agent may appeal the Program Manager's denial of accreditation or proposed suspension or revocation of accreditation to the Administrator.

(1) If the Administrator sustains an appeal, an applicant will be issued accreditation, or a certifying agent will continue its accreditation, as applicable to the operation.

(2) If the Administrator denies an appeal, a formal administrative proceeding to deny, suspend, or revoke the accreditation will be initiated. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR part 1, Subpart H.

(c) Filing period. An appeal of a noncompliance decision must be filed within the time period provided in the letter of notification or within 30 days from receipt of the notification, whichever occurs later. The appeal will be considered “filed” on the date received by the Administrator or by the State organic program. A decision to deny, suspend, or revoke certification or accreditation will become final and nonappealable unless the decision is appealed in a timely manner.

(d) Where and what to file. (1) Appeals to the Administrator must be filed in writing and addressed to: Administrator, USDA, AMS, c/o NOP Appeals Staff, Stop 0203, Room 302-Annex, 1400 Independence Avenue, SW., Washington, DC 20250-0203.

(2) Appeals to the State organic program must be filed in writing to the address and person identified in the letter of notification.

(3) All appeals must include a copy of the adverse decision and a statement of the appellant's reasons for believing that the decision was not proper or made in accordance with applicable program regulations, policies, or procedures.

[65 FR 80637, Dec. 21, 2000, as amended at 71 FR 53303, Sept. 11, 2006]
Appendix II

Recordkeeping Guidelines for MOFGA Certified Organic Crop Farms

Section 205.103 of the National Organic Standards specifies that certified operations must maintain records concerning the production, harvesting, and handling of agricultural products that are intended to be sold, labeled, or represented as 100% organic, organic, or made with organic ingredients. Records must be sufficient to demonstrate compliance with the NOP Rule. It is the responsibility of the certifying agent to determine if an operation's recordkeeping meets the standards. We are aware that there has been confusion within our program about what records are required to comply with the standards. In response, volunteer advisors to MOFGA Certification Services helped MCS staff develop the following guidelines based on farm scale and marketing. Although the inspiration for this guidance document was vegetable crop farms, aspects are applicable to producers of field crops and livestock feeds as well.

All producers should keep the following records:

1. Seed/seedling/perennials purchase records

2. Field activity records. Remember to use your field history sheets to full advantage.
   - Date, input or implement, rate, location, source of the following
     - A. Soil amendments including fertilizer, compost, etc.
     - B. Planting dates
     - C. Mulches
     - D. Pesticide/herbicide products
     - E. Manure application records (this should include date of manure application and date of first yield/ kind of crop from that field).
     - F. Crop rotation records, especially if this information is not forthcoming on the field history forms.

3. Compost production records are required if feedstocks contain manure or animal parts and the finished product is applied during the growing season on crops intended for human consumption. Records include:
   - Source/ feedstocks
   - Temperature data
   - Turning date records

4. If equipment is used on non-certified land: Equipment clean out log
   - Date, how and who cleaned out equipment.

5. Receipts and labels for purchased inputs

Records pertaining to harvest yields and sales will depend upon the scale and complexity of the farm operation and are as follows:
Appendix II - Record Keeping Guidelines

Level I: Direct Market Sales (e.g., PYO, CSA, farm stand sales, farmers markets)

7. Sales records:
   a. For PYO, Farmstand, Farmers Market; daily receipt log
   b. For CSA; share “sales” records

Once you grow the same crop in multiple locations, harvest records for that crop become necessary (see Level II).

