



MARIN ORGANIC CERTIFIED AGRICULTURE *MOCA*

Certification Handbook A Guide to Certification Services in Marin County



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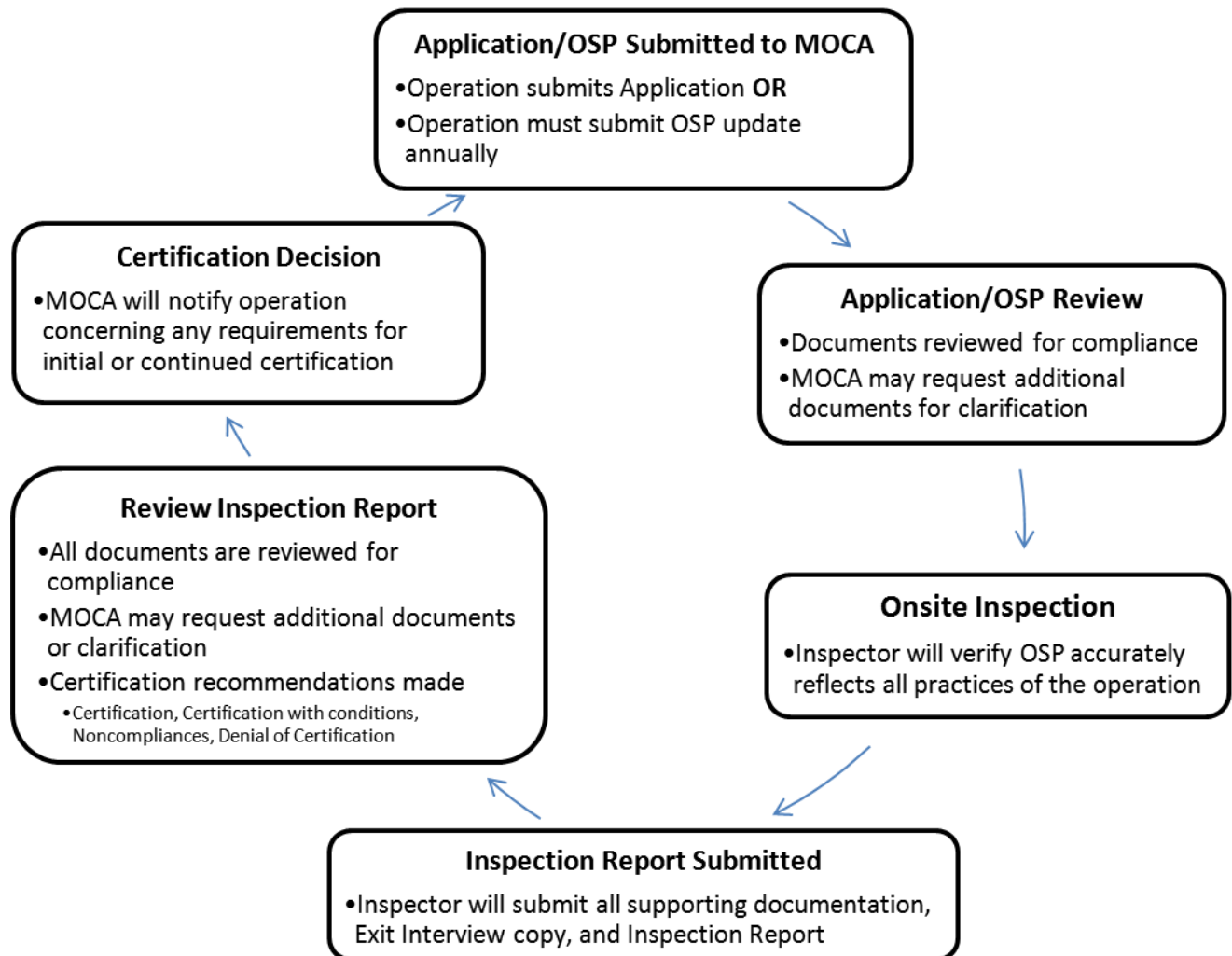
OVERVIEW

Welcome!

Thank you for choosing Marin Organic Certified Agriculture (MOCA) as your organic certifier. We are dedicated to quality service for your organic certification process.

Your Organic System Plan (OSP) must be updated annually followed by an onsite inspection. The onsite inspection verifies that your OSP is compliant with the USDA National Organic Program (NOP). We are committed to helping you understand the standards as they apply to the dynamic nature of your certified organic operation!

MOCA Certification Flow Chart Annual Requirements



GENERAL INFORMATION

MOCA Background

Welcome to MOCA! The concept to create an organic certification agency within the Marin County Agricultural Commissioner's office was developed by the Agricultural Commissioner and staff, the Director and staff of the University of California Cooperative Extension, the Marin Organic committee members and the Marin County Board of Supervisors. MOCA was created and inspired by the community it serves; local growers, livestock producers, handlers and consumers.

Accreditation and Certification Categories

MOCA operates in compliance with state and federal organic regulations and standards. MOCA is accredited as a certification agency by the United States Department of Agriculture (USDA) for offering organic certification services in compliance with the National Organic Program (NOP) Federal Rule. MOCA offers general certification to growers, livestock operations, wild crop harvesters and certain handlers/processors. MOCA does not offer certification services to importers, exporters, meat processing or slaughterhouse facilities, livestock brokers, auction yards, or producer groups.

