

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 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 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 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 an 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 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 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 \$250 for the initial certification scope and each year thereafter when renewed.

Subsequent scopes beyond the initial shall be charged at \$125 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 \$100 per each \$100,000 increment of gross receipts that exceed \$100,000. Fees shall be calculated in accordance with the 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 using the Exempt Organic Operation Registration form. There shall not be a fee to register.

(6) To withdraw a certification application, a 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 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 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 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 5. Exports. If export documentation is requested, the procedures established in the KDA Organic Certification Program Quality Manual shall be followed. The applicant shall pay an additional fee of fifty (50) dollars in accordance with the Organic Program Fee Schedule.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(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.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing and Product Promotion, 100 Fair Oaks, 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.

(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; Crt eff. 2-11-2021.)