8. If produce is bought in from other farms, the following must be kept:
   a. Amounts of produce bought in
   b. Amounts of “bought in” produce sold
   c. Certification documentation, if applicable

Level II: Sales to Local Markets (e.g., minor wholesale including restaurants, local stores, co-ops, buying clubs)

7. Sales records:
   a. Log book, ledger, invoices
   b. For sales to stores, invoices with date of sale

8. If produce is bought in from other farms:
   a. Amount of produce bought in
   b. Amount of “bought in” produce sold
   c. Certification documentation, if applicable

9. Harvest records for crops grown and harvested from multiple fields at the same time of the year.

Level III: Sales to Third Party Buyers (e.g., major wholesale including to processors and third party distributors)

7. Sales invoices (with lot numbers)

8. Inventory records for stored product

9. If produce is bought in from other farms:
   a. Amount of produce bought in
   b. Amount of “bought in” produce sold
   c. Certification documentation, if applicable

10. Harvest records for each crop

All records must be available at the time of inspection. Records should be saved for 5 years. MCS reserves the right to classify a farm into a higher level of record keeping. A parallel producer grows the same crop organically and conventionally. Parallel producers must be prepared to demonstrate with records that the organic crop is produced and marketed separately from the conventional crop. Harvest and sales records must be kept for both versions of the crop.
Appendix III

Rotation Requirements for Annual Field Crops Including Corn and Small Grains

The National Organic Program Rule (NOP) Section 205.205 “Crop Rotation” applies to corn and other annual field crops, including all annual crops grown for livestock feeds. NOP 205.205 does not leave room for the choice not to rotate. It reads, “The producer must implement a crop rotation”. The NOP Rule requires rotation in crops because of pest management, soil organic matter maintenance, excess or deficient soil nutrient management and erosion control.

Why rotate? Where corn is the crop year after year, insect pests such as corn rootworm and European corn borer (ECB) may build up and become difficult to manage. Where field crops are fertilized with manure annually, there is a potential for there is potential for a build up of phosphorus (P) in the soil. This is because manures are typically applied to meet nitrogen (N) requirements and N is typically used by crops or is lost from soil, to a greater extent than phosphorus. Phosphorus at levels greater than 40 lb/A exceeds crop needs and may pose a risk in erodible conditions. According to the Maine Nutrient Management Rules, if P levels exceed 200 lb/A, then the farm would be limited to applied manure equal to P crop removal (not N-based application rate). Erosion may be a problem in certain situations. On highly erodible sites, the type of corn production is a major factor; if it is silage corn then the risk of erosion is much higher because there is little residue left. All tillage crops result in a net loss of organic matter. Continuous corn potentially can be destructive to soil structure and organic matter content. To a great extent, this also depends on the type of corn. Corn silage harvest leaves nearly no residue and continuous production would be very destructive to the soil. High moisture ear corn in contrast leaves 3-5 tons residue per acre (dry matter basis). Weeds such as thistle and yellow rocket can become problematic in soy and small grains when crops are not rotated.

"The producer must implement a crop rotation.” However, there may be opportunity for a farmer to harvest a corn crop more than one year in a row and still implement practices that are consistent with the rotation requirement. Winter cover crops, or interplanting of cover crops, could be used. The Rule permits all suitable crop rotations including sod, cover crops, green manures and catch crops. Bear in mind that your selection of winter cover crop must be able to grow in order have an impact. If you harvest your field crop late and are planning to plant that same field crop again early next year, most winter cover crops will not have a chance in our climate to grow and therefore we cannot accept this planting plan as an adequate crop rotation.

What will MOFGA Certification Services do in cases where crop rotation is not occurring? Farmers that are growing crops such as corn in the same field for more than 2 years in a row will be asked to demonstrate their compliance with NOP 205.205. They will need to show that they are using winter cover crops or interplanting or green manures and catch crops effectively. Farmers must be prepared to monitor phosphorous and organic matter with annual soil testing. The bottom line is that farmers not annually rotating field crops will need to demonstrate in writing and with supporting documentation (e.g., soil tests) that they are not putting their soil at risk. If this cannot be done, MCS will issue a Notice of Non-Compliance, which is copied to the USDA. If the farmer does not adequately resolve the crop rotation compliance issue within a reasonable amount of time, MCS will proceed with suspension of certification of the crop.
Appendix IV

USDA-NOP & Canadian Organic Regime Equivalency Agreement And Taiwan and Japan Export Authority.

