

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
BEFORE THE ADMINISTRATOR

)	
In re:)	
)	
Soapcreek Manufacturing Company)	
)	Administrator's Decision
)	APL-042-23
Ephraim, Utah)	
)	

This Decision responds to an Appeal (APL-042-23) of a Notice of Proposed Suspension under the National Organic Program (NOP) issued to Soapcreek Manufacturing Company (Soapcreek) of Ephraim, Utah by USDA-accredited certifying agent Ecocert S.A. (Ecocert). The operation has been deemed not in compliance with the Organic Foods Production Act of 1990 (Act)¹ and the U.S. Department of Agriculture (USDA) organic regulations.²

BACKGROUND

The Act authorizes the Secretary to accredit agents to certify crop, livestock, wild crop, and/or handling operations to the USDA organic regulations (7 C.F.R. Part 205). Certifying agents also initiate compliance actions to enforce program requirements, as described in section 205.662, Noncompliance procedure for certified operations. Persons subject to the Act who believe they are adversely affected by a noncompliance decision of a certifying agent may appeal such decision to the USDA Agricultural Marketing Service (AMS) pursuant to § 205.680

¹ 7 U.S.C. 6501-6522

² 7 C.F.R. Part 205

Adverse Action Appeals Process – General, and § 205.681, Appeals of the USDA organic regulations.

FINDINGS OF FACT

1. On May 20, 2021, Ecocert certified Soapcreek for handling.
2. On September 13, 2022, Ecocert and Soapcreek entered into a Settlement Agreement to resolve prior noncompliances.
3. On December 16, 2022, Ecocert issued a Notice of Noncompliance.
4. On April 5, 2023, Ecocert issued a Notice of Proposed Suspension.
5. On May 2, 2023, Soapcreek submitted an Appeal.
6. On October 24, 2023, NOP and Soapcreek entered into a Settlement Agreement.
7. On January 27, 2025, Ecocert Report to NOP of Soapcreek Settlement Breach.
8. On January 28, 2025, NOP issued a Notice of Noncompliance and Request for Corrective Action to Soapcreek requesting that Soapcreek resolve the reported breach of the settlement.
9. On March 3, 2025, NOP extended the deadline for Soapcreek to respond to the prior NOP noncompliance notice.
10. On March 19, 2025, NOP again extended the deadline for Soapcreek to respond to the prior NOP noncompliance notice.
11. On March 26, 2025, Ecocert reported to NOP that Soapcreek has not resolved the breach of the Settlement Agreement.

REGULATORY CITATIONS

The USDA organic regulations at 7 C.F.R. §205.103, Recordkeeping by certified operations, state that, “(a) A certified operation must maintain records concerning the

production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” (b) Such records must: (1) Be adapted to the particular business that the certified operation is conducting; (2) Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited; (3) Be maintained for not less than 5 years beyond their creation; and (4) Be sufficient to demonstrate compliance with the Act and the regulations in this part.”

The organic regulations at §205.201, Organic production and handling system plan, state that, “(a) The producer or handler of a production or handling operation ... must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent ... An organic production or handling system plan must include: (1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed; ... (4) A description of the recordkeeping system implemented to comply with the requirements ... (6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations ...”

The organic regulations at §205.400, General requirements for certification, state that, “A person seeking to receive or maintain organic certification under the regulations in this part must: (a) Comply with the Act and applicable organic production and handling regulations of this part; (b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in §205.200; ... (d) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow ... the certifying agent access to such records during normal business hours for review ... (e) Submit the applicable fees charged by the certifying agent ...” Additionally, the regulations

at §205.406, Continuation of certification, state that, “(a) To continue certification, a certified operation must annually pay the certification fees and submit the following information, as applicable, to the certifying agent: (1) An updated organic production or handling system plan ... (4) Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.”

It is noted that revisions of the organic regulations at 7 C.F.R. Part 205 were implemented on March 19, 2024; however, the above-cited provisions weren’t substantively affected by said revisions.

DISCUSSION

Evidence substantiates that Soapcreek was certified by Ecocert for handling on May 20, 2021. The Soapcreek website reports it manufactures “hot pour, water-free/bottle-free hair and skin care products.” After Ecocert previously found noncompliances in the operation, Ecocert and Soapcreek entered into a Settlement Agreement on September 13, 2022, whereby Soapcreek agreed to submit its certification renewal documents and certification fees by the deadlines set by Ecocert for the following two years; and pay all past due certification fees by September 16, 2022. Soapcreek’s failure to timely submit the 2022 renewal materials and fees was the basis for Ecocert’s adverse action; it was resolved prior to execution of the Settlement Agreement.

