

**NOFA-NY CERTIFIED ORGANIC LLC
2009 POLICY MANUAL**

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NOFA-NY Certified Organic LLC

2009 Policy Manual

Introduction

We believe it is important for farmers, processors and consumers to understand the process we use to certify farms and processing operations. Many policies listed in this manual are a direct requirement of the National Organic Standards; others are created within the structure requirements of the regulations. We have indicated the section number next to the heading indicating that the language is from the National Organic Standards. The program is also accredited to the International Standards Organization for "Bodies Operating Product Certification Systems (ISO65). The agency has also obtained conformity recognition for certified organic products shipped into Quebec through the "Conseil des Appellations Réservées et des termes valorisants (CARTV).

1. Organizational Structure, Authority and Policies

1.1 Legal Status

NOFA-NY Certified Organic is a Limited Liability Company (LLC) engaged in certification activities for agricultural producers and handlers of organic products.

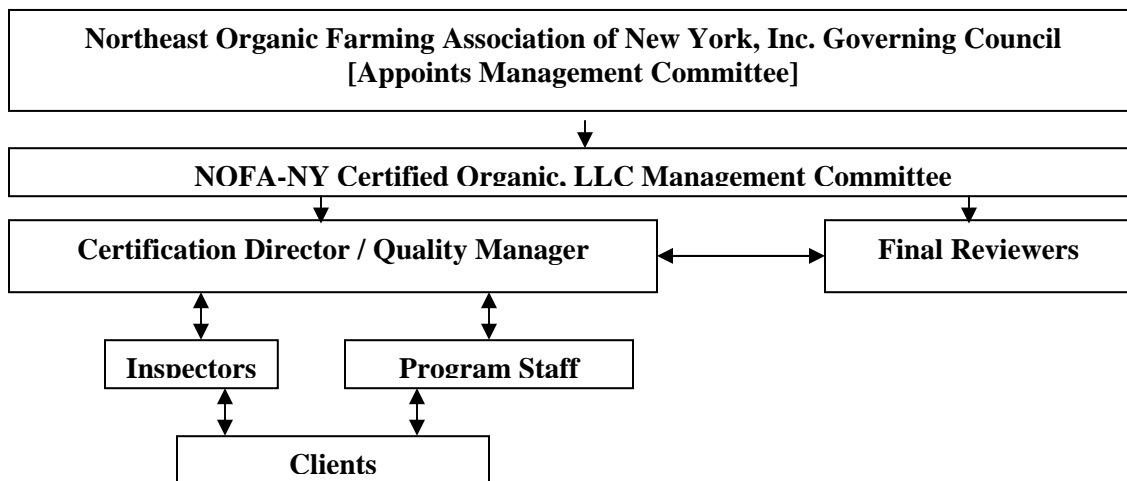
NOFA-NY Certified Organic LLC is a wholly owned subsidiary of the Northeast Organic Farming Association of New York, Inc (NOFA-NY), a non-profit, tax-exempt educational organization. NOFA-NY Certified Organic, LLC is operated in the same non-profit manner as NOFA-NY, Inc under the 501c (3) requirements.

1.2 Accreditation Status

NOFA-NY Certified Organic LLC has received accreditation from the USDA as of April 29, 2002 to certify the following: Crops, Livestock, Wild Crops and Processing/Handling. The agency is also ISO65 accredited and recognized by the "Conseil des Appellations Réservées et des termes valorisants".

1.3 Organizational Chart

NOFA-NY Certified Organic, LLC Organizational Chart



1.4 Authority of the Management Committee

A Management Committee, appointed by the Northeast Organic Farming Association of NY, Inc., has all powers to control and manage NOFA-NY Certified Organic, LLC, as stated in the Operating Agreement between the Northeast Organic Farming Association of NY, Inc. and NOFA-NY Certified Organic LLC.

The Management Committee sets policies for NOFA-NY Certified Organic LLC, based upon recommendations from Final Reviewers, staff and inspectors.

1.5 Authority of Final Reviewers

The Management Committee appoints Final Reviewers to review and determine whether applicants are in compliance with the Certification Standards of the National Organic Program.

1.6 Confidentiality Policy

Members of the Management Committee, Final Reviewers, staff, inspectors and any other personnel shall maintain strict confidentiality with respect to the clients certified by NOFA-NY Certified Organic LLC. No business-related information pertaining to clients, obtained during the certification process, can be disclosed to third parties (with the exception of the Secretary of the USDA or the applicable State officials or their authorized representatives) unless permitted in writing by the certified producer or handler. An annual declaration adhering to this policy will be required of all final reviewers, staff and inspectors.

1.7 Conflict of Interest Policy (§205.501(a) (11) (i-vi))

The NOFA-NY Certified Organic LLC shall prevent conflicts of interest by:

1.7.a. Not certifying a production or handling operation if the Management Committee or a responsibly connected party of such committee member or staff has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

1.7.b. Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

1.7.c. Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any operation inspected;

1.7.d. Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification;

1.7.e. Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and

1.7.f. Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection;

1.7.g. Reconsider a certified operation's application for certification and, if necessary, perform a new onsite inspection when it is determined, within 12 months of certifying the operation, that any person participating in the certification process and covered under §205.501 (a)(11)(ii) has or had a conflict of interest involving the applicant. All costs associated with a reconsideration of application, including on-site inspection costs, shall be borne by the certifying agent;

1.7.h. Referring a certified operation to a different accredited certifying agent for re-certification and reimburse the operation for the cost of the Re-certification when it is determined that any person covered under §205.501 (a)(11)(i) at the time of certification of the applicant had a conflict of interest involving the applicant.

1.8 Non-discrimination Policy

Any person (farm or handler) marketing organic product may apply for Certification through NOFA-NY Certified Organic LLC. NOFA-NY Certified Organic LLC shall not exclude from participation in or deny the benefits of the National Organic Program to any person due to discrimination because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, marital or family status.

No form of discrimination will be practiced in receiving and reviewing applications, although the Program may refuse the application of any farm or handler that fails to meet the criteria or make a serious commitment to organic practices. Application is made by submitting the completed application forms with the appropriate fee within the application period.

1.9 Reciprocity with other certifying agents

Since accreditation of the NOFA-NY Certified Organic LLC certification program by the USDA, we accept the certification decisions of other USDA accredited certification programs.

If an operation has been inspected by another USDA accredited agency within 9 months of application with NOFA-NY Certified Organic, LLC; the program will accept that report in place of another inspection visit.

1.10 NOFA-NY Certified Organic LLC Program Administration

1.10.a. The Management Committee

The Management Committee has all powers to control and manage NOFA-NY Certified Organic, LLC, as stated in the Operating Agreement between the Northeast Organic Farming Association of NY, Inc. and NOFA-NY Certified Organic LLC, with the exception of granting certification.

The Management Committee sets policies for NOFA-NY Certified Organic LLC, based upon recommendations from personnel.

1.10.b. Final Certification Review

Final Reviewers are responsible for evaluating applications and inspection reports for compliance with the standards and deciding which operations qualify for certification. Additional Final Reviewers may be added as needed. Final Reviewers may be clients certified by NOFA-NY Certified Organic LLC, staff or from the general public. Final Reviewers will be knowledgeable in the organic production type that they are reviewing and making decisions in. A final certification decision will be made by one final reviewer. The final reviewer can not be the same person who conducted the initial file review or onsite inspection within the current certification year.

The program reserves the right to utilize two or more reviewers for new applicants or repeat applicants with non-compliances. If two or more final reviewers are involved in a certification decision, consultation between the reviewers may take place via phone, e-mail or in person.

1.10.c. Staff

A Certification Director and other office staff are responsible for conducting the day to day work of NOFA-NY Certified Organic, LLC. Inspectors, who are either employees or independent contractors, conduct the on-site inspections of farms and handling operations and submit inspection reports to the final reviewers.

2. The Certification Process

Certification under NOFA-NY Certified Organic LLC is an annual process consisting of:

- Submission of new or update application and fees
- Initial office review of new or update application
- Initial or annual inspection
- Final certification review
- Certification Determination Letter is issued

An application and inspection are required annually.

Any person (farm or handler) marketing organic product may apply for Certification through NOFA-NY Certified Organic LLC. NOFA-NY Certified Organic LLC shall not exclude from participation in or deny the benefits of the National Organic Program to any person due to discrimination because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, marital or family status.

No form of discrimination will be practiced in receiving and reviewing applications, although the Final Reviewers may refuse the application of any farm or handler that fails to meet the criteria required for organic certification. Application is made by submitting the completed application forms with the appropriate fee within the application period.

