

## Brief Information NOP

### 1. What is NOP?

The National Organic Program (NOP) is part of the US Department of Agriculture (USDA). The National Organic Standard came into force in 2002. You find the standard at [http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=3f34f4c22f9aa8e6d9864cc2683cea02&tpl=/ecfrbrowse/Title07/7cfr205\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=3f34f4c22f9aa8e6d9864cc2683cea02&tpl=/ecfrbrowse/Title07/7cfr205_main_02.tpl)

### 2. Who needs to be NOP certified?

Any grower or handler who wants to sell organic products on the US market must be certified according to NOP by a USDA accredited certifier. Also suppliers of organic ingredients must be NOP certified. Exemptions:

- Smallholders with less than 5,000 USD annual turnover from organic sales, who sell their products directly to the consumer (this is not relevant for producers outside the USA).
- Retailers
- Operations, which handle agricultural products containing less than 70% of organic ingredients, or only identify some organic ingredients on the information panel.
- Products from the three types of companies listed above cannot be used as organic ingredients in NOP certified processed food.
- Operations which only handle packaged organic food (§ 205.101).
- For the exemptions under the EU-NOP equivalence agreement, please see Section 9.

### 3. Some general differences between NOP and the EU Regulation on organic farming (and other organic standards)

- ✓ NOP gives high priority to the organic farm's or company's own responsibility: In an organic management plan (called by NOP "Organic System Plan") the operator describes and defines procedures to assure the organic integrity (§ 205.201). As a first step the certifier verifies whether these procedures are compliant with NOP.
- ✓ The scope of certification for processed products is not limited to food. Also e.g. personal care products or textiles can be NOP certified, provided that all ingredients and processing aids comply with the rule.
- ✓ The term "conversion" or "transition" does not exist in NOP. Farm management prior to organic certification is treated under "Land requirements" (§ 205.202). Land to be certified according to NOP must be managed according to the standard, and must not have received prohibited substances (synthetic fertilizers and pesticides, sewage sludge) during 3 years before the first organic harvest. Conversion period needs not be supervised by a certifier (see also our "Brief Information Crops").
- ✓ NOP is very strict concerning treatment of animal manure (§ 205.203). Manure must be subject to composting at high temperature during at least 2 weeks, during which the material must be turned a minimum of five times. Raw manure may be applied only 4 months before harvest (in case there is a possible contact with the edible part of the plant), or 3 months (if there is no contact risk with the edible part).
- ✓ NOP requires "buffer zones" between organic and conventional fields, whenever there is a risk of contact with prohibited substances (pesticides, fertilisers) (§ 205.202). CERES, however, applies this rule also for EU certification (see our "Policy on Buffer Zones").
- ✓ Rules for organic livestock production (§ 205.236 through 205.239) are strict, allowing only organic feed, and restricting purchase of conventional animals. After allopathic veterinary treatments, animals and their products can no longer be considered organic for their remaining life period. On the other side, rules for livestock housing and living conditions are much less detailed than, e.g., in the EU Regulation (see also our "Brief Information Livestock").
- ✓ Labelling requirements for multi-ingredient food products are somehow different from the EU Regulation and JAS. There are four categories. The first one, "100% organic", is for non-processed Agricultural products or processed products for which only NOP certified ingredients have been used. (See § 205.300 through 205.305, see below N° 4, and also our "Brief Information Processing").
- ✓ Use of inputs, additives, aids, and ingredients is regulated by "The National List of Allowed and Prohibited Substances", for crop and livestock production, handling and storage (§ 205.600 through 205.

606). For fertilizers and plant protection products, the general rationale is:


- Nonsynthetic substances are allowed, unless they are prohibited
- Synthetic substances are prohibited, unless they are explicitly allowed.
- ✓ Special attention has to be drawn to the fact that for plant protection substances used in organic farming, not only the active ingredient, but also all inert ingredients have to be qualified as “of minimal concern” according to the list N° 4 of the US-Environmental Protection Agency (see the list under: [http://www.epa.gov/opprd001/inerts/section25b\\_inerts.pdf](http://www.epa.gov/opprd001/inerts/section25b_inerts.pdf)).
- ✓ Also for other materials used in organic farming or food processing (e.g. commercial fertilizers or food processing aids), the producer is obliged to always provide complete information about the composition of the respective material, including preservatives, carriers, solvents, and any kind of additional substances which the material may contain for whatever purpose, so that the certifier can assess compliance of such materials.
- ✓ Guidelines for smallholder group certification are given in a recommendation published by the National Organic Standard Board (NOSB) in 2002 (<http://www.ams.usda.gov/nosb/FinalRecommendations/Oct02/GrowerGroups.pdf>)

