

Nature's International  
Certification Services

# Certification Manual

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This manual is developed in accordance to USDA NOP Section Subpart E §205.400-205.406 and ISO Guide 65 *General Requirements for Bodies Operating Product Certification Systems* Section 4.8.1.a-g and provided as necessary information to persons seeking organic certification with NICS.

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# 1.0 Terminology

**Additional Onsite Inspection:** An inspection, in addition to the regularly required initial or update inspection that can be announced or unannounced for the purpose of verifying significant changes in the operation.

**Applicant(s):** Operations seeking certification with NICS as a producer (of crops, wild crops, livestock) and/or a processor/handler.

**Certified Operations:** Those producers (crops, wild crops, livestock) and processor/handlers granted organic certification and issued a formal NICS organic certificate have exclusive rights to the NICS and/or USDA/NOP marks of conformity, and a Profile of Organic Operation.

**Client:** A person or company owning or primarily responsible for a production (farm) or processing/handling business.

**Corrective Actions:** Improvement points noticed during the evaluation of an operation that must be effectively implemented prior to the next on-site inspection; failure to implement corrective actions may constitute a formal Notification of Noncompliance.

**Handling:** 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.

**Initial Review:** This pre-review allows NICS to determine its capability to perform the certification service with respect to the scope of the certification, the location of the applicant's operations, any special requirements such as the language used by the applicant, and, if applicable, the applicant's ability to comply with the standards.

**Inspector:** Any person retained or used by a certifying agent to conduct inspections of certification applicants or certified production or handling operations.

**Inspection:** The act of examining and evaluating the production or handling operation of an applicant for certification or a certified operation to determine compliance with the USDA/NOP regulations or other standards.

**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, goat, 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 non-plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

**Major Noncompliance:** Any absence or complete breakdown of a required program element. It includes, but is not limited to, any actions or misapplication of the standards that compromise the integrity of a client's certification or products to the extent that, if not corrected in a timely fashion, the client's certification shall be suspended or revoked.

**Marks of Conformity:** Logos and seals such as the USDA seal, the NICS seal and other registered trademarks that are authorized by NICS for clients to use on labels and labeling.

**Minor Noncompliance:** An inadvertent misinterpretation or misapplication of the USDA/NOP regulations that does not affect the organic integrity of the operation or products.

**Notification of Granting Certification:** A formal communication provided by NICS that notifies the client of the decision to grant certification, along with any provisions required for maintaining the privilege of organic certification with NICS.

**Notification of Noncompliance:** A formal communication provided by NICS to the client that notifies that the operation and/or parts of the operation does not comply with the USDA/NOP regulations; this notification is the first notification received by a client in the Suspending and Withdrawing Certification process, and shall be categorized as minor and/or major.

**Notification of Noncompliance Resolution:** A formal communication provided by NICS that confirms a specific outcome of a non-compliant situation.

**Notification of Denial of Certification:** A formal communication provided by NICS to an applicant that notifies that the operation and/or parts of the operation does not comply with the USDA/NOP regulations and cannot be granted NICS organic certification; an applicant may re-apply.

**On-Farm Processor/Handler:** Any certified organic operation, or portion of an operation, which processes (see Processing definition) or packages agricultural products produced exclusively on their farm to be sold/used on the organic market.

**Organic System Plan:** A plan of management of an organic production or handling operation that has been agreed to by the producer or processor/handler and the certifying agent and which includes written plans concerning all aspects of agricultural production or processing/handling described in the USDA/NOP regulations.

**Operation:** All sites, facilities, personnel, and records of an operator used by NICS to conduct certification/verification activities under the USDA/NOP regulations.

**Private Label:** A NICS operator wanting to label their NICS certified product with another entity's name who is not certified by NICS.

**Processing:** Cooking, baking, curing, heating, drying, mixing, grinding, roasting, 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.

**Profile of Organic Operation:** A dated document provided to each client on an annual basis which provides current information of crops, livestock, products and goods certified, as well as other pertinent information reflecting the scope of certification of an operation.

**Update Inspection:** An on-site inspection that is conducted annually for each certified operation that produces or handles organic products for the purpose of determining whether the certification of the operation should continue.

## 2.0 About NICS

### 2.1 Introduction and Scope of Certification

Nature's International Certification Services, LLC (NICS), was begun June 15, 2005, to serve organic producers and processors/handlers worldwide. NICS is located at 224 East State Highway 56, Viroqua, WI 54665. Phone: 608-637-7080 Fax: 608-637-7460; Website: [www.naturesinternational.com](http://www.naturesinternational.com); General email: [nics@naturesinternational.com](mailto:nics@naturesinternational.com).

### 2.2 NICS Certification Program

The NICS certification program, currently accredited by the United States Department of Agriculture, is authorized to provide organic certification in accordance to the USDA's National Organic Program Final Rule. NICS is also capable of providing verification services for the equivalency arrangements between Japan, Taiwan, Canada, Korea, the European Union, and Switzerland.

For more information on the accreditation and status of NICS, please visit the USDA website at <https://www.ams.usda.gov/services/organic-certification/certifying-agents> the NICS' website at [www.naturesinternational.com](http://www.naturesinternational.com).

### 2.3 NICS Organic Standards

NICS employs the USDA's National Organic Program regulations to assess organic producers' (including crops, wild crops, and livestock operations) and processor/handlers' abilities to implement, comply, and carry out the terms and conditions determined for organic management and products.

The USDA/NOP regulations are provided by NICS at the time of application. If you need additional copies, please visit the USDA/NOP website at <https://www.ams.usda.gov/rules-regulations/organic> or the NICS website at [www.naturesinternational.com](http://www.naturesinternational.com).

### 2.4 Equal Opportunity

NICS is an equal opportunity company and will not deny certification or employment to any person because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status, nor shall certification or employment be conditional upon the number of certificates already issued by NICS.

NICS makes its services accessible to all applicants whose activities fall within their declared field of operation, and confines its certification requirements, inspection, and certification decisions to those matters specifically related to the scope of certification or verification requested. NICS shall accept all production or processing/handling applications that fall within its area(s)/scope of accreditation and certify all qualified applicants. Applications will be accepted by NICS with regards to its administrative capacity to do so, without regard to the operation's size or membership in any association or group.

### 2.5 Impartiality and Confidentiality

NICS operates an objective and confidential business of organic certification, which is designed to safeguard impartiality and the confidentiality of information related to the certification process. All personnel, employed or subcontracted by NICS, must abide by these provisions, which at a minimum include the following preventative measures:

#### 2.5.1 Impartiality

The structure of NICS is designed to ensure that the decision to certify an operation is made by a person different from the one(s) who conducted the initial review of documents and on-site inspection. Furthermore, NICS prevents conflicts as follows:

##### 2.5.1.a Consultancy

NICS does not provide any other products or services which could compromise the objectivity of its certification process and decisions. NICS does not provide or allow personnel, employed or subcontracted, to give advice or provide consultancy services to certification applicants or certified operations with regards to overcoming identified barriers to certification.

### **2.5.1.b Annual Impartiality Declaration and Agreement**

NICS requires all personnel, employed or subcontracted, to annually complete and sign a Conflict of Interest Disclosure and Agreement. All personnel must declare any direct commercial, financial, provision to consult, or family interests, within the previous 12-months that have taken place between them and an operation requesting certification services from NICS. This declaration prevents the known NICS personnel from being involved in any stage of the certification process related to the identified operation.

### **2.5.1.c Gift Policy**

NICS requires all personnel, employed or subcontracted, to refrain from accepting payments, gifts, or favors of any kind, other than prescribed fees, from any operation during any stage of the certification process.

### **2.5.1.d Resolution of Conflicts**

In cases where NICS determines a direct conflict between personnel and the applicant or certified operator, such as commercial, immediate family interests or consulting, personnel shall be excluded from work, discussions and decisions in all stages of the certification process.

NICS shall also determine to refer a certified operation to a different NOP accredited certifying agent for recertification, and reimburse the operation for the cost of the recertification, or NICS shall 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 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 NICS.

## **2.5.2 Confidentiality**

NICS safeguards the confidentiality of information with the following preventative measures:

### **2.5.2.a Confidentiality Agreement**

NICS requires all personnel, employed or subcontracted, upon hire, to sign a confidentiality agreement. All personnel must agree to the provisions of confidentiality, *per Section 2.5.2.b, Confidentiality Provisions*.