2.1 Certification Categories

NOFA-NY Certified Organic LLC operates a certification program that certifies:

- crops, including wild crops
- livestock, poultry & dairy operations
- greenhouse production
- maple syrup production
- mushroom production

- sprout production
- handling operations

2.2 Certification Standards

The National Organic Program's National Organic Standards are the basis for certification of the above types of production. All clients are provided with a copy of the Federal Rule. Any exempt/excluded operations that purchase the NOFA-NY Certified Organic, LLC Guidance & Policy Manual receive the Federal Rule, also so that they may fully comply.

2.3 Certification Process for New Applicants

2.3.a. Obtain Current Version of Certification Standards and Application Packet

New applicants must obtain the current version of the National Organic Program's National Organic Standards and the application packet. These can be obtained through the Certification Program Office or via the website at www.nofany.org.

2.3.b. Attend Orientation Session

All new applicants are strongly encouraged to attend an Orientation Meeting before submission of the application packet. The Orientation Meetings are designed to provide information on the specific requirements for certification and also provide the applicant an opportunity to ask questions about the process or the application itself. There is no fee for the Orientation Session. These sessions reduce the overall time it takes applicants to fill out applications and the time it takes reviewers to review files, keeping overall certification costs down.

Orientation Meetings are scheduled in advance and are held at the Certification Program Office and/or locations around the state.

Orientation Meeting attendees must pre-register. A list of the available dates is sent with the Application Packet. Attendees should purchase the Standards Manual and application packet prior to the Orientation.

The Orientation Meetings are not designed to permit the applicant to complete the Application for certification. They are designed to provide information on the entire certification process from application to the completion of the process. If the applicant has questions while completing the application they are encouraged to call the office for clarification.

2.3.c. Submission of Complete New Application

Applications for certification must be complete. Incomplete applications will be returned for completion prior to inspection and review. Applications must be completed in pen. In addition to the complete application (and as required by §205.401(c)) the applicant must also supply information regarding the name(s) of any organic certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, a copy of any notification of noncompliance or denial of certification issued to the applicant for certification; and a description of the actions taken by the applicant to correct the non-compliances noted in the notification of non-compliance, including evidence of such correction.

Based upon a review of the application, other information necessary to determine compliance with the National Organic Program's National Organic Standards may be requested.

2.3.d. Due Dates for New Applications

Due Dates for Submission of New Vegetable Crop/Field Crop /Specialty Crop /General Livestock and Poultry Applications

Initial applications for Certification of Vegetable Crop/Field Crop/Specialty Crop/General Livestock and Poultry are due March 15th. There is an early bird deadline of March 1st. Additional deadlines for new applicants are also provided, with the assessment of late fees to reflect delays in scheduling. The deadlines are established annually and included in all information brochures and the application packet.

Due Dates for Submission of New Dairy Applications

Initial applications for Certification of Dairy may be submitted at any time during the year.

Due Dates for Submission of New Handler Applications

Initial application for Certification of Handler operations may be submitted at any time throughout the year.

2.4 Certification Process for Continuing Applicants: Annual Information Update

All certified operations are required to submit an Annual Information Update.

2.4.a. Update Applications

Update applications are supplied in the following manner:

Vegetable/Field Crops/Livestock/Poultry/Specialty Crop Updates

Update applications will be mailed to all continuing operations in January of each year. The application will include an addition of production form for the producer to return, if necessary.

Dairy Updates

Update applications will be mailed to all continuing dairy operations in January of each year.

Handler Updates

Handler clients are notified prior to the due date of their annual information update. Applicants are asked to respond within two weeks.

2.4.b. Due Dates for Submission of Annual Information Updates

Due Dates for Submission of Vegetable Crop/Field Crop /Specialty Crop/General Livestock , Dairy and Poultry Information Updates

Vegetable Crop/Field Crop/Specialty Crop/General Livestock and Poultry annual update information have a due date at the end of February. The exact date is determined annually and

included in the application packet. Applications postmarked after the due date communicated in the packet are assessed a late fee of \$125.00 and a non-compliance notice will be issued. If the notice of non-compliance is not responded to by the designated due date, a notice of proposed suspension will be issued to the operation.

A \$50.00 early bird discount will apply to any complete application submitted with full payment and postmarked by the second Friday in February. The exact date each year will be included with the application.

Due Dates for Submission of Handler Information Updates

Annual Information updates for Handlers must be postmarked by the due date established in the annual information update packet. The exact date is provided to the applicant at the time the application is sent.

2.4.c. Submission of Complete Updated Organic System Plans

Applications for certification must be complete. Incomplete applications will be returned for completion prior to review and inspection.

2.5 Review of New and Annual Information Updates

Once the application for certification or the annual information update, with applicable fees, is received, the office staff reviews this for completeness.

If all information for the application is complete, a determination is made whether the applicant appears to comply, is able to comply with the standards, or is unable to do so.

If the application is incomplete, any requests for additional information must be responded to by the due date. If the applicant does not supply the requested information, the certification process is suspended.

Staff communicates the findings to the applicant in the Inspection Letter. The applicant is sent the Inspection Letter, which details the types of additional information the applicant must have available for the inspector to review.

The inspector schedules the on-site inspection. The applicant must be present for the inspection. Additional details on the Inspection Visit are found in Section 3, The Inspection Process. The inspection must be conducted when all lands, facilities and operations can be observed. The visit may be delayed up to 6 months.

New and repeat applicants may withdraw their application at any time. An applicant who withdraws an application shall be liable for the costs of services provided up to the time of withdrawal of the application. An applicant that voluntarily withdraws an application prior to the issuance of a notice of noncompliance will not be issued a notice of noncompliance.

Similarly, an applicant that voluntarily withdraws its application prior to the issuance of a notice of certification denial will not be issued a notice of certification denial.

Upon completion of the Inspection and return of the Inspection Report, the Final Reviewer evaluates the application and inspection report for compliance with the standards and decides

to certify or not certify the operation. The Certification Determination Notice is sent to the applicant. This letter identifies:

- Requests for additional information, if necessary
- Final Reviewer Recommendations, if any
- Notification of Non-compliance, if any
- Conditions for Certification, if any
- Notification of Denial of Certification, if applicable

Detailed information pertaining to the process of Notification of Non-compliance, denial, suspension or revocation of certification can be found in section 6 of the Policy Manual.

2.6 The Certification Certificate

The Certification Certificate contains, as required by §205.404(b)(1-4), the following information:

- the name, address and telephone number of NOFA-NY Certified Organic LLC
- the name, address and producer number of the certified operation
- the effective date of certification
- if a farm, a list of certified fields and their crops
- any additional certified areas, such as dairy, beef, poultry, sprouts, etc.
- if a handling operation, the products they produce

If the certifying agent determines that the certified operation is complying with the Act and the Regulations in this part and that any of the information specified on that certificate of organic operation has changed, the certifying agent must issue an updated certificate of organic operation pursuant to 205.404 (b).

Certificates issued by NOFA-NY Certified Organic, LLC will contain an authorized program signature.

2.7 Term of Certification

Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, or the USDA AMS Administrator (§205.404(c)).

To continue certification, a certified operation must annually:

- Pay certification fees
- Submit, as applicable, to the certifying agent, an updated organic production or handling system plan. This plan includes a summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year.

If the above information is not received within the application period, a proposal to suspend certification will be issued.

If a certified operation decides not to continue certification, they must provide written notification and voluntarily surrender their certification certificate to the certification office.

Failure to do so by the end of the designated application period will result in a proposal to suspend the operation's organic certification. This will be completed by the certification office.

2.8 Extension of Certification to Cover New Products

Requests for extension of certification to cover new products will be handled on a case by case basis. In all cases complete information regarding the new product production must be supplied. The Final Reviewer(s) will decide whether an additional on-site inspection visit is necessary, or if the new product(s) production is similar to products already certified, therefore no additional on site inspection is required.

2.9 Sourcing Agricultural Inputs and Ingredients for Processed Products

When management practices are insufficient to prevent or control pests and diseases, a biological or botanical substance or a substance included on the National List of synthetic substances allowed for use in organic crop production, Section 205.601 through 205.607, may be used by operations certified by NOFA-NY Certified Organic LLC.

Ingredients used in processed products must be produced in accordance with these Standards. Nonagricultural (non-organic) substances and non-organically produced agricultural products must be used according to Sections 205.605 and 205.606 of the NOFA-NY Certified Organic LLC Certification Standards Manual.

2.10 Monitoring Continued Compliance

Compliance with Final Reviewer requests for issues such as additional information, changes in farm plan, etc., is monitored by assigning a due date for submission and/or completion of a task. Tracking is done through a computer database. Office staff will follow-up as necessary to obtain the information. Monitoring compliance at the farm shall include random unannounced inspection visits or by short notice (overnight) visits.

The unannounced and short notice inspection is limited in scope, with pre-determined areas for review. Areas for review would include, but would not be limited to, any follow-up conditions placed by the Final Reviewer(s).

