



CERTIFICATE OF ACCREDITATION



United States Department of Agriculture

Agricultural Marketing Service

National Organic Program

TEXAS DEPARTMENT OF AGRICULTURE

P.O. Box 12847, Austin, Texas, 78711, U.S.A.

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, Handling, Livestock 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: **USDA-15-19**

Effective Date: **4/29/2017**

Renewal Date: **4/29/2022**

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NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

AUDIT AND REVIEW PROCESS

A Compliance Audit of the Texas Department of Agriculture (TDA) organic program was conducted on March 12-14, 2018. The United States Department of Agriculture (USDA) deferred the decision to renew the accreditation of TDA pending a compliance audit due to an outstanding noncompliance and the number of noncompliances identified during the renewal audit. The National Organic Program (NOP) reviewed the auditor's report and corrective actions to assess TDA's compliance with the USDA organic regulations. This report provides the results of NOP's assessment.

GENERAL INFORMATION

Applicant Name	Texas Department of Agriculture
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Reviewer(s) & Auditor	Penny Zuck and Clarissa Mathews, NOP Reviewers; Rebecca Claypool, Onsite Auditor
Program	USDA National Organic Program (NOP)
Review & Audit Date(s)	Corrective Action Review: November 14, 2018 & December 12, 2018 NOP Assessment: June 1, 2018 Onsite Audit: March 12-14, 2018
Audit Identifier	NOP-33-18
Action Required	None
Audit & Review Type	Compliance Assessment
Audit Objective	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of TDA's certification system.
Audit & Determination Criteria	<i>7 CFR Part 205, National Organic Program as amended</i>
Audit & Review Scope	TDA's compliance with the USDA organic regulations in carrying out certification services.

TDA is a state agency accredited on April 29, 2002 to the USDA National Organic Program for crops, livestock, and handling. The TDA Organic Certification Program certifies 207 operations to the following certification scopes: crops (101), livestock (5), and handlers (99). TDA's office is located in Austin, Texas, and provides certification services in the State of Texas. Certification

services are performed by the program director, organic certification coordinator, and three organic certification specialists. Ten inspectors operate out of five regional offices. Inspectors are assigned inspections based on their qualifications and physical location to operations. All certification decisions are made at the Austin office.

NOP DETERMINATION:

NOP reviewed the onsite audit results to determine whether TDA'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 Renewal Assessment

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 onsite audit.

NP6325JZA.NC1 – Cleared

NP6325JZA.NC2 - Cleared

NP6325JZA.NC3 – Cleared

NP6325JZA.NC4 – Accepted. 7 C.F.R. §205.501(a)(21) 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; Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary." The NOP website provides instructions and the terms of international trade arrangements.

Comments: *TDA lacks procedures and expertise to ensure international equivalency arrangements compliance by operations.*

- a. *TDA's fee schedule, OSP forms, and inspection reports request information about an operation's intent to export product to Canada and European Union, but remain silent on imports and the trade with Switzerland, Japan, South Korea, and Taiwan. Inspection reports do not direct inspectors to verify an operation's import or export activities.*
- b. *TDA issued transaction certificates for an operation's organic sales to Japan, but did not issue a TM-11 export certificate as required under the US/Japan equivalency arrangement.*
- c. *The auditor found a handler purchased a Spanish EU-certified organic ingredient in which the TDA did not require the operation to obtain an NOP import certificate and confirmation that the product complied with the US/EU equivalency arrangement.*

2017 Corrective Action: TDA revised its fee schedule to be inclusive of all international trade agreements. Proposed changes to the TAC including fee changes to the organic program are due June 30, 2017 and the projected effective date of the final rule is September 1, 2017. TDA submitted a copy of the proposed draft rule. TDA contacted the two operations that import and/or export organic product to inform them that import certificates are required with product imported from the EU and TM-11s are required to export to Japan. TDA plans to utilize the 2017

International training modules provided at the 2017 NOP training in Portland, Oregon and the NOP website content to evaluate operator compliance with trade arrangements. TDA will develop the following procedures to prevent the reoccurrence of this noncompliance:

- a. Develop procedures for verifying an organic product's compliance for export with the applicable trade agreement.
- b. Develop procedures for completing export documents for certified operations that are exporting organic product.
- c. Develop procedures for compliance review of organic products and their corresponding transport documents that are imported into the U.S.
- d. Create a form to collect international trade information from clients.
- e. Create an inspection report appendix for operations that import or export organic product.

