



**Livestock and Seed Program
Audit, Review, and Compliance Branch
Quality System Audit Report**

Applicant: Texas Department of Agriculture (TDA)
Program : National Organic Program – On-site Audit
Location(s): TDA Office - Austin, TX; Angel Valley Organic Farm – Leander, TX
Audit Date(s): May 18-19, 2004
Audit File Number: NP4139BA
Action Required: Yes
Auditor(s): Martin Friesenhahn – Team Leader, Lauren Kavanaugh - Auditor
Contact & Title: Leslie McKinnon - Program Coordinator
E-mail Address: leslie.mckinnon@agr.state.tx.us

AUDIT ACTIVITIES

On May 18-19, 2004, representatives of the USDA, Audit, Review, and Compliance (ARC) Branch conducted an on-site audit of the Texas Department of Agriculture (TDA) Organic Certification Program in Austin, TX. The purpose of the audit was to assess TDA's compliance to the USDA, AMS 7 CFR Part 205, National Organic Program (NOP). The audit also included observations and interviews of TDA's certification and inspection activities at Angel Valley Organic Farm in Leander, TX. This was an annual NOP organic inspection conducted by Inspector Jan Costilow of TDA. The farm consisted of six acres with various varieties of organic crops and vegetables.

Corrective actions for non-compliances identified during a desk audit conducted January 5-7, 2004 (NP4005BA) and the 2003 Annual Update review (NP3329BA) were submitted by TDA on March 12, 2004 and received by the ARC Branch auditor on March 18, 2004. The corrective actions were reviewed and verified for effectiveness and implementation during the on-site audit.

TDA is a state government that was accredited as a certifying agent by the USDA for crop, livestock, and handling operations on April 29, 2002. TDA currently has approximately 207 clients certified to the NOP with the majority listed as crop operations. TDA organic program procedures, policies and records were reviewed during the audit with Program Coordinator Leslie McKinnon. The audit documentation is on record and available for review (NP4139BA Audit Doc).

FINDINGS

The audit confirmed that TDA was operating under the guidelines of the NOP except as noted in the findings. Four minor non-compliances and one continuous improvement point (CIP) were identified during the audit. The six previous outstanding non-compliances from the desk audit and the 2003 annual update were cleared during the on-site audit.

Non-compliances - Cleared

NP4005BA.NC1 – CIP - 205.501 (a)(7) - Cleared - General requirements for accreditation - Have an annual program review of its certification activities conducted by.....*The information on conducting annual program reviews was not found in the documentation submitted by TDA.* **Corrective Actions:** A formal annual review process was initiated in 2003 in conjunction with the annual meeting of the TDA Organic Advisory Committee. The agenda and meeting minutes dated November 3, 2003 listed the program highlights and changes as a result of the review. A summary of Organic Program Review Activities from April 2002 to April 2003 was also documented.

NP4005BA.NC2 – CIP - 205.501 (a)(8) - Cleared - General requirements for accreditation - Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Act. *The previous certifications were based on the TDA Organic Standards (similar to the NOP Standards). The TDA organic inspection reports and evaluation documents referred to the TDA Organic Standards instead of the NOP Standards.* **Corrective Actions:** The documents were revised to remove the references to the TDA Organic Standards. The revised documents and compliance to the NOP Standards were verified during the on-site audit.

NP4005BA.NC3 – CIP - 205.501 (a)(11)(v) - Cleared - General requirements for accreditation - Requiring all persons who review applications for certification, perform on-site inspections, review certification documents,or make certification decisions.....to complete an annual conflict of interest disclosure report. *The requirement was found for completing conflict of interest reports but not the requirement for completing them annually.* **Corrective Actions:** TDA implemented a policy to require all staff involved in the organic certification program to submit the Outside Employment/Financial Interests Forms every year. Examples were submitted of TDA Organic Program staff updated in February and March 2004.

NP3329BA.NC1 - CIP-205.504 (c)(2) - Cleared - Evidence of expertise and ability - Conflicts of interests - conflict of interest disclosure reports - For all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions.....a conflict of interest disclosure report..... *The Conflict of Interest Reports were only submitted for new employees to the organic program and some of these had not been updated annually (were before 4/02). In addition, the conflict of interest reports were not submitted for previous organic program employees.* **Corrective Actions:** TDA implemented a policy to require all staff involved in the organic certification program to submit the Outside Employment/Financial Interests Forms every year. Examples were submitted of TDA Organic Program staff updated in February and March 2004.

