



# Guidance for NOP Certification Process

## I. Introduction

### A. Regulation

Since October 21, 2002, The USDA implemented its organic regulations for the production, labeling, and inspection of organic products: the National Organic Program (NOP). The NOP is managed by the USDA (United States Department of Agriculture).

**The current NOP Regulation can be found at part 205 of Title 7 of the “Code of Federal Regulations”.**

It is freely available from the USDA website on <http://www.ams.usda.gov/AMSV1.0/NOP> Click on “NOP Regulations” then “Electronic Code of Federal Regulations” to find a copy of the Rules.

The NOP in its most current version is the basis for all certification work conducted by ICO, no further requirements are applied. It contains seven subparts but the most relevant for organic operators are subparts C, D, and G. Official NOP policy statements, clarifying many issues, can be found in **the NOP Program Handbook**, also accessed from the main NOP web site.

**This following guideline does not replace the current Regulations. To follow the current organic production requirements, one should access and read the USDA NOP Regulation 7 CFR Part 205.**

**In addition, for each of the main types of activities, a guideline has been created to help you to understand the main requirements of the regulation:**

**TS 07: Crops and Wild crops**

**TS 06: Livestock production**

**TS 08: Handling and Labeling**

**TS 05: Use of Marks and ICO logo**

### B. ICO

ICO, accredited by the USDA, may certify production and handling operations that produces or handles crops, livestock, livestock products, or other agricultural products intended to be labeled as “organic”.

ICO is certifying operations anywhere in the United-States.

ICO:

- does not exclude from participation in or deny the benefits of the National Organic Program to any person due to discrimination.
- accepts the certification decisions made by another accredited certifying agent as equivalent to its own for the NOP regulation.
- accepts applications from all applicants who have filled out the appropriate forms and paid their application fees.
- charges fees based on the actual cost of the certification service provided (see fee schedule T01 Fees schedule).
- evaluates the applicant based on the criteria outlined in 7 CFR Part 205

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A list of certified products and ICO certified suppliers is available upon request by completing the [I02 Clients list request](#).

As per requirements of the regulation, ICO cannot provide consultancy services or advise anyone concerning information that will assist him with compliance with certification standards. If someone needs educational assistance with complying with the national organic standards, there are many educational organizations, conferences and consultants who may be able to help. From time to time ICO may send clients information on educational events that are open to the public.

## II. Definitions

**Organic System Plan (OSP):** a file or a document which specifies in detail the management of the organic operation and which is developed by the operator and approved by ICO. This plan includes written detailed information concerning the activities of the operator, in particular an analysis and plan to mitigate the potential risks which might compromise the integrity of organic products.

**Inputs:** all products used by the operator in organic production fields, facilities, or to clean equipment or products. They can be fertilizers, pesticides, ingredients, processing aids, cleaning agents, etc.

**Supplier:** an operator who provides organically acceptable inputs or organic ingredients which comply with the NOP and which can be used in an organic operation. All verifications of compliance with organic regulations will be provided to ICO clients, not to a supplier of those products unless the supplier is also a client.

**Inspection:** the audit and evaluation of an operation (including production, packaging, export, etc.) for an applicant or a certified operator (renewal) to determine the compliance with the NOP.

**Certification:** the decision by an accredited certification agent that an operation which produces or packages organic products is in compliance with the NOP. Certification is officially identified by a NOP certificate.

## III. The scope (§ 205.100)

### A. Types of Activities

Each production or handling operation that produces or handles crops, livestock, livestock products, and other agricultural products, even if special standards do not exist yet (e.g. honey, mushrooms, cosmetic products or textile,) will be certified.

#### **Operations Exempt from Certification:**

- Operations that sell agricultural products as “organic” but whose gross agricultural income from organic sales totals \$ 5,000 or less annually. The products from such operations shall not be used as ingredients identified as organic in processed products produced by another handling operation.
- Retail food establishments
- A handling operation that only handles products containing less than 70% organic ingredients or products identifying organic ingredients only on the information panel

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## Operations Excluded from Certification:

- Handling operations if they only sell products that are packaged or otherwise enclosed in a container prior to being received by the operation and remain in the same package or container and are not otherwise processed while in the control of the handling operation.
- Retail food establishments that process raw and ready-to-eat organic food

Exempt and Excluded operations must still meet certain recordkeeping requirements and prevent the commingling of organic ingredients with prohibited substances.

