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## **USDA REVIEW OF KOREA: U.S. – KOREA EQUIVALENCE ARRANGEMENT**

**REPORT DATE:** April 11, 2023

**DATES OF ONSITE REVIEW:** August 29 – September 2, 2022

### **REVIEW TEAM**

Bridget McElroy, International Specialist, International Activities Division, USDA AMS NOP

Cheri Courtney, Director, International Activities Division, USDA AMS NOP

## **1. INTRODUCTION**

On June 30, 2014, the U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS) established an organic equivalence arrangement with the Republic of Korea's Ministry of Agriculture, Food and Rural Affairs (MAFRA), which went into effect on July 1, 2014. The arrangement allows for processed food products produced and handled in accordance with the Korean Organic Food Act and its regulations, as defined under the terms of the arrangement, to be sold, labeled, or represented as organic in the U.S. From August 29 through September 2, 2022, the USDA AMS National Organic Program (NOP) conducted an onsite review of Korea's organic program. This report is an account of those activities and findings of the review.

## **2. REVIEW OBJECTIVES**

2.1. The objectives of the review were the following:

- 2.1.1. Ministry of Agriculture, Food, and Rural Affairs (MAFRA), National Agricultural Products Quality Management Service (NAQS), and domestic accredited certification bodies are carrying out the requirements of the Korean Organic Food Act (i.e. Act on Promotion of Environmentally-Friendly Agriculture and Fisheries, and Management and Support for Organic Food) and its regulations;
- 2.1.2. To verify MAFRA/NAQS' and the domestic certification bodies' continuing adherence with the provisions of the U.S. – Korea Equivalence Arrangement; and

- 2.1.3. To verify the implementation of actions taken by MAFRA/NAQS in response to the AMS NOP's 2016 onsite peer review.

### **3. REVIEW SCOPE**

- 3.1. The scope of the review included activities related to the following:
  - 3.1.1. NAQS' accreditation and oversight of domestic certification bodies;
  - 3.1.2. MAFRA/NAQS' investigation of, including enforcement actions taken against, violations of the terms of the U.S. – Korea Equivalence Arrangement by certified operations or domestic certification bodies;
  - 3.1.3. Certification and oversight of domestic operations certified under the Korean Organic Food Act and its regulations, including operations verified to be meeting the terms of the U.S. – Korea Equivalence Arrangement.

### **4. LEGAL BASIS FOR THE REVIEW**

- 4.1. The U.S. – Korea Equivalence Arrangement provides for USDA officials to conduct onsite evaluations in Korea to verify that the relevant regulatory authorities and certification bodies of Korea's organic program are carrying out the requirements of that program. The onsite evaluations include visits to offices of relevant regulatory authorities, certification body offices, production facilities, and farms that certification bodies have certified in Korea. Equivalence arrangements are provided for pursuant to the USDA organic regulations at 7 C.F.R. 205.500(c)(1).
- 4.2. The following regulations, standards, and criteria were considered in the review:
  - 4.2.1. Provisions of the 2014 U.S. – Korea Equivalence Arrangement
  - 4.2.2. Korean Organic Food Act and its regulations
  - 4.2.3. ISO/IEC 17011:2017 General requirements for accreditation bodies accrediting conformity assessment bodies
  - 4.2.4. ISO/IEC 17065:2012 Requirements for bodies certifying products, processes, and services
  - 4.2.5. USDA AMS NOP 2016 Peer Review Report

## 5. PROTOCOL

- 5.1. The onsite review was accomplished in three parts: a review of oversight and accreditation activities at NAQS' headquarters office; a review of certification activities at the offices of two certification bodies accredited by NAQS to certify processor operations under the Korean Organic Food Act; and witness audits of two processor inspections conducted by the two certification bodies and assessed by NAQS personnel.
- 5.2. In selecting certification bodies to be reviewed, the AMS NOP review team worked with NAQS to select two certification bodies currently certifying organic processing operations in Korea. The two processing operations selected for the witness audits were certified by the two certification bodies, respectively. At the time of the review, there were 30 (28 domestic, 2 foreign) certification bodies accredited by NAQS to certify processor operations as organic under the Korean Organic Food Act. There were 891 certified organic processor operations. NAQS reported that 30 certified operations had exported products to the U.S. under the equivalence arrangement in 2021.
- 5.3. AMS NOP conducted an opening meeting with NAQS representatives at NAQS' headquarters in Gimcheon on August 29, 2022. At the Gimcheon office, the AMS NOP review team reviewed NAQS' accreditation process and its oversight activities of accredited certification bodies. The review team and NAQS representatives also reviewed the substantial revisions to the Korean Organic Food Act and its regulations since the last onsite review; NAQS' process for investigating complaints; NAQS staff training; and the implementation of actions MAFRA/NAQS took in response to the USDA AMS NOP's 2016 onsite peer review findings.
- 5.4. At the offices of the two selected certification bodies, the AMS NOP review team reviewed each certification body's policies and process for inspecting and certifying operations under the Korean Organic Food Act; process for investigating complaints of operations/products exported or imported under the U.S. – Korea Equivalence Arrangement; procedures for NOP import certificate issuance; and certification staff and inspector training requirements.