If a complaint regarding any certified or in process operation is received, an investigation will be conducted, including an inspection visit and possibly residue sampling.

2.11 Testing for Residues (§205.670)(a-d)

2.11.a. All agricultural products that are to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic" (specified ingredients or food group(s)) must be made accessible by certified organic production or handling operations for examination by the USDA AMS Administrator, the applicable State organic program's governing State official, or NOFA-NY Certified Organic LLC.

2.11.b. The USDA AMS Administrator, applicable State organic program's governing State official, or the certifying agent may require pre-harvest or post-harvest testing of any agricultural input used or agricultural product to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" when there is reason to believe that the agricultural input or product has come into contact with

a prohibited substance or has been produced using excluded methods. Such tests must be conducted by the State organic program's governing State official at their own expense, or the NOFA-NY Certified Organic LLC Program at our expense.

2.11.c. The pre-harvest or post-harvest tissue test sample collection pursuant to paragraph (b) of this section must be performed by an inspector representing the USDA AMS Administrator, applicable State organic program's governing State official, or NOFA-NY Certified Organic LLC. Sample integrity must be maintained throughout the chain of custody, and residue testing must be performed in an accredited laboratory. The specific sampling techniques used are dependent upon the testing requirements. Inspectors will work with the testing laboratory to meet their sampling requirements.

Chemical analysis must be made in accordance with the methods described in the most current edition of the Official Methods of Analysis of the AOAC International or other current applicable validated methodology determining the presence of contaminants in agricultural products.

2.11.d. Results of all analyses and tests performed under this section:

- Will be sent to the inspected operation
- Will be provided to the USDA AMS Administrator; Except, that, where a State organic program exists, all test results and analyses shall be provided to the State organic program's governing State official by the applicable certifying party that requested testing; and
- Will be available for public access, unless the testing is part of an ongoing compliance investigation.
- If test results indicate a specific agricultural product contains pesticide residues or environmental contaminants that exceed the Food and Drug Administration's or the Environmental Protection Agency's regulatory tolerances, NOFA-NY Certified Organic LLC will promptly report such data to the Federal health agency whose regulatory tolerance or action level has been exceeded.

2.11.e. Testing may be conducted during annual inspections, spot inspections or unannounced inspections.

2.12 Exclusion from Organic Sale (§205.671)

When residue testing detects prohibited substances at levels that are greater than 5 percent of the Environmental Protection Agency's tolerance for the specific residue detected or unavailable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced.

The Administrator, the applicable State organic program's governing State official, or the certifying agent may conduct an investigation of the certified operation to determine the cause of the prohibited substance.

3. The Inspection Process

3.1 The Role of the Inspector

NOFA-NY Certified Organic LLC inspectors play a key role in the Organic Certification Program; they are the connecting link between the applicant and the Certification Program.

They are the "eyes" of the Certification Program. The inspector does not play a role in the actual decision making of whether or not an applicant is certified.

In the NOFA-NY Certified Organic, LLC Program the inspector's role is one of observer & verifier that the practices used on the farm or in the facility are reflected in the application submitted.

The Inspector must also identify practices, materials, or production processes that are not in compliance with the National Organic Program's National Organic Standards. These areas of non-compliance must be communicated to the applicant and the Certification Program.

The Inspector is responsible for scheduling and completing all inspection visits while making an attempt to co-ordinate inspection visits in the same vicinity. The inspector is responsible for the scheduling of visits to new applicants as early in the season as possible, bearing in mind the economics of this visit.

The Inspector is responsible for visiting all fields and facilities enrolled in the Certification Program and for the completion of all inspection forms associated with the farm or facility visit.

The Inspector is responsible for returning the applicants file and completed inspection report to the Program office within 14 days of the inspection visit.

3.2 Qualifications of the Inspector

The inspector should have a good background of organic and conventional agriculture, and of handling and manufacturing practices, if conducting processing inspections.

The Inspector is required to be familiar with the National Organic Program's National Organic Standards, the NOFA-NY Certified Organic, LLC Policy Manual and Guidance Manual.

Inspectors hired by the NOFA-NY Certified Organic LLC Certification Program, either as employees or independent contractors, must attend or complete the Independent Organic Inspectors Association Basic Training Program.

Inspectors hired by NOFA-NY Certified Organic LLC may also be certified by NOFA-NY Certified Organic LLC.

3.3 Scheduling

The scheduling of the inspection is never easy and relies on the cooperation of both the inspector and applicant. In order to keep inspection travel costs low, farm inspections will be grouped by geographical areas. Each applicant will be contacted to arrange an inspection visit in a timely manner by the inspector assigned to the operation.

The length of inspection visits can vary depending on the size and complexity of the operation. Vegetable operations may take from 2 - 4 hours, while dairy farms or processing facilities may take 6 - 8 hours. The applicant is required to be present for the inspection.

3.4 Cancellations

Cancellation of an inspection appointment is very costly to the Certification Program. Producers should keep in mind that the inspector is not working with just one farm when scheduling this appointment, as many as three or four other operations in the area are more than likely involved in planning the inspection visit schedule. Should a cancellation occur, it affects the rest of the inspection appointments.

A cancellation of an inspection visit one week prior to the inspection visit will be without penalty. Applicants canceling within one week of the inspection visit will be billed for the inspection costs of the re-scheduled visit.

3.5 Inspection Fees

Farm certification fees include the cost of one inspection visit. Should additional inspections be required, the applicant will be billed for these on a cost basis.

Applicants certifying various seasonal operations, such as maple syrup production as well as vegetable production, are required to have an inspection for each operation during the production season.

Handling/Processing operations are billed for the actual costs of the inspection visit. Non-payment of inspection fees can lead to suspension of certification.

Additional information pertaining to Inspection fees is found in the Fees section.

3.6 Inspection of a Crop Production Operation

3.6.a. Documentation Provided to Inspector

The Certification Program office supplies the Inspectors with the client's complete application, the previous year's inspection report and the review letter completed by the office.

3.6.b. The Inspection Visit will encompass the following:

Initial discussion with the applicant regarding the process to be used to complete the inspection.

Explanation to the applicant that the inspector is only an observer, and does not make the final certification decision.

Review of Equipment being used.

Review of crop input materials and pest control materials for both use and appropriate storage.

Inspection of all fields to be certified to verify:

- crops present
- crop conditions regarding vigor, pest and disease
- adequacy of buffer zone

Random tissue sampling may be pulled from fields for testing

Review of processing areas (if applicable).

Random sampling of product may be pulled for testing

Review of crop/product storage areas.

Review of all audit trail records including, but not limited to:

- field amendment records
- pest and disease control applications
- input purchase records
- equipment cleanout records
- crop harvest and storage records
- verification of adequacy of lot numbering system
- sales records

Summary of Inspection Visit including:

- identification of areas of non-compliance
- exit interview with applicant to discuss accuracy of observations, areas of non-compliance, and additional information that may be necessary. A copy of the Exit Interview will be provided to the applicant
- A receipt for any tissue or product samples pulled.

Submission of completed Inspection Report, billing for inspection, any samples taken and return of applicant's file within 14 days, if possible.

3.7 Inspection of a Dairy or General Livestock Production Operation

3.7.a. Documentation Provided to Inspector

The Certification Program office supplies the Inspectors with the client's complete application, the previous year's inspection report and the review letter completed by the office.

3.7.b. The Inspection Visit will encompass the following:

Initial discussion with the applicant regarding the process to be used to complete the inspection.

Explanation to the applicant that the inspector is only an observer, and does not make the final certification decision.

Review of Equipment being used.

Review of crop input materials and pest control materials for both use and appropriate storage.

Inspection of all fields to be certified to verify:

- crops present
- crop conditions regarding vigor, pest and disease
- adequacy of buffer zone

Review of processing areas (if applicable).

Review of crop storage areas.

Review of livestock housing areas and conditions.

Review of animal identification system.

Review of health remedies, medications and cleaning materials on hand.

Review of feed supplies on hand.

Review of milk handling practices, including cleaning materials.

Inspection of slaughter facility.

Review of all audit trail records including, but not limited to:

- field amendment records
- pest and disease control applications
- input purchase records
- equipment cleanout records
- crop harvest and storage records
- purchased feed logs and certification verification of purchased feed
- breeding records
- livestock medication records
- milk quality reports
- verification of adequacy of lot numbering system, if marketing
- crops
- sales records

Random tissue sampling may be pulled from fields for testing

Review of processing areas (if applicable).

Random sampling of product may be pulled for testing

Summary of Inspection Visit including:

- identification of areas of non-compliance
- exit interview with applicant to discuss accuracy of observations, areas of non-compliance, and additional information that may be necessary A copy of the Exit Interview will be provided to the applicant
- A receipt for any tissue or product samples pulled.