TDA plans to complete the above procedures by June 30, 2017 and train staff on July 24, 2017. On June 28, TDA informed the NOP that they were not able to meet the June 30, 2017 deadline due to a high volume of new applicants. Therefore this corrective action was not fully implemented to bring TDA into compliance.

Verification of 2017 Corrective Action: TDA developed a new fee schedule and Fee Payment Submission form that includes a flat fee for any requested trade document. The auditor reviewed the notices sent to the operations that conduct import and export activities and confirmed that TDA communicated the requirement for specific import/export documents. TDA developed a ROR-610 International Trade Review Request Form to collect import/export activity from operations, which is available on the TDA website for operations to complete. TDA sent a letter to all operations requesting information if the operation is importing and/or exporting products. TDA developed an inspector appendix for import/export activities that will be implemented during 2018 inspections.

However, TDA did not develop procedures to verify the terms of each arrangement, for the compliance review or organic products, or for completing export documentation. TDA did not add import/export questions to the organic system plans or the inspection report. Interviews with certification staff indicate that TDA plans to update procedures and OSPs during the summer of 2018.

2018 Corrective Action: TDA has created and posted the ROR-611 Handler OSP Update Checklist Form to obtain information from clients regarding international trade activities. Forms are available to clients through the TDA forms webpage. TDA notified currently certified operations of the need for disclosing international trade activities in their annual update reminder notices. TDA created two internal forms, the ROR-665A Internal Import Checklist and the ROR-665B Internal Export Checklist to ensure that review staff verify an operation's compliance with international trade agreements. TDA revised the Organic Inspector Audit Trail Workbook to include an International Trade Questionnaire and conducted an all-staff webinar training on March 1, 2018. All forms went into use immediately following the presentation. TDA created a reviewer procedure for reviewing and creating international trade documents that contains a direct hyperlink to the NOP international trade import and export policy webpage, as well as directions for conducting compliance reviews and issuance of international trade documents.

TDA is planning to overhaul all handler scope OSP forms into a singular ROR-605 handler OSP form with a specific section devoted to International Trade. TDA is currently in the process of developing the new Handler OSP Inspection Report and Handler OSP form for publication by February 28, 2019. The crop and livestock producer OSP and inspection forms will also be overhauled in a similar manner in the Spring 2019 with a publication date of August 31, 2019.

NP6235JZA.NC5 - Cleared

NP6235JZA.NC6 – Accepted. 7 C.F.R. §205.501(a)(1) states, “A private or governmental entity accredited as a certifying agent under this subpart must: Have sufficient expertise in organic production or handling techniques to fully comply with and implement the terms and conditions of the organic certification program established under the Act and the regulations in this part;” §205.603(d)(1) states, “In accordance with restrictions specified in this section the following synthetic substances may be used in organic livestock production: As feed additives DL-Methionine, DL-Methionine-hydroxy analog, and DL-Methionine-hydroxy analog calcium (CAS #'s 59-51-8, 583-91-5, 4857-44-7, and 922-50-9)—for use only in organic poultry production at the following maximum levels of synthetic methionine per ton of feed: Laying and broiler chickens—2 pounds; turkeys and all other poultry—3 pounds.”

Comments: *TDA allowed the use of DL-Methionine in excess of the allowed use. DL-Methionine is only allowed for use in poultry and turkeys as stated. Auditors found two labels approved as “Organic Rabbit Grower Pellets 20 lb. bag” and “Organic Rabbit Grower” Net Wt. 2 lbs. included DL Methionine.*

2017 Corrective Action: TDA issued a notice of noncompliance on January 23, 2017 to the operation noted by the auditor. The operation was instructed to cease production of the noncompliant formulation and were provided 45 days from the date of receipt of the notice to submit a plan of action for resolving the noncompliance. The cause of the noncompliance was due to an insufficient initial review of the product formulation and label that was exacerbated by conducting neither sufficient annual update reviews of the product composition nor any review of the product label after initial approval was granted. To prevent future occurrences TDA is:

- a. Drafting a product label appendix to be submitted each year by certified operations.
- b. Creating a checklist for conducting reviews of previously approved products and product labels.
- c. Once the appendix and checklist are finalized, TDA will modify the procedure for reviewing handler OSPs to address these forms.

The estimated date the product label appendix form, checklist, and revised procedure will be published to the TDA website and submitted to NOP is May 26, 2017. TDA submitted drafts of the label review appendix and the annual label review checklist. The development of the appendix and checklist will be a group project amongst the four TDA staff members, so all staff will be aware of the changes.

