UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

BEFORE THE ADMINISTRATOR

In re:	)	
Ben and Gina Claerbaut/ Claerbaut Organics	)	
	)	**Administrator's Decision**
	)	**APL-031-24**
Oostburg, Wisconsin	)	

This Decision responds to an Appeal (APL-031-24) of a Notice of Proposed Suspension of Certification under the National Organic Program (NOP) issued to Ben and Gina Claerbaut/Claerbaut Organics (Claerbaut) of Oostburg, WI, by USDA accredited certifier Nature's International Certification Services (NICS). The operation has been deemed not in compliance with the Organic Foods Production Act of 1990 (Act)[1] and the U.S. Department of Agriculture (USDA) organic regulations.[2]

BACKGROUND

The Act authorizes the Secretary to accredit agents to certify crop, livestock, wild crop, and/or handling operations to the USDA organic regulations (7 CFR part 205). Certifying agents also initiate compliance actions to enforce program requirements, as described in section 205.662, Noncompliance procedure for certified operations. The NOP may also initiate

[1] 7 U.S.C. 6501-6522.
[2] 7 CFR part 205.

compliance actions against operations and certifying agents to enforce program requirements. Persons subject to the Act who believe they are adversely affected by a noncompliance decision of a certifying agent, or the NOP may appeal such decision to the USDA Agricultural Marketing Service (AMS) pursuant to § 205.680 Adverse Action Appeals Process – General, and § 205.681, Appeals of the USDA organic regulations.

FINDINGS OF FACT

1. On October 16, 2014, NICS certified Claerbaut for crops and livestock.
2. On December 29, 2021, NICS entered into a Settlement Agreement with Claerbaut requiring it to resolve outstanding noncompliances and submit its annual update and certification fees on time.
3. On October 19, 2023, NICS issued Claerbaut a Notice of Noncompliance for multiple recordkeeping issues.
4. On November 29, 2023, NICS issued Claerbaut a Notice of Proposed Suspension for its failure to resolve its previous noncompliances, which requested missing documentation from a 2022 annual inspection, past due certification fees, and missing records supporting the previous Settlement Agreement.
5. On January 10, 2024, Claerbaut requested mediation with NICS. On January 22, 2024, NICS rejected Claerbaut's mediation request.
6. On February 8, 2024, Claerbaut filed an appeal with NOP to NICS' November 29, 2023, Notice of Proposed Suspension. NOP assigned Claerbaut appeal number APL-031-24.
7. On May 21, 2024, Claerbaut and NOP entered into a Settlement Agreement for APL-031-24. Among other things, Claerbaut agreed to maintain complete livestock and crop

certification related records, to maintain and submit to NICS its Current Year Field Plan (CYFP) upon certification renewal, to receive approval from NICS prior to the use of inputs on its crops, and to pay overdue certification related fees.

8. On August 9, 2024, NICS notified NOP, via email, that Claerbaut breached its May 21, 2024, Settlement Agreement with NOP. NICS stated that Claerbaut did not submit missing paperwork within the 60 days NICS requested and failed to pay its overdue certification fees.
9. On August 13, 2024, NOP issued Claerbaut a Notice of Noncompliance and Request for Corrective Action. On September 24, 2024, NOP issued Claerbaut a Resolution of Notice of Noncompliance and Request for Corrective Action.
10. On August 7, 2025, NICS notified NOP, via email that Claerbaut breached its May 21, 2024, Settlement Agreement with NOP for the second time. On August 14, 2025, NICS provided a detailed list of Claerbaut's settlement breaches to NOP.
11. On September 17, 2025, NOP issued Claerbaut a Notice of Noncompliance and Request for Corrective Action for Claerbaut's breach of the Settlement Agreement with NOP. Corrective actions were due by October 17, 2025; Claerbaut submitted insufficient corrective actions.
12. On November 6, 2025, NICS issued Claerbaut a Notice of Noncompliance for its failure to implement the procedures outlined in its Organic System Plan and its failure to maintain sufficient records related to its crop and livestock operation.
13. On December 16, 2025, NICS issued Claerbaut a Notice of Partial Noncompliance Resolution and Notice of Continued Noncompliance, related to the November 6, 2025, Notice of Noncompliance. NICS stated that Claerbaut did not adequately resolve the

noncompliance related to maintaining records for its livestock operation and gave Claerbaut until January 2, 2026, to submit additional documentation/records. Claerbaut did not respond.

