

Draft # 2  
5.1.03

**A Certifier's Guide to the  
USDA National Organic Program**

**based upon the Standards Consensus Project of the  
Organic Trade Association's Certifiers Council**

**May 2003**

## **Table of Contents**

<b>The Standards Consensus Project .....</b>	<b>1</b>
<b>OTA's Certifiers Council .....</b>	<b>3</b>
<b>OCC Standards Consensus Project Participants .....</b>	<b>4</b>
<b>§ 205.100(a) &amp; (b) .....</b>	<b>6</b>
What Has to be Certified.....	6
<b>§ 205.101(b)(1) .....</b>	<b>7</b>
Exclusions from certification .....	7
<b>§ 205.101(b)(2) &amp; § 205.310(b) .....</b>	<b>8</b>
Exemptions and Exclusions.....	8
Agricultural Products Produced on an Exempt or Excluded Operation.....	8
<b>§ 205.103.....</b>	<b>9</b>
Recordkeeping by certified operations .....	9
<b>§ 205.201(a)(5).....</b>	<b>10</b>
Organic Production and Handling system.....	10
<b>§ 205.202(a) .....</b>	<b>11</b>
Land Requirements .....	11
<b>§ 205.202(c) .....</b>	<b>12</b>
Land Requirements .....	12
<b>§ 205.203.....</b>	<b>13</b>
Soil Fertility and Crop Nutrient Management Practice Standard.....	13
<b>§ 205.204(a)(1).....</b>	<b>14</b>
Seeds and Planting Stock Practice Standard .....	14
<b>§ 205.236(a)(2).....</b>	<b>15</b>
Origin of Livestock.....	15
<b>§ 205.236(a)(2)(i) .....</b>	<b>16</b>
Origin of Livestock – Dairy Transition.....	16

<b>§ 205.237(a)(b)</b> .....	<b>17</b>
Livestock Feed.....	17
<b>§ 205.238(a)(5)</b> .....	<b>18</b>
Livestock Health Care Practice Standard.....	18
<b>§ 205.239(a)(1) &amp; § 205.239(b)(1-4)</b> .....	<b>19</b>
Livestock Living Conditions; Outside Access for Poultry .....	19
<b>§ 205.301 (a)</b> .....	<b>20</b>
Product Composition.....	20
<b>§ 205.301(b)(c)(d)</b> .....	<b>21</b>
Product Composition – requirement that non-organically produced ingredients not be produced using ionizing radiation, sewage sludge, and excluded methods..	21
<b>§ 205.301(e)</b> .....	<b>23</b>
Product Composition: Livestock Feed.....	23
<b>§ 205.301 (f) (4)</b> .....	<b>24</b>
Product Composition.....	24
<b>§ 205.501(a)(5)</b> .....	<b>25</b>
General requirements for accreditation.....	25
<b>§ 205.501 (a)(13)</b> .....	<b>26</b>
General Requirements for Accreditation .....	26
<b>§ 205.601(a)(2)</b> .....	<b>27</b>
Synthetic Substances Allowed for Use in Organic Crop Production.....	27

## **The Standards Consensus Project**

The Organic Trade Association's Certifiers Council (OCC) initiated a Standards Consensus Project (SCP), in October 2002, which enabled accredited certifiers (private, state and foreign based) and those applying for accreditation to bring issues pertaining to the USDA National Organic Standards (NOS) to a common forum for discussion. While the purpose of any set of standards is to bring order to a situation that has been confused by varying applications of a basic concept, years of experience in the organic certification arena have demonstrated that even the most carefully written organic standards still occasionally stumble over conflicting interpretations of those standards. The ensuing confusion has a negative effect on all concerned – the certifiers, applicants for certification and the buying public that supports the organic industry.

The Standards Consensus Project focused on obtaining consensus among accredited certifiers and certifiers applying for accreditation regarding NOS issues. The OCC feels that it is very important that decisions to grant and/or deny certification are based upon consistent interpretation of the USDA National Organic Standards. Consensus opinions gained through this Project will also be provided to the National Organic Program to assist with the development of the guidance documents for certifiers.

