



Instruction

Processing Requests for Temporary Variances

1. Purpose

This instruction describes policies and procedures used by the National Organic Program (NOP) to evaluate requests for temporary variances to the NOP regulations submitted by certifying agents or State organic programs.

2. Scope

These procedures apply to variances processed by the NOP staff.

3. Background

Pursuant to § 205.290, accredited certifying agents and State organic programs are responsible for:

1. Receiving and reviewing requests for temporary variances from certified operators.
2. Recommending the establishment of a temporary variance in writing to the NOP.
3. Providing written justification for the variance based on the appropriate regulatory citation under § 205.290, including documentation, news articles, or records supporting the recommendation.

The NOP is responsible for:

1. Evaluating recommendations for the establishments of temporary variance.
2. Issuing temporary variances in compliance with NOP regulations.

4. Policy

Temporary variances from the production and handling requirements of the NOP regulations may be granted by the Administrator for natural disasters declared by the Secretary, damage caused by severe weather, or other business interruption, or for the purpose of conducting research in organic production or handling.

Variances will not be granted to allow for:

1. Feeding non-organic feed to organic livestock
2. The use of materials prohibited under § 205.105.



5. Procedure

1. NOP staff will receive the temporary variance recommendation in writing from the accredited certifying agent or State organic program official.
2. Within 3 days of receipt, NOP staff will evaluate recommendations for temporary variance for completeness. This review will determine whether there is adequate information and whether justification has been provided to evaluate the temporary variance recommendation.
 - a. If complete, within 7 days after receipt, NOP staff will assess the request against allowed categories for variances:
 - i. Natural disasters declared by the Secretary;
 - ii. Damage caused by drought, wind, fire, flood, excessive moisture, hail, tornado, earthquake;
 - iii. Unavoidable business interruptions, or
 - iv. To conduct research on organic production and handling techniques or inputs.
 - b. NOP staff may contact the accredited certifying agent or State organic program to obtain additional information or details relevant to a decision on whether to grant the temporary variance.
3. NOP staff will forward recommendations for approving or denying temporary variances to the NOP regulations to the Administrator for decision.
4. If the Administrator grants the temporary variance then the NOP will issue a letter of decision regarding the temporary variance, including the scope, details and duration of the temporary variance. Determining factors for duration of temporary variance will include expected recovery times from natural disasters or business interruption or the duration of the research project.
5. If the Administrator denies the request for a temporary variance then the NOP will issue a letter outlining the reasons why the temporary variance was denied.
6. NOP will publish the decision on the NOP web site the decision to grant or deny the temporary variance.

6. Records

NOP staff will maintain records of temporary variances granted on the NOP shared drive with a copy in the accredited certifying agents file under the relevant calendar year.

7. References

NOP Regulations (as amended to date) 7 CFR § 205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.



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Page 3 of 3

7 CFR § 205.290 Temporary variances.

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