### **B. Products exception**

Aquaculture products are not yet included in the NOP scope (fish, mollusks, etc.).

However, seaweed collected can be certified as a wild crop and cultivated freshwater algae, such as spirulina, can be certified as a crop.

## **IV. Certification Steps**

### **A. Certification request and review of the Organic System Plan**

If you wish to be ICO certified to the NOP, you must:

- review the applicable regulation/s
- request and review ICO documentation (all ICO documents are available on line, on our website [www.indianacertifiedorganic.com](http://www.indianacertifiedorganic.com) or upon request)

**The applicant must develop an OSP (Organic System Plan) according § 205.201.**

The **OSP must** include:

- Indication of the type of certification requested
- List of products to be certified
- List of inputs used for crop, Livestock, processing or handling including their labels and technical specifications for each
- Field maps (including borders and buffer zones) identifying uses of adjacent land
- Description of the practices expected to be performed
- Description of monitoring system to verify that the OSP is being effectively implemented
- Map of the processing facility
- Processing/storage procedures
- Description of the Record keeping system
- Description of measures to prevent commingling and contamination
- Food safety and cleaning measures for any facilities with a list of cleaning products (inputs) and methods used
- Description of pest control measures
- Labels
- Any additional information that could be necessary to show that the operation complies with the NOP
- Signature and date of creation

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In addition, you will have to send any previous notices of noncompliance, denial, suspension, or revocation from any previous certifier, as applicable and the applicable application Fee.

ICO **reviews** the application materials for completeness, compliance with the rules, and a preliminary determination of your operation’s ability to come into compliance with the regulations. A copy of this review is provided to the applicant prior to inspection (§ 205.402).

Note that applications may be turned down if ICO does not have the ability to perform the requested service. For example, the geographical location and / or a language barrier might be reasons for turning down an application.

## **B. Inspection**

### **The inspection will be conducted:**

- Within a reasonable time following the determination that the applicant appears to comply with the NOP (it may be delayed for up to 6 months to allow the inspection to be conducted when organic compliance related activities can be observed).
- By a qualified inspector
- To check compliance with the rule and accuracy of the OSP/application materials
- When an authorized representative of the operation who is knowledgeable about the operation is present
- When land, facilities and activities that demonstrate compliance of capacity to comply can be observed (except for unannounced inspections)

### **The applicant/operator must:**

- Permit on-site inspection with complete access to the operation, including noncertified production and handling areas, structures, and offices (§ 205.400 (c)).
- Make available the records adapted to their particular business that fully disclose all activities and transactions (§ 205.103).
- Inform ICO if there is any conflict of interest with the inspector that has been chosen

### **The inspector will:**

- Perform an exit interview with an authorized representative of the operation to confirm the accuracy and completeness of the inspection and of the information gathered at the end of inspection.
- Address the need for any additional information as well as identifying any issue of concern.
- prepare an inspection report.

## **C. Report review**

The inspection report (plus additional documents) is reviewed by ICO staff within a reasonable time following the reception of the documentation.

The result of the review, indicating findings and list of non-compliances, if any, will be sent to you.

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## **D. Proposal of corrective actions**

Following the reception of this documentation, you must respond to the requirements and/or noncompliance within the timeframe described in the letter. According to the gravity of the finding, it can be (but not restricted to): within 30 days, for next inspection, for the next update of your OSP...

To respond to your requirements and noncompliance, you must:

- understand the finding and the certification requirement,
- evaluate the extent, and plan immediate actions to become compliant with your products and activities
- evaluate the causes, and plan corrective actions to avoid the possibility of the finding again in the future
- Provide evidence of implementation and effectiveness of your actions

Accordingly, ICO will check if your answer is adequate and complete, including your deadlines for any proposed actions.

## **E. Certification decision**

Our certification decision is either favorable leading to the issuance of a certificate of conformity or unfavorable leading to your notification that information provided does not solve the requirements (see section V. in that latter case).

The certificate of conformity is issued only if certification requirements are completely met and certification fees are paid in full.