The OCC Standards Consensus Project was initiated to bring additional clarity to the NOS, not to bring about changes to the Standards, as this is a legislative function. The Standards Consensus Project will make every effort to work with the National Organic Program to affect consistent interpretation of the National Organic Standards.

The OTA's Certifiers Council funded the Standards Consensus Project. Membership in the OCC was not required for participation in the Standards Consensus Project.

### **The Standards Consensus Project Process**

The Standards Consensus Project was initiated following discussions at various functions regarding the methods that were being used to apply the NOS. The OCC Steering Committee hired a coordinator for the Standards Consensus Project. A Work Plan for the Project was developed, and the initial time frame of six months was established for the Project.

A certifier questionnaire was sent to all accredited certifiers and those applying for accreditation to obtain the correct contact information and also to obtain input from the certifiers regarding the Issues that would be addressed by the Project.

On a regular basis an *Issue Comment Form* was sent to all. The Issue Comment Form:

- identified a specific section number of the USDA standards and a specific standards issue relating to applying that standard
- identified why the standards issue is of concern
- provided examples of the standards issue concerns
- asked for a determination from the agency regarding the importance of the standard

- asked for comments regarding how the agency implements the standard

A total of 21 Issues were addressed in the Standards Consensus Project.

Upon return of the Issue Comment Form, the information was collated and a consensus opinion was drafted by the coordinator, and approved by the OCC Steering Committee. The Consensus Position was then sent to all certifiers. The Position contained a summary of the comments, identified the number of commenters and the importance of the Issue to certifiers. In addition, anonymous samples of specific comments were included. Certifiers were then asked to either indicate support, or not, for the particular Consensus Position.

The *Certifier's Guide to the USDA National Organic Program* is based upon the Consensus Positions developed by the Standards Consensus Project.

Communications regarding the Standards Consensus Project should be sent to:

OCC Standards Consensus Project  
c/o Patricia Kane, Coordinator  
472 Monkey Run Road,  
Port Crane, NY 13833 USA.  
phone / fax (607) 648-5012  
e-mail OCC SCP@aol.com

## **OTA's Certifiers Council**

The Certifiers Council is a sector group of the Organic Trade Association (OTA), based in Greenfield, Massachusetts, USA. OCC provides a forum for discussion on topics related to certification. Membership in the OCC is open to any individual, state agency, proprietor, partnership, association or corporation that operates as a third party certifier and receives revenue from organic certification. Criteria for membership includes submitting a list of certified parties updated annually. Associate non-voting membership is also available for OTA Associate members and any OTA Trade member who is not a certification agency but wants to participate in the certification dialogue.

OTA's Certifiers Council was formed in 1994 in order to facilitate communication among certification agencies. Members of the OCC are also members of the OTA. The work of the OCC is managed by a Steering Committee.

Examples of past work projects of the OCC include:

- Sponsor of certification agency training events for preparation for USDA accreditation.
- Sponsor of the Accreditation Guidance Document, a tool for organic certification agencies that outlines the requirements for accreditation.
- Sponsor of the development of the American Organic Standards, a consensus set of organic standards of the North American community.
- Compilation of comments from the organic certification community pertaining to the USDA Proposed Rule for organic certification.
- Participant with the Independent Organic Inspectors Association in the Template Forms Project, an effort to develop basic forms for use by certification agencies.
- Support for the OTA / IFOAM Memorandum of Understanding.

The members of the current OCC Steering Committee are:

- Marty Mesh, Quality Certification Services/ Florida Organic Growers, OCC Co-Chair
- David Engel, Midwest Organic Services Association, OCC Co-chair
- Valerie Frances, Maryland Department of Agriculture
- Pete Gonzalves, Oregon Tilth Certified Organic
- Leslie Zuck, Pennsylvania Certified Organic.
- Brian Leahy, California Certified Organic Farmers, alternate

Patricia Kane is the Standards Consensus Project Coordinator.