### **2.5.2.b Confidentiality Provisions**

NICS ensures strict, confidential handling and appropriate use of all confidential and proprietary information and records. NICS does not disclose confidential information, including the records obtained or generated in the course of certification activities, with the exception of the USDA Secretary or the applicable State organic program's governing State official or the authorized representatives.

NICS does not consider the following information to be confidential and will make it available to the public without written permission from certified operations:

1. Certificates issued within the current and previous three calendar years;
2. Products certified, effective date of certification, and contact information for NICS certified operations;
3. The results of laboratory analyses for residues of prohibited substances conducted for the current and three previous calendar years, provided the results are not part of an ongoing compliance investigation;
4. Other business information as specifically identified and permitted in writing by the certified operation.

Other information is considered confidential and is handled/used only by appropriate NICS's employees and contractors, as applicable. NICS reserves the right to release information on individual operations as required by local, state or federal law and to accreditation authorities, and the affected person(s) or entities will be informed of the release of information in writing.



## 3.0 Overview of the NICS Certification Process

### 3.1 Granting the Scope of Certification

Operations that successfully complete the NICS' 3-step application process and comply with the USDA/NOP regulations shall receive a Certification Determination Letter, along with a valid organic certificate and exclusive rights to use the USDA/NOP and/or NICS' marks of conformity. All persons who are granted certification are listed in the NICS Client Directory, *per Section 15.0 Client Directory*.

### 3.2 Notification of Organic Certification Approval

The decision to grant certification is formally communicated to the operation requesting certification in a Certification Determination Letter. This may include Conditions for Continued Certification that must be addressed prior to the next inspection. An operation who fails to effectively address these Conditions for Continued Certification by the time of the next inspection may be issued a Notice of Noncompliance, *per Section 7.1 Notice of Noncompliance*.

### 3.3 NICS Organic Certificate

NICS shall issue an organic certificate that identifies the following:

- The scope of certification requested: crop, wild crop, livestock, or processor/handler
- Name and address of the certified operation
- Effective date of certification (First date of certification)
- Issue Date (Date the current certificate was issued)
- Anniversary Date (Date when the certified operation must submit its annual update)
- Name, address, and telephone number of NICS
- Reference to the USDA/NOP Standards

The organic certificate is issued to an operation once it is able to show its ability to capably maintain compliance to the National Organic Program. This organic certificate remains effective until surrendered by the organic operation or suspended or revoked by NICS or the USDA's NOP Administrator. Any amendment that may modify the contents of the organic certificate must be *per Section 6.0 Extending and/or Reducing the Scope of Certification*.

#### 3.3.1 Marks of Conformity

Marks of conformity are various levels of marketing claims and/or labels that enhance product identification and international market access for those operations certified by NICS.

The right to use marks of conformity is not a requirement for certification. The right is a privilege that must be properly controlled by NICS. Only those that comply with provisions of this manual and the USDA/NOP regulations are granted these exclusive rights to use marks of conformity. Any other use of marks of conformity is according to the Organic System Plan/Organic Certification Affirmation.

NICS offers both the USDA's and/or NICS' marks of conformity, both with identical market access, but with varying limitations of use.

##### 3.3.1.a USDA Mark of Conformity

A description of the limitations on the use of the USDA mark of conformity and on the ways of referring to the certification granted is provided on the Profile of Organic Operation. The categories must be properly indicated on the organic system plan, reviewed and approved by NICS prior to use of the USDA's mark of conformity, and then described on the Profile of Organic Operation. Any changes in the use of any marks of conformity must be *per Section 6.0 Extending and/or Reducing the Scope of Certification*.

##### 3.3.1.b NICS Mark of Conformity

A description of the limitations on the use of the NICS' mark of conformity and on the ways of referring to the certification granted is provided on the Profile of Organic Operation. The

categories must be properly indicated on the organic system plan, reviewed and approved by NICS prior to use of the mark of conformity, and then described on the Profile of Organic Operation. Any changes in the use of the mark of conformity must be *per Section 6.0 Extending and/or Reducing the Scope of Certification*.

### **3.3.2 Private Label Policy**

NICS may authorize a NICS-certified company to provide a private label service to a non-NICS certified company, allowing the use of the NICS seal on a label representing the non-NICS certified company's brand. All such cases must be authorized by NICS.

A NICS-certified company seeking to enter into such an arrangement must initiate and be responsible for all aspects of the private label situation and will be held legally responsible for the private label entity and product of the private label entity.

## **4.0 Initial Certification Process**

### **4.1 Step One: Application**

The first step for a person seeking organic certification is to acquire an application packet. An application packet may be requested from the main office and will be shipped free of charge, with additional requests made by the same operation shipped for a nominal fee. All applicable certification documentation is available for download from the NICS' website at [www.naturesinternational.com](http://www.naturesinternational.com).

The NICS application packet includes the following information:

- Certification Manual
- Organic Certification Affirmation
- Organic System Plan, including applicable forms
- Fee Estimate worksheet
- The USDA/NOP regulations
- Other necessary information

The applicant must submit the required information for review, along with applicable funds, as designated by the scope(s) requested for certification. All information must be complete, current, and signed by a duly authorized representative of the applicant.

If an applicant seeking certification from NICS was previously certified by another NOP accredited certification agency, the applicant must also include the previous certifying agent's certification determination letter, and any correspondence regarding noncompliance/adverse action proceedings. As required by the NOP, NICS will review and accept the previous certification agency's decision pertaining to the transferring applicant and their operation. In addition, NICS may request additional clarification from the applicant's previous certification agency to verify the transferring applicant's ability to comply with the Rule.

The applicant may withdraw their application at any time. An applicant who withdraws their application shall be liable for the costs of services provided up to the time of withdrawal of their application, *per Section 14 Fees & Financial Responsibility*. An applicant that voluntarily withdraws their application prior to the sending/issuance of a Notice of Noncompliance will not be issued the notice. Similarly, an applicant that voluntarily withdraws their application prior to the issuance of a Notification of Denial of Certification, *per Section 7.2 Denial of Certification for Applicants*, will not be issued the notice. All requests to withdraw an application must be received by the office in writing.

### **4.2 Step Two: Evaluation of Applicant**

Once all applicable information is submitted regarding the request for certification, NICS shall evaluate the applicant by performing an initial review of the documents within a reasonable time, *per Section 4.2.1 Initial Review of Organic System Plan*, and make arrangements to perform an initial inspection of the operation, *per Section 4.2.2 Initial Inspection*.

### 4.2.1 Initial Review of the Organic System Plan

NICS must first conduct and maintain records of an initial review of all documents submitted by the operation requesting certification to ensure that the correct fees are submitted and the following documents are properly completed and signed by the applicant:

- Organic Certification Affirmation
- Organic System Plan(s), as applicable to the request for certification
- Fee Estimate worksheet

The initial review of documents shall determine if the applicant appears to comply or may be able to comply with the applicable USDA/NOP regulations, including provisions for exempt and excluded operations. The initial review will also include verifications of those applicants who previously applied to another certifying agent and received a Notice of Noncompliance or Denial of Certification for Applicants, *per Sections 7.1 Notice of Noncompliance and Section 7.2 Denial of Certification for Applicants*, and who have submitted documentation to support the correction of any noncompliances identified in previous notices.

The results of the initial review are communicated to the applicant and, if known, notification of the inspector assignment and the date and time of the inspection.

During this step of the certification process, NICS may request further information and/or require that any differences be resolved prior to scheduling the initial inspection.

### 4.2.2 Initial Inspection

Once the initial review process concludes, an inspector will be assigned, either staff or contract, who will contact the operation to schedule the date of the inspection and make the necessary arrangements to conduct the inspection, *per Section 11.1 Initial Inspection*.

To ensure that a comprehensive inspection is carried out, inspectors are provided with the following working documents, as applicable to the operation requesting certification:

- Current organic system plan and any applicable supporting documents
- Previous on-site inspection reports, as applicable
- Previous decision regarding certification of the operation, as applicable
- Evidence of documented minor and/or major non-compliances, as applicable

The NICS inspector shall observe and report about the operation using the standards covered by the scope as stated in their organic system plan. The inspector shall verify the operation's compliance or ability to comply with the USDA/NOP regulations by determining that the information provided accurately reflects the practices being used.