MOCA offers certification for handlers/processors that meet one or more of the following specific criteria:

1. Operation is a creamery that processes milk, cream, cheese or butter products;
2. Operation processes single ingredient products;
3. Operation utilizes simple production processes to process multi-ingredient products on-farm.

MOCA Certification Handbook & USDA National Organic Program Standards

MOCA provides two documents upon application. The MOCA Certification Handbook is provided to describe the certification process and a copy of the entire USDA NOP 7 CFR Part 205 Final Rule contains the official organic standards. It can be accessed at AMS website: <https://www.ams.usda.gov/rules-regulations/organic>. Any interpretation, and/or changes to the NOP standards are at the discretion of the USDA, and also available on the USDA website.

Equality

MOCA offers certification without discrimination. The County of Marin/MOCA prohibits discrimination against or harassment of any person on the basis of race, color, national origin, religion, sex, physical or mental disability, medical condition, ancestry, marital status, age, sexual orientation or citizenship. MOCA does not make undue financial or other conditions, nor discriminate, impede or inhibit applicants based on their size or type of operation. MOCA shall make its services accessible to all applicants whose activities fall within its authorized field of operation and shall not be conditional upon the membership of any association or group.

Confidentiality and Public Information

Per §205.501(a)(10) and §205.501(b)(4) of the Federal Code of Regulations, MOCA safeguards the confidentiality of any business-related information concerning any client, products, or suppliers obtained during the course of certification. MOCA does not disclose any proprietary information to third parties without the client's written consent prior to release, except to the authorized representatives of the USDA Secretary, the applicable State Organic Governing State Official, or other authorized representatives of accredited certification agencies where necessary to implement the National Organic Program (NOP), the State Organic Program, or the MOCA certification program. MOCA may disclose proprietary information as required by other laws of the United States or other countries in which it performs certification activities, State law or other laws of local governments.

MOCA also makes public upon request all certificates, Client Profiles, and any results of laboratory analyses for residues of pesticide and other prohibited substances conducted during the current and 3 preceding calendar years, unless the testing is part of an on-going compliance investigation.

Public information about certified operations is made available upon request from MOCA and is also available on the NOP's Organic Integrity Database (OID).

All organic production and sales information is held strictly confidential except that MOCA makes this information available to the USDA Secretary or applicable State Organic Program' Governing State Official in order to carry out its obligations under the USDA NOP.

If an authorized representative of an accredited certification agency wishes to request confidential information pursuant to §205.501(a)(10) regarding an organic operation certified by MOCA, they must complete and return the MOCA Information Request and Confidentiality Statement form. The representative's signature on this form attests that they are an authorized representative of an accredited certification agency with the USDA NOP and serves as an affirmation of confidentiality as outlined in §205.501(a)(10) of the Federal Code of Regulations.

Conflict of Interest Policy

MOCA maintains impartiality by preventing conflict of interest. MOCA requires all persons who review applications for NOP certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, or make certification decisions, to complete an annual conflict of interest disclosure form. MOCA ensures 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. MOCA excludes any person with conflicts of interests from discussions and all stages of the certification process and monitoring of production and handling operations for all entities in which a person has or has had 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.

MOCA does not permit any personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any operation inspected.

Standards of Behavior

MOCA strives to provide professional, efficient, and cost-effective service to our producers. We expect our staff and producers to maintain a professional and business-appropriate standard of

behavior. Threatening or abusive verbal or physical behavior or any other inappropriate behavior will not be tolerated. The inspection and certification environment constitute a workplace and all safe workplace guidelines and statutes apply within this setting. Inappropriate behavior by an operator will result in the immediate termination of the inspection and will be regarded as refusing service. The department will evaluate the misconduct and determine what action to take. Consequences of misconduct include, filing a police report, Notice of Noncompliance, and/or Notice of Proposed Suspension, or other actions.

CERTIFICATION

Certification

A person or operation seeking to receive or maintain organic certification under the NOP must comply with all applicable organic regulations.

Application

All new applicants to MOCA shall pay a nonrefundable fee of \$337 that is due at the time of the application request. An applicant packet may be obtained upon request to MOCA. The packet contains the MOCA Handbook, the entire USDA 7 CFR Part 205 NOP Final Rule, Certification Application Affidavit, On-site Inspection and Procedures, and the Organic System Plan (OSP). The applicant must return the completed forms and required attachments to MOCA for review. Current registration with the California Department of Agriculture (CDFA) Organic Program is required.

Application Review & Cost Estimate

Once the application for certification has been submitted, MOCA will review the application for completeness and accuracy. MOCA will determine whether the applicant appears to comply or may be able to comply with the applicable organic regulations. Further information requests may occur in attempts to clearly define, document and understand any differences from the information submitted.

MOCA will also verify if the applicant was previously certified with another agency and whether the applicant received a notice of noncompliance or denial of certification and have submitted documentation to support correction of any noncompliance(s) identified in the notice of noncompliance or denial of certification.

The findings of the application review will be communicated to the applicant along with a cost estimate. The estimate is based on the information provided by the applicant. The actual cost of certification may vary depending on the accuracy of the information compared to the actual situation encountered at the time of inspection and on granting certification.