#### 4. Labelling requirements

	100% Organic	Organic	Made with Organic	Less than 70% of organic ingredients
<b>Minimum organic ingredients</b>	100%	95%	70%; not more than 3 organic ingredients or ingredient groups may be displayed on the label	No minimum
<b>Non organic agricultural ingredients allowed</b>	None	Max 5%, only those listed in § 205.606 produced without help of GMO, ionizing radiation and sewage sludge		No restriction
<b>Non-agricultural ingredients, additives and processing aids</b>	Only if NOP certified!	Only those listed in § 205.605 produced without help of GMO	Only those listed in § 205.605	No restriction
<b>Labelling compulsory</b>	“Certified organic by ....”	“Certified organic by ....” and identification of each organic ingredient in the ingredient statement	Made with organic (specified ingredients) “Certified organic by ....” and identification of each organic ingredient in the ingredient statement	No reference to organic in principal display panel
<b>Labelling voluntary</b>	Product name may be modified	Product name may be modified	“Made with organic XX” may be mentioned on information panel, without modifying the product name	Reference to organic only in the ingredient list possible
<b>Example</b>	<b>100% Organic Apples</b>	<b>Organic Apple Juice</b>  Ingredients: • Organic apple concentrate ( <i>in this example, concentrate is produced with the help of enzymes, therefore the juice loses its 100% organic status</i> ) • Water	<b>Multifruit Juice</b> Made with organic apples and mangos  Ingredients: • Organic Apples 50% • Organic Mangos 25% • Cherries 10% • Bananas 10% • Peaches 5%	<b>Multifruit Juice</b>  Ingredients: • Organic Apples 50% • Mangos 25% • Cherries 10% • Bananas 10% • Peaches 5%
<b>Certifier seal</b>	Can be used	Can be used	Can be used	Not allowed
<b>USDA seal</b>	Can be used	Can be used	Not allowed	Not allowed
<b>For feed</b>	Allowed	Allowed	Not allowed	

- ✓ Besides other information required by general labelling regulations, **below** the name of the producer, handler or distributor, the label must contain the certifier's name or logo (“Certified organic by: CERES GmbH”).
- ✓ The certifier's logo may not be larger in size than the USDA seal.



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- ✓ When using the USDA seal, details described in § 205.311 must be respected.
- ✓ Use of the USDA seal is voluntary.
- ✓ Any retail label must be submitted to the certification agency for approval, before being used!

## 5. Special Issues of the NOP Certification Procedure

- ✓ For general information on the certification process, please see our "Brief Info Steps to Organic Certification"
- ✓ The Organic Management Plan (OMP) has to be submitted and reviewed before the onsite inspection takes place. It has to be updated and reviewed annually.
- ✓ Any changes in the Organic Management Plan related e.g. to: new production sites or fields, new crops, new fertilizers or pesticides, new suppliers of raw material, new recipes in food processing, or new labels, have to be submitted to the certifying agent for approval, before using them in practice!
- ✓ The NOP draws special attention to the fact that operators get a receipt for samples which may be taken, and that he/she is immediately informed about testing results.
- ✓ NOP certificates are valid until being revoked, suspended, or surrendered. If an operation wants to discontinue (temporarily or definitely) with NOP certification, it should formally "surrender" the NOP certification. Otherwise, CERES has to "suspend" it. Suspended certifications can only be re-instated by the USDA, not by a certification body.
- ✓ After a "proposed suspension" or "proposed revocation", the client has 30 days for either arriving at a "settlement agreement" with the certifier (with or without mediation from a third party), or presenting an appeal to the USDA, before the suspension or revocation becomes effective.
- ✓ To make sure that only valid NOP certificates are used, surrenders, suspensions and revocations are published at <https://apps.ams.usda.gov/integrity/>.
- ✓ Applicants can withdraw their application at any time. They will be liable for the costs of services provided up to the moment of withdrawal (§ 205.402 c).

