



CERTIFICATE OF ACCREDITATION



# United States Department of Agriculture

Agricultural Marketing Service

National Organic Program

**Northeast Organic Farming Association of New York (NOFA-NY)**

**840 Upper Front St., Binghamton, New York, USA**

meets all the requirements prescribed in the USDA National Organic Program Regulations

**7 CFR Part 205**

**as an Accredited Certifying Agent**

for the scope of

**Crops, Wild Crops, Livestock and Handling Operations**

This certificate is receivable by all officers of all courts of the United States as prima facie evidence of the truth of the statements therein contained. This certificate does not excuse failure to comply with any of the regulatory laws enforced by the U.S. Department of Agriculture.

Status of this accreditation may be verified at <http://www.ams.usda.gov>

Certificate No: **NOP-47-17**  
Effective Date: **April 29, 2017**  
Expiration Date: **April 29, 2022**

*Guif Tuel for RG*

**Ruihong Guo, Ph.D.**  
Acting Deputy Administrator  
National Organic Program

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## **NATIONAL ORGANIC PROGRAM: AUDIT & CORRECTIVE ACTION REPORT**

### **GENERAL INFORMATION**

- **Certifier Name** NOFA-NY Certified Organic, NOFA-NY
- **Physical Address** 834 Upper Front Street, Binghamton, New York 13905, U.S.A.
- **Audit Type** Mid-term Audit
- **Auditors & Audit Dates** Sherry Aultman and Emily Prisco, 08/24/2020 to 08/28/2020
- **Audit Identifier** NOP-39-20

### **CERTIFIER OVERVIEW**

A mid-term audit was conducted of NOFA-NY Certified Organic (NOFA-NY). Audit activities included a remote desk audit. The USDA National Organic Program (NOP) assessed the certifier's conformance to the USDA organic regulations, during the period from September 2017 through August 2020.

NOFA-NY was first accredited in April 2002 and is accredited for Handling, Crops, Livestock, and Wild Crops scopes. NOFA-NY is located in Binghamton, NY and is comprised of two entities: the Northeast Organic Farming Association of New York, Inc. and its subsidiary, NOFA-NY Certified Organic, LLC. NOFA-NY certifies a total of 1,046 operations to the following certification scopes: Crops (925), Livestock (481), Handling (231), and Wild Crops (21). NOFA-NY provides USDA organic certification services in all 50 U.S. States, and does not certify operations outside the U.S.

The NOFA-NY Board of Directors oversees the general operations of NOFA-NY, Inc., and its Executive Director. The Board of Directors also appoints members of the six Certification Management Committee. The Certification Management Committee oversees the two Certification Co-Directors and the general operations of NOFA-NY Certified Organic, LLC. Certification activities are performed by 34 other employees: three administrative staff, one Material and Inspection Coordinator, 13 Certification Coordinators/Specialists, and 17 inspectors (two employed staff).

## **NOP DETERMINATION:**

NOP reviewed the audit results to determine whether NOFA-NY's corrective actions adequately addressed previous noncompliances. NOP also reviewed any corrective actions submitted as a result of noncompliances issued from findings identified during the audit.

Any noncompliance labeled as "**Cleared**," indicates that the corrective actions for the noncompliance are determined to be implemented and working effectively. Any noncompliance labeled as "**Accepted**" indicates acceptance of the corrective actions and verification of corrective action implementation will be conducted during the next audit.

### **Non-compliances from Prior Assessments**

**AIA-2100-20 - Cleared**

**AIA-2101-20 - Cleared**

**AIA-2230-20 - Cleared**

**AIA-2231-20 - Cleared**

**AIA-2232-20 - Cleared**

**AIA-2237-20 - Cleared**

**AIA-2238-20 - Cleared**

**AIA-2239-20 - Cleared**

**AIA-2240-20 - Cleared**

**AIA-2241-20 - Cleared**

**AIA-2242-20 - Cleared**

**AIA-2245-20 - Cleared**

**AIA-2246-20 - Cleared**

**AIA-2227-20 - Accepted.** (NOP-47-17.NC1) 7 C.F.R. §205.403(c)(1) states, “The onsite inspection of an operation must verify: The operation's compliance or capability to comply with the Act and the regulations in this part; ....”

**Comments:** *During the witness audit of an annual crops/wild crops/livestock/handling inspection, the auditor observed that the inspector did not fully verify the operation's compliance with the regulations. Areas of compliance not fully verified included the operation's compliance with material restrictions, all poultry housing, and packaging used by the operation.*

**2018 Corrective Action:** NOFA-NY's Certification Director met with the inspector to discuss all aspects of the inspection that were noncompliant. NOFA-NY revised and submitted their inspection report templates to more clearly define label reviews and packaging during inspections. NOFA-NY conducted an inspector training on March 16, 2018. NOFA-NY submitted training slides that covered verifying compliance during inspections.

NOFA-NY will also be addressing this issue individually at each inspector's 2018 annual performance evaluation to be conducted before December 31, 2018. NOFA-NY created a new Materials & Inspection Coordinator position. The Coordinator will work closely with inspectors and attend inspections randomly to verify compliance.

**2020 Verification of Corrective Action:** Witness audits were not conducted, and therefore the auditors were unable to verify the implementation of NOFA-NY's corrective actions. Verification of corrective action implementation at NOFA-NY's next audit is needed.

**AIA-2228-20 - Accepted.** (NOP-47-17.NC2) 7 C.F.R. §205.403(c)(2) states, “The onsite inspection of an operation must verify: That the information, including the organic production and handling system plan, provided ... accurately reflects the practices used or to be used by the certified operation ....”

**Comments:** During the witness audit of an annual handling inspection, the auditor observed that the inspector did not verify the accuracy of the information on the organic handling plan. Examples of information not verified included identification of storage areas for organic products, handling of organic hay, locations of pest control stations, and cleaning practices.

**2018 Corrective Action:** NOFA-NY's Certification Director met with the inspector to discuss all aspects of the inspection that were noncompliant. NOFA-NY revised and submitted their inspection report templates to more clearly define label reviews and packaging during inspections. NOFA-NY conducted an inspector training on March 16, 2018. NOFA-NY covered the on-site verification of OSPs during inspections. NOFA-NY will also be addressing this issue individually at each inspector's 2018 annual performance evaluation to be conducted before December 31, 2018. NOFA-NY created a new Materials & Inspection Coordinator position. The Coordinator will work closely with inspectors and attend inspection randomly to verify compliance.

**2020 Verification of Corrective Action:** Witness audits were not conducted, and therefore the auditors were unable to verify the implementation of NOFA-NY's corrective actions. Verification of corrective action implementation at NOFA-NY's next audit is needed.

**AIA-2229-20 - Accepted.** (NOP-47-17.NC3) 7 C.F.R. §205.403(d) states, “Exit interview. The inspector must conduct an exit interview .... The inspector must also address the need for any additional information as well as any issues of concern.”

**Comments:** *During the witness audits of an annual crops/wild crops/livestock/handling inspection and a handling inspection, the auditors observed that the inspectors did not address potential noncompliances resulting from the inspections as issues of concern. Examples of potential noncompliances included multiple record-keeping deficiencies, use of a material that was not reviewed/approved by the certifier, and improper identification of storage areas/holdingpens for organic products/animals.*

**2018 Corrective Action:** NOFA-NY’s Certification Director met with the inspector to discuss all aspects of the inspection that were noncompliant. NOFA-NY revised their exit interview form to make it more transparent to inspectors and producers’ areas of concern/compliance issues vs. information that needs to be submitted, vs. changes/update made to OSP. NOFA-NY conducted an inspector training on March 16, 2018. NOFA-NY discussed exit interviews and what constitutes an area of concern including examples of materials, recordkeeping, etc. NOFA-NY will also be addressing this issue individually at each inspector’s 2018 annual performance evaluation to be conducted before December 31, 2018. NOFA-NY created a new Materials & Inspection Coordinator position. The Coordinator will work closely with inspectors and attend inspections randomly to verify compliance.