Membership dues fund the activities of the OCC. OTA membership is a prerequisite and OCC dues are in addition to OTA dues. OTA allocates ½ of the OTA membership dues to the OCC. Membership information for the Organic Trade Association and the Certifiers Council can be obtained by phone (413) 774-7511 or e-mail: [info@ota.com](mailto:info@ota.com)

## **OCC Standards Consensus Project Participants**

The following certification organizations participated in the Standards Consensus Project.

<b>Certifier Name</b>	<b>Country</b>
Argencert S.R.L.	Argentina
Asociacion Instituto Masoamericana para la Certification de Productos Organicos y Procesados	Costa Rica
Australian Certified Organic	Australia
BCS-OEKO Garantie-GMBH	Germany
California Certified Organic Farmers	USA
California Crop Improvement Association, Parsons Seed Certification Center	USA
Center of Organic Agriculture in Egypt	Egypt
Certified Organic Trainers Inc.	USA
DIO - Inspection and Certification Organisation of Organic Products	Greece
Eco-LOGICA	Costa Rica
Fertilizer and Seed Certification Services	USA
Guaranteed Organic Certification Agency	USA
Garantie Bio-Ecocert	Canada
Hawaii Organic Farmers Association	USA
Idaho Department of Agriculture	USA
IMO Institute for Marketecology Switzerland	Switzerland
Instituto Biodinamico	Brazil
International Certification Services, Inc.	USA
Lacon GmbH	Germany
Letis S.A.	Argentina
Maharishi Vedic Organic Agriculture Institute	USA
Maryland Department of Agriculture	USA
Certificadora Maya Sociedad Anonima	Guatemala
Midwest Organic Services Association Inc.	USA
Minnesota Crop Improvement Association	USA
Missouri Department of Agriculture Organic Program	USA
Montana Department of Agriculture	USA
Monterey County Certified Organic	USA
New Mexico Organic Commodity Commission	USA
NOFA Massachusetts Organic Certification Program	USA
NOFA-NY Certified Organic LLC	USA
North Carolina Crop Improvement Association Inc.	USA
Ohio Ecological Food and Farm Association	USA
Oklahoma Department of Agriculture	USA
OneCert	USA
Oregon Tilth Certified Organic	USA
Organic Certifiers Inc.	USA
Organic Crop Improvement Association	USA

**List of Standards Consensus Project Participants** *(continued)*

Organic Food Federation	United Kingdom
Organic Tea Research & Development Center	China
Organizacion Internacional Agropecuaria	Argentina
Overseas Merchandise Inspection Co., Ltd.	Japan
Pennsylvania Certified Organic	USA
QC& I International Services s.a.s	Italy
QCB Organic, Inc.	Canada
Quality Assurance International, Inc.	USA
Quality Certification Services	USA
Rhode Island Department of Environmental Management, Division of Agriculture	USA
Saskatchewan Organic Certification Association, Inc.	Canada
Soil Association Certification Ltd.	United Kingdom
Stellar Certification Services	USA
Stichting Skal	Netherlands
Vermont Organic Farmers, LLC	USA
Washington State Department of Agriculture	USA

**Thank you for your participation.**

## **§ 205.100(a) & (b)**

### **What Has to be Certified**

#### **Issue # 12**

##### **Rule Text**

- (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 the effective date of this final rule.

##### **OCC Consensus Position**

Except for exempt or excluded operations, all producers and handlers of products claimed to be organic must be certified. The term ‘represented’ [described as embodying a specified quality (organic quality in this case)] renders the phrase, “sold, labeled, or represented,” all-inclusive. Whereas a bulk organic product might not be “labeled” organic and it might be donated rather than “sold,” if an oral or other organic claim is made, then it has been represented as organic, and the representing operation must be certified.