Canadian Organic Regime Agreement:

On July 1, 2009 the Canadian Organic Regime (COR) became the Canadian national organic standard and is required for sale of any organic product between provinces’ or imported/exported to another country. The USDA-NOP has entered into an agreement with COR, U.S.-Canada Determination of Equivalency, for organic products imported or exported by either country.

As an NOP certified producer you may export into Canada under the following conditions.

For Crops intended to be sold into Canada: No field from which produce is intended to be harvested may be treated with sodium nitrate (Chilean Nitrate). We as your certifier will need to verify that your fields are free from application of sodium nitrate. Fields do not have to undergo a three-year transition to meet this requirement. If you intend to sell to Canada and you list sodium (Chilean) nitrate or any product that contains sodium (Chilean) nitrate, (eg. North Country Organics PRO GRO 5-3-4) you must stop using these products and amend your organic system plan to remove these products. If you have questions regarding products and substitutions contact Eric Sideman at esideman@mofga.org or 207-568-4142.

For Livestock, Poultry and Eggs intended to be sold into Canada: You must meet the livestock density ratio requirements of the COR, AKA Livestock Space Requirements. A copy of the Livestock Space Requirements with US Equivalents is attached. All livestock producer please note that the NOP is requiring all accredited certifiers, including MOFGA, to report to the NOP density ratios of all our livestock producers, regardless of whether you sell to Canada or not, in order that they may report these to COR.

Maple Syrup Exception: The only product that we certify that is not currently covered under this agreement is Maple Syrup. COR has organic standards for Maple Syrup production while the USDA-NOP does not. There are a number of certifiers, MOFGA included, that do have Maple Syrup Standards, and these have been allowed by NOP because the standards were in place when the NOP went into effect in 2002. The NOP and COR are working on determining an equivalency but there is no information at this time of the status of this work.

Taiwan and Japan Export Authority:

On August 21, 2009 the USDA-NOP granted MOFGA Certification Services approval to issue TM-11 Export Certificates to Taiwan and Japan. These certificates are required for export of NOP certified organic products to either Taiwan or Japan. The Compliance requirements for exporting organic products to Taiwan and Japan and the requirements for requesting the certificates from MOFGA can be found in Part 5 – Transaction and Export Certificates of this practice manual. If you have questions or wish more information please contact Kate Newkirk at knewkirk@mofga.org or 207-568-4142.

Product Transaction Certificates:

We have also put in place a procedure for generating transaction certificates. These certificates are sometimes required by other organic certifiers to document the sale of a specific organic product and lot number. If you have requests from your customers for these types of certificates we now have a standard for generating these certificates. See Part 5 of this practice manual – Transaction and Export Certificates. For more information contact Kate Newkirk at knewkirk@mofga.org or 207-568-4142.
### Canadian Livestock Space Requirements with US Equivalent

