

Strengthening Organic Enforcement: Comparison of Old and New Regulatory Text

This side-by-side comparison shows the changes that the **Strengthening Organic Enforcement** (SOE) rule makes to the Organic Regulations ([7 CFR Part 205](#)). This document is an unofficial copy of regulatory language meant to be read alongside the rule as an aid to understanding. The official regulatory text may be read at [the Federal Register](#).

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A. Applicability and Exemptions from Certification

Section	Former Text	New Text
205.2	<i>Handle.</i> 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.	<i>Handle.</i> To sell, process, or package agricultural products, including but not limited to trading, facilitating sale or trade on behalf of a seller or oneself, importing to the United States, exporting for sale in the United States, combining, aggregating, culling, conditioning, treating, packing, containerizing, repackaging, labeling, storing, receiving, or loading.
205.2	<i>Handler.</i> 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.	<i>Handler.</i> Any person that handles agricultural products, except final retailers of agricultural products that do not process agricultural products.
205.2	<i>Handling operation.</i> 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.	<i>Handling operation.</i> Any operation that handles agricultural products, except final retailers of agricultural products that do not process agricultural products.
205.2	<i>Retail food establishment.</i> 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.	<i>Retail establishment.</i> Restaurants, delicatessens, bakeries, grocery stores, or any retail business with a restaurant, delicatessen, bakery, salad bar, bulk food self-service station, or other eat-in, carry-out, mail-order, or delivery service of raw or processed agricultural products.

205.100(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.	Except for the exempt operations described in § 205.101, each operation or portion of an operation that produces or handles agricultural products 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.
205.101	Exemptions and exclusions from certification.	Exemptions from certification.
205.101	<i>[Add new introductory paragraph to describe exemptions.]</i>	The following operations in paragraphs (a) through (h) of this section are 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, the applicable labeling requirements of subpart D of this part, and any requirements described in paragraphs (a) through (i) of this section.

<p>205.101(a)</p>	<p><i>Exemptions.</i> (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.</p> <p>(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.</p> <p>(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:</p> <p>(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;</p> <p>(ii) The labeling provisions of §§ 205.305 and 205.310; and</p> <p>(iii) The recordkeeping provisions in paragraph (c) of this section.</p> <p>(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:</p>	<p>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.</p>
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	<p>(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;</p> <p>(ii) The labeling provisions of §§ 205.305 and 205.310; and</p> <p>(iii) The recordkeeping provisions in paragraph (c) of this section.</p>	
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<p>205.101 (b)</p>	<p><i>Exclusions.</i> (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">(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. <p>(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:</p> <ul style="list-style-type: none">(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.	<p>A retail establishment that does not process organically produced agricultural products.</p>
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205.101(c)	<p><i>Records to be maintained by exempt operations.</i> (1) Any handling operation exempt from certification pursuant to paragraph (a)(3) or (a)(4) of this section must maintain records sufficient to:</p> <p>(i) Prove that ingredients identified as organic were organically produced and handled; and</p> <p>(ii) Verify quantities produced from such ingredients.</p> <p>(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.</p>	<p>A retail establishment that processes, at the point of final sale, agricultural products certified under this part as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”</p>
205.101(d)	<p><i>[Modify former § 205.101(a)(3) and (4).]</i></p>	<p>A handling operation that only handles agricultural products that contain less than 70 percent organic ingredients (as described in § 205.301(d)) or that only identifies organic ingredients on the information panel.</p>
205.101(e)	<p><i>[Modify former § 205.101(b)(1).]</i></p>	<p>An operation that only receives, stores, and/or prepares for shipment, but does not otherwise handle, organic agricultural products that:</p> <p>(1) Are enclosed in sealed, tamper-evident packages or containers prior to being received or acquired by the operation; and</p> <p>(2) Remain in the same sealed, tamper-evident packages or containers and are not otherwise handled while in the control of the operation.</p>

205.101(f)	<i>[Add new paragraph.]</i>	An operation-that only buys, sells, receives, stores, and/or prepares for shipment, but does not otherwise handle, organic agricultural products already labeled for retail sale that: (1) Are enclosed in sealed, tamper-evident packages or containers that are labeled for retail sale prior to being received or acquired by the operation; and (2) Remain in the same sealed, tamper-evident packages or containers that are labeled for retail sale and are not otherwise handled while in the control of the operation.
205.101(g)	<i>[Add new paragraph.]</i>	A Customs broker (per 19 CFR 111.1) that only conducts customs business but does not otherwise handle organic agricultural products.
205.101(h)	<i>[Add new paragraph.]</i>	An operation that only arranges for the shipping, storing, transport, or movement of organic agricultural products but does not otherwise handle organic products.
205.101(i)	<i>[Modify recordkeeping requirements, formerly § 205.101(c).]</i>	Recordkeeping by exempt operations.
205.101(i)(1)		Exempt operations described in paragraphs (a) and (c) through (f) of this section must make available to representatives of the Secretary, upon request, records that: (i) Demonstrate that agricultural products identified as organic were organically produced and handled; and (ii) Verify quantities of organic agricultural products received and shipped or sold
205.101(i)(2)		All records described in this section 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.

