

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to Organic Certification

4

5 Rules as Adopted

6

ORGANIC CERTIFICATION

7 1556.0100 PURPOSE.

8 Parts 1556.0100 to 1556.0127 are authorized by Minnesota
9 Statutes, section 31.95, subdivision 4. The purpose of parts
10 1556.0100 to 1556.0127 is to provide a framework for verifying
11 that a product is produced, processed, and distributed in
12 compliance with established Minnesota organic standards, through
13 a process that includes on-site inspection, record keeping,
14 laboratory testing, and an audit trail.

15 1556.0105 DEFINITIONS.

16 Subpart 1. **Scope.** The definitions in this part apply to
17 parts 1556.0100 to 1556.0127.

18 Subp. 2. **Audit trail.** "Audit trail" means an unbroken
19 chain of documentation that traces the growing, harvesting,
20 handling, and processing history of a product from seed to sale.

21 Subp. 3. **Certification.** "Certification" means the process
22 by which a certification organization verifies that a producer,
23 processor, or handler meets Minnesota organic food law
24 requirements under Minnesota Statutes, sections 31.92 to 31.94
25 and parts 1555.0005 to 1555.0013. Compliance must be determined
26 through the use of questionnaires, affidavits, on-site
27 inspections, laboratory tests, record audits, and other
28 procedures.

29 Subp. 4. **Certification committee.** "Certification
30 committee" means a panel or body consisting of at least three
31 persons appointed by the designated certification organization
32 to review applications for organic certification, oversee the
33 site inspection process, supervise and manage records review and
34 audit trail activities, and grant or reject certification status
35 to applicants. At least one member of the committee must be

1 knowledgeable about the product or facility that is to be
2 inspected and certified.

3 Subp. 5. **Certified organic.** "Certified organic" means a
4 label statement that indicates that a producer, product, or
5 handler meets the requirements of Minnesota Statutes, sections
6 31.93 and 31.94, and parts 1555.0005 to 1555.0013, and that a
7 designated certification organization or another certification
8 program approved by the commissioner has verified compliance
9 with those standards.

10 The term "certified" and any derivative of the term
11 "certified" may only be used on a product whose organic
12 production and handling history has been verified by a
13 designated certification organization or by another certifying
14 organization approved by the commissioner that certifies organic
15 products.

16 Subp. 6. **Department.** "Department" means the Department of
17 Agriculture.

18 Subp. 7. **Designated certification organization.**
19 "Designated certification organization" means an organization
20 made up of organic food growers, manufacturers, or sellers that
21 has applied to the commissioner of agriculture and been
22 appointed by the commissioner as an official certifying
23 organization.

24 Subp. 8. **Enterprise.** "Enterprise" means the business and
25 physical facilities of an applicant that are used to produce,
26 process, or handle certified organic products.

27 Subp. 9. **On-site inspection.** "On-site inspection" means
28 the process whereby a certification inspector visits and
29 inspects the soil, growing conditions, records, and facilities
30 on an applicant's farm, ranch, or property, whether rented or
31 owned by the applicant.

32 Subp. 10. **Producer.** "Producer" means a person who is
33 responsible for growing or raising organic food.

34 Subp. 11. **Handler.** "Handler" means a person who sells,
35 transports, stores, purchases, processes, packages, or in any
36 other way handles organically produced agricultural products.

1 1556.0107 CERTIFICATION PROCEDURE.

2 A certification applicant must apply for organic
3 certification for a product or facility on forms provided by the
4 department and available through a designated certification
5 organization. The certification process must be completed no
6 later than 60 days after the producer or handler has been
7 contacted by the designated certification organization to
8 initiate the certification process. If the certification
9 committee determines that an applicant is ineligible for
10 certification, a certified letter stating reasons for
11 ineligibility must be sent to the applicant within ten days of
12 the determination. This decision may be appealed under part
13 1556.0117.

14 Certification for producers and handlers must be renewed
15 annually.

16 1556.0109 CERTIFICATION REQUIREMENTS.

17 Subpart 1. **Separation of product.** A producer or handler
18 of both organic and nonorganic products on the same farm, ranch,
19 or property shall demonstrate the ability to keep the products
20 separate.