Applicants may withdraw their application at any time; however, the application fee is non-refundable. An applicant who withdraws its application shall be liable for the costs of services provided up to the time of withdrawal. An applicant who voluntarily withdraws an application prior to the issuance of a notice of noncompliance will not be issued a notice of noncompliance. An applicant who withdraws an application prior to the issuance of a notice of certification denial will not be issued a notice of certification denial.

Once the application material has been reviewed and found sufficient, a MOCA inspector will be assigned and will schedule an on-site inspection with the applicant. Typically, the inspection will be performed within 30 days of the assignment. The initial inspection may be delayed up to 6 months to comply with the requirement that the inspection must be conducted when the land, facilities, and activities that demonstrate compliance of capacity to comply can be observed.

The On-site Inspection

The on-site inspection must verify the operation's compliance or ability to comply with the NOP. The information included in the OSP must accurately reflect the practices used or planned to be used by the applicant.

The operation must ensure there is ample time for the inspection. The duration of an inspection varies by operation and from inspection to inspection. The inspector will need to view all documents that form the operation's audit trail, have complete input, harvest and sales records available for inspection, including all receipts for inputs, contracted services and equipment rental.

All on-site inspections must be conducted when a MOCA authorized representative who is knowledgeable about the operation is present and at a time when the land, facilities, and activities demonstrate compliance with applicable organic regulations/standards can be observed.

The MOCA inspector will conduct an exit interview with the authorized representative to confirm the accuracy and completeness of the inspection observations and information gathered during the inspection. The inspector will address any additional information needed as well as issues of concern.

Following the on-site inspection, the inspector will write an inspection report and submit all necessary documents for final review and certification approval.

Failure to Complete an Inspection

Failure to complete an inspection is cause for Notice of Noncompliance and/or Notice of Proposed Suspension.

Annual On-site Inspection

The on-site inspection shall be conducted annually thereafter for each MOCA certified operation. The purpose is to determine that the operation continues to meet all regulations/standards.

Additional On-site Inspections

Additional on-site inspections may be required by MOCA to determine compliance with applicable regulations/standards. Inspections may be announced or unannounced at the discretion of MOCA or as required by the USDA NOP Administrator or State Organic Program official.

Unannounced Inspections

Operations chosen for unannounced inspections may be random, risk based, or the result of a complaint or investigation. MOCA will disclose to the operation the reason that the operation was chosen for the inspection.

- a. Criteria for conducting an unannounced inspection of an operation may include, but are not limited to:
 - i. Previous noncompliance issues.
 - ii. Complaints.
 - iii. Organic and non-organic production or handling, especially of visually indistinguishable varieties.

- iv. Risk of contamination from adjoining land use or commingling, or contamination during handling.
- v. Complexity of operation.

MOCA will conduct unannounced inspections broadly across all certified operations, including a broad spectrum of production types, products, and locations. The inspections will not be limited to nearby operations or certain production types.

MOCA will conduct unannounced inspections of 5 percent of their total certified operations per year as a tool in ensuring compliance with the regulations.

Unannounced inspections may be limited in scope, depth, and breadth, and may cover only certain aspects of the operation, such as parcels, facilities, products, etc.

An inspection report will be reviewed by MOCA, sent to the operation, and results communicated to the operation pursuant to NOP §205.403(e), §205.404(a), and MOCA's internal protocols.

If an operation refuses to allow an inspector access to any part of an operation, during normal business hours, including the non-organic portions of the operation, the operation will be in violation of NOP §205.403, and MOCA will promptly issue a Notice of Noncompliance to the operation.

Certification Approval

Within a reasonable amount of time after the on-site inspection a final review will be conducted to determine compliance. If MOCA determines that all OSP procedures and activities of the applicant's operation are compliant, MOCA shall grant certification. The certification may include requirements for correction of a noncompliance within a specified time period as a condition of continued certification.

MOCA shall provide the applicant with a copy of the inspection report, a copy of test results of any samples taken by the inspector (at no cost to the applicant), and an organic certificate. The certificate of organic operation will be generated from the Organic Integrity Database and will be provided by MOCA to operations electronically. The certificate specifies, at minimum:

1. Certified operation's name (all legal names) and address(es), including a physical address if the mailing or legal address is not the physical location of the operation*;
2. Certifying agent's name, address, Web site, and phone number*;
3. Effective date (when the current or initial certifying agent first certified the operation to the USDA organic regulations)*;
4. Issue date (when the certifying agent issued the organic certificate);
5. Anniversary date (when the certified operation must submit its annual update). Organic certificates cannot include expiration dates;
6. Categories of organic operation (crops, wild crops, livestock, and handling/processing)*;
7. Specific certified organic products covered by the organic certificate, allowing auditors and buyers to verify whether the operation is certified to produce or handle the product for sale (e.g., "hay" or "Uncle Perry's Berry Organic Granola");
8. Labeling category for each product certified under the handling/processing certification category (not required for products in the crops, wild crops, or livestock certification

categories). Labeling categories: 100% Organic, Organic, Made with Organic (specified ingredients or food groups), and Livestock Feed (Organic or 100% Organic);

9. The statement, “Certified to the USDA organic regulations, 7 CFR Part 205.” This differentiates USDA organic products from those certified to other organic standards; and
10. The statement, “Once certified, a production or handling operation’s organic certification continues in effect until surrendered, suspended or revoked.”