205.310	Agricultural products produced on an exempt or excluded operation.	Agricultural products produced or processed by an exempt operation.
205.310(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.	An agricultural product organically produced or processed by an exempt operation must not: (1) Display the USDA seal or any certifying agent's seal or other identifying mark which represents the exempt operation as a certified organic operation, or (2) Be represented as a certified organic product or certified organic ingredient to any buyer.
205.310 (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.	An agricultural product organically produced or processed by an exempt operation may be identified as an organic product or organic ingredient in a multi-ingredient product produced by the exempt operation. Such product or ingredient must not be identified or represented as "organic" in a product processed by others.

B. Imports to the United States

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Organic exporter.</i> The final certified exporter of the organic agricultural product, who facilitates the trade of, consigns, or arranges for the transport/shipping of the organic agricultural product from a foreign country to the United States.
205.2	<i>[Add new term.]</i>	<i>Organic importer.</i> The operation responsible for accepting imported organic agricultural products within the United States and ensuring NOP Import Certificate data are entered into the U.S. Customs and Border Protection import system of record.
205.273	<i>[Add new § 205.273.]</i>	Imports to the United States.

205.273		Each shipment of organic agricultural products imported into the United States must be certified pursuant to subpart E of this part, labeled pursuant to subpart D of this part, be declared as organic to U.S. Customs and Border Protection, and be associated with valid NOP Import Certificate data.
205.273(a)		Persons exporting organic agricultural products to the United States must request an NOP Import Certificate from a certifying agent prior to their export. Only certifying agents accredited by the USDA or foreign certifying agents authorized under an organic trade arrangement may issue an NOP Import Certificate.
205.273(b)		The certifying agent must review an NOP Import Certificate request and determine whether the export complies with the USDA organic regulations. The certifying agent must have and implement a documented organic control system for intaking and approving or rejecting the validity of an NOP Import Certificate request. The certifying agent shall issue the NOP Import Certificate through the Organic Integrity Database only if the export complies with the USDA organic regulations.
205.273(c)		Each compliant organic import must be declared as organic to U.S. Customs and Border Protection by entering NOP Import Certificate data into the U.S. Customs and Border Protection's Automated Commercial Environment system. Organic imports must be clearly identified and marked as organic on all import documents including but not limited to invoices, packing lists, bills of lading, and U.S. Customs and Border Protection entry data. Only NOP Import Certificate data generated by the Organic Integrity Database are valid.

205.273(d)		Upon receiving a shipment with organic agricultural products, the organic importer must ensure the import is accompanied by accurate NOP Import Certificate data and must verify that the shipment has had no contact with prohibited substances pursuant to § 205.272 or exposure to ionizing radiation pursuant to § 205.105, since export. The organic importer must have a documented organic control system to conduct this verification.
205.273(e)		Products produced in a foreign country and exported for sale in the United States must be certified pursuant to subpart E of this part, labeled pursuant to this subpart D, and must comply with the requirements in § 205.273, Imports to the United States.
205.300(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.	Products produced in a foreign country and exported for sale in the United States must be certified pursuant to subpart E of this part, labeled pursuant to this subpart D, and must comply with the requirements in § 205.273.

C. Labeling of Nonretail Containers

Section	Former Text	New Text
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)).”	Labeling of nonretail containers.

205.307(a)	<p>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:</p> <ul style="list-style-type: none"> (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. 	<p>Nonretail containers used to ship or store certified organic agricultural products must display:</p> <ul style="list-style-type: none"> (1) Identification of the product as organic; and (2) The production lot number, shipping identification, or other unique information that links the container to audit trail documentation.
205.307(b)	<p>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.</p>	<p>Audit trail documentation for nonretail containers must identify the last certified operation that handled the agricultural product.</p>
205.307(c)	<p><i>[Add new paragraph.]</i></p>	<p>Paragraph (a)(1) of this section does not apply to nonretail containers used to ship or store agricultural products packaged for retail sale with organic identification visible on the retail label.</p>

D. On-Site Inspections

Section	Former Text	New Text
205.2	<p><i>[Add new term.]</i></p>	<p><i>Unannounced inspection.</i> The act of examining and evaluating all or a portion of the production or handling activities of a certified operation without advance notice to determine compliance with the Act and the regulations in this part.</p>

205.403 (b)	<i>[Redesignate paragraphs (b) – (e) as (c) – (f); add new paragraph (b) on unannounced inspections.]</i>	<i>Unannounced inspections.</i> (1) A certifying agent must, on an annual basis, conduct unannounced inspections of a minimum of five percent of the operations it certifies, rounded up to the nearest whole number. (2) Certifying agents must be able to conduct unannounced inspections of any operation they certify and must not accept applications or continue certification with operations located in areas where they are unable to conduct unannounced inspections.
205.403 (d)(4)	<i>[Add mass-balance requirements to “Verification of Information,” formerly § 205.403(c).]</i>	Mass-balances, in that quantities of organic product and ingredients produced or purchased account for organic product and ingredients used, stored, sold, or transported; and
205.403 (d)(5)	<i>[Add traceability requirements to “Verification of Information,” formerly § 205.403(c).]</i>	That organic products and ingredients are traceable by the operation from the time of purchase or acquisition through production to sale or transport; and that the certifying agent can verify compliance back to the last certified operation.