- 5.5. The AMS NOP review team witnessed an inspector from each certification body conduct an annual inspection of a certified processor, while NAQS assessed the inspector. The first operation was blending, packaging, and labeling organic tea products (green, sprouted barley, powdered kombucha, etc.). The second operation was manufacturing, packaging, and labeling assorted organic snack products (flavored nuts, dried fruits, bars, etc.). Both operations were only marketing their products in Korea at the time of the peer review.
- 5.6. The AMS NOP review team was accompanied by representatives of NAQS throughout the review. During the witness audits, the review team was also accompanied by at least one representative of the respective certification body, in addition to the inspector.
- 5.7. The AMS NOP conducted a closing meeting of the onsite review with NAQS officials at NAQS' regional office in Anyang on September 2, 2022.

## **6. GENERAL OVERVIEW OF MAFRA AND NAQS**

- 6.1. The Ministry of Agriculture, Food and Rural Affairs (MAFRA) is a cabinet ministry in the government of South Korea. The Environment-Friendly Agriculture Division within the Creative Agri-Food Policy Bureau of the Food Industry Policy Office is responsible for establishing policies and making amendments to the Korean Organic Food Act, and for developing plans to promote organic foods. MAFRA also audits and oversees NAQS (headquarters, regional and branch office) organic program implementation. MAFRA's head office is located in Sejong City.
- 6.2. The National Agricultural Products Quality Management Service (NAQS) is an agency of MAFRA. The Agri-Food Certification & Management Team within the agency headquarters is responsible for establishing and amending accreditation and certification regulations (i.e. Enforcement Rules and Notifications), for auditing and accrediting certification bodies, and for developing annual surveillance plans to oversee certification bodies between accreditation audits, which occur every five years. Aside from NAQS' headquarters in Gimcheon, there are 10 provincial offices and 134 branch offices. Provincial office staff are responsible for conducting surveillance activities of the accredited certification bodies, and for establishing surveillance plans of organic operations certified under the Korean Organic Food Act. Branch office staff are

responsible for conducting surveillance activities of certified organic operations, and for marketplace surveillance.

- 6.3. Organizations seeking to become accredited as an organic certification body submit an application for accreditation to NAQS. NAQS auditors then conduct a document review and onsite audit to verify the organization's compliance with the requirements of the Korean Food Act and its enforcement rules, including regulations for accreditation and certification established by NAQS. The results of the document review and onsite audit are reviewed by staff at NAQS' headquarters, where the final accreditation decision is made by the Director General. Accreditation is valid for 5 years. NAQS conducts, at minimum, one annual surveillance visit to each accredited certification body's office. The visit includes a review of certification files and the certification body's surveillance activities. Accredited certifiers must also meet additional reporting requirements, including submitting to NAQS all operation inspection reports, noncompliances, revisions to a certification body's annual work plan, residue test reports, and other information via an online portal. NAQS staff are assigned to monitor the information submitted to the portal. NAQS accreditation requirements include compliance with ISO 17065 principles, but to not require a separate ISO 17065 accreditation in addition to accreditation for organic certification by NAQS.
- 6.4. As noted, NAQS conducts (via its branch offices) its own surveillance of certified organic operations through onsite inspections of the operations, along with inspections of certified organic products at retail locations and points of distribution.
- 6.5. Complaints and investigation requests from AMS NOP regarding products imported/exported under the U.S. – Korea Equivalence are handled by NAQS' Agri-Food Certification & Management Team. There were no open investigation requests from AMS NOP at the time of the onsite review.

## **7. SUMMARY OF PREVIOUS REVIEW FINDINGS AND VERIFICATION OF CORRECTIVE ACTIONS**

- 7.1. The AMS NOP's previous onsite review was conducted August 29 to September 2, 2016 and resulted in three findings. One observation from the AMS NOP's 2014 peer review

also remained outstanding after the 2016 peer review. On July 18 and August 2, 2017, NAQS provided responses, including descriptions of actions taken to address each of these observations/findings. During its 2022 onsite review, AMS NOP verified NAQS' responses and determined that all prior findings should be cleared/resolved.

