



**AMERICERT INTERNATIONAL**

2603 NW 13<sup>th</sup> St. #228, Gainesville, FL 32609\*Ph: (352)336-5700 \*Fax: (866)325-8261

Americert@gmail.com

www.americertorganic.com

**Notice of Changes to NOP Organic Fee Schedule and Refund Policy**

July 1, 2017

Dear Americert International Client,

We have made recent changes to our NOP Organic Fee Schedule and Refund Policy and are informing you of these changes which will go into effect for your operation during your next renewal cycle which occurs after July 1, 2017. Your base costs of organic certification are not changing. What is changing is our refund policy and that we are now implementing some contractual penalties for a failure to abide by the USDA NOP organic regulations. We have considered the charging of contractual penalties for some time but have not done so because we do not want to add to the burden of the costs of certification, but it appears that some operations are incurring repeated Notices of Noncompliance for a failure to abide by aspects of the organic regulations, which requires substantial additional staff work to resolve once identified. In some cases, these Noncompliances repeat from year to year. It is hoped that charging a contractual penalty for noncompliances will encourage operations to more fully understand and consistently comply with the USDA NOP organic regulations. We would prefer not to collect a single contractual penalty for a noncompliance with the organic standards. It is our hope that this process will instead act to encourage operations to be appropriately diligent in their understanding of and compliance with the USDA NOP organic standards. It will also mean we do not have to raise certification fees for all operations due to the additional work created by the operations which consistently have challenges understanding and complying with the USDA organic standards. Instead, the costs of that additional work will be properly allocated to the operations which are not complying consistently with the standards.

The contractual penalties which may be imposed for violations of the USDA NOP organic regulations, and how to avoid incurring a penalty for noncompliance are summarized in the chart below. Please review, as this is being incorporated into your contract with Americert by virtue of its inclusion in the fee schedule of fees to be charged.

**Contractual Noncompliance Penalties (Only Apply if You Fail to Comply with the Regulations)**

A failure to abide by the USDA National Organic Program Regulations as Codified in 7 CFR 205 or Americert International Policies May Lead to the Imposition of Contractual Noncompliance Penalties. A Failure to Pay Contractual Noncompliance Penalties, Which are A Fee Charged by the Certifier, May Lead to Suspension or Revocation of Certification. Note that Payment of These Fees is In Addition to Any Other Corrective Actions Required in the Associated Notice of Noncompliance Issued by Americert.

Contractual Noncompliance	USDA NOP Organic Regulatory Provision	Contractual Noncompliance Penalty Fee	How to Avoid Noncompliance Leading to Imposition of Contractual Noncompliance Penalty
<p>Failure to:</p> <ul style="list-style-type: none"> <li>-Submit an annual renewal update or application or surrender certification by the due date for the renewal when that renewal date has been communicated to the client at least 30 days prior to the date due.</li> <li>-Submit fees of any type, including annual renewal fees, by the due date for the fees, when the due date for the fees has been communicated to the client and the client is given at least 30 days to pay the fees.</li> </ul>	<p>§205.406(a) Continuation of Certification &amp; §205.400 (e) General requirements for certification.</p>	<p>1<sup>st</sup> Instance-\$75 2<sup>nd</sup> Instance-\$150 3<sup>rd</sup> Instance-\$300</p>	<ul style="list-style-type: none"> <li>-Read and respond to all communications which provide notice of required submissions and payments.</li> <li>-Make all required submissions and payments in a timely fashion.</li> <li>-Know your annual renewal date and when an annual renewal is due and when your annual renewal payment or other payments are due.</li> <li>-Keep Americert advised of changes to personnel or contact information so that communications are sent to the appropriate personnel.</li> <li>-If you do not intend to renew certification, communicate this in writing, indicating you intend to surrender your certification and the effective date of that surrender. If you do not surrender your certification prior to your annual renewal date, you remain responsible for the annual renewal fees even if you choose not to submit a renewal application or update.</li> </ul>
<p>Failure to:</p> <ul style="list-style-type: none"> <li>-Have the records described in the organic application on hand at the location of crop production or handling during the onsite inspection.</li> <li>-To provide records described in the organic application to the inspector or Americert during an onsite inspection.</li> <li>-Maintain records as described in the organic application or other communications to Americert.</li> </ul>	<p>§205.103 Recordkeeping by certified operations &amp; §205.201 Organic production and handling system plan &amp; §205.400 General requirements for certification.</p>	<p>1<sup>st</sup> Instance-\$10 2<sup>nd</sup> Instance-\$95 3<sup>rd</sup> Instance-\$300</p>	<ul style="list-style-type: none"> <li>-Be sure to maintain all records that you indicate you will maintain in the submitted organic plan and application.</li> <li>-Be sure to have those records up to date and on hand at the site inspected during the annual onsite inspection.</li> <li>-Provide those records or copies to Americert or the Americert inspector upon request.</li> </ul>