**2020 Verification of Corrective Action:** Witness audits were not conducted, and therefore the auditors were unable to verify the implementation of NOFA-NY’s corrective actions. Verification of corrective action implementation at NOFA-NY’s next audit is needed.

**AIA-2243-20 - Accepted.** (NOP-47-17.NC13) - 7 C.F.R. §205.501(a)(4) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Use ... adequately trained personnel, including inspectors ... to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part.”

**Comments:** *During the witness audit of a crops/livestock/wild crops/handling inspection, the auditor observed that the inspector: 1. Did not fully verify whether inputs approved for use in the operation’s organic system plan were onsite, as required by NOFA-NY’s Product List verification form. 2. Did not appropriately conduct an in/out balance to verify whether there was enough certified feed purchased to sustain the flock, as required by NOFA-NY’s Addendum Poultry Inspection Report form. The inspector’s in/out balance activity was limited to determining the amount of feed needed based on information verbally collected from the operator. 3. Allowed the operator to select the product for the in/out balance.*

**2018 Corrective Action:** NOFA-NY met with the inspector in person and followed up with a phone discussion to discuss the issues that occurred during the witness inspection. NOFA-NY’s independent inspectors attended IOIA Audit Training for Crops Audits on January 26, 2018 and February 2, 2018. Inspectors who work with maple operations and other handling operations attended IOIA Audit Training for Processing on January 29, 2018 and February 5, 2018.

NOFA-NY conducted training at their inspector training on March 16, 2018 which included instruction on the verification of inputs listed in an operation’s organic system plan. NOFA-NY will address this issue individually at each inspector’s 2018 annual performance evaluation to be completed by December 31, 2018. On January 1, 2018, NOFA-NY created a new position, Materials & Inspection Coordinator, who work closely with inspectors and will randomly attend inspections to verify compliance.

**2020 Verification of Corrective Action:** Witness audits were not conducted, and therefore the auditors were unable to verify the implementation of NOFA-NY's corrective actions. Verification of corrective action implementation at NOFA-NY's next audit is needed.

**AIA-2244-20 - Accepted.** (NOP-47-17.NC14) - 7 C.F.R. §205.501(a)(11)(iv) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Prevent conflicts of interest by: Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification."

**Comments:** *During the witness audit of a handling inspection, the auditor observed that the inspector provided consultancy by instructing the operator on how to comply with animal verification requirements. Additionally, a review of exit interview records revealed instances where the inspector stated the issue of concern and instructions to the operation and how to resolve the issue.*

**2018 Corrective Action:** NOFA-NY conducted inspector training on March 16, 2018 and reminded inspectors not to give advice or consult during an inspection. NOFA-NY created and implemented a new exit interview form that will make it more transparent to inspectors and producers differences between areas of concern/compliance issues, information that needs to be submitted, changes/update made to OSP. NOFA-NY has created a new position, Materials & Inspection Coordinator, to work closely with inspectors and randomly attend inspections to verify compliance. NOFA-NY will address this issue individually at each inspector's 2018 annual performance evaluation to be completed by December 31, 2018.

**2020 Verification of Corrective Action:** Witness audits were not conducted and therefore the auditors were unable to verify the implementation of NOFA-NY's corrective actions.

### **Non-compliances Identified during the Current Assessment**

**AIA-2659-20 - Accepted.** 7 C.F.R. §205.404(b)(1) – (4) states, "The certifying agent must issue a certificate of organic operation which specifies the: Name and address of the certified operation; Effective date of certification; Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and Name, address, and telephone number of the certifying agent.;"

**Comments:** *NOFA-NY's policy for issuing organic certificates does not fully comply with the requirements of the USDA organic regulations. NOFA-NY does not issue organic certificates annually as instructed in NOP 2603 Organic Certificates. The auditor's review of three certification files found that organic certificates were not issued for the 2019 certification cycle.*

**Corrective Action:** NOFA-NY created a policy titled, "Issuing Certificates Within Calendar Year" that states NOFA-NY will issue updated organic certificates to all clients within each calendar year.

NOFA-NY created two December 2022 calendar reminders to prompt staff to compile a list of all clients who have not received an updated organic certificate and to prompt staff to send the updated certificates. NOFA-NY submitted a screenshot of the calendar reminders to the NOP.

NOFA-NY will conduct a staff training on the policy in Spring 2022. NOFA-NY submitted a preliminary training agenda and required attendance list for the proposed training.



**AIA-2661-20 - Accepted.** 7 C.F.R. §205.662(c) states, “Proposed suspension or revocation. When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period, the certifying agent or State organic program's governing State official shall send the certified operation a written notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of certification may be combined in one notification.”

**Comments:** *NOFA-NY is not consistently issuing notifications of proposed adverse action in a timely manner after an operation fails to successfully respond to, correct, or rebut a noncompliance. The auditor's review of certification files and interviews with staff found that for multiple operations, NOFA-NY allowed operations multiple opportunities to submit corrective actions, which resulted in NOFA-NY issuing a notification of noncompliance resolution or a proposed adverse action notice four to eight months after the issuance of the notification of noncompliance.*

**Corrective Action:** NOFA-NY created a policy titled, “Follow Up to Due Dates” that requires staff to either issue a notice of noncompliance resolution or issue a proposed adverse action within two months from the original due date in the notice of noncompliance. The policy requires certification coordinators to track noncompliance and adverse action due dates biweekly via NOFA-NY's database and management staff to check tracking quarterly. NOFA-NY will conduct a staff training on the policy in Spring 2022. NOFA-NY submitted the policy and a preliminary training agenda and required attendance list for the proposed training to the NOP.

**AIA-2675-20 - Accepted.** 7 C.F.R. §205.501(a)(3) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §205.402 through 205.406 and §205.670;”

**Comments:** *The auditor's review of NOFA-NY's ruminant livestock certification files and interviews with certification staff found that NOFA-NY is not carrying out the provisions of the Act and regulations. NOFA-NY does not consistently require its ruminant livestock producers to provide the percentage of each feed type, including pasture, in the feed ration and the methods for calculating dry matter demand and dry matter intake. Subsequently, NOFA-NY is not properly verifying the dry matter demand, the actual fed dry matter weights, and days grazed to determine the average weighted dry matter intake consumed from pasture over the grazing season.*

**Corrective Action:** NOFA-NY created a “Dry Matter Intake Worksheet” that operations will use throughout the year to record actual dry matter fed and actual dry matter intake (DMI) consumed from pasture documenting the entire year's feed rations.

NOFA-NY will provide the worksheet to livestock operations with their 2022 Initial Review Letter. Operations are expected to have the worksheet available at inspection and to submit a completed worksheet as part of their annual update with full implementation expected in 2023. A certification specialist will review the worksheet to verify the DMI for the entire year and total days grazed by class of animal.

NOFA-NY also updated their livestock inspection report to require inspectors to document their review of dry matter intake worksheet(s), actual feed fed records, and actual DMI from

pasture records, as well as their verification of actual rations and DMI from pasture records. NOFA-NY will conduct training on the worksheet, inspection report, and procedure updates for reviewers and inspectors in Spring 2022. NOFA-NY submitted a training agenda and required attendance list for the trainings.

