

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 15 AGRICULTURE GENERAL PROVISIONS
PART 1 ORGANIC AGRICULTURE

21.15.1.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[21.15.1.1 NMAC - Rp, 21.15.1.1 NMAC, 1/1/2018]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.15.1.2 SCOPE: The rule shall apply to certification of agricultural products.
[21.15.1.2 NMAC - Rp, 21.15.1.2 NMAC, 1/1/2018]

21.15.1.3 STATUTORY AUTHORITY: The rule is promulgated pursuant to the provisions of the Organic Production Act, Sections 76-21A-1 through 76-21A-5 NMSA 1978.
[21.15.1.3 NMAC - Rp, 21.15.1.3 NMAC, 1/1/2018]

21.15.1.4 DURATION: Permanent.
[21.15.1.4 NMAC - Rp, 21.15.1.4 NMAC, 1/1/2018]

21.15.1.5 EFFECTIVE DATE: January 1, 2018,
[21.15.1.5 NMAC - Rp, 21.15.1.5 NMAC, 1/1/2018]

21.15.1.6 OBJECTIVE: The rule establishes that the department, as a USDA-accredited certifying agent, follows the requirements of the national organic program's standards to certify agricultural products as organic.
[21.15.1.6 NMAC - Rp, 21.15.1.6 NMAC, 1/1/2018]

21.15.1.7 DEFINITIONS: The following definitions apply to this part and all other regulations the department adopts.

A. "Accreditation" means a determination made by USDA that authorizes a private, foreign, or state entity to conduct certification activities as a certifying agent under the standards.

B. "Agricultural product" means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock.

C. "Application" means a formal request to an authority for the purpose of organic certification.

D. "Certify or certification or certified" means a determination made by a USDA-accredited certifying agent that a production or handling operation is in compliance with the Organic Foods Production Act of 1990 and the standards which is documented by a certificate of organic operation.

E. "Certifying agent" means any entity accredited by the national organic program as a certifying agent for the purpose of certifying a production or handling operation as a certified production or handling operation.

F. "Department" means the New Mexico department of agriculture.

G. "Farm operation" means raising, cultivating, propagating, fattening, grazing, or any other farming or ranching activity.

H. "Fees" means funds collected by the department as provided for under the act.

I. "Handler" means any person who engages in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products. This may include a processor.

J. "National organic program" means the USDA program authorized by the federal Organic Foods Production Act of 1990 for the purpose of implementing its provisions.

K. "Organic" means a labeling term that refers to an agricultural product produced in accordance with the federal Organic Foods Production Act of 1990.

L. "Organic products" means all products certified by the department as "100 percent organic," "organic" or "made with organic (ingredients or food groups)."

M. "Processor" means any person who engages in the cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

N. “**Producer**” means a person who engages in the business of growing or producing food, fiber, feed, and other agricultural products.

O. “**Renewal**” means annual update required for continued certification.

P. “**Reviewing Process**” means the review of an application prior to conducting an inspection of the applicant’s scope(s).

Q. “**Scope**” refers to operation type; crops, livestock, wild crops, and handling.

R. “**Standards**” means the specific federal requirements that must be verified by the certifying agent accredited by the national organic program of the USDA before products can be labeled organic.

S. “**USDA**” means United States department of agriculture.

[21.15.1.7 NMAC - Rp, 21.15.1.7 NMAC, 1/1/2018]

21.15.1.8 ADOPTION OF THE STANDARDS: The standards established by USDA’s national organic program and set forth in Title 7 CFR Part 205 are incorporated by reference.

[21.15.1.8 NMAC - Rp, 21.15.1.8 NMAC, 1/1/2018]

21.15.1.9 FEES:

A. All fees shall be collected directly by the department, and used to carry out the provisions of the Organic Production Act NMSA 76-21A.

B. New Application Fee: New applicants, regardless of scope, must submit a \$750 application fee for the initial review and processing of the application at the time of submission. New applications received without accompanying fees shall be deemed incomplete, and the applicant shall be notified that the application will not be further processed until the fee is paid. Applicants applying for dual scopes (crop and processor and animal and processor, but not crop and animal) must pay two fees. All fees are nonrefundable.