NP3329BA.NC2 – CIP - 205.504(d)(2) - Cleared - Evidence of expertise and ability - Current certification activities - Copies of at least 3 different inspection reports and certification evaluation documents..... *The inspection reports and certification evaluation documents referred to the TDA Organic Standards instead of the NOP Standards.* **Corrective Actions:** The documents were revised to remove the references to the TDA Organic Standards. The revised documents and compliance to the NOP Standards were verified during the on-site audit.

NP3329BA.NC3 - CIP-205.510(a)(4) - Cleared - Annual report, recordkeeping, and renewal of accreditation - The results of the most recent annual program review and a description of adjustments to the certifying agent's operation and procedures..... *A written program review was not submitted with the update. The update stated that an ongoing program review was conducted throughout the year in conjunction with the development of the agency's comprehensive data management system. However, some program changes were submitted with the update.* **Corrective Actions:** A formal annual review process was initiated in 2003 in conjunction with the annual meeting of the TDA Organic Advisory Committee. The agenda and meeting minutes dated November 3, 2003 listed the program highlights and changes as a result of the review. A summary of Organic Program Review Activities from April 2002 to April 2003 was also documented.

New Non-compliances:

NP4139BA.NC1 - Minor – 205.404(a) requires that certification decisions be based on compliance with the regulation. *Document ROR-607 TDA Producer Supporting Documentation Organic System Plan includes “Required Tests – Soil Fertility Tests and Water Quality Test Results.” In addition the instructions for completing this section state “Use the soil and water test analyses to complete this section.” A Certifying Agent cannot require applicants to perform analysis of soil and water. Also, during the on-site inspection, repeated references were made to the OMRI list rather than the NOP National List for verification of whether substances were allowed under the NOP rule.*

NP4139BA.NC2 – Minor – 205.404(b)(2) and (c) states “The certifying agent must issue a certificate of organic operation which specifies the effective date of certification. Once certified, a production or handling operation’s organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, the State organic program’s governing State official, or the Administrator.” *Updated certificates of organic operation issued by the Texas Department of Agriculture did not contain the original effective date of certification. In addition, all certificates issued contained a date for “Annual Update Due” which indicated an expiration date.*

NP4139BA.NC3 – Minor – 205.406(b)(2) – Continuation of Certification requires the certifying agent within a reasonable time to arrange and conduct the on-site inspection. Except, that, when it is impossible for the certifying agent to conduct the annual on-site inspection following receipt of the certified operation’s annual update of information, the certifying agent may allow continuation of certification and issue an updated certificate....Provided, that the annual on-site inspection is conducted within 6 months following the certified operation’s scheduled date of annual update. *TDA’s procedures require annual updates for crop and livestock producers to be submitted by December 31. In many cases, TDA was issuing updated certificates and allowing up to six months to conduct the inspections. However, some of the inspections were being completed up to eight months or longer after the updated material was received and some of the reviews of the inspected files and submission of the inspection reports to the certified operations were not being completed until the following year. The TDA procedures for the receipt of the annual updates and the time period to conduct the inspections and review the submitted material did not allow for an on-site inspection within a reasonable time. In addition, the NOP Rule allows for issuing the updated certificate and the extension of completing the on-site inspection within the first six months following the scheduled date of the annual update only when it is impossible for the certifying agent to conduct the on-site inspection after receipt of the updated information.*

NP4139BA.NC4 – Minor – 205.501(11)(vi) requires the certifying agent to ensure that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection. *In some cases, the TDA Program Coordinator performed the initial document review of the applications submitted by the clients. The Texas Department of Agriculture Organic Program does not have provisions for an alternate person to make the final decision to certify an operation in these cases.*

Continuous Improvement Point (CIP)

NP4139BA.CIP1 – 205.662 (b) states “Resolution – When a certified operation demonstrates that each noncompliance has been resolved, the certifying agent or the State organic program’s governing State official, as applicable, shall send the certified operation a written notification of noncompliance resolution.” *A written notification of non-compliance resolution had not been submitted to the certified operations after the non-compliance had been addressed. However, an interview with the Program Coordinator and a review of the files indicated that the non-compliances or conditions were verified as being resolved.*

RECOMMENDATIONS

Based on the audit findings, the audit team recommends the continuation of TDA as an accredited certifying agent by the NOP with the condition of addressing the non-compliances as directed by the NOP.