**AIA-2741-20 - Accepted.** 7 C.F.R. §205.662(a) states, “When an inspection, review, or investigation of a certified operation by a certifying agent or a State organic program's governing State official reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certified operation.”

**Comments:** *NOFA-NY is not adequately implementing the noncompliance process and NOFA-NY policy in the following manner:*

- 1. NOFA-NY is not consistently issuing notifications of noncompliance when an operation is noncompliant. The auditors' interviews with certification staff found that NOFA-NY failed to issue a notification of noncompliance to operations that did not respond to multiple follow-up requests for unpaid fees, failure to submit updates, or failure to submit requested documents.*
- 2. NOFA-NY's policy “Determination Letter Classifications Using NOP Penalty Matrix” states that “Violations that warrant a Notice of Noncompliance are more significant than minor issues. They require an approved corrective action PLAN”. However, the auditor's review of certification files and interviews with staff found that NOFA-NY is not following their policy. NOFA-NY classified some noncompliant practices as minor issues even though the issue required an approved corrective action plan from the operation.*

**Corrective Action:**

1. NOFA-NY created a policy titled, “Follow Up to Due Dates” that instructs staff to promptly issue a notification of noncompliance when an operation does not meet timelines established in the policy. The policy requires certification coordinators to track due dates biweekly via NOFA-NY's database and management staff to check tracking quarterly.
2. NOFA-NY updated the “Guide to Determination Letters” chart in their database to provide additional instructions for reviewers on when to issue notifications of noncompliance versus minor issues.

NOFA-NY will conduct a staff training on the policies and procedures in Spring 2022. NOFA-NY submitted the policy, chart, preliminary training agenda, and required attendance list for the proposed training.



**AIA-2742-20 - Accepted.** 7 C.F.R. §205.501(a)(3) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §205.402 through 205.406 and §205.670;”

**Comments:** *The auditor’s review of NOFA-NY’s ruminant livestock certification files and interviews with certification staff found that NOFA-NY is not carrying out the provisions of §205.239(a)(1), which states, “The producer of an organic livestock operation must establish and maintain year-round livestock living conditions ... including: Year-round access for all animals to the outdoors ... Except, That, animals may be temporarily denied access to the outdoors in accordance with §§205.239(b) and (c). The auditor’s review of NOFA-NY’s ruminant livestock certification files found that some of the files included partially completed Outdoor Access Calendars. The lack of information shows that NOFA-NY is making compliance determinations without complete information.*

**Corrective Action:** NOFA-NY updated their Outdoor Access/Grazing Calendar. Operations must record all temporary confinements as they occur during the year and must have the Outdoor Access/Grazing Calendar or equivalent completed and available for review at inspection. NOFA-NY will provide the form to livestock operations with their 2022 Initial Review Letter. Operations are required to have the calendar or equivalent available at inspection and to submit a completed calendar as part of their annual update with full implementation expected in 2023. A certification specialist will review the completed full year calendar or equivalent for compliance.

NOFA-NY also updated their livestock inspection report to ensure inspectors verify temporary confinement records and that all livestock are provided with outdoor access year-round and access to pasture through the grazing season, unless a valid temporary exemption applies.

NOFA-NY will conduct training on the calendar, inspection report, and procedure updates for reviewers and inspectors in Spring 2022. NOFA-NY submitted a training agenda and required attendance list for the trainings.

**AIA-8826-21 - Accepted.** 7 C.F.R. §205.501(a)(2) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart.”

**Comments:** *NOFA-NY does not demonstrate the ability to fully comply with the requirements for accreditation. The auditor’s review of NOFA-NY’s ruminant livestock certification files and interviews with certification staff found that NOFA-NY does not allow operations to have nonorganic and organic lactating cows on the same farm. The USDA organic regulations do not prohibit operation from having nonorganic and organic lactating cows on the same farm.*

**Corrective Action:** NOFA-NY updated their “Parallel Dairy Operations” policy to indicate that dairy operations with organic and nonorganic lactating cows are allowed on the same operation as long as the operation complies with the USDA organic regulations. NOFA-NY will conduct a staff training on the updated policy in Spring 2022. NOFA-NY submitted the updated policy and a preliminary training agenda and required attendance list for the proposed training.

## NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

### AUDIT AND REVIEW PROCESS

An onsite renewal audit of NOFA-NY Certified Organic's, LLC (NOFA-NY) organic program was conducted on September 19 – 22, 2017. The National Organic Program (NOP) reviewed the auditor's report to assess NOFA-NY's compliance to the USDA organic regulations. This report provides the results of NOP's assessment.

### GENERAL INFORMATION

<b>Applicant Name</b>	NOFA-NY Certified Organic, LLC (NOFA-NY)
<b>Physical Address</b>	840 Upper Front St. Binghamton, NY 13905
<b>Mailing Address</b>	840 Upper Front St. Binghamton, NY 13905
<b>Contact &amp; Title</b>	Lori Kenyon, Certification Director
<b>E-mail Address</b>	<a href="mailto:Lori@nofany.org">Lori@nofany.org</a>
<b>Phone Number</b>	607-724-9851
<b>Reviewer(s) &amp; Auditor(s)</b>	Graham Davis, NOP Reviewer Robert Yang and Jason Lopez, Onsite Auditors
<b>Program</b>	USDA National Organic Program (NOP)
<b>Review &amp; Audit Date(s)</b>	Corrective actions review: May 4, 2018 NOP assessment review: January 11, 2018 Onsite audit: September 19 – 22, 2017
<b>Audit Identifier</b>	NOP-47-17
<b>Action Required</b>	None
<b>Audit &amp; Review Type</b>	Renewal Assessment
<b>Audit Objective</b>	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NOFA-NY's certification system.
<b>Audit &amp; Determination Criteria</b>	7 CFR Part 205, National Organic Program as amended
<b>Audit &amp; Review Scope</b>	NOFA-NY's certification services in carrying out the audit criteria during the period August 25, 2014 through September 19, 2017.

NOFA-NY Certified Organic, LLC (NOFA-NY) is a limited liability company initially accredited in April 2002 to the USDA National Organic Program for crops, livestock, wild crops and handling. NOFANY certifies a total of 1,009 operations according to the following certification scopes: 911 crops, 24 wild crops, 483 livestock, and 209 handling operations. NOFA-NY does not certify grower groups. NOFANY's sole office is located in Binghamton, NY. NOFA-NY provides USDA organic certification services in all 50 U.S. States, and does not certify operations outside the U.S.

NOFA-NY's organic certification services are primarily performed by 2 Senior Certification Specialists, 4 Certification Specialists, and 4 certification coordinators. There is also a Certification Assistant who provides administrative support. Certification decisions are made by the Senior Certification Specialists. There are 14 inspectors (2 staff inspectors; 12 contracted inspectors).

One witness audit of an annual inspection of a crops, livestock (poultry), wild crops, and handling operation was conducted. The operation is certified for 61 fruit and vegetable varieties; morels; eggs; and poultry meat products. A second witness audit of an annual inspection of a handling operation was conducted. The operation is certified for auctioning of livestock (cows, goats, pigs, poultry, rabbits, and sheep).

### **NOP DETERMINATION:**

NOP reviewed the onsite audit results to determine whether NOFA-NY's corrective actions adequately addressed previous noncompliances. NOP also reviewed any corrective actions submitted as a result of noncompliances issued from Findings identified during the onsite audit.

