

Agricultural Marketing Service, USDA

§ 205.662

certification to pay at the time of application a nonrefundable fee which shall be applied to the applicant's fees-for-service account. The certifying agent may set the nonrefundable portion of certification fees; however, the nonrefundable portion of certification fees must be explained in the fee schedule submitted to the Administrator. The fee schedule must explain what fee amounts are nonrefundable and at what stage during the certification process fees become nonrefundable. The certifying agent shall provide all persons inquiring about the application process with a copy of its fee schedule.

§§ 205.643–205.649 [Reserved]

COMPLIANCE

§ 205.660 General.

(a) The National Organic Program's Program Manager, on behalf of the Secretary, may inspect and review certified production and handling operations and accredited certifying agents for compliance with the Act or regulations in this part.

(b) The Program Manager may initiate suspension or revocation proceedings against a certified operation:

(1) When the Program Manager has reason to believe that a certified operation has violated or is not in compliance with the Act or regulations in this part; or

(2) When a certifying agent or a State organic program's governing State official fails to take appropriate action to enforce the Act or regulations in this part.

(c) 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.

(d) The Program Manager may initiate suspension or revocation of a certifying agent's accreditation if the certifying agent fails to meet, conduct, or maintain accreditation requirements pursuant to the Act or this part.

(e) Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed suspension or revocation, and suspension or revocation issued pursuant to §§ 205.662, 205.663, and 205.665 and each response to such notification must be sent to the recipient's place of business via a delivery service which provides dated return receipts.

[65 FR 80637, Dec. 21, 2000, as amended at 88 FR 3625, Jan. 19, 2023]

§ 205.661 Investigation.

(a) A certifying agent may investigate complaints of noncompliance with the Act or regulations of this part concerning production and handling operations certified as organic by the certifying agent. A certifying agent must notify the Program Manager of all compliance proceedings and actions taken pursuant to this part.

(b) A State organic program's governing State official may investigate complaints of noncompliance with the Act or regulations in this part concerning organic production or handling operations operating in the State.

§ 205.662 Noncompliance procedure for certified operations.

(a) *Notification.* When an inspection, review, or investigation of a certified operation by a certifying agent or a State organic program's governing State official reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certified operation. Such notification shall provide:

(1) A description of each noncompliance;

(2) The facts upon which the notification of noncompliance is based; and

(3) The date by which the certified operation must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(b) *Resolution.* When a certified operation demonstrates that each noncompliance has been resolved, the certifying agent or the State organic program's governing State official, as applicable, shall send the certified operation a written notification of noncompliance resolution.