Certifying agents must identify only one “person” (typically a farm or business as defined in 7 CFR § 205.2) on the organic certificate; this “person” must be certified organic. Each certified organic operation must have its own organic certificate. Certification and certificates issued to certified operations are not transferrable to new owners in cases of mergers, acquisitions, or other transfers of ownership.

Certifying agents should issue a new organic certificate each year. A new certificate must be issued when any information specified on the certificate has changed. These updated certificates may be issued after reviewing the annual update or after the annual inspection is completed. Certifying agents cannot issue organic certificates to cover operations or land that is under transition to organic production. However, certifying agents can issue separate transitional certificates to cover land in transition to organic production.

The USDA organic regulations do not provide for precertification. Certifying agents cannot issue precertification documents to cover operations that are applying for certification. An organic certificate may only be issued once certification is attained, and the operation seeking certification meets all the requirements of the regulations.

Certification Renewal

In order to maintain certification an operation must annually renew certification. Prior to the annual on-site inspection, the operation’s OSP must be updated. Each year MOCA sends a renewal letter and recertification documents to each operation. In order to continue certification, the operation must return the renewal packet by the specified date on the renewal letter. If the renewal packet is received after the specified renewal return date, a late penalty fee as per the MOCA Fee Certification Schedule may be added to the certification fees. The following information is required in the renewal packet: Updates of any pending corrections previously identified, updates to the OSP detailing any deviations, changes to, modifications to, or other amendments made to the previous year’s OSP, and any additions or deletions intended to be undertaken in the coming year.

When all required information is found compliant, MOCA will schedule the on-site inspection. Once the inspection is performed, a final certification review will be conducted. If the operation is found compliant with applicable organic standards, MOCA will issue an updated organic certification.

Maintenance and Modification of the Organic System Plan (OSP)

All operations are required to maintain an Organic System Plan. The OSP is central to maintaining organic certification. The operation must make every attempt to ensure that the OSP is current and accurately reflects the organic practices of the operation. All operations are required to update their OSP at renewal if there are relevant changes in their practices. Operations may change the OSP at any time during the year. Changes to the OSP must be submitted to MOCA prior to

implementation. The use of a new input or ingredient must be updated in the OSP and approved by MOCA prior to use. Failure to update the OSP in a timely matter may result in a notice of noncompliance and loss of certification if the practice is found to compromise the integrity of the organic product.

Increasing or Reducing Scope of Certification

Operations may increase or reduce acreage, parcels, products, or processes within their MOCA certification. The operation must submit all applicable OSP updates and supporting documentation to MOCA for review. Adding acreage, parcel, products or processes prior to annual inspection may require an additional inspection. Requests to add acreage that are submitted at time of inspection may also require additional inspection.

Operations adding an entirely new type of production to their MOCA certification will be required to submit appropriate documentation, schedule an onsite inspection, and pay fees. (See MOCA fee schedule)

Organic Certification Sanctions

It is the responsibility of the operation to understand and comply with all of the applicable standards for certification.

NONCOMPLIANCE

MOCA Noncompliance Procedures

When an inspection, review, or investigation reveals any noncompliance with applicable organic regulations/standards, a written notice of noncompliance shall be sent to the operation. The notice shall contain the following: a description of each noncompliance; the facts upon which the noncompliance is based; the date by which the operation must rebut or correct each noncompliance and submit supporting documentation of each correction when correction is possible. MOCA maintains current and accurate data in the Organic Integrity Database for each operation which it certifies and will provide a copy of all notices of noncompliance to the USDA NOP Administrator and the CDFA State Organic Program (SOP) official upon request.

Noncompliance Correction

Upon receipt of a notice of noncompliance, an operation may choose the following:

1. Correct noncompliance(s) and submit a description of the corrective actions taken with supporting documentation to MOCA.
2. Correct noncompliance(s) and submit a new application to another certification agency, provided that the application includes a copy of the noncompliance and a description of the corrective actions taken with supporting documentation; or
3. Submit written information to MOCA to rebut the noncompliance described in the notice of noncompliance.

If corrective actions and supporting documentation or written rebuttal is sufficient (an on-site inspection may be necessary to verify) a new or updated certificate will be issued.

If the corrective action or rebuttal is not sufficient or the operation fails to respond to the notice of noncompliance, MOCA shall issue a written notice, which states the reason(s) for denial and/or proposed suspension/revocation, and the applicant's right to:

1. Reapply for certification;
2. Request mediation or, if applicable, pursuant to a State Organic Program's mediation procedure(s); or
3. File an appeal of the denial of certification or, if applicable pursuant to a State Organic Program's appeal procedure(s).

MOCA maintains current and accurate data in the Organic Integrity Database for each operation which it certifies and will provide a copy of all notices of noncompliance resolution to the USDA NOP Administrator and the CDFA State Organic Program (SOP) official upon request.

Denial of Certification for Applicants

When MOCA has reason to believe, based on a review of the application or certification review of the on-site inspection, that an applicant for certification is not able to comply or is not in compliance with applicable organic regulations/standards, a written notice of noncompliance will be

issued. A notice of noncompliance and a notice of denial of certification may be combined into one notice.

The notice shall state the reason(s) for denial and/or proposed suspension/revocation, and the applicant's right to:

1. Reapply for certification;
2. Request mediation or if applicable, pursuant to a State Organic Program's mediation procedure(s); or
3. File an appeal of the denial of certification or if applicable, pursuant to the State Organic Program's appeal procedure(s).