<table>
<thead>
<tr>
<th>Livestock</th>
<th>Indoor Space</th>
<th>Outdoor Runs and Pens</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Canadian Measurement</td>
<td>US Equivalent</td>
</tr>
<tr>
<td>Adult cows</td>
<td>6 m²/head</td>
<td>64.6 sq ft/ha</td>
</tr>
<tr>
<td>Calves</td>
<td>Incremental</td>
<td>26.9 sq ft/ha</td>
</tr>
<tr>
<td>increment of 2.5 m²/head for young</td>
<td>increase of 2.5 m²/</td>
<td>for growing (1-year old) steers and heifers</td>
</tr>
<tr>
<td>calves to 5 m²/head for growing</td>
<td>head for growing</td>
<td></td>
</tr>
<tr>
<td>(1-year old) steers and heifers</td>
<td>(1-year old) steers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and heifers</td>
<td></td>
</tr>
<tr>
<td>Sheep and goats</td>
<td>1.5 m²/head plus</td>
<td>16.1 sq ft/ha, plus</td>
</tr>
<tr>
<td></td>
<td>0.35 m²/head for each</td>
<td>3.8 sq ft/ha for each</td>
</tr>
<tr>
<td></td>
<td>additional lamb/kid</td>
<td>additional lamb/kid</td>
</tr>
<tr>
<td></td>
<td>for each additional</td>
<td></td>
</tr>
<tr>
<td></td>
<td>lamb/kid</td>
<td></td>
</tr>
<tr>
<td>Sows and piglets</td>
<td>7.5 m² for each sow</td>
<td>80.7 sq ft for each</td>
</tr>
<tr>
<td>(up to 40 days' old)</td>
<td>and litter</td>
<td>sow &amp; litter</td>
</tr>
<tr>
<td></td>
<td></td>
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</tr>
<tr>
<td>Growing pigs a up to 30 kg (66#)</td>
<td>0.6 m²/head</td>
<td>6.5 sq ft/ha</td>
</tr>
<tr>
<td>b. 30 – 50 kg, (66# - 110#)</td>
<td>0.8 m²/head</td>
<td>8.6 sq ft/ha</td>
</tr>
<tr>
<td>c. 50 – 85 kg, (110# - 167#)</td>
<td>1.1 m²/head</td>
<td>11.6 sq ft/ha</td>
</tr>
<tr>
<td>d. &gt; 85 kg, (&gt; 167#)</td>
<td>1.3 m²/head</td>
<td>14.8 sq ft/ha</td>
</tr>
<tr>
<td>Sows in group pens</td>
<td>3 m²/head</td>
<td>32.3 sq ft/ha</td>
</tr>
<tr>
<td>Boars in individual pens</td>
<td>9 m²/head</td>
<td>96.6 sq ft/ha</td>
</tr>
<tr>
<td>Laying hens</td>
<td>6 birds/m²</td>
<td>6 birds/10.8 sq ft</td>
</tr>
<tr>
<td>Broilers</td>
<td>Maximum 21 kg/m²</td>
<td>46 #/10.8 sq ft</td>
</tr>
<tr>
<td>Turkeys, geese and large</td>
<td>Maximum 26 kg/m³</td>
<td>57.2 #/10.8 sq ft</td>
</tr>
<tr>
<td>birds (moved daily)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laying hens</td>
<td>2000 / hectare</td>
<td>800 / acre</td>
</tr>
<tr>
<td>Broilers</td>
<td>2500 / hectare</td>
<td>1000 / acre</td>
</tr>
<tr>
<td>Large Birds</td>
<td>1300 / hectare</td>
<td>540 / acre</td>
</tr>
<tr>
<td>Young rabbits</td>
<td>0.3 m²/head</td>
<td>3.2 sq ft/ha</td>
</tr>
<tr>
<td>Pregnant Does</td>
<td>0.5 m²/head</td>
<td>5.4 sq ft/ha</td>
</tr>
<tr>
<td>Does and offspring</td>
<td>0.7 m² of floor space</td>
<td>7.5 sq ft of floor</td>
</tr>
<tr>
<td></td>
<td>/ doe and offspring</td>
<td>space / doe and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>offspring</td>
</tr>
<tr>
<td>Bucks</td>
<td>0.3 m²/head</td>
<td>3.2 sq ft/ha</td>
</tr>
</tbody>
</table>

1 meter = 39.27 inches
1 kilogram = 2.2046 pounds
1 meter² = 10.76 sq ft
### APPENDIX V: MOFGA CERTIFICATION SERVICES, LLC.
**Certification Process**
205.504(b)1&2

<table>
<thead>
<tr>
<th>Producers/ Clients</th>
<th>MOFGA Certification Services, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Steps</strong></td>
<td><strong>Steps</strong></td>
</tr>
</tbody>
</table>

1. **MCS provides access to certification information and the materials required for becoming or staying certified organic.**

Producers learn about organic marketing regulations and MOFGA’s certification process. Producers gain access to the materials they need to apply for or continue organic certification by contacting MCS, visiting our website, or by attending in-person sessions.