### **Non-compliances from Prior Assessments**

Any noncompliance labeled as "**Cleared**," indicates that the corrective actions for the noncompliance are determined to be implemented and working effectively. Any noncompliance labeled as "**Outstanding**" indicates that either the auditor could not verify implementation of the corrective actions or that records reviewed and audit observations did not demonstrate compliance. Any noncompliance labeled as "**Accepted**" indicates acceptance of the corrective actions and verification of corrective action implementation will be conducted during the next onsite audit.

**NP4237NNA.NC1 – Cleared**

**NP4237NNA.NC2 – Cleared**

### **Non-compliances Identified during the Current Assessment and Corrective Actions**

Any noncompliance labeled as "**Accepted**," indicates that the corrective actions for the noncompliance are accepted by the NOP and will be verified for implementation and effectiveness during the next onsite audit.

**NOP-47-17.NC1 – Accepted.** 7 C.F.R. §205.403(c)(1) states, "The onsite inspection of an operation must verify: The operation's compliance or capability to comply with the Act and the regulations in this part; ..."

**Comments:** *During the witness audit of an annual crops/wild crops/livestock/handling inspection, the auditor observed that the inspector did not fully verify the operation's compliance with the regulations. Areas of compliance not fully verified included the operation's compliance with material restrictions, all poultry housing, and packaging used by the operation.*

**2018 Corrective Action:** NOFA-NY's Certification Director met with the inspector to discuss all aspects of the inspection that were noncompliant. NOFA-NY revised and submitted their inspection report templates to more clearly define label reviews and packaging during inspections. NOFA-NY conducted an inspector training on March 16, 2018. NOFA-NY submitted training slides that covered verifying compliance during inspections. NOFA-NY will also be addressing this issue individually at each inspector's 2018 annual performance evaluation to be conducted before December 31, 2018. NOFA-NY created a new Materials & Inspection Coordinator position. The Coordinator will work closely with inspectors and attend inspections randomly to verify compliance.

**NOP-47-17.NC2 – Accepted.** 7 C.F.R. §205.403(c)(2) states, “The onsite inspection of an operation must verify: That the information, including the organic production and handling system plan, provided ... accurately reflects the practices used or to be used by the certified operation ....”

**Comments:** *During the witness audit of an annual handling inspection, the auditor observed that the inspector did not verify the accuracy of the information on the organic handling plan. Examples of information not verified included identification of storage areas for organic products, handling of organic hay, locations of pest control stations, and cleaning practices.*

**2018 Corrective Action:** NOFA-NY's Certification Director met with the inspector to discuss all aspects of the inspection that were noncompliant. NOFA-NY revised and submitted their inspection report templates to more clearly define label reviews and packaging during inspections. NOFA-NY conducted an inspector training on March 16, 2018. NOFA-NY covered the on-site verification of OSPs during inspections. NOFA-NY will also be addressing this issue individually at each inspector's 2018 annual performance evaluation to be conducted before December 31, 2018. NOFA-NY created a new Materials & Inspection Coordinator position. The Coordinator will work closely with inspectors and attend inspections randomly to verify compliance.

**NOP-47-17.NC3 – Accepted.** 7 C.F.R. §205.403(d) states, “Exit interview. The inspector must conduct an exit interview .... The inspector must also address the need for any additional information as well as any issues of concern.”

**Comments:** *During the witness audits of an annual crops/wild crops/livestock/handling inspection and a handling inspection, the auditors observed that the inspectors did not address potential noncompliances resulting from the inspections as issues of concern. Examples of potential noncompliances included multiple record-keeping deficiencies, use of a material that was not reviewed/approved by the certifier, and improper identification of storage areas/holding pens for organic products/animals.*

**2018 Corrective Action:** NOFA-NY's Certification Director met with the inspector to discuss all aspects of the inspection that were noncompliant. NOFA-NY revised their exit interview form to make it more transparent to inspectors and producers areas of concern/compliance issues vs. information that needs to be submitted, vs. changes/update made to OSP. NOFA-NY conducted an inspector training on March 16, 2018. NOFA-NY discussed exit interviews and what constitutes an area of concern including examples of materials, recordkeeping, etc. NOFA-NY will also be addressing this issue individually at each inspector's 2018 annual performance evaluation to be conducted before December 31, 2018. NOFA-NY created a new Materials &

Inspection Coordinator position. The Coordinator will work closely with inspectors and attend inspections randomly to verify compliance

**NOP-47-17.NC4 – Accepted.** 7 C.F.R. §205.404(a) states, “Within a reasonable time after completion of the initial on-site inspection, a certifying agent must review the on-site inspection report, the results of any analyses for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with the requirements of this part and that the applicant is able to conduct operations in accordance with the plan, the agent shall grant certification.”

**Comments:** *The auditor's review of a livestock applicant certification file found that NOFA-NY granted certification of the herd without first conducting an onsite inspection of the dairy cows. The livestock was granted organic certification on March 28, 2017 and the onsite inspection took place on June 1, 2017. Interviews with certification staff indicated that NOFA-NY may grant certification of an applicant's dairy herd upon verification of the herd's compliance through a desk audit of documentation submitted by the applicant.*

**2018 Corrective Action:** NOFA-NY revised their policy “Adding Livestock – Dairy Cows to Certificate” to include more detail and to ensure animal follow-up inspections are completed within 30 days. NOFA-NY reviewed the revised policy at a staff meeting on February 16, 2018. NOFA-NY's Materials & Inspection Coordinator will schedule animal follow-up inspection dates to ensure they are completed within 30 days. NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 will and review animal follow-up files to ensure compliance to policy.

**NOP-47-17.NC5 – Accepted.** 7 C.F.R. §205.406(c) states, “If the certifying agent has reason to believe, based on the on-site inspection and a review of the information specified in §205.404, that a certified operation is not complying with the requirements of the Act and the regulations in this part, the certifying agent shall provide a written notification of noncompliance to the operation in accordance with §205.662.”

**Comments:** *The auditor's review of certification files found instances where NOFA-NY did not provide operations with a written notification of noncompliance for noncompliant practices identified during their onsite inspection. The noncompliant practices were relayed to the operations as Notes or Areas of Improvement in their Certification Determination Letter.*

**2018 Corrective Action:** NOFA-NY created and implemented policy (Determination Letter Classification) to clarify violations that warrant the issuance of a noncompliance. NOFA-NY provided training on the policy and an annual review of NOP 4002 at their staff meeting on February 16, 2018. At this meeting NOFA-NY also identified and discussed typical noncompliances and minor issues for guidance. NOFA-NY conducted an annual review and updated their list of examples for typical NONC and minor NONC guidance. NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 and will review this area to ensure compliance.

**NOP-47-17.NC6 – Accepted.** 7 C.F.R. § 205.501(a)(2) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart.”

**Comments:** *NOFA-NY's inspections report forms do not instruct the inspector to verify an operation's compliance with the import/export requirements of USDA's international organic trade arrangements.*

**2018 Corrective Action:** NOFA-NY updated their inspection report templates to include instructions to verify an operation's compliance with import/export requirements. NOFA-NY reviewed the revised inspection report templates during their inspector training on March 16, 2018. NOFA-NY Inspector Training. NOFA-NY also reviewed the requirements for each of the international trade agreements.