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<p>Failure to:          -Abide by the Facility Pest Management Standard and Pest Control Plan (Handlers) as described in the application submitted to Americert.          -Submit an accurate list of all pest control products used or to be used in a handling facility to Americert for review and approval prior to use.          -Refrain from using pest control products not submitted for approval by Americert.          -Abide by restrictions or preconditions of use for pest control products as described in the organic handler application or in communications from Americert.          -Maintain records of the identity, date, and location of pest control substances used, including (where applicable) documentation of preconditions for use or other restrictions.          -Abide in any way with the NOP Facility Pest Management Standards as described in section 205.271.</p>	<p>§205.271 Facility pest management practice standard, §205.103 Recordkeeping by certified operations &amp; §205.201 Organic production and handling system plan.</p>	<p>1<sup>st</sup> Instance-\$10          2<sup>nd</sup> Instance-\$150          3<sup>rd</sup> Instance-\$300</p>	<p>-Be sure to know, understand, and implement your pest control program described in your organic application.          -Submit any changes to the program to Americert for review and approval prior to implementing the changes.          -List all pest control products, and how they will be used, in your organic application and then abide by that.          -Do not use pest control products that have not been submitted to Americert for approval prior to use.          -Know, understand, and abide by all preconditions or restrictions associated with any pest control product to be used.          -Maintain records of all pest control substances used, where used, how used, when used, and any observations supporting preconditions for use, such as pest sightings.          -Know and understand the step wise nature of pest control in organic facilities as described in section 205.271 of the National Organic Program Final Rule.</p>
<p>Failure to:          -To submit and receive approval for any organic label prior to use.          -To use only labels that Americert International has currently approved for use.          -Create policies and procedures for the submission of compliant labels which results in repeated submissions of noncompliant labels</p>	<p>§205.201 Organic production and handling system plan &amp; §205.300 through 205.311.</p>	<p>1<sup>st</sup> Instance-\$95          2<sup>nd</sup> Instance-\$150          3<sup>rd</sup> Instance-\$300</p>	<p>-Submit all labels to Americert for review and approval prior to ordering, printing, or using such labels.          -Only use labels which have been reviewed and approved for current use by Americert.          -Understand what the regulation requires and prohibits in terms of label elements and ensure that all labels meet the regulations prior to submitting to Americert for review.</p>
<p>Failure to:          -Receive approval from Americert for any product or crop prior to representing it as organic or selling it as organic.</p>	<p>§205.201 Organic production and handling system plan &amp; §205.300 Use of the term, "organic."</p>	<p>1<sup>st</sup> Instance-\$145          2<sup>nd</sup> Instance-\$275          3<sup>rd</sup> Instance-\$500</p>	<p>-Submit all products or crops to be represented as organic to Americert for review and approval.          -Do not represent a product or crop as organic unless and until Americert has reviewed and approved the product or crop.</p>
<p>Failure to:          -Respond to requirements for corrective actions, requests for information, or a Notice of Noncompliance within a reasonable deadline which has been communicated to client.</p>	<p>§205.201 Organic production and handling system plan, §205.401 Application for certification, §205.406 Continuation of certification &amp; §205.662 Noncompliance procedure for certified operations.</p>	<p>1<sup>st</sup> Instance-\$10          2<sup>nd</sup> Instance-\$95          3<sup>rd</sup> Instance-\$300</p>	<p>-Read and respond to all requirements for corrective actions, requests for more information, and Notices of Noncompliance.          -Be aware of and abide by the deadlines communicated by Americert in such requests and Notices.          -Keep Americert advised of changes to personnel or contact information so that communications are sent to the appropriate personnel.</p>
<p>Failure to:          -Respond to a Notice of Noncompliance, which causes a Notice of Proposed Suspension to be issued.</p>	<p>§205.662 Noncompliance procedure for certified operations.</p>	<p>\$300</p>	<p>-Read and respond to all Notices of Noncompliance.          -Be aware of and abide by the deadlines communicated by Americert in such Notices.          -Keep Americert advised of changes to personnel or contact information so that communications are sent to the appropriate personnel.</p>

If you have questions about how to comply with any aspect of the USDA NOP organic regulations, please contact Americert International. A failure to understand the USDA NOP organic regulations is not a ground to excuse a noncompliance or waive a contractual penalty.

Please note that we have also revised our refund policy as follows, which is fully described below and which takes effect immediately:

**Refund Policy:**

**New Applicants:** Submission of an application commences the process of reviewing the applicant's compliance under the USDA National Organic Program by Americert International. Fees are charged for the review process and the work conducted to assess compliance. There is no refund granted for operations which are denied certification, regardless of the stage at which the denial was issued. Partial refunds will be granted to first time applicants who withdraw their application for certification. The amount of the refund depends on the stage of the certification process which has been reached at the time the applicant withdraws their application. If the application is withdrawn during the initial review stage, the applicant will receive a 50% refund of certification fees paid. If the applicant withdraws their application after an inspector is assigned but prior to commencement of the onsite inspection, the applicant will receive a refund of 25% of their certification fees paid. Once the onsite inspection commences, the applicant will receive no refund of any fees paid and remain responsible for inspection travel expenses.



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**Certified Operations:** Certified operations who surrender their certification will receive no refunds of fees paid, regardless of when the certification is surrendered. This is also true for operations which submit renewal fees but then decide not to renew and choose instead to surrender certification. Annual renewal fees are due on the annual renewal date. In order to avoid paying renewal fees or being responsible for payment of renewal fees, an operation must surrender its certification on or before the annual renewal date. If the annual renewal date arrives and ends without the operation submitting a surrender of certification, the fees remain due and Americert will make efforts to collect these accrued fees, regardless of any subsequent surrender of certification. Once paid, the fees will be non-refundable, even if the operation subsequently surrenders organic certification.

**Important:** There is no guarantee that any operation will achieve certification. Certification is contingent upon timely compliance with the USDA NOP organic standards. Payment of fees and costs are not payment for the operation attaining certification. In the case that Americert issues a Denial of Certification, Suspends or Revokes certification, or accepts a surrender of organic certification, there is no refund of any fees paid.

Thank you for your attention to these matters. If you have any questions about how these changes affect your operation or how these changes will operate in practice, please do not hesitate to contact Americert.

Sincerely,

Jonathan Austin

Americert International