Within 7 to 15 business days of the inspection, the inspector should submit to NICS a report, which includes the following documentation, as applicable:

- The exit interview, as signed by an authorized representative of the operation requesting certification, and, if necessary, any post-audit comments
- Any documentation that was updated or received at the time of inspection, with clear labeling of noted information as to be readily understood and easily reviewed
- Any samples taken during the inspection
- Any requests for further required inspection or testing

NICS will send the operation a copy of the inspection report and any documentation received or updated at the time of inspection, as provided to NICS by the inspector, as applicable. This will be completed within 5 business days of the receipt of the report from the inspector.

### 4.3 Step Three: Decision on Initial Certification

Within a reasonable time after the receipt of the initial on-site inspection report, NICS will conduct a final review of the documentation to determine if the organic system plan and all procedures and activities of the operation are in compliance with the USDA/NOP regulations.

If the applicant is determined to be in compliance, NICS shall grant certification, *per Section 3.1*

*Granting the Scope of Certification.* If the applicant is determined by NICS to not be in compliance, NICS shall begin the denial of certification process, *per Section 7.2 Denial of Certification for Applicants.*

## **5.0 Maintaining the Scope of Certification**

Once an operation is certified by NICS, in order to maintain continued certification, NICS requires all operations to:

- submit an annual fee, *per Section 14.0 Fees and Financial Responsibility*
- submit applicable organic system plan update(s)
- have an annual inspection, *per Section 11.0 Types of Inspections.*

### **5.1 Step One: Annual Evaluation**

NICS will notify all certified operations on an annual basis to submit updated information as required for continuation of certification. These operations shall have a specified time frame to submit information to NICS for review and consideration. Information pertaining to the following documents must be updated for evaluation:

#### **5.1.1 Organic System Plan Update**

Any deviations from, modifications to, or other amendments made to the previous year's organic system plan during the previous year--or any additions or deletions to the previous year's organic system plan intended to be undertaken in the coming year, *per the USDA/NOP regulations--must be submitted to NICS for review prior to the update inspection, per Section 11.2 Update Inspection.* An operation may request a copy of their previously submitted organic system plan, with applicable fees assessed.

At a minimum, the Profile of Organic Operation must be able to be updated with information provided by the NICS certified operation. The Profile of Organic Operation is a key component of the organic system plan that identifies the type or range of products and the term of certification of these products, including the specified rights to use any marks of conformity. If it is not possible for NICS to conduct the update inspection following receipt of the certified operation's annual update information, NICS may allow continuation of certification and issue an updated Profile 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 update inspection is conducted within the 6 months following the certified operation's scheduled date of annual update.

#### **5.1.2 Correction of Noncompliance Update**

Any updates regarding the correction of noncompliances previously identified by NICS as required in the previous year, *per Section 7.1 Notice of Noncompliance,* and other information as deemed necessary for certification must be submitted to NICS for initial review prior to the update inspection.

### **5.2 Step Two: Update Inspection**

Following the receipt of updated information, NICS shall, within a reasonable time, arrange and conduct an update inspection of the certified operation, *per Section 11.2 Update Inspection,* except that the organic certification affirmation is not required to be signed.

### **5.3 Step Three: Continuation of Certification Decision**

After the completion of the update inspection, the assigned inspector should submit the inspection report to NICS pertaining to the certified operation within 7 to 15 business days. When the report is received in the office, NICS will send a copy of the report and any documents received or updated during the inspection (as applicable), as provided to NICS by the inspector, to the operation within 5 business days of receipt for their review. Within a reasonable time after the receipt of the report, NICS will conduct a final review of the documentation to determine if the organic system plan and all procedures and activities of the operation are in compliance with the USDA/NOP regulations.

If the final review determines that the certified operation is in continued compliance with the USDA/NOP regulations, NICS shall provide a final certification determination letter and an updated organic certificate

along with a Profile of Organic Operation. If, from the review, NICS has reason to believe a certified operation is not complying with the USDA/NOP regulations, NICS shall provide a written noncompliance to the operation, *per Section 7.1 Notice of Noncompliance*.

## **6.0 Extending and/or Reducing the Scope of Certification**

Any operation certified by NICS shall inform the office of any changes in the organic system plan or any changes significantly affecting the conformity of the certified product. To add a product, a Request for Additional Certified Products or Services form must be supplied to NICS, along with applicable supporting documentation and fees, for review and consideration. If a product or service needs to be removed from the current certification, a written request from the certified operation indicating the reason for removal will need to be submitted to the office. Failure to notify NICS of any additions to or deletions from the scope of certification may result in a notice of noncompliance, *per Section 7.1 Notice of Noncompliance*.

Any changes that affect the compliance or information recorded on the Profile of Organic Operation shall be subject to evaluation, *per Section 5.1.1 Organic System Plan Update*. In the event that rights to use marks of conformity may be affected, NICS must review and approve the proposed logo. In the event of a new parcel, livestock and/or product, NICS may require another inspection, *per Section 11.3 Additional Onsite Inspection*. Any changes which require inspection must be inspected by NICS prior to the certification of any new parcel and/or product, with the only exceptions *per Section 5.1.1 Organic System Plan Update*.

The results of the review regarding the request for additional products and/or services must determine that the certified operation is in compliance with the USDA/NOP regulations. If any information specified on the Profile of Organic Operation has changed, NICS must issue an updated Profile of Organic Operation, *per Section 5.1.1, Organic System Plan Update*.

### **6.1 Transferring from NICS to another Certification Agency**

Certified operations who are transferring from NICS to another certification agency and intend to continue to produce or sell products as organic must maintain their NICS certification until certification has been granted by the new certification agency. Requests to NICS for an extension of certification while transferring to another agency should be received by the office in writing and include a statement from the accredited certifier to whom the NICS certified operation is transferring. The new certifying agent will need to provide NICS with verification for the following information:

- The operation has submitted an appropriate and complete application for the certification that is being requested;
- The operation has disclosed any noncompliances issued by NICS that have not been acknowledged (by NICS) as being resolved (or Conditions for Continued Certification issued from the previous year), during the process of applying for certification with the new certifying agent;
- The new certifying agent is able to process the certification for the products/services the NICS operation has requested for certification with their agency.

Certified operations who are granted an extension of certification while transferring to another certification agency must pay applicable fees as noted in the fee schedule and continue to pay all applicable user fees to NICS during the extension period. The extension of certification will be granted for no more than 6 months from the date of annual renewal, and NICS may also require additional organic plan update information or an additional inspection during the extension period, if necessary, to verify compliance. Applicable costs may be assessed for the additional verification during an agency transfer, for which the transferring operation will be liable.

### **6.2 Extending NICS Certification to Certified Inventory**

NICS requires those operations not updating certification with NICS and not transferring to another certification agency to surrender certification by the update deadline. In this situation, the operation may request a one-time extension to cover the sale of any inventory of product certified organic by NICS.

NICS must receive a written request for extension of certification for inventory. The request must describe the product to be sold, how the product has been stored and the organic integrity maintained, and when the sale of the product will be completed. NICS will then determine and communicate to the operation the outcome for the requested extension of certification for inventory.

Operations who are granted an extension of certification for certified inventory must pay applicable fees as noted in the fee schedule and continue to pay all applicable user fees to NICS during the extension period. The extension of certification will be granted for no more than 6 months from the date of annual renewal, and NICS may also require additional organic plan update information or an additional inspection during the extension period, if necessary, to verify compliance. Applicable costs may be assessed for the additional verification during an extension of certification, for which the operation requesting the extension will be liable.

## 7.0 Suspending, Denying and Withdrawing Certification

### 7.1 Notice of Noncompliance

When NICS has reason to believe, based on the review of the information provided in the organic system plan, that an applicant or certified operation is not able to comply or is not in compliance with the USDA/NOP regulations, NICS must provide a written notice of noncompliance to the operation. Noncompliances are defined as either minor or major. All notifications of major noncompliance are required to be submitted to the USDA/NOP Administrator and provide:

- A description of each noncompliance, including the facts upon which the notification of noncompliance is based
- 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

NICS shall determine if the noncompliance is minor or major as follows:

#### 7.1.1 Minor Noncompliance

A minor noncompliance is defined as an inadvertent misinterpretation or misapplication of the USDA/NOP regulations that does not affect the integrity of the operation or organic products.