21 Subp. 2. **Farm certification documentation.** If possible,
22 the certification committee shall certify whole farms. However,
23 individual fields or parts of fields may be certified.

24 Documentation for whole farm or field certification must be in
25 the form of a detailed field history for a minimum of each of
26 the previous three years. The field history for each field must
27 include:

28 A. field identification, whether owned or leased,
29 size, and crop currently being produced in that field;

30 B. crop and spray plan for an applicant's nonorganic
31 fields that are adjacent to organic fields;

32 C. specific crops planted in each field for each of
33 the previous three years;

34 D. soil building activities used on each organic
35 field;

1 E. amount and source of fertilization materials used
2 on each organic field;

3 F. methods of weed control;

4 G. pest control problems in the field, during
5 transportation and in storage or processing facilities and what
6 actions were taken to solve the problem; and

7 H. how crops are harvested, transported, stored,
8 dried, and protected from insects, contamination, and
9 deterioration.

10 Subp. 3. **On-site inspection.** On-site inspections are
11 required and include physical inspection of the enterprise. The
12 enterprise's records must be reviewed at this time. If
13 necessary, laboratory tests must be ordered. If a second
14 on-site inspection becomes necessary it must be done at the
15 ~~producer~~ producer's or ~~vender's~~ handler's expense.

16 The applicant shall sign an affidavit in the presence of a
17 notary or two witnesses attesting to the fact that all of the
18 information supplied to the certification inspector is true and
19 correct at the time of the on-site inspection. The
20 certification committee shall inform the applicant in writing
21 within 60 days of the on-site inspection whether certification
22 status is granted. If status as a certified enterprise is
23 denied, the certification committee shall provide written
24 reasons for the denial by certified letter. This decision may
25 be appealed in accordance with part 1556.0117.

26 Subp. 4. **Record keeping.** In order to establish an audit
27 trail, record keeping requirements include:

28 A. field-by-field fertilization, cropping, and pest
29 management histories; lot, bin, or shipment numbers and dates;
30 and an indication of field of origin if a crop is produced on
31 more than one field and, if both organic and nonorganic methods
32 are used to produce, process, or manufacture the same product,
33 records demonstrating that there has been no possibility of
34 commingling of the products;

35 B. if both certified organic and noncertified
36 products are produced by an applicant, records demonstrating

1 that no commingling has occurred during harvest, storage,
2 processing, transportation, packaging, or sale;

3 C. for livestock, records of all feed rations,
4 including supplements, and their sources. Sources of young
5 stock, if purchased off-farm, breeding, medication, and
6 veterinary care history must be recorded. Any livestock to
7 which necessary medications have been administered must be
8 segregated or otherwise clearly identified. This also applies
9 to animal products produced by or from that stock. There must
10 be no possibility of interchange between certified organic and
11 noncertified organic or conventional livestock products on a
12 farm or in a processing or manufacturing facility; and

13 D. records of all laboratory analyses performed,
14 including soil tests, plant tissue tests, bacteria counts, and
15 residue tests for toxic contaminants in soil, water, crops,
16 livestock products, or manufactured goods.

17 Handler's records must be held for three years and include
18 purchase orders, invoices, and inventory, shipping, and
19 processing records. Applicants must provide the designated
20 certification organization with updates and changes in their
21 crop management practices during the time that certification is
22 in effect.

23 1556.0111 CERTIFICATION INSPECTORS.

24 All certification inspectors must be impartial and
25 independent, and must meet the following requirements:

26 A. The inspector may not be a party to a transaction
27 involving the sale or distribution of products of the applicant
28 being inspected.

29 B. The inspector may not be an employee of, or have
30 any direct financial interest in, a company that is a party to a
31 transaction involving the products of the applicant being
32 inspected.

33 C. Advice provided by the inspector is limited to
34 helping the applicant meet Minnesota certification standards and
35 improving organic production techniques. Private consultation

1 with the inspected applicant for an additional fee at any time
2 within the certification year constitutes grounds not only for
3 dismissing the inspector, but for revoking the applicant's right
4 to certification.

5 D. The inspector may not have worked for the
6 applicant being inspected in any capacity in the year before the
7 inspection and may not work for the applicant in the two years
8 following the inspection.

9 1556.0113 TRAINING OF CERTIFICATION INSPECTORS.