E. Certificates of Organic Operation

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Organic Integrity Database.</i> The National Organic Program's electronic, web-based reporting tool for the submission of data, completion of certificates of organic operation, and other information, or the tool's successors.

205.404(b)	<p>The certifying agent must issue a certificate of organic operation which specifies the:</p> <ol style="list-style-type: none"> (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. 	<p>The certifying agent must issue a certificate of organic operation. The certificate of organic operation must be generated from the Organic Integrity Database and may be provided to certified operations electronically.</p>
205.404(c)	<p><i>[Redesignate former § 205.404(c) as (d) and add new paragraph (c) on certificate addenda.]</i></p>	<p>In addition to the certificate of organic operation provided for in paragraph(b) of this section, a certifying agent may issue its own addenda to the certificate of organic operation. If issued, any addenda must include:</p> <ol style="list-style-type: none"> (1) Name, address, and contact information for the certified operation; (2) The certified operation's unique ID number/code that corresponds to the certified operation's ID number/code in the Organic Integrity Database; (3) A link to the Organic Integrity Database or a link to the certified operation's profile in the Organic Integrity Database, along with a statement, "You may verify the certification of this operation at the Organic Integrity Database," or a similar statement; (4) Name, address, and contact information of the certifying agent; and (5) "Addendum issue date."

F. Continuation of Certification

Section	Former Text	New Text
205.406(a)	<p>To continue certification, a certified operation must annually pay the certification fees and submit the following information, as applicable, to the certifying agent:</p> <p>(1) An updated organic production or handling system plan which includes:</p> <p>(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</p> <p>(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;</p> <p>(2) Any additions to or deletions from the information required pursuant to §205.401(b);</p> <p>(3) An update on the correction of minor noncompliances previously identified by the certifying agent as requiring correction for continued certification; and</p> <p>(4) Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.</p>	<p>To continue certification, a certified operation must annually pay the certification fees and submit the following information to the certifying agent:</p> <p>(1) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the organic system plan submitted during the previous year;</p> <p>(2) Any additions or deletions to the previous year's organic system plan, intended to be undertaken in the coming year, detailed pursuant to § 205.201;</p> <p>(3) Any additions to or deletions from the information required pursuant to § 205.401(b); and</p> <p>(4) Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.</p>

205.406(b)	<p>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: <i>Except</i>, 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: <i>Provided</i>, 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.</p>	<p>The certifying agent must arrange and conduct an on-site inspection, pursuant to § 205.403, of the certified operation at least once per calendar year.</p>
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G. Paperwork Submissions to the Administrator

Section	Former Text	New Text
205.405(c) (3)	Provide notice of approval or denial to the Administrator, pursuant to §205.501(a)(14).	<i>[Remove former paragraph (c)(3).]</i>

205.501(a) (15)	<p>Submit to the Administrator a copy of:</p> <p>(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</p> <p>(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;</p>	<p>Maintain current and accurate data in the Organic Integrity Database for each operation which it certifies;</p>
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H. Personnel Training and Qualifications

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Certification review.</i> The act of reviewing and evaluating a certified operation or applicant for certification and determining compliance or ability to comply with the USDA organic regulations. This does not include performing an inspection.

<p>205.501(a) (4)</p>	<p>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;</p>	<p>Continuously use a sufficient number of qualified and adequately trained personnel, including inspectors and certification review personnel, to comply with and implement the USDA organic standards.</p> <p>(i) Certifying agents must demonstrate that all inspectors, including staff, volunteers, and contractors, have the relevant knowledge, skills, and experience required to inspect operations of the scope and complexity assigned and to evaluate compliance with the applicable regulations of this part.</p> <p>(A) Certifying agents must demonstrate that inspectors continuously maintain adequate knowledge and skills about the current USDA organic standards, production and handling practices, certification and inspection, import and/or export requirements, traceability audits, mass-balance audits, written and oral communication skills, sample collection, investigation techniques, and preparation of technically accurate inspection documents.</p> <p>(B) All inspectors must demonstrate successful completion of training that is relevant to inspection. Inspectors with less than one year of inspection experience must complete at least 50 hours of training within their first year and prior to performing inspections independently. Inspectors with one or more years of inspection experience must annually complete at least 10 hours of training if inspecting one area of operation (as defined at § 205.2) and an additional 5 hours of training for each additional area of operation inspected.</p> <p>(C) Certifying agents must demonstrate that inspectors have a minimum of 2,000 hours of experience relevant to the scope</p>
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		<p>and complexity of operations they will inspect before assigning initial inspection responsibilities.</p> <p>(ii) Certifying agents must demonstrate that all certification review personnel, including staff, volunteers, or contractors, have the knowledge, skills, and experience required to perform certification review of operations of the scope and complexity assigned and to evaluate compliance with the applicable regulations of this part.</p> <p>(A) Certifying agents must demonstrate that all certification review personnel continuously maintain adequate knowledge and skills in the current USDA organic standards, certification and compliance processes, traceability audits, mass-balance audits, and practices applicable to the type, volume, and range of review activities assigned.</p> <p>(B) All certification review personnel must demonstrate successful completion of training that is relevant to certification review. Certification review personnel with less than one year of certification review experience must complete at least 50 hours of training within their first year performing certification review. Certification review personnel with one or more years of certification review experience must annually complete at least 10 hours of training if conducting certification review related to one area of operation and an additional 5 hours of training for each additional area of operation.</p> <p>(iii) Certifying agents must maintain current training requirements, training procedures, and training records for all inspectors and certification review personnel.</p>
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<p>205.501(a) (5)</p>	<p>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.</p>	<p>Demonstrate that all persons with inspection or certification review responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned. Sufficient expertise must include knowledge of certification to USDA organic standards and evidence of education, training, or professional experience in the fields of agriculture, science, or organic production and handling that relates to assigned duties.</p>
<p>205.501(a) (6)</p>	<p>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;</p>	<p>Conduct an annual performance evaluation of all persons who conduct inspections, certification review, or implement measures to correct any deficiencies in certification services. (i) Witness inspections—Certifying agents must ensure that each inspector is evaluated while performing an inspection at least once every three years, or more frequently if warranted. Inspectors with less than three years of inspection experience must undergo a witness inspection annually. Witness inspections must be performed by certifying agent personnel who are qualified to evaluate inspectors. (ii) Certifying agents must maintain documented policies, procedures, and records for annual performance evaluations and witness inspections.</p>

