

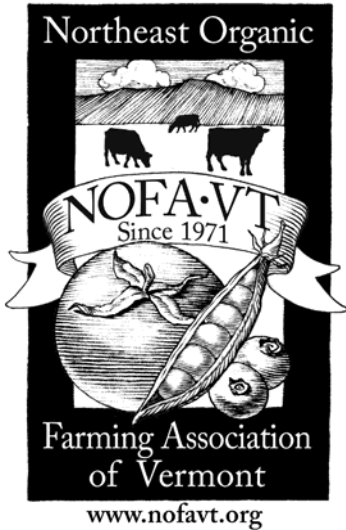
# VERMONT ORGANIC FARMERS CERTIFICATION GUIDELINES 2016

*Certified Organic, Locally Grown.*



[www.nofavt.org/why-organic](http://www.nofavt.org/why-organic)

# Northeast Organic Farming Association of Vermont, Inc. (NOFA-VT)



Vermont Organic Farmers, LLC is the USDA accredited certification program of NOFA-VT. NOFA-VT is a non-profit association of consumers, gardeners and farmers who share a vision of local, organic agriculture. Through education and member participation, NOFA works together to strengthen agriculture in Vermont. Please join us!

As a member, you will receive a subscription to NOFA's regional quarterly publication *The Natural Farmer*, and NOFA Vermont's quarterly newsletter, *NOFA Notes*. You will also receive reduced rates at NOFA's annual conference, seasonal workshops, farming supplies and discounts on books and publications. For additional information on membership, and NOFA's work, please contact:

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**NOTE: There are certification standards for organic honey, maple syrup and mushroom production available by contacting the office.**

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# **2016 VOF GUIDELINES**

## **I. INTRODUCTION**

### **A. Principles**

Vermont Organic Farmers (VOF) is a Limited Liability Corporation, owned by NOFA-VT. Since 1985, VOF has provided a highly credible program for independent third-party verification of organic food production.

VOF has been accredited by the USDA National Organic Program since 2002, and has adopted the USDA National Organic Standards. To aid farmers in the implementation of these standards, VOF has created the following guidelines. In addition to outlining the National Standards, these guidelines encourage a method of production that is biologically enhancing to the soil, plant, and animal life. The following principles constitute the objectives of these food production guidelines:

- To improve and maintain the long-term fertility of soils.
- To produce quality, nutritious food and feed.
- To reduce pollution that may result from farming and processing systems.
- To encourage farming systems using local resources.
- To enhance biological cycles within the food production system.
- To increase the diversity and stability of the farm ecosystem.
- To ensure non-exploitative treatment of farm workers.
- To create conditions for livestock that promote animal health and well being.
- To maximize farmers' monetary returns and satisfaction for their work.
- To maintain the land in healthy condition for future generations.

While certification decisions will be based only on the National Organic Standards, VOF encourages farmers to be innovative in their approach to organic production. The VOF guidelines reference the National Standards by including the section number of the national standards that the guideline is based on (ex. §205.600).

***For reference, a complete copy of the National Organic Program Standards is included in Appendix I of this document. Appendix II includes the National List of Approved and Prohibited Substances of the National Organic Program. If certified operations are unclear about a standard, they should contact the VOF office or consult with the standards in Appendix I.***

## **B. Explanation of Terms**

NOP: National Organic Program. Part of the AMS Branch of the USDA responsible for overseeing national organic standards.

NOSB: National Organic Standards Board. 15-member board appointed by the Secretary of Agriculture that advises the NOP on standards issues.

National List: (§205.600-205.607) This list incorporates the allowed and prohibited substances for all types of organic operations. For crops and livestock, the list is broken down into allowed synthetic materials and prohibited nonsynthetic or “natural” materials. Nonsynthetic substances are, in general, allowed if not specifically prohibited on the list. Synthetic substances should be assumed prohibited unless specifically allowed. VOF distributes separate lists of allowed generic and brand name materials. Because of this, the VOF Guidelines will not list specific allowed or prohibited products. To add substances to the National List go to the NOP website at [www.ams.usda.gov/nop](http://www.ams.usda.gov/nop).

## **C. Organizational Structure**

Any producer or processor who has been certified in the most recent year will receive notice of all meetings. The constituency, of which all certified operations are a part, meets annually to:

- vote on standards interpretations and relevant policy issues;
- approve a budget;
- allocate funds derived from certification fees;
- appoint the Certification Review Committee; and
- appoint the Executive Committee.

**The Executive Committee** consists of three to five constituents not certified by VOF. They make decisions regarding VOF personnel, prepare the annual budget, and perform other non-certification work. Additional non-certified constituents may be appointed annually by the Executive Committee.

**The Certification Review Committee** consists of six constituents who provide supervision and guidance to the Administrator and Inspectors, and who meet to decide on approval of certification applications.

**The Inspector** is an independent contractor hired to inspect farms and interview farmers being considered for certification. The inspector must have no financial affiliation or business relationship with any applicant being evaluated, currently or within the past year.

## II. CERTIFICATION ELIGIBILITY

### A. Admissibility

#### 1) Application Restrictions

- ✓ VOF does not accept applications for organic certification of non-agricultural products.
- ✓ VOF does not accept applications for hydroponic production of edible crops to a harvestable stage.
- ✓ In general, VOF does not accept applications from producers or processors outside of Vermont. An exception to this rule includes operations that have been certified by VOF prior to 2002.

#### 2) Who May Apply For Certification

Any producer or processor who meets VOF's admissibility requirements for the production of organic foods or processed food products may apply for certification. All commodities and scales of operation are welcome, although organic production and handling operations whose incomes from organic sales are less than \$5000 annually are not required to be certified. However, operations exempt from certification must comply with applicable standards and labeling guidelines (§205.310) in order to label their product as organic and products may not be labeled as 'certified organic'. An operation is excluded from certification if it only handles organic products that are enclosed in a package or container; the product remains in the same package or container for the entire period handled; and it does not process organic products. In other words, the excluded operation must receive certified organic product in wholesale or retail containers and distribute them in the same wholesale or retail containers without opening, reconstituting,

altering, repackaging, processing, or relabeling the products.

### 3) Who Must Apply For Certification

Any operation, except those whose gross incomes from organic sales are less than \$5,000 annually (see above), that produces or handles crops, livestock, livestock products, or other agricultural products, that intends to sell, label or represent those products as organic must be certified. All specified portions of an operation must be certified. A certified operation may not allow an uncertified operation to produce or handle agricultural products, under contract or other arrangement, on the uncertified operation's land or premises (i.e. at units, facilities, or sites not explicitly subject to inspection or compliance action by the NOP or a certifying agent). For example: an uncertified slaughter facility cannot slaughter cattle under a certified organic producer's OSP. An uncertified apple press cannot process apples for an organic apple grower under the grower's OSP. However, a certified operation may continue to hire individuals or business to harvest crops, hull nuts, clean seeds, or perform other services on the certified operation's premises and to contract with an uncertified operation to transport its agricultural product, provided the transportation is described under the certified operations approved OSP. Individuals or operations that sell (take ownership of) organic product not in final packages or containers must obtain certification. However, VOF does not require individuals or operations that solely provide a transportation service for organic unpackaged products (hay, grain, livestock, etc.) to be certified provided the transportation is described under the certified operations approved OSP.

### 4) Land Requirements (§205.202)

In order to be certified organic, crops must be harvested no less than three years after the application of a prohibited substance. Prohibited substances include synthetic fertilizers, herbicides and pesticides. If you have farmed the land for less than 3 years, you must submit signed statements from the previous manager or landowner stating the use of all products/amendments that have been applied to the land during the past three years.

#### 5) Buffer Requirements (See §205.202)

In cases where an adjoining farm is growing non-organic crops and there is possibility of contamination, there must exist an adequate barrier/distance between certified crops and adjacent areas where prohibited substances have been used. This buffer must be sufficient in size or have adequate vegetation, elevation or slope to prevent the possibility of unintended contact between prohibited substances and land under organic management. See Production Guidelines for more details.

#### 6) Split Operation Guidelines

VOF allows the certification of split operations. The term “split operation” refers to an operation which grows, processes, or handles both organic and non-organic agricultural products. Split operations are allowed with additional documentation that may include additional inspection and audit information such as scale receipts, varietal differences, spray records, buyer inspection, harvest dates and contract agreements, differentiation of harvesting containers, carcass tagging, livestock health records, marketing differentiation, etc. This will be done on a case-by-case basis. See Production Guidelines for more details.

### **III. APPLICATION PROCEDURES**

#### **A. How to Apply for Certification**

- Submit your Organic Production Plan (application) according to the application deadlines. Record keeping sheets must be kept for verification during the on-site inspection, documenting use of agricultural amendments, pesticides and foliar sprays for each field. All livestock applicants must have a 12-month animal health history form and must have a current inventory of all certified animals on the farm at the time of inspection. If you have products that you would like to sell early in the season, get your application to us as soon as possible and we will try and inspect your farm/facility early and notify you of your certification status before your date of first sales. If upon Administrative Review you are clearly not eligible for certification, your fee will be refunded, except for a \$100.00 fee for processing the application.

- After the application is received, farmers will be sent annual record keeping forms. These, or a comparable record keeping system, are to be maintained throughout the season. These record-keeping forms will be maintained by the applicant and must be available for inspection and copying at any time. Incomplete or inaccurate information may be cause for denial or revocation of certification. Processors are expected to have their own record keeping forms and audit trail system.
- *First year farm applicants only*, it is *recommended* that you submit the results of a complete soil test for each distinct field unit. You may use the soil testing lab at the University of Vermont (packets available through your local Extension System office), or an independent lab.
- After the application has been received, the VOF staff will do an initial review and send you a letter verifying the application is complete. It will be noted if additional paperwork is required (records, fees due, etc.).
- A minimum payment of half of the total certification fee due must be submitted with the application. For those applicants whose total certification fee is \$425 or less, a minimum payment of \$250 must be submitted with the application. If the required minimum payment is not submitted the application will be considered incomplete and may result in suspension of your certification. If payment is not submitted in full with the application, applicants will have 120 days from the due date of the application until the balance of certification fees is due. If the balance of certification fees due is not paid in the timeframe stated above it may result in suspension of your certification.
- An inspector will contact you to arrange a field visit, which will take approximately 2-5 hours. Before the site visit, the inspector will do a review of the application for compliance. For applicants who have seasonal production (i.e. greenhouses or maple syrup), the inspection will be scheduled at a time to view the operation while in production.
- The Certification Staff will review the farm/facility inspection report. You will receive a letter and certificate confirming your certification status

within approximately two months of your inspection visit. New producers are evaluated by the Review Committee after certification has been granted by the Administrator. Approval by the Administrator is based on application information and the inspection report. The Review Committee makes certification decisions regarding any major non-compliance. Renewal applicants maintain their certification unless their annual inspection and review shows reason for suspension or revocation or unless the producer surrenders their certification. Unannounced inspection visits may be made at the discretion of the Review Committee.

- For all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent, a conflict of interest disclosure report must be on file identifying any food- or agriculture-related business interests, including business interests of immediate family members, that could cause a conflict of interest. If it is determined within 12 months of certifying an operation, that any person participating in the certification process has had a conflict of interest involving the applicant, VOF will reconsider the operation's application and will perform a new on-site inspection if necessary. All costs associated with the reconsideration of the application will be borne by VOF. In addition, if necessary, VOF will refer the applicant to a different certifying agent, and reimburse the operation for the cost of recertification.

#### **B. Application and Record Keeping Requirements (§205.103 & 205.201)**

All producers must submit an Organic Production Plan in the form of the VOF Application on an annual basis. The plan must show compliance with the requirements in the NOP standards. The producer must:

- Describe farm practices or processing procedures.
- List all inputs planned for use including source/supplier, location and reason for use. Provide documentation on commercial availability of seeds, planting stock and ingredients as necessary.
- Describe all monitoring practices for pests, fertility, etc.

- Describe the record keeping system used.
- Provide a farm or facility map and description of any organic integrity issues.
- Provide records for the previous five years (if necessary).
- Provide additional information as deemed necessary by the VOF Review Committee.
- List sources of all fertilizers and pest control products applied, as well as the location, date and rate of application.
- Describe harvesting and handling of products.
- Pay all applicable fees.

***Applicants must immediately notify the VOF Administrator concerning any change in a certified operation that may affect its compliance with the Act and relevant regulations. This includes notifying VOF immediately in the case of application of a prohibited substance including through drift.***

***Applicants must also document all activities and transactions of the certified operation, including purchases and sales. All records will be checked at the time of the inspection visit, and must be available for review and copying. Continuing applicants must show the completed records from the previous year and must show that current records are being maintained. Incomplete records may be cause for denial of certification, as well as putting the certified operation at risk should legal challenges arise concerning the authenticity of products labeled as organic. In addition, applicants must keep certification records on file for five years.***

### **C. Farm Certification Application Checklist**

At the time of application, you must submit the following:

- A complete application. All required questions in the application must be completed.
- A certification fee submitted in full at the time of application or a minimum payment of half of the total certification fee due but not less than \$250.
- Field identification sheet for each new field to be certified documenting the field's three-year history and eligibility.
- For continuing applicants, annual record keeping sheets must be available for verification during the on-site inspection, documenting



use of agricultural amendments, pesticides and foliar sprays for each field.

- For dairy, meat and poultry applicants, Livestock Information Sheets and a 12-month animal health history must be available for verification during the on-site inspection.
- For livestock applicants (not including poultry) an animal identification sheet available for verification during the on-site inspection.

#### **D. Processor Certification Application Checklist**

At the time of application, you must submit the following:

- A complete application. All required questions in the application must be completed.
- A signature that verifies information in the application is accurate.
- A certification fee submitted in full at the time of application or a minimum payment of half of the total certification fee due but not less than \$250.
- A Product Profile sheet for each product being certified.
- Certificates for each ingredient to verify organic status.
- A Facility Map and Process Flow Diagram

#### **E. Application Deadlines:**

*To be considered on time, continuing applications must be post-marked or submitted on-line by the following dates and must include a minimum payment of half of the certification fees due (and no less than \$250). VOF will not accept faxed copies of applications. An administrative fee of \$25 will be charged applicants who submit paper applications.*

Feb 22 for continuing maple syrup applicants

Feb 22 for continuing applicants in greenhouse, vegetables, and fruit

Feb 22 for all continuing field crop applicants

Feb 22 for all continuing dairy and livestock applicants

August 15 for continuing processing applicants

Rolling Admission for new dairy and processing applicants

Rolling Admission for new maple, greenhouse, vegetable, fruit and field applicants. Inspections must occur during the growing season and crops harvested before inspections may not be eligible for certification.

### Late Fees (Renewal Applicants Only)

A \$75 late fee will apply to the certification fee of any application postmarked after the application deadlines above. New applicants submit applications on a rolling basis and will not be charged a late fee.

### Certification Fee Payment Plan

The application must include a first installment of at least half of the total certification fee as a down payment. For those applicants whose total certification fee is \$425 or less, a minimum payment of \$250 is required. Applicants will have 120 days from the time the application is due in the office until total fees are due. If total fees due are not paid by the timeframe stated below, the applicant's certification may be suspended.

<b>Application Due Dates for Continuing Applicants</b>	<b>Final Payment Due</b>
Maple (Feb. 22)	June 27
Vegetable (Feb. 22)	June 27
Field Crop (Feb. 22)	June 27
Dairy and Livestock (Feb. 22)	June 27
Processor (August 15)	December 15

### **F. 2016 Certification Fees (\$205.642)**

The following fee scale was passed by the VOF constituency. All feedback on the fee structure and proposed changes for 2016 should be directed to the Executive Committee. In addition to these fees a \$25 fee for applicants who submit paper applications will be assessed.

All applicants should determine their fee based on their *anticipated* gross sales of certified organic product for the year. If projected sales are grossly over-or under-estimated, adjustments to the fee can be made at the end of the certification year as long as fees have not been reimbursed.

All financial information is confidential. If upon administrative review you are clearly ineligible for certification your fee will be refunded, except a \$100 fee for processing the application.

In addition, if you chose to withdraw or surrender your application refunds will be issued in the following way:

Withdrawals & Denials: You may choose to withdraw your application at any time. If you choose to withdraw your application or your application is denied prior to being inspected your fee will be refunded, except a \$100 fee

for processing the application. If you choose to withdraw your application or your application is denied after your operation has been inspected, your fee will not be refunded.

Surrenders: You may choose to surrender your certification at any time.

For farmers: If you choose to surrender your certification prior to July 31st, and your operation has not yet been inspected your fee will be refunded, except a \$100 fee for processing the application. If you decide to surrender your certification after your operation has been inspected your fee will not be refunded. If you decide to surrender your certification after July 31st your fee will not be refunded, regardless of whether or not your operation has been inspected for the season.

For processors: If you choose to surrender your certification prior to December 15th, and your operation has not yet been inspected your fee will be refunded, except a \$100 fee for processing the application. If you decide to surrender your certification after your operation has been inspected your fee will not be refunded. If you decide to surrender your certification after December 15th your fee will not be refunded, regardless of whether or not your operation has been inspected for the season.

Applicants who reapply for certification after surrendering, suspension or revocation must pay any outstanding fees before certification will be granted.

## Certification Fees:

<b>Anticipated gross sales...</b>	<b>Certification fee is...</b>
Less than \$2,499	\$425
\$2,500-\$4,999	\$450
\$5,000-\$9,999	\$475
\$10,000-\$19,999	\$500
\$20,000-\$29,999	\$550
\$30,000-\$49,999	\$600
\$50,000-\$74,999	\$650
\$75,000-\$99,999	\$725
\$100,000-\$149,999	\$800
\$150,000-\$199,999	\$900
\$200,000-\$299,999	\$1,100
\$300,000-\$499,999	\$1,275
\$500,000-\$999,999	\$1,475
\$1,000,000-\$1,999,999	\$1,875
\$2,000,000-\$2,999,999	\$2,275
\$3,000,000-\$4,499,999	\$2,775
\$4,500,000-\$5,999,999	\$3,275
\$6,000,000 -\$7,999,999	\$4,500
\$8,000,000 and higher	\$6,000

### Supplemental Certification Fee

A supplemental certification fee will be charged for any applicant who requires additional work by the Review Committee or Certification Inspector. Conditions that may require a supplemental fee are as follows: a repeat inspection visit to gather new information or to inspect another part of the farming operation (e.g. maple production), an additional audit trail review of a farm or processing application, out of state travel, a supplemental inspection as required for certification reinstatement, or inspection of a farmer/processor whose facilities are in different locations. The supplemental fee is \$200.00 to cover the inspector's salary and administrative costs.

# **Organic Production Guidelines**

While certification decisions will be based only on the National Organic Standards, VOF encourages farmers to be innovative in their approach to organic production. The following guidelines include recommendations for good farming practices as well as requirements for organic certification. The VOF guidelines reference the National Standards by including the section number of the national standards that the guideline is based on (ex. §205.600). For reference, a copy of the National Organic Program Standards is included in Appendix I of this document.

## **I. SOIL MANAGEMENT**

A key task in soil management is the proper management of organic matter, and this is accomplished by tillage, crop rotation, manure, compost and use of organic residues. Soil mineral balance, which may require the application of mineral fertilizers, is essential for soil health and the production of quality organic food. Producers must maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.

### **A. Soil Fertility (§205.203)**

#### 1) Monitoring

Complete soil tests are recommended for each separate field unit or management unit, especially for fields of distinctly different soil types, cropping practices or field history. The following information should be included: pH, cation exchange capacity, base saturation ratio, organic matter, calcium, magnesium, potash, phosphate and boron. It is further recommended that complete soil tests be performed for each separate field or distinct management unit at least every three years. In addition, soil testing of potting soil is recommended for growers using a homemade potting mix. If soil tests are not used, a producer must demonstrate that they are adequately monitoring the fertility of their soils through other methods.

#### 2) Soil Amendments, Fertilizers & Growth Promoters

The following text discusses important nutrients soil must provide for a healthy crop. Generic materials are listed as examples, however when purchasing brand name amendments be sure to check with the VOF office to ensure that the material is approved for use. For

details on acceptable soil amendments, fertilizers and growth promoters, see §205.203(d), the National List (appendix II), or **VOF's Brand Name Product List for Organic Crop Production**. In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov).

Although hay is a sustainable crop because it is always in permanent cover, producers are still required to monitor soil fertility and add amendments to replace lost nutrients.

Please Note: With the advent of commercial fertilizer companies supplying both approved and prohibited fertilizers, farmers are required to secure a written statement (known as a clean truck affidavit) that provides evidence that the delivery truck has been sufficiently cleaned to prevent commingling of prohibited and approved materials. Please contact the VOF office to receive a blank form.

#### a) Nitrogen sources

Nitrogen exists in many forms in the environment. The soil biological processes that make it available to the plant from organic matter are part of a natural cycle. Enhancing this cycle provides a reliable concentration flow of nitrate to the plant.

Examples:

- Cover crops or green manures
- Compost
- Manure
- Vegetable meals, blood meal
- Natural chilean (sodium) nitrate- Use must comply with the requirements of 205.203(b) & 205.200 which state that soil and water quality must be maintained or improved and crop nutrients and soil fertility must be managed through rotations, cover crops and the application of plant and animal nutrients

#### b) Phosphorous Sources

Phosphorous is a mineral that subsequently becomes insoluble by bonding into mineral complexes. Regardless of fertilizer solubility, phosphorus is dependent on chemical and biological activity to become available to plants on a long-term basis. Soluble phosphorous materials are only temporarily available to plants (in the order of 5-15% of total P) before they become fixed. As with nitrogen, the creation of a biologically active soil is the most sustainable method of providing phosphate for plant growth. The greatest phosphate availability is in a neutral soil.