Verification of 2017 Corrective Action: The auditor viewed the notice of noncompliance submitted to the operation. The operation updated the product formulas and removed DL-Methionine in the rabbit feed and submitted updated labels. TDA issued a notice of noncompliance resolution. TDA developed the ROR-611 Handler OSP Update Checklist for update applicants, and the ROR-613 Product Label Review Questionnaire to be completed by new operations. TDA uses the new label forms as the reviewer’s checklist when conducting initial reviews. Both product formulation and label review are steps requiring certification specialist checkoff during the initial review process in TDA’s database. The auditor reviewed the product formula and labels for another livestock feed containing DL-methionine and the product and label were compliant. However, TDA did not update their procedures for reviewing handler product formulas.

2018 Corrective Action: TDA revised its Organic Certification Program Procedure Manual to require handlers of multi-ingredient products to complete a product formulation sheet, which is then reviewed according to the steps required by TDA's initial review process as indicated in the auditor's verification of 2017 corrective actions.

NP6235JZA.NC7 – Accepted. 7 C.F.R. §205.501(a)(7) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Have an annual program review of its certification activities conducted by the certifying agent's staff, an outside auditor, or a consultant who has expertise to conduct such reviews and implement measures to correct any noncompliances with the Act and the regulations in this part that are identified in the evaluation;" NOP 2025 "*Internal Program Review*," *Section 3.1* states, "Internal program reviews are conducted by personnel different from those who perform certification activities."

Comments: *The 2016 TDA annual review was conducted by the TDA program coordinator who is involved in certification activities.*

2017 Corrective Action: TDA will develop a policy for conducting internal annual reviews that utilize a qualified program reviewer in accordance with NOP 2025. TDA plans to combine the Annual Spot-Check Procedure of the program with the peer evaluation procedures for the internal annual review policy. TDA submitted the current Annual Spot-Check Procedure.

Verification of 2017 Corrective Action: The auditor was not able to verify the implementation of this corrective action because TDA had not yet conducted its 2017 annual program review. TDA conducts the internal annual review for the previous year between January and March. TDA's plan is to have its Program Director, who is not involved in certification decisions but is knowledgeable of the regulations, conduct the review.

2018 Corrective Action: TDA's Program Director conducted the annual program review of fiscal year 2017 through the second quarter of fiscal year 2018, and the report was submitted to the NOP.

NP6235JZA.NC8 – Accepted. 7 C.F.R. §205.403(d) states, "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: *Two inspection reports did not state the issues of concern in enough detail during the exit interview to identify potential noncompliances. USDA organic regulations are also not cited to the issues of concern listed on the exit interview form.*

2017 Corrective Actions: TDA plans to modify the Organic Inspector Procedure Manual to direct inspectors to cite the applicable NOP regulations. The estimated date these procedures will be developed and submitted to NOP is June 30, 2017. TDA notified inspectors during the March 2017 training that citations should be included with items of concern addressed in the exit interview of inspection reports, and TDA submitted this communication to the NOP. TDA will further develop an inspector training module that includes documents that may be used during inspection to help facilitate the exit interview to include the applicable citation(s) and more detailed descriptions of their onsite findings. The documents will include the e-CFR, a list of common inspection findings, reminders to ask open-ended questions, and to review the audit trail. TDA plans to train inspectors on these procedures on July 24, 2017 and a copy of the agenda will be forwarded to NOP prior to the training.

Verification of 2017 Corrective Actions: TDA conducted a training on September 21, 2017 for

inspectors. TDA communicated the requirement to cite the NOP regulations in the exit interview and to provide detailed information regarding issues of concern. TDA developed a quick reference resource for inspectors that includes an outline of the regulations and location of the online eCFR. The form also includes common inspection findings, ways to cite the regulations in the exit interview, and general reminders for completing inspections. This quick reference document was used during the inspector training. However, one exit interview reviewed by the auditor included NOP citations while other reports did not. The practice is not yet consistently applied by inspectors. TDA did not update the Inspector Procedure Manual. TDA plans to complete updates to the Inspector Procedure Manual during the summer of 2018.

2018 Corrective Action: TDA conducted an all-staff webinar training in July 2018 where training slides from the 2018 NOP Audit Priorities were reviewed and discussed with emphasis placed on the importance for citing the NOP regulations in the comment section of the inspection report. TDA updated its inspection procedures to state that inspectors must cite the applicable NOP regulations in each comment box. TDA submitted copies of inspection reports with findings identified by the inspector including NOP regulatory citations.