MOCA maintains current and accurate data in the Organic Integrity Database for each operation which it certifies and will provide a copy of all denials of certification to the USDA NOP Administrator and the CDFR State Organic Program (SOP) official upon request.

Proposed Suspension and/or Revocation (Continuation Operations)

When rebuttal is unsuccessful, or correction of the noncompliance is not completed within the prescribed time period, MOCA shall send the operation a written notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance. When correction of the noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of certification may be combined in one notification.

The notification of proposed suspension or revocation of certification shall state:

1. The reasons for the proposed suspension or revocation;
2. The proposed effective date of such suspension or revocation;
3. The impact of a suspension or revocation on future eligibility for certification;
4. The right to request mediation or, if applicable pursuant to a State Organic Program's mediation procedure(s);
5. The right to file an appeal of the denial of certification or if applicable, pursuant to a State Organic Program's appeal procedure(s).

MOCA maintains current and accurate data in the Organic Integrity Database for each operation which it certifies and will provide a copy of all proposed suspensions and/or proposed revocations to the USDA NOP Administrator and the CDFR State Organic Program (SOP) official upon request.

Suspension or Revocation

If the operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal of the proposed suspension or revocation of certification, MOCA shall send the operation a written notification of suspension or revocation. MOCA will not send a notification of suspension or revocation to an operation that has requested mediation or an appeal while the resolution is pending.

The client or person of responsibility connected with an operation whose certification with an operation has been revoked will be ineligible to receive certification for a period of five years following the date of such revocation, except the USDA Secretary may, when in the best interest of MOCA, reduce or eliminate the period of ineligibility.

MOCA maintains current and accurate data in the Organic Integrity Database for each operation which it certifies and will provide a copy of all suspensions and/or revocations to the USDA NOP Administrator and the CDFA State Organic Program (SOP) official upon request.

Surrender of Certification

An operation may voluntarily surrender their certification from MOCA through written notification. MOCA shall respond with an acceptance notification stating the official date of organic certification surrender. Operations must immediately cease all claims of organic certification by MOCA.

Willful Violations

If MOCA has reason to believe that a client has willfully violated any applicable standards, a notification of proposed suspension or revocation of certification will be sent to the operation as applicable to the noncompliance. At minimum, the following national regulations apply as willful violations:

- **False Labeling:** The USDA per the NOP shall penalize any operation that knowingly sells or labels a product as organic, except in accordance with the organic regulations, a civil penalty of not more than \$11,000 per violation.
- **False Statement(s):** Any operation that makes a false statement to the USDA Secretary or State Organic Program governing official shall be subject to the provisions of §1001 of Title 18, United States Code.

Reinstatement

An operation whose certification has been suspended may at any time, unless otherwise stated in the notification of suspension, submit a request to the USDA Secretary 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 organic regulations/standards. Once the USDA provides a decision, MOCA will reinstate certification services and/or certified status to the operation.

Appeals

An applicant for certification may appeal a notice of denial of certification, and a notification of proposed suspension or revocation of certification to the CDFA Organic Program or the NOP Administrator.

If the NOP Administrator or the State Organic Program sustains a certification applicant's or operation's appeal of a MOCA decision, the applicant will be issued organic certification, or an operation will continue its certification, as applicable to the operation. The act of sustaining an appeal shall not be an adverse action subject to an appeal affected by MOCA.

If the NOP 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 USDA's Uniform Rules of Practice or the State Organic Program's rules of procedures.

An appeal of a noncompliance decision must be filed within the time period provided in the notice or within 30 days from receipt of the notice, whichever occurs later. The appeal will be considered "filed" on the date received by the USDA NOP Administrator or by the State Organic Program. A decision to deny, suspend, or revoke certification will become final unless the decision is appealed in a timely manner.

Appeals to the NOP Administrator must be filed in writing and addressed to:

Administrator, USDA-AMS
Attention: NOP Appeals Team
1400 Independence Avenue, S.W.
Mail Stop 0203 – Room 2095-S
Washington, DC 20250
Telephone: (202) 720-6766
Email: NOPACAAdverseActions@ams.usda.gov

Appeals to the State Organic Program must be filed in writing and addressed to:

CDFA Organic Program
1220 N. Street
Sacramento, CA 95814

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. All written communications between parties involved in appeal proceedings must be sent to the recipient's place of business by a delivery service that provides dated return receipts. All appeals shall be reviewed, heard and decided by persons not involved with the decision being appealed.

Complaints

MOCA investigates all complaints. Complaints are documented on an official complaint log and are investigated in a timely and efficient manner for compliance with the USDA NOP or other applicable standards. MOCA documents the action taken and its effectiveness when the complaint is resolved.

Mediation

Any dispute with respect to denial of certification or proposed suspension or revocation of certification may be mediated at the request of the applicant for certification or certified operation and the acceptance of MOCA.

Mediation shall be requested in writing to MOCA. Mediation requests must be submitted within 30 days of receipt of the notice of proposed suspension or proposed revocation of certification or denial of certification. If MOCA rejects the request for mediation, written documentation will be provided to the applicant or certified operation. The written notification shall advise the applicant for certification or certified operation of the right to request an appeal within 30 days of the date of the written notification of rejection of the request for mediation.