**NOP-47-17.NC7 – Accepted.** 7 C.F.R. §205.501(a)(2) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart.”

**Comments:** *The auditor's review of approved labeling found instances where NOFA-NY determined labeling on product packaging to be compliant without requiring the operation to provide all labeling statements displayed on the packaging.*

**2018 Corrective Action:** NOFA-NY revised their policy “Label Review & Review Checklist” to clearly define Principal Panel and Information Panel. NOFA-NY now requires a label review to include the entire principal display panel and the information panel, if applicable. NOFA-NY conducted a staff training on February 16, 2018 that included updates made to policy and a review of noncompliant labels. NOFA-NY updated their label review checklist to clearly identify approval of Principal Panel & information Panel. NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 and will include reviewed and approved labels (as of February 16, 2018).

**NOP-47-17.NC8 – Accepted.** 7 C.F.R. §205.501(a)(3) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670.” Specifically, §205.201(a)(6) states, “An organic production or handling system plan must include: Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.”

**Comments:** *NOFA-NY's organic system plan templates do not request operations to provide information regarding use of organic product(s) imported under a USDA international organic trade arrangement.*

**2018 Corrective Action:** NOFA-NY revised its organic system plan templates to include questions specific to imports and exports. NOFA-NY's Handling Department staff attended NOP webinar training on Organic Integrity of Imports, the 2018 NOP/ACA Training, and will continue to stay current in the area of international integrity. NOFA-NY created an Import/Export OSP addendum to be completed by producers so comprehensive information is obtained specific to importing/exporting.

**NOP-47-17.NC9 – Accepted.** 7 C.F.R. §205.501(a)(3) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670.” Specifically, §205.239(a)(1) states, “The producer of an organic livestock operation must establish and maintain year-round livestock living conditions ... including: Year-round

access for all animals to the outdoors ... suitable to the species, its stage of life, climate, and the environment: Except, That, animals may be temporarily denied access to the outdoors in accordance with §§205.239(b) and (c).

**Comments:** *The auditor's review of NOFA-NY's ruminant livestock certification files and interviews with certification staff found that NOFA-NY allows its ruminant livestock operations to temporarily deny livestock access to the outdoors during the non-grazing season without requiring the operation to demonstrate how its practice complies with §§205.239(b) and (c) as long as outdoor access is provided for a period of time daily. In one instance, NOFA-NY approved an operation's plan to provide one hour of daily outdoor access during the non-grazing season. The plan did not include information demonstrating how the operation's practice complied with the requirements of §§205.239(b) and (c).*

**2018 Corrective Action:** NOFA-NY created and implemented a new policy "Outdoor Access Requirements" to clearly state that all livestock must have outdoor access year round unless temporary exemption applies per 205.239 (b) & (c). NOFA-NY reviewed the policy at their staff meeting on February 16, 2018. NOFA-NY updated their Livestock OSP to clearly state outdoor access unless temporary exemption applies per 205.239 (b) & (c). NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 and will randomly review livestock files to ensure compliance to NOFA-NY's implemented policy on outdoor access requirement.

**NOP-47-17.NC10 – Accepted.** 7 C.F.R. §205.501(a)(3) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670." Specifically, §205.400 states the general requirements for certification.

**Comments:** *NOFA-NY does not provide its certification applicants with the option to include all locations/facilities certified under one certification. As a result, NOFA-NY issues an organic certificate per location/facility. The USDA organic regulations do not prohibit the certification of multiple locations/facilities under one certification in cases where it is compliant to do so.*

**2018 Corrective Action:** NOFA-NY updated their policy manual to include include how to handle operations with more than one location and their ability to include one certificate if desired. NOFA-NY created and implemented a new policy, "One Certificate, Multiple Locations", to provide additional details. NOFA-NY reviewed the policy at their staff meeting on February 16, 2018. NOFA-NY sent a letter sent to their 6 certified businesses with multiple locations to notify them that they may elect to have one certificate. NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 and will verify via correspondence folders that applicants with multiple locations were offered the option of one certificate. NOFA-NY will maintain correspondence documentation for new applicants to verify that one certificate option was declined.

**NOP-47-17.NC11 – Accepted.** 7 C.F.R. §205.501(a)(3) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670." Specifically, §205.406 (a)(3) states, "To continue certification, a certified operation must ... submit the following information, as applicable, to the certifying agent: An update on the correction of minor noncompliances previously identified by the certifying agent as requiring correction for continued certification."



**Comments:** *NOFA-NY's organic system plan update forms do not require a certified operation to provide an update on the correction of minor noncompliances previously identified by NOFA-NY as requiring correction for continued certification.*

**2018 Corrective Action:** The 2018 renewal organic system plan update forms have already been sent out, NOFA-NY plans to update its renewal organic system plan templates by December 2018 with a section for the operator to provide an update on the correction of minor noncompliances. In the interim, NOFA-NY has updated its "Follow up on Notices of Noncompliances and Minor Noncompliances" policy to require initial review letters to state that operations should be prepared to provide an update on the correction of any notices of noncompliance issued in the last year as well as update on any minor issues (conditions for continued certification) identified in their 2017 determination letter with the inspector. NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 and will verify updates are reviewed and include NONC and Minor issues per inspection reports.

**NOP-47-17.NC12 – Accepted.** 7 C.F.R. §205.663 states, "...Any agreement reached during or as a result of the mediation process shall be in compliance with the Act and these regulations. The Secretary may review any mediated agreement for conformity to the Act and these regulations and may reject any agreement or provision not in conformance with the Act or these regulations."

**Comments:** *The review of settlement agreements established by NOFA-NY found the following:*

- 1. The terms of the settlement agreement did not always include actions the operation must take in order to correct the noncompliance that led to the Notice of Proposed Suspension.*
- 2. As a result, NOFA-NY requested corrective actions separately, and then issued a notification of noncompliance resolution upon accepting the corrective actions.*
- 3. Additionally, the settlement agreement included non-finite terms that required ongoing compliance with a USDA organic regulation.*

**2018 Corrective Action:** NOFA-NY has revised and implemented their templates for mediation & settlement agreements to include all action operations must take to correct noncompliance(s). Their templates now state specific terms the operation must comply with. Senior Staff/Management will review settlement agreements prior to issuing to ensure complete compliance. NOFA-NY conducted training at their staff meeting on February 16, 2018 which included instruction on their new settlement agreement template and procedure (Procedure for Issuing Compliance Notices) for issuing and monitoring settlement agreements. The procedure instructs staff not to issue a noncompliance resolution. NOFA-NY's 2018 Internal Audit will be conducted by December 31, 2018 and will include a review of settlement agreements to ensure compliance.

**NOP-47-17.NC13 – Accepted.** 7 C.F.R. §205.501(a)(4) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Use ... adequately trained personnel, including inspectors ... to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part."

**Comments:** *During the witness audit of a crops/livestock/wild crops/handling inspection, the auditor observed that the inspector:*

1. *Did not fully verify whether inputs approved for use in the operation's organic system plan were onsite, as required by NOFA-NY's Product List verification form.*
2. *Did not appropriately conduct an in/out balance to verify whether there was enough certified feed purchased to sustain the flock, as required by NOFA-NY's Addendum Poultry Inspection Report form. The inspector's in/out balance activity was limited to determining the amount of feed needed based on information verbally collected from the operator.*
3. *Allowed the operator to select the product for the in/out balance.*

**2018 Corrective Action:** NOFA-NY met with the inspector in person and followed up with a phone discussion to discuss the issues that occurred during the witness inspection. NOFA-NY's independent inspectors attended IOIA Audit Training for Crops Audits on January 26, 2018 and February 2, 2018. Inspectors who work with maple operations and other handling operations attended IOIA Audit Training for Processing on January 29, 2018 and February 5, 2018. NOFA-NY conducted training at their staff meeting on March 16, 2018 which included instruction on the verification of inputs listed in an operation's organic system plan. NOFA-NY will address this issue individually at each inspector's 2018 annual performance evaluation to be completed by December 31, 2018. On January 1, 2018, NOFA-NY created a new position, Materials & Inspection Coordinator, who work closely with inspectors and will randomly attend inspections to verify compliance.