MOFGA Certification Services, LLC (MCS) uses the following methods and media for communicating information about the National Organic Program Rule and how to become MOFGA certified organic: brochure, web pages, regular content in MOFGA’s newspaper, email and electronic bulletins, newsletters to clients, and public meetings and presentations around the state and throughout the year. Application forms and our Practice Manual are updated and ready for the current year by the Maine Agricultural Trade Show in January. Printed application packets are available for a nominal fee. These materials are available on the web for free. Producers who have expressed interest in certification from interactions with staff throughout the year directly receive a letter explaining process in January. Staff sends those already certified a complete renewal packet automatically. Renewals are due approximately one month after client receives them.

2. **Producers apply for or renew organic certification.**

Producers send completed applications and renewals to the MCS office. Maple syrup and dairy renewals are due in February. Crop renewals are due in March. The deadline for submitting crop applications is June 30. Processors/handlers and some livestock operations apply year round. Renewal is timed to facilitate annual inspection.

Staff process fee payments and begin data entry. New applicants receive a letter explaining process. Staff reviews applications and renewals for completeness and initial eligibility. Staff contacts clients if there are missing elements. Staff sends a marketing update to already certified clients.

Certified clients who are adding new categories of production are processed as applicants for that production category.

3. **Certified clients are reminded early in the year to let MCS know in writing if their decision is to surrender their certificates.**

Certified clients either (1) renew on time; (2) communicate and seek acceptance of a delayed renewal plan from staff; (3) surrender in writing; or (4) do not renew and do not surrender in writing.

Staff makes contact with those who are currently certified but who have not renewed by the deadline. If warning letters and phone calls are ignored, staff generates non-compliance notices and the process of suspending certificates begins.
### APPENDIX V: MOFGA CERTIFICATION SERVICES, LLC.  
**Certification Process**  
**205.504(b)1&2**

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<tbody>
<tr>
<td><strong>Steps</strong></td>
<td><strong>Steps</strong></td>
</tr>
<tr>
<td>4. Organic farm/system plans are processed and reviewed. MCS provides Maine organic producers and qualified cooperators with opportunities to provide input on technical and policy issues. We have organic producers, university extension agents, and Maine State Department of Agriculture staff volunteering as advisors.</td>
<td></td>
</tr>
</tbody>
</table>
Producers comply with requests for missing paperwork, fees, etc.  
Producers respond to questions about practices and products used.  
Producers respond to marketing update.  
Staff performs reviews of all system plans (applicants and renewals).  
Staff may contact review committee members for advice on technical issues or situations for which standard policy is lacking. Client identify is not shared.  
Most review work for organic farm plans takes place February through June. Many certified processor/handlers renew in September. |

| 5. Inspections are conducted. |  
Applicants have application inspections while already certified producers have their annual inspections.  
Producers schedule with the inspectors assigned to them. They organize their records and make sure all staff or family members uniquely knowledgeable about aspects of production are available for the visit.  
Inspection may be delayed up to six months to comply with the requirement that the inspection be conducted when the land, facilities, and activities that demonstrate compliance or capacity to comply can be observed.  
Staff assigns inspectors. Assignments are made based on the inspector’s qualifications, geography and conflicts of interest. Staff provides inspectors with questions and concerns.  
New farm applicants with crops to sell are made a priority in our inspection line up.  
If concerns are significant, inspection may be delayed until staff receives additional information. Occasionally, non-compliance notices are generated prior to inspection if requests for paperwork, fees, or other important information go unheeded. All non-compliance notices are copied to USDA NOP Compliance electronically.  
Inspectors perform on-site inspections, which may include taking necessary samples, for which a receipt will be provided. Inspectors conduct exit interviews with authorized representatives. Following inspection, inspectors complete reports. |