MOCA reserves the right to accept or reject requests for mediation based on the type and severity of the noncompliance in question, the operation's compliance history, the ability of MOCA and the operation to cooperate, the perceived likelihood of reaching a satisfactory resolution or settlement agreement, and the perceived likelihood that mediation will produce a more satisfactory outcome than other options. MOCA will **REJECT** mediation requests in any circumstance where one or more of the following criteria are met:

1. The violation(s) is/are not correctable and is/are not conducive to mediation (i.e., prohibited substances applied, nonorganic feed fed, etc.)
2. The violation(s) was/were willful or intentional.
3. One or more parties refuses to cooperatively participate in the mediation process.
4. One or more persons essential to resolution cannot be brought into the mediation process.
5. The reason for the proposed adverse action was due to repeated noncompliances over multiple years for the exact same issue. In this case, corrective actions have either not been implemented or not been sufficient to resolve the noncompliance.

MOCA will evaluate all received requests for mediation based on the above criteria.

If mediation is accepted by MOCA, the mediation will be conducted in accordance with California Department of Food and Agriculture (CDFA) Organic Program established procedures. In all accepted mediation cases, MOCA will utilize the services of the current CDFA-designated mediator that is certified as a USDA Certified Mediator for California, as noted on the following website: <https://www.fsa.usda.gov/programs-and-services/certified-mediation-program/certified-mediation-states/index>. As of March 18, 2024, the USDA Certified Mediator for California is the California Agricultural Mediation Program (CALAMP) of the Environmental Mediation Center. Mediation sessions will be set up in accordance with the “[Steps to Request Mediation through CALAMP](#)” as listed on the CALAMP website. If mediation by CALAMP is not agreed to by both parties, MOCA will obtain information on additional qualified mediators from the CDFA Organic Program and the California Agricultural Commissioners and Sealers Association (CACASA). MOCA will propose additional mediators until a consensus between both parties is reached. The parties to the mediation shall have no more than 30 days to reach agreement from the start of mediation. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 days from termination of mediation to appeal the decision. Any settlement agreement reached during or as a result of the mediation process shall be agreed to in writing by both the certifying agent and the certified operation and shall be in compliance with organic regulations/standards.

The USDA Secretary may review any mediate agreement for compliance to the NOP and may reject any agreement or provision not in compliance with the NOP.

CERTIFICATION SERVICES

Labels

All labels used on packaging must be attached to the OSP and pre-approved by MOCA preferably prior to printing. Those operations wanting to use the USDA seal must do so in accordance with 7 CFR § 205.300-205.311. Nonretail container labeling must be described in the OSP, reviewed by MOCA, and compliant with 7 CFR § 205.307 upon inspection.

Pre-harvest and Post-Harvest Testing

All organic agricultural products must be made accessible by certified operations for examination by MOCA, AMS NOP Administrator, or the applicable State Organic Program official. The AMS NOP Administrator, State Organic Program or MOCA may require pre-harvest or post-harvest testing of any agricultural input used or organic product 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.

MOCA will conduct periodic residue testing on organic products. Such tests must be conducted by MOCA at the MOCA's own expense. Additionally, MOCA will annually sample and test minimum of 5% (or at least 1 operation if the 5% is less than 1) of the operations it certifies or at minimum one operation it certifies. This number may include pre or post-harvest testing required by the AMS NOP Administrator, State Organic Program or MOCA's periodic residue testing.

Samples may be taken by an inspector representing the Administrator, applicable State organic program's or governing State official, or MOCA. An inspector may test for prohibited substances that have not been, and are not being, applied to the operation. Testing may include the collection of samples and testing of soil, water, waste, seed, plant tissue, and plant, animal and processed products samples. MOCA will provide the test results and receipt for any samples taken by the inspector.

Sample integrity is maintained throughout the chain of custody. All samples will be sent for testing to:

Environmental Micro Analysis, Inc.
460 North East Street
Woodland, CA 95776
Phone: 530-666-6890
Fax: 530-666-2987

All test results and analysis are available to the public, unless testing is part of an ongoing compliance investigation.

If test results indicate a pesticide residue or environmental contaminants that exceed the Food and Drug Administration's or the EPA's regulatory tolerances, MOCA shall report such data immediately to the federal health agency whose regulatory tolerance action level has been exceeded. These results are also reported to the appropriate State health agency or foreign equivalent.

Exclusion from Organic Sale

When residue testing detects prohibited substances at levels greater than 5 percent of the EPA's tolerance for specific residue detected or unavoidable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced. The USDA NOP Administrator, the State Organic Program, the CDFA Department of Pesticide Regulation, or MOCA may conduct an investigation of the operation to determine the cause of the prohibited substance.

Emergency Pest or Disease Treatment

When a prohibited substance is applied by an operation due to a Federal or State emergency pest or disease treatment program, and the operation otherwise meets the requirements of this part, the certification status of the operation shall not be affected as a result of the application of the prohibited substance provided that: Any harvested crop or plant part to be harvested that has contact with a prohibited substance applied as a result of a Federal or State emergency pest or disease treatment program cannot be sold, labeled or represented as organically produced; and any livestock that are treated with a prohibited substance (for the same above reason) or product derived from such treated livestock, cannot be sold, labeled, or represented as organically produced: except, that: Milk or milk products may be sold, labeled, or represented as organically produced beginning 12 months following the last date that the dairy animal was treated with the prohibited substance; and the offspring of gestating mammalian breeder stock treated with a prohibited substance may be considered organic: provided, that, the breeder stock was not in the last third of gestation on the date that the breeder stock was treated with the prohibited substance.