**NOP-47-17.NC14 – Accepted.** 7 C.F.R. §205.501(a)(11)(iv) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Prevent conflicts of interest by: Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification.”

**Comments:** *During the witness audit of a handling inspection, the auditor observed that the inspector provided consultancy by instructing the operator on how to comply with animal verification requirements. Additionally, a review of exit interview records revealed instances where the inspector stated the issue of concern and instructions to the operation and how to resolve the issue.*

**2018 Corrective Action:** NOFA-NY conducted inspector training on March 16, 2018 and reminded inspectors not to give advice or consult during an inspection. NOFA-NY created and implemented a new exit interview form that will make it more transparent to inspectors and producers differences between areas of concern/compliance issues, information that needs to be submitted, changes/update made to OSP. NOFA-NY has created a new position, Materials & Inspection Coordinator, to work closely with inspectors and randomly attend inspections to verify compliance. NOFA-NY will address this issue individually at each inspector's 2018 annual performance evaluation to be completed by December 31, 2018.

**NOP-47-17.NC15 – Accepted.** 7 CFR §205.501(a)(21) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.” NOP 2603 Instruction Organic Certificates, 3.1 Elements of the organic certificate states, “Organic certificates should ... include the following ....”

**Comments:** *NOFA-NY's organic certificate does not comply in the following manner:*

1. *The anniversary date is not consistently stated on a certificate.*

2. *Certificates include a “Certificate issued” date that is the date of the first certificate issued to the operation during the annual certification cycle. An updated certificate issued within the same annual certification cycle includes an additional “effective” date.*
3. *Certificates state, “Certified to the NOP since” instead of “Effective date”.*
4. *Certificates specify a separate “Broker” scope, which is not one of the categories of organic operation under the USDA organic regulations.*

**2018 Corrective Action:** NOFA-NY added an anniversary date to their certificate template. NOFA-NY has also revised its certificate template to state “Effective Date” instead of “Certified to the NOP”. NOFA-NY updated their policy “Changes to Certificate” to clearly state that any time a change is approved and made to a certificate a new issue date is used. The policy also clarifies only the Crops, Livestock, Handling, Wild Crops scopes can be listed on a certificate. The policy was reviewed at a staff meeting on February 16, 2018. In September 2017 NOFA-NY converted the certificate taxonomy they use in the Organic Integrity Database to match the NOP so that the category of “Broker” will no longer be used. NOFA-NY’s 2018 Internal Audit will be conducted by December 31, 2018 and will include a review of certificates to verify the policy is being maintained.

**NOP-47-17.NC16 – Accepted.** 7 C.F.R. §205.504(b)(2) states, “A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques; its ability to fully comply with and implement the organic certification program established in §§ 205.100 and 205.101, §§ 205.201 through 205.203, §§205.300 through 205.303, §§205.400 through 205.406, and §§ 205.661 and 205.662; and its ability to comply with the requirements for accreditation set forth in §205.501: ... A copy of the procedures to be used for reviewing and investigating certified operation compliance with the Act and the regulations in this part...”

**Comments:** *NOFA-NY does not have a policy or procedures for the periodic re-review of approved materials to ensure an approved material used by its certified operations continues to comply with the USDA organic regulations.*

**2018 Corrective Action:** NOFA-NY created and implemented a policy for the periodical (every 3 years before 4-year expiry) re-review of approved materials. NOFA-NY created a new position, Materials & Inspection Coordinator, who will conduct and coordinate the re-review of materials. The Materials & Inspection Coordinator will provide monthly updates on status of material re-reviews at staff meetings in order to monitor progress and goals set by NOFA-NY.

## NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

### AUDIT AND REVIEW PROCESS

The National Organic Program (NOP) conducted a mid-term assessment of NOFA-NY Certified Organic, LLC (NOFA-NY). An onsite audit was conducted, and the audit report reviewed to determine NOFA-NY's capability to continue operating as a USDA accredited certifier.

### GENERAL INFORMATION

<b>Applicant Name</b>	NOFA-NY Certified Organic, LLC (NOFA-NY)
<b>Physical Address</b>	840 Upper Front Street, Binghamton, NY 13905
<b>Mailing Address</b>	Same
<b>Contact &amp; Title</b>	Lisa Engelbert, Certification Program Administrator
<b>E-mail Address</b>	<a href="mailto:lisaengelbert@NOFA-NY.org">lisaengelbert@NOFA-NY.org</a>
<b>Phone Number</b>	607-724-9851
<b>Reviewers &amp; Auditors</b>	Janna Howley, NOP Reviewer Patricia Heckart & Jamie Schoop, On-site Auditors
<b>Program</b>	USDA National Organic Program (NOP)
<b>Review &amp; Audit Dates</b>	NOP assessment review: January 6, 2015 Onsite audit: August 25-27, 2014
<b>Audit Identifier</b>	NP4237NNA
<b>Action Required</b>	No
<b>Audit &amp; Review Type</b>	Mid-Term Assessment
<b>Audit Objective</b>	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NOFA-NY's certification.
<b>Audit &amp; Determination Criteria</b>	<i>7 CFR Part 205, National Organic Program as amended</i>
<b>Audit &amp; Review Scope</b>	NOFA-NY's certification services in carrying out the audit criteria during the period: June 2012 through August 2014.

NOFA-NY Certified Organic (NOFA-NY) is a Limited Liability Company (LLC) conducting third party verification activities for agricultural producers and handlers of organic products. NOFA-NY is a wholly owned subsidiary of Northeast Organic Farming Association of New York, Inc. NOFA-NY is a non-profit, tax-exempt educational organization. NOFA-NY is operated in the same non-profit manner as Northeast Organic Farming Association of New York, Inc. under the 501(c)(3) requirements.

NOFA-NY has been accredited as a certifying agent since April 29, 2002 to the National Organic Program (NOP) for the scopes of crop, wild crop, livestock, and handling. NOFA-NY currently has approximately 666 certified clients, which include 311 crops, 299 livestock, 30 wild crops, and 56 handling operations certified to the NOP. The clients are certified in the United States,

and all certification activities are conducted at the Binghamton office.

#### **NOP DETERMINATION:**

NOP reviewed the onsite audit results to determine whether NOFA-NY's corrective actions adequately addressed previous noncompliances. NOP also reviewed any corrective actions submitted as a result of noncompliances issued from Findings identified during the onsite audit.

#### **Non-compliances from Prior Assessments**

Any noncompliance labeled as "**Cleared**," indicates that the corrective actions for the noncompliance are determined to be implemented and working effectively. Any noncompliance labeled as "**Outstanding**" indicates that either the auditor could not verify implementation of the corrective actions or that records reviewed and audit observations did not demonstrate compliance.

**NP2135MMA.NC1 – Cleared**

**NP2135MMA.NC2 – Cleared**

**NP2135MMA.NC3 – Cleared**

**NP2135MMA.NC4 – Cleared**

**NP2135MMA.NC5 – Rebuttal Submitted and Accepted**

**NP2135MMA.NC6 – Cleared**

**NP2135MMA.NC7 – Cleared**

**NP2135MMA.NC8 – Cleared**

**NP2135MMA.NC9 – Cleared**

**NP2135MMA.NC10 – Cleared**

#### **Non-compliances Identified during the Current Assessment**

Any noncompliance labeled as "**Accepted**," indicates that the corrective actions for the noncompliance are accepted by the NOP and will be verified for implementation and effectiveness during the next onsite audit.