Submission of completed Inspection Report, billing for inspection, any samples taken and return of applicant's file within 14 days, if possible.

3.8 Inspection of a Poultry Production Operation

3.8.a. Documentation Provided to Inspector

The Certification Program office supplies the Inspectors with the client's complete application, the previous year's inspection report and the review letter completed by the office.

3.8.b. The Inspection Visit will encompass the following:

Initial discussion with the applicant regarding the process to be used to complete the inspection.

Explanation to the applicant that the inspector is only an observer, and does not make the final certification decision.

Review of Equipment being used.

Review of land uses adjoining facility.

Review of processing areas (if applicable).

Review of feed storage area.

Review of poultry housing areas and conditions; including outdoor access.

Review of health remedies and medications on hand.

Review of all audit trail records including, but not limited to:

- hatching records
- chicks or pullets shipping documents
- poultry medication records
- purchased feed logs and certification verification of purchased feed
- loss and cull records
- egg production records
- catching and transport records
- sales records

Random tissue sampling may be pulled from fields for testing

Review of processing areas (if applicable).

Random sampling of product may be pulled for testing

Summary of Inspection Visit including:

- identification of areas of non-compliance
- exit interview with applicant to discuss accuracy of observations, areas of non-compliance, and additional information that may be necessary A copy of the Exit Interview will be provided to the applicant
- A receipt for any tissue or product samples pulled.

Submission of completed Inspection Report, billing for inspection, any samples taken and return of applicant's file within 14 days, if possible.

3.9 Inspection of a Handling Operation

3.9.a. Documentation Provided to Inspector

The Certification Program office supplies the Inspectors with the client's complete application, the previous year's inspection report and the review letter completed by the office.

3.9.b. The Inspection Visit will encompass the following:

Initial discussion with the applicant regarding the process to be used to complete the inspection.

Explanation to the applicant that the inspector is only an observer, and does not make the final certification decision.

Review production area.

Review of equipment being used.

Review of sanitation logs.

Review of certification verification for ingredients.

Review of processing aids used, certification verification or allowability.

Review of product storage areas including:

- incoming raw product areas
- in-process storage areas
- packaging of finished product
- finished product storage area
- shipping areas

Review of pest control practices used.

Review of all audit trail records including, but not limited to:

- ingredient purchase records
- verification processing aids and other ingredients do not contain genetically modified organisms, irradiation or sewage sludge
- production logs
- pest and disease control logs
- equipment cleanout records
- inventory records
- verification of adequacy of lot numbering system
- sales/shipping records

Random sampling of product may be pulled for testing

Summary of Inspection Visit including:

- identification of areas of non-compliance

- exit interview with applicant to discuss accuracy of observations, areas of non-compliance, and additional information that may be necessary. A copy of the Exit Interview will be provided to the applicant
- A receipt for any tissue or product samples pulled.

Submission of completed Inspection Report, billing for inspection, any samples taken and return of applicant's file within 14 days, if possible.

3.10 Additional Inspections

Additional inspections will be necessary if the applicant does not have all the necessary information available for the inspector to review or if a conditional certification is granted by the Final Reviewers.

The applicant will be billed for the actual costs of the additional inspection(s).

3.11 Unannounced Inspection Visits

The NOFA-NY Certified Organic LLC Certification Program monitors compliance by conducting random unannounced inspections visits or by short notice (overnight) visits. The unannounced & short notice inspection is limited in scope, with pre-determined areas for review. Areas for review could include, but would not be limited to, any follow-up conditions placed by the Final Reviewers, along with review of the following areas:

3.11.a. For Farms

Record Keeping Practices including a review of:

- use of applied amendments form
- use of livestock medication form
- adherence to milk withdrawal requirements
- feed purchases
- certification verification documentation
- milk quality reports and pick up slips

Housing and Husbandry Practices.

Progress on Compliance with Final Reviewer(s) requests/condition.

3.11.b. For Processors

Record Keeping Practices include a review of:

- products currently being produced
- types of ingredients currently being used
- sources of ingredients used
- certification verification for ingredients being used
- changes in types of production
- review of purchase/shipping/sales records

Progress on Compliance with Final Reviewer(s) requests/conditions.

Unannounced inspections may be initiated by certification staff, Final Reviewers or on-staff inspectors. Inspectors have the authority to conduct an unannounced inspection visit on an operation if they are performing another inspection in the general vicinity.

The Inspector will complete the Spot Inspection Checklist and will also use the Oral Comments form.

Inspectors will be paid their normal rate of pay, plus mileage, etc., for these revisits. The Certification Program will absorb the costs of these inspections; applicants will not be billed for the unannounced inspection.

3.12 Audit Procedures

3.12.a. Farm Records Audit Review

Audit trail review is essential to the inspection process of certified operations. Applicants and certified operators must make their records available for the inspector to review. Inspectors are required to determine if the record keeping system used can provide the necessary information to determine:

- where the product was grown and
- if the certified acreage could have produced the amount of product sold.

As new applicants have had no organic sales for review, the inspector must review the proposed system and determine if it is adequate.

Inspectors are required to review the entire record keeping system, including seed invoices, field notes, soil amendment records, spraying records, planting records, harvest records, storage records and sales records. If the records necessary to complete the review are not available, this is an area of noncompliance. An additional inspection visit will be necessary to correct this non-compliance.

An additional function of the farm audit trail review is to determine if yields and products sold as organic are consistent with the amount of land that is certified.

The yield vs. products sold audit is difficult to perform on farms growing many types of vegetables on small acreage fields. We do feel this type of audit is necessary for these farms, to determine that a record keeping system is in place to document soil amendment records, spraying records, planting records, harvest records, storage records and sales records.

For farms producing a single crop per field, a comparison of yield data vs. sales data is done to determine if the amount of product sold could have been produced on the certified acreage. The yield per acre must be realistic to the region.

This is determined by comparing the figure to regional averages, which are often maintained by government extension agents, input suppliers, crop advisors, buyers, crop insurance providers, other producers, and inspectors who have inspected similar crops in the region.

Discrepancies in the yield vs. available certified acreage and sales need to be clarified at the time of inspection. The applicant should provide clarification regarding whether crops from additional fields were included in the total harvest, or where other certified crops were bought in and resold, etc. Gaps in the record keeping system must be explained by the applicant. The

observations of the inspector need to be addressed in the inspection report, and the applicant's clarifications need to be noted on the Oral Comments form.

3.12.b Livestock Operation Audit Trail System Review

Audit trail review will be conducted, as described above, on the cropping portion of any livestock operation. In addition to the cropping records, an audit trail review will be conducted regarding purchase and sales of any animals, as applicable, purchase of certified feed, herd health records, animal tracking/id records, egg collection records, milk pick-up and quality reports and access to pasture records. If all records are not available for review, this will result in a non-compliance. An additional inspection will necessary, at the producer's expense, to correct the non-compliance.

The audit of these records is necessary to determine if production matches level of feed, pasturing practices, etc.

3.12.c. Handling Operation Audit Trail System Review

A review of the audit trail system of processing applicants is required to determine if the record keeping system is able to adequately trace finished products back to the ingredient source(s) and make sure the formulation of the product is accurate. To test the audit trail system, inspectors will track the lot number of a finished product back through the system. The inspector will either purchase a product at a store and use the lot number for tracking, or randomly select a lot number from the finished product storage area and track this back. Inspectors do not perform a review of the audit trail based upon a lot number selected by the applicant.

All records pertaining to the selected lot number are requested of the applicant.

This includes sales records, outgoing bills of lading, warehouse records, production reports, ingredient inventory records, receiving logs, incoming bills of lading, ingredient purchase records and organic verification documents. Copies of these supporting documents need to be included with the inspection report.

If there are minor deficiencies in the audit trail system, these will be pointed out to the applicant. Any changes the applicant might make to the system to correct the deficiencies should be noted in the inspection report.

If the audit system is not functional, i.e. lot number cannot be tracked back through the system, specific deficiencies should be noted in the inspection report. The Final Reviewer(s) will designate these deficiencies as a non-compliance. The certification office staff will follow-up with the applicant regarding non-compliances.

At times, the certification office may request that an In/Out Balancing for all organic products be conducted at the time of the inspection. The In/Out Balancing provides an analysis of the production records for a specific time period. The In/Out Balancing audit provides a process for verification of the flow of products as well as production.

For the time period being audited, the processor must accurately account for:

- weights and origin of all incoming organic ingredients received
- production records
- beginning and ending inventories, including:
 - ingredients in storage
 - product in process
 - finished products in storage
 - sales/shipping records
 - Accuracy of formulation compared against Product Profile submitted. Is labeling category accurate?

Discrepancies in the In/Out Balancing Audit should be noted in the inspection report.