Examples:

- Colloidal, soft rock, and hard rock phosphate
- Guano (see manure standards for regulations on use)
- Bone meal
- Whey (from approved sources)
- Manure

#### c) Potassium Sources

Examples:

- Wood stove ashes, with care to avoid applications that excessively raise soil pH, and are not contaminated with colored paper, plastics, or other synthetic substances
- Plant or animal ash from off-farm sources with documentation of non-contamination by arsenic, cadmium, lead or other prohibited substances
- Rock dusts [granite, feldspar, greensand], unprocessed
- Sul-po-mag, from natural sources
- Natural potassium sulfate
- Manure
- Compost

#### d) Calcium Sources

Examples:

- Agricultural limestone
- Agricultural gypsum [hydrated calcium sulfate], nonsynthetic sources only
- Ground oyster shells
- Calcified seaweed, nonsynthetic sources only without

synthetic preservatives

- Calcium chloride-based foliar materials, nonsynthetic sources only

#### e) Magnesium Sources

Examples:

- Dolomitic limestone
- Kieserite Sulpomag from natural sources
- Epsom salts [magnesium sulfate]

#### f) Micronutrient Sources

Ecological soil management systems that recycle organic residue materials normally maintain a proper balance of micronutrients. Synthetic micronutrients are allowed for use on organic farms as long as their usage is supported by a documented deficiency. However, especially for perennial crops, it is important that producers are proactive about maintaining nutrient levels so that deficiencies do not become a problem. VOF recommends that producers who use micronutrients consider total soil health and consider how to avoid over-application. Instead of showing documented deficiencies, producers may provide evidence through regular soil and foliar testing, that an excess of micronutrients are not being accumulated in the soil.

Examples:

- Composted organic residues
- Kelp meal
- Rock powders
- Chelated trace elements

#### g) Growth Promoters, Activators & Inoculants

Minuscule amounts of biotic substances can exert effects on living systems. Natural substances, such as plant extracts, can be used as chemical messengers to stimulate plant growth. Microbial cultures, such as bacteria and algae, are used to introduce or promote beneficial soil processes. Any microbial/rhizobial product must be verified to be non-GMO.

Examples:



- Natural cytokinin formulations
- Herbal preparations
- Bio-dynamic preparations
- Rhizobial inoculants
- Free-living nitrogen fixing bacteria and desirable microbial cultures
- Blue-green algae
- Cellulotic bacteria
- Growth regulators, non-synthetic
- Humates, non-synthetic from leonardite, lignite, or coal
- Gibberelic Acid

### 3) Manure Management (205.203(c)(1))

Animal manure can be one of the most valuable substances for organic food production. Many of the beneficial effects of manure, however, can be wasted by improper management. In addition to stabilizing nutrients to avoid leaching loss and to enhance long-term soil fertility, composting of manure is recommended because it promotes the decomposition of possible contaminants such as antibiotic residues and pesticides, and it is an effective means of reducing the population of pathogens that may cause plant, animal or human illness. Given the increasing public concern about food safety, every effort should be made to assure that uncomposted manure does not come in contact with edible plant parts during the growing season, during harvest, or during post-harvest operations such as washing.

Application rates of manure, raw or composted, should be based on soil test recommendations, ideally in combination with a manure or compost analysis. The primary aim should be to meet but not exceed the nitrogen needs of the crop. Without a soil test, the average nutrient value of manure or compost and the estimated nutrient need of the crop can be used to decide on an application rate. VOF recommends not exceeding 20 tons/acre of cow manure, 5 tons/acre poultry manure, or 40 tons/acre finished compost in a single season.

Application of manure includes manure from pastured animals (for example, sheep grazing an orchard) or animals housed in a greenhouse (where crops are not grown on benches).

*Manure must be applied at least 120 days before harvesting any crop whose edible portion touches the soil or 90 days before harvest for crops whose edible portion does not touch the soil. Manure from off farm sources is acceptable provided that it does not pose a risk of contaminating the organic crop with a prohibited material.*

#### Accepted

- Raw manure or slurry spread on a hay crop or other crop not for human consumption
- Raw or partially composted manure spread in advance of growing a food crop. Crops cannot be harvested until 120 days after the date of application if their edible portion comes in contact with the soil and 90 days if the edible portion does not touch the soil.

#### Prohibited

- Any contaminated organic waste materials
- Sewage sludge/ "biosolids"
- Application of raw or partially composted manure, or manure teas to a food crop less than 90 days prior to the harvest of a food crop whose edible portion is not in contact with the soil and less than 120 days for a food crop whose edible portion does contact the soil.

#### 4) Compost -NOSB Compost Task Force Recommendation

Producers must manage plant and animal materials in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances. Compost which contains only plant materials may be applied at any time and is not required to meet specific production guidelines. Compost that contains manure must meet the following guidelines if applied to a crop for human consumption:

- It must be made from only allowed feedstock materials, except for incidental residues that will not lead to contamination,
- The pile must undergo an increase in temperature to at least 131°F

and remain there for a minimum of 3 days, and

- The compost pile must be mixed or managed to ensure that all of the feedstock heats to the minimum temperature. Static aerated piles do not have to be turned. Compost piles must have intentional aeration techniques for example, perforated pipes connected to blowers, to qualify as “static, aerated”.

Compost, which meets these guidelines, may be applied at any time. Sufficient records must be kept to show that these guidelines were met (i.e. compost log showing temperatures and dates turned). Compost containing manure that does not meet these guidelines must be applied according to the manure standards (Section 3. Manure Management). Compost tea must be prepared from compost which meets these compost guidelines or else must be applied according to the manure guidelines.

#### **B. Soil Erosion & Water Quality (§205.203(a))**

A farm with erosion, pollution or other conservation problems must demonstrate a program, which halts and/or corrects the damage to maintain their certification. In correcting problems, or answering questions, assistance is available to all farmers from the Natural Resources Conservation Service, the Farm Services Agency, the Vermont Department of Environmental Conservation, or the US Fish and Wildlife Service.

#### **C. Tillage (§205.203 (a))**

A producer must select tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of the soil and minimize erosion. In order to protect river and stream banks from erosion, VOF recommends keeping a 10 foot buffer between tilled land and the top of the bank. This is consistent with the State of Vermont’s Accepted Agricultural Practices.

#### **D. Rotations (§205.203(b) & §205.205)**

Crop rotations are a required part of the farm plan. Continued production of one type of crop in the same field leads to depletion of specific nutrients and encourages disease and pest problems. The producer must implement a crop rotation including, but not limited to: sod, cover crops, green manure crops, and catch crops that provide the following

functions, as applicable, to the operation—

- maintaining or improving soil organic matter;
- providing for pest management;
- managing plant nutrients;
- providing erosion control.

Other crop rotation possibilities may include:

- Nitrogen fixing crops
- Deep rooting crops/shallow rooting crops
- Alternation of heavy and light feeders
- Plants with allelopathic or mineral accumulation properties
- A diversity of plant families

Perennials are an exception to the crop rotation rule. Perennial cropping systems should employ strategies to introduce biodiversity such as:

- alley cropping
- intercropping
- hedgerows

## **II. CROP MANAGEMENT**

Ecological soil management is essential to the prevention of many crop management problems. "A healthy plant grows from a healthy soil" is the principle axiom of organic agriculture. VOF does not accept applications from soil-less or hydroponic operations. It is scientifically accepted that well nourished plants are more resistant to pests and diseases. Crop and variety selection should be appropriate to the soil and climate of the region for optimum growing conditions.

### **A. Buffer Requirements (See §205.202)**

In cases where an adjoining farm is growing non-organic crops and there is possibility of contamination, there must exist an adequate barrier/distance between certified crops and adjacent areas where prohibited substances have been used. This buffer must be sufficient in size or other features to prevent the possibility of unintended contact between prohibited substances and land under organic management. VOF recommends a minimum 50-foot buffer zone, unless the buffer consists of a dense hedgerow. In this case, a 30-foot minimum buffer may be sufficient. Buffer zones can include windbreaks and living barriers. Buffer zones must be maintained for at least three years after the last application of prohibited

pesticides or fertilizers on adjacent land. Where there is the possibility of spray drift from air blast spraying or aerial spraying, the Review Committee will review the requirements for the buffer zone on a case-by-case basis, considering the prevailing wind, thickness of vegetation, slope and relative size of fields. If contamination is suspected, VOF shall require residue testing. Crops grown in the buffer zone shall not be marketed as certified organic. Producers who do not want to maintain a buffer would need to document that they have communicated with landowners that prohibited materials are not used adjacent to certified land.

The following guidelines are recommended by VOF for the following scenarios.

#### 1) Residential Properties

Many landowners use chemicals to manage weeds and fertilize lawns. In these instances a buffer is needed to prevent contamination of adjacent organic crops. VOF recommends organic producers maintain a 15-foot buffer from residential properties that use prohibited substances. Producers who do not want to maintain a buffer would need to document annually that they have communicated with landowners that prohibited materials are not used adjacent to certified land.

#### 2) Utility Poles

Utility companies often incorporate herbicide spraying to manage plant growth around utility poles. All producers should know what company is responsible for the utility poles that run through their property. All poles should have a metal tag identifying the company that is managing their lines. After evaluating the practices of relevant utility companies, VOF recommends the following buffers.

- Areas around utility poles that run through agricultural land in active use are not sprayed. In these instances, no buffer is needed.
- Areas around utility poles that run adjacent to agricultural land are often treated with an herbicide applied directly to woody growth. In these instances, VOF recommends a 15-foot buffer from the utility pole to the organic crops. VOF has confirmed the

herbicide spray program of VELCO a prominent electric company in VT. This particular company does not use herbicides around poles in areas adjacent to land in agricultural use. Producers with utility poles that do not belong to VELCO who do not maintain buffers must verify that utility poles have not been sprayed with an herbicide.

- Poles identified as belonging to the Washington Electric cooperative (WEC) do not need a buffer. The cooperative does not utilize chemicals including herbicides to control vegetation in its utility right of ways.

### 3) Town Roads

VOF has verified with the State of Vermont's Agrichemical Manager that town roads in Vermont are not sprayed with herbicides.

Therefore no buffer is needed when organic land adjoins town roads.

### 4) State Highways

VOF has verified with the Vermont Agency of Transportation (VTrans), that a truck-mounted sprayer applies herbicides along state highways where guardrails, mile markers and state road signs are present.

VTrans will discontinue this practice if the farmer signs an agreement with the company on an annual basis. There are some restrictions to where VTrans is allowed to spray, particularly if fields are adjacent to waterways. Unless written verification is provided, a 30-foot buffer (with hedgerow) or 50 foot buffer (without a hedgerow) is recommended to prevent contamination.

### 5) Railroads

VOF confirmed with the State of Vermont's Agrichemical Manager that herbicide is used to control vegetation growth on and around railroad tracks. This practice is required by the federal government and cannot be discontinued. VOF recommends that farmers maintain a 30-50 foot buffer measured from the end of the railroad bed to the adjoining organic land.

### 6) GMO Corn

When organic corn is grown 50 feet or less from genetically modified corn the producer must provide evidence that steps are taken to

minimize the risk of potential contamination. VOF recommends that records are kept that provide documentation of the time difference in pollination of the organic and gmo corn. These records should include: planting dates for both the gmo and organic corn, the date both plantings tasseled, maturity dates and dates of silk emergence. The Review Committee will evaluate these planting records and will recommend VOF test for genetically modified protein when records indicate that cross pollination is likely. For example, in cases where flowering of corn overlaps.

#### 7) Aerial Spraying

To prevent the contamination of organic land from prohibited substances sprayed from an aircraft, a buffer zone of 150 feet is recommended between the spray line and organic land.

### B. Seeds and Planting Stock (See §205.204)

#### 1) Genetically engineered seeds or plants

Genetically engineered organisms are prohibited in organic agriculture. The National Organic Program includes the following as "excluded methods" not compatible with organic agriculture to modify organisms or influence their growth and development: recombinant DNA, cell fusion, micro and macro encapsulation, gene deletion and doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology. It does not include traditional breeding, conjugation, fermentation, hybridization, in-vitro fertilization and tissue culture which are allowed.

#### 2) Potting mixes

Certified organic growers who make their own potting soil mix must use approved materials. Purchased commercial potting mixes must be approved and not contain synthetic fertilizers, wetting agents or other prohibited substances. **Please refer to VOF's Brand Name Product List for Organic Crop Production.** In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov). When growing crops in a

compost based potting mix which will be harvested in less than 120 days, please refer to the finished compost guidelines under I. Soil Management or §205.203(2).

### 3) Seeds, Annual Seedlings and Planting Stock

Producers of organic crops are required to source certified organic seed and planting stock. Organic producers may use untreated, non-organic seed and planting stock only if equivalent organically produced varieties of organic seeds and planting stock are not commercially available. If producers use non-organic seed or planting stock, they must do so according to the standards below and provide sufficient justification and documentation.

#### Definitions:

*Commercial Availability:* The ability to obtain an input organically, such as seeds, planting stock or an organic ingredient, in an appropriate form, quality, or quantity that is essential to the organic operation. By appropriate form, a producer can look at size, grade, pelleted, hot water treated, use of bare root nursery stock or container plants, etc. By quality a producer can look for presence of weed seeds in the seed mix, shelf life and stability, disease and pest resistance, germination, etc. By quantity, a producer may provide evidence that quantities are not available in sufficiently large or small amounts given the scale of the operation. By equivalent variety, a producer can look for growing habits, days to maturity, insect and disease resistance, flavor, color, moisture, chemical or nutrient profiles of the variety of the harvested crop, vigor or yield, regional adaptation, the plant's utility in a crop rotation, etc. Price cannot be a consideration for determination of commercial availability.

*Annual Seedlings:* A plant grown from seed that will complete its life cycle or produce a harvestable crop within the same crop year or season in which it was planted. This includes onion plants, vegetable transplants, annual flower plugs, etc.

*Planting Stock:* Any plant or plant tissue other than seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers, used



in plant production or propagation. Some examples are onion sets, seed potatoes, sweet potato slips, garlic bulbs etc.

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

*Treated Seed or Planting Stock:* Treatment (fungicide, fumigation, etc.) applied directly to seed or mature planting stock post-harvest. Plants that have had prohibited substances applied during production are not considered treated. Substances that are used by a seed or planting stock purveyor for seed cleaning and preparation (e.g. trisodium phosphate and chlorine solutions) after they harvest their non-organic seeds for sale in organic production are also not considered "treatment", since they do not remain on the seed when it is planted. Any non-organic seed or planting stock used to produce an organic crop must be untreated.

When not using organic seed or planting stock, the producer must document the reasons for not using organic seed and planting stock and provide evidence that a search for organic seed and planting stock was conducted before using non-organic, untreated seed or planting stock. This will be verified during the annual inspection. Documentation may include list of seed and/or planting stock catalogues examined, record of phone calls to seed and/or planting stock companies, and statements on invoices that an organic seed or planting stock is not available.

Organic seed is required for edible sprout production (with no commercial availability provision).

Pelleted seed must use an approved coating (check with VOF and your seed supplier before using).

Chemically (fungicide) treated seeds are prohibited. **Fields planted with treated seeds are disqualified for organic production for three years.**

Seed treatments such as inoculants must be approved for use.

Some inoculants are not allowed due to the presence of genetically modified bacteria in the product.

Annual seedlings must be organic. In this instance there is no commercial availability clause. Certified operations may use non-organic annual seedlings to produce an organic crop only when a temporary variance has been granted by the AMS Administrator in accordance with § 205.290(a)(2) due to an extreme weather event or business disruption beyond the control of the producer.

An organic crop may be produced from non-organic, untreated planting stock if organic stock is not commercially available. If planting stock is from a non-organic source and is used to produce perennial crops, then that planting stock may be sold, labeled or represented as organic planting stock after 12 months of organic management. If grown for a harvested crop, non-organic perennial stock may be used to produce an organic crop if organic is not commercially available. For example, certain perennial crops, such as strawberries or raspberries, may be grown by certified operations as annuals rather than perennials. On these operations, new planting stock is used each year to produce one harvest season of an organic crop. In such cases, the planting stock is considered grown for a harvested crop and can be sourced non-organically if organic is not commercially available. However, nonorganic perennial stock (such as lavender and other perennial herbs, fruit trees, nut bushes, etc.) must be managed organically for one year before being sold as organic perennial planting stock. In addition, vegetative propagation of annuals (such as petunias grown from rooted cuttings) sourced conventionally, must be managed organically for one year before being sold as organic perennial planting stock.

#### Accepted

- Organically grown seeds, seedlings and planting stock.
- Non-organically produced, untreated seed and planting stock when an equivalent organic variety is not “commercially available”.
- Non-organically produced perennials if grown out for 1 year prior

to selling plant as organic.

- Non-synthetic seed and planting stock treatments, such as hot water, legume inoculants, pelletization (when not involving prohibited substances).
- Seed and planting stock treatments are only permitted if all ingredients are documented to comply with the National Organic Standards or unless mandated by State and Federal phytosanitary regulations.

#### Prohibited

- Use of seeds or plants derived from genetic engineering
- Use of non-organic seed or planting stock when organic is commercially available.
- Seeds or planting stock treated with prohibited substances, unless the application of the material is a requirement of Federal or State regulations.
- Use of any prohibited practices or materials (referenced elsewhere in the standards) on seedlings or plant materials to be sold as "organically produced."
- Non-organic annual seedlings.
- Peat pots with prohibited substances. *(Please refer to VOF's Brand Name Product List for Organic Crop Production.)*
- Use of non-organic seed for organic, edible sprout production.
- Pelleted seed coated with a non-approved substance

### **C. Greenhouse Practices**

Greenhouse management must comply with all aspects of previously stated soil management with the exception of crop rotations. However, greenhouses must be managed to maintain or improve the physical, biological, and chemical conditions of the soil. VOF encourages the use of innovative techniques in managing greenhouses.

#### 1) New Greenhouses (§205.105 and 205.206 (f))

In the construction of new greenhouses, growers shall not use prohibited substances in their construction, including lumber treated with arsenate or other prohibited materials except in places that will not come in direct contact with soil or livestock.

## 2) Use of Existing Greenhouses (§205.105 and 205.206 (f))

Greenhouses operated as bench systems shall be allowed for use after demonstrating that no prohibited materials will compromise the organic integrity of the greenhouse production system.

Greenhouses operated as in-ground or permanent soil systems shall comply with the standard three-year period without applications of prohibited substances. Based on the past practices used, the waiting period may be three years before certified organic plants can be grown, and a written description of practices of the previous owner may be required.

## D. Bedding & Greenhouse Plants, Perennials, Nursery Stock & Ornamentals

### 1) Sources-Annuals

All annual seedlings (plugs) must be from organic sources. Planting stock (rhizomes, shoots, leaf or stem cuttings, roots, or tubers) may be from untreated, non-organic sources only if organic is not commercially available.

### 2) Sources-Perennials

Perennials from non-organic sources must be managed organically for at least one year before being sold as certified organic plants.

## E. Irrigation and Wash Water

To minimize food safety risks associated with microbial pathogens, VOF recommends vegetables that have visible soil or organic matter residues on their surface should be thoroughly washed before sale. Washing should be done with potable water only. Washing with potable water appears to be the simplest way to minimize food safety risks on fresh fruits and vegetables. Producers are required to provide evidence that the farm's wash water meets this standard. **VOF recommends that all wash water not from municipal sources be tested every 2 years for fecal coliform.** We recommend that wash water is tested for nitrates as well. Please see the below Water Testing Recommendations for testing sources. Farmers will be required to show documentation that wash water is not contaminated with prohibited substances. Do not use water that has tested positive for fecal coliform. If water tests positive please inform the VOF office immediately and Review Committee will review each case on an individual basis. If

water tests positive follow guidelines as recommended by the Vermont Department of Health.

The difficulty and cost of testing for all possible contaminants requires that common sense be used in monitoring the quality of water for crop irrigation and/or post-harvest washing. It cannot be assumed that water is free of prohibited materials. Organic farmers must make reasonable efforts to ensure the quality of irrigation and wash water. If a water source is suspected of a contaminant, the Review Committee may require testing.

The basis of this requirement is based on Section 2111 of the Organic Food Production Act, which states, "For an operation to be certified, the operation shall not, with respect to any agricultural product covered by this title (organic) use in such product water that does not meet all Safe Drinking Water Act requirements."

### **Water Testing Recommendations**

by Vern Grubinger, UVM Extension Sustainable Agriculture Specialist

Ground and surface waters are a potential source of a wide range of contaminants. The rationale for using, and the cost, of different types of tests (by Vermont Department of Health Lab, P.O. Box 1125, Burlington, VT 05402-1125 (800) 660-9997, unless otherwise stated) are described below:

1. The following tests for common pollutants are **recommended** for certification on a yearly basis, regardless of source of water: fecal coliform (Kit A - \$14) and nitrate (Kit N3 - \$12). However for wash water, fecal coliform tests are **strongly recommended** on a biannual basis for non-municipal water sources.

The following tests may be required by the Review Committee or the Administrator, and the cost will be paid by VOF. However, these tests should preferably be conducted voluntarily by producers at their own expense, (for their own legal and health protection) if they suspect contamination.

2. If older plumbing pipes with lead solder are used in any part of the water system, test for lead (\$12).

3. If there is reason to suspect petroleum product contamination (from leaking underground or above ground fuel storage tanks, abandoned

vehicles, etc. on site, nearby or upstream) or if water smells like gasoline or fuel oil, have a volatile organic chemicals test (Kit OA - \$120)

**F. Washing Protocol for Sprayers Previously Used in Conventional Production:**

Used equipment must be cleaned so that organic crops will not be contaminated with prohibited substances. VOF recommends that organic farmers using equipment previously used for conventional production replace all plastic and rubber hoses and tips. All tanks, valves, and metal parts should be washed with detergent and triple rinsed. Cleaning procedures should take into account whether substances used are oil or water based. Cleaning protocol and documentation will be reviewed on a case by case basis by the Review Committee to ensure the organic integrity of the certified crops.

**G. Shared Equipment Recommendations:**

Producers using equipment for both organic and non-organic crops need to address how to minimize and/or eliminate contamination and comingling. The following guidelines have been created to determine which equipment has the highest risk of affecting the integrity of the organic crop and which equipment has negligible risk.