Upon accreditation of an operator's certification agency, that operator and their organic products are “deemed to be certified under the Act.” As such, certified organic products, supported by a certificate issued by an accredited certification agent, can be used as ingredients in “100% organic” or “organic” product produced after 10.21.02.

Such products have entered the stream of commerce and are supported by certification from an accredited certification agent and are allowed as ingredients in products labeled in compliance with the NOP (including use of the USDA organic seal) after 10.21.02 until existing stock of such organic products are exhausted. These certified processors are performing all activities in compliance with the NOP, including sourcing all ingredients under accredited certification.

## § 205.101(b)(1)

### Exclusions from certification

#### Issue # 19

<b>Rule Text</b>	<b>OCC Consensus Position</b>
<p>(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:</p> <ul style="list-style-type: none"><li>(i) Are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and</li><li>(ii) Remain in the same package or container and are not otherwise processed while in the control of the handling operation.</li></ul>	<p>A handling operation or retailer that is excluded from the certification requirements of the National Organic Program, may contract with a certified handling facility for the production, packaging and labeling of an organic product, which the excluded operation will then market. A private label agreement is an example of this type of contract.</p> <p>These products may be labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” provided that:</p> <ul style="list-style-type: none"><li>a) the products are packaged or otherwise enclosed in a container prior to being received or acquired by the excluded operation;</li><li>b) the products remain in the same package or container and are not otherwise processed while in the control of the excluded operation, and</li><li>c) the identity of the certifier of the certified handling facility that produced the product is included on the product package.</li></ul>

## **§ 205.101(b)(2) & § 205.310(b)**

### **Exemptions and Exclusions**

## **Agricultural Products Produced on an Exempt or Excluded Operation**

### **Issue # 8**

#### **Rule Text**

##### 205.101 (b) Exclusions

- (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.

250.310 (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 multi-ingredient 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.

#### **OCC Consensus Position**

All organic processing activities (as defined in 205.2) conducted within a retail establishment for retail sales on the premises are excluded from the requirement for certification. If processed products represented as organic are distributed off-site in a manner other than a retail sale, either to branches of the same company or to other companies, then the operation must be certified as a handler that processes organic products.

## § 205.103

### **Recordkeeping by certified operations**

#### **Issue # 21**

##### **Rule Text**

- (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.

##### **OCC Consensus Position**

Certified operations must submit, as part of the application, information that fully discloses the production, harvesting and handling activities of the operation and which provides a basis for evaluation of the organic system plan. This information may include field histories, adjoining land use, field maps, description of manufacturing processes, product labels and product ingredients, etc.

Certified operations must also develop and maintain a record keeping system that is adapted to their business, fully discloses transactions in sufficient detail to be understood, and permits auditing. Certified operators must maintain their records for 5 years. Samples of record keeping forms may be submitted for review.

The complete record keeping system of the certified operation is reviewed at the time of inspection.

## § 205.201(a)(5)

### **Organic Production and Handling system**

#### **Issue # 9**

##### **Rule Text**

- (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:
- (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

##### **OCC Consensus Position**

In addition to the organic system plan, an applicant for certification that is also a split operation must make available records regarding the non-organic production of the operation. At a minimum, such documentation must include information regarding the potential for contamination of the organic product by prohibited materials and procedures to prevent commingling of organic and non-organic products. Examples of these types of records are identification of non-organic fields and established buffer zones, equipment clean-out procedures and product storage procedures.

Certifiers may request additional documentation regarding the non-organic production, and review the non-organic production system records at the time of inspection, in order to adequately assess the potential contamination risk for the organic product.

## **§ 205.202(a)**

### **Land Requirements**

#### **Issue # 15**

##### **Rule Text**

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;

##### **OCC Consensus Position**

Applicants for certification may include parcels of land, which have previously been abandoned and / or not actively farmed, in their Organic System Plan, providing that it is documented that no prohibited substances have been applied to that land for a period of 3 years immediately preceding harvest of the crop.