I. Oversight of Certification Activities

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Certification activity.</i> Any business conducted by a certifying agent, or by a person acting on behalf of a certifying agent, including but not limited to: certification management; administration; application review; inspection planning; inspections; sampling; inspection report review; material review; label review; records retention; compliance review; investigating complaints and taking adverse actions; certification decisions; and issuing transaction certificates.
205.2	<i>[Add new term.]</i>	<i>Certification office.</i> Any site or facility where certification activities are conducted, except for certification activities that occur at certified operations or applicants for certification, such as inspections and sampling.
205.501(a) (22)	<i>[Add new paragraph.]</i>	Notify AMS not later than 90 calendar days after certification activities begin in a new certification office. The notification must include the countries where the certification activities are being provided, the nature of the certification activities, and the qualifications of the personnel providing the certification activities.

205.665(a)	<p>Notification. When an inspection, review, or investigation of an accredited certifying agent by the Program Manager reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certifying agent. Such notification shall provide:</p> <p>(1) A description of each noncompliance;</p> <p>(2) The facts upon which the notification of noncompliance is based; and</p> <p>(3) The date by which the certifying agent must rebut or correct each noncompliance and submit supporting documentation of each correction when correction is possible.</p>	<p>(a) Notification.</p> <p>(1) A written notification of noncompliance will be sent to the certifying agent when:</p> <p>(i) An inspection, review, or investigation of an accredited certifying agent by the Program Manager reveals any noncompliance with the Act or regulations in this part; or</p> <p>(ii) The Program Manager determines that the certification activities of the certifying agent, or any person performing certification activities on behalf of the certifying agent, are not compliant with the Act or the regulations in this part; or</p> <p>(iii) The Program Manager determines that the certification activities at a certification office, and/in specific countries, are not compliant with the Act or the regulations in this part.</p> <p>(2) Such notification must provide:</p> <p>(i) A description of each noncompliance;</p> <p>(ii) The facts upon which the notification of noncompliance is based; and</p> <p>(iii) The date by which the certifying agent must rebut or correct each noncompliance and submit supporting documentation of each correction when correction is possible.</p>
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J. Accepting Foreign Conformity Assessment Systems

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Conformity assessment system.</i> All activities, including oversight, accreditation, compliance review, and enforcement, undertaken by a government to ensure that the applicable technical requirements for the production and handling of organic agricultural products are fully and consistently applied.

205.2	<i>[Add new term.]</i>	<i>Technical requirements.</i> A system of relevant laws, regulations, regulatory practices, standards, policies, and procedures that address the certification, production, and handling of organic agricultural products.
205.500(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.	<i>[Remove; replace with new § 205.511.]</i>
205.511	<i>[Add new § 205.511.]</i>	Accepting foreign conformity assessment systems.
205.511(a)		Foreign product may be certified under the USDA organic regulations by a USDA-accredited certifying agent and imported for sale in the United States. Foreign product that is produced and handled under another country's organic certification program may be sold, labeled, or represented in the United States as organically produced if the U.S. Government determines that such country's organic certification program provides technical requirements and a conformity assessment system governing the production and handling of such products that are at least equivalent to the requirements of the Act and the regulations in this part.