3.13 Collecting Analytical Samples during an Inspection

NOFA-NY Certified Organic LLC may conduct random residue sampling of crops and finished products when there is reason to believe that any agricultural input used or agricultural product to be sold, labeled or represented as "100 percent organic", "organic", or "made with organic ingredients", the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods.

Sample collection will follow standardized protocols. Samples must be properly collected, handled, stored, and transported. Every activity must be documented. Sample Collection Logs and Chain of Custody forms are used to verify collection, handling, storage, and transport activities. Analytical test results may be used in a court of law. Improper collection and handling of samples invalidates test results.

Inspectors collecting samples must be trained in proper basic sampling techniques. Inspectors working for NOFA-NY Certified Organic, LLC are provided with information pertaining to the basic sampling process requirements. The specific sampling techniques used are dependent upon the testing requirements. Inspectors will work with the testing laboratory to meet their sampling requirements.

4. Fees and Financial Policies and Procedures

The funding for the operation of NOFA-NY Certified Organic LLC is obtained from fees paid by clients for certification services.

4.1 Fees for Certification Services

The Management Committee establishes the fees for certification on an annual basis. New and repeat applicants must submit one half of certification fee with the application. Processors/Handlers are also required to submit an Inspection Fee Deposit with their application.

Fees for repeat applicants include the Organic Materials Review Institute Brand Names List and the Generic Materials List.

4.1.a. Certification Application Packet Fee

The Certification Application Packet consists of the USDA National Organic Program's National Organic Standards, NOFA-NY Certified Organic, LLC Guidance Manual, Policy

Manual and the application booklet along with associated additional forms. Fees for the Application Packet are set annually.

- Fee \$30.00

The Certification Standards Manual may also be purchased separately.

- Fee \$20.00

4.1.b. Fees for Certification of Crop/Livestock & Dairy Farms including On-Farm Processing

The fees for certification are on a sliding scale, based upon the gross sales from all certified fields, livestock products, and on-farm processing facilities, as applicable to the applicant. The applicant selects the appropriate category on the *Certification Fee Determination* form included in the application packet.

The applicant also signs a statement indicating that the fee paid is an accurate representation of the gross sales from the operation.

The fee chart follows:

Fees are based on sales from certified fields, livestock, facilities and products.				
Sales Less Than:	Repeat Applicants	Fee after Reimbursement	New Applicant	Fee after Reimbursement
15,000	525.00	131.25	575.00	143.75
25,000	575.00	143.75	625.00	156.25
35,000	625.00	156.25	675.00	168.75
50,000	725.00	181.25	775.00	193.75
65,000	825.00	206.25	875.00	218.75
80,000	925.00	231.25	975.00	243.75
100,000	1025.00	275.00	1075.00	325.00
125,000	1125.00	375.00	1175.00	425.00
150,000	1225.00	475.00	1275.00	525.00
175,000	1325.00	575.00	1375.00	625.00
200,000	1425.00	675.00	1475.00	725.00
225,000	1525.00	775.00	1575.00	825.00
250,000	1725.00	975.00	1775.00	1025.00
300,000	1875.00	1125.00	1925.00	1175.00
400,000	2025.00	1275.00	2075.00	1325.00
500,000	2175.00	1425.00	2225.00	1475.00
* Sales over \$500,000.00, the fee is \$2475, plus an additional ¼ of 1% of sales from certified fields, livestock, facilities and products.				
* Certification fees for crop, livestock, wildcrop and on-farm processing shall not exceed \$5000.00 per year.				

Repeat Applicant fees are based upon the previous year's actual gross sales from certified fields, sugar bushes, livestock and facilities. If any deviation from the existing fee structure is requested by the applicant at the time of Annual Update submission, a written request along with documentation must be submitted to the Management Committee. Any decision will be made by the Management Committee within 90 days.

Repeat Applicants qualify for an early bird discount of \$50.00 for complete applications postmarked by the second Friday in February. The actual date will be determined each year.

New Applicant fees are based upon projected gross sales from certified fields, sugar bushes, livestock and facilities. New applicants who attend an orientation session will receive a \$25.00 voucher toward initial certification costs. Limit one voucher per certification. Any new applications submitted by new applicants on or before March 1st will receive an early bird discount of \$50.00.

New and Repeat Crop/Livestock along with Repeat Dairy applicants may take advantage of a split payment plan for their certification fee. One-half of the certification fee must be submitted with the application. **The remaining balance of the fee is due by August 1st of each year.**

If any portion of the annual certification fee remains unpaid after August 1, a notice of Non-compliance will be issued and \$30.00 late fee will be assessed.

If the fee is not paid to correct the non-compliance a proposed suspension or denial of certification will be issued.

Applicants who have had a poor payment history for two consecutive years may be prohibited from participating in the split payment plan. Such applicants will be required to submit the full certification fee at the time of application. The application will not be processed until the full fee is received.

Poor payment history means one or all of the following:

- Failure to submit first half of certification fee with application.
- Failure to submit second half of certification fee by the due date.
- Having a check returned for insufficient funds or any other reason.

4.1.c. Dairy Transitioning Monitoring Fees

Transition Monitoring Fees for Dairy operations are as follows:

Transition Application Fee	\$300.00
*Deposit for Inspection Costs	\$225.00

*If the inspection costs exceed this deposit, the applicant will be billed the difference. If the inspection costs are less than the deposit, the applicant will be refunded the difference.

When applying for full certification (6 months before the end of transition), Transitioning Dairy Farms prorate their certification fee for the number of months they will be certified in the calendar year. If the prorated certification fee does not cover the cost of inspection, the applicant will be billed the balance of inspection costs.

4.1.d. Land Transitioning and Monitoring Fees

A producer who wishes to transition land to organic production may apply for official transition status through NOFA NY Certified Organic, LLC at any time during the three- year transition period. The transition monitoring fee for land is as follows:

Transition Application Fee	\$200.00
*Deposit for Inspection Costs	\$200.00

*If the inspection costs exceed this deposit, the applicant will be billed the difference. If the inspection costs are less than the deposit, the applicant will be refunded the difference.

To apply for transition status, the producer must purchase an Application Packet for \$30.00. The National Organic Standards are included with the application. Once the application is completed, it is sent to the certification office for review. If there are questions on the application, the producer will be contacted. Once certification staff feels the application is complete, it will be sent out to an inspector who will set up an appointment to visit the farm. Following the inspection, the file will be reviewed by an appointed Final Reviewer(s). This is where the approval or denial of transition status will occur.

The year the producer's land becomes eligible for certification, they will be sent an application for full certification. They will go through the process again, as outlined above, only this time it will be for full certification.

If a farm decides to apply for official transition status, the certification office can issue a letter to insurance companies, FSA office, or other agencies as requested by the applicant, stating that the farm is officially transitioning their land to organic production through our organization. For each subsequent year, the Organic Farm Plan will need to be updated and inspection must take place (for verification purposes) in order to maintain continual transition status. The fees will be the same for each year of the transition process.

4.1.e. Fees for Certification of Handler Operations

For all Handling Operations except for those classified as exempt under the National Organic Standards:

- **A base fee of \$300**, plus the actual cost of inspection and a fee related to gross sales.
- Handlers are required to submit **a deposit of \$350 towards the inspection** costs with their application. If the costs exceed the deposit, the applicant will be billed the difference. If the costs are less than the deposit, the applicant will be refunded the difference.
- **A fee of ½ of 1% of organic sales, up to a maximum fee of \$7,500 per calendar year**, is assessed. Additional fees may be charged based on the complexity of the Organic Handling Plan. Complexity of the operation includes number of facilities to be inspected, number of products, labels, ingredients and material suppliers. Changes to the Organic Handling Plan during the certification year may incur additional fees, at the discretion of the certification staff.
- Multiple locations will require separate inspections

Late notices, along with a notice of Non-Compliance will be sent 30 days past the payment due date. There will be a \$30.00 billing fee assessed on the late notice sent.

If the non-compliance is not corrected, a proposed suspension of certification will be issued.

4.2 Late Application Fees

For the Certification Program to run efficiently, new and continuing applications must be submitted by the due dates established each year.

New applicants are provided with two late due dates for submitting applications, with associated late fees. Late fees are listed with the fee and deadline information that is updated annually in our brochures and application information.

Annual Information Updates submitted after the due date established in the application packet, will be charged a late fee of \$125. Details and specific dates are included in the application packet each year.