Inspection of the previously abandoned and /or not actively farmed land should be conducted at a time when the land, facilities and activities can demonstrate the operator's compliance or capability to comply with the Organic System Plan and the National Organic Program requirements.

## § 205.202(c)

### Land Requirements

#### Issue # 11

##### **Rule Text**

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

(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.

##### **OCC Consensus Position**

The determination of whether or not a buffer zone is required, including the size and the type of buffer zone, for a field or farm parcel which produces crops sold, labeled, or represented as “organic” is based upon the risk assessment conducted by the producer and verified by the inspector and agreed to by the certifier.

The use of residue analysis cannot be substituted for the requirement of a buffer zone to prevent contact with a prohibited substance applied to adjoining land. Residue analysis may be used as a tool to determine the effectiveness of the buffer zone.

## § 205.203

### **Soil Fertility and Crop Nutrient Management Practice Standard**

#### **Issue #1**

##### **Rule Text**

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

##### **OCC Consensus Position**

Certifying agents must evaluate tillage and cultivation practices on a site-specific basis to determine if physical, chemical, and biological conditions of the soil would be improved, maintained, or degraded by implementing the organic operator's Organic System Plan. The operator may demonstrate maintenance or improvement by any means acceptable to the certifying agent, which may or may not involve soil nutrient or contaminant analysis. The certifying agent may not require specific practices but may grant or deny certification, respectively, based on the maintenance or degradation of the three soil conditions. Contamination could, as appropriate, be regarded as a chemical condition of the soil.

The certifying agent must evaluate crop rotations and soil amendments on a site-specific basis for their impact on crop nutrients and soil fertility to determine if physical, chemical, and biological conditions of the soil would be improved, maintained, or degraded by implementing the organic operator's Organic System Plan.

**§ 205.204(a)(1)**

**Seeds and Planting Stock Practice Standard**

**Issue # 10**

**Rule Text**

- (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;

**OCC Consensus Position**

The commercial unavailability of organic seeds must be documented by the producer. Examples of documentation include phone logs, seed logs, letters to/from seed companies, and catalogues. Producers must contact multiple known sources of organic seed to verify the unavailability of a particular variety of organic seed. Producers are responsible for determining whether a particular organic variety is equivalent to a non-organic untreated variety.

The certifying agent will monitor progress in the use of organic seed annually, through the review of the Organic System Plan.

**§ 205.236(a)(2)**

**Origin of Livestock**

**Issue # 6**

**Rule Text**

(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:

(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, That, when an entire, distinct herd is converted to organic production, the producer may:

(i) 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

(ii) Provide feed in compliance with §205.237 for the final three 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.

**OCC Consensus Position**

Once a dairy herd is certified, organic management for all dairy animals (purchased or farm-raised) is required from the last third of gestation.

**§ 205.236(a)(2)(i)**

**Origin of Livestock – Dairy Transition**

**Issue # 6**

**Rule Text**

**OCC Consensus Position**

(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) ...

(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, That, when an entire, distinct herd is converted to organic production, the producer may:

(i) 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

Producers converting an entire distinct dairy herd to organic production must provide 80 % of the feed ration used during the first 9 months of the dairy conversion from organic (certified) sources or raised from land included in the Organic System Plan and managed in compliance with organic crop requirements (certifiable). Crops from fields in transition to organic production may be utilized to meet the remaining 20% of the ration during the first 9 months.

Producers must use 100% certified organic feeds during the last 3 months of the dairy herd conversion.

## § 205.237(a)(b)

### Livestock Feed

#### Issue # 17

##### Rule Text

- (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, if applicable, organically handled: Except, That, nonsynthetic substances and synthetic substances allowed under § 205.603 may be used as feed additives and supplements.
- (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; or
  - (6) Use feed, feed additives, and feed supplements in violation of the Federal Food, Drug, and Cosmetic Act.

