

Responding to Noncompliances

Your organic certifier has issued you a noncompliance. What do you do? How do you respond to it?

Noncompliances are a part of being certified because no operation is perfect. Noncompliances can help drive improvements and make the operation better. Noncompliances are nothing to be afraid of, but it is important to take them seriously and respond completely.

Look at the Letter or Email

Skim the letter and noncompliances. Are the noncompliances minor items that are due when you renew for certification or at your next inspection, or does the letter indicate it is a Notice of Noncompliance with a 30-day deadline, which generally indicates it is a Major Noncompliance?

Verify the Deadline

The deadline may be in a few weeks, 30 days, or even longer. The deadline determines the urgency of your work and response.

If you need more time, contact your organic certifier before the deadline. They may not provide an extension--it will depend on the circumstances and other issues like operation history --so it is important to work to meet the deadline.

Read the Noncompliance

Set aside some time when you won't be interrupted to look at the noncompliance(s).

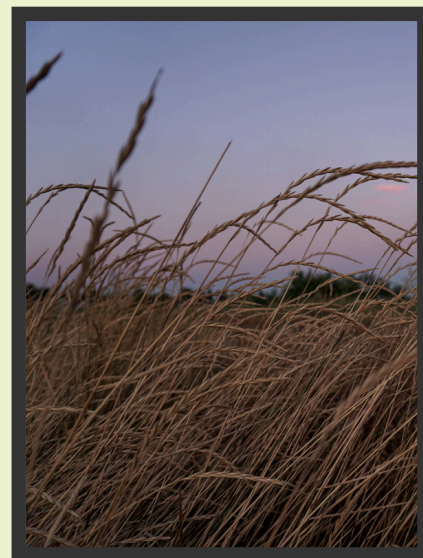
1. Read the noncompliance carefully a few times. The certifier will include the reference from the USDA Organic Regulations that was violated, along with the evidence collected indicating noncompliance.
2. Review the part of the Regulation mentioned, if the language is not provided in the certifier's letter. This will show you the requirements of the regulation and what the certifier is reading when determining compliance.
3. If you have questions after reading the noncompliance and the Regulation, call your organic certifier. They cannot tell you how to fix the noncompliance (i.e., consulting), but they can provide technical assistance to explain the regulation.



How to Resolve the Noncompliance

This depends on each operation, and there is no single answer for everyone. You will need to look at the noncompliance, the requirement of the Regulation, and evaluate your operation to see what changes you need to make to comply with the Regulation. Although it is not required under the National Organic Program, it may be helpful to conduct a Root Cause Analysis (see **Resources** below).

This will help you determine the true cause of the noncompliance so you can create a corrective action that gets to the heart of the problem. This will help prevent the problem from occurring again, which is one of the requirements of a corrective action.



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Create a Corrective Action Plan



An operation provides a corrective action plan in response to a major noncompliance. This describes how the operation has corrected the current noncompliance and explains how the operation will prevent the noncompliance from happening again in the future. The operation must also provide supporting evidence of how they resolved the noncompliance and prevent reoccurrence.

Note: For minor noncompliances, a corrective action plan is not necessary, but the operation does need to fix the noncompliance. The operator will need to explain to the certifier how they fixed the issue and provide evidence to support this. It is best practice to consider how to prevent it going forward, if it is an issue that could happen again.

Example of a Corrective Action Plan:

Issue: The operator did not respond to a request to provide information by a certain date, and a Major Noncompliance was issued as a result.

Example response:

1. Correction of the current issue: The operation writes, “all overdue minor noncompliances were reviewed and updates were made to the appropriate documents” (For example: Organic System Plan and field history form. OMRI certificate obtained for an input).

Supporting Evidence provided: Provide the updated Organic System Plan to the certifier, along with the revised field history and OMRI certificate.

2. Prevent the noncompliance from occurring again.

Operation response: “The minor noncompliances were issued on a noncompliance report, which I received with my organic certificate. Since I had not yet made a sale for the year, I didn’t open the envelope. To prevent this in the future, I will open mail from my certifier at least once a week, and I have set a reminder on my phone. I will set up any further reminders on my phone if I need to follow-up on any requests from my certifier.”

Supporting Evidence provided: Screenshot of calendar item on phone.



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Summary of Corrective Action response: Provide your certifier with a written explanation (they may have a form for you to use) explaining how you corrected the current issue, will prevent it in the future, and attach any related supporting evidence for those actions.

Next Steps

The organic certifier will review the response. Certifiers may then respond in various ways, depending on the response and the situation. They may:

- Ask for more information.
- Accept the response and resolve the noncompliance.
- Determine the response is not complete to address the issue, so the noncompliance remains open.
- Escalate to a Notice of Proposed Suspension if you don't respond or don't fully address the issue.

It is important to watch email and mail for further communication from your certifier in case you need to respond again. If the certifier accepts the response, they will notify you the noncompliance is resolved. It is important to continue following your corrective action.



Resources

USDA Organic Regulations: <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-I/subchapter-M/part-205?toc=1>

Root Cause Analysis Five Whys:

<https://www.cms.gov/medicare/provider-enrollment-and-certification/qapi/downloads/fivewhys.pdf> and
<https://www.ihl.org/library/tools/5-whys-finding-root-cause>

Responding to Noncompliances <https://www.usda.gov/guidance-documents/nop-2608/ams/instruction-responding-noncompliances>
- A resource for certifiers that may be useful for operations.



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