

Agricultural Marketing Service, USDA

§ 205.311

ingredients must display the production lot number of the product if applicable.

(c) Shipping containers of domestically produced product labeled as organic intended for export to international markets may be labeled in accordance with any shipping container labeling requirements of the foreign country of destination or the container labeling specifications of a foreign contract buyer: *Provided*, That, the shipping containers and shipping documents accompanying such organic products are clearly marked "For Export Only" and: *Provided further*, That, proof of such container marking and export must be maintained by the handler in accordance with recordkeeping requirements for exempt and excluded operations under §205.101.

§ 205.308 Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as "100 percent organic" or "organic."

(a) Agricultural products in other than packaged form may use the term, "100 percent organic" or "organic," as applicable, to modify the name of the product in retail display, labeling, and display containers: *Provided*, That, the term, "organic," is used to identify the organic ingredients listed in the ingredient statement.

(b) If the product is prepared in a certified facility, the retail display, labeling, and display containers may use:

(1) The USDA seal; and

(2) The seal, logo, or other identifying mark of the certifying agent that certified the production or handling operation producing the finished product and any other certifying agent which certified operations producing raw organic product or organic ingredients used in the finished product: *Provided*, That, such seals or marks are not individually displayed more prominently than the USDA seal.

§ 205.309 Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as "made with organic (specified ingredients or food group(s))."

(a) Agricultural products in other than packaged form containing be-

tween 70 and 95 percent organically produced ingredients may use the phrase, "made with organic (specified ingredients or food group(s))," to modify the name of the product in retail display, labeling, and display containers.

(1) Such statement must not list more than three organic ingredients or food groups, and

(2) In any such display of the product's ingredient statement, the organic ingredients are identified as "organic."

(b) If prepared in a certified facility, such agricultural products labeled as "made with organic (specified ingredients or food group(s))" in retail displays, display containers, and market information may display the certifying agent's seal, logo, or other identifying mark.

§ 205.310 Agricultural products produced on an exempt or excluded operation.

(a) An agricultural product organically produced or handled on an exempt or excluded operation must not:

(1) Display the USDA seal or any certifying agent's seal or other identifying mark which represents the exempt or excluded operation as a certified organic operation, or

(2) Be represented as a certified organic product or certified organic ingredient to any buyer.

(b) An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multiingredient product produced by the exempt or excluded operation. Such product or ingredient must not be identified or represented as "organic" in a product processed by others.

(c) Such product is subject to requirements specified in paragraph (a) of §205.300, and paragraphs (f)(1) through (f)(7) of §205.301.

§ 205.311 USDA Seal.

(a) The USDA seal described in paragraphs (b) and (c) of this section may be used only for raw or processed agricultural products described in paragraphs (a), (b), (e)(1), and (e)(2) of §205.301.

(b) The USDA seal must replicate the form and design of the example in figure 1 and must be printed legibly and conspicuously:

(1) On a white background with a brown outer circle and with the term, “USDA,” in green overlaying a white upper semicircle and with the term, “organic,” in white overlaying the green lower half circle; or

(2) On a white or transparent background with black outer circle and black “USDA” on a white or transparent upper half of the circle with a contrasting white or transparent “organic” on the black lower half circle.

(3) The green or black lower half circle may have four light lines running from left to right and disappearing at the point on the right horizon to resemble a cultivated field.



Figure 1

§§ 205.312–205.399 [Reserved]

Subpart E—Certification

§ 205.400 General requirements for certification.

A person seeking to receive or maintain organic certification under the regulations in this part must:

(a) Comply with the Act and applicable organic production and handling regulations of this part;

(b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in § 205.200;

(c) Permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas,

structures, and offices by the certifying agent as provided for in § 205.403;

(d) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow authorized representatives of the Secretary, the applicable State organic program’s governing State official, and the certifying agent access to such records during normal business hours for review and copying to determine compliance with the Act and the regulations in this part, as provided for in § 205.104;

(e) Submit the applicable fees charged by the certifying agent; and

(f) Immediately notify the certifying agent concerning any:

(1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and

(2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.

§ 205.401 Application for certification.

A person seeking certification of a production or handling operation under this subpart must submit an application for certification to a certifying agent. The application must include the following information:

(a) An organic production or handling system plan, as required in § 205.200;

(b) The name of the person completing the application; the applicant’s business name, address, and telephone number; and, when the applicant is a corporation, the name, address, and telephone number of the person authorized to act on the applicant’s behalf;

(c) 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, when available, 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 noncompliances noted in the notification of noncompliance, including evidence of such correction; and