205.511(b)		<p>Countries desiring to establish eligibility of product certified under that country’s organic certification program to be sold, labeled, or represented in the United States as organically produced may request equivalence determinations from AMS. A foreign government must maintain compliance and enforcement mechanisms to ensure that its organic certification program is fully meeting the terms and conditions of any equivalence determination provided by the U.S. Government pursuant to this section. To request an equivalence determination, the requesting country must submit documentation that fully describes its technical requirements and conformity assessment system. If the U.S. Government determines it can proceed, AMS will assess the country’s organic certification program to evaluate if it is equivalent.</p>
205.511(c)		<p>AMS will describe the scope of an equivalence determination.</p>

205.511(d)		AMS will conduct regular reviews and reassessments of countries deemed equivalent to verify that the foreign government’s technical requirements and conformity assessment system continue to be at least equivalent to the requirements of the Act and the regulations of this part, and will determine if the equivalence determination should be continued, amended, or terminated. AMS will determine the timing and scope of reviews and re-assessments based on, but not limited to, factors such as: the terms of the equivalence determination, changes to the foreign country’s technical requirements or conformity assessment system, the results of previous reviews and re-assessments, instances of suspected or verified noncompliance issues, the volume of trade, and other factors contributing to the risk level of the equivalence determination.
205.511(e)		The U.S. Government may terminate an equivalence determination if the terms or conditions established under the equivalence determination are not met; if AMS determines that the country’s technical requirements and/or conformity assessment program are no longer equivalent; if AMS determines that the foreign government’s organic control system is inadequate to ensure that the country’s organic certification program is fully meeting the terms and conditions under the equivalence determination; or for other good cause.

K. Compliance and Noncompliance Procedures

Section	Former Text	New Text
205.660(c)	<i>[Redesignate § 205.660(c) and (d) as (d) and (e); add new paragraph (c).]</i>	The Program Manager may initiate enforcement action against any person who sells, labels, or provides other market information concerning an agricultural product if such label or information implies that such product is produced or handled using organic methods, if the product was produced or handled in violation of the Organic Foods Production Act or the regulations in this part.
205.661	Investigation of certified operations.	Investigation.
205.100(c)	Any operation that:	Any person or responsibly connected person that:
205.662(e) (3)	<i>[Add new section.]</i>	Within 3 business days of issuing a notification of suspension or revocation, or the effective date of an operation’s surrender, the certifying agent must update the operation’s status in the Organic Integrity Database.
205.662(f) (1)	A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. 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 certified operation or a person responsibly connected with an operation whose certification has been suspended may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification, or submit a request for eligibility to be certified. 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.
205.662(g) (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.	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 7 CFR 3.91(b)(1)(xxxvi) per violation.

L. Mediation

Section	Former Text	New Text
205.504	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 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 through 205.663; and its ability to comply with the requirements for accreditation set forth in § 205.501:
205.504 (b)(8)	<i>[Add new paragraph.]</i>	<i>Administrative policies and procedures. (8) A copy of reasonable decision criteria for acceptance of mediation, and a process for identifying personnel conducting mediation and setting up mediation.</i>



205.663	<p>Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this part may be mediated at the request of the applicant for certification or certified operation and with acceptance by the certifying agent. Mediation shall be requested in writing to the applicable certifying agent. If the certifying agent rejects the request for mediation, the certifying agent shall provide written notification to the applicant for certification or certified operation. The written notification shall advise the applicant for certification or certified operation of the right to request an appeal, pursuant to §205.681, within 30 days of the date of the written notification of rejection of the request for mediation. If mediation is accepted by the certifying agent, such mediation shall be conducted by a qualified mediator mutually agreed upon by the parties to the mediation. If a State organic program is in effect, the mediation procedures established in the State organic program, as approved by the Secretary, will be followed. The parties to the mediation shall have no more than 30 days to reach an agreement following a mediation session. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 days from termination of mediation to appeal the certifying agent's decision pursuant to §205.681. Any agreement reached during or as a result of the mediation process shall be in compliance with the Act and the regulations in this part. The Secretary may review any mediated agreement for conformity to the Act and the regulations in this part and may reject any agreement or provision not in conformance with the Act or the regulations in this part.</p>	<p>(a) A certifying agent must submit with its administrative policies and procedures: decision criteria for acceptance of mediation, and a process for identifying personnel conducting mediation and setting up mediation sessions per § 205.504(b)(8).</p> <p>(b) A certified operation or applicant for certification may request mediation to resolve a denial of certification or proposed suspension or proposed revocation of certification issued by a certifying agent or State organic program.</p> <p>(1) A certified operation or applicant for certification must submit any request for mediation in writing to the applicable certifying agent or State organic program within 30 calendar days of receipt of the notice of proposed suspension or proposed revocation of certification or denial of certification.</p> <p>(2) A certifying agent or State organic program may accept or reject a request for mediation based the decision criteria required in paragraph (a) of this section. Certifying agents must document these criteria—and how the certifying agent applied the criteria to the request.</p> <p>(3) If a certifying agent rejects a mediation request, it must provide this rejection, and the justification for the rejection, in writing to the applicant for certification or certified operation. The rejection must include the right to request an appeal, pursuant to § 205.681, within 30 calendar days of the date of receipt of the written notification of rejection of the request for mediation.</p> <p>(4) When an operation appeals a rejection of mediation, the adverse action which is contested must not be finalized during the appeal proceeding.</p>
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		<p>(c) Both parties must agree on the person conducting the mediation.</p> <p>(d) If a State organic program is in effect, the parties must follow the mediation procedures established in the State organic program and approved by the Secretary.</p> <p>(e) The parties to the mediation have a maximum of 30 calendar days to reach an agreement from the start of mediation. Successful mediation results in a settlement agreement agreed to in writing by both the certifying agent and the certified operation. If mediation is unsuccessful, the applicant for certification or certified operation has 30 calendar days from receipt of a written notice of termination of mediation to appeal the denial of certification or proposed suspension or revocation pursuant to § 205.681.</p> <p>(f) Any settlement agreement reached through mediation must comply with the Act and the regulations in this part. The Program Manager may review any mediated settlement agreement for conformity to the Act and the regulations in this part and may reject any agreement or provision not in conformance with the Act or the regulations in this part.</p> <p>(g) The Program Manager may propose mediation and enter into a settlement agreement at any time to resolve any adverse action notice.</p>
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M. Adverse Action Appeal Process

