



Responsibilities of Certified Operations Changing Certifying Agents

1 Purpose

This document establishes National Organic Program (NOP) policies and procedures for certified operations and accredited certifying agents (ACA's) when certified producers or handlers change to a new ACA.

2 Scope

These procedures apply in all situations where certified operations change certifiers, either as a result of a business decision or as a result of their current certifier losing accreditation.

3 References

7 CFR Part 205 Subpart E – Certification and Subpart F – Accreditation (Regulation)

4 Policy

4.1 Certification under the Regulation is not transferrable between ACAs. ACAs may not sell or otherwise transfer certified operation files or certificates to another ACA.

4.2 Certification and certificates issued to certified operations are not transferrable to new owners in cases of mergers, acquisitions, or other transfers of ownership of the certified operation. When there is a change in ownership of a certified operation, the certified operation must apply for and receive new certification from an ACA prior to selling, labeling, or representing products as organic.

4.3 When a certified operation wishes to change from their existing ACA to new ACA, the certified operation must complete an application and submit a complete organic systems plan (OSP) to the new ACA.

4.3.1 The new ACA must conduct a complete review and onsite inspection of the certified operation's OSP and ensure compliance with the NOP regulations prior to granting certification.

4.3.2 When changing ACAs, the certified operation must either maintain the prior certification according to the NOP regulations-or surrender their prior certification in writing. Certified operations who are changing ACAs must maintain their current certification until they have been granted certification by the new ACA if they intend to continue to produce or sell products as organic.

4.3.3 If a certified operation applies for certification with a new ACA but does not maintain or surrender their prior certification in writing and the prior ACA issues a notice of noncompliance or proposed adverse action, the certified operation is still bound by the notice of noncompliance or proposed adverse actions of the prior certifying agent.

4.3.4 If the prior ACA issues a notice of suspension or revocation for failure to renew, pay fees, submit an updated OSP or any other technical or administrative noncompliance to the NOP Regulations, the certified operation must immediately cease the sale, labeling, and representation of



products as organic until all noncompliances are resolved and eligibility for reinstatement is granted by the NOP.

4.4 For voluntary changes of certifying agent:

4.4.1 Certified operations that change ACAs voluntarily may not use up existing supplies of labels which identify their prior ACA on products they produce or handle.

4.5 For certified operations who change ACAs due to loss of a ACAs accreditation:

4.5.1 Organic operations certified by an ACA that goes out of business or loses its accreditation for any reason must apply for certification to another ACA within 60 days of the date of surrender, suspension, or revocation of accreditation of their ACA.

4.5.2 If an ACA discontinues service or loses its accreditation for any reason, all files for all operations certified by that ACA at that time must be transferred to the NOP pursuant to 205.501(c)(3). If a certified operation does not find a new certifying agent within 60 days, the NOP will reassign the supervision of the operation to another certifying agent who will manage the surrender or ongoing certification of the certified operation or initiate proposed adverse actions for failure to maintain certification under the NOP regulations.

4.5.3 ACAs who receive applications for certification from a certified operation affected by the loss of accreditation of their prior ACA may not grant ongoing certification on the basis of prior inspections or decisions by the prior certifying agent.

4.5.4 Certified operations that change ACAs due to their ACA going out of business may use existing supplies of labels for no more than 90 days beyond the date that the ACA discontinued service.

5 Procedures

5.1 To change ACA, a certified organic operation must:

5.1.1 Submit an application for certification to another ACA as a new applicant;

5.1.2 Submit a complete OSP for the scope(s) of certification requested;

5.1.3 Pay fees to the new ACA according to the fee schedule approved by the NOP;

5.1.4 Maintain their current certification, including submitting annual updates, allowing timely inspections, and payment of all required fees to the current ACA until the certification process for the new ACA is complete and a new certificate has been issued if they continue to produce or sell products as organic;

5.1.5 Return their prior certificate along with a written notice of surrender to their prior ACA only after the new certification process is complete.



5.4 To receive new applicants currently or previously certified by another ACA, the new ACA must:

5.4.1 Require the applicant to submit a complete new application and OSP as a new applicant for certification;

5.4.2 Request information regarding their current certification status, including any outstanding notices of noncompliance or proposed adverse actions. Certification may not proceed until outstanding notices and proposed adverse actions are resolved and eligibility for reinstatement has been issued from the NOP, as needed;

5.4.3 Notify the applicant of their obligation to maintain their current certification throughout the new certification process in order to sell, label or represent products as organic during the change to the new ACA;

5.4.4 Charge fees as approved by the NOP;

5.4.5 Conduct a complete review of the application and OSP for compliance with the NOP regulations;

5.4.6 Schedule and conduct an onsite inspection pursuant to § 205.403; an inspection is required prior to the issuance of a new certificate;

5.4.7 Issue a new certificate only after the applicant is determined to be in compliance with the NOP regulations;

5.4.8 Not allow the new client to use labels which do not correctly identify the ACA of the finished product beyond the tolerances allowed in this instruction;

7 Records

7.1 ACAs will maintain records according to 205.510(b).

7.2 Certified operations will maintain records according to § 205.400(d)

Miles V. McEvoy
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