Examples of minor noncompliance(s) include:

- submitting incomplete or unclear paperwork
- poorly maintaining records
- failure to document attempts to source organic seeds
- incomplete field history records
- inadequate buffer zones

For applicants, if a minor noncompliance can be or is resolved within the time frame specified, NICS shall grant certification, *per Section 3.1 Granting of the Scope of Certification*. If the minor noncompliance cannot be or is not resolved within the time frame, NICS shall issue a Notification of Denial of Certification, *per Section 7.2 Denial of Certification for Applicants*.

For a certified operation, if a minor noncompliance can be or is resolved within the time frame specified, NICS shall grant certification, *per Section 5.0 Maintaining the Scope of Certification*. In the case that the minor noncompliance cannot be resolved within the time frame, NICS shall issue a Notification of Proposed Suspension and/or Revocation, *per Section 7.4 Proposed Suspension and/or Revocation*.

#### 7.1.2 Major Noncompliance

A major noncompliance is defined as any absence or complete breakdown of a required program element. It includes, but is not limited to, any actions or misapplication of the standards that compromises the integrity of an operation's certification or products to the extent that, if not corrected in a timely fashion, the operation's certification shall be suspended or revoked.

Examples of major noncompliance(s) include:

- a violation resulting in the loss of organic integrity of a certified product or a product proposed for certification
- willful, knowing misuse of NICS' name, the certification claim and/or the NICS' mark of conformity
- previously identified minor noncompliance(s) that is/are repeated or not corrected within the communicated time period become a major noncompliance

- multiple minor noncompliances
- failure to meet time requirements for submitting information required to evaluate compliance
- failure to pay certification and/or inspection fees

For an applicant, if a major noncompliance can be resolved within the time frame specified, NICS shall grant certification, *per Section 3.1 Granting of the Scope of Certification*. If the major noncompliance cannot be or is not resolved within the time frame, NICS shall issue a Notification of Denial of Certification, *per Section 7.2 Denial of Certification for Applicants*.

For a certified operation, if a major noncompliance can be or is resolved within the time frame specified, NICS shall grant certification, *per Section 5.3 Continuation of Certification*. In the case that the major noncompliance cannot be or is not resolved within the time frame, NICS shall issue a Notification of Suspension and/or Revocation, *per Section 7.5 Suspension and/or Revocation*.

### **7.1.3 Notification of Noncompliance Resolution**

Operations that receive a notification of noncompliance must correct the noncompliance and submit a description of the corrective actions taken with supporting documentation and/or rebut the noncompliance within a specified time frame. For all major noncompliances, NICS must evaluate the applicant's corrective actions taken and the supporting documentation submitted or the written rebuttal, and, if necessary, conduct an on-site inspection.

When a certified operation demonstrates that each noncompliance has been resolved, NICS shall send the certified operation a written Notification of Noncompliance Resolution. NICS must also send a copy of the notification to the USDA/NOP Administrator.

## **7.2 Denial of Certification for Applicants**

If the information submitted by the operation requesting certification is not sufficient or the operation fails to respond to the Notification of Noncompliance, NICS shall issue a written Notification of Denial of Certification.

The Notice of Denial of Certification shall be sent to the operation's address on file using a delivery service which will provide a date of receipt, and shall be copied to the USDA/NOP Administrator and any applicable state organic programs. The Notice of Denial of Certification will include the reason(s) for denial and the applicant's right to:

- Reapply for certification with NICS, *per Section 4.0 Initial Certification Process* or reapply with another certification agency; provided that, the application 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 any noncompliance(s).
- Request mediation, *per Section 8.0 Mediation of Disputes*.
- File an appeal of the denial of certification, *per Section 9.0 Appeals*

## **7.3 Willful Violation**

If NICS has reason to believe an operation requesting certification has willfully made a false statement or otherwise purposefully misrepresented their operation or their compliance with the certification requirements, NICS may deny certification *per Section 7.2 Denial of Certification for Applicants* without first issuing a notice of noncompliance *per Section 7.1 Notice of Noncompliance*.

If NICS has reason to believe a certified operation has willfully made a false statement or otherwise purposefully misrepresented their operation or their compliance with the certification requirements, NICS may combine a notification of noncompliance with a notification of proposed suspension and/or revocation of certification *per Section 7.4 Proposed Suspension and/or Revocation*.

## **7.4 Proposed Suspension and/or Revocation**

When a rebuttal is unsuccessful or the correction of the noncompliance is not completed within the prescribed time period, NICS 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 and/or Revocation of Certification may be combined in one notification. The Notice

of Proposed Suspension and/or Revocation of Certification shall be sent to the applicant's address on file using a delivery service which will provide a date of receipt, and shall be copied to the USDA/NOP Administrator and any applicable state organic programs.

The reasons for the proposed suspension or revocation will include:

- The proposed effective date of such suspension or revocation
- The impact of a suspension or revocation on future eligibility for certification
- The right to request mediation, *per Section 8.0 Mediation of Disputes*, or to file an appeal, *per Section 9.0 Appeals*

### **7.5 Suspension and/or Revocation**

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, NICS shall send the certified operation a written Notification of Suspension and/or Revocation. The Notice of Suspension and/or Revocation of Certification shall be sent to the applicant's address on file using a delivery service which will provide a date of receipt, and shall be copied to the USDA/NOP Administrator and any applicable state organic programs. However, NICS must not send a Notification of Suspension and/or Revocation to a certified operation that has requested mediation, *per Section 8.0 Mediation of Disputes*, or filed an appeal, *per Section 9.0 Appeals*, while final resolution of either is pending.

#### **7.5.1 Suspension**

A certified operation or a person responsibly connected with an 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 USDA's 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 USDA/NOP regulations. The USDA's Secretary requires NICS to provide a letter of support for the reinstatement request, which can only be done after NICS performs an on-site inspection and conducts a review of the operation's paperwork and supporting documentation to ensure that the operation requesting reinstatement is in compliance and is capable of ongoing compliance. This letter of support is then sent to the USDA's Secretary for reinstatement consideration. If the USDA provides a decision to reinstate the suspended operation, then NICS will issue an organic certificate for the reinstatement operation, once notification from the USDA has been received in the NICS office. Operations who wish to request reinstatement should contact the NICS office to request information about the reinstatement process and associated fees for the process.

#### **7.5.2 Revocation**

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 USDA's Secretary may, when in the best interest of NOP, reduce or eliminate the period of ineligibility.

### **7.6 Violations of USDA/NOP regulations**

In addition to suspension or revocation, any certified operation that knowingly sells or labels a product as organic, except in accordance with the Organic Foods Production Act (OFPA), shall be subject to a civil penalty of not more than 3.91(b)(1)(xxxvii) of this title per violation.

Additionally, any operation that makes a false statement under the Act to the Secretary, a State organic program's governing State official, or an accredited certification agency shall be subject to the provisions of Section 1001 of Title 18, United States Code.

## **8.0 Mediation of Disputes**

Any dispute with respect to Denial of Certification or Proposed Suspension and/or Revocation of Certification may be mediated at the request of the applicant for certification or certified operation with the approval of NICS. Mediation shall be requested in writing by the operation requesting certification within the time frame specified in the notice. NICS has the right to reject mediation requests, and shall provide written notification of



the rejection to the operation requesting certification or certified operation. The written notification of rejection of the request for mediation shall advise the applicant for certification or certified operation of the right to request an appeal, *per Section 9.0 Appeals*, within 30 days of the date of the written notification of rejection of the request for mediation. If mediation is accepted by NICS, the mediation shall be conducted by a qualified mediator mutually agreed upon by the parties to the mediation.

Mediation requests must include a \$300 deposit to secure the services of a qualified mediator. Mediation costs include fees charged by the mediator and administrative fees charged by NICS. All costs incurred by the mediation procedures are assumed by the operator requesting the mediation, and are not the responsibility of NICS, no matter the outcome of the process.

If an operation's request for mediation is granted, NICS will provide written notification to the operation indicating as such. The mediation process will be conducted within 30 days from the date of the acceptance notification, and will be conducted at a time, place, and by a mediator that is mutually agreed upon by NICS and the operation. Mediation will be conducted by a qualified mediator who has adequate understanding of the subject of the dispute.

NICS shall maintain records of all disputes and remedial actions relative to mediations, and document the action taken.

If a State organic program is in effect, the mediation procedures established in the State organic program will be followed. The parties to the mediation have no more than 30 days to reach an agreement following a mediation session. If mediation is unsuccessful, the operation that requested mediation has 30 days from termination of mediation to appeal the certifying agent's decision. Any agreement reached during or as a result of the mediation process has be in compliance with the regulations. The USDA NOP Secretary may review any mediated agreement for conformity to the regulations and may reject any agreement or provision not in conformance with the regulations.

## 9.0 Appeals

An operation requesting certification or certified operation who believes they are adversely affected by a noncompliance decision may appeal such decision directly with the USDA/NOP Administrator.

NICS shall maintain records of all disputes and remedial actions relative to appeals, document the action taken, and provide a copy to the USDA/NOP Administrator. 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. All appeals shall be reviewed, heard, and decided by persons not involved with the decision being appealed. 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 notice, whichever occurs later. The appeal will be considered "filed" on the date received by the Administrator. A decision to deny, suspend, or revoke certification or certification will become final and non-appealable unless the decision is appealed in a timely manner.

Appeals to the Administrator must be filed in writing and addressed to the current Administrator of the USDA-AMS. 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.

### 9.1 USDA/NOP Appeal Process

An operation requesting certification may appeal a Notification of Denial of Certification and a certified operation may appeal a Notification of Proposed Suspension and/or Revocation to the USDA/NOP Administrator.

If the Administrator sustains a certification applicant's or certified operation's appeal, the applicant will be issued organic certification, or the 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 NICS.

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 USDA's Uniform Rules of Practice or the State organic program's rules of procedure.

## 10.0 Complaints

NICS may investigate complaints of noncompliance with the USDA/NOP regulations concerning production and handling operations certified as organic by NICS. NICS shall keep a record of all complaints, the remedial actions relative to certification, and shall document the effectiveness of the action taken. All complaints shall be reviewed, heard, and decided by persons not involved with the decision being appealed.

In circumstances where the NICS certified operation is exporting organic product, NICS may require the operation to:

- keep a record of all complaints made known to the supplier relating to a product's compliance with requirements of the relevant standard and to make these records available to the certification body when requested
- take appropriate action with respect to such complaints and any deficiencies found in products or services that affect compliance with the requirements for certification
- document the actions taken

NICS must notify the USDA NOP Program Manager of all complaints related to noncompliances. Additionally, an operations state organic program may investigate complaints of noncompliance with the USDA NOP regulations.

## 11.0 Types of Inspections

NICS performs the following types of inspections:

- Initial inspections
- Update inspections
- Additional on-site inspections
- Unannounced inspections
- Pre-harvest and post-harvest testing

### 11.1 Initial Inspections

The initial 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 USDA/NOP regulations, 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 capability to comply can be observed.

All initial inspections must be conducted onsite and with an authorized representative of the operation who is knowledgeable about the operation. NICS must conduct an initial 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.

The initial inspection shall conclude with an exit interview with an authorized representative of the operation in order to confirm the accuracy and completeness of inspection observations and the information gathered during the onsite inspection. The exit interview will address the need for additional information or issues of concern, as well as any reports of findings as to the conformity with all regulations. The inspector will notify the operator of any further required documentation that may need to be submitted to NICS, in order for NICS to make a final certification decision.

### 11.2 Update Inspection

An update inspection is an on-site inspection that is annually conducted thereafter for each certified operation that produces or handles organic products for the purpose of determining whether the certification of the operation should continue. The inspection must be conducted (concluding with an exit interview) with an authorized representative of the operation who is knowledgeable about the operation and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable USDA/NOP regulations can be observed.

The content of an update inspection shall include the following:

- Organic system plan verification
- Any corrective actions identified at the last inspection or through subsequent written notifications from NICS

### **11.3 Additional Onsite Inspection**

NICS and/or the USDA/NOP Administrator may require that additional inspections, announced and/or unannounced, be performed by NICS for the purpose of determining compliance with the USDA/NOP regulations.

#### **11.3.1 Announced Additional Inspection**

Announced inspections are conducted on-site with an authorized representative of the operation who is knowledgeable about the operation. NICS may perform additional inspections if:

- There are changes in the Organic System Plan which effect the compliance of the product(s) that is certified
- There are changes in ownership, structure or management of the operation, if relevant
- There is any other information indicating that the product may no longer comply with the requirements of the certification system.

#### **11.3.2 Unannounced Inspections**

The NOP requires that accredited certification agencies conduct a number of unannounced inspections equal to or more than 5% of their number certified operations annually. Unannounced inspections are conducted on-site and do not require an authorized representative of the operation who is knowledgeable about the operation to be present. NICS reserves the right to conduct an unannounced inspection at any time deemed necessary, and may focus on specific topics of the operation instead of covering all the aspects of organic compliance.

#### **11.3.3 Cost of Additional On-site Inspections**

Depending upon the reason for conducting an additional on-site inspection and the decision made from the inspection, the costs of additional inspection are allocated either to NICS or to the operation in the following ways:

- NICS will be responsible for the costs of an unannounced inspection unless, as a result of such inspection, it is determined that the operation is not in compliance with the organic standards. In this case, the operation will be responsible for the inspection costs and will be billed accordingly. Also, if an unannounced inspection is determined by NICS to be adequate enough in scope to replace the annual inspection, the operation will be responsible for the inspection costs and will be billed accordingly.
- If an additional inspection is required due to the investigation of a complaint, the cost of the additional inspection is the responsibility of the operator only if a major noncompliance results from the investigation. If a major noncompliance does not become a factor in the decision making process, then NICS will bear all costs associated with the additional inspection.
- The cost of an additional inspection that becomes part of the operation's requirements for continued certification to monitor compliance will be the responsibility of the operation, regardless of the outcome.

### **11.4 Preharvest and Postharvest Testing**

The NOP requires that accredited certification agencies conduct a number of residue tests equal to or more than 5% of their number certified operations annually. All organic agricultural products must be made accessible by certified operations for examination by NICS, AMS Administrator, or the applicable State official.

An inspector may, with proper authorization from NICS, test for prohibited substances that have not been and are not being applied to the operation through means, which at the discretion of NICS, may include the collection and testing of soil, water, waste, seeds, plant tissue, and plant, animal, and processed products samples. NICS shall provide the operation's authorized representative with the results and receipt for any

samples taken by the inspector. All tests, required by NICS will be paid by NICS and not by the applicant or certified operation.

Sample integrity is maintained throughout the chain of custody, and residue tests are performed by a third-party, accredited laboratory. Chemical analysis is performed in accordance with the methods described in the most current edition of the Official Methods of Analysis. All test results and analysis are provided to the USDA Administrator, and available to the public, unless the testing is part of an ongoing compliance investigation.

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, NICS must promptly report such data to the Federal health agency whose regulatory tolerance or action level has been exceeded.

#### **11.4.1 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 USDA Administrator, the State organic program if in effect, or NICS may conduct an investigation of the certified operation to determine the cause of the prohibited substance.

#### **11.4.2 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:

- 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;
- 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:
  - 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
  - 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.

## **12.0 Evaluation of Materials Used in Organic Production**

Materials used in the organic production of crops and livestock and those used in processing and handling organic products must be allowed for use by the National Organic Standards, including the National List of Allowed and Prohibited Substances. Certification may be jeopardized by the use of materials of undetermined or incorrectly determined status (allowed or prohibited). Therefore, the status of each material must be determined by NICS prior to the use of the material as part of an operation's organic system plan. If a material contains multiple ingredients, the status of each ingredient, including inert ingredients and processing aids, will need to be determined. If ingredients are not disclosed, NICS may consider the material to be prohibited.

Inputs/materials are reviewed based on the National List as:

- Allowed: materials and/or practices which may be used for the production of organic crops, livestock and processed/handled products, including regulated materials and/or practices with annotated restrictions;
- Prohibited: a substance or practice which is not allowed to be used in organic production or handling.

Operators should note that inspectors are not authorized to make determinations on the status of materials. NICS accepts material status as determined in Organic Materials Review Institute and Washington State Department of Agriculture lists. Material use must be described in and approved as a part of the Organic System Plan, and must be compliant with the National Organic Program.