REGULATORY CITATIONS

The USDA organic regulations at 7 CFR 205.400, General requirements for certification, state that, "A person seeking to receive or maintain organic certification under the regulations in this part must: (a) Comply with the Act and applicable organic production and handling regulations of this part; […] (e) Submit the applicable fees charged by the certifying agent."

The USDA organic regulations at 7 CFR 205.103, Recordkeeping by certified operations, state that, "(a) A certified operation must maintain records concerning the production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as '100 percent organic,' 'organic,' or 'made with organic (specified ingredients or food group(s)).' (b) Such records must: (1) Be adapted to the particular business that the certified operation is conducting; (2) Fully disclose all activities and transactions of the certified operation, in sufficient detail as to be readily understood and audited; records must span the time of purchase or acquisition, through production, to sale or transport and be traceable back to the last certified operation; (3) Include audit trail documentation for agricultural products handled or produced by the certified operation and identify agricultural products on these records as '100% organic,' 'organic,' or 'made with organic (specified ingredients or food group(s)),' or similar terms, as applicable; (4) Be maintained for not less than 5 years beyond their creation; (5) Be sufficient to demonstrate compliance with the Act and the regulations in this part. (c) The certified operation must make such records available for inspection and copying during normal

business hours by authorized representatives of the Secretary, the applicable State program's governing State official, and the certifying agent."

The USDA organic regulations at 7 CFR 205.202, Land requirements, state that, "Any field or farm parcel from which harvested crops are intended to be sold, labeled, or represented as 'organic,' must […] (b) Have had no prohibited substances, as listed in § 205.105, applied to it for a period of 3 years immediately preceding harvest of the crops; and (c) Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management."

The USDA organic regulations at 7 CFR 205.236, Origin of livestock, state that, "(a) Livestock products that are to be sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation or hatching", and "(c) The producer of an organic livestock operation must maintain records sufficient to preserve the identity of all organically managed animals, including whether they are transitioned animals, and edible and nonedible animal products produced on the operation."

DISCUSSION

On October 16, 2014, NICS certified Claerbaut for crops and livestock.

On December 29, 2021, Claerbaut entered into an 18-month Settlement Agreement with NICS. NICS included two terms in the Settlement Agreement. The first term required Claerbaut to submit a complete application for organic certification, including applicable supporting documentation and annual certification fees, no later than the date set forth by NICS for the duration of its Settlement Agreement. The second term required Claerbaut to resolve all future

noncompliances and respond to all future requests for information within the timeframe communicated by NICS. Between 2021 and 2023, NICS issued Claerbaut five Notices of Noncompliance for violations of the 2021 Settlement Agreement. Claerbaut was provided a chance to respond to each of these notices but did not successfully resolve the noncompliances.

On October 19, 2023, NICS issued Claerbaut a Notice of Noncompliance for multiple recordkeeping issues and past due certification fees. Specifically, NICS documented the following noncompliances:

- Claerbaut did not provide a field map for all fields in organic production. Additionally, Claerbaut did not provide updated maps indicating changes of field names and acreages from prior years.
- Claerbaut did not provide proof of purchase for seeds planted in 2022 or the seed tags for one of the seed varieties it used.
- Claerbaut did not have a list of its organic livestock available at inspection and did not have records for 10 heifers it transitioned to organic status.
- Claerbaut did not provide records pertaining to its livestock and crops that had been previously requested as part of a 2022 exit interview.