C. Renewal Fee: Renewal applicants must submit a \$500 application fee for the review and processing of the application at the time of submission per scope. The deadline for renewal applicants shall be the anniversary date of the operations initial certification each year. Renewal applications received without accompanying fees shall be deemed incomplete, and the applicant shall be notified that the application will not be further processed until the fee is paid. Applicants applying for dual scopes (crop and processor and animal and processor, but not crop and animal) must pay two fees. All fees are nonrefundable.

D. Late Fee – Renewals: Late fee charges on renewal applications shall be assessed as follows:
Received 30 days after the anniversary date of the operations initial certification, \$100;
Received 60 days after the anniversary date of the operations initial certification, \$200;
Received 90 days after the anniversary date of the operations initial certification, \$500.

E. Hourly rate: an hourly rate of \$65 per hour shall be assessed for time spent directly related to conducting inspections in quarter hour increments, certification process review, and issuance of the organic certification certificate. Certificates and renewals shall only be issued once all fees have been paid in full. The hourly rate does not include mileage and per diem.

F. Mileage and per diem: In addition to the application fee and hourly rate, mileage and per diem will be charged in accordance with the provisions of the New Mexico state university business procedure manual, Chapter 5C: Travel. If multiple inspections are in the same area, the mileage and per diem rate will be divided equally among applicants.

G. Collection of Fund: All funds collected shall be subject to policies set in New Mexico state university’s business procedures manual.

[21.15.1.9 NMAC - Rp, 21.15.1.9 NMAC, 1/1/2018]

HISTORY of 21.15.1 NMAC:

History of the Repealed Material:

21 NMAC 15.1, Organic Agriculture Generally, filed 7/2/1998 - Repealed effective 8/30/2001

21 NMAC 17.58, Organic Methods of Control, filed 7/2/1998 - Repealed effective 8/30/2001

21 NMAC 18.5, Organic Production Methods and Materials, filed 7/2/98 - Repealed effective 8/30/2001

21 NMAC 25.6, Organic Handling Operations, Inspections and Application Process, filed 7/2/1998 - Repealed effective 8/30/2001

21 NMAC 27.3, Organic Honey Production, filed 7/2/1998 - Repealed effective 8/30/2001

21 NMAC 30.1, Organic Production Methods and Materials, filed 7/2/1998 - Repealed effective 8/30/2001

21 NMAC 34.16, Organic Production Methods and Materials, filed 7/2/1998 - Repealed effective 8/30/2001

21.15.1 NMAC, Organic Agriculture Generally, filed 8/15/2001 - Repealed effective 02/29/2012
21.17.58 NMAC, Organic Methods of Control, filed 8/15/2001 - Repealed effective 02/29/2012
21.18.5 NMAC, Organic Production Methods and Materials, filed 8/15/2001 - Repealed effective 02/29/2012
21.25.6 NMAC, Organic Labeling and Marketing, Processing/Handling Operations, Application Process and Inspections, filed 8/15/2001 - Repealed effective 02/29/2012
21.27.3 NMAC, Organic Honey, Propolis and Beeswax Production, filed 8/15/2001 - Repealed effective 02/29/2012
21.30.1 NMAC, Organic Production Methods and Materials, filed 8/15/2001 - Repealed effective 02/29/2012
21.34.16 NMAC, Organic Production Methods and Materials, filed 8/15/2001 - Repealed effective 02/29/2012
21.15.1 NMAC, Organic Agriculture, filed 02/29/2012 - Repealed effective 1/1/2018.

NMAC History:

21.15.1 NMAC, 21.17.58 NMAC, 21.18.5 NMAC, 21.25.6 NMAC, 21.27.3 NMAC, 21.30.1 NMAC and 21.34.16 NMAC, all replaced by 21.15.1 NMAC, Organic Agriculture, effective 02/29/2012
21.15.1 NMAC, Organic Agriculture, filed 2/29/2012 was repealed and replaced by 21.15.1 NMAC, Organic Agriculture, effective 1/1/2018,