## 13.0 Variances to the National Organic Program

Only the USDA may grant temporary variances to the National Organic Program. However, at the requests of the operations they certify, State Organic Programs and accredited certifying agents may recommend temporary variances for consideration by the Administrator. Temporary variances may only be granted by the National Organic Program to certain production and handling standards, specifically §§205.203-205.207, 205.236-205.240, and 205.270-205.272. Temporary variances will not be granted for any practice, materials or procedure described under §205.105. In addition, temporary variances may only be granted for the following reasons:

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

Operators wishing to suggest a variance for recommendation by NICS to the Administrator must submit the following information in writing to the NICS office:

- The variance that is suggested, including applicable regulation(s);
- The reasons for suggesting the variance and how the variance is applicable to one of the allowed reasons, as listed above;
- Documentation supporting the need for the variance.

NICS considers all complete variance suggestions from operators and decides whether or not to recommend the variance to the Administrator. However, in the event that the USDA grants a temporary variance to the National Organic Program or policies, NICS will notify all operators potentially affected by the variance. Such a notification may be accomplished through a special mailing to operators and/or through information published in NICS' newsletter. NICS will also post information about the variance on its website. The information provided to operators will include a description of the variance and the length of time it is to be in effect.

## 14.0 Organic System Plan Verification

The inspector shall verify that all Organic System Plan updates provided to NICS by the certified operation for annual evaluation (*per Section 5.0 Maintaining the Scope of Certification*) are in compliance with the USDA/NOP regulations. The types and range of products and those rights to use marks of conformity identified on the Profile of Organic Operation form shall be reviewed for accuracy. All product extensions and/or reductions, *per Section 6.0 Extending and/or Reducing the Scope of Certification*, must be verified as accurate, and any extension and/or reductions requested at the time of the inspection must be verified by the inspector, as applicable. The results are submitted by the inspector to NICS for final approval, *per Section 5.1.1 Organic System Plan Update*.

### 14.1 Granting of Certification: Corrective Actions

The inspector shall verify the corrective actions from the previous year as required by NICS, *per Section 3.1 Granting the Scope of Certification*.

### 14.2 Notice of Noncompliance

If the operation received a Notice of Noncompliance in the previous year, corrective actions updated to the organic system plan as undertaken by the operation to comply with the USDA/NOP regulations must be verified as being effectively implemented at the time of the update inspection.

### 14.3 Changes in the Certification Requirements

NICS shall give due notice of any changes it intends to make in its requirements for certification. It shall take account of views expressed by interested parties before deciding on the precise form and effective date of the changes. Following the decision on and the publication of the changed requirements, NICS shall verify that each operation carries out any necessary adjustments to its procedures within such timeframe as is reasonable. The inspector shall verify that any changes required per publication of changes to certification regulations are implemented by the operation.

## 15.0 Verification of Voluntary Standards for Operations

### 15.1 Export of organic raw and processed agricultural products to Japan

The USDA National Organic Program (NOP) and the Japan Ministry of Agriculture, Food and Fisheries (MAFF) have signed a bilateral equivalency agreement which went into effect on January 1, 2014. Products produced and certified to USDA organic standards will be marketable in Japan as "organic." In addition, Japanese products certified to the Japanese Agriculture Standards (JAS) may be marketed in the US as "organic" under this agreement. Details of the USDA and Japan Equivalency Arrangement can be found on the National Organic Program website: <https://www.ams.usda.gov/services/organic-certification/international-trade/Japan>.

#### 15.1.1 Requirements

In order to access the Japanese market, organic products must be certified by a USDA-accredited certifying agent and must either be grown or produced in the US or have had their final processing or packing (including final labeling) in the US.

#### 15.1.2 Evaluating Compliance

NICS certification staff will review the operation's Organic System Plan, as well as the most recent organic inspection report to determine compliance with the US-Japan Organic Equivalence Agreement.

NICS evaluates compliance with the US-Japan Organic Equivalence Agreement on a production year basis. Compliance is granted on a commodity basis, not on a site by site basis.

Use of a US/Japan prohibited material during production will result in the inability to export that year's harvest of the commodity to Japan.

Certified operations must keep records regarding compliance with these additional requirements as well as compliance with the USDA National Organic Standards.

#### 15.1.3 Labeling

The following products covered under the JAS law must carry the JAS seal if they are to be sold as organic in Japan: plants, including fungi, and processed foods of plant origin.

The JAS seal may be applied by US exporters in one of two ways:

1. If a US based farm or business wishes to apply the JAS organic seal to their products in the US, they must contract with a JAS-certified importer.
2. If the US-based farm or business does not have a contract with a JAS-certified importer, a JAS-certified importer must apply the seal to the product once it arrives in Japan.

USDA certified products not regulated by the JAS law (e.g. meat, dairy, honey, alcoholic beverages, textiles) may not display a JAS seal.

The use of the USDA organic seal on an exported product is voluntary, as long as the product label meets the requirements of the USDA organic regulations.

The certifier must be identified on any label being exported to Japan to state, "Certified Organic by... (insert name of Japan recognized or USDA-accredited body)..." below the information identifying the handler or distributor of the product.

#### 15.1.4 Export Documentation

A USDA-accredited certifying agent must complete a USDA export document (TM-11) verifying the conditions of the US-Japan Equivalency Arrangement. This document must accompany all shipments of bulk agricultural products intended to be sold in Japan as "organic." USDA certified products not

regulated by the JAS law (e.g. meat, dairy, honey, alcoholic beverages, textiles) do not require an export certificate.

### **15.1.5 Fees**

The issuance of an Export Certificate is included in the cost of verification per the NICS Fee Schedule. However, the value of the organic sale is subject to the Certification Fee option that was chosen by the individual operation.

## **15.2 Export of organic raw and processed agricultural products to Taiwan**

On March 18, 2009, the Agriculture and Food Agency of the Council of Agriculture (COA) announced that the US Department of Agriculture's (USDA) National Organic Program (NOP) has officially been recognized by the COA as equivalent to Taiwan's new organic standards. This announcement allows US organic food products to export organic products to Taiwan under an export arrangement. Details of the US and Taiwan Export Arrangement can be found on the National Organic Program website:

[https://www.ams.usda.gov/services/organic-certification/international-trade/Taiwan\\_](https://www.ams.usda.gov/services/organic-certification/international-trade/Taiwan_)

### **15.2.1 Requirements**

In addition to certification to the USDA organic regulations, products must meet the following requirements in order to be sold as organic in Taiwan:

1. Must be composed of 95% or more organic ingredients.
2. Organic agricultural products and organic processed products must be produced or processed using zero prohibited substances.
3. Livestock and meat products must not be from animals treated with the use of systemic pain killers or analgesics, including the use of Lidocaine or Procaine.

### **15.2.2 Evaluating Compliance**

NICS certification staff will review the Organic System Plan, as well as the most recent organic inspection report to determine compliance with the US-COA Taiwan Export Arrangement.

NICS evaluates compliance with the US-COA Taiwan Export Arrangement on a production year basis. Compliance is granted on a commodity basis, not on a site by site basis

Use of a US/Taiwan prohibited material during crop production will result in the inability to export that year's harvest of the crop to Taiwan.

Certified operations must keep records regarding compliance with these additional requirements as well as compliance with the USDA National Organic Standards.

### **15.2.3 Export Document**

A USDA export document (TM-11) verifying the conditions of the US-COA Taiwan Export Arrangement must accompany all of products intended to be sold in Taiwan as "organic." If the product meets requirement 13.2.1 and additional evaluation shows compliance to the export arrangement, NICS can be requested to issue an USDA Agricultural Marketing Service (AMS) Export Certificate (TM-11) by completing an Application for USDA Export Certificate.

### **15.2.4 Fees**

The issuance of an Export Certificate is included in the cost of verification per the NICS Fee Schedule. However, the value of the organic sale is subject to the Certification Fee option that was chosen by the individual operation.

## **15.3 Export of organic raw and processed agricultural products to Canada**

Under a determination of equivalence, producers and processors that are certified to the National Organic Program (NOP) standards by a U.S. Department of Agriculture accredited certifying agent do not have to become certified to the Canada Organic Product Regulation (COPR) standards in order for their products to be represented as organic in Canada. Likewise, Canadian organic products certified to COPR standards may be

sold or labeled in the United States as organically produced. Both the USDA Organic seal and the Canada Organic Biologique logo may be used on certified products from both countries. The COPR became effective June 30, 2009. Details of the US-Canada Equivalency Arrangement can be found on the National Organic Program website: <https://www.ams.usda.gov/services/organic-certification/international-trade/Canada>.

### **15.3.1 Requirements**

U.S. organic products certified to the NOP standards may be exported to Canada as long as the following requirements are met:

1. Agricultural products derived from plants cannot be produced with Sodium Nitrate.
2. Agricultural products cannot be produced using hydroponic or aeroponic techniques.
3. Agricultural products derived from animals (with the exception of ruminants) must be produced according to livestock stocking rates as set out in CAN/CGSB32.210-2006 (amended October 2008).

### **15.3.2 Evaluating Compliance**

NICS certification staff will review the Organic System Plan, as well as the most recent organic inspection report to determine compliance with the US-Canada Organic Equivalency Arrangement (US-COEA).

NICS evaluates compliance with the US-Canada Organic Equivalency Arrangement on a production year basis. Compliance is granted on a commodity basis, not on a site by site basis.

Use of a US/Canadian prohibited material during crop production will result in the inability to export that year's harvest of the crop to Canada.

Certified operations must keep records regarding compliance with these additional requirements as well as compliance with the USDA National Organic Standards.

If the product meets the requirements indicated in 13.3.1, NICS can provide documentation indicating the following: "Certified in compliance with the terms of the US-Canada Organic Equivalency Arrangement".

### **15.3.3 Labeling**

Products certified as "organic" (containing 95% or more organic ingredients) and meeting the US-Canada Equivalency requirements may use either the USDA or Canadian Organic Regime (COR) seal beginning July 1, 2009. Use of the COR, USDA, or NICS seal is optional.

Products from the US or other countries using the COR seal must include a country of origin statement or the word "imported" in close proximity to the seal.

A certifier statement that identifies the name of the certifier must appear on the label. This certifier statement must be placed below the information identifying the distributor of the product.

Products that are certified as 100% Organic in the US cannot make this claim on the label if being distributed in Canada. Products containing 100% organic ingredients may only be labeled as "Organic."

Labels for products exported to Canada must be bilingual to include both English and French.

Special requirements exist for products intended to be exported to Quebec:

1. Organic fruit and vegetables must, whenever possible, be individually labeled.
2. The name of certified operators (grower or handler) must be printed on a sticker affixed to each organic fruit or vegetable.



- The name of the certifying body that verified the product's organic production must also to be printed on each sticker.

### 15.3.4 Fees

The issuance of an Export Certificate is included in the cost of verification per the NICS Fee Schedule. However, the value of the organic sale is subject to the Certification Fee option that was chosen by the individual operation.

## 15.4 Export of organic raw and processed agricultural products to the European Union

Under an equivalency arrangement signed by USDA and the European Union Commission, raw agricultural products and processed products certified to the USDA National Organic Standards are not required to obtain additional certification to market the products as organic in the European Union. The following countries are in the EU: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom. For a complete list, visit [https://europa.eu/european-union/about-eu/countries\\_en](https://europa.eu/european-union/about-eu/countries_en).

Full implementation of the U.S. – European Union Equivalency Arrangement came into effect on June 1, 2012. Details of the USDA and European Union Equivalency Arrangement can be found on the National Organic Program website: <https://www.ams.usda.gov/services/organic-certification/international-trade/European%20Union>.

### 15.4.1 Requirements

As of June 1, 2012, in addition to certification to the USDA organic regulations, products must meet the following requirements in order to be sold as organic in the European Union:

- Products must travel with an EU import certificate that has been completed by a USDA-accredited certifying agent.
- Products must be either produced within the U.S. or have had final processing or packaging occur within the US.
- Products must meet European labeling requirements.
- Products must meet the following critical variances:
  - Apples and Pears – may not be produced using antibiotics (streptomycin/tetracycline for fire blight control in apples and pears).
  - Wine - may not contain any non-organic grapes and must be produced using only the winemaking practices and substances details in the EU Organic regulations EEC 203/2012, which are outlined in the table below.

Wine Production Material/ Practice	EU status	EU regulation reference
Enzymes (other than pectolytic enzymes)	Prohibited	EC 203/2012 Article 29c, Annex VIIIa
Partial dealcoholisation of wine	Prohibited	EC 606/2009, Annex I A, Point 40
Electrodialysis treatment to ensure the tartaric stabilization of the wine	Prohibited	EC 606/2009, Annex I A, Point 36
Treatment with cation exchangers to ensure tartaric stabilization of the wine	Prohibited	EC 606/2009, Annex I A, Point 43
Partial concentration through	Prohibited	EC 1234/2007, Annex XVa,

cooling		Section B.1, Point (c)
Elimination of sulphur dioxide by physical processes	Prohibited	EC 606/2009, Annex I A, Point 8
Centrifuging and filtration with or without an inert filtering agent	Restricted: the size of the pores shall be not smaller than 0.2 micrometer	EC 606/2009, Annex I A, Point 3
Heat treatments	Restricted**: temperature shall not exceed 70 °C (158 °F)	EC 606/2009, Annex I A, Point 2
Use of ion exchange resins	Allowed**	EC 606/2009, Annex I A, Point 20
Reverse osmosis	Allowed**	EC 1234/2007, Annex XVa, Section B.1, Point (b)

\*\*to be re-examined by August 2015; may be further restricted or prohibited

All other NICS certified organic crops and products are approved as compliant with the US-EU Equivalency Arrangement, provided they are produced, processed, or packaged in the US and are in compliance with points 1 through 3 above.

### 15.4.2 Evaluating Compliance

NICS staff will review the producer's Organic System Plan as well as the most recent organic inspection report to determine compliance with the US-European Union Equivalency Arrangement. Use of antibiotics with tree fruit must be disclosed by the producer and reviewed by the organic inspector during an onsite visit.

Producer compliance is granted on a crop variety basis, not on a site by site basis.

Use of a US/European Union prohibited material during crop production will result in the inability to export that variety of apple or pears to the European Union for 36 months.

Certified producers must keep records regarding compliance with these additional requirements as well as compliance with the USDA National Organic Standards.

### 15.4.3 Labeling

For retail products, labels or stickers must state the name of the U.S. or EU certifying agent and may use the USDA organic seal or the EU organic logo.

The EU doesn't have a labeling category for 100% organic products. These products shall be labeled as "organic."

The EU does not have a labeling category for "made with" organic products. For products containing less than 95% organic ingredients, a percentage statement of organic content may be displayed on the label.

### 15.4.4 Fees

The issuance of an Export Certificate is included in the cost of verification per the NICS Fee Schedule. However, the value of the organic sale is subject to the Certification Fee option that was chosen by the individual operation.

## 15.5 Export of organic processed products to Korea

On July 1, 2014, the equivalency arrangement between the Ministry of Agriculture, Food and Rural Affairs (MAFRA) of the Republic of Korea and the US Department of Agriculture's (USDA) National Organic Program (NOP) became effective. This arrangement allows US organic processed products to be exported to Korea.

### **15.5.1 Requirements**

U.S. organic processed products certified to the NOP standards may be exported to Korea, as long as the following requirements are met:

1. Are "processed foods," as defined by the Korean Food Code. The definition of "processed foods", as defined by the Korean Food Code refers to a food manufactured, processed, and packaged by adding food or food additives to food raw materials (agricultural, forestry, livestock, or marine products), transforming food raw materials (such as grinding or cutting) till their original forms cannot be recognized, or mixing such transformed ones or adding food or food additives to such mixture. However, where, without the use of food additives or other materials, the agricultural, forestry, livestock, or marine products are simply cut, peeled, salted, ripened, or heated (except the cases where heating is performed for sterilization or heating causes significant changes to those products) till their original forms can be recognized or where sanitary risks from treatment processes are not expected and food raw materials are simply treated so as to allow organoleptic identification of food quality, such food products are excluded from the definition of the "processed food".
2. Contain at least 95% organic content.
3. Have their final processing (as defined by the Korean Food Code) within the U.S.
4. Do not contain apples or pears produced with the use of antibiotics (streptomycin/tetracycline for fire blight control in apples and pears).