NICS requested Claerbaut provide several documents to resolve the October 19, 2023, Notice of Noncompliance. Amongst other things, NICS requested Prior Land Use Declaration (PLUD) records, which state how the land was used before Claerbaut took possession; proof of purchase documents and organic certificate for its feed purchased since 2021; bills of sale and organic certificates noting slaughter eligibility for all livestock purchased since 2021; and complete records for the 10 heifers it transitioned to organic status. Further, NICS requested a root cause analysis and a written corrective action plan for several of the cited noncompliances to

prevent reoccurrence. NICS gave Claerbaut 30 days from the receipt of the Notice to submit the requested documents and corrective action plans to resolve the noncompliances.

On November 29, 2023, NICS issued Claerbaut a Notice of Proposed Suspension for its failure to resolve the October 19, 2023, Notice of Noncompliance. NICS' Notice of Proposed Suspension stated that Claerbaut did not provide any records to resolve the Noncompliance.

On January 10, 2024, Claerbaut requested mediation with NICS. On January 22, 2024, NICS issued Claerbaut a Notice of Rejection of Mediation. The Notice of Rejection of Mediation acknowledged that between December 7, 2023, and January 10, 2024, Claerbaut submitted past due certification fees and part of the documentation NICS requested. However, Claerbaut failed to provide all the documents NICS requested in the October 19, 2023, Notice of Noncompliance.

On February 8, 2024, Claerbaut filed an appeal with NOP to NICS', October 19, 2023, Notice of Proposed Suspension. NOP assigned Claerbaut appeal number APL-031-24.

On May 21, 2024, Claerbaut and NOP entered into a Settlement Agreement for appeal case APL-031-24. Among other things, Claerbaut agreed to maintain complete livestock and crop certification records, to maintain and submit to NICS its CYFP upon certification renewal, receive approval from NICS prior to the use of inputs on its crops, and pay overdue certification fees.

On August 9, 2024, NICS notified the NOP by email, that Claerbaut breached its May 21, 2024, Settlement Agreement with NOP. NICS stated that Claerbaut did not submit missing paperwork within 60 days, as NICS requested, and failed to pay its overdue certification fees. Consequently, on August 13, 2024, the NOP issued Claerbaut a Notice of Noncompliance and Request for Corrective Action.

On September 24, 2024, NOP issued Claerbaut a Resolution of Notice of Noncompliance and Request for Corrective Action. The NOP confirmed that Claerbaut submitted documentation requested by NICS and past due certification fees to resolve the Notice of Noncompliance and Request for Corrective Action.

On August 7, 2025, NICS notified NOP that Claerbaut breached its May 21, 2024, Settlement Agreement with NOP for a second time. According to NICS, as part of the Settlement Agreement with NOP, Claerbaut agreed to pay all future certification-related fees by the due date set by its certifier. However, Claerbaut was 90 days past due in paying its certification fees.

On August 14, 2025, NICS reported additional breaches of the May 21, 2024, Settlement Agreement pertaining to recordkeeping. Specifically, NICS reported the following breaches:

- Claerbaut did not maintain records necessary to conduct successful mass balance and traceback audits.
- Claerbaut was missing seed information, field maps, prior land use documentation, storage records, and manure application.
- Claerbaut was missing receipts for corn purchases and accurate records for livestock feed ratios.
- Claerbaut's livestock lists were insufficient to determine which cattle were eligible for organic slaughter, and many cattle were missing ear tags.
- Claerbaut's livestock records were insufficient to verify or confirm which cattle were purchased and sold.
- Claerbaut's field IDs and acreage were not consistently recorded in its crop records, resulting in potentially inaccurate field identification.
- Claerbaut did not maintain pest management plan or equipment clean-out records.

- Claerbaut was missing records of dates and rates for its manure application that were necessary to determine compliance with the USDA organic regulations.

On September 17, 2025, NOP issued Claerbaut a Notice of Noncompliance and Request for Corrective Action for its breach of the May 21, 2024, Settlement Agreement. NOP gave Claerbaut until October 17, 2025, to provide corrective actions to NICS. Claerbaut did not provide NICS with sufficient documentation to resolve the Notice of Noncompliance.