10 Certification inspectors must receive training in organic
11 certification procedures and other related issues from a
12 training course approved by the designated certification
13 organization and the department. Certification inspectors are
14 also required to pass a test approved by the designated
15 certification organization and the department to become an
16 approved certification inspector.

17 1556.0115 DECERTIFICATION.

18 Certification ~~may~~ must be revoked for a violation of
19 Minnesota Statutes, sections 31.92 to 31.94 ~~and, parts 1555.0005~~
20 ~~to 1555.0012 or parts 1556.0100 to 1556.0127 if-sufficient-cause~~
21 ~~is-found-to-revoke-certification~~. The certified producer
22 or ~~vender~~ handler must be notified by registered mail of the
23 decision and the specific reasons for the revocation. The
24 decision may be appealed in accordance with part 1556.0117.

25 The department must be notified in writing by the
26 designated certification organization of all certifications and
27 decertifications by the first of each month.

28 1556.0117 COMPLAINTS AND APPEALS.

29 Complaints should be directed to the office of the
30 designated certification organization and the organization must
31 be given 30 days to respond to the complaint.

32 If an applicant wishes to contest a determination made by
33 the designated certification organization a letter of appeal
34 must be filed with the certification committee within ten

1 business days of the contested determination.

2 The burden of proof of injustice rests with the applicant
3 filing the appeal. Requests and notices of appeal must be made
4 in writing and accompanied by supporting documentation. The
5 certification committee has 30 days to make findings on the
6 contested issue. If the applicant filing the appeal feels that
7 undue financial harm will occur due to the length of time taken
8 by the appeal process the applicant may request an expedited
9 hearing. The certification committee has 15 days to respond to
10 the complaint with a written decision and the reasons for it.

11 If the applicant objects to the certification committee's
12 decision, the applicant may appeal the decision to the
13 Department of Agriculture. The department has 30 days to concur
14 or overturn the certification committee's decision. The
15 department's decision may be appealed under the Minnesota
16 Administrative Procedure Act.

17 1556.0121 DATA PRIVACY.

18 In submitting data required by parts 1556.0010 to
19 1556.0127, the applicant may:

20 A. clearly mark any portions that, in the applicant's
21 opinion, are trade secrets, commercial, or financial
22 information; and

23 B. submit the marked material separately from other
24 material.

25 1556.0123 FAIR LABOR PRACTICES.

26 An operator of a certified organic enterprise shall comply
27 with applicable federal, state, and local laws concerning
28 minimum wages or other compensation, workers' compensation
29 insurance, working conditions, sanitary facilities, rest
30 periods, safety conditions, housing, and arbitration.

31 1556.0125 FAIR TRADE PRACTICES.

32 Fair trade practices require that a certified organic
33 enterprise may not:

34 A. pass off goods or services as those of another;

1 B. cause the likelihood of confusion or of
2 misunderstanding as to the source, sponsorship, approval, or
3 certification of goods or services;

4 C. cause the likelihood of confusion or of
5 misunderstanding as to affiliation, connection, or association
6 with, or certification by another;

7 D. use deceptive representations or designations of
8 geographic origin in connection with goods or services;

9 E. represent that goods or services have sponsorship,
10 approval, characteristics, ingredients, uses, benefits, or
11 quantities that they do not have or that a person has a
12 sponsorship, approval, status, affiliation, or connection that
13 the person does not have;

14 F. represent that goods or services are of a
15 particular standard, quality, or grade if they are of another;
16 and

17 G. disparage the goods, services, or business of
18 another by false or misleading representation of fact.

19 1556.0127 LABELING.

20 A product that is labeled ~~Minnesota~~ certified organic or
21 with any derivative of that term must meet ~~Minnesota~~ organic
22 standards contained in parts 1555.0005 to 1555.0013. If a
23 product is labeled "certified organic" or with any derivative of
24 that term the name of the certifying person or organization must
25 be stated on the label.

26 A handler of certified organic products shall maintain
27 records that allow the product to be traced to its origin and
28 show proof of compliance with the standards indicated on the
29 product's label.

30

31 REPEALER. Minnesota Rules, parts 1555.0005, subparts 2 and
32 13; 1555.0011; and 1555.0013, are repealed.