### **15.5.2 Evaluating Compliance**

NICS certification staff will review the Organic System Plan, as well as the most recent organic inspection report to determine compliance with the US- Korea Organic Equivalence Arrangement.

Certified operations must keep records regarding compliance with these additional requirements as well as compliance with the USDA National Organic Standards.

If the product meets the requirements indicated in 13.5.1, NICS can provide documentation indicating the following: "Certified in compliance with the terms of the US- Korea Organic Equivalence Arrangement".

### **15.5.3 Labeling**

Products certified as "organic" (containing 95% or more organic ingredients) and meeting the US-- Republic of Korea Organic Equivalence Arrangement requirements may use either the USDA or Korean organic seal beginning July 1, 2014.

The certifier must be identified on any label being exported to Korea to state, "Certified Organic by (insert name of Korea recognized or USDA-accredited body) below the information identifying the handler or distributor of the product.

### **15.5.4 Fees**

The issuance of an Export Certificate is included in the cost of verification per the NICS Fee Schedule. However, the value of the organic sale is subject to the Certification Fee option that was chosen by the individual operation.

## ***15.6 Export of organic raw and processed agricultural products to Switzerland***

The USDA National Organic Program (NOP) and the Switzerland Federal Office for Agriculture (FOAG) have signed a bilateral equivalency agreement, which went into effect on July 10, 2015. Products produced and certified to USDA organic standards will be marketable in Switzerland as "organic." In addition, Swiss products certified to the Swiss Ordinance on Organic Farming and the Labelling of Organically Produced Products and

Foodstuffs (910.18) and the Federal Department of Economic Affairs, Education and Research (EAER) Ordinance on Organic Farming (Swiss organic ordinances) may be marketed in the US as "organic" under this agreement. Details of the USDA and FOAG equivalency can be found on the National Organic Program website: <https://www.ams.usda.gov/services/organic-certification/international-trade/Switzerland>.

### **15.6.1 Requirements**

In addition to certification to the USDA organic regulations, products must meet the following requirements in order to be sold as organic in Switzerland:

1. Products must be grown or produced within the United States; or
2. Have had final processing or packaging occur within the United States.
3. Wine products must be produced and labeled according to the Swiss organic ordinances.

### **15.6.2 Evaluating Compliance**

NICS certification staff will review the operation's Organic System Plan, as well as the most recent organic inspection report to determine compliance with the US-Switzerland Organic Equivalence Arrangement.

Use of a US/Switzerland prohibited material during production will result in the inability to export that year's harvest/production of the commodity/product to Switzerland.

Certified operations must keep records regarding compliance with these additional requirements as well as compliance with the USDA National Organic Standards.

### **15.6.3 Labeling**

For retail products, the USDA organic seal may be used as long as it meets the labeling requirements applicable in Switzerland.

Switzerland does not have a labeling category for 100% organic products. These products may be labeled as "organic" and utilize the USDA organic seal.

Switzerland does not have a labeling category for "made with" organic products. For products containing less than 95% organic ingredients, a percentage statement of organic content may be displayed on the label. Additionally, the overall percentage of organic ingredients must be stated on the ingredient panel. Products containing less than 95 percent organic ingredients may not be labeled with the USDA organic seal.

For bulk products, a lot number must be present in order for allowance of a complete audit trail to take place and verify the product's identity.

For wine products, labeling must be in accordance with the Swiss organic ordinances.

### **15.6.4 Export Documentation**

A USDA-accredited certifying agent must complete a Swiss import certificate. This document must accompany all organic shipments intended to be sold in Switzerland as "organic."

### **15.6.5 Fees**

The issuance of a Swiss import certificate is included in the cost of verification per the NICS Fee Schedule. However, the value of the organic sale is subject to the Certification Fee option that was chosen by the individual operation.

## **15.7 Importing At-Risk Organic Grains into the U.S.**

The USDA National Organic Program (NOP) has notified NICS and other accredited certifiers to enact control and reporting measures due to falsified documentation and misrepresentations of imports as organic. As part

of the ongoing effort to maintain the integrity of the USDA organic seal, NICS has implemented the following policy for at-risk imported organic grains.

### **15.7.1 Requirements**

In addition to certification to the USDA organic regulations, operations certified organic by NICS who directly receive imported organic corn, soy, wheat, flax, dry edible beans, sunflower meal, or derivatives of the mentioned grains from Turkey, Russia, Ukraine, Kazakhstan, Moldova, and Romania are required to:

1. Notify NICS, in writing, of the date, time, and location of the expected shipment arrival at least two weeks prior to the receipt of the inbound shipment.
2. Provide the following documentation associated with the inbound shipment at the time NICS is notified of the inbound shipment:
  - a. Shipping manifest, certificate of origin, phytosanitary certificate, and fumigation documentation (as applicable) for each vessel used to move the organic product within the supply chain.
  - b. All transaction certificates and/or NOP Import Certificates for the shipment and sales to intermediate handlers, including brokers, traders, wholesalers, and transporters.
  - c. All residues, GMO, quality, or other analytical testing performed in the supply chain.
  - d. Bill of lading and invoice(s) from all vendor(s).
  - e. Complete verification of the volumes contained in the shipment, confirmed as complete and accurate by the certifier of the shipment, and provided to NICS. Verification must include, but is not limited to, the following and be in sufficient detail to be readily understood and audited:
    - i. Volume of each commodity represented in the shipment.
    - ii. Identification of each intermediate handler in the shipment's supply chain, along with the intermediate handler's certifier information, certificate, the certificate number, and NOP identification, as applicable to the operation. This identification includes all brokers, traders, wholesalers, and transporters, as applicable to the supply chain.
    - iii. Verification of mass balance for the shipment from the certifier of each intermediate handler.
  - f. NICS may provide tools to the NICS certified operation to provide this information.
3. NICS may conduct an inspection of the inbound shipments directly received by a NICS certified operation. The inspection will consist of representative samples from each shipment received and may be unannounced.

### **15.7.2 Evaluating Compliance**

Documentation submitted to NICS to support the organic status and verification of USDA compliance for at-risk imported commodities will be reviewed by the NICS staff. The results of the review will be communicated to the NICS certified operation.

At-risk imported commodities for which the aforementioned requirements are not met may be considered to be in noncompliance. If shipments are found to be noncompliant based on review of required documentation noted in section 13.7.1 or through sample results, the operation will be communicated with appropriately regarding the noncompliance. Sales of noncompliant product may

lead to adverse actions and possible civil penalties in an operation knowingly sells noncompliant product as organic.

### **15.7.3 Fees**

Reviews of at-risk organic import documentation will be performed and invoiced to the NICS certified operation at the NICS Administrative Fee rate of \$90/hour, with a 2 hour minimum considered.

## **16.0 Fees and Financial Responsibility**

NICS provides quality certification services at a reasonable cost. Certification and inspection deposit fees must accompany all requests for certification. For update (renewal) applications, the date indicated on the certificate is the anniversary date and NICS will provide applicable update documentation to currently certified operation within the first 15 days of the calendar year to be submitted for certification requests by May 1, annually.

Fees for additional services are due as billed. User fees, if applicable to the operation, are to be reported and paid, at least, on a quarterly basis. All fees must be current for certification services to be provided. Refer to the NICS Fee Estimate Worksheet for Crop Producers, the NICS Fee Estimate Worksheet for Livestock Producers, or the NICS Processor Fee Estimate Worksheet (as applicable) for details. Payment arrangements are available upon request and approval by NICS. The payment of fees is required by National Organic Standard 205.400(e) and noncompliance proceedings are initiated if financial requirements are not met in a timely manner. The NICS Fee Estimate Worksheet for Crop Producers, the NICS Fee Estimate Worksheet for Livestock Producers, and the NICS Fee Estimate Worksheet for Processors is also made available on the NICS website at [www.naturesinternational.com](http://www.naturesinternational.com).

## **17.0 NICS Client Directory**

NICS provides a list of producers and processor/handlers whose operations it has certified, including the name of the operation, type(s) of operation, products produced, and the effective date of the certification. This list is submitted to the USDA's NOP Administrator, on January 2 of each year. This list can be downloaded at [www.naturesinternational.com](http://www.naturesinternational.com).