4.3 Additional Inspection Fees

Additional Inspection fees shall be assessed:

- If a return inspection visit is necessary to review information not provided by the applicant at the time of the original inspection. The applicant will be billed the actual costs of the return visit submitted by the inspector for travel, inspection, report writing, and office expenses.
- If the manager or owner of the operation has changed and the Organic Farm/Handling Plan has not been updated to reflect the change, a return visit may be necessary. The applicant will be billed the actual costs of the return visit.
- If a return inspection visit is necessary due to a Conditional Certification, the applicant will be billed the actual costs of the return visit submitted by the inspector for travel, inspection, report writing, and office expenses.
- If the applicant cancels the scheduled inspection visit within one week of the inspection, the applicant will be billed for all costs incurred by the inspector to date. This includes, but is not limited to, inspector pre-review of file.

4.4 Unannounced Inspection Visit Fees

There is no fee to applicants for unannounced inspection visits to monitor compliance with the National Organic Program's National Organic Standards.

4.5 Certification or Transition Fee Refund Policy

With submission of a written request, new applicants may withdraw their application at any time during the certification process. Certification or Transition application fees are refundable in the following manner:

4.5.a. Withdrawal of Initial Application, following the Initial Office Review and Prior to Inspection Visit:

If, based upon the initial review of the application, the new or transition applicant does not qualify for certification or transition, or the applicant chooses not to continue with the certification or transition process, the certification or transition fee paid, less \$300 to cover administrative costs associated with establishing records and the file review process, will be returned to the applicant.

If the applicant chooses not to continue with the certification or transition process prior to the actual inspection visit, the certification or transition fee paid, less \$300 to cover administrative costs associated with establishing records, the file review process and less any separate inspector costs, will be returned to the applicant.

All refund requests must be submitted in writing within 90 days of receipt of application by the administrative office.

4.5.b. Withdrawal of Initial Application, after the completion of the Initial Office Review and Inspection Visit:

The applicant is liable for the costs of services up to the withdrawal date including \$300 to cover administrative costs associated with establishing records and the file review process, \$15.00 to cover OMRI subscription, all cost incurred associated with the inspection of the operation, and any other costs associated with the completion of the work to date.

All refund requests must be submitted in writing within 90 days of the inspection visit.

4.5.c. Withdrawal of an Annual Information Update Prior to Inspection Visit:

Repeat applicants wishing to withdraw their application, prior to the inspection visit, will receive a partial refund. The certification fee paid, less \$300 to cover administrative office file review process, \$15.00 to cover OMRI subscription, and 1/2 of 1% of the sales figure indicated on the *Fee Determination* form, will be returned to the applicant.

All refund requests must be submitted in writing within 90 days of receipt of application by the administrative office. No refunds will be made later than 90 days after receipt of application by the administrative office.

If the certification fee was not paid in full with the submission of the application and the portion paid does not cover the above costs, the balance will be billed to the applicant.

4.5.d. Withdrawal of an Annual Information Update after Inspection Visit:

The applicant is liable for the costs of services up to the withdrawal date including \$300 to cover administrative costs associated with establishing records and the file review process, \$15.00 to cover OMRI subscription, and 1/2 of 1% of the sales figures indicated on the Fee Determination Form, all costs incurred associated with the inspection of the operation, and any other costs associated with the completion of the work to date.

All refund requests must be submitted in writing within 90 days of the inspection visit.

4.6 Unpaid Certification Fees

NOFA-NY Certified Organic LLC will make every effort to work with applicants owing past due certification fees to set up a payment plan.

Non-payment of certification fees, inspection fees, or processor quarterly sales assessment fees will result in proposed suspension or revocation of certification. Independent collection agencies may be utilized to obtain the past due certification and inspection fees.

4.7 Mediation Process Fees

If as a result of notification of suspension or revocation of Certification, the certified operation chooses to seek mediation, and NOFA-NY Certified Organic LLC accepts this process, the costs for the mediation process are shared equally between the certified operation and NOFA-NY Certified Organic LLC.

4.8 Fees for Public Access to Information

The NOP requires that specific information be made available to the public about the operations we certify. It is our policy to provide the current listing of our certified operations for free on the internet. There is a \$5.00 fee for printed listings. The fee for printed listings of a previous year's certified operations is \$10.00. We will charge a fee for other specific information to reflect the office time it takes to retrieve and copy the information from our files. Please see the section on Public Access to Information, in the Rights, Responsibilities and Obligations section of the manual for a listing of the information we will provide and the fees associated with the information retrieval.

4.9 Additional Services

4.9.a. If the office has to make a copy of the application, a minimum fee of \$25 for the first 100 pages and an additional 10 cents per page for any copies over 100 will be billed to the applicant.

4.9.b. If, at their discretion, staff believes they are able to accommodate an urgent request for service (something outside the normal timeline/scope of certification procedures), a flat expediting fee of \$50 plus a rate of \$30/hour will be billed to the applicant for all time incurred. If expedited shipping/processing charges are involved, the client will be billed the direct cost of these or any other outside services.

4.9.c- Handling /processing operations that submit or request additions or changes to their certification after the initial office review of their annual update for certification has been completed will be billed a \$30/hour fee. This fee applies to addition of new products, changes to currently certified products (including label changes and / or reformulations) and facility changes. This additional charge covers the additional work by office staff in review and certification determination of any changes made.

4.9.d- If expedited service is requested by any client (new or repeat) and this request can be accommodated by staff, a separate flat fee of \$250 plus a \$30/hour fee for office review will be charged in addition to any other fees for services. The \$250 fee must be paid at the time that service begins. The \$30/hour fee will be billed upon completion of the expedited certification process. Any inspection costs will be billed separately once the inspection is complete. If expedited shipping charges are needed, the client will be billed the direct cost(s) of these or any other outside services.

4.9.e- Fees paid for additional services are separate from the annual certification fee and are not included in the annual certification fee cap.

4.9.f- NOFA-NY Certified Organic, LLC will only discuss products/ formulation/labeling with clients being certified by our agency during any review process.

5. Rights, Responsibilities and Obligations

5.1 For Certified Operations

5.1.a. Complying with the Requirements of the NOFA-NY Certified Organic LLC Program

All applicants for certification or certified operations must agree that they will comply with the requirements of the NOFA-NY Certified Organic LLC Certification Program. A statement to this effect is contained in the Application Affirmation, which must be signed by all applicants for certification.

Our program enacts the federal government's National Organic Program, outlined in 7 CFR, part 205 of the USDA's regulations.

5.1.b. Cooperating with the Certification Process

All applicants for certification or certified operations must agree to cooperate with the requirements of the certification process including:

- maintain a complete copy of the application and all supporting applicable paperwork
- providing documentation for review by the inspector
- participating in the inspection
- make products available for residue testing
- resolution of complaints
- immediate notification of NOFA-NY Certified Organic LLC Program Office in relation to any application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation
- notification of NOFA-NY Certified Organic LLC of changes in the certified operation or any portion of the certified operation that may affect its compliance with the National Organic Program's National Organic Standards
- maintenance of all records applicable to the certified operation for not less than 5 years
- allow authorized representatives of the Secretary, the applicable State organic program's governing State official, and NOFA-NY Certified Organic LLC access to such records during normal business hours for review and copying to determine compliance

5.1.c. Making Appropriate Certification Claims

Operations certified by NOFA-NY Certified Organic LLC may only make certification claims which accurately reflect the crop(s) or products for which certification has been granted.

Claims regarding certified products, the use of our name/logo and the USDA National Organic Seal, must comply with the NOP. (Refer to sections 5.1.d -5.1.h below.)

5.1.d. Protect the Certifier from Disrepute

Operations certified by NOFA-NY Certified Organic LLC may only use their certification in a manner that does not harm NOFA-NY Certified Organic LLC and does not make unauthorized or misleading certification claims.

5.1.e. Discontinue use of Certification Claims

Operations must discontinue the use of the certification claims upon suspension or revocation of certification and must return any certification documents required by NOFA-NY Certified Organic LLC. Producer must return a signed statement/Affirmation indicating they understand this requirement.

5.1.f. Limit the Certification Claim

Operations certified by NOFA-NY Certified Organic LLC may only use their certification claims to indicate that products are in compliance with the National Organic Program's National Organic Standards and ISO65.

5.1.g. Protect the use of the Certification Claim

Operations certified by NOFA-NY Certified Organic LLC must do their best to ensure that the certificate or inspection report is not used in a misleading manner. This can include but is not limited to making a claim of certification for products or services that are not certified.

5.1.h. Use the Certification Claim Correctly in Advertising and Marketing, including labels and seals.

To avoid the mislabeling or cross labeling of products, and/or avoid consumer confusion, the certified operation must comply with the following:

NOFA-NY Certified Organic LLC certified operations may make a claim of "100% Organic" and "organic" only on products produced in accordance with the USDA National Organic Program, National Organic Standards.

All operators certified by NOFA-NY Certified Organic LLC claiming to sell products as "100% Organic" and "Organic" must identify those products as being certified by NOFA-NY Certified Organic LLC.