7.2. A prior observation or finding labeled as "Cleared," indicates that the response was verified to be implemented.

7.2.1. **Observation 5 (2014): Cleared.** 7 CFR 205.100 (a) states that "Except for operations exempt or excluded in § 205.101, each production or handling operation or specified portion of a production or handling operation that produces or handles crops, livestock, livestock products, or other agricultural products that are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must be certified according to the provisions of subpart E of this part and must meet all other applicable requirements of this part." Contracted uncertified operations are allowed to process and handle certified products. Those operations are listed on a certified operation's certificate and described in the Organic Systems Plan; however, USDA organic regulations require that operations producing and handling products intended for certification must be certified.

**NAQS Response:** 'The certification requirement of Organic processed foods and etc.' (subparagraph 6, D, 3), Implementation Regulation of the Act on the Promotion of Environment-Friendly Agriculture and Fisheries and the Management and Support of Organic Foods) states the criteria of consignment as follows: 'For production of certified products, if certified operations consign a part of handling process including storage, packaging, transporting, importing and etc. to other operations, then the corresponding consigned handling process shall be appropriate to the certification standards'. Moreover, information related with consignment shall be recorded on the certified product production plan and the contract related with such shall be submitted. After inspecting whether the consigned handling process (part) is appropriate to the certification standards,

certifiers determine whether certification is appropriate and record the consigned operations information on the certificate.

**Verification (2016):** An interview with NAQS staff indicated that there are approximately 20 handling operations currently operating as contracted uncertified operations, and that NAQS is planning to draft certification guidelines to require such operations to be certified on their own for inclusion in the next annual revision of the guidelines.

**NAQS Response (2017):** NAQS amended its Enforcement Rule (Public Notice issued on June 3, 2016) to state that subcontracted processing may only occur at certified operations.

**Verification (2022):** The NAQS Detailed Practical Guidelines for Certification of Environmentally Friendly Agricultural and Livestock Products and Organic Food now require that any operation subcontracted for processing organic products must also be certified organic. NAQS confirmed that its certification bodies have fully implemented this requirement with their certified operations.

- 7.2.2. **FINDING 1 (2016): Cleared.** The terms of the U.S. – Korea Equivalency Arrangement states in Appendix 1, Section G states, “A Korean product covered under Paragraph A above for import into the United States as an organic processed food (hereinafter “Korean organic processed food”) must be labeled according to U.S. Department of Agriculture (USDA) organic labeling requirements; ...”
- Comments: A review of labels approved for use on products exported to the U.S. under the U.S. – Korea Equivalency Arrangement revealed that labels approved for two organic beverage products did not meet USDA organic labeling requirements. 7 CFR § 205.303(b)(2) states, “Agricultural products in packages described in § 205.301(a) and (b) must: ... On the information panel ... preceded by the statement, “Certified organic by...,” or similar phrase, identify the name of the certifying agent that certified the handler of the finished product ....” On both product labels the name of the certification body was not preceded by the statement, “Certified organic by...,” or a similar phrase.*

**NAQS Response:** NAQS provided certifier inspectors with refresher training on the labeling requirements of products exported under the equivalency arrangement.

**Verification (2022):** NAQS has conducted training for certification bodies on U.S. labeling requirements and has included this point in the NAQS certifier training manual that is used every year for certifier training. The auditors reviewed U.S. export labeling checklists for the two certification bodies visited during the peer review, and both include the requirement for a “Certified organic by...” statement. Korea organic product labels reviewed also included the statement.

- 7.2.3. **FINDING 2 (2016): Cleared.** ISO/IEC 17065 6.1.2.1 e) states, “The certification body shall establish, implement and maintain a procedure for management of competencies of personnel involved in the certification process (see Clause 7). The procedure shall require the certification body to: monitor the performance of the personnel.”

*Comments: A review of two certification bodies’ procedure for monitoring the performance for certification staff and inspectors indicated that only one of the two certification bodies had established and implemented a procedure for monitoring the performance of its inspectors, which included conducting reviews of reports submitted by inspectors and witness audits.*

**NAQS Response:** NAQS conducted certifier training on monitoring inspector performance. Additionally, NAQS plans to review its instructions for conducting monitoring of certifier inspectors to ensure the instructions meet the requirement.

