**APPEAL PROCESS**

**Introduction & Purpose**

NCO recognises the fundamental right of operators/applicants to request reconsideration of a certification decision. If the operator/applicant does not agree with the reconsideration of the certification decision(s) then a formal appeal process can be requested by the operator/applicant.

The following procedure applies to all NCO certification programs.

Operators under the NOP Program are additionally governed by USDA NOP Rule 205.663 and 205.681. In these instances, NOP Appeal decisions are made by the USDA Administrator.

**1. RECONSIDERATION REQUESTS**

Reconsideration should occur in the first instance.

* 1. In the event that an operator or certification applicant is not satisfied with a certification decision issued by NCO, within 30 days of issue of the decision, the operator shall give written notice to NCO of the item(s) in dispute backed with written evidence to support their case.
  2. This must be a formal written letter outlining the reconsideration that is being lodged and should include reference to the clause Standard(s) where appropriate. There is a form that can be used at the end of this document.
  3. The Certification Officer responsible for the original decision shall not be responsible for undertaking the reconsideration.
  4. NCO certification decision making personnel will reconsider the case and NCO shall respond to the operator with the reconsideration decision within ONE month of date of receipt of formal letter of reconsideration:

i. If NCO agrees with the operator about the matters in dispute, it shall make the necessary amendments and inform the operator of this in writing.

* + 1. If NCO does not agree with the operator, it shall notify the reasons for its decision in writing to the operator.

1. **FORMAL APPEAL**

2.1 Formal Appeal should apply in the second instance if the applicant/operator is not satisfied with the outcome of the above reconsideration process.

* 1. If the operator has reason to remain unsatisfied with the reconsideration and has evidence to support this, the operator may request a formal appeal within 30 days of the reconsideration decision notification date.
  2. Formal Appeal requests are sent to the NCO Board who convene a Formal Appeals Panel.
  3. The Formal Appeal will be heard by a panel comprising individuals selected by the NCO Board. A quorum of at least 3 Panel Members is required.
  4. Appeal Panel Members shall be persons not previously involved in any capacity in the decision being appealed, and must not have any other involvement that impairs their neutrality. Any Appeal Panel Member with any conflicts relating to the case must declare this interest and not participate in the appeal.
  5. In considering the matters before it, the Appeal Panel may seek and consider relevant information from other sources if necessary.
  6. The Appeal Panel shall consider the matter within 30 days of Panel appointment. The Appeal Panel decision will be NCO’s final position.
  7. The Appeal Chairman shall provide NCO with the written rationale for the decision made by the Appeal Panel. NCO shall provide the decision outcome in writing to the operator.
  8. Any party may at any time by written notice, require that the issue be referred to the South Australian Commercial Arbitration Act 2011 (as amended) for final determination.
  9. NCO reserves the right to raise a discretionary fee for costs relating to consideration of an Appeal.

**NCO Appeal Submission Form**

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| Name of the Appellant |  |
| Organisation |  |
| Certification Number |  |
| Phone Number |  |
| Email |  |
| Notification Letter Reference to which the Appeal Applies  eg  Notice of Noncompliance dated xx  Notice of Certification Denial dated xx |  |
| Clause and/or Section of Standard under dispute |  |
| Include evidence to substantiate your Appeal.  -Please list any additional documentation attached to this form.  -State all steps taken that demonstrate compliance with Standard requirements |  |
| Expected outcome  Please state what you expect to achieve with this appeal. |  |
| Additional information |  |

Signature:

Place and Date: