

Appeals Policy

A Preamble

1 Introduction and purpose of the policy

This document establishes the policy and procedure for reconsiderations and appeals against decisions made by the IOAS related to the accreditation process and status of certification bodies. Special arrangements are described for accreditation under the Canada Organic Regime (COR) which is awarded by the Canadian Food Inspection Agency.

2 Scope

The policy is limited to reconsiderations and appeals made by applicant and accredited certification bodies regarding decisions made by the IOAS. It is applicable to all schemes in which IOAS is engaged with exceptions as noted in the text.

Third party objections to specific actions of accredited certification bodies are considered complaints and are dealt with in document # PL0511b 'Complaints Policy and Procedure'.

Objections by applicant or accredited certification bodies to the service provided by the IOAS are considered complaints and are dealt with in document # PL0511a 'Complaints against the IOAS'

Legal recourse following exhaustion of this appeals procedure may be taken through an agreed arbitration service, the rules and procedures for which are stated in such an agreement (PL0526).

3 Definitions

General reference is made to the definitions provided in the IOAS General Operating Manual. **Appeal:** request by a CB for reconsideration of any adverse decision made by the accreditation body related to its desired accreditation status.

4 Distribution

This document is distributed to the Certification Bodies immediately upon finalising any changes. In addition it is distributed to the Board and Accreditation Committee annually or available in the IOAS web site 'client area'. Staff are informed of changes as soon as they have been finalised. Interested parties may obtain a copy on request.

5 Authority and revision

This policy is approved by the IOAS Board of Directors. It is the responsibility of the IOAS Executive Director and the IOAS board to review the appropriateness of the policy from time to time. It may be revised when the need arises. Its effectiveness in meeting the quality policy of the IOAS will be assessed during Internal Review and any measures for improvement notified to the Executive Director and the Board.

B Policy

Scope of reconsiderations and appeals

6. During the course of assessment and surveillance of certification bodies the IOAS makes many decisions. These may be made by the staff, the Accreditation Management Committee, the Accreditation Committee and the Board according to their terms of reference and responsibilities.
7. Such decisions include, but are not limited to, the following:
 - Refusal to accept an application;
 - Refusal to proceed with an assessment at any stage (termination);
 - Issue of a non-compliance;
 - Changes in accreditation scope;
 - Issue of a warning or fine;
 - Decisions to deny, suspend or withdraw accreditation;
 - Any other action that affects the attainment of accreditation.
8. A transparent system for the handling of reconsiderations and appeals is an important aspect of the IOAS system for impartiality.
9. Investigation and decisions on appeals shall not result in any discriminatory actions.
10. All decisions may ultimately be appealed by the certification body but only the following are considered appeals in the first instance and directed to the IOAS Appeals Body without reconsideration at other levels as described below:
 - Refusal to proceed with an assessment at any stage (termination);
 - Decisions to deny, suspend or withdraw accreditation;
11. All other decisions are not initially considered appeals but reconsiderations and shall progress through the hierarchy of reconsideration levels described under point 19 below.

Appeals Body

12. The IOAS appeals organ is a 3 person committee made up of any member of the Board of Directors.
13. No member of the Board who also serves on the Accreditation Committee may be appointed to the committee.
14. Members with identified conflicts of interest shall also be excluded.
15. Members are appointed for specific appeals on a case by case basis.

16. All members of the appeals body shall be present for a hearing to take place.
17. Hearings may be held by teleconference.
18. The IOAS and the appellant shall bear their own costs.

Canada Organic Regime

19. Under the Canada Organic Regime certification bodies may request a hearing on decisions impacting their operations made by the CFIA or the IOAS. Where appropriate the appeal flows from certification body (CB) to CVB. The CFIA is the final level of appeal.

C Procedures

Reconsiderations

20. Challenges to IOAS rulings on individual points of compliance with the requirements for accreditation which arise at any stage of assessment and surveillance (document review or from site visits) shall be reconsidered as follows:
 - In the first instance they are responded to by the responsible Client Manager who may accept or reject the certification body's arguments. The Client Manager shall discuss such cases as necessary with the Assistant Programme Manager and Programme Manager. There may be several rounds of decision and feedback (within the bounds of the time periods allowed by IOAS procedure) unless the CB wishes to elevate the case to the next level.
 - If the certification body is dissatisfied with the response of the Client Manager they may formally request review by the Accreditation Committee.
 - If the certification body is dissatisfied with the response of the AC they may lodge a formal appeal (see point 20 below).
 - In all such cases a request for reconsideration must be submitted within 20 week days of the decision being informed to the CB. Requests for reconsideration shall not be considered after this period. The timeframe to receive a reconsideration request shall be communicated in relevant form letters to ensure CBs understand the terms of this right.

Appeals

21. If a final reconsideration decision of the Accreditation Committee is considered unacceptable by the certification body, it may further appeal to the Appeals Committee.