**Verification (2022):** Korean Organic Food Act requires that certification bodies develop and maintain policy for supervision of inspectors. Document review and interviews with two certifiers confirmed that the certifiers have established and implemented procedures for regularly monitoring the performance of certification staff and inspectors, including conducting witness audits for inspectors.

- 7.2.4. **FINDING 3 (2016): Cleared.** ISO/IEC 17065 7.4.6 – 7 states, “The certification body shall inform the client of all nonconformities. If one or more nonconformities have arisen, and if the client expresses interest in continuing the certification



process, the certification body shall provide information regarding the additional evaluation tasks needed to verify that nonconformities have been corrected.”

***Comments:** Observations during the two witness audits conducted and a review of evaluation processes at the two certification bodies indicated that certification bodies are not informing clients of nonconformities resulting from the onsite inspection and the process for verifying that nonconformities have been corrected in a consistent manner. During one witness audit, it was observed that the inspector provided the client with a documented summary of the nonconformities, including applicable organic regulations, and informed the client that the verification of corrective actions would take place at the time of the next inspection. During another witness audit, it was observed that the inspector verbally informed the client of nonconformities without referring to the applicable organic regulations and did not inform the client how or when the verification of corrective actions would take place.*

**NAQS Response:** NAQS conducted certifier training (9 training sessions, total of 743 participants) on the inconsistency of noncompliance handling procedures between certifiers.

**Verification (2022):** In addition to providing training to certifiers on this topic, the Detailed Practical Guidelines for Certification of Environmentally Friendly Agricultural and Livestock Products and Organic Food (Annex 2) now require inspectors to provide clients with a written summary at the end of an inspection that includes any nonconformities identified. During two witness audits observed during the peer review, both inspectors fulfilled this requirement and discussed the written summary and next steps with the client.

## **8. SUMMARY OF REVIEW FINDINGS AND NAQS RESPONSES**

8.1. The 2022 onsite review identified the following finding:

- 8.1.1. **Finding 1: Accepted.** ISO/IEC 17065 7.4.6 – 7 states, “The certification body shall inform the client of all nonconformities. If one or more nonconformities have arisen, and if the client expresses interest in continuing the certification process, the

certification body shall provide information regarding the additional evaluation tasks needed to verify that nonconformities have been corrected.”

***Comments:** A review of the Korean Food Act and its regulations, interviews with NAQS and certifier personnel, and observations during witness audits demonstrated that the process for informing operations of correctable nonconformities and verifying corrective actions is unclear and inconsistent. This includes the method for notifying the operation; communication of the process, requirements, and timeline for the operation to correct the noncompliance; and the process for verifying and documenting resolution of the nonconformity. The following issues were observed:*

- *At one inspection witnessed, the inspector identified a minor issue regarding unapproved labels stored in an organic storage area. During the closing meeting, the inspector stated to the operator that the inspector would be verifying the operator’s corrective action to address the issue at the next inspection.*
- *At a second inspection witnessed, the inspector identified a minor issue regarding the operation’s recordkeeping. During the closing meeting, the inspector stated that he would be reporting the issue to the certifier and the certifier would determine how to proceed with the finding.*
- *In interviews, one certifier stated that nonconformities are handled according to their severity. In the case of major nonconformities, certification is revoked; in the case of minor nonconformities, the inspector works with the operation to correct the issue and reports to the certifier once the nonconformity is resolved.*
- *In interviews, another certifier stated that inspectors report minor nonconformities verbally to operators at the closing meeting, while major nonconformities are written up in the inspection summary and submitted to the certifier. If the certifier agrees that the nonconformity is major, the certification is revoked (or denied). If the certifier determines that the nonconformity is minor, the operation must submit a corrective action plan to the certifier within the timeline that the certifier specifies.*

**NAQS Response:** Korea’s procedure for major noncompliances (significant violations such as fraud) is described in detail in the penalty provisions of Chapter 7 of the Korean Organic Food Act (i.e. Act on Promotion of Environment-Friendly Agriculture and Fisheries and Management and Support for Organic Food) and in Table 9 of the “Detailed Guidelines and Procedures for Revocation of Certification and etc.” (within the Enforcement Rule of the Korean Organic Food Act). NAQS provided clarification on the process that certification bodies follow to handle minor noncompliances. To improve consistency, NAQS’ 2023 work plan now includes the development of a guideline for handling minor noncompliances and follow-up with certification bodies on implementation of this guideline.

## **9. CONCLUSION**

9.1. The USDA NOP accepts the Korea Organic Team’s responses to the findings.