

**DEPARTMENT OF AGRICULTURE**  
**Office of Agricultural Marketing**  
**(Amendment)**

**302 KAR 40:010. Certification of organic production, processing, or handling operations.**

RELATES TO: KRS 260.020, 260.030, 260.038, 7 C.F.R. 205

STATUTORY AUTHORITY: KRS 260.020(3), 260.030(1)(k), 7 C.F.R. 205

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.020(3) authorizes the commissioner of the Kentucky Department of Agriculture to promulgate administrative regulations to carry out any programs established under the Office for Agricultural Marketing and to establish fees for the administration of those programs. KRS 260.030(1)(k) requires the Office of Agricultural Marketing to establish an Organic Agricultural Product Certification Program. This administrative regulation establishes the procedures for certification of organically-produced agricultural products.

Section 1.

- (1) A producer, processor, or handler of organic agricultural products shall comply with:
  - (a) 7 C.F.R. Part 205, the National Organic Program;
  - (b) The Organic Certification Program Quality Manual; and
  - (c) The standards contained in the certification application required by Section 2(1) of this administrative regulation.
- (2) The department shall administer the Organic Certification Program in accordance with the Organic Certification Program Quality Manual.

Section 2. Certification.

- (1) To receive or maintain organic certification, a completed Organic Certification Application form shall be submitted to the department annually. Relevant supporting documentation required by the application shall be submitted with the application.
- (2) The production, processing, or handling operation shall be inspected by the department.
  - (a) The inspector shall be trained as required by the Organic Certification Program Quality Manual.
  - (b) The applicant shall be present during an unannounced inspection.
  - (c) The inspector shall complete the appropriate field inspection report:
    1. The Crop Inspection Report;
    2. The Livestock Inspection Report; or
    3. The KDA Processing/Handler Organic Inspection Report.
  - (d) An exit interview shall be conducted using the Organic Inspection Exit Interview form.
  - (e) Upon receipt of a field inspection report, the department shall make a determination of certification and notify the applicant in writing of its decision. If the written application and the field inspection report demonstrate compliance with this administrative regulation and 7 C.F.R. 205, the department shall grant certification.
- (3) The department shall conduct an annual inspection of every certified organic entity.
- (4) Except as provided by subsection (5) of this section and Section 3 of this administrative regulation, a producer, processor, or handler shall pay a certification fee of \$500 for the initial certification scope and each year thereafter when renewed. Subsequent scopes beyond the initial shall be charged at \$250 and each year thereafter when renewed. Except as provided by subsection (5) of this section and Section 3 of this administrative regulation, processors and handlers shall pay an additional fee of \$200 per

each \$100,000 increment of gross receipts that exceed \$100,000. Fees, including additional fees, shall be calculated in accordance with the application.

(5) A production, processing, or handling operation with gross agricultural income from organic sales of less than \$5,000 annually shall register with the department by using the Exempt Organic Operation Registration form. There shall not be a fee to register.

(6) To withdraw a certification application, a Voluntary Withdrawal Form shall be submitted to the department. The withdrawal procedures listed on the form shall be followed.

(7) To voluntarily surrender an organic certification, a Voluntary Surrender Form shall be submitted to the department. The surrendering procedures listed on the form shall be followed.

### Section 3. Organic Agriculture Advisory Committee.

(1) The Organic Agriculture Advisory Committee shall consist of seven (7) members. At least three (3) of the members shall be farmers who produce organic products. The other four (4) members may include consumers, advocates, handlers, or processors of organic products.

(2) The committee shall be appointed by the commissioner and serve a term of two (2) years. Members may be reappointed to additional two (2) year terms.

(3) The committee shall develop recommendations to promote and expand the organic agricultural products industry in Kentucky.

(4) Members shall receive reimbursement for mileage only for meetings of the full committee.

Section 4. Exports. If export documentation is requested, the procedures established in the Organic Certification Program Quality Manual shall be followed. The applicant shall pay an additional fee of fifty (50) dollars.

### Section 5. Material Incorporated by Reference.

(1) The following material is incorporated by reference:

- (a) "Organic Certification Application", September 2021;
- (b) "Processing and Handling Organic System Plan"; August 2022;
- (c) "Livestock & Poultry Organic System Plan", November 2021;
- (d) "2022 Crop Organic System Plan", November 2021;
- (e) "Single ingredient product list", October 2022;
- (f) "Multiple ingredient product list", October 2022;
- (g) "Voluntary Withdrawal Form", January 2020;
- (h) "Voluntary Surrender Form", January 2020;
- (i) "Organic Certification Program Quality Manual", November 2021;
- (j) "Exempt Organic Operation Registration", October 2022;
- (k) "Organic Inspection Exit Interview", November 2019;
- (l) "Crop Inspection Report", October 2022;
- (m) "Livestock Inspection Report", October 2022;
- (n) "KDA Processing/Handler Organic Inspection Report", 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing, 109 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the department Web site at [www.kyagr.com](http://www.kyagr.com).

*DR. RYAN QUARLES, Commissioner*

APPROVED BY AGENCY: October 13, 2022

FILED WITH LRC: October 14, 2022 at 10:30 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on December 21, 2022 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email [clint.quarles@ky.gov](mailto:clint.quarles@ky.gov).