Equipment	Guidelines	Documentation
Square Balers	Purge or cleaning required. VOF recommends a purge of 4 bales for small bales and 1 bale for large bales.	Documentation needed (# of purged bales, date of purge/cleaning, initials of operator, sales receipt if applicable).
Round Balers	Visual inspection for remaining hay.	No documentation needed.
Forage Choppers	Visual inspection for remaining forage. Blow with compressed air if necessary.	No documentation needed.
Forage & Hay Wagons	Cleaning required. VOF recommends manual sweep or compressed air blower.	Documentation needed (date of cleaning, initials of operator).
Combines	Cleaning and purge required. Procedure for cleaning and purge	Documentation needed (cleaning protocol, date of

	must be submitted and evaluated by the Review Committee. The procedure should specifically address how the following parts of the combine will be cleaned: clean grain auger, unloading auger, tailings auger and grain bin. In addition, procedures should include information about what crops were harvested immediately prior including whether or not they are GMO.	flush/cleaning, amount flushed, initials of operator).
Seeders/ Planters	Cleaning required. Removal of loose seed and treated seed residue. Vacuum recommended.	Documentation needed (date of cleaning, initials of operator).
Tillage	Visual inspection for loose soil.	No documentation needed.
Mowers	Visual inspection for loose forage.	No documentation needed.
Grain Dryer	Visual inspection for leftover grain.	No documentation needed.

#### H. Weed Control (§205.206(a) & (c))

The control of weeds can be one of the most difficult parts of an organic system. Growers must use management practices to prevent weed problems. Mulches are commonly used by organic producers, yet can have serious shortcomings. There is insufficient information on the effect of plastic mulch breakdown products on the soil ecosystem, and objections to their petroleum-intensiveness. Recycled newspaper having colored inks may contain heavy metal contaminants and are prohibited.

##### Accepted

- Timely mechanical or hand cultivation
- Crop rotations and use of smother crops
- Mulches with fully biodegradable materials or intercrop plant species, such as Dutch White Clover
- Careful sanitation to prevent introduction of weed seeds into fields, such as mowing borders, cleaning equipment, and use of weed-free inputs
- Flame weeding
- Mowing

- Selection of specific varieties that out compete weeds
- Plastic mulches, if removed from the field at the end of the growing or harvest season. If used in a perennial crop for more than one season, the plastic should be removed before it decomposes. For annual crops, if harvest season extends into the late fall or early winter, plastic may be removed the following spring. VOF recommends that synthetic mulches be recycled or properly landfilled. Burning or burying plastic is illegal in Vermont and is not allowed on organic farms.
- Non-organic produced mulch materials (straw, grass clippings, hay)
- Use of biological or botanical substance or a substance from the National List, only when the above practices are insufficient
- Newspaper as mulch with no color inks
- Burning of crop residues may be used to suppress the spread of disease or to stimulate seed germination

#### Prohibited

- Synthetic mulches or remnants left to photo-degrade in the field
- Synthetic herbicides (unless allowed by the National List)
- Newspaper as mulch with color inks
- Burning as a means of disposal for crop residues produced on the Operation
- Biodegradable Biobased Mulch has been added to the National List as an allowed substance for use on organic farms. Only generic materials are added to the list of approved substances, therefore currently there is no brand name biodegradable biobased mulch approved for use.

### **I. Insect Control (§205.206(a) & (b))**

All planning of production schedules, choice of crops and varieties, location and size of plantings, and soil management practices should take pest prevention into consideration. Growers must use management practices to prevent pest problems. Again, once prevention fails, methods of control having the lowest ecological impact should be the first choice. Although “natural” insecticides are widely accepted as organic because of their natural origin and swift decomposition, when over-used they pose a



danger to soil organisms, beneficial insects and wildlife, as well as to humans using them. All pesticides, no matter how they are derived, should be handled with caution and used only in accordance with the labeled instructions and Vermont State Law

#### Accepted

- Preventive management, such as use of resistant varieties, timing to avoid cycles of pest emergence, intercropping, proper rotations, and avoidance of excessive fertilization
- Use of mechanical controls such as traps, repellent or trap crops, vacuuming, water jets, physical barriers and sound
- Biological controls such as release of natural predators and parasites and creation of environments fostering wild predators such as birds, toads and snakes
- Non-synthetic controls as lures, traps, or repellents, including botanicals used as repellents (e.g. hot peppers, garlic)
- Microbial and viral diseases, provided no petroleum-based synergists or carriers are used, if the inert ingredients are disclosed and contain only accepted ingredients

*Only when the above practices are insufficient, a producer may use of biological or botanical substances or a synthetic substance from the National List. Many "natural" insecticides are prohibited due to synthetic inert ingredients. **Please refer to VOF's Brand Name Product List for Organic Crop Production.*** In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov).

#### Prohibited

- Pesticides containing prohibited substances

### **J. Vertebrate Animal Control (§205.206(a) & (b))**

Please note, vertebrate repellents may only be used as labeled.

Growers must use management practices to prevent pest problems. For vertebrate control in barns or packing houses, refer to "Pest Management" in IV. Processing.

#### Accepted

- Providing habitat for natural predators

- Habitat modification to discourage vertebrate pests
- Trapping to control mammals and birds using any legal trap
- Shooting of mammals and birds in accordance with VT State Law
- Physical barriers such as fences, netting and row covers
- Repellents derived from natural sources, such as blood meal, hot pepper, rotten eggs, hair, or predator scents, provided that synthetic additives are not used

*Only when the above practices are insufficient, a producer may use biological or botanical substance or a synthetic substance from the National List, including:*

- Vitamin D3- It cannot be the sole means of rodent control and other methods must be documented.
- Ammonium soaps (as large animal repellent only), no contact with soil or crops allowed.

#### **K. Disease Control (§205.206(a) & (d))**

Preventive measures detailed under "insect control" are also applicable to disease problems. Growers must use management practices to prevent disease problems. In greenhouse environments particularly, proper control of environmental factors such as ventilation, humidity and temperature will reduce susceptibility to disease. Relatively mild materials such as copper and sulfur-based fungicides are often used in ecological systems, but can be toxic to humans, and can accumulate in the soil, posing a threat to soil organisms.

#### Accepted

- Preventive management (see "Insect Control"), sanitation and removal of diseased plant materials, care in purchase of imported plant materials, control of insect and weed vectors, and raised beds to improve drainage

*Only when the above practices are insufficient, a producer may use biological or botanical substances or a synthetic substance from the National List. Many "natural" substances are prohibited due to synthetic inert ingredients. **Please refer to VOF's Brand Name Product List for Organic Crop Production.** In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State*

Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov).

## **L. Post-Harvest Handling (§205.270-205.272)**

### Accepted

- Drying and curing of field crops to appropriate moisture levels by natural field drying, aeration, or other mechanical drying apparatus
- Chilling of perishable crops through water baths, cold rooms, or icing as appropriate, and maintaining constant low temperatures at every stage of transport and distribution
- Controlled atmosphere (carbon dioxide or nitrogen) storage, VOF recommends proper safeguards against injury of personnel
- Hot water dips or vapor-heat treatments for reducing spoilage organisms or infestations of fruit flies
- Non-synthetic materials, such as rock powders, diatomaceous earth, and herbal preparations to repel storage pests, consistent with the National List
- Monitoring of tissue nitrate levels in leafy crops grown under low light conditions
- Proper sanitation at all levels of handling, transport, and storage
- Use of disinfectants (i.e. chlorine, hydrogen peroxide) applied to storage containers and handling equipment must be consistent with the National List
- Water used in direct post-harvest crop or food contact (including flume water to transport fruits or vegetables, wash water in produce lines, egg or carcass washing) is permitted to contain chlorine materials at levels approved by the Food and Drug Administration or the Environmental Protection Agency for such purpose. However, rinsing with potable water that does not exceed the maximum residual disinfectant limit for the chlorine material under the Safe Drinking Water Act (4ppm) must immediately follow this permitted use. Certified operators should monitor the chlorine level of the final rinse water, the point at which the water last contacts the organic product. The level of chlorine in the final rinse water must meet limits as set forth by the SDWA (4ppm)
- Hydrogen peroxide, ozone, peracetic acid may be used in direct

- contact with organic produce
- Re-used bags, boxes or crates must pose no risk of contact between the organic product and any prohibited substance.
  - Re-use of cardboard boxes. We encourage box recycling, but many boxes have been impregnated with fungicides. Boxes carrying conventional citrus or soft fruit are likely to have been treated and should not be reused.
  - Re-use of wooden crates. Non-treated, wooden crates that previously help unpackaged conventional product must be cleaned so that organic crops will not be contaminated with prohibited substances. VOF recommends that once cleaned, crates are designated for organic use only.
- Treated baling twine

#### **M. Wildcrafting (§205.207)**

A wild crop is any plant or portion of a plant that is collected or harvested from a site that is not maintained under agricultural management. The area from which a wild crop will be gathered must be clearly identified on the farm map. It is prohibited to gather wild crops on land that has not been inspected. The same requirements for field certification apply to wild crop land, including buffer zones and other possible contaminants. The harvesting and gathering of wild crops should assure that the process will not be destructive to the environment and will sustain the growth and production of the wild crop; excessive harvesting is prohibited. Refer to the United Plant Savers Guide for recommended harvest information. ***Contact the VOF office for Organic Maple Syrup and Mushroom Guidelines.***

#### **N. Split Operation Guidelines**

VOF allows the certification of split operations. The term “split operation” refers to an operation, which grows, processes, or handles both organic and non-organic agricultural products. Split operations are allowed with additional documentation that may include additional inspection and audit information such as scale receipts, varietal differences, spray records, buyer inspection, harvest dates and contract agreements, differentiation of harvesting containers, carcass tagging, livestock health records, etc. This will be done on a case-by-case basis.

The following is a list of conditions that must be addressed in the Organic System Plan to enable VOF to certify a split farm:

- All fields to be certified must demonstrate effective isolation from non-certified fields. Isolation may result from fallow buffer zones or prominent physical features (hedgerows, hillsides, woodlands, drainage ditches, etc.) Farm practices on non-organic fields shall be factored into determination of effective isolation (i.e. separation distance may need to be increased if air-propelled sprayers are used on non-certified fields.)
- Split farms must advertise in a way as to delineate between organic and non-organic products
- The program holds open the possibility of requirement of random residue testing on certified products
- All additional costs incurred by VOF in association with certifying the split farm will be paid by the grower, except residue testing
- Split livestock operations must develop a system to prevent the co-mingling and contamination of all feed, health care products, and animals and maintain a complete audit trail to track all organic inputs and final products
- When switching from certified to non-certified fields, the producer must demonstrate that shared field equipment, sprayers and/or harvesting equipment will not contaminate the organic product with prohibited substances
- The producer must demonstrate that crops receiving a post-harvest treatment of a prohibited substance must not contaminate the organic product
- The producer must demonstrate that the shared use of greenhouse space, washing facilities, and storage facilities do not contaminate the organic product with prohibited substances
- Upon request, split operations must provide access to records for conventional sales and production
- Split farms must report the use of genetically modified organisms (e.g. seed, pesticides, livestock) in any aspect of their farm management, both conventional and organic

## O. Farm Labor Practices

One of the accepted goals of organic farming is to provide an honest wage and job satisfaction to agricultural workers. Although this organization cannot adjudicate labor disputes, organic producers are **encouraged** to adhere to the following principles:

- Paying farm workers at least minimum wage or equivalent compensation.
- Providing adequate working conditions, and if workers are housed, adequate living conditions.
- Willingness to negotiate labor disputes.

## P. Organic Production Plan and Record Keeping (§205.103 & 205.201)

All producers must submit an organic production plan in the form of the VOF Application on a yearly basis. The plan must show compliance with the requirements in the NOP Standards. The producer must:

- Describe farm practices such as tilling, weeding, planting schedules, etc.
- List all substances planned on being used on the farm as inputs, including the source, location and reason for use.
- Describe the record keeping system used.
- Provide a farm map that includes number of acres, adjoining land use, major roads and physical features.
- Describe all monitoring practices for pests, soil fertility etc.
- Provide records for previous five years if necessary.
- Provide additional information as deemed necessary by the Review Committee.

All growers must keep complete records, including but not limited to:

- Sources of all fertilizers and pest control products applied, and the dates, rates and location of application.
- Harvesting and handling of farm products.
- All activities and transactions of the certified operation, including purchases and sales.
- Three year history and signed affidavit for all new fields.

- Field production logs that include crops planted, dates and rates of manure, compost, fertilizer or other input applications.
- Greenhouse records.
- Spray records.
- Harvest yields for each crop.
- Sales records.
- Purchase records for all inputs (ex. amendments, pest controls).
- Receipts for all purchased seeds.
- If untreated non-organic seed is purchased, documentation must be available that organic versions were commercially unavailable.
- Untreated and/or inoculated seed labels (to verify that the product has not been treated with prohibited substances).
- Signed documentation verifying that farmers have confirmed management practices of neighboring landowners.
- Production, harvest, storage, and/or sales records for buffer crops, transitional or conventional crops.

All producer records will be checked at the time of the inspection visit, and must be available for review and copying. Continuing applicants must show the completed records from the previous year and must show that current records are being maintained. Incomplete records may be cause for denial of certification, as well as putting the grower at risk should legal challenges arise concerning the authenticity of farm products labeled as organic. In addition, growers must maintain the above records for at least five years beyond their creation.

### **III. ORGANIC LIVESTOCK PRODUCTION**

In the context of a farm as a living organism, animals can play an important role in establishing and maintaining vital, biologically active, mineralized soils. Organic livestock production seeks to balance the quality of healthy animal life with commercial livestock production through management of the building blocks of animal health without dependence on medical and chemical intervention.

The building blocks of animal health are habitat, behavior, nutrition, and selection. As with organic plant crop production, healthy livestock are a reflection of a whole farm interrelationship including healthy plants and healthy soil. All organic animals on certified organic farms must be

managed in accordance with the following standards. Animals treated with prohibited materials may remain on your farm until sold and diverted to a conventional market, as long as the farm has the capability to individually identify and manage the treated animals until they are sold. Products from these animals may not be sold as organic. The treatment will not result in a change of organic status for the remaining livestock on the farm. Producers risk de-certification for withholding treatment to an animal to maintain the organic status of that animal.

Livestock or edible livestock products that are removed from an organic operation and subsequently managed on a non-organic operation may not be sold, labeled or represented as organically produced.

#### **A. Origin of Livestock (§205.236)**

##### 1) Breeding Stock

Breeding stock meant to produce organic animals for slaughter can be brought onto the farm at any time. However if they are gestating, they must be brought onto the farm and under continuous organic management no later than the last third of gestation before giving birth to organic offspring.

##### 2) Slaughter Stock

Animals meant to be slaughtered and sold as organic meat must come from breeding stock which has been managed organically from the last third of gestation and must be under continuous organic management until slaughter (i.e. if an animal was ever managed non-organically, it can not be sold as organic meat, except poultry see below.)

##### 3) Poultry

Poultry intended for slaughter or egg production must be under continuous organic management beginning no later than the 2<sup>nd</sup> day of life. For producers who want to certify adult layer flocks, the Review Committee will evaluate individual cases only if the producer can provide the following records: grain slips, health or mortality records, estimates of amount of grain fed, and number of birds. All records must document organic management from the 2<sup>nd</sup> day of life to present.



#### 4) Dairy Animals

##### a) Transitioning the Herd

There is a **one-time, whole herd**, one-year transition for all conventional dairy animals converting to organic production. During this year, all animals (including young stock) must be managed according to the organic standards. Once the transition starts, you may not continue to transition non-organic animals into the herd. You must either raise your own replacements, or purchase them from other certified organic farms.

**The preamble to the National Organic Program provides clarity that the transition year is a distinct, one-time, whole-herd event.** The Preamble to the NOP in the Federal Register 80570 states, "The producer must comply with the provisions in the livestock health and living conditions practice standards during the entire year of conversion. After the dairy operation has been certified, animals brought on to the operation must be organically raised from the last third of gestation. ...a whole herd conversion is a distinct, one-time event." The preamble continues, "Finally, the conversion provision cannot be used routinely to bring nonorganically raised animals into an organic operation. It is a one-time opportunity for producers working with a certifying agent to implement a conversion strategy for an established, discrete dairy herd in conjunction with the land resources that sustain it."

During the transition year, farmers may feed third year transitional feed that is part of their farm plan. **Producers must also follow the standards for feed, health care, living conditions, and record keeping for all animals.**

#### 5) Accepted and Prohibited Origins of Livestock

##### Accepted

- Farm-raised stock or purchased stock from certified organic producers for replacement animals
- Day-old poultry purchased from any source
- Conventional breeder stock must be brought onto the farm before the last third of their gestation to verify their organic management during this time. The breeder animal will not

qualify for organic production but her offspring will. Once they freshen, they can only nurse their own offspring. A non-organic breeder animal cannot be a nurse animal for organic youngstock other than her own.

- Male livestock for the purpose of breeding may be purchased, leased or borrowed from conventional sources. However, when male livestock are being housed on an organic farm, they should be managed organically. All health care treatments must be recorded in the producer's health records. If the animal must be treated with a prohibited product, producers should first attempt to treat the animal with organic methods. If these methods fail and the animal must be treated with a prohibited product, the animal may remain on the farm to provide services. When male livestock are treated with antibiotics the VOF Office must be informed. In addition, VOF recommends that whenever possible male livestock are provided outdoor access year round and provided access to pasture during the growing season as long as the animal can be managed safely.
- Frozen embryos from conventional breeding stock may be transferred into an organic recipient animal as long as no synthetic hormones or prohibited substances are used on the organic animal.
- Livestock purchased from certified organic auction houses.

#### Prohibited

- Purchase of slaughter stock from non-certified producers
- Purchase of conventional dairy replacements
- Purchase of organic livestock from non-certified auction houses.

Please Note: All purchases of organic animals and hay must be accompanied with the proper documentation. Proper documentation includes copies of organic certificates, receipts indicating dates, amount purchased, cost, etc., and a livestock identification list that includes animal id names and numbers and indicates whether animals qualify as organic slaughter stock.

## B. Livestock Living Conditions (205.239)

The producer of an organic livestock operation must establish and maintain livestock living conditions that accommodate the health and natural behavior of animals including:

- Herd animals must be allowed to freely associate in the light and air with enough space and time to manifest normal behavior.
- Ruminants, 6 months of age and older must have **daily access to grazable forage** throughout the grazing season.
- Housing which provides daily access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight. For example, farrowing pens should provide room for sows to stand, lie down, walk and turn easily.
- Appropriate clean, dry bedding. ***When roughages are used as bedding, they must comply with the feed requirements and be certified organic.*** This requirement for organic bedding (hay, straw, or other crop matter) is for ruminants and non-ruminants alike.
- Shelter designed to allow for natural maintenance, comfort behaviors and opportunity for exercise while also allowing for good ventilation and air circulation.
- Animals may not be confined or tethered in such a way that prevents them from lying down, standing up, fully extending limbs and moving about freely.
- Housing must provide for adequate ventilation, adequate supply of clean water, proper sanitation and **daily outdoor access during the non-grazing season.** The VOF Review Committee has determined that cows 6 months of age and older should have daily turnout, even if only an hour a day during the winter months.
- The producer of an organic livestock operation may provide temporary confinement for an animal because of inclement weather; the animal's stage of production (except that lactation is not a stage of life); conditions under which the health and safety of the animal could be jeopardized; risk to soil or water quality; preventative healthcare procedures or the treatment of illness or injury; sorting of shipping animals and livestock sales, breeding; and 4-H or other youth projects for up to one week preceding the event and 24 hours after the animals have arrived home. Ruminant animals may also be confined one week

for dry off, three weeks prior to parturition, and one week after parturition. Newborn dairy cattle may be confined until 6 months of age. In the case of fiber bearing animals, for short periods for shearing. Animals may also be confined for periods of milking, providing that milking is scheduled in a manner to ensure sufficient grazing time to provide an animal with an average of at least 30% DMI from pasture. Please note: **While animals can be temporarily confined during extreme weather conditions, the entire winter season cannot be considered inclement weather as a reason for keeping animals confined.**

- Beef animals shall be maintained on pasture for each day that the finishing period corresponds with the grazing season for the geographical location: Except, that, yards, feeding pads, or feedlots may be used to provide finish feeding rations. During the finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feed lot to feed simultaneously without crowding and without competition for food. The finishing period shall not exceed one-fifth (1/5) of the animal's total life or 120 days, whichever is shorter.
- Producers can construct any covered barnyard structure, as long as there is an additional exercise area where animals are outside in direct sunlight. Farmers that are working with NRCS and feel that additional exercise areas would significantly impact a nearby waterway can submit a description of the situation to the Review Committee. The Review Committee will evaluate scenarios on a case by case basis to decide if a producer's outdoor access area would significantly impact water quality. If the Review Committee agrees with the producer's assessment of the situation, they will allow a solar barnyard to be constructed without an additional outdoor access area. The solar barnyard must meet VOF's guidelines to assure that proper light and ventilation is being maintained. Please contact the office to discuss your construction plans in advance of construction.
- Farmers shall not use lumber treated with arsenate or other prohibited substances in places that will come into direct contact with soil or livestock. For example, farmers must not use treated lumber in the construction of barnyards, farrowing pens, brooders, etc. However, treated lumber may be used for fence posts that are isolated from

production.

- Manure must be managed in a manner that does not contribute to contamination of crops, soil or water, by plant nutrients, heavy metals, or pathogenic organisms and optimizes the recycling of nutrients.
- Poultry should have outdoor access once they are sufficiently feathered (around 4 weeks), but may be confined during inclement weather.

VOF will not certify the following housing situations as we feel it would be impossible to verify the integrity of the organic product.