## 6. Complaints, Penalties (§205.662)

**Re-instatement of suspended certifications:** Any operator whose certification has been suspended by CERES may submit a request to the US Secretary of Agriculture for reinstatement of his/her certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with NOP, including a confirmation by an accredited certifier.

**Complaints:** Complaints related to the certifier have to be addressed in writing to the Agricultural Marketing Service (AMS) of the USDA. For further details on complaints, please see § 205.680 and 205.68.

**Penalties:** According to §205.662, a certified operation or a person responsibly connected with an operation whose certification has been revoked will be ineligible to receive certification for a period of 5 years following the date of such revocation, except, that, the Secretary may reduce or eliminate the period of ineligibility.

In addition to suspension or revocation, any certified operation that:

- (1) Knowingly sells or labels a product as organic, which is not in accordance with the NOP requirements, shall be subject to a civil penalty of not more than \$11,000 per violation.
- (2) Makes a false statement under the Act to the Secretary, a State organic program's governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

## 7. Emergencies, Temporary Variances

In § 205.672, the NOP defines "emergencies", under which government institutions can grant certain exemptions to basic NOP requirements. "Government", however, only refers to the US government, not to governments of other countries. The same is true for seeds which receive chemical treatment due to government regulations (§ 205.204 (a)(5)): This only refers to the US government. Seeds, which are treated chemically due to state law in other countries, may not be used under NOP.

In case of natural disasters, exceptions from certain requirements related e.g. to fertilization, crop rotation, seeds, etc. are possible. For further details, please see § 205.290.

## 8. Confidentiality

CERES will handle confidentially all information obtained during the certification process. This is part of our certification contract. However, we have to inform the USDA annually about the certified operations.

## 9. The NOP-EU Equivalence Agreement from February 2012

In February 2012, an equivalence agreement was signed between NOP and the EU Commission, in order to make organic trade between these two major markets easier. It is in force since 1<sup>st</sup> June 2012. This agreement covers only products produced in the EU respectively in the US, or for which at least the last processing step is carried out in EU respectively in the US.

### Examples:

- Bananas sold directly from Ecuador to the US still need to be NOP certified.
- Rice sold directly from Thailand to the European Union still needs to be EU certified.
- Rice sold from Thailand to the EU, repacked in Italy and then sold to the US, needs not be NOP certified. It is covered by the equivalence agreement.
- Coffee sold from Costa Rica to the US, roasted in the US and then sold to the EU, does not need to be EU certified. It is covered by the equivalence agreement.
- Cocoa sold from Ivory Coast to France where it is used as an ingredient for organic chocolate: The chocolate can be exported to the US without being NOP certified.

### Labelling:

- The labelling requirements of the respective market must be met. So e.g. a product from the US cannot be labelled with a "100% Organic" claim (see above) when sold in the EU.
- A producer located in the EU can use the USDA organic logo without being NOP certified, and vice versa. It is also allowed to use both logos at the same time.

### Some special points:

- NOP Import Certificates need to be issued for products under the equivalence agreement. So e.g. for a shipment from Spain to the US, CERES has to issue an Import Certificate confirming the product complies with the equivalence agreement. Vice versa, for a product shipped from the US to the EU, the US certifier has to issue an Import Certificate.
- Organic livestock products from the EU are covered by the agreement only in case the EU certifier confirms that the animals have not been treated with antibiotics during their whole life cycle.
- Also wine must meet the labelling requirements in the respective market. Wine in the EU can be labelled as "organic" since August 2012, but still in the US, it can only be labelled as "made with organic grapes" (provided it contains less than 100 ppm sulphites).

### EU based operators who want to maintain their NOP certification:

Some organic operations inside the EU want or need to maintain their NOP certification, e.g. because their products are processed in a third country, before being shipped to the US, or because their products are out of the scope of the EU Regulation (e.g. personal care products). For these companies, the following applies:

- Of course such operations have to comply with NOP, not only with the "equivalence agreement"
- Also their entire supply chain needs to be NOP certified, not only meet the "equivalence agreement"

***Please be aware that this is only a selection of essential requirements of NOP, meant as an introduction. The operator, of course, has to learn about and meet all requirements of the standard.***