On September 25, 2025, NICS conducted its annual inspection of Claerbaut. As a result, on November 6, 2025, NICS issued Claerbaut a Notice of Noncompliance for its failure to implement the procedures outlined in its Organic System Plan and failure to maintain complete and accurate records related to its crop and livestock operation. NICS also noted that Claerbaut did not include an organic Fraud Prevention Plan in its Organic System Plan. Further, NICS stated Claerbaut did not provide its livestock list, and there were no livestock records to identify which animals were born at Claerbaut's operation and which were purchased for its livestock operation. In addition, Claerbaut did not provide livestock records detailing organic slaughter eligibility for each animal. NICS found that several field maps did not align with the field names and IDs listed in Claerbaut's most up-to-date Farm Plan. Lastly, NICS found that Claerbaut's PLUD was incomplete and did not contain sufficient detail to verify continuous organic management of the land on which Claerbaut operates. NICS requested Claerbaut provide updated field maps for its entire operation, an updated livestock list, documentation for a specific field previously under another organic operator, and sales invoices and information for 2024 and 2025 milk sales. NICS requested that Claerbaut submit the documentation to resolve the noncompliance within 30 days of Claerbaut's receipt of the notice.

On December 12, 2025, Claerbaut provided its response to the November 6, 2025, Notice of Noncompliance.

On December 16, 2025, NICS issued Claerbaut a Notice of Partial Noncompliance Resolution and Notice of Continued Noncompliance, related to the November 6, 2025, Notice of Noncompliance. NICS stated that Claerbaut did not adequately resolve the noncompliance related to maintaining records for its livestock operation. As of September 30, 2026, Claerbaut has not resolved the Noncompliance.

CONCLUSION

Claerbaut continues to violate the USDA organic regulations despite being given multiple opportunities by NICS and NOP since 2021 comply. The evidence substantiates that Claerbaut violated the USDA organic regulations at 7 CFR 205.400, General requirements for certification; 7 CFR 205.103, Recordkeeping by certified operations; 7 CFR 205.201, Organic Production and handling system plan; 7 CFR 205.202, Land requirements; and 7 CFR 205.236, Origin of livestock.

The NOP entered into a Settlement Agreement with Claerbaut in good faith, providing Claerbaut with an opportunity to retain its organic certification, despite continual noncompliances issued by NICS and NOP since 2021. Claerbaut has continuously failed to maintain adequate documentation related to its crop and livestock operation.

The NOP Settlement Agreement states that, “Claerbaut agrees that the failure to abide by the terms of paragraphs immediately above shall result in USDA, AMS possibly pursuing administrative action against Claerbaut.” Clause 3D of the Settlement Agreement states that, “Claerbaut withdraws its appeal and waives further appeal rights in this matter. Failure to comply with the Settlement Agreement shall automatically void paragraph 2 above.” Paragraph

2 states, "USDA, AMS agrees not to issue a formal Administrator's Decision charging Claerbaut with alleged violations of the OFPA and the USDA organic regulations for any actions disclosed by the investigation which gave rise to this agreement." A closure letter sent to Claerbaut on May 22, 2024, with the executed Settlement Agreement also stated that, "… failure to abide by the terms of the agreement shall automatically void the Settlement Agreement and USDA, AMS may pursue an administrative hearing process."

Therefore, AMS finds that Claerbaut has breached its May 21, 2024, Settlement Agreement with NOP. Pursuant to the terms of the Settlement Agreement, Claerbaut may not remain certified.

DECISION

Claerbaut's Appeal of the November 29, 2023, Notice of Proposed Suspension is denied. The organic certification of Claerbaut is suspended. Pursuant to the organic regulations at 7 CFR 205.662(f)(1), Claerbaut may apply for reinstatement at any time after it has implemented sufficient measures to come into full compliance with the USDA organic regulations. While under suspension, Claerbaut may not handle, sell, label, or represent any products as organic.

Should Claerbaut wish to appeal this matter further, Claerbaut has thirty (30) days to request an administrative hearing before an Administrative Law Judge.

Done at Washington, D.C., on this
__27th__ day of _October__, 2026.

ERIN MORRIS Digitally signed by ERIN MORRIS
Date: 2026.10.27 11:50:40 -04'00'

Erin Morris
Administrator
Agricultural Marketing Service