CERTIFICATION FEES

Certification Fees

All fees received by MOCA are nonrefundable.

Application Fee

All new applicants to MOCA shall pay a one-time application fee of \$337. MOCA cannot process or review an application without payment of the application fee.

Inspection Fees

The cost of an inspection is based on a document review fee of \$90.00 per hour; roundtrip mileage fee based on the annual Marin County mileage rate, an hourly inspector fee billed at \$90.00 per hour per inspector, and the certification category fee (see MOCA Certification Fee Schedule).

Renewal Certification

An annual recertification renewal packet and fee estimate will be mailed to all MOCA certified operations. To continue certification the renewal packet must be filled out and returned to MOCA by the specified date on the renewal letter.

Late Renewal Fee

Recertification renewal letters will specify the month and date the renewal packet must be received by MOCA. Packets received after the specified date may be charged a late fee as per the MOCA Fee Certification Schedule and may be issued a Notice of Noncompliance.

Additional Acreage or Operation Fee

A \$253 fee for each additional acreage application to an operation currently certified plus all applicable inspection fees will be charged.

Travel Expenses

All travel expenses incurred outside Marin/Sonoma Counties will be billed to applicant or certified operations. Examples include but not limited to airfare, car rental, hotel expenses, and travel time.

Travel Time

All time incurred during travel to and from inspections outside Marin/Sonoma Counties. Operations will be billed at a rate of \$53 hour.

Complaint, Investigation, and Adverse Action Fees

Applicants and current MOCA certified operations will be responsible for reimbursing MOCA as a result of adverse actions, investigations, and legal issues. Adverse actions may include but are not limited to: complaints, appeals, and mediation, litigation, or enforcement actions. The costs the Applicant or current MOCA certified operation must reimburse include but are not limited to: the costs of conducting investigations, additional inspection, discovery, and responding to subpoenas or other discovery requests. Costs will be billed at the rates specified in this handbook. MOCA will not bill for residue testing.

Non-Payment of Fees

MOCA's policy is that all fees are due upon receipt of the MOCA bill. MOCA considers payment delinquent after 45 days from the invoice date. Failure to pay the required fees may result in a notice of noncompliance or denial, suspension or revocation of certification.

NOP §205.406(a) Continuation of Certification states; 'To continue certification, a certified operation must annually pay the certification fees'.

Certification Categories

MOCA offers four certification categories: crops, wild crop harvesting, livestock, and handling/processing or any combination of these. Operations with combined categories will be charged for each applicable category based on the MOCA Certification Fee Schedule on the following pages.

MOCA FEE CERTIFICATION SCHEDULE

	<u>Fee</u>
Application Fee (new applicants)	\$337
Hourly Inspection Fee	\$90/hr
Document Review Fee	\$90/hr
Mileage Fee	Current Marin County Mileage Rate
Late Renewal Fee	\$281
Additional Acreage or Operation	\$253

Crop Production:

	<u>Fee</u>
<u>Acres</u>	
0 to 1	\$129
1.1 to 5.0	\$225
5.1 to 15	\$281
15.1 to 50	\$422
50.1 and up	\$562

Crop Production for Hay, Silage and Pasture:

	<u>Fee</u>
<u>Acres</u>	
1 to 200	\$305
201 to 500	\$435
501 to 1,500	\$660
1,501 and up	\$940

Livestock Producers (except dairy):

	<u>Fee</u>
<u># of Animals</u>	
1 to 100	\$412
101 to 250	\$674
251 to 450	\$899
451 and up	\$1,011

Livestock Producers-Dairy:

	<u>Fee</u>
<u># of Animals</u>	
1 to 100	\$1,170
101 to 300	\$1,620
301 to 600	\$2,160
601 and up	\$3,265

Poultry (for egg production only):

	<u>Fee</u>
<u># of Animals</u>	
1 to 200	\$258
201 to 2,000	\$562
Over 2,000	\$875

Handler/Processor:

<u>Gross Sales</u>	<u>Fee</u>
\$0 to \$50,000	\$206
\$50,001 to \$500,000	\$562
\$500,001 to \$2,500,000	\$2,809
Over \$2,500,000	\$4,081

Travel Fees

	<u>Fee</u>
Travel Time	\$53/hr
Travel Expenses	See definition (page 13)

Summary of Fees

New Applicant	<u>Fee</u>
I. Application Fee (one time only).....	\$337
II. Hourly Inspection Fee	\$90/hr
III. Mileage Fee	Current Marin County Mileage Rate
IV. Document Review Fee	\$90/hr
V. Annual Category Fee	See MOCA Certification Fee Schedule

Renewals	<u>Fee</u>
I. Hourly Inspection Fee	\$90/hr
II. Mileage Fee	Current Marin County Mileage Rate
III. Document Review Fee	\$90/hr
IV. Annual Category Fee	See MOCA Certification Fee Schedule
V. Late Renewal Fee	\$281

Payment of Fees

All fees are to be made payable to Marin County Department of Agriculture. Send payment to:

MOCA/Marin County Department of Agriculture
1682 Novato Blvd, Suite 150-A
Novato, CA 94947

Change of Ownership

MOCA requires a new application and corresponding fee when ownership of an operation changes. MOCA may waive this fee if the change requires minimal administrative activity on our part.

