

DEPARTMENT OF AGRICULTURE
Office of Agricultural Marketing
(Amended at ARRS Committee)

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 Product Promotion~~ and to establish fees for the administration of those programs. KRS 260.030(1)(k) requires the Office ~~of~~~~for~~ Agricultural Marketing ~~and Product Promotion~~ 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 ~~KDA~~ Organic Certification Program Quality Manual; and
 - (c) The standards established in the Organic~~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 ~~KDA~~ Organic Certification Program Quality Manual.

Section 2. Certification.

- (1) To receive or maintain organic certification, a completed Organic Certification Application~~application~~ form shall be submitted to the department annually.
 - ~~{(a)} [A producer shall submit an Organic Farm Certification Application.]~~
 - ~~{(b)} [A processor or handler shall submit:]~~
 - ~~[1.] [An Organic Processing/Handling Certification Application; and]~~
 - ~~[2.] [An Organic Product Profile for each product to be certified.]~~
 - ~~{(c)} [A producer requesting certification of livestock shall also submit an Organic Livestock Certification Application.]~~
 - ~~{(d)}~~ Relevant supporting documentation required by the~~an~~ Organic Certification 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 ~~KDA~~ Organic Certification Program Quality Manual.
 - (b) The applicant shall be present during an unannounced~~the~~ inspection.
 - (c) The inspector shall complete the appropriate field inspection report:
 1. The ~~KDA Organic~~ Crop Inspection Report;
 2. The ~~KDA Organic~~ Livestock Inspection Report; or
 3. The KDA Organic 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 the department's~~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 ~~established~~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~~\$250 for the initial certification scope and each year thereafter at renewal~~when renewed~~. Subsequent scopes beyond the initial shall be charged at ~~\$250~~\$125 and each year thereafter at renewal~~when renewed~~. Except as ~~established~~provided by subsection (5) of this section ~~and Section 3 of this administrative regulation~~, processors and handlers shall pay an additional fee of ~~\$200~~\$100 per each \$100,000 increment of gross receipts that exceed \$100,000. Fees~~, including additional fees,~~ shall be calculated in accordance with the Organic Certification Application and the Organic Certification Program Quality Manual~~Organic Program Fee Schedule~~.

(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 ~~submitting a complete and notarized~~using the Exempt Organic Operation Registration form. There shall not be a fee to register.

(6) To withdraw ~~an Organic~~a Certification Application, a Voluntary Withdrawal Form~~Withdrawal of USDA National Organic Program Certification Application 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~~of USDA National Organic Program Certification form~~ shall be submitted to the department. The surrendering procedures listed on the form shall be followed.

~~[Section 3.] [Nonprofit, Educational, or Charitable Organization.]~~

~~[(1)] [If a nonprofit, educational, or charitable organization, as defined by the Internal Revenue Code, 26 U.S.C. 501(c)(3), has at least \$5,000 gross sales of organic products, it shall be certified and pay the required fees in accordance with Section 2 of this administrative regulation.]~~

~~[(2)] [If a nonprofit, educational, or charitable organization, as defined by the Internal Revenue Code, 26 U.S.C. 501(c)(3), has less than \$5,000 gross sales of organic products, it shall be registered for production, processing, or handling organic products by using the Exempt Organic Operation Registration form. There shall not be a fee to register.]~~

Section 3. ~~[Section 4.]~~ 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 ~~shall~~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. ~~[Section 5.]~~ Exports. If export documentation is requested, the applicant shall:

(1) Comply with the procedures established in the ~~[KDA]~~Organic Certification Program Quality Manual; ~~and shall be followed. The applicant shall~~

(2) Pay an additional fee of fifty (50) dollars~~in accordance with the Organic Program Fee Schedule~~.

Section 5. ~~[Section 6.]~~ Material Incorporated ~~[Incorporation]~~ 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", ~~January 2018~~ **January 2018** ~~October 2022~~ ;
- (k) "Organic Inspection Exit Interview", November 2019;
- (l) "Crop Inspection Report", October 2022;
- (m) "Livestock Inspection Report", October 2022;
- (n) "KDA **Organic** Processing/Handler ~~Organic~~ Inspection Report", 2017.
- ~~{(a)} ["Organic Farm Certification Application", December 2013;]~~
- ~~{(b)} ["Organic Processing/Handling Certification Application", December 2013;]~~
- ~~{(c)} ["Organic Livestock Certification Application", December 2013;]~~
- ~~{(d)} ["Organic Certification Program Fee Schedule", October 2013;]~~
- ~~{(e)} ["Organic Product Profile", December 2013;]~~
- ~~{(f)} ["Withdrawal of USDA National Organic Program Certification Application", October 2013;]~~
- ~~{(g)} ["Voluntary Surrender of USDA National Organic Program Certification", October 2013;]~~
- ~~{(h)} ["KDA Organic Certification Program Quality Manual", December 2013;]~~
- ~~{(i)} ["Exempt Organic Operation Registration", December 2013;]~~
- ~~{(j)} ["Organic Inspection Exit Interview", May 2002;]~~
- ~~{(k)} ["KDA Organic Crop Inspection Report", December 2013;]~~
- ~~{(l)} ["KDA Organic Livestock Inspection Report", December 2013; and]~~
- ~~{(m)} ["Processing/Handler Organic Inspection Report", December 2013.]~~

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(16 Ky.R. 2069; eff. 5-31-1990; Am. 23 Ky.R. 3885; 24 Ky.R. 1062; eff. 11-12-1997; 29 Ky.R. 523; 930; eff. 10-9-2002; 30 Ky.R. 697; 1507; eff. 1-5-2004; 40 Ky.R. 1134; 1730; eff. 3-7-2014; Cert eff. 2-11-2021; 49 Ky.R. 1145, 1620; eff. 5-2-2023.)

FILED WITH LRC: January 10, 2023

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.