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-33-18.NC1 – Accepted. 7 C.F.R. §205.501(a)(8) states, “A private or governmental entity accredited as a certifying agent under this subpart must: ... Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Act and the regulations in this part;”

Comments: *TDA does not require handlers of multi-ingredient products to disclose the amount of each ingredient used in the product formulas, but rather receives a list of ingredients. A review of three multi-ingredient products revealed that the percentage of organic content could not be verified because recipe formulas and ingredient certification categories (e.g., ‘100% organic,’ or ‘organic’) were not disclosed in the product profile.*

Corrective Action: TDA created a Multi-Ingredient Product Listing form (ROR-605A), which requires operations to disclose the percentage of organic content in each organic ingredient. The form automatically calculates the percentage of organic ingredients to identify the labeling category of the product. TDA inspectors and reviewers tested the form and provided comments. The form is currently being routed through legal and executive staff for final approvals. TDA plans to provide staff training after the forms are officially approved.

NOP-33-18.NC2 – 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 and certification review personnel, to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part;”

Comments: *TDA incorrectly approved a “Made with Organic***” label in September of 2017 that included the USDA seal on the principal display panel.*

Corrective Action: TDA issued a notice of noncompliance to the operation requiring revised labels with the USDA seal removed. TDA provided training to its review staff and inspectors on February 20, 2018 and May 3, 2018 using slides from the NOP organic labeling module.

NOP-33-18.NC3 – Accepted. 7 CFR §205.501(a)(9) states, “A private or governmental entity accredited as a certifying agent under this subpart must ... Maintain all records pursuant to §205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official;”

Comments: *TDA did not have records to verify they approved the nonorganic ingredients in certified products. The review of a certified organic yogurt product revealed no documentation that the cultures in the yogurt had been reviewed and approved by TDA. Likewise, a review of a livestock rabbit feed product indicated a lack of records to demonstrate that TDA reviewed and approved the microorganisms included in the feed.*

Corrective Action: TDA now requires handlers to complete a supplier summary sheet and material listing as part of their organic system plan. The materials list directs new applicant and certified handlers who use nonorganic agricultural ingredients and processing aids to obtain and provide documentation from the producer/manufacturer that it has not been produced from GMO's, bio solids, or exposed to ionizing radiation. TDA's procedure for reviewing handler organic system plans in its Organic Certification Program Procedure Manual includes verifying that all products are correctly classified in compliance with Subpart D of the NOP Regulations and that that all ingredients are compliant with the applicable portions of §205.301.

NOP-33-18.NC4 – Accepted. 7 CFR §205.501(a)(1) states, “A private or governmental entity accredited as a certifying agent under this subpart must ... Have sufficient expertise in organic production or handling techniques to fully comply with and implement the terms and conditions of the organic certification program established under the Act and the regulations in this part;”

Comments: *TDA approved the use of nonorganic rosemary extract in a multi-ingredient product that was certified as organic. Rosemary extract is not listed on §205.606 as a nonorganic agricultural ingredient allowed in products certified as organic. TDA reviewed and approved the Product Profile that listed rosemary extract as a nonorganic ingredient.*

Corrective Action: TDA issued a notice of noncompliance to the operation requiring the use of organic rosemary in their organic products. TDA trained its review staff on 205.605(a) dairy cultures and 205.605(b) tocopherols and the relationship between 205.605, 205.606, and 205.105. This noncompliance was also included in the May 3, 2018 organic labeling training TDA provided is inspectors and review staff.

NOP-33-18.NC5 – 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.” The NOP International Trade webpage provides information to verify the terms and requirements of international trade arrangements.

Comments: *The review of a processed product exported to Korea under the equivalency arrangement revealed that the label did not include the Korean logo, the certifier code or certificate number. Furthermore, the attestation statement on the NAQS Import Certificate*

issued for the exported product did not state, "Certified in compliance with the terms of the US-Korea Organic Equivalency Arrangement."

Corrective Action: TDA revised its NAQS Import Certificate template to include the correct attestation statement. TDA issued a notice of noncompliance to the operation for the noncompliant labeling of product to Korea. TDA revised its International Trade Document Procedure to state that staff should review the applicable NOP International Trade partner webpage prior to the issuance of a trade document. TDA staff discussed the revisions to the NAQS Import Certificate template and the International Trade Document Procedure at their team meeting in May 2018.