- Dairy animals including young stock cannot be housed in a barn with conventional dairy animals fed non organic feed.
- No prohibited products can be stored or used in the same facility that houses certified organic animals.
- Certified organic milking animals and nonorganic milking animals cannot be housed in the same barn as the chances of commingling organic and nonorganic milk are too high.
- Non-organic dry cows cannot be housed in the same barn or pasture as organic dry or milking animals because the probability of commingling organic and nonorganic milk and calves is too high.
- If nonorganic and organic animals are to be housed or pastured together, two forms of animal ID will be required. All livestock must be managed organically and fed certified organic feed.
- Calves may not be individually housed after 6 months of age.

### **C. Feed (§205.237)**

All certified animals must receive 100% certified organic feed.

The NOP standards state: Any field or farm parcel from which harvested crops are intended to be sold as organic, have had no prohibited substances applied to it for a period of 3 years immediately preceding the harvest of the crop.

Vermont Organic Farmers has interpreted this to mean that if you count backwards 36 months from the date the crop is harvested, the fields should have been free of prohibited substances. Put in another way, you start the 36 month count from the date the last prohibited substance was applied.

### Example:

A farmer's last fertilizer application is on May 31, 2016.

On May 31, 2017 the first transitional year has ended.

On May 31, 2018 the second transitional year has ended.

On May 31, 2019 the third transitional year has ended.

**This means crops harvested after May 31, 2019 can be certified organic.**

During the transition year, farmers may feed third year transitional feed that is part of their farm plan. In the above example, this means that crops harvested **AFTER** May 31, 2018 would qualify as compliant feed during the transition. This also means that if we are discussing pasture, animals would not be allowed to graze these parcels until after May 31, 2018.

#### Accepted

- 100% of feed grains and forage, including pastures, grown with organic production practices and if applicable, organically, handled.
- Feed additives and supplements consistent with the National List §205.603. All vitamins and minerals allowed (if FDA approved).
- Wrapping organic hay in plastic as long as spent plastic is recycled or properly landfilled. Burning or burying plastic is illegal in Vermont and is not allowed on organic farms.

#### Prohibited

- Use of animal drugs, including hormones, to promote growth
- Plastic pellets for roughage.
- Urea or manure added to feed or in feed formulas.
- Direct fed mammalian or poultry by-products such as animal fats and rendered products (does not include fishmeal) to mammals or poultry.
- Providing feed supplements or additives in amounts over what is needed by the livestock for nutrition and health.

#### 1) Feed Additives and Supplements (§205.237)

The goal of organic livestock production is to manage the soil nutrients to produce feed that is nutritionally balanced. VOF recognizes that it takes time to build soil fertility organically. To accommodate the health concerns of individual animals, approved

feed additives and supplements may be required. Most vitamins and minerals are allowed if FDA approved. Please see the *VOF Organic Livestock Healthcare List* for a specific list of brand name vitamin and mineral products. In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov). Feed additives and supplements include amino acids, kelp, vitamins, minerals, and bacterial/yeast probiotics. Any carriers and fillers must not be genetically modified. Any agricultural ingredient added to feed on a regular basis must be certified organic (for example, kelp, molasses or apple cider vinegar fed on a daily basis). Agricultural ingredients used in a health care product for a specified period of time, on a non-routine basis to treat a specific illness may be non-organic (for example a garlic tincture to treat mastitis).

Fishmeal is an allowed supplement or additive only if it is processed without prohibited ingredients. For example, if the processing of the fishmeal included synthetic additives it would be prohibited. However, fishmeal can not be used as a protein source to replace the protein requirements of feed. When used in this manner fishmeal can no longer be defined as a supplement or additive. All feed must be certified organic and fish does not yet qualify as organic feed. With all ingredients please check with the VOF Office BEFORE feeding a supplement or additive not listed in the *VOF Organic Livestock Healthcare List*.

#### **D. Pasture Requirements**

Ruminants are required to have daily access to pasture during the grazing season. During the grazing season, the producer must provide not more than an average of 70% of the animals dry matter demand from stored feeds and concentrates. That is ruminants must be provided with an average of not less than 30% of their dry matter intake from grazing. The producer will calculate this in their annual certification application based on their feed ration numbers. These numbers will be verified at the annual inspection visit.

Pastures must be managed as a crop in a way that ensures pasture of sufficient quality and quantity is available to graze throughout the season.

The producer will complete a pasture plan as part of their annual certification application. The plan will include detailed information on grazing system design and management, such as stocking rates, periods of occupation for paddocks, pasture grass heights before and after grazing, and regrowth/rest periods before re-grazing a given area. Producer must include how pastures are managed to minimize the spread of disease and parasites and also prevent erosion or water quality problems. In addition, access to streams and rivers must be restricted or managed in order to prevent these problems. Fenced riparian buffer zones are recommended along waterways to stabilize banks, reduce runoff and erosion and provide wildlife habitat.

## **E. Health Care**

Animal health is the result of ongoing management efforts to create living soils, provide nourishing forage and feeds, and improve the quality of livestock life. Compassionate awareness of every animal may give rise to a need for health care. Producers risk de-certification for withholding treatment to an animal to maintain the organic status of that animal. All producers must keep a written record of all health substances administered to any animal and a 12-month health history must be submitted with your application for certification. All animals with the exception of birds must be individually identified (ear tags, neck chains, tattoo, etc.) For a list of approved health care practices and medications, refer to the National List §205.603-205.604 or the *VOF Organic Livestock Healthcare List*. In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov).

With experience and records, every producer can gain insight into the relationship between soil health and livestock health. A long-term health plan should be developed by every producer with the help of their veterinarian and other farmer mentors. The need for health care of an individual or group of animals is an opportunity to reconsider the long-term plan. Producers must use preventative health care practices.

### Accepted

- Selecting species and types of livestock suitable to the conditions on their farm and resistant to prevalent diseases and parasites.



- Providing feed sufficient to meet the needs of the animals, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber.
- Establishing appropriate housing, pasture, and sanitation to reduce diseases and parasites.
- Providing animals with the opportunity for exercise, freedom of movement, and reduction of stress.
- Performing physical alterations when needed for the animal's welfare, taking care to minimize pain and stress. VOF recommends tailing lambs, castration and dehorning at a young age (recommended under 10 days old).
- Administering vaccines and other veterinary biologics (must be verified non-gmo).
- Natural or non-synthetic substances unless prohibited.
- Calves fed whole milk and organic feed.

***When preventative measures are insufficient to prevent sickness, producers may consult the National List and the VOF Organic Livestock Healthcare List for allowed medications, §205.603.*** In addition VOF accepts the material review decisions of the Organic Materials Review Institute (OMRI) and the Washington State Department of Agriculture (WSDA). Lists of brand name materials from these programs can be found on-line at [www.omri.org](http://www.omri.org) and [www.agr.wa.gov](http://www.agr.wa.gov).

#### Prohibited

- Withholding treatment from animals to maintain organic status.
- Administering any animal drug in the absence of illness.
- Use hormones for promotion of growth of livestock.
- Selling, labeling, or representing as organic any animal or animal product that has been treated with antibiotics, a synthetic substance not on the National List, or any prohibited non-synthetic substance.
- Docking tails on organic dairy cows.
- Milk Replacer and medicated calf grain

#### 1) **Use of Antibiotics**

Selling, labeling, or representing as organic any animal or animal product that has been treated with antibiotics is prohibited. In

an emergency, a producer should use antibiotics if necessary to save the life of the animal or to prevent suffering. Use of antibiotics should be based on the recommendation of a vet. Withholding treatment of antibiotics from animals to maintain their organic status is prohibited. If a producer uses antibiotics, they must do the following:

- Record the event in their health records.
- **Notify the office of the situation.**
- Segregate the animal to prevent contamination of organic products. For example, a dairy cow must be tagged or separated from the herd to prevent the milk from going in the bulk tank. In addition, milk may not be fed to calves.
- Sell the animal to a non-organic market.
- Document the sale of the animal.

## 2) Parasite Control

When preventative practices are inadequate to prevent sickness, producers may use parasiticides allowed under §205.603 of the National List. Parasiticides can only be used when methods in the producer's Organic Production Plan do not work. Approved parasiticides (Ivermectin, Moxidectin & Fenbendazole) may be used on breeder stock in health care emergencies and in the case of acute and dangerously high levels of infestation. The treatment must be used prior to the last third of gestation and not while nursing young stock to be slaughtered for organic meat or raised for organic fiber. There is a 90 day withholding requirement for milk or milk products following treatment. The routine use of synthetic parasiticides on breeder stock is prohibited.

**Synthetic parasiticides may not be used on animals intended to be sold as organic meat or raised for organic fiber.**

If a producer uses an allowed parasiticide, they must do the following:

- Record the event in their health records.
- **Notify the office of the situation.**
- Segregate the animal to prevent contamination of organic products. For example, a dairy cow must be tagged or separated from the herd to prevent the milk from going in

- the bulk tank. In addition, milk may not be fed to calves.
- Keep records of the animal's treatment and if applicable document sale to non-organic meat market.

### Accepted

- Livestock producers are encouraged to minimize parasite infestations by quarantine and fecal exams for all incoming stock, good pasture management, maintaining clean facilities and culling seriously infected animals.

*When preventative measures are ineffective a producer may use the following:*

- Biological control methods
- Nonsynthetic pest controls such as diatomaceous earth, rock powders and herbal repellents
- Use of synthetic parasiticides is allowed only in health care emergencies and in the case of acute and dangerously high levels of infestation. **Use of parasiticides must be approved by the VOF Office prior to use.** Justifications must be documented and may include the results of fecal tests and recommendation by a veterinarian. For large herds or flocks, random sample testing may be used to determine the necessity to deworm the whole herd or flock.

Approved parasiticides may be used on:

- Breeder stock when used prior to the last third of gestation and not while nursing young stock to be slaughtered for organic meat.
- Dairy animals except milk from a treated animal must not be sold as organic for 90 days.

### Prohibited

- Withholding treatment from animals in order to maintain organic status
- Routine use of synthetic internal parasiticides
- Use of synthetic parasiticides on organic slaughter stock
- Use of synthetic parasiticides on lactating dairy stock without a 90-day withholding period.

## **F. Breeding**

### Accepted

Natural service

Artificial insemination

### Prohibited

Use of breeding hormones

Use of cloned animals and their progeny

## **G. Slaughter**

All animals sold as organic meat must be slaughtered at a facility certified to slaughter/process organic animals. Please contact VOF for a list of certified slaughterhouses. Producers are responsible for maintaining records showing which animals were processed. It is recommended that a copy of the farm's organic certificate be on record at the facility. After slaughter, all parts of the carcass to be sold must be clearly identified as organic and originating from that certified farm. Animals must be treated humanely during loading, unloading, shipping, holding and slaughter. All animals must be slaughtered according to Vermont State Law. Please see the Vermont Agency of Agriculture website for more information: [www.vermontagriculture.com/fscp/meatinspection/regulations.html](http://www.vermontagriculture.com/fscp/meatinspection/regulations.html).

## **H. Animal ID**

Certified dairy and livestock producers are required to submit an animal inventory form listing all animals on the farm. DHIA records can be used, provided there is an indication of which animals qualify as organic slaughter stock. VOF requires that an animal id system is in place.

### Accepted

Nitrogen freeze branding

Animals born after Feb 2010 using neckchains as animal identification must use an additional system of identification as well (ear tag, photograph, tattoo, etc.)

Tattoos

Ear tags

### Prohibited

Insecticidal ear tags

## **I. Organic Production Plan and Record Keeping**

All producers must submit an organic production plan in the form of the VOF Application on a yearly basis. The plan must show compliance with the requirements in the NOP Standards. The producer must:

- Provide a farm map that includes number of acres, adjoining land use, buffer areas, major roads and physical features.
- Provide location and size of pastures, including maps giving each pasture its own identification, location and types of permanent fences and the location and source of shade and water.
- Describe all monitoring practices for pests, soil fertility etc.
- Describe farm practices such as tilling, weeding, planting schedules, etc.
- Record manure applications with dates and rates of application as well as the number of bales/tonnage harvested from each field.
- List all substances planned on being used on the farm as inputs, including the source, location and reason for use, along with documentation on commercial availability of seeds as necessary.
- Provide records for previous five years if necessary.
- Provide additional information as deemed necessary by the VOF Review Committee.

Livestock producers are also expected to submit VOF Livestock Information paperwork for each species the producer intends on certifying. Livestock producers are required to ear-tag or individually identify all livestock with the exception of poultry. Records must be kept, including:

- Records/receipts of all feeds bought and fed and all feed supplements used.
- Purchases of organic animals and organic forages must be accompanied by both an itemized receipt and a copy of the seller's certification document. Livestock and crop transaction certificates are available through the VOF Office.
- A health care product inventory listing all livestock medications on the farm.
- Dates and justifications for all medications administered

- Keep an updated inventory of all animals on farm, as well as records of all animals entering and leaving the farm.
- Records must be kept for individual animals or specific flock from birth/purchase to slaughter/sale.

Receipts for purchased livestock, feed, supplements and inputs for certified forage production on the farm; as well as sales invoices for products sold off the farm as organic must be kept to ensure a complete audit trail.

## J. Labeling

If producers choose to make an organic claim on a label for raw milk, they must clarify that the product is certified to the organic regulations as opposed to food safety regulations. VOF recommends that producers use the phrase "Certified Organic by Vermont Organic Farmers". Please note, all labels must be approved by the VOF Office before printing.

## IV. PROCESSING AND HANDLING

In order to certify that food is organic at the retail level, processors, packagers, manufacturers and food handlers must adhere to a program as detailed and verifiable as do farmers to prevent the loss of organic integrity.

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

If producing an organic product both organically and non-organically in the same plant, each applicant must develop a detailed plan, identifying critical points of potential co-mingling of organic and non-organic ingredients. **Distributors of organic products that are handled only in their final packaged form and retailers are exempt from certification.**

### A. Maintaining Organic Integrity (§205.272)

The processor must implement measures necessary to prevent the commingling of organic and non-organic products and protect organic products from contact from prohibited substances. If producing an organic product both organically and non-organically in the same plant, each applicant must develop a detailed plan, identifying critical points of

potential co-mingling of organic and non-organic ingredients. If any prohibited products are used in the facility, care must be taken to ensure that they do not contaminate the organic product. VOF recommends that all food contact surfaces are food-grade, including utensils and containers.

## **B. Raw Ingredient Verification & Tracking**

Incoming organic ingredients must be accompanied by documentation (e.g. organic certificates) verifying certification to the NOP Standards. Certificates and other documentation should be kept on file by the processor and made available to the inspector. In order to be considered current, certificates should not have a renewal date that is more than one year old. Incoming loads of raw ingredients should be accompanied by receipts/invoices that identify the ingredients as organic and can be tracked with a lot number. For operations not buying through a distributor but whom instead buy raw ingredients from a retail operation (e.g. food coop), a certificate is not required. However, a receipt identifying the ingredient as organic must be available at the time of inspection and when otherwise requested to verify the organic status of the ingredient.

**Note that genetic engineering, ionizing radiation and use of sewage sludge are considered prohibited processes by the NOP Standards. Therefore ingredients produced using these processes may not be used in products labeled “100% organic”, “organic”, or “made with organic (ingredients or food groups)”.** Producers must have written documentation verifying that non-organic ingredients were not produced using excluded methods. **All non-agricultural ingredients and processing aids must appear on the National List, §205.605-§205.606.**

## **C. Water**

To minimize food safety risks associated with microbial pathogens, VOF recommends that water used as an ingredient in processed products or water used to clean ingredients in processed products should be potable water only. Processors are required to provide evidence that the facility's water used to clean organic ingredients or water used as an ingredient is not contaminated with prohibited substances. **VOF recommends that all wash water used to clean ingredients and water used as an ingredient, not from municipal sources be tested every 2 years for fecal coliform.** We recommend that water is tested for nitrates as well. Please see the below Water Testing Recommendations for testing sources. Processors will be

required to show documentation at their annual inspection. Do not use water that has tested positive for fecal coliform. If water tests positive please inform the VOF office immediately and Review Committee will review each case on an individual basis. If water tests positive follow guidelines as recommended by the Vermont Department of Health.

The basis of the requirement is based on Section 2111 of the Organic Food Production Act, which states, "For an operation to be certified, the operation shall not, with respect to any agricultural product covered by this title (organic) use in such product water that does not meet all Safe Drinking Water Act requirements."

### **Water Testing Recommendations**

by Vern Grubinger, UVM Extension Sustainable Agriculture Specialist

Ground and surface waters are a potential source of a wide range of contaminants. The rationale for using, and the cost, of different types of tests (by Vermont Department of Health Lab, P.O. Box 1125, Burlington, VT 05402-1125 (800) 660-9997, unless otherwise stated) are described below:

1. The following tests for common pollutants are **recommended** for certification on a yearly basis, regardless of source of water: fecal coliform (Kit A - \$14) and nitrate (Kit N3 - \$12). However for wash water used to wash ingredients and water used as an ingredient, fecal coliform tests are **required** on a biannual basis for non-municipal water sources.

### **D. Product Composition (Subpart D §205.301)**

#### 1) Calculating Percentage of Organic Ingredients

For the configuration of percentages of organic ingredients, processors should use weight or fluid volume, and exclude salt and water from all calculations. It is the responsibility of the processor who puts the label on the final retail package to determine the total percent of organic ingredients in the product.

- Non-liquid products must figure the percentage by dividing the weight of the organic ingredients by the weight of the total ingredients.
- Liquid products must use volume, and if using ingredients that have been reconstituted, the calculation should be made on the



basis of single strength concentrations.

- If a product contains both solid and liquid ingredients, the calculation should be made using the combined weight of both the solid and liquid ingredients.

The total percentage of organically produced ingredients should be rounded down to the nearest whole number.

## 2) Organic Product Composition Categories

Organic products must fall into one of the following categories.

### a) "100% Organic"

Products represented as 100% organic must be comprised of 100% organic ingredients and processing aids. For multi-ingredient products, all ingredients must be certified in the 100% category. Please note that most ingredients do not qualify for the 100% category. For example, organic maple syrup filtered with diatomaceous earth (a non-organic processing aid) would not qualify as "100% organic" and therefore could not be used as an ingredient in a product labeled as "100% organic).

### b) "Organic"

Products represented as "organic" must contain at least 95% organic ingredients. The remaining 5% of the product must be comprised of organic ingredients unless those ingredients are:

- Allowed non-organic ingredients listed on the National List Section 205.606. These ingredients are defined as agricultural and are not commercially available in organic form (e.g. sausage casings). However, producers are still required to do a thorough search for these ingredients as organic before non-organic versions are used. This will be verified at the annual inspection.
- Allowed non-agricultural ingredients listed on the National List Section 205.605. These ingredients are

non-agricultural, so organic forms do not exist (e.g. baking soda).

All non-organic ingredients must not be produced using genetic engineering or sewage sludge or be irradiated. This must be verified and documented on an annual basis. All processing aids must also be approved on the National List.

c) "Made with organic (specified ingredients or food groups)"

Products represented as "Made with organic..." must contain at least 70% organic ingredients. The remaining ingredients must be on the National List Section 205.605 (non-agricultural) and 205.606 (non-organic agricultural). Non-organic agricultural ingredients may not be produced using genetic engineering or sewage sludge or be irradiated. This must be verified and documented on an annual basis. It is not required that processors attempt to source organic forms of the non-organic agricultural ingredients in a "Made with organic..." product. All processing aids must also be approved on the National List.

d) Less than 70% organic ingredients

Products in this category are not eligible for certification and may not be sold, labeled or represented as organic. However, producers may identify organic ingredients in these products in the following ways:

- Identifying organic ingredients in the ingredient statement with the word "organic" or an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is "organic".
- Displaying the products percent of organic ingredients on the information panel (only allowed if organic ingredients are identified in the ingredients statement).

## E. Labeling

**Producers must submit their labels to VOF for approval prior to printing.**

### 1) "100% Organic"

These products may be labeled anywhere on the package as "100% organic" or "organic" and may indicate ingredients individually as organic in the ingredient statement. Processors may use the USDA seal and the VOF Logo. However, if a processor chooses to use both logos, the VOF logo may not be more prominent than the USDA seal. On the information panel directly below information identifying the handler or distributor (see FDA guidelines below for the definition of handler info), the certifying agency of the handler must be identified with a phrase such as, "Certified Organic by Vermont Organic Farmers" or "Certified Organic by VOF". The VOF logo is not an adequate substitute for this phrase.

FDA guidelines state that food labels must list the name and address of the manufacturer, packer or distributor, unless the name given is the actual manufacturer, it must be accompanied by a qualifying phrase which states the firm's relation to the product (e.g., "manufactured for" or "distributed by"); street address if the firm name and address are not listed in a current city directory or telephone book; city or town; state (or country, if outside the United States); and ZIP code (or mailing code used in countries other than the United States). The "certified by" phrase must be located directly below the handler information as defined above. There must be no intervening text between the handler information and the "certified by" phrase. The street address can be omitted if the address can be found in the phone book, city directory or internet, but the zip code must remain. If the name and address are located in two different places on the label then the label cannot be considered compliant. A web address cannot be used in place of the business name, even if the website includes the entire business name. Website, e-mail address and phone number are not required information, according to the FDA, but will not be considered intervening text if included with the name and address information. However, website, e-mail address and phone number alone cannot be considered "handler information".

Website, e-mail address and phone number can be separated from name and address info. In addition, facebook, youtube and twitter contact info will also not be considered intervening text if located with the business name and address.

## 2) "Organic"

Products in this category may be labeled anywhere on the package as "organic" and may use the USDA seal and the VOF Logo. However, if a processor chooses to use both logos, the VOF logo may not be more prominent than the USDA seal. Processors **must** indicate each organic ingredient in the ingredient statement. On the information panel directly below information identifying the handler or distributor (see FDA guidelines above for the definition of handler info), the certifying agency of the handler must be identified with a phrase such as, "Certified Organic by Vermont Organic Farmers" or "Certified Organic by VOF". The VOF logo is not an adequate substitute for this phrase.

If you list the percentage of organic ingredients in the product, the size of the percentage statement must not exceed ½ the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting.