All operations certified by NOFA-NY Certified Organic LLC may use the NOFA-NY Certified Organic LLC logo/seal on certified crops or products with prior approval. Please note, use of the logo/seal is not required.

All printed material (labels, brochures, advertising materials, etc.) which contains the NOFA-NY Certified Organic LLC name or logo must be submitted for review to the Certification Program prior to being used by the certified operation. The NOFA-NY Certified Organic, LLC logo/seal must be in black and white or in the color combination provided by the office, which is hunter green, burgundy and white. Color combination may not be changed.

Operations certified by NOFA-NY Certified Organic LLC marketing both certified and non-certified products for sale, must:

- maintain distinct separation between the certified and non-certified products
- provide signage of equal size and prominence (placement) distinguishing Certified crops from others provide that individual bins, shelves, display areas, pick-your-own fields, etc., be clearly labeled as there can be no confusion on the part of the consumer between certified and non certified products

5.1.i. Adhere to the NOFA-NY Certified Organic LLC Complaint Policy

Operations certified by NOFA-NY Certified Organic LLC must comply with the Complaints section of the NOFA-NY Certified Organic LLC Policy Manual. This section requires that operators respond to and keep records of complaints received about their products.

5.1.j Complaint Investigations

Any complaints received by NOFA-NY Certified Organic, LLC against any operation certified by NOFA-NY Certified Organic, LLC will be thoroughly investigated including an inspection visit and possible soil/tissue/product sampling for testing.

5.2 For NOFA-NY Certified Organic LLC

5.2.a. Public Access to Information

List of Current Year's Certified Operations. Once an applicant is certified, the name, address, phone and the crops and/or type of processing done is available to the general public.

This information is available through our printed annual listing of certified operations and on the Internet. The fee for our current year's listing is \$5.00.

List of Previous Year's Certified Operations. The fee for printed listings of previous year's certified operations is \$10.00.

Farm-Specific Information. The general public may request in writing, for a fee of \$10.00 each:

- specific information regarding what was applied to a farmer's fields in the previous year, as found on the Applied Amendments/Spray Record form of the application
- type of health care materials used to treat specific animals in the previous year, as found on the Dairy/Livestock Medication Record
- a copy of a client's Certification Certificate
- the results of laboratory analyses for residues of pesticides and other prohibited substances
- other business information, as permitted in writing by the producer or handler

If information other than that listed above is requested, the person must contact the producer or handler for the information.

Upon request by the authorized representatives of the USDA Secretary or the State Organic program, all client records are available for review and copying during normal business hours.

5.2.b. Confidential Business Information

Confidential business information is classified as the following types of information:

- the certification fee paid
- marketing outlets
- product profile sheet information
- other information deemed confidential by applicant

NOFA-NY Certified Organic LLC will maintain strict confidentiality with respect to its clients and not disclose to third parties, except as noted above, any business related information concerning the client obtained while conducting the certification process.

6. Non-Compliances, Suspensions, Revocations & Denial of Certification

It is our policy to follow the NOP's requirements for suspension, revocation or denial of certification. We must ensure that those we certify comply with the standards set forth here, which are parallel to the NOP, and when we find that an applicant is unable to comply, we must take action accordingly.

A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request for reinstatement of its certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part.

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, when in the best interest of the certification program, reduce or eliminate the period of ineligibility

6.1 Scale of Sanctions

As the type and severity of noncompliance issues can range from violations of administrative requirements, such as not complying with deadlines, to fraud in organic marketing, the appropriate sanctions also vary.

Denial of Certification is applicable only to first time applicants. Suspension or revocation is applicable only to certified operations. Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, the State organic program's governing State official, or the USDA AMS Administrator.

6.2 Administrative Sanctions

6.2.a. If applicants for certification and certified operations do not submit a complete application, the certification process is on hold pending receipt of the needed information.

6.2.b. If applicants for certification and certified operations do not submit fees, or do not adhere to payment plan due dates, the certification process is on hold pending receipt of the appropriate fees.

6.2.c. The certification process for new applicants will not be completed if requested information and fees for certification are not submitted by the date due. Certified operations not submitting needed information or payment of fees by the due date will be issued a proposed suspension of certification.

6.3 Notification of Non-compliance (reference §205.662)

When an inspection, review, or investigation of an applicant for certification or a certified operation reveals any noncompliance with the National Organic Program's National Organic Standards a written notification of noncompliance shall be sent to the applicant/certified operation. Such notification shall provide:

- description of each noncompliance
- the facts upon which the notification of noncompliance is based; and
- the date by which the applicant/certified operation must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

6.4 Resolution of Non-Compliance (reference §205.662(b))

When an applicant for certification or a certified operation demonstrates that each noncompliance has been resolved, the applicant/certified operation will be sent a written notification of noncompliance resolution.

6.5 Proposed Suspension or Revocation of Certification (reference §205.662(c))

6.5.a. When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the Certification Program office shall send the certified operation a written notification of proposed suspension or revocation. The proposed suspension or revocation of certification shall apply to either the entire operation or a portion of the operation, as applicable to the noncompliance.

6.5.b. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of certification may be combined in one notification.

6.5.c. The notification of proposed suspension or revocation of certification shall state:

- The reasons for the proposed suspension or revocation;
- The proposed effective date of such suspension or revocation;
- The impact of a suspension or revocation on future eligibility for certification;
- The right to request mediation pursuant to Section 205.663 or to file an appeal according to Section 205.681.

6.5.d. Willful Violations (reference §205.662(d))

If the Final Reviewer has reason to believe that a certified operation has willfully violated the National Organic Program's National Organic Standards, the NOFA-NY Certified Organic LLC Program shall send the certified operation a notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance.

6.6 Suspension or Revocation of Certification (reference §205.662(e))

6.6.a. If the certified operation fails to:

- correct the noncompliance,
- resolve the issue through rebuttal or mediation, or

- file an appeal of the proposed suspension or revocation of certification,

NOFA-NY Certified Organic LLC shall send the certified operation a written notification of proposed suspension or revocation of certification for all or a part of the operation.

6.6.b. NOFA-NY Certified Organic LLC shall not send a notification of suspension or revocation to a certified operation that has requested mediation pursuant to §205.663 or filed an appeal pursuant to §205.681 of the National Organic Standards, for the disputed non-compliance, while final resolution of either process is pending. However, a suspension or revocation of certification may be issued for a separate non-compliance.

6.7 Denial of Certification (reference §205.405)

6.7.a. When the NOFA-NY Certified Organic LLC final reviewer has reason to believe, based on a review of the information in the application and the inspection report that a new applicant for certification is not able to comply or is not in compliance with the National Organic standards, a written notification of noncompliance will be provided to the applicant.

When correction of a noncompliance is not possible, a notification of noncompliance and a notification of proposed denial of certification may be combined in one notification.

6.7.b. The notification of noncompliance shall provide:

- A description of each noncompliance.
- The facts upon which the notification of noncompliance is based.
- The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

6.7.c. Upon receipt of such notification of noncompliance, the applicant may:

- Correct non-compliances and submit a description of the corrective actions taken with supporting documentation to the Certification Program Office.
- Correct non-compliances and submit a new application to another certifying agent: Provided, That, the applicant must include a complete application, the notification of noncompliance received from the first certifying agent, and a description of the corrective actions taken with supporting documentation; or
- Submit written information to rebut the noncompliance described in the notification of noncompliance.

6.7.d. After issuance of a notification of noncompliance, NOFA-NY Certified Organic LLC will:

- Evaluate the applicant's corrective actions taken and supporting documentation submitted or the written rebuttal, conduct an on-site inspection if necessary, and
- When the corrective action or rebuttal is sufficient for the applicant to qualify for certification, issue the applicant an approval of certification, or
- When the corrective action or rebuttal is not sufficient for the applicant to qualify for certification, issue the applicant a written notice of proposed denial of certification.
- Issue a written notice of proposed denial of certification to an applicant who fails to respond to the notification of noncompliance.
- Provide notice of approval or denial to the Administrator.

6.7.e. A notice of denial of certification must state the reason(s) for denial and the applicant's right to:

- Reapply for certification either to NOFA-NY Certified Organic LLC or according to Section 6.7.f.
- Request mediation according to Section 7.
- File an appeal of the denial of certification According to Section 7 of the Policy Manual, which parallels the National Organic Standards.

6.7.f. An applicant for certification who has received a written notification of noncompliance or a written notice of denial of certification may apply for certification again at any time with any certifying agent. When such applicant submits a new application to a certifying agent other than the agent who issued the notification of noncompliance or notice of denial of certification, the applicant for certification must include a copy of the notification of noncompliance or notice of denial of certification and a description of the actions taken, with supporting documentation, to correct the non-compliances noted in the notification of noncompliance.

6.7.g. A certifying agent who receives a new application for certification, which includes a notification of noncompliance or a notice of denial of certification, must treat the application as a new application and begin a new application process.