TERMINOLOGY

Administrator – The Administrator for the Agricultural Marketing Service, United States Department of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

Accreditation – A determination made by a governmental or private entity that authorizes a private, foreign or state entity to conduct certification activities as a certification agent in accordance to the AMS USDA National Organic Program Standards.

Act – The Organic Foods Production Act of 1990, as amended (7 U.S.C. § 6501 et seq.).

AMS – Agricultural Marketing Service, United States Department of Agriculture.

Applicant for Certification – Any person applying to MOCA to obtain a certificate of organic certification.

Audit Trail – Documentation that is sufficient to determine the source, transfer of ownership, and transportation of any agricultural product labeled as “100 per organic”, the organic ingredients of any agricultural product labeled as “organic” or “made with organic (specified ingredients)” or the organic ingredients of any agricultural product containing less than 70 percent organic ingredients identified as organic as an ingredients statement.

Certified Organic – A determination made by MOCA that an operation is in compliance with regulations/standards for organic operations that is accompanied by a formal notice of a certificate of organic certification.

Claims – Oral, written, implied or other representations, statements or advertising or other forms of communication presented to the public or buyers of agricultural products that relate to the organic certification process or the term, “100 percent organic”, “organic”, or “made with organic”, or in the case of agricultural products containing less than 70 percent organic ingredients, the term, organic, on the ingredients panel.

Grower – A person who engages in growing or producing food, fiber, feed, and other agricultural based consumer products.

Handler – Any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

Inspection – The process of examining and evaluating the production or handling operation of an applicant for certification or a certified operation to determine compliance with the organic standards and regulations.

Label – A display of written, printed, or graphic material on the immediate container of an agricultural product, or any such material affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

Livestock – Any cattle, sheep, goat, swine, poultry, or equine animals used for food or the production of food, fiber, feed or other agricultural-based consumer products; wild or domesticated game; or other non-plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, or other agricultural based consumer products.

Member – A crop, livestock, wild-crop, or handling operation that is certified by MOCA as utilizing a system of organic production or handling as described by organic regulations/standards.

MOCA – Marin Organic Certified Agriculture, an interchangeable reference to the certification agency.

NOP – National Organic Program. See also USDA NOP.

Notice of Continuation of Certification – A determination made by MOCA that an operation is in compliance with regulations/standards for organic certification.

Notice of Denial of Certification – A determination made by MOCA that an applicant for certification is not able to comply or is not in compliance with regulations/standards. Notice of Denial of Certification may be combined with a notice of noncompliance.

Notice of Noncompliance – A determination made by MOCA that informs the operation of a noncompliance that needs correction by a prescribed date.

Notice of Noncompliance Resolution – A determination made by MOCA that informs the operation that corrective actions submitted to MOCA have met the satisfactory review of MOCA and certification is granted or continued.

Notice of Proposed Suspension – A determination made by MOCA when rebuttal is unsuccessful, or correction of the noncompliance is not completed within the prescribed time period to comply with organic regulations/standards.

Notice of Proposed Suspension/Revocation – A determination made by MOCA when rebuttal is unsuccessful, or correction of the noncompliance is not completed within the prescribed time period to comply with organic regulations/standards that includes the implications of suspension/revocation.

Notice of Suspension/Proposed Revocation – A determination made by MOCA when rebuttal is unsuccessful, or correction of the noncompliance is not completed within the prescribed time period to comply with organic regulations/standards that can be reconsidered by requesting reinstatement from the USDA Secretary and includes the implications of revocation.

Notice of Suspension – A determination made by MOCA that can only be reconsidered by requesting reinstatement from the USDA Secretary. 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 regulations/standards.

Notice of Revocation – A determination made by MOCA that results in ineligibility to receive certification for a period of five years following the date of such revocation. Except that, the USDA Secretary may, when in the best interest of the certification program, reduce or eliminate the period of eligibility.

Organic System Plan – A plan of management of an organic production or handling operation that has been agreed to by the producer or handler and MOCA, that includes written plans concerning all aspects of agricultural production or handling.

Processing – Cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling or otherwise manufacturing, and includes packaging, canning, jarring or otherwise enclosing food in a container.

Records – Any information in written, visual, or electronic form that documents the activities undertaken by a producer, handler, or MOCA to comply with organic regulations/standards.

Responsibly Connected – Any person who is partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant, or a recipient of certification or accreditation.

Reinstatement – A formal request made by a member whose certification has been suspended to the USDA Secretary that demonstrates correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the organic regulations/standards.

Retail Food Establishment – A NOP exempt operation that handles organically produced agricultural products but does not process them; including: a restaurant, delicatessen, bakery, grocery store, or any retail outlet with an in-store, eat-in or carry out service, or processed or prepared raw and ready-to-eat-food.

State Organic Program (SOP) – A State program that meets the requirements of section 6506 of the Act, is approved by the USDA Secretary, and is designed to ensure that a product that is sold or labeled as organically produced under the Act is produced and handled using organic methods.

United States Department of Agriculture (USDA) – The USDA National Organic Program accredits organic certification agencies in accordance to the Federal Register 7 CFR Part 205.

Wild Crop Harvesters – Operations that harvest any plant or portion of a plant that is not maintained under cultivation or other agricultural management.