## 3) "Made with organic (specified ingredients or food groups)"

Products in this category may be labeled anywhere on the package as "Made with organic..." listing no more than three individual organic ingredients or food groups (for details see §205.304(a)(1)). The type size of the made with organic statement may not exceed ½ the size of the largest type size on the panel and must appear in its entirety in the same type size, style, and color without highlighting. Processors **must** indicate each organic ingredient in the ingredient statement. **Processors of products in this category are not allowed to use the USDA seal or the VOF logos.** On the information panel directly below information identifying the handler or distributor (see FDA guidelines above for the definition of handler info), the certifying agency of the handler must be identified with a phrase such as, "Certified Organic by Vermont Organic Farmers" or "Certified Organic by VOF". The VOF logo is not an

adequate substitute for this phrase.

#### 4) Less than 70% organic ingredients

Products in this category are not eligible for certification and may not be sold labeled or represented as organic. Processors of products in this category are not allowed to use the USDA seal or the VOF logo. However, producers may identify organic ingredients in these products in the following ways:

- Identifying organic ingredients in the ingredient statement with the word “organic”.
- Displaying the products percent of organic ingredients on the information panel (only allowed if organic ingredients are identified in the ingredients statement).

**There are special considerations for livestock feed processing and labeling. For details, please refer to §205.237, §205.301(e), and §205.306. There are also special considerations for point of retail sales labeling. Please refer to §205.308-309.**

#### **F. Cleansers and Sanitizers (§205.605)**

VOF does not recommend the use of specific cleansers for washing food contact surfaces. Processors may use any cleanser, disinfectant, and sanitizer provided that they do not contaminate the organic product. VOF recommends thorough rinsing after the use of all cleaning products. If these products are likely to leave a chemical residue, testing may be required. If products are used that are highly persistent and leave a residue (such as quaternary ammonia), it is the producer’s responsibility to verify that the organic product is not being contaminated. Documentation of this verification will be required. Chlorine materials may be used up to maximum-labeled rates for disinfecting and sanitizing food contact surfaces. Rinsing of chlorine materials is not required unless mandated by the label use directions.

Cleansers and sanitizers used to wash organic ingredients are considered food additives and must be on the National List of allowed non-agricultural substances (205.605). Water used in direct contact for ingredient washing is permitted to contain chlorine materials at levels approved by the Food and Drug Administration or the Environmental Protection Agency for such purpose. However, rinsing with potable water

that does not exceed the maximum residual disinfectant limit for the chlorine material under the Safe Drinking Water Act (4ppm) must immediately follow this permitted use.

The following active ingredients are allowed for use in direct food contact:

- Chlorine (rinse required [see above])
- Hydrogen Peroxide
- Potassium Carbonate
- Sodium Carbonate (soda ash)
- Sodium Bicarbonate
- Sodium Hydroxide
- Ozone
- Peracetic Acid

#### **G. Packaging (§205.272(b))**

- All packaging material must be free of fungicides, preservatives, fumigants, insecticides, or other prohibited contaminants.
- All materials used for packaging must be food grade and of suitable design to protect the organic integrity of the product.
- VOF recommends non-essential packaging should be avoided where possible and considerations should be given to how the end product packaging may be recycled or returned.

#### **H. Pest Management (§205.271)**

Pest management in processing facilities must be described in the application and must include exclusion/prevention of pests, good sanitation, and restriction of habitats for pests. Pest logs describing where and when pesticides are used are required for processors who use synthetic controls. Ongoing monitoring and inspection should be performed in the facility to determine the presence and degree of activity of any insect or rodent pests. If a processor does use a synthetic or non-synthetic substance to control pests, this must be listed in their application, including all measures taken to prevent contact of the substance with organic products or ingredients.

##### Approved

- Management practices to prevent pests.
- Mechanical, electrical, pheromone/scent and adhesive traps, physical barriers, sound and light devices as repellents, lures and

repellents using non-synthetic or synthetic substances from the National List.

In the case that the above approved methods are not effective, processors may use a non-synthetic or synthetic substance from the National List. If substances from the National List are also not able to prevent or control pests, a synthetic substance not on the National List may be used provided that the producer and VOF agree on the substance, method of application and measures being taken to prevent contact with the organic product.

In the case of fogging and broad surface treatments, organic product must not be contaminated. All food preparation surfaces must be covered or otherwise protected from contamination.

### **I. Storage (§205.272)**

Storage of organic products must be such to maintain the organic integrity of the product. Storage of organic and non-organic ingredients in the same room or cooler is permissible with documentation that organic ingredients can be kept separate from non-organic ingredients and that repackaging of organic food containers can be tracked to assure no mixing of organic and non-organic ingredients occur. All bins, tankers or storage facilities that organic ingredients are being stored in must be numbered or identifiable. Mists or other methods of freshening and maintaining humidity can not contaminate organic foods.

#### Approved

- Storage areas should be ventilated, but sealed to the encroachment of birds, rodents, or other pests.
- Controlled atmosphere storage, see the National List for individual gases.

#### Prohibited

- Bags or other containers used for any substances that could compromise the organic quality of the product through the introduction of contaminants.

### **J. Transportation (§205.272)**

For each load of incoming organic product shipped in a way that

could expose the product or retail packages to prohibited substances, affidavits must be signed by the transporter and kept on file by the processor, attesting to the fact that no prohibited fumigants or pesticides were used prior to or during the shipment of organic foods, and that the carrier cleaned sufficiently to avoid the contamination of organic foods by previous loads.

#### **K. Organic Handling System Plan, Record Keeping and Audit Trail (§205.201)**

All processors must submit an organic handling system plan in the form of the VOF Application on a yearly basis. The plan must show compliance with the requirements in the NOP Standards. The processor must:

- Describe processing practices.
- Provide a facility map and description of any organic control points.
- Description of organic product including ingredients, processing aids, additives, including source, where it will be used and why.
- Describe all monitoring practices for pests, etc.
- List all cleaners and pest control products planned on being used.
- Describe the record keeping system used.
- Provide additional information as deemed necessary by the VOF Review Committee.

Audit trail and inventory control procedures must be detailed enough to trace all raw materials from the supplier, through the entire plant process, and on through the distribution system to the retailer, using lot numbers, or serial numbers. Company records (including purchase orders, bills, invoices, and inventory records) must be made available to the inspector.

VOF **may** require the following information from processors as part of the inspection process:

- Current certificates for all organic raw materials.
- A complete list of ingredients by weight or volume as appropriate.
- Current facility map.
- Detailed flow chart of processing steps.
- Facility pest control map.
- Storage conditions.



- Sample of the audit trail.
- Facility sanitation, and cleaning methods.
- MSDS and labels for all products used in cleaning final product.
- How and by whom materials are transported to and from the plant.

## **V. ADMINISTRATIVE PROCEDURES**

### **A. VOF Office Hours & Walk in Policy**

Vermont Organic Farmers office is staffed 8:30 am – 4:30 pm, Monday to Friday. We have an open-door policy during our office hours at 14 Pleasant St. in Richmond, VT. It is not guaranteed that VOF staff will be available during these hours due to meetings, appointments, and out of office work. If you need to meet with certification staff, it is recommended that you call to make an appointment. Walk-in hours are to be used by certified producers for picking up stickers, accessing guidelines and resource sheets, and making payments. If you have questions for your certification specialist regarding organic certification, would like to fill out your application at our office with assistance from staff, or are a new applicant interested in learning more about organic certification, you can call anytime or you can set up an appointment for an in person meeting at our office. Please call 802-434-3821 to make an appointment to meet with our staff.

### **B. Complaints Policy/Investigation of Certified Operations (§205.661)**

VOF is committed to investigating and resolving allegations about the applicants certified by our program. VOF will accept and investigate allegations submitted by any party that pertain to the ability of a VOF certified producer or handler to comply with the NOP Standards. The complaint should be limited to specific, detailed information.

Once a complaint is received, VOF may do the following: contact the certified farmer/processor, explain the nature of the complaint to the certified producer, and will investigate the matter to determine if there is a non-compliance. The name of the complainant and the issues being discussed will remain confidential. If, upon investigation, a major noncompliance is confirmed, VOF will notify the NOP's Program Manager of all proceedings and actions and will proceed with Major Non-Compliance Procedures.

### **C. Unannounced Inspections (§205.403)**

Unannounced inspections of all farms and processors will be conducted each year to check for compliance with the organic regulations. Unannounced inspections may include, but are not limited to:

- Previous noncompliance issues.
- Evidence of prohibited pesticide use.
- Erosion issues.
- Organic and Non-organic Production.
- Likelihood of drift of contamination potential.
- Outdoor access compliance.
- Grazing management.
- Pasture quality.
- Animal welfare.
- Feed audits.
- Facility conditions-including pest control and contamination risks.

Any farms or processors that have had written complaints brought against them may be investigated with unannounced inspections. In addition, farms and processors may be selected at random for unannounced inspections. Approximately 10% of our certified producers will have unannounced inspections each year.

### **D. Inspection Refusal Policy (§205.400)**

All persons seeking certification must permit VOF to conduct annual on-site inspections with complete access to all production and handling operations. All producers must work with the VOF inspector to schedule inspections in a timely manner. VOF may interpret the following situations to be examples of producers who are not in compliance with the above standard.

- Inspector contacts the producer three times without response.
- Producer cancels and/or reschedules the inspection 3 times.
- Any other instances of uncooperative behavior on behalf of the producer that may be interpreted as a refusal of inspection.

### **E. Major Non-Compliance Procedures (§205.405 and §205.662)**

Major non-compliance procedures are used if the applicant fails to comply with NOP standards. This includes, but is not limited to: past or current practices found to be misrepresented; prohibited materials or

practices used at any time during the year; or permission for inspection visits or test procedures refused.

When the Certification Administrator and/or the Review Committee feels that, based on the information they have been provided, an applicant is not able to meet the NOP standards for organic certification, the applicant will be contacted in writing. The letter will state the non-compliance, the facts on which the non-compliance are based, and the date by which the applicant must rebut or correct each non-compliance. If the applicant feels VOF misinterpreted the issues or did not receive all the information, or that the applicant can correct the non-compliance, the applicant must reply to this letter within 10 business days by contacting the office in writing with a rebut or plan for correction and supporting documentation. New applicants have the option to correct their non-compliances and resubmit their application to another certification agency. If they choose this option, they must include all notices of non-compliance with their application.

If the non-compliance is resolved, VOF will send written notification of non-compliance resolution. If the issue is not resolved, the applicant can choose to meet with the Review Committee. The Review Committee meeting will be scheduled promptly after receiving the written rebuttal or correction by the applicant. At this meeting, the Review Committee will discuss the issues with the applicant and accept any additional information offered. The Review Committee will then meet to reconsider its recommendation based on the meeting with the applicant. The applicant will receive this decision in writing.

When rebuttal is unsuccessful or correction of the non-compliance is not completed within the prescribed time period, VOF shall send the applicant a written notification of denial of certification or proposed suspension or revocation of certification. This notification will include the reason for the denial or proposed suspension or revocation, the impact of the proposal on future eligibility for certification, and the right to request mediation. In cases where correction of the non-compliance is not possible or if non-compliance with the NOP standards was willful, notification of denial of certification or proposed suspension or revocation can be included in the initial letter stating non-compliances.

#### **F. Mediation (§205.663)**

The applicant may request that the dispute regarding the denial or

proposed suspension or revocation of certification be mediated. The applicant must make the request in writing to VOF within 30 days of the date of notification of certification denial or proposed suspension or revocation is received. If VOF rejects the request for mediation, the applicant shall be notified in writing, including in this notification the right to appeal pursuant to §205.681 within 30 days of the date of the denial of mediation.

If VOF accepts the request, the applicant and VOF will choose a mutually agreed upon mediator. The applicant and VOF will have no more than 30 days from the mediation session to reach an agreement. Any agreement reached must be compliant with the NOP standards. The Secretary of Agriculture may review any mediated agreement and reject any agreement not in conformance with NOP standards.

If mediation is unsuccessful, the applicant will have 30 days from the termination of mediation to appeal VOF's decision pursuant to §205.681.

If requesting mediation, producers must state their reason for requesting mediation. VOF will accept mediation when the violation is correctable; a quicker resolution of the dispute is needed; communication between the parties is poor in either quantity or quality and the process structure and negotiation expertise provided by a mediator is needed. VOF will not accept mediation when the violation is not correctable; VOF needs to establish binding precedent; one or more parties refuses to participate in good faith in the process; or one or more persons essential to a resolution can not be brought into the process. Mediation is not useful when trying to determine fault.

### **G. Appeals (§205.681)**

The applicant may appeal VOF's denial, or proposed suspension or revocation, of certification to the Administrator for the AMS, USDA. If the AMS Administrator sustains the applicant's appeal, the applicant's certification will be issued/renewed. The act of sustaining the appeal shall not be an adverse action subject to appeal by the affected certifying agent.

If the AMS Administrator denies the appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification. The proceedings shall be conducted pursuant to the USDA's Uniform Rules of Practice.

## **H. Certification Denial, Suspension and Revocation (§205.405 and 205.662)**

If the applicant fails to correct the noncompliance, resolve the issue through rebuttal or mediation, or to file an appeal, VOF will send a written notification of denial, suspension, or revocation of the applicant's certification. VOF will not send a notification of suspension or revocation to a certified operation that has requested mediation or filed an appeal, while final resolution of either is pending.

### 1) Denial of Certification:

If the new applicant's certification has been denied, the applicant has the right to request mediation pursuant to §205.663, file an appeal of the denial pursuant to §205.681, or to reapply for certification at any time with any certifying agent. If the applicant chooses to reapply, the applicant must include a copy of the notification of denial and a description of the actions taken, with supporting documentation, to correct the non-compliances.

### 2) Suspension or Revocation of Certification:

A certified operation whose certification has been suspended, unless otherwise stated in the notification of suspension, may at any time submit a request to the Secretary of Agriculture for reinstatement of its certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with the NOP standards.

If the certification of an operation has been revoked, the operation or any person responsibly connected to the operation will be ineligible to receive certification for a period of 5 years following the date of revocation. The Secretary of Agriculture does have discretion to reduce or eliminate this period or ineligibility.

### 3) Surrendering Certification:

Certification is in effect until surrendered by the organic operation or until suspended or revoked by VOF. Applicants must notify VOF in writing that they wish to surrender their certification. Applicants that surrender their certification may reapply for certification the following year.

## **I. Violations of the Act (§205.662(g))**

In addition to suspension or revocation, any operation that knowingly sells or labels a product as organic, except in accordance with the NOP standards, shall be subject to a civil penalty of not more than \$11,000 per violation.

If a certified operation makes a false statement under the NOP standards to the Secretary of Agriculture or the certifying agent, it shall be subject to the provisions of section 1001 of title 18, United States Code.

## **J. Contamination of Certified Fields or Facilities (§205.670)**

Contamination of soils, crops, livestock, or products by air pollution, flooding, spray drift, run-off, genetic contamination or other source will be addressed through testing. Pre-harvest or post-harvest testing of any agricultural input used or agricultural product to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" may be required when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods. In addition, VOF will do periodic residue testing on no less than five percent of the total number of certified operations annually. Such tests will be conducted by VOF and expenses paid for by VOF.

The pre-harvest or post-harvest tissue test sample will be performed by an inspector representing VOF. Sample integrity will be maintained throughout the chain of custody, and residue testing will be performed in an accredited laboratory. Chemical analysis will be made in accordance with the methods described in the most current edition of the Official Methods of Analysis of the AOAC International or other current applicable validated methodology determining the presence of contaminants in agricultural products (§ 205.670). VOF will also follow and keep up to date with instructions from the NOP regarding sample collection and testing.

Results of residue testing must be submitted to the Administrator of AMS, USDA, the producer, and made available to the public if not part of an on-going 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 EPA's regulatory tolerance, VOF must promptly report the data to the Federal Health Agency whose tolerances have been exceeded.

### **1) Exclusion from Organic Sale (§ 205.671).**

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

## **2) Emergency Pest or Disease Treatment (§205.672)**

If 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 NOP standards, the certification status of the operation shall not be affected (§205.672). However, the following *restrictions apply*:

- Any harvested crop or plant part to be harvested that has contacted the prohibited substance cannot be sold, labeled, or represented as organically produced.
- Any livestock treated with a prohibited substance or product derived from the treated animals cannot be sold, labeled, or represented as organic.
- Milk or milk products may be sold as organically produced beginning 12 months following the last date that the dairy animal was treated with the prohibited substance.
- 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 the breeder stock was treated with the prohibited substance.

## **3) Flood Policy (§205.202)**

The organic regulations require that "prohibited substances" cannot be applied to land for at least three years prior to harvesting the organic crop. Floodwaters can contain many potential contaminants including manure from livestock operations, runoff from septic systems and water treatment facilities, agricultural chemicals, heavy metals as well as contaminants such as oil, diesel, gasoline or

paint. Fortunately the volume of water during flooding events often dilutes the contaminants. In most cases, low levels of contaminants would be considered unavoidable residual environmental contaminants and would not affect the certification of the land. However, there are instances where prohibited residues would be of greater concern. If your farm is directly downstream from a source of concentrated prohibited substances, for example a sewage treatment facility that went off-line or if there is evidence of contamination, for example an oily residue on your fields or an empty fuel tank, VOF may decide to test for likely contaminants and continued certification of the affected field could be jeopardized.

There are risks associate with feeding flooded crops (including pastures) to livestock. VOF recommends working with a feed consultant or UVM extension specialist before feeding flooded crops to organic animals.

All producers must record all flood events (seasonal and catastrophic) occurring within the last year in their organic system plan. In addition, flood events that occur during the growing season must be recorded in field records. For farms growing crops for human consumption, organic systems plans must include a written description of how producers will create protocols to prevent contamination of non-flooded crops and fields and develop timelines for replanting. In addition, please note that if your wellhead was submerged, your water must be retested to ensure that it is potable. Only potable water can be used to wash organic produce. You will need to provide VOF with a copy of your completed water test.

## **K. Use of the VOF Logo**

The VOF logo is a registered trademark owned by Vermont Organic Farmers LLC. All VOF certified operations may use the VOF logo on their product except for product certified in the "made with category". These products must not display the VOF logo. Once an operation is surrendered, suspended or revoked, use of the logo is prohibited on a product raised, grown or produced after the final date of surrender, suspension or revocation.



## **Appendix I. National Organic Standards on Agricultural Production and Handling**

### **Subpart A—Definitions**

#### **§205.1 Meaning of words.**

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand.

#### **§205.2 Terms defined**

**Accreditation.** A determination made by the Secretary that authorizes a private, foreign, or State entity to conduct certification activities as a certifying agent under this part.

**Act.** The Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 et seq.).

**Action level.** The limit at or above which the Food and Drug Administration will take legal action against a product to remove it from the market. Action levels are based on unavailability of the poisonous or deleterious substances and do not represent permissible levels of contamination where it is avoidable.

**Administrator.** The Administrator for the Agricultural Marketing Service, United States Department of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

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

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

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

**Allowed synthetic.** A substance that is included on the National List of

synthetic substances allowed for use in organic production or handling.

AMDUCA. The Animal Medicinal Drug Use Clarification Act of 1994 (Pub. L. 103-396).

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

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

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

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

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

Biodegradable biobased mulch film. A synthetic mulch film that meets the following criteria:

(1) Meets the compostability specifications of one of the following standards: ASTM D6400, ASTM D6868, EN 13432, EN 14995, or ISO 17088 (all incorporated by reference; see §205.3);

(2) Demonstrates at least 90% biodegradation absolute or relative to microcrystalline cellulose in less than two years, in soil, according to one of the following test methods: ISO 17556 or ASTM D5988 (both incorporated by reference; see §205.3); and

(3) Must be biobased with content determined using ASTM D6866 (incorporated by reference; see §205.3).

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

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

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

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

**Certification or certified.** A determination made by a certifying agent that a production or handling operation is in compliance with the Act and the regulations in this part, which is documented by a certificate of organic operation.

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

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

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

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

Class of animal. A group of livestock that shares a similar stage of life or production. The classes of animals are those that are commonly listed on feed labels.

Commercially available. The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.

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

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

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

Crop. Pastures, cover crops, green manure crops, catch crops, or any plant or part of a plant intended to be marketed as an agricultural product, fed to

livestock, or used in the field to manage nutrients and soil fertility.

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

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

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

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

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

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

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

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

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

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

evaporated out.

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

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

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

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

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

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

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

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

vitamins, and minerals.

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

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

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

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

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

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

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

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

Grazing. To graze.

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

365 days, but not less than 120 days per year.

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

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

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

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

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

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

Information panel. That part of the label of a packaged product that is immediately contiguous to and to the right of the principal display panel as observed by an individual facing the principal display panel, unless another section of the label is designated as the information panel because of



package size or other package attributes (e.g., irregular shape with one usable surface).

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

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

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

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

**Label.** A display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

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

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

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

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

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

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

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

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

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

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

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

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

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

nonsynthetic is used as a synonym for natural as the term is used in the Act.

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

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

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

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

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

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

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

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

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

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

136(u) et seq).

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

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

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

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

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

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

**Processing aid.** (1) Substance that is added to a food during the processing of such food but is removed in some manner from the food before it is packaged in its finished form;

(2) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and

(3) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at insignificant levels and

does not have any technical or functional effect in that food.

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

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

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

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

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

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

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

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

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

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

**Sewage sludge.** A solid, semisolid, or liquid residue generated during the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Subpart B—Applicability**

### **§205.100 What has to be certified.**

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

(b) Any production or handling operation or specified portion of a production or handling operation that has been already certified by a certifying agent on the date that the certifying agent receives its accreditation under this part shall be deemed to be certified under the Act until the operation's next anniversary date of certification. Such recognition shall only be available to those operations certified by a certifying agent that receives its accreditation within 18 months from February 20, 2001.