**NP4237NNA.NC1 – Accepted – 7 CFR §205.501(a)(21)** states, "A private or governmental entity accredited as a certifying agent under this subpart must: Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary." NOP 2609, section 4.1.1 states, "We recommend that certifying agents conduct unannounced inspections of 5 percent of their total certified operations per year as a tool in ensuring compliance with the regulations."

**Comments:** *NOFA-NY conducted 29 unannounced inspections in 2013. The total number of certified operations on January 1, 2013 was 630; five percent of this amount would have been 32. NOFA-NY does have procedures describing unannounced inspections and conducts these inspections based on risk, and also by random selection.*

**Corrective Action:** NOFA-NY created the Inspection Coordinator position in May 2014 to manage the inspection and residue collection process. This position has been further refined to include all spot inspection scheduling and documentation requirements. NOFA-NY provided copies of the job description, *2015 Proposed Spot Inspection Candidates* template, and *2014 Spot Inspection* spreadsheet to the NOP.

**NP4237NNA.NC2 – Accepted – 7 CFR §205.510(b)** states, “Certifying agents must maintain records according to the following schedule: (2) Records created by the certifying agent regarding applicants for certification and certified operations must be maintained for not less than 10 years beyond their creation.”

**Comments:** *In review of eight records for sampling results, two receipts for sample collection were missing and four notification letters for sampling results were missing. NOFA-NY was unable to locate these records. NOFA-NY does have procedures for sampling and chain of custody for samples collected. In all cases, a receipt had been issued to the operator; however, the records of sample receipts were not retained as required.*

**Corrective Action:** NOFA-NY created the Inspection Coordinator position in May 2014 to manage the inspection and residue collection process. This position has been further refined to include all residue sample collections and documentation requirements. The coordinator is responsible for managing the entire process, including records maintenance. NOFA-NY provided the following documents to the NOP: job description, *Sample Collection Procedure, Notification after Sample Collection, Residue Test Results* letter, *2014 Residue Collection Inspection Candidates and Schedule*, and the *2015 Proposed Residue Collection Inspection Candidates and Schedule* template.

<b>Applicant Name:</b>	Northeast Organic Farming Association, LLC (NOFA)
<b>Physical Address:</b>	840 Upper Front Street, Binghamton, NY 13905
<b>Mailing Address:</b>	840 Upper Front Street, Binghamton, NY 13905
<b>Contact &amp; Title:</b>	Sherrie Hastings, Certification Director
<b>E-mail Address:</b>	<a href="mailto:Sherriehastings@nofany.org">Sherriehastings@nofany.org</a>
<b>Phone Number:</b>	607-724-9851
<b>Auditor(s):</b>	Meg Kuhn, Accreditation Manager, NOP
<b>Program:</b>	USDA National Organic Program (NOP)
<b>Audit Date(s):</b>	8/31/2012 – 11/6/2013
<b>Audit Identifier:</b>	NP2135MMA
<b>Audit Type:</b>	Corrective Action Review
<b>Audit Objective:</b>	To verify, review, and approve corrective actions addressing the non-compliances identified during the Renewal Assessment Audit.
<b>Audit Criteria:</b>	7 CFR Part 205, National Organic Program; Final Rule, dated December 21, 2000; revised February 17, 2010.
<b>Audit Scope:</b>	NOFA's 08/31/12, and 11/6/2013 responses to the Renewal Assessment Audit non-compliance report
<b>Location(s) Audited:</b>	Desk

## AUDIT INFORMATION

During the Renewal Assessment audit, the corrective actions for the non-compliances identified during the Mid-Term audit were verified and found to be implemented and effective and the non-compliances were cleared. There were ten (10) non-compliances identified during this audit. NOFA was notified of this finding in a notice from the NOP on August 3, 2012. A response was received dated August 31, 2012. The NOP Accreditation Committee considered these corrective actions on October 29, 2013 and recommended that the NOP renew NOFA's accreditation as a USDA organic certifying agent.

## GENERAL INFORMATION

NOFA–NY Certified Organic, LLC (NOFA-NY, LLC) was accredited as a USDA National Organic Program (NOP) certifying agent on April 29, 2002 for crops, wild crops, livestock, and handling operations. NOFA-NY, LLC is a non-profit organization, which is owned by the Northeast Organic Farming Association of NY, Inc. (NOFA-NY, Inc.). NOFA-NY, LLC can provide organic certification services throughout the United States. However, all but two operations are located in the northeastern states. The NOFA-NY, LLC list of certified operations included 638 certified operations, consisting of 304 crops of which 24 were maple operations and 28 had wild crops as a secondary scope; 285 livestock operations of which 252 were dairies; and 49 handlers all of which were processors.

During preparation for the renewal assessment, the auditor of record observed that the listing for NOFA- NY, LLC on the NOP website did not include the scope of wild crops as part of their



accreditation. The NOP 2007 Accreditation Renewal Letter dated July 13, 2008, included the scope of wild crops and NOFA-NY, LLC certifies operations with wild crops; all as a secondary scope of certification. NOP was informed of this discrepancy and will update the website.

## FINDINGS

Observations made, interviews conducted, and procedures and records reviewed verified that NOFA–NY Certified Organic, LLC (NOFA-NY, LLC) is currently operating in compliance to the requirements of the audit criteria, except as identified below. There were ten new non-compliances identified during the renewal assessment.

**NP2135MMA.NC1 – Submitted and Accepted:** NOP §205.405 (a) states, “When correction of a noncompliance is not possible, a notification of noncompliance and a notification of denial of certification may be combined in one notification.” *NOFA-NY, LLC did not issue a notification of noncompliance, a denial of certification, or a combined notice to an applicant which had used a prohibited substance on all but one field prior to applying for certification. Instead, the operation was issued a Certification Notification for the one field which was certified; a notice of non-compliance and/or denial of certification were not issued for the fields treated with prohibited substances.* **Corrective Action:** NOFA held staff training on May 21, 2012 addressing the requirement to issue Notices of Non-compliance or Notices of Denial to operations in violation; for non-correctable issues, NOFA’s response notes that staff was informed these could be combined notices. NOFA also updated the Review Checklist that requires notation in two places in the event prohibited substances are used so the final decision maker can ensure proper action. If effectively implemented, NOFA’s response demonstrates capability to comply with NOP accreditation requirements.

**NP2135MMA.NC2 – Submitted and Accepted:** NOP §205.501 (a)(3) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part, including the provisions of §§205.402 through 205.406 and §205.670.” *A review of the file and interviews conducted during the wild crop witness inspection found that NOFA-NY, LLC granted certification to the scope of wild crop when some of the crops were actually harvested from cultivated fields. In addition, one crop had been planted for at least the two previous years on the operation.* **Corrective Action:** Staff was trained on wild crop requirements. Inspectors were informed of wild crop requirements, including receipt of NOP 5022; NOFA also covered this topic during its 2013 Inspector Training in April, 2013. The Final Reviewer used NOP 5022 for the remainder of wild crop files coming through for 2012. To review renewing clients, NOFA revised the wild crop addendum (part of the OSP application form for new and renewing clients) to reflect NOP 5022; this revised wild crop addendum was used to capture information from renewing clients. If effectively implemented, NOFA’s response demonstrates capability to comply with NOP accreditation requirements.