##### OCC Consensus Position

Organic livestock operations must provide livestock with a feed ration composed of organically produced and handled agricultural products. All nonagricultural ingredients (i.e. vitamins and minerals) must comply with the National List of Allowed and Prohibited Substances.

**§ 205.238(a)(5)**

**Livestock Health Care Practice Standard**

**Issue # 13**

**Rule Text**

- (a) The producer must establish and maintain preventive livestock health care practices, including:
- (5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and

**OCC Consensus Position**

Based upon evaluation of the producer's Organic System Plan, physical alterations to livestock are permitted. The Organic System Plan must:

- a) identify the physical alterations to be done;
- b) justify how the alterations promote the animal's welfare;
- c) demonstrate that the alterations are done in a manner that minimizes pain and stress.

**§ 205.239(a)(1) & § 205.239(b)(1-4)**

**Livestock Living Conditions; Outside Access for Poultry**

**Issue # 7**

**Rule Text**

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

- (1) Access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment;

**OCC Consensus Position**

Applicants for certification of poultry must submit an Organic System Plan that clearly specifies that outside access, which accommodates the health and natural behavior of the birds, is provided.

If the applicant does not meet the outside access requirement, their Organic System Plan must include a timetable by which the outside access requirement will be implemented. The length of time to bring the operation into compliance is determined on a case by case basis, in conjunction with the certifying agent.

The certifying agent will monitor the applicant's progress toward compliance with the outside access requirement.

---

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

- (1) Inclement weather;
- (2) The animal's stage of production;
- (3) Conditions under which the health, safety, or well being of the animal could be jeopardized; or
- (4) Risk to soil or water quality.

If the Organic System Plan of an applicant for poultry certification identifies instances when the animals are confined, the Plan must specify that confinement is temporary due to:

- (1) Inclement weather;
- (2) The animal's stage of production;
- (3) Conditions under which the health, safety, or well being of the animal could be jeopardized; or
- (4) Risk to soil or water quality.

The inability to provide outdoor access for poultry is a major noncompliance issue that must be addressed by the applicant.

## § 205.301 (a)

### Product Composition

#### Issue # 4

##### Rule Text

(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.

##### OCC Consensus Position

Products sold, labeled, or represented as “100 percent organic” must contain 100 percent organically produced ingredients, and must be produced using only organically produced processing aids. The use of food contact substances, such as nitrogen gas and other food packaging materials, does not affect the calculation of percent organic ingredients. “100 percent organic” products, packaged with nitrogen, may be labeled as “100 percent organic”.

## § 205.301(b)(c)(d)

### **Product Composition – requirement that non-organically produced ingredients not be produced using ionizing radiation, sewage sludge, and excluded methods.**

#### **Issue # 14**

#### **Rule Text**

- (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 non-agricultural substances or non-organically 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)).” Multi-ingredient 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 (1), (2), and (3) of § 205.301(f). Non-organic ingredients may be produced without regard to paragraphs (4), (5), (6), and (7) of § 205.301(f). If labeled as containing organically produced ingredients or food groups, such product must be labeled pursuant to § 205.304.

#### **OCC Consensus Position**

Handlers using non-organically produced ingredients in products labeled as “organic” and “made with organic...” must provide verification that the non-organic ingredients are not produced using ionizing radiation, sewage sludge, and excluded methods.

Examples of the types of documentation which may be used are:

- letters from manufacturers of non-organic ingredients indicating the ingredient is not produced using ionizing radiation, sewage sludge, and excluded methods;
- technical data sheets
- production flow charts for non-organic ingredients

*continued*

**§ 205.301(b)(c)(d)** *(continued)*

**Product Composition – requirement that non-organically produced ingredients not be produced using ionizing radiation, sewage sludge, and excluded methods.**

(d) Products with less than 70 percent organically produced ingredients. The organic ingredients in multi-ingredient 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 non-organic ingredients may be produced and handled without regard to the requirements of this part. Multi-ingredient agricultural product containing less than 70 percent organically produced ingredients may represent the organic nature of the product only as provided in § 205.305.

Non-organic ingredients used in products which “contain less than 70 percent organically produced ingredients” are not required to comply with the requirements of this Rule, thus the handler is not required to submit production information on non-organic ingredients.

## § 205.301(e)

### Product Composition: Livestock Feed

#### Issue # 17

##### Rule Text

- (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.

##### OCC Consensus Position

Livestock feeds labeled as “100 % organic” must be comprised of only 100 % organically produced and handled agricultural products.

Livestock feeds labeled as “organic” must be comprised of 100 % organically produced and handled agricultural products and may also contain nonagricultural ingredients (i.e. vitamins and minerals) that are permitted for use by the National List of Allowed and Prohibited Substances.

The 95% processed food requirement for products sold, labeled, or represented as “organic” [§ 205.301(b)] does not apply to livestock feed.

There is no provision for the use of non-organic agricultural ingredients under a commercial unavailability clause.

## § 205.301 (f) (4)

### Product Composition

#### Issue #5

##### Rule Text

- (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:
- (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;

##### OCC Consensus Position

Products seeking to use the "100 percent organic" label must contain 100 percent organically produced ingredients. Furthermore, if the product is processed, then processing aids must also be organically produced.

Fruit and vegetables that have been washed with chlorine may be labeled "100 percent organic" since washing is not included in the NOP definition of processing. Such crops have not been processed and therefore the organic processing aid requirement does not apply.

Fruit, which has been waxed with a non-organic wax, or eggs that have non-organic oil on the shell may not be labeled as "100 percent organic." These products can not be labeled "100 percent organic" because they have been processed (preserved) as defined by the NOP. The processing aids are not organically produced as required by the Rule.

**§ 205.501(a)(5)**

**General requirements for accreditation**

**Issue # 18**

**Rule Text**

- (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.

**OCC Consensus Position**

USDA accredited certifiers may choose to accept product from non-USDA accredited certifiers providing that the USDA accredited certifier verifies the product is produced in compliance with the National Organic Program requirements. The USDA accredited certifier must take full responsibility for the certification decision. The USDA accredited certifier may utilize information from the non-USDA-accredited certifier including the organic system plan and the inspection report.

The USDA accredited certifier must document that the non-USDA-accredited certifier and the inspector have sufficient expertise to perform the certification and inspection duties.

## **§ 205.501 (a)(13)**

### **General Requirements for Accreditation**

#### **Issue # 3**

##### **Rule Text**

- (a) A private or governmental entity accredited as a certifying agent under this subpart must:
- (1) Have sufficient expertise in ...
  - (2) ...
  - (13) Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to Sec. 205.500.

##### **OCC Consensus Position**

All products labeled, represented, or sold in the U.S. as organic must be produced and handled in accordance with 7 CFR, Part 205, the U.S.D.A National Organic Program, and any associated certificate of organic operation must have been issued in accordance with the NOP. However, some USDA accredited or accepted certifying agents may have additional organic certification programs and therefore, for clarity, certificates of organic operation should specify the NOP as the organic standard to which the operator and the products have been certified.

## § 205.601(a)(2)

### **Synthetic Substances Allowed for Use in Organic Crop Production**

#### **Issue # 2**

##### **Rule Text**

- (a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems
- (1)...
- (2) Chlorine materials – *Except*, That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

##### **OCC Consensus Position**

Levels of chlorine used to prepare water to be used to disinfect or sanitize tools, equipment, product or food contact surfaces may be higher than 4 mg/l and should be at levels sufficient to control microbial contaminants. Therefore, chlorine use at the beginning of the applicable water cycle in an organic operation is not limited to 4 mg/l. Certified operators must be able to demonstrate that the discharge or effluent meets the 4 mg/l limit as set forth in the Safe Drinking Water Act. This may be achieved by testing or other means acceptable to the certifying agent. There is no prohibition of use of chlorine for seed soaking in organic sprout production.