(c) Any operation that:

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

(2) Makes a false statement under the Act to the Secretary, a governing State official, or an accredited certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

### **§205.101 Exemptions and exclusions from certification.**

(a) Exemptions. (1) A production or handling operation that sells agricultural products as “organic” but whose gross agricultural income from organic sales totals \$5,000 or less annually is exempt from certification under subpart E of this part and from submitting an organic system plan for acceptance or approval under §205.201 but must comply with the applicable organic production and handling requirements of subpart C of this part and the labeling requirements of §205.310. The products from such



operations shall not be used as ingredients identified as organic in processed products produced by another handling operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The labeling provisions of §205.310.

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

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

(ii) Verify quantities produced from such ingredients.

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

### **§205.102 Use of the term, "organic."**

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

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

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

### **§205.103 Recordkeeping by certified operations.**

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

(b) Such records must:

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

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

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

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

(c) The certified operation must make such records available for inspection and copying during normal business hours by authorized representatives of the Secretary, the applicable State program's governing State official, and the certifying agent.

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

To be sold or labeled as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))," the product must be produced and handled without the use of:

(a) Synthetic substances and ingredients, except as provided in §205.601 or §205.603;

(b) Nonsynthetic substances prohibited in §205.602 or §205.604;

(c) Nonagricultural substances used in or on processed products, except as otherwise provided in §205.605;

(d) Nonorganic agricultural substances used in or on processed products, except as otherwise provided in §205.606;

(e) Excluded methods, except for vaccines: Provided, That, the vaccines are approved in accordance with §205.600(a);

(f) Ionizing radiation, as described in Food and Drug Administration regulation, 21 CFR 179.26; and

(g) Sewage sludge.

### **Subpart C—Organic Production and Handling Requirements**

#### **§205.200 General.**

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

#### **§205.201 Organic production and handling system plan.**

(a) The producer or handler of a production or handling operation, except as exempt or excluded under §205.101, intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic

production or handling. An organic production or handling system plan must include:

(1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;

(2) A list of each substance to be used as a production or handling input, indicating its composition, source, location(s) where it will be used, and documentation of commercial availability, as applicable;

(3) A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented;

(4) A description of the recordkeeping system implemented to comply with the requirements established in §205.103;

(5) A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances; and

(6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.

(b) A producer may substitute a plan prepared to meet the requirements of another Federal, State, or local government regulatory program for the organic system plan: Provided, That, the submitted plan meets all the requirements of this subpart.

### **§205.202 Land requirements.**

Any field or farm parcel from which harvested crops are intended to be sold, labeled, or represented as "organic," must:

(a) Have been managed in accordance with the provisions of §§205.203 through 205.206;

(b) Have had no prohibited substances, as listed in §205.105, applied to it for a period of 3 years immediately preceding harvest of the crop; and

(c) Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the unintended application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management.

**§205.203 Soil fertility and crop nutrient management practice standard.**

(a) The producer must select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.

(b) The producer must manage crop nutrients and soil fertility through rotations, cover crops, and the application of plant and animal materials.

(c) The producer must manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances. Animal and plant materials include:

(1) Raw animal manure, which must be composted unless it is:

(i) Applied to land used for a crop not intended for human consumption;

(ii) Incorporated into the soil not less than 120 days prior to the harvest of a product whose edible portion has direct contact with the soil surface or soil particles; or

(iii) Incorporated into the soil not less than 90 days prior to the harvest of a product whose edible portion does not have direct contact with the soil surface or soil particles;

(2) Composted plant and animal materials produced through a process that:

(i) Established an initial C:N ratio of between 25:1 and 40:1; and

(ii) Maintained a temperature of between 131 °F and 170 °F for 3 days using an in-vessel or static aerated pile system; or

(iii) Maintained a temperature of between 131 °F and 170 °F for 15 days using a windrow composting system, during which period, the materials must be turned a minimum of five times.

(3) Uncomposted plant materials.

(d) A producer may manage crop nutrients and soil fertility to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances by applying:

(1) A crop nutrient or soil amendment included on the National List of synthetic substances allowed for use in organic crop production;

(2) A mined substance of low solubility;

(3) A mined substance of high solubility: Provided, That, the substance is used in compliance with the conditions established on the National List of nonsynthetic materials prohibited for crop production;

(4) Ash obtained from the burning of a plant or animal material, except as prohibited in paragraph (e) of this section: Provided, That, the material burned has not been treated or combined with a prohibited substance or the ash is not included on the National List of nonsynthetic substances prohibited for use in organic crop production; and

(5) A plant or animal material that has been chemically altered by a manufacturing process: Provided, That, the material is included on the National List of synthetic substances allowed for use in organic crop production established in §205.601.

(e) The producer must not use:

(1) Any fertilizer or composted plant and animal material that contains a synthetic substance not included on the National List of synthetic substances allowed for use in organic crop production;

(2) Sewage sludge (biosolids) as defined in 40 CFR part 503; and (3) Burning as a means of disposal for crop residues produced on the operation:

Except, That, burning may be used to suppress the spread of disease or to stimulate seed germination.

**§205.204 Seeds and planting stock practice standard.**

(a) The producer must use organically grown seeds, annual seedlings, and planting stock: Except, That,

(1) Nonorganically produced, untreated seeds and planting stock may be used to produce an organic crop when an equivalent organically produced variety is not commercially available: Except, That, organically produced seed must be used for the production of edible sprouts;

(2) Nonorganically produced seeds and planting stock that have been treated with a substance included on the National List of synthetic substances allowed for use in organic crop production may be used to produce an organic crop when an equivalent organically produced or untreated variety is not commercially available;

(3) Nonorganically produced annual seedlings may be used to produce an organic crop when a temporary variance has been granted in accordance with §205.290(a)(2);

(4) Nonorganically produced planting stock to be used to produce a perennial crop may be sold, labeled, or represented as organically produced only after the planting stock has been maintained under a system of organic management for a period of no less than 1 year; and

(5) Seeds, annual seedlings, and planting stock treated with prohibited substances may be used to produce an organic crop when the application of the materials is a requirement of Federal or State phytosanitary regulations.

**§205.205 Crop rotation practice standard.**

The producer must implement a crop rotation including but not limited to sod, cover crops, green manure crops, and catch crops that provide the following functions that are applicable to the operation:

(a) Maintain or improve soil organic matter content;



- (b) Provide for pest management in annual and perennial crops;
- (c) Manage deficient or excess plant nutrients; and
- (d) Provide erosion control.

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

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

(1) Crop rotation and soil and crop nutrient management practices, as provided for in §§205.203 and 205.205;

(2) Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and

(3) Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases.

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

(1) Augmentation or introduction of predators or parasites of the pest species;

(2) Development of habitat for natural enemies of pests;

(3) Nonsynthetic controls such as lures, traps, and repellents.

(c) Weed problems may be controlled through:

(1) Mulching with fully biodegradable materials;

(2) Mowing;

(3) Livestock grazing;

(4) Hand weeding and mechanical cultivation;

(5) Flame, heat, or electrical means; or

(6) Plastic or other synthetic mulches: Provided, That, they are removed from the field at the end of the growing or harvest season.

(d) Disease problems may be controlled through:

(1) Management practices which suppress the spread of disease organisms; or

(2) Application of nonsynthetic biological, botanical, or mineral inputs.

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

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

**§205.207 Wild-crop harvesting practice standard.**

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

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

**§205.236 Origin of livestock.**

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

(1) Poultry. Poultry or edible poultry products must be from poultry that has been under continuous organic management beginning no later than the second day of life;

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

(i) That, crops and forage from land, included in the organic system plan of a dairy farm, that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12-month period immediately prior to the sale of organic milk and milk products; and

(ii) That, when an entire, distinct herd is converted to organic production, the producer may, provided no milk produced under this subparagraph enters the stream of commerce labeled as organic after June 9, 2007: (a) For the first 9 months of the year, provide a minimum of 80-percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements; and (b) Provide feed in compliance with §205.237 for the final 3 months.

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

(3) Breeder stock. Livestock used as breeder stock may be brought from a nonorganic operation onto an organic operation at any time: Provided, That, if such livestock are gestating and the offspring are to be raised as organic livestock, the breeder stock must be brought onto the facility no later than the last third of gestation.

(b) The following are prohibited:

(1) Livestock or edible livestock products that are removed from an organic operation and subsequently managed on a nonorganic operation may be not sold, labeled, or represented as organically produced.

(2) Breeder or dairy stock that has not been under continuous organic management since the last third of gestation may not be sold, labeled, or represented as organic slaughter stock.

(c) The producer of an organic livestock operation must maintain records sufficient to preserve the identity of all organically managed animals and edible and nonedible animal products produced on the operation.

**§205.237 Livestock feed.**

(a) The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and handled by operations certified to the NOP, except as provided in §205.236(a)(2)(i), except, that, synthetic substances allowed under §205.603 and nonsynthetic substances not prohibited under §205.604 may be used as feed additives and feed supplements, Provided, That, all agricultural ingredients included in the ingredients list, for such additives and supplements, shall have been produced and handled organically.

(b) The producer of an organic operation must not:

(1) Use animal drugs, including hormones, to promote growth;

(2) Provide feed supplements or additives in amounts above those needed for adequate nutrition and health maintenance for the species at its specific stage of life;

(3) Feed plastic pellets for roughage;

(4) Feed formulas containing urea or manure;

(5) Feed mammalian or poultry slaughter by-products to mammals or poultry;

(6) Use feed, feed additives, and feed supplements in violation of the Federal Food, Drug, and Cosmetic Act;

(7) Provide feed or forage to which any antibiotic including ionophores has been added; or

(8) Prevent, withhold, restrain, or otherwise restrict ruminant animals from actively obtaining feed grazed from pasture during the grazing season, except for conditions as described under §205.239(b) and (c).

(c) During the grazing season, producers shall:

(1) Provide not more than an average of 70 percent of a ruminant's dry matter demand from dry matter fed (dry matter fed does not include dry matter grazed from residual forage or vegetation rooted in pasture). This shall be calculated as an average over the entire grazing season for each type and class of animal. Ruminant animals must be grazed throughout the entire grazing season for the geographical region, which shall be not less than 120 days per calendar year. Due to weather, season, and/or climate, the grazing season may or may not be continuous.

(2) Provide pasture of a sufficient quality and quantity to graze throughout the grazing season and to provide all ruminants under the organic system plan with an average of not less than 30 percent of their dry matter intake from grazing throughout the grazing season: Except, That,

(i) Ruminant animals denied pasture in accordance with §205.239(b)(1) through (8), and §205.239(c)(1) through (3), shall be provided with an average of not less than 30 percent of their dry matter intake from grazing throughout the periods that they are on pasture during the grazing season;

(ii) Breeding bulls shall be exempt from the 30 percent dry matter intake from grazing requirement of this section and management on pasture requirement of §205.239(c)(2); Provided, That, any animal maintained under this exemption shall not be sold, labeled, used, or represented as organic slaughter stock.

(d) Ruminant livestock producers shall:

(1) Describe the total feed ration for each type and class of animal. The description must include:

(i) All feed produced on-farm;

(ii) All feed purchased from off-farm sources;

(iii) The percentage of each feed type, including pasture, in the total ration; and

(iv) A list of all feed supplements and additives.

(2) Document the amount of each type of feed actually fed to each type and class of animal.

(3) Document changes that are made to all rations throughout the year in response to seasonal grazing changes.

(4) Provide the method for calculating dry matter demand and dry matter intake.

**§205.238 Livestock health care practice standard.**

(a) The producer must establish and maintain preventive livestock health care practices, including:

(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites;

(2) Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber (ruminants);

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

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

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

(6) Administration of vaccines and other veterinary biologics.

(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, a producer may administer synthetic medications:

Provided, That, such medications are allowed under §205.603. Parasiticides allowed under §205.603 may be used on:

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

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

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

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

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

(3) Administer hormones for growth promotion;

(4) Administer synthetic parasiticides on a routine basis;

(5) Administer synthetic parasiticides to slaughter stock;

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

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

**§205.239 Livestock living conditions.**

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

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

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

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

(4) Shelter designed to allow for:

(i) Natural maintenance, comfort behaviors, and opportunity to exercise;

(ii) Temperature level, ventilation, and air circulation suitable to the species; and

(iii) Reduction of potential for livestock injury;

(5) The use of yards, feeding pads, feedlots and laneways that shall be well-drained, kept in good condition (including frequent removal of wastes),



and managed to prevent runoff of wastes and contaminated waters to adjoining or nearby surface water and across property boundaries.

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

(1) Inclement weather;

(2) The animal's stage of life: Except, that lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this regulation;

(3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;

(4) Risk to soil or water quality;

(5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);

(6) Sorting or shipping animals and livestock sales: Provided, that, the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;

(7) Breeding: Except, that, bred animals shall not be denied access to the outdoors and, once bred, ruminants shall not be denied access to pasture during the grazing season; or

(8) 4-H, Future Farmers of America and other youth projects, for no more than one week prior to a fair or other demonstration, through the event and up to 24 hours after the animals have arrived home at the conclusion of the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event.

(c) The producer of an organic livestock operation may, in addition to the times permitted under §205.239(b), temporarily deny a ruminant animal pasture or outdoor access under the following conditions:

(1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;

(2) In the case of newborn dairy cattle for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: Provided, That, an animal shall not be confined or tethered in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;

(3) In the case of fiber bearing animals, for short periods for shearing; and

(4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient grazing time to provide each animal with an average of at least 30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.

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

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

**§205.240 Pasture practice standard.**

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

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

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

(c) A pasture plan must be included in the producer's organic system plan, and be updated annually in accordance with §205.406(a). The producer may resubmit the previous year's pasture plan when no change has occurred in the plan. The pasture plan may consist of a pasture/rangeland plan developed in cooperation with a Federal, State, or local conservation office: Provided, that, the submitted plan addresses all of the requirements of §205.240(c)(1) through (8). When a change to an approved pasture plan is contemplated, which may affect the operation's compliance with the Act or the regulations in this part, the producer shall seek the certifying agent's agreement on the change prior to implementation. The pasture plan shall include a description of the:

(1) Types of pasture provided to ensure that the feed requirements of §205.237 are being met.

(2) Cultural and management practices to be used to ensure pasture of a sufficient quality and quantity is available to graze throughout the grazing season and to provide all ruminants under the organic system plan, except exempted classes identified in §205.239(c)(1) through (3), with an average of not less than 30 percent of their dry matter intake from grazing throughout the grazing season.

(3) Grazing season for the livestock operation's regional location.

(4) Location and size of pastures, including maps giving each pasture its own identification.

(5) The types of grazing methods to be used in the pasture system.

(6) Location and types of fences, except for temporary fences, and the location and source of shade and the location and source of water.

(7) Soil fertility and seeding systems.

(8) Erosion control and protection of natural wetlands and riparian areas practices.

**§205.270 Organic handling requirements.**

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

(b) Nonagricultural substances allowed under §205.605 and nonorganically produced agricultural products allowed under §205.606 may be used:

(1) In or on a processed agricultural product intended to be sold, labeled, or represented as "organic," pursuant to §205.301(b), if not commercially available in organic form.

(2) In or on a processed agricultural product intended to be sold, labeled, or represented as "made with organic (specified ingredients or food group(s))," pursuant to §205.301(c).

(c) The handler of an organic handling operation must not use in or on agricultural products intended to be sold, labeled, or represented as "100

percent organic," "organic," or "made with organic (specified ingredients or food group(s))," or in or on any ingredients labeled as organic:

(1) Practices prohibited under paragraphs (e) and (f) of §205.105.

(2) A volatile synthetic solvent or other synthetic processing aid not allowed under §205.605: Except, That, nonorganic ingredients in products labeled "made with organic (specified ingredients or food group(s))" are not subject to this requirement.

**§205.271 Facility pest management practice standard.**

(a) The producer or handler of an organic facility must use management practices to prevent pests, including but not limited to:

(1) Removal of pest habitat, food sources, and breeding areas;

(2) Prevention of access to handling facilities; and

(3) Management of environmental factors, such as temperature, light, humidity, atmosphere, and air circulation, to prevent pest reproduction.

(b) Pests may be controlled through:

(1) Mechanical or physical controls including but not limited to traps, light, or sound; or

(2) Lures and repellents using nonsynthetic or synthetic substances consistent with the National List.

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

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

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

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

**§205.272 Commingling and contact with prohibited substance prevention practice standard.**

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

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

(1) Packaging materials, and storage containers, or bins that contain a synthetic fungicide, preservative, or fumigant;

(2) The use or reuse of any bag or container that has been in contact with any substance in such a manner as to compromise the organic integrity of any organically produced product or ingredient placed in those containers, unless such reusable bag or container has been thoroughly cleaned and poses no risk of contact of the organically produced product or ingredient with the substance used.

**§205.290 Temporary variances.**

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

(1) Natural disasters declared by the Secretary;

(2) Damage caused by drought, wind, flood, excessive moisture, hail, tornado, earthquake, fire, or other business interruption; and

(3) Practices used for the purpose of conducting research or trials of techniques, varieties, or ingredients used in organic production or handling.

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

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

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

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

### **Subpart D—Labels, Labeling, and Market Information**

§205.300 Use of the term, "organic."

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

(b) Products for export, produced and certified to foreign national organic standards or foreign contract buyer requirements, may be labeled

in accordance with the organic labeling requirements of the receiving country or contract buyer: Provided, That, the shipping containers and shipping documents meet the labeling requirements specified in §205.307(c).

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

(d) Livestock feeds produced in accordance with the requirements of this part must be labeled in accordance with the requirements of §205.306.

### **§205.301 Product composition.**

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

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

(c) Products sold, labeled, or represented as "made with organic (specified ingredients or food group(s))." Multiingredient agricultural product sold, labeled, or represented as "made with organic (specified ingredients or food group(s))" must contain (by weight or fluid volume, excluding water and salt) at least 70 percent organically produced ingredients which are produced and handled pursuant to requirements in subpart C of this part. No ingredients may be produced using prohibited practices specified in paragraphs (f)(1), (2), and (3) of §205.301. Nonorganic ingredients may be



produced without regard to paragraphs (f)(4), (5), (6), and (7) of §205.301. If labeled as containing organically produced ingredients or food groups, such product must be labeled pursuant to §205.304.

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

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

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

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

(1) Be produced using excluded methods, pursuant to §205.105(e);

(2) Be produced using ionizing radiation, pursuant to §205.105(f);

(3) Be processed using sewage sludge, pursuant to §205.105(g);

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

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

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

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

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

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

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

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

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

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

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

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

(a) Agricultural products in packages described in §205.301(a) and (b) may display, on the principal display panel, information panel, and any

other panel of the package and on any labeling or market information concerning the product, the following:

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

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

(3) The term, "organic," to identify the organic ingredients in multiingredient products labeled "100 percent organic";

(4) The USDA seal; and/or

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

(b) Agricultural products in packages described in §205.301(a) and (b) must:

(1) For products labeled "organic," identify each organic ingredient in the ingredient statement with the word, "organic," or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.

(2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by \* \* \*," or similar phrase, identify the name of the certifying agent that certified the handler of the finished product and may

display the business address, Internet address, or telephone number of the certifying agent in such label.

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

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

(1) The statement:

(i) “Made with organic (specified ingredients)”: Provided, That, the statement does not list more than three organically produced ingredients; or

(ii) “Made with organic (specified food groups)”: Provided, That, the statement does not list more than three of the following food groups: beans, fish, fruits, grains, herbs, meats, nuts, oils, poultry, seeds, spices, sweeteners, and vegetables or processed milk products; and, Provided further, That, all ingredients of each listed food group in the product must be organically produced; and

(iii) Which appears in letters that do not exceed one-half the size of the largest type size on the panel and which appears in its entirety in the same type size, style, and color without highlighting.

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

(3) The seal, logo, or other identifying mark of the certifying agent that certified the handler of the finished product.

(b) Agricultural products in packages described in §205.301(c) must:

(1) In the ingredient statement, identify each organic ingredient with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is

organically produced. Water or salt included as ingredients cannot be identified as organic.

(2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by \* \* \*," or similar phrase, identify the name of the certifying agent that certified the handler of the finished product: Except, That, the business address, Internet address, or telephone number of the certifying agent may be included in such label.

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

### **§205.305 Multi-ingredient packaged products with less than 70 percent organically produced ingredients.**

(a) An agricultural product with less than 70 percent organically produced ingredients may only identify the organic content of the product by:

(1) Identifying each organically produced ingredient in the ingredient statement with the word, "organic," or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced, and

(2) If the organically produced ingredients are identified in the ingredient statement, displaying the product's percentage of organic contents on the information panel.

(b) Agricultural products with less than 70 percent organically produced ingredients must not display:

(1) The USDA seal; and

(2) Any certifying agent seal, logo, or other identifying mark which represents organic certification of a product or product ingredients.

### **§205.306 Labeling of livestock feed.**

(a) Livestock feed products described in §205.301(e)(1) and (e)(2) may display on any package panel the following terms:

(1) The statement, "100 percent organic" or "organic," as applicable, to modify the name of the feed product;

(2) The USDA seal;

(3) The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the raw or processed organic ingredients used in the finished product, Provided, That, such seals or marks are not displayed more prominently than the USDA seal;

(4) The word, "organic," or an asterisk or other reference mark which is defined on the package to identify ingredients that are organically produced. Water or salt included as ingredients cannot be identified as organic.

(b) Livestock feed products described in §205.301(e)(1) and (e)(2) must:

(1) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by \* \* \*," or similar phrase, display the name of the certifying agent that certified the handler of the finished product. The business address, Internet address, or telephone number of the certifying agent may be included in such label.

(2) Comply with other Federal agency or State feed labeling requirements as applicable.

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

(a) Nonretail containers used only to ship or store raw or processed agricultural product labeled as containing organic ingredients may display the following terms or marks:

(1) The name and contact information of the certifying agent which certified the handler which assembled the final product;

(2) Identification of the product as organic;

(3) Special handling instructions needed to maintain the organic integrity of the product;

(4) The USDA seal;

(5) The seal, logo, or other identifying mark of the certifying agent that certified the organic production or handling operation that produced or handled the finished product.

(b) Nonretail containers used to ship or store raw or processed agricultural product labeled as containing organic ingredients must display the production lot number of the product if applicable.