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Adverse action.</i> A noncompliance decision that adversely affects certification, accreditation, or a person subject to the Act, including a proposed suspension or revocation; a denial of certification, accreditation, or reinstatement; a cease and desist notice; or a civil penalty.
205.680 (a)	Persons subject to the Act who believe they are adversely affected by a noncompliance decision of the National Organic Program's Program Manager may appeal such decision to the Administrator.	Persons subject to the Act who believe they are adversely affected by an adverse action of the National Organic Program's Program Manager may appeal such decision to the Administrator.
205.680 (b)	Persons subject to the Act who believe that they are adversely affected by a noncompliance decision of a State organic program may appeal such decision to the State organic program's governing State official who will initiate handling of the appeal pursuant to appeal procedures approved by the Secretary.	Persons subject to the Act who believe they are adversely affected by an adverse action of a State organic program may appeal such decision to the State organic program's governing State official who will initiate handling of the appeal pursuant to appeal procedures approved by the Secretary.
205.680 (c)	Persons subject to the Act who believe that they are adversely affected by a noncompliance decision of a certifying agent may appeal such decision to the Administrator, <i>Except</i> , That, when the person is subject to an approved State organic program, the appeal must be made to the State organic program.	Persons subject to the Act who believe they are adversely affected by an adverse action of a certifying agent may appeal such decision to the Administrator, <i>Except</i> , that, when the person is subject to an approved State organic program, the appeal must be made to the State organic program.
205.680 (d)	All written communications between parties involved in appeal proceedings must be sent to the recipient's place of business by a delivery service which provides dated return receipts. <i>[Redesignate as § 205.680(f); add new paragraph (d) on mediation.]</i>	Persons subject to the Act who believe they are adversely affected by an adverse action of a certifying agent or a State organic program may request mediation as provided in § 205.663.



205.680 (e)	All appeals shall be reviewed, heard, and decided by persons not involved with the decision being appealed. <i>[Redesignate as § 205.680(g); add new paragraph (e) on procedure.]</i>	All appeals must comply with the procedural requirements in § 205.681(c) and (d).
205.680 (f)	<i>[Formerly paragraph (d).]</i>	All written communications between parties involved in appeal proceedings must be sent to the recipient's place of business by a delivery service which provides dated return receipts.
205.680 (g)	<i>[Modify former paragraph (e).]</i>	All appeals must be reviewed, heard, and decided by persons not involved with the adverse action being appealed.
205.681 (a)	<i>Certification appeals.</i> An applicant for certification may appeal a certifying agent's notice of denial of certification, and a certified operation may appeal a certifying agent's notification of proposed suspension or revocation of certification to the Administrator, <i>Except</i> , That, when the applicant or certified operation is subject to an approved State organic program the appeal must be made to the State organic program which will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.	<i>Adverse actions by certifying agents.</i> An applicant for certification may appeal a certifying agent's notice of denial of certification, and a certified operation may appeal a certifying agent's notification of proposed suspension or proposed revocation of certification to the Administrator, <i>Except</i> , that, when the applicant or certified operation is subject to an approved State organic program, the appeal must be made to the State organic program which will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.
205.681 (a)(2)	If the Administrator or State organic program denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR part 1, subpart H, or the State organic program's rules of procedure.	If the Administrator or State organic program denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification unless the parties resolve the issues through settlement, or the appellant does not timely request a hearing. Such proceeding must be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR part 1, subpart H, or the State organic program's rules of procedure.