| 6. MCS staff receives and reviews inspection reports from inspectors who are either MCS staff or hired by MCS to perform this work on a per assignment basis. |  
If contacted by staff, clients may send in elements that were determined to be missing or needing additional clarification by the inspector.  
Staff reviews inspection reports.  
Staff sends non-compliance notices to clients who are (1) not responding to information requests or (2) have compliance issues that may preclude certification or require suspension of current certificate.  
|
APPENDIX V: MOFGA CERTIFICATION SERVICES, LLC.  
Certification Process  
205.504(b)1&2

| Steps | MOFGA Certification Services, LLC  

7. Certification for applicants is denied in instances when requests for information are repeatedly ignored or when the organic system plans and/or inspection reports reveal major non-compliances that cannot be corrected. Certification may also be denied for any purposeful misrepresentation of the applicant’s operation or its compliance with the standards.

Client receives a denial notice, which includes instructions on how to request mediation or appeal the decision.
Staff (director) in concert with the board president makes decision to terminate the application. Staff (director) informs the entire board of proposed action. Staff (director) writes denial notice, which is copied to the USDA.

8. In most cases, a recommendation is made to the board president about whether or not to certify an application for certification in a particular production category.

Staff writes up recommendation, which include conditions for certification (if any). Staff (director) sends recommendation to board president for final approval.

9. MCS Board Director makes the final decision to certify.

Applicant either receives certificate and related documents or applicant receives a denial notice with instruction on how to appeal. Applicants granted certification are expected to work on improving any minor compliance issues before the next inspection.
Applicants denied certification are informed that they may apply again with us or with another agent.

Board director sends staff director an email with the decision.
If certification is approved, staff generates certificate, product verification, and certification letter. These documents are sent, along with a copy of the inspection report (if not already sent), to the client.

10. Already certified producers who are continuing certification receive inspection reports, letters and updated certified product lists.

Depending on the letter, producers may need to send MCS additional information to address an issue identified during the inspection.

Producers receive updated certified product lists with expiration dates.

In the case of producers who are already certified, staff sends producers copies of their inspection reports with letters identifying compliance issues that need to be addressed by a deadline. Staff may send updated certificates and certified product lists at this time.

11. Staff is in charge of noncompliance proceedings leading to suspension or revocation of certificates and does so with board consultation.
APPENDIX V: MOFGA CERTIFICATION SERVICES, LLC.
Certification Process
205.504(b)1&2

Producers/Clients
Steps

Producers have the option to try correcting the non-compliance during the proposed suspension phase.

Producers may request mediation or appeal an adverse decision.

MOFGA Certification Services, LLC
Steps

If a major compliance issue is not corrected after the producer has received a non-compliance notice, staff (director) will follow-up with notices to either suspend or revoke certification. These notices are copied to the USDA and the MCS board.

12. Complaints of all natures will be heard and recorded by MCS according to a standard procedure.

By signing the Endorsement, clients agree to an “Open Door Policy” and acknowledge that they understand and are complying with the NOP Rule. The consequences of violating the Rule are described in our materials. Clients are expected to cooperate with investigations by understanding that we may conduct unannounced inspections, that we may require access to any/all records necessary to demonstrate compliance with the Rule, and that we may take samples for laboratory analysis.

We record and consider all complaints. We prioritize investigating those complaints substantiated by evidence or that corroborate with other information in the possession of MCS to constitute a case. MCS may consult with guidance bodies as appropriate for assistance with this decision.

In recording complaints, the following information will be requested: Name of informant; Relationship of informant to client; Date complaint is filed; Name of client against whom the claim is made; Compliant; Date of occurrence; Evidence of occurrence (photographs, etc); Manner of acquisition of the information (how the informant knows, if applicable)

Complaints may be filed anonymously, but the person should be informed that anonymity may weaken the validity of the complaint, depending on the nature of the claim. They should be assured that their name will be kept confidential unless we go to court.

We consult with NOP Staff (our RAM) and with published NOP Guidance documents.