(c) Shipping containers of domestically produced product labeled as organic intended for export to international markets may be labeled in accordance with any shipping container labeling requirements of the foreign country of destination or the container labeling specifications of a foreign contract buyer: Provided, That, the shipping containers and shipping documents accompanying such organic products are clearly marked "For Export Only" and: Provided further, That, proof of such container marking and export must be maintained by the handler in accordance with recordkeeping requirements for exempt and excluded operations under §205.101.

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

(a) Agricultural products in other than packaged form may use the term, "100 percent organic" or "organic," as applicable, to modify the name of the product in retail display, labeling, and display containers: Provided, That, the term, "organic," is used to identify the organic ingredients listed in the ingredient statement.

(b) If the product is prepared in a certified facility, the retail display, labeling, and display containers may use:

(1) The USDA seal; and

(2) The seal, logo, or other identifying mark of the certifying agent that certified the production or handling operation producing the finished product and any other certifying agent which certified operations producing raw organic product or organic ingredients used in the finished product: Provided, That, such seals or marks are not individually displayed more prominently than the USDA seal.

**§205.309 Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as “made with organic (specified ingredients or food group(s)).”**

(a) Agricultural products in other than packaged form containing between 70 and 95 percent organically produced ingredients may use the phrase, “made with organic (specified ingredients or food group(s)),” to modify the name of the product in retail display, labeling, and display containers.

(1) Such statement must not list more than three organic ingredients or food groups, and

(2) In any such display of the product's ingredient statement, the organic ingredients are identified as “organic.”

(b) If prepared in a certified facility, such agricultural products labeled as “made with organic (specified ingredients or food group(s))” in retail displays, display containers, and market information may display the certifying agent's seal, logo, or other identifying mark.

**§205.310 Agricultural products produced on an exempt or excluded operation.**

(a) An agricultural product organically produced or handled on an exempt or excluded operation must not:

(1) Display the USDA seal or any certifying agent's seal or other identifying mark which represents the exempt or excluded operation as a certified organic operation, or

(2) Be represented as a certified organic product or certified organic ingredient to any buyer.



(b) An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multiingredient product produced by the exempt or excluded operation. Such product or ingredient must not be identified or represented as “organic” in a product processed by others.

(c) Such product is subject to requirements specified in paragraph (a) of §205.300, and paragraphs (f)(1) through (f)(7) of §205.301.

### **§205.311 USDA Seal.**

(a) The USDA seal described in paragraphs (b) and (c) of this section may be used only for raw or processed agricultural products described in paragraphs (a), (b), (e)(1), and (e)(2) of §205.301.

(b) The USDA seal must replicate the form and design of the example in figure 1 and must be printed legibly and conspicuously:

(1) On a white background with a brown outer circle and with the term, “USDA,” in green overlaying a white upper semicircle and with the term, “organic,” in white overlaying the green lower half circle; or

(2) On a white or transparent background with black outer circle and black “USDA” on a white or transparent upper half of the circle with a contrasting white or transparent “organic” on the black lower half circle.

(3) The green or black lower half circle may have four light lines running from left to right and disappearing at the point on the right horizon to resemble a cultivated field.



**Figure 1**

## **Subpart E—Certification**

### **§205.400 General requirements for certification.**

A person seeking to receive or maintain organic certification under the regulations in this part must:

(a) Comply with the Act and applicable organic production and handling regulations of this part;

(b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in §205.200;

(c) Permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas, structures, and offices by the certifying agent as provided for in §205.403;

(d) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow authorized representatives of the Secretary, the applicable State organic program's governing State official, and the certifying agent access to such records during normal business hours for review and copying to determine compliance with the Act and the regulations in this part, as provided for in §205.103;

(e) Submit the applicable fees charged by the certifying agent; and

(f) Immediately notify the certifying agent concerning any:

(1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and

(2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.

### **§205.401 Application for certification.**

A person seeking certification of a production or handling operation under this subpart must submit an application for certification to a certifying agent. The application must include the following information:

(a) An organic production or handling system plan, as required in §205.200;

(b) The name of the person completing the application; the applicant's business name, address, and telephone number; and, when the applicant is a corporation, the name, address, and telephone number of the person authorized to act on the applicant's behalf;

(c) The name(s) of any organic certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, when available, a copy of any notification of noncompliance or denial of certification issued to the applicant for certification; and a description of the actions taken by the applicant to correct the noncompliances noted in the notification of noncompliance, including evidence of such correction; and

(d) Other information necessary to determine compliance with the Act and the regulations in this part.

#### **§205.402 Review of application.**

(a) Upon acceptance of an application for certification, a certifying agent must:

(1) Review the application to ensure completeness pursuant to §205.401;

(2) Determine by a review of the application materials whether the applicant appears to comply or may be able to comply with the applicable requirements of subpart C of this part;

(3) Verify that an applicant who previously applied to another certifying agent and received a notification of noncompliance or denial of certification, pursuant to §205.405, has submitted documentation to support the correction of any noncompliances identified in the notification of noncompliance or denial of certification, as required in §205.405(e); and

(4) Schedule an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals that the production or handling operation may be in compliance with the applicable requirements of subpart C of this part.

(b) The certifying agent shall within a reasonable time:

(1) Review the application materials received and communicate its findings to the applicant;

(2) Provide the applicant with a copy of the on-site inspection report, as approved by the certifying agent, for any on-site inspection performed; and

(3) Provide the applicant with a copy of the test results for any samples taken by an inspector.

(c) The applicant may withdraw its application at any time. An applicant who withdraws its application shall be liable for the costs of services provided up to the time of withdrawal of its application. An applicant that voluntarily withdrew its application prior to the issuance of a notice of noncompliance will not be issued a notice of noncompliance. Similarly, an applicant that voluntarily withdrew its application prior to the issuance of a notice of certification denial will not be issued a notice of certification denial.

### **§205.403 On-site inspections.**

(a) On-site inspections. (1) A certifying agent must conduct an initial on-site inspection of each production unit, facility, and site that produces or handles organic products and that is included in an operation for which certification is requested. An on-site inspection shall be conducted annually thereafter for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue.

(2)(i) A certifying agent may conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with the Act and the regulations in this part.

(ii) The Administrator or State organic program's governing State official may require that additional inspections be performed by the certifying agent for the purpose of determining compliance with the Act and the regulations in this part.

(iii) Additional inspections may be announced or unannounced at the discretion of the certifying agent or as required by the Administrator or State organic program's governing State official.

(b) Scheduling. (1) The initial on-site inspection must be conducted within a reasonable time following a determination that the applicant appears to comply or may be able to comply with the requirements of subpart C of this part: Except, That, the initial inspection may be delayed for up to 6 months to comply with the requirement that the inspection be conducted when the land, facilities, and activities that demonstrate compliance or capacity to comply can be observed.

(2) All on-site inspections must be conducted when an authorized representative of the operation who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable provisions of subpart C of this part can be observed, except that this requirement does not apply to unannounced on-site inspections.

(c) Verification of information. The on-site inspection of an operation must verify:

(1) The operation's compliance or capability to comply with the Act and the regulations in this part;

(2) That the information, including the organic production or handling system plan, provided in accordance with §§205.401, 205.406, and 205.200, accurately reflects the practices used or to be used by the applicant for certification or by the certified operation;

(3) That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the certifying agent, may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples.

(d) Exit interview. The inspector must conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector must also address the need for any additional information as well as any issues of concern.

(e) Documents to the inspected operation. (1) At the time of the inspection, the inspector shall provide the operation's authorized representative with a receipt for any samples taken by the inspector. There shall be no charge to the inspector for the samples taken.

(2) A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent.

#### **§205.404 Granting certification.**

(a) Within a reasonable time after completion of the initial on-site inspection, a certifying agent must review the on-site inspection report, the results of any analyses for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this part and that the applicant is able to conduct operations in accordance with the plan, the agent shall grant certification. The certification may include requirements for the correction of minor noncompliances within a specified time period as a condition of continued certification.

(b) The certifying agent must issue a certificate of organic operation which specifies the:

(1) Name and address of the certified operation;

(2) Effective date of certification;

(3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and

(4) Name, address, and telephone number of the certifying agent.

(c) Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, the State organic program's governing State official, or the Administrator.

**§205.405 Denial of certification.**

(a) When the certifying agent has reason to believe, based on a review of the information specified in §205.402 or §205.404, that an applicant for certification is not able to comply or is not in compliance with the requirements of this part, the certifying agent must provide a written notification of noncompliance to the applicant. When correction of a noncompliance is not possible, a notification of noncompliance and a notification of denial of certification may be combined in one notification. The notification of noncompliance shall provide:

(1) A description of each noncompliance;

(2) The facts upon which the notification of noncompliance is based;  
and

(3) The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(b) Upon receipt of such notification of noncompliance, the applicant may:

(1) Correct noncompliances and submit a description of the corrective actions taken with supporting documentation to the certifying agent;

(2) Correct noncompliances and submit a new application to another certifying agent: Provided, That, the applicant must include a complete application, the notification of noncompliance received from the first certifying agent, and a description of the corrective actions taken with supporting documentation; or

(3) Submit written information to the issuing certifying agent to rebut the noncompliance described in the notification of noncompliance.

(c) After issuance of a notification of noncompliance, the certifying agent must:

(1) Evaluate the applicant's corrective actions taken and supporting documentation submitted or the written rebuttal, conduct an on-site inspection if necessary, and

(i) When the corrective action or rebuttal is sufficient for the applicant to qualify for certification, issue the applicant an approval of certification pursuant to §205.404; or

(ii) When the corrective action or rebuttal is not sufficient for the applicant to qualify for certification, issue the applicant a written notice of denial of certification.

(2) Issue a written notice of denial of certification to an applicant who fails to respond to the notification of noncompliance.

(3) Provide notice of approval or denial to the Administrator, pursuant to §205.501(a)(14).

(d) A notice of denial of certification must state the reason(s) for denial and the applicant's right to:

(1) Reapply for certification pursuant to §§205.401 and 205.405(e);

(2) Request mediation pursuant to §205.663 or, if applicable, pursuant to a State organic program; or

(3) File an appeal of the denial of certification pursuant to §205.681 or, if applicable, pursuant to a State organic program.

(e) An applicant for certification who has received a written notification of noncompliance or a written notice of denial of certification may apply for certification again at any time with any certifying agent, in accordance with §§205.401 and 205.405(e). When such applicant submits a new application to a certifying agent other than the agent who issued the notification of noncompliance or notice of denial of certification, the applicant for certification must include a copy of the notification of noncompliance or notice of denial of certification and a description of the actions taken, with



supporting documentation, to correct the noncompliances noted in the notification of noncompliance.

(f) A certifying agent who receives a new application for certification, which includes a notification of noncompliance or a notice of denial of certification, must treat the application as a new application and begin a new application process pursuant to §205.402.

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

#### **§205.406 Continuation of certification.**

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

(1) An updated organic production or handling system plan which includes:

(i) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year; and

(ii) Any additions or deletions to the previous year's organic system plan, intended to be undertaken in the coming year, detailed pursuant to §205.200;

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

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

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

(b) Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to §205.403: Except, That, when it is impossible for the certifying agent to conduct the annual on-site inspection following receipt of the certified operation's annual update of information, the certifying agent may allow continuation of certification and issue an updated certificate of organic operation on the basis of the information submitted and the most recent on-site inspection conducted during the previous 12 months: Provided, That, the annual on-site inspection, required pursuant to §205.403, is conducted within the first 6 months following the certified operation's scheduled date of annual update.

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

(d) If the certifying agent determines that the certified operation is complying with the Act and the regulations in this part and that any of the information specified on the certificate of organic operation has changed, the certifying agent must issue an updated certificate of organic operation pursuant to §205.404(b).

## **Subpart F—Accreditation of Certifying Agents**

### **§205.500 Areas and duration of accreditation.**

(a) The Administrator shall accredit a qualified domestic or foreign applicant in the areas of crops, livestock, wild crops, or handling or any combination thereof to certify a domestic or foreign production or handling operation as a certified operation.

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

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

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

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

**§205.501 General requirements for accreditation.**

(a) A private or governmental entity accredited as a certifying agent under this subpart must:

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

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

(3) Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670;

(4) Use a sufficient number of adequately trained personnel, including inspectors and certification review personnel, to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part;

(5) Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned.

(6) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review

certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services;

(7) Have an annual program review of its certification activities conducted by the certifying agent's staff, an outside auditor, or a consultant who has expertise to conduct such reviews and implement measures to correct any noncompliances with the Act and the regulations in this part that are identified in the evaluation;

(8) Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Act and the regulations in this part;

(9) Maintain all records pursuant to §205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official;

(10) Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (with the exception of the Secretary or the applicable State organic program's governing State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations in this part, except as provided for in §205.504(b)(5);

(11) Prevent conflicts of interest by:

(i) Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

(ii) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including

an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

(iii) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected: Except, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a comparable recognition of not-for-profit status from its government, may accept voluntary labor from certified operations;

(iv) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification;

(v) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and

(vi) Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection.

(12)(i) Reconsider a certified operation's application for certification and, if necessary, perform a new on-site inspection when it is determined, within 12 months of certifying the operation, that any person participating in the certification process and covered under §205.501(a)(11)(ii) has or had a conflict of interest involving the applicant. All costs associated with a reconsideration of application, including onsite inspection costs, shall be borne by the certifying agent.

(ii) Refer a certified operation to a different accredited certifying agent for recertification and reimburse the operation for the cost of the recertification when it is determined that any person covered under §205.501(a)(11)(i) at the time of certification of the applicant had a conflict of interest involving the applicant.

(13) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500;

(14) Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced;

(15) Submit to the Administrator a copy of:

(i) Any notice of denial of certification issued pursuant to §205.405, notification of noncompliance, notification of noncompliance correction, notification of proposed suspension or revocation, and notification of suspension or revocation sent pursuant to §205.662 simultaneously with its issuance; and

(ii) A list, on January 2 of each year, including the name, address, and telephone number of each operation granted certification during the preceding year;

(16) Charge applicants for certification and certified production and handling operations only those fees and charges for certification activities that it has filed with the Administrator;

(17) Pay and submit fees to AMS in accordance with §205.640;

(18) Provide the inspector, prior to each on-site inspection, with previous on-site inspection reports and notify the inspector of its decision regarding certification of the production or handling operation site inspected by the inspector and of any requirements for the correction of minor noncompliances;

(19) Accept all production or handling applications that fall within its area(s) of accreditation and certify all qualified applicants, to the extent of its administrative capacity to do so without regard to size or membership in any association or group; and

(20) Demonstrate its ability to comply with a State's organic program to certify organic production or handling operations within the State.

(21) Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.

(b) A private or governmental entity accredited as a certifying agent under this subpart may establish a seal, logo, or other identifying mark to be used by production and handling operations certified by the certifying agent to indicate affiliation with the certifying agent: Provided, That, the certifying agent:

(1) Does not require use of its seal, logo, or other identifying mark on any product sold, labeled, or represented as organically produced as a condition of certification and

(2) Does not require compliance with any production or handling practices other than those provided for in the Act and the regulations in this part as a condition of use of its identifying mark: Provided, That, certifying agents certifying production or handling operations within a State with more restrictive requirements, approved by the Secretary, shall require compliance with such requirements as a condition of use of their identifying mark by such operations.

(c) A private entity accredited as a certifying agent must:

(1) Hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of the Act and the regulations in this part;

(2) Furnish reasonable security, in an amount and according to such terms as the Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the Act and the regulations in this part; and

(3) Transfer to the Administrator and make available to any applicable State organic program's governing State official all records or copies of records concerning the person's certification activities in the event that the certifying agent dissolves or loses its accreditation; Provided, That, such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.

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

**§205.502 Applying for accreditation.**

(a) A private or governmental entity seeking accreditation as a certifying agent under this subpart must submit an application for accreditation which contains the applicable information and documents set forth in §§205.503 through 205.505 and the fees required in §205.640 to: Program Manager, USDA-AMS-NOP, 1400 Independence Ave. SW., Room 2648 So. Bldg., Ag Stop 0268, Washington, DC 20250-0268.

(b) Following the receipt of the information and documents, the Administrator will determine, pursuant to §205.506, whether the applicant for accreditation should be accredited as a certifying agent.

**§205.503 Applicant information.**

A private or governmental entity seeking accreditation as a certifying agent must submit the following information:

(a) The business name, primary office location, mailing address, name of the person(s) responsible for the certifying agent's day-to-day operations, contact numbers (telephone, facsimile, and Internet address) of the applicant, and, for an applicant who is a private person, the entity's taxpayer identification number;

(b) The name, office location, mailing address, and contact numbers (telephone, facsimile, and Internet address) for each of its organizational units, such as chapters or subsidiary offices, and the name of a contact person for each unit;

(c) Each area of operation (crops, wild crops, livestock, or handling) for which accreditation is requested and the estimated number of each type of operation anticipated to be certified annually by the applicant along with a copy of the applicant's schedule of fees for all services to be provided under these regulations by the applicant;



(d) The type of entity the applicant is (e.g., government agricultural office, for-profit business, not-for-profit membership association) and for:

(1) A governmental entity, a copy of the official's authority to conduct certification activities under the Act and the regulations in this part,

(2) A private entity, documentation showing the entity's status and organizational purpose, such as articles of incorporation and by-laws or ownership or membership provisions, and its date of establishment; and

(e) A list of each State or foreign country in which the applicant currently certifies production and handling operations and a list of each State or foreign country in which the applicant intends to certify production or handling operations.

#### **§205.504 Evidence of expertise and ability.**

A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques; its ability to fully comply with and implement the organic certification program established in §§205.100 and 205.101, §§205.201 through 205.203, §§205.300 through 205.303, §§205.400 through 205.406, and §§205.661 and 205.662; and its ability to comply with the requirements for accreditation set forth in §205.501:

(a) Personnel. (1) A copy of the applicant's policies and procedures for training, evaluating, and supervising personnel;

(2) The name and position description of all personnel to be used in the certification operation, including administrative staff, certification inspectors, members of any certification review and evaluation committees, contractors, and all parties responsibly connected to the certifying agent;

(3) A description of the qualifications, including experience, training, and education in agriculture, organic production, and organic handling, for:

(i) Each inspector to be used by the applicant and

(ii) Each person to be designated by the applicant to review or evaluate applications for certification; and

(4) A description of any training that the applicant has provided or intends to provide to personnel to ensure that they comply with and implement the requirements of the Act and the regulations in this part.

(b) Administrative policies and procedures. (1) A copy of the procedures to be used to evaluate certification applicants, make certification decisions, and issue certification certificates;

(2) A copy of the procedures to be used for reviewing and investigating certified operation compliance with the Act and the regulations in this part and the reporting of violations of the Act and the regulations in this part to the Administrator;

(3) A copy of the procedures to be used for complying with the recordkeeping requirements set forth in §205.501(a)(9);

(4) A copy of the procedures to be used for maintaining the confidentiality of any business-related information as set forth in §205.501(a)(10);

(5) A copy of the procedures to be used, including any fees to be assessed, for making the following information available to any member of the public upon request:

(i) Certification certificates issued during the current and 3 preceding calendar years;

(ii) A list of producers and handlers whose operations it has certified, including for each the name of the operation, type(s) of operation, products produced, and the effective date of the certification, during the current and 3 preceding calendar years;

(iii) The results of laboratory analyses for residues of pesticides and other prohibited substances conducted during the current and 3 preceding calendar years; and

(iv) Other business information as permitted in writing by the producer or handler; and

(6) A copy of the procedures to be used for sampling and residue testing pursuant to §205.670.

(c) Conflicts of interest. (1) A copy of procedures intended to be implemented to prevent the occurrence of conflicts of interest, as described in §205.501(a)(11).

(2) For all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent, a conflict of interest disclosure report, identifying any food- or agriculture-related business interests, including business interests of immediate family members, that cause a conflict of interest.

(d) Current certification activities. An applicant who currently certifies production or handling operations must submit: (1) A list of all production and handling operations currently certified by the applicant;

(2) Copies of at least 3 different inspection reports and certification evaluation documents for production or handling operations certified by the applicant during the previous year for each area of operation for which accreditation is requested; and

(3) The results of any accreditation process of the applicant's operation by an accrediting body during the previous year for the purpose of evaluating its certification activities.

(e) Other information. Any other information the applicant believes may assist in the Administrator's evaluation of the applicant's expertise and ability.

**§205.505 Statement of agreement.**

(a) A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying

agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including:

(1) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500;

(2) Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced;

(3) Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and implement measures to correct any deficiencies in certification services;

(4) Have an annual internal program review conducted of its certification activities by certifying agent staff, an outside auditor, or a consultant who has the expertise to conduct such reviews and implement measures to correct any noncompliances with the Act and the regulations in this part;

(5) Pay and submit fees to AMS in accordance with §205.640; and

(6) Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.

(b) A private entity seeking accreditation as a certifying agent under this subpart must additionally agree to:

(1) Hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of the Act and the regulations in this part;

(2) Furnish reasonable security, in an amount and according to such terms as the Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the Act and the regulations in this part; and

(3) Transfer to the Administrator and make available to the applicable State organic program's governing State official all records or copies of records concerning the certifying agent's certification activities in the event that the certifying agent dissolves or loses its accreditation; Provided, That such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.

**§205.506 Granting accreditation.**

(a) Accreditation will be granted when:

(1) The accreditation applicant has submitted the information required by §§205.503 through 205.505;

(2) The accreditation applicant pays the required fee in accordance with §205.640(c); and

(3) The Administrator determines that the applicant for accreditation meets the requirements for accreditation as stated in §205.501, as determined by a review of the information submitted in accordance with §§205.503 through 205.505 and, if necessary, a review of the information obtained from a site evaluation as provided for in §205.508.

(b) On making a determination to approve an application for accreditation, the Administrator will notify the applicant of the granting of accreditation in writing, stating:

(1) The area(s) for which accreditation is given;

(2) The effective date of the accreditation;

(3) Any terms and conditions for the correction of minor noncompliances; and

(4) For a certifying agent who is a private entity, the amount and type of security that must be established to protect the rights of production and handling operations certified by such certifying agent.