205.681 (b)	<p><i>Accreditation appeals.</i> An applicant for accreditation and an accredited certifying agent may appeal the Program Manager's denial of accreditation or proposed suspension or revocation of accreditation to the Administrator.</p> <p>(1) If the Administrator sustains an appeal, an applicant will be issued accreditation, or a certifying agent will continue its accreditation, as applicable to the operation.</p> <p>(2) If the Administrator denies an appeal, a formal administrative proceeding to deny, suspend, or revoke the accreditation will be initiated. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR part 1, Subpart H.</p>	<p><i>Adverse actions by the NOP Program Manager.</i> A person affected by an adverse action, as defined by § 205.2, issued by the NOP Program Manager, may appeal to the Administrator.</p> <p>(1) If the Administrator sustains an appeal, an applicant will be issued accreditation, a certifying agent will continue its accreditation, or an operation will continue its certification, a civil penalty will be withdrawn and a cease-and-desist notice will be withdrawn, as applicable to the operation.</p> <p>(2) If the Administrator denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the accreditation or certification and/or levy civil penalties unless the parties resolve the issues through settlement, the appellant waives a hearing, or the appellant does not timely request a hearing. Such proceeding must be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR part 1, subpart H.</p>
205.681 (c)	<p><i>Filing period.</i> An appeal of a noncompliance decision must be filed within the time period provided in the letter of notification or within 30 days from receipt of the notification, whichever occurs later. The appeal will be considered "filed" on the date received by the Administrator or by the State organic program. A decision to deny, suspend, or revoke certification or accreditation will become final and nonappealable unless the decision is appealed in a timely manner.</p>	<p><i>Filing period.</i> An appeal must be filed in writing within the time period provided in the letter of notification or within 30 days from receipt of the notification, whichever occurs later. The appeal will be considered "filed" on the date received by the Administrator or by the State organic program. An adverse action will become final and nonappealable unless an appeal is timely filed.</p>
205.681 (d)(1)	<p>Appeals to the Administrator must be filed in writing and addressed to: Administrator, USDA, AMS, c/o NOP Appeals Team, 1400 Independence Avenue SW., Room 2648-So., Stop 0268, Washington, DC 20250-0268.</p>	<p>Appeals to the Administrator and Requests for Hearing must be filed in writing and addressed to: 1400 Independence Ave., S.W., Room 2642, Stop 0268, Washington, D.C. 20250, or electronic transmission, NOPAppeals@usda.gov.</p>

205.681 (d)(3)	All appeals must include a copy of the adverse decision and a statement of the appellant's reasons for believing that the decision was not proper or made in accordance with applicable program regulations, policies, or procedures.	All appeals must include a copy of the adverse action and a statement of the appellant's reasons for believing that the action was not proper or made in accordance with applicable program regulations.
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N. Producer Group Operations

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Producer group member.</i> An individual engaged in the activity of producing or harvesting agricultural products as a member of a producer group operation.
205.2	<i>[Add new term.]</i>	<i>Producer group operation.</i> A producer, organized as a person, consisting of producer group members and production units in geographic proximity governed by an internal control system under one organic system plan and certification.
205.2	<i>[Add new term.]</i>	<i>Producer group production unit.</i> A defined subgroup of producer group members in geographic proximity within a single producer group operation that use shared practices and resources to produce similar agricultural products.
205.2	<i>[Add new term.]</i>	<i>Internal control system.</i> An internal quality management system that establishes and governs the review, monitoring, training, and inspection of the producer group operation, and the procurement and distribution of shared production and handling inputs and resources, to maintain compliance with the USDA organic regulations.

205.201(c)	<i>[Add new paragraph describing internal control systems.]</i>	<p>In addition to paragraph (a) of this section, a producer group operation’s organic system plan must describe its internal control system. The description of the internal control system must:</p> <ol style="list-style-type: none"> (1) Define the organizational structure, roles, qualifications, and responsibilities of all personnel; (2) Identify producer group production units and locations; (3) Describe measures to protect against potential conflicts of interest and protect internal control system personnel from retribution; (4) Define geographic proximity criteria for producer group members and producer group production units; (5) Describe procedures for accepting new members into the producer group operation, including initial inspection and compliance determination; (6) Describe characteristics of high-risk producer group members and producer group production units; (7) Describe how shared resources, including production practices and inputs, are procured and provided to all producer group members and personnel; (8) Describe how training, education, and technical assistance is provided to producer group members and internal control system personnel; (9) Describe the system of records used to demonstrate compliance with this part, including traceability and mass-balance audits; and (10) Describe how internal monitoring, surveillance, inspection, sanctions, and auditing are used to assess the compliance of all producer group members.
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<p>205.400(g)</p>	<p><i>[Add new paragraph describing eligibility criteria.]</i></p>	<p>In addition to paragraphs (a) through (f) of this section, a producer group operation must:</p> <ol style="list-style-type: none"> (1) Be organized as a person; (2) Use centralized processing, distribution, and marketing facilities and systems; (3) Be organized into producer group production units; (4) Maintain an internal control system to implement the practices described in § 205.201(c) and ensure compliance with this part; (5) Ensure that all agricultural products sold, labeled, or represented as organic are produced only by producer group members using land and facilities within the certified operation; (6) Ensure that producer group members do not sell, label, or represent their agricultural products as organic outside of the producer group operation unless they are individually certified; (7) Report to the certifying agent, at least annually, the name and location of all producer group members and producer group production units, the agricultural products produced, estimated yields, and size of production areas; (8) Conduct internal inspections of each producer group member, at least annually, by internal inspectors with the member present, which must include mass-balance audits and reconciliation of each producer group member's and each producer group production unit's yield and group sales; (9) Implement recordkeeping requirements to ensure traceability from production at each producer group member and production unit through handling to sale and transport;
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		<p>(10) Implement procedures to ensure all production and handling by the producer group operation is compliant with the USDA organic regulations and the Act; and</p> <p>(11) Address any other terms or conditions determined by the Administrator to be necessary to enforce compliance with the USDA organic regulations and the Act.</p>
<p>205.403(a) (2)</p>	<p><i>[Redesignate as § 205.403(a)(2) as (3); add new paragraph describing inspection of producer groups.]</i></p>	<p>Inspections of a producer group operation must:</p> <p>(i) Assess the internal control system’s compliance, or ability to comply, with the requirements of § 205.400(g)(8). This must include review of the internal inspections conducted by the internal control system.</p> <p>(ii) Conduct witness audits of internal control system inspectors performing inspections of the producer group operation.</p> <p>(iii) Individually inspect at least 1.4 times the square root or 2% of the total number of producer group members, whichever is higher. All producer group members determined to be high risk by the certifying agent must be inspected. At least one producer group member in each producer group production unit must be inspected.</p> <p>(iv) Inspect each handling facility.</p>