The certificate of conformity identifies at least the following:

- the name and address of the operator whose products are certified,
- the scope of the certification attributed:
  - o list of certified products and their classification as organic or non-organic according to the NOP regulation,
  - o reference to the NOP regulation and the certification process applicable,
- the effective date of certification
- the issue date of the certificate

## **F. Continuation**

The operator must annually pay the application fee and submit, as applicable, an updated OSP informing ICO of all changes in the operation (§ 205.406) prior to the Anniversary Date specified on his certificate.

Failure to send a continuance application by the deadline may result in:

- Delays in the annual inspection of the operation
- Late fees as determined by ICO
- Increased inspection fees
- Suspension or Revocation of certification.

An inspection is performed at least once a year and the review is done as described above in parts C, D and E).

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At any moment during the certification process:

- any available relevant information from third parties such as other certification bodies, authorities or other operators is taken into account for the certification decision
- ICO may conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with 7 CFR Part 205. Additional inspections may be announced or unannounced at the discretion of ICO
- Sampling can be done in your facility to determine that no contamination or commingling of your products with prohibited substances is occurring.

Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by ICO, the State Organic Program's governing State official, or the National Organic Program Administrator.

### **V. Denials, revocations and suspensions**

#### **Denial of Certification (§ 205.405)**

When an application for certification does not comply with the rules and correction of a noncompliance is not possible; or when an applicant fails to respond to the certification decision, certification is denied. The applicant may then reapply for certification or file an appeal (§ 205.405 (d)).

When the applicant submits a new application to another certifying agency, a copy of ICO's certification decision/denial of certification and a description of the actions taken must also be submitted to the new certifier.

#### **Suspension or Revocation of Certification (§ 205.662)**

When non-compliances of a certified operation are detected which cannot be corrected, or when the operator fails to correct non-compliances within the prescribed time period, certification of the entire operation or a portion of the operation will be proposed to be suspended or revoked.

If, within 30 days after the written proposal of suspension or revocation, the operation fails to resolve the issue through rebuttal or mediation, or to file an appeal, a notification of suspension or revocation is sent.

A certified operation whose certification has been suspended may at any time submit a request to the Secretary (not to the accredited certifier) for reinstatement of its certification.

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; except that, the Secretary may reduce or eliminate the period of ineligibility. A decision to suspend or revoke certification will be taken by ICO depending on the severity of the noncompliance (e.g. unintended vs. intended).

While under suspension or revocation, an operation is not entitled to use an ICO organic certificate commercially (or any copies), to make any references to organic certification, or to use the organic certification mark on any labels.

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## VI. Mediation, Appeal and Complaints

Following the reception of a notice of proposed suspension or revocation by ICO you will have the right to request mediation or to appeal within 30 days of the date of the written notice.

### Mediation (§205.663)

Mediation shall be handled in compliance with §205.663 of 7 CFR Part 205.

A request for mediation must be filed in writing to ICO and sent using a delivery service which provides dated return receipts.

ICO, LLC  
3914 Clarks creek road  
Plainfield, IN, 46168

If we accept your request for mediation and the mediation is unsuccessful, you will have 30 days from the termination of mediation to appeal this proposed suspension.

If we reject your request for mediation, you will receive a letter from our office, notifying you that the request for mediation has been rejected; you will have 30 days from the date of this written notice of rejection of mediation, to file an appeal.

### Appeal (§ 205.681)

Appeals shall be handled in compliance with § 205.681 of 7 CFR Part 205 and the USDA instruction Adverse Action Appeal Process (available on the USDA website).

Appeals to ICO must be filed in writing to the administrator and sent using a delivery service which provides dated return receipts.

Administrator at USDA, AMS,  
NOP Appeals, Stop 0203,  
Room 2095-S,  
1400 independence Avenue,  
S.W. Washington, D.C. 20250

All appeals must include:

- a copy of the proposed adverse action letter
- a statement of the Appellant’s reasons for believing that the proposed adverse action is not proper or was not made in accordance with applicable NOP regulations, policies, or procedures.

If the administrator sustains a certification applicant’s or certified operation’s appeal of ICO’s decision, a certified operation will continue its certification, as applicable to the operation.

If the administrator 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 Practices.

### Complaints

Complaints to ICO can be made by ICO clients or a third party such as a final consumer or by competent authorities at any time.

The complaints must be filed in writing to the office.

It must include the reasons for the complaints with details and, if possible, evidence that substantiates the complaint.

ICO will respond to the complaint within a reasonable time period.

If you need further information, we are available for technical questions.

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