(c) The accreditation of a certifying agent shall continue in effect until such time as the certifying agent fails to renew accreditation as provided in

§205.510(c), the certifying agent voluntarily ceases its certification activities, or accreditation is suspended or revoked pursuant to §205.665.

**§205.507 Denial of accreditation.**

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

(1) A description of each noncompliance;

(2) The facts upon which the notification of noncompliance is based;  
and

(3) The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

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

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

(d) If the certifying agent was accredited prior to the site evaluation and the certifying agent fails to correct the noncompliances, fails to report the corrections by the date specified in the notification of noncompliance, or fails to file a rebuttal of the notification of noncompliance by the date

specified, the Administrator will begin proceedings to suspend or revoke the certifying agent's accreditation. A certifying agent who has had its accreditation suspended may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its accreditation. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part. A certifying agent whose accreditation is revoked will be ineligible for accreditation for a period of not less than 3 years following the date of such determination.

#### **§205.508 Site evaluations.**

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

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

#### **§205.509 Peer review panel.**

The Administrator shall establish a peer review panel pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 et seq.). The peer review panel shall be composed of not less than 3 members who shall annually evaluate the National Organic Program's adherence to the accreditation procedures in this subpart F and ISO/IEC Guide 61, General requirements for assessment and accreditation of certification/registration

bodies, and the National Organic Program's accreditation decisions. This shall be accomplished through the review of accreditation procedures, document review and site evaluation reports, and accreditation decision documents or documentation. The peer review panel shall report its finding, in writing, to the National Organic Program's Program Manager.

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

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

(1) A complete and accurate update of information submitted pursuant to §§205.503 and 205.504;

(2) Information supporting any changes being requested in the areas of accreditation described in §205.500;

(3) A description of the measures implemented in the previous year and any measures to be implemented in the coming year to satisfy any terms and conditions determined by the Administrator to be necessary, as specified in the most recent notification of accreditation or notice of renewal of accreditation;

(4) The results of the most recent performance evaluations and annual program review and a description of adjustments to the certifying agent's operation and procedures implemented or to be implemented in response to the performance evaluations and program review; and

(5) The fees required in §205.640(a).

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

(1) Records obtained from applicants for certification and certified operations must be maintained for not less than 5 years beyond their receipt;



(2) Records created by the certifying agent regarding applicants for certification and certified operations must be maintained for not less than 10 years beyond their creation; and

(3) Records created or received by the certifying agent pursuant to the accreditation requirements of this subpart F, excluding any records covered by §205.510(b)(2), must be maintained for not less than 5 years beyond their creation or receipt.

(c) Renewal of accreditation. (1) The Administrator shall send the accredited certifying agent a notice of pending expiration of accreditation approximately 1 year prior to the scheduled date of expiration.

(2) An accredited certifying agent's application for accreditation renewal must be received at least 6 months prior to the fifth anniversary of issuance of the notification of accreditation and each subsequent renewal of accreditation. The accreditation of certifying agents who make timely application for renewal of accreditation will not expire during the renewal process. The accreditation of certifying agents who fail to make timely application for renewal of accreditation will expire as scheduled unless renewed prior to the scheduled expiration date. Certifying agents with an expired accreditation must not perform certification activities under the Act and the regulations of this part.

(3) Following receipt of the information submitted by the certifying agent in accordance with paragraph (a) of this section and the results of a site evaluation, the Administrator will determine whether the certifying agent remains in compliance with the Act and the regulations of this part and should have its accreditation renewed.

(d) Notice of renewal of accreditation. Upon a determination that the certifying agent is in compliance with the Act and the regulations of this part, the Administrator will issue a notice of renewal of accreditation. The notice of renewal will specify any terms and conditions that must be addressed by the certifying agent and the time within which those terms and conditions must be satisfied.

(e) Noncompliance. Upon a determination that the certifying agent is not in compliance with the Act and the regulations of this part, the

Administrator will initiate proceedings to suspend or revoke the certifying agent's accreditation.

(f) Amending accreditation. Amendment to scope of an accreditation may be requested at any time. The application for amendment shall be sent to the Administrator and shall contain information applicable to the requested change in accreditation, a complete and accurate update of the information submitted pursuant to §§205.503 and 205.504, and the applicable fees required in §205.640.

## **Appendix II. National List of Allowed and Prohibited Substances**

### **Subpart G—Administrative**

#### **§205.600 Evaluation criteria for allowed and prohibited substances, methods, and ingredients.**

The following criteria will be utilized in the evaluation of substances or ingredients for the organic production and handling sections of the National List:

(a) Synthetic and nonsynthetic substances considered for inclusion on or deletion from the National List of allowed and prohibited substances will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).

(b) In addition to the criteria set forth in the Act, any synthetic substance used as a processing aid or adjuvant will be evaluated against the following criteria:

(1) The substance cannot be produced from a natural source and there are no organic substitutes;

(2) The substance's manufacture, use, and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling;

(3) The nutritional quality of the food is maintained when the substance is used, and the substance, itself, or its breakdown products do not have an adverse effect on human health as defined by applicable Federal regulations;

(4) The substance's primary use is not as a preservative or to recreate or improve flavors, colors, textures, or nutritive value lost during processing, except where the replacement of nutrients is required by law;

(5) The substance is listed as generally recognized as safe (GRAS) by Food and Drug Administration (FDA) when used in accordance with FDA's good manufacturing practices (GMP) and contains no residues of heavy metals or other contaminants in excess of tolerances set by FDA; and

(6) The substance is essential for the handling of organically produced agricultural products.

(c) Nonsynthetics used in organic processing will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).

**§205.601 Synthetic substances allowed for use in organic crop production.**

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

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

(1) Alcohols.

(i) Ethanol.

(ii) Isopropanol.

(2) Chlorine materials—For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act, except that chlorine products may be used in edible sprout production according to EPA label directions.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

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

(4) Hydrogen peroxide.

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

(6) Peracetic acid—for use in disinfecting equipment, seed, and asexually propagated planting material. Also permitted in hydrogen peroxide formulations as allowed in §205.601(a) at concentration of no more than 6% as indicated on the pesticide product label.

(7) Soap-based algicide/demossers.

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

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

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

(2) Mulches.

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

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

(iii) Biodegradable biobased mulch film as defined in §205.2. Must be produced without organisms or feedstock derived from excluded methods.

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

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

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

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

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

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

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

(5) Elemental sulfur.

(6) Lime sulfur—including calcium polysulfide.

(7) Oils, horticultural—narrow range oils as dormant, suffocating, and summer oils.

(8) Soaps, insecticidal.

(9) Sticky traps/barriers.

(10) Sucrose octanoate esters (CAS #s—42922-74-7; 58064-47-4)—in accordance with approved labeling.

(f) As insect management. Pheromones.

(g) As rodenticides. Vitamin D3.

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

(i) As plant disease control.

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

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

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

(4) Hydrated lime.

(5) Hydrogen peroxide.

(6) Lime sulfur.

(7) Oils, horticultural, narrow range oils as dormant, suffocating, and summer oils.

(8) Peracetic acid—for use to control fire blight bacteria. Also permitted in hydrogen peroxide formulations as allowed in §205.601(i) at concentration of no more than 6% as indicated on the pesticide product label.

(9) Potassium bicarbonate.

(10) Elemental sulfur.

(j) As plant or soil amendments.

(1) Aquatic plant extracts (other than hydrolyzed)—Extraction process is limited to the use of potassium hydroxide or sodium hydroxide; solvent amount used is limited to that amount necessary for extraction.

(2) Elemental sulfur.

(3) Humic acids—naturally occurring deposits, water and alkali extracts only.

(4) Lignin sulfonate—chelating agent, dust suppressant.

(5) Magnesium sulfate—allowed with a documented soil deficiency.

(6) Micronutrients—not to be used as a defoliant, herbicide, or desiccant. Those made from nitrates or chlorides are not allowed. Soil deficiency must be documented by testing.

(i) Soluble boron products.

(ii) Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt.

(7) Liquid fish products—can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5.

(8) Vitamins, B1, C, and E.

(9) Sulfurous acid (CAS # 7782-99-2) for on-farm generation of substance utilizing 99% purity elemental sulfur per paragraph (j)(2) of this section.

(k) As plant growth regulators. Ethylene gas—for regulation of pineapple flowering.

(l) As floating agents in postharvest handling.

(1) Lignin sulfonate.

(2) Sodium silicate—for tree fruit and fiber processing.

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

(1) EPA List 4—Inerts of Minimal Concern.

(2) EPA List 3—Inerts of unknown toxicity—for use only in passive pheromone dispensers.

(n) Seed preparations. Hydrogen chloride (CAS # 7647-01-0)—for delinting cotton seed for planting.

(o) As production aids. Microcrystalline cheesewax (CAS #'s 64742-42-3, 8009-03-08, and 8002-74-2)-for use in log grown mushroom production. Must be made without either ethylene-propylene co-polymer or synthetic colors.

**§205.602 Nonsynthetic substances prohibited for use in organic crop production.**

The following nonsynthetic substances may not be used in organic crop production:

(a) Ash from manure burning.

(b) Arsenic.

(c) Calcium chloride, brine process is natural and prohibited for use except as a foliar spray to treat a physiological disorder associated with calcium uptake.

(d) Lead salts.

(e) Potassium chloride—unless derived from a mined source and applied in a manner that minimizes chloride accumulation in the soil.

(f) Sodium fluoaluminate (mined).

(g) Sodium nitrate—unless use is restricted to no more than 20% of the crop's total nitrogen requirement; use in spirulina production is unrestricted until October 21, 2005.

(h) Strychnine.

(i) Tobacco dust (nicotine sulfates).

**§205.603 Synthetic substances allowed for use in organic livestock production.**



In accordance with restrictions specified in this section the following synthetic substances may be used in organic livestock production:

(a) As disinfectants, sanitizer, and medical treatments as applicable.

(1) Alcohols.

(i) Ethanol-disinfectant and sanitizer only, prohibited as a feed additive.

(ii) Isopropanol-disinfectant only.

(2) Aspirin-approved for health care use to reduce inflammation.

(3) Atropine (CAS #-51-55-8)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:

(i) Use by or on the lawful written order of a licensed veterinarian; and

(ii) A meat withdrawal period of at least 56 days after administering to livestock intended for slaughter; and a milk discard period of at least 12 days after administering to dairy animals.

(4) Biologics—Vaccines.

(5) Butorphanol (CAS #-42408-82-2)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:

(i) Use by or on the lawful written order of a licensed veterinarian; and

(ii) A meat withdrawal period of at least 42 days after administering to livestock intended for slaughter; and a milk discard period of at least 8 days after administering to dairy animals.

(6) Chlorhexidine—Allowed for surgical procedures conducted by a veterinarian. Allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness.

(7) Chlorine materials—disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

(8) Electrolytes—without antibiotics.

(9) Flunixin (CAS #-38677-85-9)—in accordance with approved labeling; except that for use under 7 CFR part 205, the NOP requires a withdrawal period of at least two-times that required by the FDA.

(10) Furosemide (CAS #-54-31-9)—in accordance with approved labeling; except that for use under 7 CFR part 205, the NOP requires a withdrawal period of at least two-times that required that required by the FDA.

(11) Glucose.

(12) Glycerin—Allowed as a livestock teat dip, must be produced through the hydrolysis of fats or oils.

(13) Hydrogen peroxide.

(14) Iodine.

(15) Magnesium hydroxide (CAS #-1309-42-8)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires use by or on the lawful written order of a licensed veterinarian.

(16) Magnesium sulfate.

(17) Oxytocin—use in postparturition therapeutic applications.

(18) Parasiticides—Prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for 90 days following treatment. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period for breeding stock.

(i) Fenbendazole (CAS #43210-67-9)—only for use by or on the lawful written order of a licensed veterinarian.

(ii) Ivermectin (CAS #70288-86-7).

(iii) Moxidectin (CAS #113507-06-5)—for control of internal parasites only.

(19) Peroxyacetic/peracetic acid (CAS #-79-21-0)—for sanitizing facility and processing equipment.

(20) Phosphoric acid—allowed as an equipment cleaner, Provided, That, no direct contact with organically managed livestock or land occurs.

(21) Poloxalene (CAS #-9003-11-6)—for use under 7 CFR part 205, the NOP requires that poloxalene only be used for the emergency treatment of bloat.

(22) Tolazoline (CAS #-59-98-3)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:

(i) Use by or on the lawful written order of a licensed veterinarian;

(ii) Use only to reverse the effects of sedation and analgesia caused by Xylazine; and

(iii) A meat withdrawal period of at least 8 days after administering to livestock intended for slaughter; and a milk discard period of at least 4 days after administering to dairy animals.

(23) Xylazine (CAS #-7361-61-7)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations. Also, for use under 7 CFR part 205, the NOP requires:

(i) Use by or on the lawful written order of a licensed veterinarian;

(ii) The existence of an emergency; and

(iii) A meat withdrawal period of at least 8 days after administering to livestock intended for slaughter; and a milk discard period of at least 4 days after administering to dairy animals.

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

(1) Copper sulfate.

(2) Formic acid (CAS # 64-18-6)—for use as a pesticide solely within honeybee hives.

(3) Iodine.

(4) Lidocaine—as a local anesthetic. Use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.

(5) Lime, hydrated—as an external pest control, not permitted to cauterize physical alterations or deodorize animal wastes.

(6) Mineral oil—for topical use and as a lubricant.

(7) Procaine—as a local anesthetic, use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.

(8) Sucrose octanoate esters (CAS #s-42922-74-7; 58064-47-4)—in accordance with approved labeling.

(c) As feed supplements—None.

(d) As feed additives.

(1) DL-Methionine, DL-Methionine-hydroxy analog, and DL-Methionine-hydroxy analog calcium (CAS #'s 59-51-8, 583-91-5, 4857-44-7, and 922-50-9)—for use only in organic poultry production at the following maximum levels of synthetic methionine per ton of feed: Laying and broiler chickens—2 pounds; turkeys and all other poultry—3 pounds.

(2) Trace minerals, used for enrichment or fortification when FDA approved.

(3) Vitamins, used for enrichment or fortification when FDA approved.

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

(1) EPA List 4—Inerts of Minimal Concern.

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

### **§205.604 Nonsynthetic substances prohibited for use in organic livestock production.**

The following nonsynthetic substances may not be used in organic livestock production:

(a) Strychnine.

**§205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”**

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

(a) Nonsynthetics allowed:

Acids (Alginic; Citric—produced by microbial fermentation of carbohydrate substances; and Lactic).

Agar-agar.

Animal enzymes—(Rennet—animals derived; Catalase—bovine liver; Animal lipase; Pancreatin; Pepsin; and Trypsin).

Attapulgate—as a processing aid in the handling of plant and animal oils.

Bentonite.

Calcium carbonate.

Calcium chloride.

Calcium sulfate—mined.

Carrageenan.

Dairy cultures.

Diatomaceous earth—food filtering aid only.

Egg white lysozyme (CAS # 9001-63-2)

Enzymes—must be derived from edible, nontoxic plants, nonpathogenic fungi, or nonpathogenic bacteria.

Flavors, nonsynthetic sources only and must not be produced using synthetic solvents and carrier systems or any artificial preservative.

Gellan gum (CAS # 71010-52-1)—high-acyl form only.

Glucono delta-lactone—production by the oxidation of D-glucose with bromine water is prohibited.

Kaolin.

L-Malic acid (CAS # 97-67-6).

Magnesium sulfate, nonsynthetic sources only.

Microorganisms—any food grade bacteria, fungi, and other microorganism.

Nitrogen—oil-free grades.

Oxygen—oil-free grades.

Perlite—for use only as a filter aid in food processing.

Potassium chloride.

Potassium iodide.

Sodium bicarbonate.

Sodium carbonate.

Tartaric acid—made from grape wine.

Waxes—nonsynthetic (Carnauba wax; and Wood resin).

Yeast—When used as food or a fermentation agent in products labeled as “organic,” yeast must be organic if its end use is for human consumption; nonorganic yeast may be used when organic yeast is not commercially available. Growth on petrochemical substrate and sulfite waste liquor is prohibited. For smoked yeast, nonsynthetic smoke flavoring process must be documented.

(b) Synthetics allowed:

Acidified sodium chlorite—Secondary direct antimicrobial food treatment and indirect food contact surface sanitizing. Acidified with citric acid only.

Activated charcoal (CAS #s 7440-44-0; 64365-11-3)—only from vegetative sources; for use only as a filtering aid.

Alginates.

Ammonium bicarbonate—for use only as a leavening agent.

Ammonium carbonate—for use only as a leavening agent.

Ascorbic acid.

Calcium citrate.

Calcium hydroxide.

Calcium phosphates (monobasic, dibasic, and tribasic).

Carbon dioxide.

Cellulose—for use in regenerative casings, as an anti-caking agent (non-chlorine bleached) and filtering aid.

Chlorine materials—disinfecting and sanitizing food contact surfaces, Except, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite).

Cyclohexylamine (CAS # 108-91-8)—for use only as a boiler water additive for packaging sterilization.

Diethylaminoethanol (CAS # 100-37-8)—for use only as a boiler water additive for packaging sterilization.

Ethylene—allowed for postharvest ripening of tropical fruit and degreening of citrus.



Ferrous sulfate—for iron enrichment or fortification of foods when required by regulation or recommended (independent organization).

Glycerides (mono and di)—for use only in drum drying of food.

Glycerin—produced by hydrolysis of fats and oils.

Hydrogen peroxide.

Magnesium carbonate—for use only in agricultural products labeled “made with organic (specified ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.

Magnesium chloride—derived from sea water.

Magnesium stearate—for use only in agricultural products labeled “made with organic (specified ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.

Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods.

Octadecylamine (CAS # 124-30-1)—for use only as a boiler water additive for packaging sterilization.

Ozone.

Peracetic acid/Peroxyacetic acid (CAS # 79-21-0)—for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces.

Phosphoric acid—cleaning of food-contact surfaces and equipment only.

Potassium acid tartrate.

Potassium carbonate.

Potassium citrate.

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches.

Potassium phosphate—for use only in agricultural products labeled “made with organic (specific ingredients or food group(s)),” prohibited in agricultural products labeled “organic”.

Silicon dioxide—Permitted as a defoamer. Allowed for other uses when organic rice hulls are not commercially available.

Sodium acid pyrophosphate (CAS # 7758-16-9)—for use only as a leavening agent.

Sodium citrate.

Sodium hydroxide—prohibited for use in lye peeling of fruits and vegetables.

Sodium phosphates—for use only in dairy foods.

Sulfur dioxide—for use only in wine labeled “made with organic grapes,” Provided, That, total sulfite concentration does not exceed 100 ppm.

Tetrasodium pyrophosphate (CAS # 7722-88-5)—for use only in meat analog products.

Tocopherols—derived from vegetable oil when rosemary extracts are not a suitable alternative.

Xanthan gum.

**§205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.”**

Only the following nonorganically produced agricultural products may be used as ingredients in or on processed products labeled as “organic,” only in accordance with any restrictions specified in this section, and only when the product is not commercially available in organic form.

- (a) Casings, from processed intestines.
- (b) Celery powder.
- (c) Chia (*Salvia hispanica* L.).

(d) Colors derived from agricultural products—Must not be produced using synthetic solvents and carrier systems or any artificial preservative.

(1) Beet juice extract color (pigment CAS #7659-95-2).

(2) Beta-carotene extract color—derived from carrots or algae (pigment CAS# 7235-40-7).

(3) Black currant juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(4) Black/Purple carrot juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(5) Blueberry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(6) Carrot juice color (pigment CAS #1393-63-1).

(7) Cherry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(8) Chokeberry—Aronia juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(9) Elderberry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(10) Grape juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(11) Grape skin extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(12) Paprika color (CAS #68917-78-2)—dried, and oil extracted.

(13) Pumpkin juice color (pigment CAS #127-40-2).

(14) Purple potato juice (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(15) Red cabbage extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(16) Red radish extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).

(17) Saffron extract color (pigment CAS #1393-63-1).

(18) Turmeric extract color (CAS #458-37-7).

(e) Dillweed oil (CAS # 8006-75-5).

(f) Fish oil (Fatty acid CAS #'s: 10417-94-4, and 25167-62-8)—stabilized with organic ingredients or only with ingredients on the National List, §§205.605 and 205.606.

(g) Fructooligosaccharides (CAS # 308066-66-2).

(h) Galangal, frozen.

(i) Gelatin (CAS # 9000-70-8).

(j) Gums—water extracted only (Arabic; Guar; Locust bean; and Carob bean).

(k) Inulin-oligofructose enriched (CAS # 9005-80-5).

(l) Kelp—for use only as a thickener and dietary supplement.

(m) Konjac flour (CAS # 37220-17-0).

(n) Lecithin—de-oiled.

(o) Lemongrass—frozen.

(p) Orange pulp, dried.

(q) Orange shellac-unbleached (CAS # 9000-59-3).

(r) Pectin (non-amidated forms only).

(s) Peppers (Chipotle chile).

- (t) Seaweed, Pacific kombu.
- (u) Starches.
  - (1) Cornstarch (native).
  - (2) Sweet potato starch—for bean thread production only.
- (v) Tragacanth gum (CAS #-9000-65-1).
- (w) Turkish bay leaves.
- (x) Wakame seaweed (*Undaria pinnatifida*).
- (y) Whey protein concentrate.

**§205.607 Amending the National List.**

(a) Any person may petition the National Organic Standards Board for the purpose of having a substance evaluated by the Board for recommendation to the Secretary for inclusion on or deletion from the National List in accordance with the Act.

(b) A person petitioning for amendment of the National List should request a copy of the petition procedures from the USDA at the address in §205.607(c).

(c) A petition to amend the National List must be submitted to: Program Manager, USDA-AMS-NOP, 1400 Independence Ave. SW., Room 2648 So. Bldg., Ag Stop 0268, Washington, DC 20250-0268.