O. Calculating the Percentage of Organically Produced Ingredients

Section	Former Text	New Text
<p>205.302(a) (1)</p>	<p>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.</p>	<p>Dividing the total net weight of the combined organic ingredients at formulation by the total weight of all ingredients of the product at formulation. Water and salt added as ingredients at formulation are excluded from the calculation.</p>

205.302(a) (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.	Dividing the total fluid volume of the combined organic ingredients at formulation by the total fluid volume of all ingredients of the product at formulation if the product and ingredients are liquid. Water and salt added as ingredients at formulation are excluded from the calculation. If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation should be made based on single-strength concentrations of all ingredients.
205.302(a) (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.	For products containing organically produced ingredients in both solid and liquid form, dividing the combined net weight of the solid organic ingredients and the net weight of the liquid organic ingredients at formulation by the total weight of all ingredients of the product at formulation. Water and salt added as ingredients at formulation are excluded from the calculation.

P. Supply Chain Traceability and Organic Fraud Prevention

Section	Former Text	New Text
205.2	<i>[Add new term.]</i>	<i>Organic fraud.</i> Deceptive representation, sale, or labeling of nonorganic agricultural products or ingredients as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”
205.2	<i>[Add new term.]</i>	<i>Supply chain traceability audit.</i> The process of identifying and tracking the movement, sale, custody, handling, and organic status of an agricultural product along a supply chain to verify the agricultural product’s compliance with this part.

205.103(b) (2)	Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;	Fully disclose all activities and transactions of the certified operation, in sufficient detail as to be readily understood and audited; records must span the time of purchase or acquisition, through production, to sale or transport and be traceable back to the last certified operation;
205.103(b) (3)	<i>[Redesignate § 205.103(b)(3) and (4) as (4) and (5); add new paragraph (3).]</i>	Include audit trail documentation for agricultural products handled or produced by the certified operation and identify agricultural products on these records as “100% organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” or similar terms, as applicable;
205.201(a) (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;	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. This must include a description of the monitoring practices and procedures to verify suppliers in the supply chain and organic status of agricultural products received, and to prevent organic fraud, as appropriate to the certified operation’s activities, scope, and complexity;

<p>205.501(a) (10)</p>	<p>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);</p>	<p>Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (except for 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:</p> <ul style="list-style-type: none"> (i) For information that must be made available to any member of the public, as provided for in § 205.504(b)(5); (ii) For enforcement purposes, certifying agents must exchange any compliance-related information that is credibly needed to certify, decertify, or investigate an operation, including for the purpose of verifying supply chain traceability and audit trail documentation; and (iii) If a certified operation's proprietary business information is compliance-related and thus credibly needed to certify, decertify, or investigate that operation, certifying agents may exchange that information for the purposes of enforcing the Act, but the information in question still retains its proprietary character even after it is exchanged and all of the certifying agents that are involved in the exchange still have a duty to preserve the confidentiality of that information after the exchange.
<p>205.501(a) (13)</p>	<p>Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500;</p>	<p>Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to § 205.500. Certifying agents must provide information to other certifying agents to ensure organic integrity or to enforce organic regulations, including to verify supply chain integrity, authenticate the organic status of certified products, and conduct investigations;</p>

205.501(a)(21)	Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary. <i>[Redesignate as § 205.501(a)(23); add new paragraph (21)]</i>	Conduct risk-based supply chain traceability audits as described in the criteria and procedures for supply chain audits, per § 205.504(b)(7), and share audit findings with other certifying agents as needed to determine compliance, per paragraph (a)(13) of this section.
205.504(b)(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);	A copy of the procedures to be used for sharing information with other certifying agents and for maintaining the confidentiality of any business-related information as set forth in § 205.501(a)(10);
205.504(b)(7)	<i>[Add new paragraph.]</i>	A copy of the criteria to identify high-risk operations and agricultural products for supply chain traceability audits; and procedures to conduct risk-based supply chain traceability audits, as required in § 205.501(a)(21); and procedures to report credible evidence of organic fraud to the Administrator.

Q. Technical Corrections

Section	Former Text	New Text
205.301(f)(2)	Be produced using ionizing radiation, pursuant to §205.105(f);	Be processed using ionizing radiation, pursuant to § 205.105(f);
205.301(f)(3)	Be processed using sewage sludge, pursuant to §205.105(g);	Be produced using sewage sludge, pursuant to § 205.105(g);
205.400(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;	Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in § 205.201;
205.401(a)	An organic production or handling system plan, as required in §205.200;	An organic production or handling system plan, as required in § 205.201;