



## Appeals Procedure

### RECONSIDERATION AND APPEALS

#### 1. Introduction & Purpose

NCO recognises the fundamental right of operators/applicants to request a 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.

#### 2. Procedure

##### Reconsideration in the first instance:

- 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.
- Within 30 days of receiving the written notice, NCO certification decision making personnel will reconsider the case.
- If NCO agrees with the operator about the matters in dispute, it shall make the necessary amendments and inform the operator in writing.
- If NCO does not agree with the operator, it shall notify the reasons for its decision in writing to the operator.

##### Formal Appeal in the second instance:

- 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.
- A 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. A Chairman of the Appeal Panel will be selected by the NCO Board from the Appeal Panel Members.
- Appeal Panel Members considering a formal appeal 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.
- In considering the matters before it, the Appeal Panel may seek and consider relevant information from other sources if necessary.
- The Appeal Panel shall consider the matter within 30 days. The decision will be NCO's final position.
- The Appeal Chairman shall provide NCO with the written rationale for the decision made by the Appeal Panel. NCO shall provide the operator with the decision in writing.
- The outcome of the appeal shall be recorded in the operator file and separately in the Appeals Register. If a sanction arises as a result of an appeal, it shall be recorded in the Sanctions Register.
- A review of the functioning of the Appeals process shall be undertaken at least annually as part of the Internal Audit process.
- 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.
- NCO reserves the right to raise a discretionary fee for costs relating to consideration of an Appeal.