



## **Appeals Process:** **Certified Organic Operations or Certification Applicants**

The National Organic Program (NOP), accredited certifying agents, and State Organic Programs (SOPs), where applicable, have a responsibility to work cooperatively with certified organic operations or applicants for certification to identify problem areas and resolve issues of alleged noncompliance long before a decision to revoke, suspend, or deny certification is made.

However, if these efforts fail, and you are notified of a decision with which you don't agree, you have the right to appeal that decision.

Part I of this brochure explains the appeals procedure if your organic operation is located in a State *without* a USDA-approved SOP. Part II explains the process that must be used in a State *with* a USDA-approved SOP. Part III explains the process that must be used when an adverse action is initiated by the NOP Manager.

In all of these cases, your appeal will not be reviewed, heard, or decided by anyone involved in making the decision being appealed. USDA or the SOP will send all communications involved in the appeals process to your place of business, using a delivery service that provides dated return receipts. You must also use a delivery service that provides dated return receipts.

### **Part I. Appeals in States with No SOP**

#### ***How much time do I have to appeal?***

You must appeal within 30 days of receiving the decision letter, or within the time frame specified in that letter—whichever is later. Unless you appeal on time, the decision to deny, revoke, or suspend your certification will become final.

#### ***What should I put in my appeal?***

You must include the following information in your appeal:

- a copy of the decision you are appealing; and
- a statement of your reasons for believing that the decision was not proper or did not follow National Organic Program regulations, policies, or procedures.

#### ***Who will make the decision on my appeal?***

The Administrator of the Agricultural Marketing Service will review the information you put in your appeal and make a decision on whether to sustain or deny your appeal.

#### ***Where do I send my appeal?***

Administrator, USDA, AMS  
c/o NOP Appeals Team  
STOP 0203, Room 2095-S  
1400 Independence Ave., SW  
Washington, DC 20250

#### ***What happens if I win?***

If the Administrator sustains your appeal, you will be granted certification, or if the decision was for revocation or suspension, you will be notified that your certification will continue.

***What happens if I lose?***

If the Administrator denies your appeal, you will be notified that a formal proceeding to deny, suspend, or revoke your certification is being initiated. An Administrative Law Judge will handle this proceeding. Your notification letter from the Administrator will contain instructions on what to do next, if you are not satisfied with the decision.

***If I want to appeal further, what do I do?***

There are two more levels of appeal within USDA, an Administrative Law Judge, and then a Judicial Officer. You will be notified at every step of exactly what do, should you wish to appeal to a higher level. Appeals at these two levels will be heard as near as possible to your place of business or residence.

***I've lost my appeal at the highest level of USDA—what next?***

You may appeal the decision of the USDA Judicial Officer to the U.S. District Court for the district in which you are located.

**Part II. Appeals in a State with an SOP**

Included in USDA’s requirements for approving a State Organic Program, is the approval of the SOP’s appeal procedures. An SOP’s appeal procedures must be equivalent to those provided for under the National Organic Program, as described in Part I. The following appeals procedures apply to decisions made by State Organic Programs or accredited certifying agents.

***How long do I have to appeal?***

You must appeal within 30 days of receiving the notification letter, or within the time frame specified in that letter—whichever is later. Unless you appeal on time, the decision to deny, revoke, or suspend your certification will become final.

***What should I put in my appeal?***

You must include the following information in your appeal:

- a copy of the decision you are appealing; and
- a statement of your reasons for believing that the decision was not proper or did not follow National Organic Program regulations, policies, or procedures.

***Where and to whom do I send my appeal?***

You must send your appeal to your State Organic Program. Your notification letter will provide exact instructions.

***What happens if I win?***

If your appeal is sustained, you will be granted certification, or if the original decision was for revocation or suspension, you will be notified that your certification will continue.

***What happens if I lose?***

If the State Organic Program denies your appeal, you will be notified of the next step you may take in the State appeals process.

***I've lost my appeal at the highest level of the State appeals process—what next?***

You may appeal the final decision of the State to the U.S. District Court for the district in which you are located.

**Part III. Appeals of Adverse Actions Initiated by NOP Manager**

Follow the procedures provided in Part I.

\*\*\*\*\*

***Where can I find more information on the appeals process?***

Subpart G, Administrative, sections 205.680 and 205.681 of the NOP regulations cover the “Adverse Actions Appeal Process.” Further discussion of this process can be found in the preamble to the NOP regulations.