The certification body shall notify the IOAS within 10 week days of the final decision of the Accreditation Committee of its intention to make an appeal or not. The appeal itself, if the Certification body intends to proceed, shall be lodged with the IOAS within 20 week days of notification of the final decision of the Accreditation Committee.

22. Within 5 week days of receipt of an appeal an assessment shall first be made as to

whether the appeal is valid in terms of the criteria in the policy section above and the certification body informed. This notice of acceptance of validity shall explain how the appeal shall be conducted.

23. Once an appeal is accepted, the decision or sanction which is the subject of the appeal is put in abeyance and not made public until the appeal process is concluded. However, IOAS reserve the right to inform scheme owners and/or authorities that rely on the IOAS decision of the sanction and that an appeal has been made.
24. Appeals shall include argumentation supporting the appeal and any documentary evidence to support the claim that the IOAS decision was unfounded or inappropriate.
25. The appellant shall be informed of the proposed date of the hearing. This shall be no later than 30 weekdays from receipt of the appeal.
26. The President of the IOAS Board shall be informed of the appeal and the Programme Manager will proceed to establish the appeals committee.
27. If the Executive Committee of the Board was previously involved to ratify the disputed decision (suspension, withdrawal or termination) only one member of the Executive Committee shall be allowed to sit on the Appeals Committee.
28. The appellant shall be invited for part or all of the hearing. A maximum of three people shall represent the appellant.
29. The Chair of the Accreditation Committee, the IOAS Executive Director and the appropriate evaluator and/or Client Manager shall participate in the hearing to clarify issues but do not carry voting rights.
30. The appellant shall be informed of the proposed date of the initial hearing.
31. The appeal meeting shall be conducted in English. If needed the appellant shall provide their own interpreter.
32. All documentation submitted by the appellant shall be forwarded to the Appeals Committee together with any relevant documentation relating to the original disputed decision.
33. An agenda for the meeting with the CB shall be sent to all participants
34. The Appeals Committee shall appoint a Chairperson from amongst their number to manage the meeting. The meeting shall adopt the following general format and give approximate timing so as to allow for an orderly process:
 - Meeting opens
 - Appointment of Chair and minute keeper
 - Appeal Committee pre-meeting
 - CB joins meeting
 - Introductions
 - Protocol of the appeal
 - CB explanation of their appeal
 - Questions from Appeal Committee and discussion
 - Any further clarifications
 - CB leaves meeting
 - Appeal Committee post meeting discussion and decision.

- Meeting closes
35. All participants may speak. The meeting between the parties shall be recorded whenever possible and acceptable to all parties.
 36. The decision of the Appeals Committee shall be sent to the appellant within 4 week days of the meeting.
 37. The decision is considered final and no further appeal is possible (except under the Canada Organic Regime – see point 37 below). The appellant shall be informed of the reasons for any decision denying the appeal.

Canada Organic Regime

38. Requests for further appeal to the Canada Organic Office must follow the procedures outlined in the Canada Organic Regime Operating Manual.

Legal recourse

39. At the time of signing an accreditation contract, the IOAS shall seek agreement that legal recourse, following an exhaustion of the appeals process, be made through an appropriate binding arbitration process (PL 0526).

IOAS Corrective Actions

40. The IOAS Board of Directors shall be informed of the outcome of all appeals.
41. Whenever an appeal is upheld the IOAS Board shall determine whether the initial decision was overturned as a result of a failing on the part of the IOAS. If that is considered to be the case the Board shall determine appropriate corrective actions.
42. The implementation of corrective actions shall be done in a timely manner.
43. The implementation of corrective actions shall be checked during the course of internal audits.

IOAS Record keeping

44. Full records of all reconsiderations and appeals, of final decisions and of follow up actions (if any) will be maintained as follows:
 - a) Reconsiderations handled by the Client Manager shall be recorded in the compliance section of the applications database.
 - b) Reconsiderations handled by the Accreditation Committee shall be recorded in the agenda and minutes of AC meetings.
 - c) Minutes of Appeals Body meetings shall be taken in accordance with the IOAS Minutes Policy Doc. #PL0207.
 - d) The recording of the Appeals Committee hearing shall be retained.
 - e) The appeals register FR0543 shall be maintained up to date. Only appeals (not reconsiderations) shall be entered.

Annex 1

Summary of steps and target timeline between issue of contested decision and the issue of the final decision of the Appeal Committee.

Step		Time line ¹	Cumulative time
1	Issue of contested decision	0	0
2	Time by which appeal must be received	+20	+20
3	Assessment of validity and acknowledgement & notification of relevant scheme owners and authorities.	+5	+25
4	Notify President and Board	Same as 3	+25
5	Establishment of Appeals Committee	+10	+35
6	Papers sent to Appeals Committee	5 days before meeting	No more than +45
7	Appeals Committee Meeting	Within 30 days of appeal receipt	No more than +50
8	Appeals Committee decision communicated to CB and relevant scheme owners and authorities.	+4	No more than +54

¹ Week days regardless of public holidays