

# State Organic Program Approval Procedures

## 2.01 Scope

The U.S. Department of Agriculture (USDA) uses the following procedures to evaluate proposed State Organic Programs (SOPs) and subsequent amendments. These procedures are published on the National Organic Program (NOP) website to facilitate the development and submission of proposed SOPs. These procedures contain:

- Instructions for requesting USDA approval;
- Instructions for USDA review, evaluation, and decision;
- Sample correspondence; and
- Review and evaluation checklists.

SOPs are intended to provide States with the authority to enforce the production and handling requirements of the National Organic Standards (NOS) within the State. Under certain conditions States may also request approval for more restrictive production and handling requirements.

## 2.02 Statutory and Regulatory Authority

The Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*) authorizes a State at Section 6507(a) to submit for the Secretary's approval a plan for establishing an SOP. Sections 205.620 through 205.622, 205.661 through 205.663, 205.668, 205.680, and 205.681 of the NOS (7 CFR 205.620-.622, 205.661-.663, 205.668, and 205.680-.681) implement the SOP requirements of OFPA.

## 2.03 Requesting Approval

Prior to implementation of an SOP, the State must receive USDA approval. To request approval a State must submit its proposed SOP to:

Program Manager  
USDA-AMS-TM-NOP  
Room 4008-South Building, AG Stop 0268  
1400 Independence Avenue, SW  
Washington, DC 20250-0200

The proposal must contain a:

1. Cover letter —
  - a. Addressed to the NOP Program Manager;
  - b. Signed by the governing State official requesting approval;
  - c. Providing the name, address, e-mail, and telephone and fax numbers of the designated contact person;
  - d. Stating whether the proposed SOP includes more restrictive requirements; and
  - e. Including an affirmation that the State will carry out the provisions of its approved SOP and request approval of any future amendment(s) to the SOP prior to implementing any such amendment(s).

2. Detailed description and justification for more restrictive requirements.
3. Copy of the State's procedures for noncompliance enforcement of the SOP, as required by NOS Sections 205.661(b), 205.662, 205.668(a), and 205.668(c).
4. Copy of the State's mediation procedures, as required by NOS Section 205.663.
5. Copy of the State's procedures for handling appeals of noncompliance enforcement actions by the State and accredited certifying agents operating within the State, as required by NOS Sections 205.668(b), 205.680, and 205.681.

Prior to implementing an amendment to an approved SOP the State must receive USDA approval. To request approval of an amendment, see section 2.08 below.

#### **2.04 SOP Review and Evaluation**

**SOP Review.** Upon receipt of a request for approval of an SOP, NOP will:

1. Assign a reference number to the request. The reference number is the State's two-letter postal designation and numeric date of receipt. For example, a request from Illinois received July 22, 2002, would be assigned the reference number IL-07.22.02.
2. Send a letter acknowledging receipt of the request to the designated contact person. (See [Attachment 1.](#))
3. Review the proposal for the presence of the following items, required under section 2.03 above:
  - a. Cover letter with required information;
  - b. Documentation describing and justifying more restrictive requirements;
  - c. Enforcement procedures;
  - d. Mediation procedures; and
  - e. Appeal procedures.
4. Send a letter, if necessary, to the designated contact person requesting missing or incomplete information. (See [Attachment 2.](#)) When the missing or incomplete information is received, NOP will notify the designated contact person of its receipt. (See [Attachment 3.](#))

**SOP Evaluation.** The following criteria must be met for SOP approval.

1. Affirmation that the State will carry out the provisions of its approved SOP and request approval of any future amendment(s) to the SOP prior to implementing any such amendment(s).
2. More restrictive requirements must address environmental conditions or specific production and handling practices particular to the State.
3. Documentation must support the need for the more restrictive requirement(s).

4. More restrictive requirements must be limited to use within the State's jurisdiction and must not discriminate against organic products produced in other States.

5. Noncompliance procedures must meet the requirements of the NOS, Sections 205.661(b), 205.662, 205.668 (a), and 205.668 (c).

6. Mediation procedures must meet the requirements of the NOS, Section 205.663.

7. Appeal procedures must meet the requirements of the NOS, Sections 205.668 (b), 205.680, and 205.681.

For copies of the Review and Evaluation Checklists, see [Attachment 4](#) and [Attachment 5](#).

## **2.05 Decision**

All decisions on approval or disapproval of an SOP are based on the recommendation of the NOP Program Manager to the AMS Administrator. The basis for the recommendation to approve or disapprove will be based on compliance with the requirements of Sections 205.620 through 205.622, 205.661 through 205.663, 205.668, and 205.680 and 205.681 of the NOS (7 CFR 205.620-.622, 205.661-.663, 205.668, and 205.680-.681).

A decision to approve or disapprove an SOP will be rendered within 6 months of receiving the request for approval. The actual time may exceed 6 months if additional information or changes to the proposed SOP are required.

## **2.06 Notification of Approval or Disapproval**

When approved, the AMS Administrator will send a letter of approval to the designated contact person. The letter will:

1. Identify the effective date of the approval; and
2. Acknowledge the State's affirmation that it will carry out the provisions of its approved SOP and request approval of any future amendment(s) to the SOP prior to implementing any such amendment(s). (See [Attachment 6](#).)

When disapproved, the AMS Administrator will send a letter of disapproval to the designated contact person. The letter will:

1. Identify the reason(s) for disapproval; and
2. Inform the designated contact person that the State may resubmit its request after resolution of the reason(s) for disapproval. (See [Attachment 7](#).)

## **2.07 Review of Approved SOPs**

The NOP or its contractor will perform an on-site review of the approved SOP at least once during each 5-year period. The NOP Program Manager will collaborate with the designated

contact person to schedule the review. On-site reviews will be conducted for the purpose of examining the State's compliance with its approved SOP. The NOP will issue a report to the designated State official detailing the findings of the review and identifying actions to be taken by the State to maintain its approval.

### **2.08 Amending an Approved SOP**

Prior to amending an approved SOP the State must receive USDA approval. To request approval, the State must submit its proposed amendment to the NOP Program Manager at the address shown in section 2.03 of this document. The request must:

1. Provide a detailed description and justification for the amendment;
2. Identify the placement of the amendment; and
3. Include the actual language of the amendment.

**March 11, 2002**