**NP2135MMA.NC3 – Submitted and Accepted:** NOP §205.501 (a)(6) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Conduct an annual performance evaluation of 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 and implement measures to correct any deficiencies in certification services.” *Eight of the 23 annual performance evaluations were not conducted by NOFA-NY, LLC as required. Specifically, there were no current performance evaluations for six staff members and two inspectors.*

**Corrective Action:** NOFA has updated its Program Manual to require a timeframe for annual performance reviews for all staff, scheduled for November of each year. Missing performance reviews were conducted first in 2012, in October and November. Calendar reminders have been set up for Cert Director and management as a prompt to start/complete the process in accordance with the Program Manual. If effectively implemented, NOFA’s response demonstrates compliance with NOP accreditation requirements.

**NP2135MMA.NC4 – Submitted and Accepted:** NOP §205.501 (a)(10) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Maintain strict confidentiality with respect to its clients under the applicable organic certification program and not disclose to third parties (with the exception of the Secretary or the applicable State organic program’s governing State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations in this part, except as provided for in §205.504(b)(5)” and the NOFA-NY, LLC Annual Update for Handling Operations states, “I understand that the following information which is not considered confidential and may be released upon request by members of the public includes: name, farm name, address, telephone number, Organic Certificate, Inputs materials, livestock medications, and results of any sampling / residue testing. Any other information may be released only upon written permission by an authorized person listed below.” *The NOFA-NY, LLC Certification Standards Manual and affirmations signed by applicants and certified operations state that the general public may request in writing specific information regarding what was applied to a farmer’s fields in the previous year and type of health care materials used to treat specific animals in the previous year. Requiring the operations address, telephone number, and inputs used to be disclosed to the general public is not supported by NOP §205.504 (b)(5) and the affirmations do not give the operation the option of disclosing the information by their own choosing.* **Corrective Action:** NOFA has updated its waiver form to clients and the Program Manual to cite the language from the regulation cited above. If effectively implemented, NOFA’s response demonstrates capability to comply with NOP accreditation requirements.

**NP2135MMA.NC5 – Rebuttal Submitted and Accepted**

**NP2135MMA.NC6 – Submitted and Accepted:** NOP §205.501 (a)(11)(v) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Prevent conflicts of interest by: Requiring all persons who review applications for certification, perform on-site inspections, review certification documents...and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report.” *None of the six members on the NOFA-NY, LLC Management Committee had a current conflict of interest disclosure report on file.* **Corrective Action:** NOFA obtained and provided in its response copies of signed COI disclosure statements for all Management Committee members. NOFA has also set up a timeframe for annual completion of disclosure forms for all staff and MC

members, requiring full completion by January of each year. The NOFA Manuals were revised to include this timeframe in its policies. If effectively implemented, NOFA's response demonstrates capability to comply with NOP accreditation requirements.

**NP2135MMA.NC7 – Submitted and Accepted:** NOP §205.504 (a)(2) states, "A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques... The name and position description of all personnel to be used in the certification operation..." *The NOFA-NY, LLC Administrative Procedures Manual (APM) contains qualification for final reviewer but does not include the qualifications required for each scope of certification. The APM also does not define the qualifications of certification specialists and certification coordinator except in an administrative capacity, and does not address specifics to the scopes of certification.* **Corrective Action:** Job titles have been revised to clarify job functions. The Management Committee in August 2012 approved these titles (Certification Specialists and Certification Coordinators) and accompanying job responsibilities. Additionally, the NOFA APM/PM manuals were revised to include specified qualifications for application and final reviewers in order to address the APM's lack of definition of these jobs. Sample text of the changes was provided as objective evidence. If effectively implemented, NOFA's response demonstrates capability to comply with NOP accreditation requirements.

**NP2135MMA.NC8 – Submitted and Accepted:** NOP §205.504 (b)(5) states, "A private or governmental entity seeking accreditation as a certifying agent must submit... A copy of the procedures to be used, including fees to be assessed, for making the following information available to any member of the public upon request: (i) Certification certificates issued during the current and 3 preceding calendar years; (ii) A list of producers and handlers whose operations it has certified, including for each the name of the operation, type(s) of operation, products produced, and the effective date of the certification, during the current and 3 preceding calendar years; (iii) The results of laboratory analyses for residues of pesticides and other prohibited substances conducted during the current and 3 preceding calendar years." *The NOFA-NY, LLC Administrative Procedures Manual (APM) does not address the requirement that the list of certified operations should contain the effective date of certification and a review of the list of certified operations on the NOFA-NY LLC website verified the effective date of certification is not included. Additionally, the APM does not address the availability of certificates and results of analysis for the preceding 3 years.* **Corrective Action:** NOFA has updated the PM to cite the exact requirements from the NOP regulation above. The certified operations listing on NOFA's website has been updated to include the effective date. NOFA conducted a training with staff on May 21, 2012 and addressed this topic to ensure all staff are aware of the 504(b)(5) requirements. If effectively implemented, NOFA's response demonstrates capability to comply with NOP accreditation requirements.

**NP2135MMA.NC9 – Submitted and Accepted:** NOP §205.662 (a) states, "When an inspection, review, or investigation of a certified operation by a certifying agent or a State organic program's governing State official reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certified

operation.”

- *One label reviewed and approved by NOFA-NY, LLC for a mixed ingredient product did not identify the organic ingredients as organic as required by NOP §205.303 (b)(1). Additionally, the product profile sheet included one ingredient not identified on the label (oregano) and the label contained one ingredient which was not listed on the product profile sheet (fennel). There was no notice of noncompliance issued to the operation for the labeling discrepancies.*
- *In another file reviewed, a crop operation planted treated seed and NOFA-NY, LLC requested a temporary variance from the NOP in 2011 which was denied. There was no notice of noncompliance issued to the operation which eventually surrendered certification in April 2012.*

**Corrective Action:** NOFA’s response demonstrates changes to the file review checklist (in response to bullet 2 above) and implementation of a label review checklist (*preventive action response* to bullet 1 above). The file review checklist changes include notation of inputs used and citing non-compliant materials in two separate areas so the final decision maker can ensure proper action. For the label checklist, all labels approved must be documented with a reviewer’s initials and dates; the checklist itself follows requirements in the NOP regulation. The NOFA staff was trained on this topic on May 21, 2012. The NOFA Manuals (APM/PM) were revised at the end of 2012, for implementation at the beginning of the 2013 certification year. In response to the first bullet, NOFA provided a response to this specific issue, showing that a NoNC was sent to the client requiring correction of the labeling issue. The client changed the label, NOFA showed the new label checklist was used to review and approve, and NOFA issued a NoNC resolution. If effectively implemented, NOFA’s response demonstrates capability to comply with NOP accreditation requirements in the future.

**NP2135MMA.NC10 – Submitted and No Longer Applicable:** NOP §205.670 (d)(1) states, “Results of all analyses and tests performed under this section: (1) Must be promptly provided to the Administrator.” *The test results for the only samples collected since the previous assessment were not submitted to the NOP.* **Corrective Actions submitted by NOFA in 2012:** NOFA established and implemented a tracking form for all samples performed that prompts staff to send results to the NOP. The NOFA manuals (APM/PM) were updated to reflect this change to the system for implementation by Jan 2013. **November, 2013 Update from the NOP:** Due to a change to the USDA organic regulations that occurred after this noncompliance was issued to NOFA, 7 CFR §205.670 no longer requires certifiers to submit the results of all analyses and tests to the USDA. This is no longer a noncompliance and NOFA does not need to implement the proposed corrective actions in reference to NP2135MMA.NC10.