6.7.h. Notwithstanding 6.7.a. of this section, if a certifying agent has reason to believe that an applicant for certification has willfully made a false statement or otherwise purposefully misrepresented the applicant's operation or its compliance with the certification requirements pursuant to this part, the certifying agent may propose to deny certification pursuant to 6.7.d. of this section without first issuing a notification of noncompliance, when corrective action or rebuttal is not sufficient for the applicant to qualify for certification.

6.8 Notification to Applicants/Certified Operations

Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed denial, suspension or revocation, and denial, suspension or revocation issued will be sent to the recipient's place of business via certified, return receipt requested mail or some other medium of delivery that can be tracked

6.9 Notification of USDA AMS Administrator

NOFA-NY Certified Organic LLC will submit to the Administrator or the representative to whom authority has been delegated to act in the stead of the Administrator, a copy of any notice of denial of certification issued according to Section 6, notification of noncompliance, notification of noncompliance correction, notification of proposed suspension or revocation, and notification of suspension or revocation simultaneously with its issuance (as required by National Organic Standards §205.501(a)(15)).

7. Appeals and Complaints

It is our policy to provide applicants with an opportunity of formal review for certification decision with which they disagree. All applicants for certification and certified operations may request mediation pursuant to Section 205.663 of the National Organic Standard, Applicants may also submit formal appeal to the USDA's National Organic Program Administrator. The following section details the process including all time frame requirements.

Once notified of a proposed suspension/revocation of certification, the certified operation must cease advertising/labeling of their product as NOFA-NY Certified Organic, LLC certified and all use of the NOFA-NY Certified Organic, LLC seal. The certified operation may continue to use the USDA Organic seal.

7.1 Notification of proposed decision to suspend, revoke or deny certification

The applicant/certified operation will be notified of the final reviewer's proposal to either deny or suspend or revoke certification, in writing, of the decision, by Certified, Return Receipt mail or some other medium of delivery that can be tracked.

The letter from the final reviewer will include:

- the reasons for the proposed denial or suspension/revocation of certification
- the effective date of the proposed denial or suspension/revocation
- an explanation of the option for the applicant to correct all noncompliance issues and apply for certification again at any time with any USDA accredited certifying agent
- an explanation of the option to pursue a formal mediation process
- an explanation of the option to pursue a formal appeal with the USDA Administration.

7.2 Mediation (§205.663)

7.2.a. Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this part may be mediated at the request of the applicant for certification or certified operation with acceptance by the certifying agent.

7.2.b. Mediation shall be requested in writing to the applicable certifying agent. If the certifying agent rejects the request for mediation, the certifying agent shall provide written notification to the applicant for certification or certified operation.

The written notification shall advise the applicant for certification or certified operation of the right to request an appeal, pursuant to § 205.681, within 30 days of the date of the written notification of rejection of the request for mediation.

7.2.c. If the certifying agent accepts mediation, a qualified mediator mutually agreed upon by the parties to the mediation shall conduct such mediation. The applicant or certified operation and NOFA-NY Certified Organic LLC will share equally the costs of the mediation services.

7.2.d. The parties to the mediation shall have no more than 30 days to reach an agreement following a mediation session. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 days from termination of mediation to appeal the certifying agent's decision pursuant to § 205.681.

7.2.e. Any agreement reached during or as a result of the mediation process shall be in compliance with the Act and these regulations. The Secretary may review any mediated agreement for conformity to the Act and these regulations and may reject any agreement or provision not in conformance with the Act or these regulations.

7.3 Appeal to the USDA AMS Administrator

205.681 Appeals

7.3.a. Certification Appeals

An applicant for certification may appeal a certifying agent's notice of denial of certification, and a certified operation may appeal a certifying agent's notification of proposed suspension or revocation of certification to the Administrator, Except, That, when the applicant or certified operation is subject to an approved State organic program the appeal must be made to the State organic program which will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.

A person subject to the Act who believes they are adversely affected by noncompliance decision of the National Organic Program's Manager may appeal such decision to the Administrator.

- If the Administrator or State organic program sustains a certification applicant's or certified operation's appeal of a certifying agent's decision, the applicant will be issued organic certification, or a certified operation will continue its certification, as applicable to the operation. The act of sustaining the appeal shall not be an adverse action subject to appeal by the affected certifying agent.
- If the Administrator or State organic program denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice or the State organic program's rules of procedure.

7.3.b. Accreditation Appeals

An applicant for accreditation and an accredited certifying agent may appeal the Program Manager's denial of accreditation or proposed suspension or revocation of accreditation to the Administrator.

- If the Administrator sustains an appeal, an applicant will be issued accreditation, or a certifying agent will continue its accreditation, as applicable to the operation.
- If the Administrator denies an appeal, a formal administrative proceeding to deny, suspend, or revoke the accreditation will be initiated. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice, 7 CFR Part 1, Subpart H.

7.3.c. Filing Period

An appeal of a noncompliance decision must be filed within the time period provided in the letter of notification or within 30 days from receipt of the notification, whichever occurs later. The appeal will be considered "filed" on the date received by the Administrator or by the State organic program.

A decision to deny, suspend, or revoke certification or accreditation will become final and non-appealable unless the decision is appealed in a timely manner.

All written communications between parties involved in appeal proceedings must be sent to the recipient's place of business by a delivery service which provides dated return receipts or by some other medium that can be tracked.

7.3.d. Where and What to File

Appeals to the Administrator must be filed in writing and addressed to Administrator, USDA, AMS, c/o NOP Appeals, STOP 0203, Room 302-Annex, 1400 Independence Ave., SW, Washington, DC 20250

Appeals to the State organic program must be filed in writing to the address and person identified in the letter of notification.

All appeals must include a copy of the adverse decision and a statement of the appellant's reasons for believing that the decision was not proper or made in accordance with applicable program regulations, policies, or procedures.

An applicant/certified operator may appeal a proposed denial or suspension/revocation of certification by the NOFA-NY Certified Organic LLC to the USDA Administrator, as specified in section 205.681.

7.4 Public Notification of Change of Certification Status

NOFA-NY Certified Organic LLC will publish notice of changes in the certification status of certified operations in the newsletter of the Northeast Organic Farming Association of NY, Inc. Sales outlets of the certified operation will also be notified of a change in the certification status. This public notification will only be done after any and all appeals have been concluded.

8. Complaint and Dispute Policy and Procedures

Addressing complaints is an important component of operating a third party certification organization. Complaints and disputes may encompass criticisms of either an operator certified by NOFA-NY Certified Organic LLC, or the NOFA-NY Certified Organic LLC program as a whole. NOFA-NY Certified Organic LLC as well as operators certified by NOFA-NY Certified Organic LLC must address complaints received.

Definitions:

Complaint: An objection by an operator or other party to the policies, procedures, or decisions of NOFA-NY Certified Organic LLC, other than an appeal.

Example: Disagreements about procedures or policies, or problems with the way NOFA-NY Certified Organic LLC is implementing policies or procedures.

Dispute: A disagreement between NOFA-NY Certified Organic LLC and another party that is not lodged as a complaint or as an appeal of a certification decision.

Example: A disagreement between NOFA-NY Certified Organic LLC and an applicant over whether or not all fees have been paid.

8.1 Complaints Procedures followed by NOFA-NY Certified Organic LLC

8.1.a. NOFA-NY Certified Organic LLC may investigate complaints of noncompliance with the Act or regulations concerning production and handling operations certified as organic by us. We will track complaints related to operations certified by NOFA-NY Certified Organic LLC through the use of a computerized database. Copies of written complaints concerning certified operations will be placed in the operator's file and in the Complaint File.

8.1.b. NOFA-NY Certified Organic LLC will maintain records of complaints regarding the operation of the NOFA-NY Certified Organic LLC Program. NOFA-NY Certified Organic LLC will acknowledge the complaint and note any action taken and the effectiveness of the action.

Copies of all correspondence pertaining to a complaint will be filed in the Complaint File.

We must notify the USDA Program Administrator if any complaints rise to the level of a noncompliance of the Federal Organic Rule.

8.2 Complaints Procedures for Certified Operations

8.2.a. Operations Certified by NOFA-NY Certified Organic LLC must maintain a record of all complaints they receive about their products' compliance with the National Organic Program's National Organic Standards.

8.2.b. Operations Certified by NOFA-NY Certified Organic LLC must respond to all complaints they receive about their products' compliance with the National Organic Program's National Organic Standards.

8.2.c. Operations Certified by NOFA-NY Certified Organic LLC must document their actions taken to correct the cause of all complaints they receive about their products' compliance with the National Organic Program's National Organic Standards.

8.2.d. Compliance with the Complaint Policy will be assessed at the time of the inspection.