On September 21, 2022, Ecocert conducted an inspection of Soapcreek, resulting in issuance of Audit Result Report, citing to noncompliances found at the inspection, including that Soapcreek was still using up outdated labels identifying the certifier as Ecocert ICO; and raw materials were not kept in organically designated and labeled areas. Ecocert issued a Notice of Noncompliance on December 16, 2022, stating that Soapcreek’s Organic System Plan (OSP) hadn’t been updated annually; Soapcreek had been producing product not listed on the organic

certificate; the Master Ingredient List, Product List, and Product Ingredient List were not accurate, and was missing organic and non-organic ingredients used in certain products; and specified forms in the OSP were not accurate or current. Subsequently, on April 5, 2023, Ecocert issued a Notice of Proposed Suspension, reiterating the findings stated in the Notice of Noncompliance, and stating that Soapcreek needs to review its monitoring procedures and practices regarding maintenance and implementation of its OSP. Additionally, Ecocert stated that Soapcreek was delinquent on paying its fees and hadn't submitted its 2023 renewal materials. Ecocert noted that Soapcreek had violated the terms of its prior Settlement Agreement with Ecocert.

Soapcreek filed an Appeal on May 2, 2023, stating it was willing to submit required materials to maintain its certification. Ecocert confirmed that Soapcreek had submitted its 2023 renewal materials, though the OSP still wasn't complete, and fees remained unpaid. However, since those outstanding noncompliances were correctable, NOP offered Soapcreek a Settlement Agreement to resolve the appeal. The agreement was entered into on October 24, 2023. Pursuant to the agreement, Soapcreek agreed to respond to all certifier requests by set deadlines; and maintain records that accurately and fully disclose all transactions of the operation to allow for successful mass balance and traceback exercises including sketches, flow chart, recipes, manuals, and the required portions of the OSP. Additionally, Soapcreek was required to provide all needed updates to its OSP within 30 days of execution of the Settlement Agreement; follow procedures for the addition of products to its certificate and not represent, label, or sell any product until it has been approved and added to the certificate; pay all overdue fees within 45 days; and pay all future invoices by set deadlines. The Settlement Agreement stated that it was

in force for 18 months after full execution, which is March 24, 2025, but would be considered resolved at that point if all terms were met.

However, on January 27, 2025, Ecocert reported to NOP that Soapcreek had breached the Settlement Agreement as it failed to update its OSP as required; labels were not submitted prior to printing and application; the organic status and volume content of product were not accurate on recipes and batch records; suppliers weren't updated; ingredients used in production according to batch records weren't reported on labels and recipes; and monitoring practices weren't followed. Additionally, the Master Ingredient List wasn't current, as it was missing all non-organic ingredients; several items included on the list weren't indicated in any recipes; and while a supplier of aloe powder changed, the OSP wasn't updated to reflect the change and recipes weren't updated.

On January 28, 2025, NOP issued a Notice of Noncompliance and Request for Corrective Action, informing Soapcreek of the reported breach and giving Soapcreek 30 days to address and fully resolve the noncompliances. At the 30-day point, NOP contacted Ecocert and was informed that all the noncompliances hadn't been resolved. NOP emailed Soapcreek on March 3, 2025, stating that Ecocert reported Soapcreek hadn't submitted any response to the NOP Notice of Noncompliance; and giving Soapcreek until March 7, 2025 to do so. Soapcreek subsequently submitted some information and documentation that only partially resolved the noncompliances and deficiencies noted in the NOP notice, as reported to NOP by Ecocert on March 19, 2025. Therefore, on March 19, 2025, NOP emailed Soapcreek providing a Final Extension to March 26, 2025, giving it a final chance to submit a full and complete response to the noncompliance notice and resolve all noncompliances. NOP and Ecocert also sent Soapcreek a detailed "Compliance Followup," which clearly stated what Soapcreek needed to submit in

order to fully resolve all outstanding noncompliance. NOP stated that the failure to resolve the noncompliances by the extended final deadline would result in NOP proceeding with administrative action and no further extensions would be granted. Ecocert informed NOP on March 26, 2025, that it hadn't received any further communication or submission from Soapcreek other than on March 24, 2025, when Soapcreek inquired as to the status of a review for a new product label, which Ecocert deemed not to be compliant.

AMS finds that Soapcreek has failed to address and resolve all the noncompliances cited by Ecocert, which were the basis for NOP's issuance of the January 28, 2025 Notice of Noncompliance and Request for Corrective Action, despite two extensions offered by NOP. Soapcreek has breached the October 24, 2023 Settlement Agreement with NOP. Soapcreek had specifically agreed in the Settlement Agreement to comply with the numerous terms delineating the records required to be maintained and updated so as to be current and accurate and provide updates to its OSP on an annual basis, but has failed to do so. The NOP Settlement Agreement further stated that "Soapcreek agrees that the failure to abide by the terms of paragraphs immediately above shall result in USDA, AMS possibly pursuing administrative action against Soapcreek." Clause 3D of the Settlement Agreement states that, "Soapcreek withdraws its appeal and waives further appeal rights in this matter. Failure to comply with the Settlement Agreement shall automatically void paragraph 2 above." Paragraph 2 states, "USDA, AMS agrees not to issue a formal Administrator's Decision charging Soapcreek with alleged violations of the OFPA and the USDA organic regulations for any actions disclosed by the investigation which gave rise to this agreement." A closure letter sent to Soapcreek on October 24, 2023 with the executed agreement also stated that, "... failure to abide by the terms of the agreement shall automatically void the Settlement Agreement and USDA, and AMS may pursue an

administrative hearing process.” AMS finds that Soapcreek has breached its Settlement Agreement with NOP.

CONCLUSION

The evidence substantiates that Soapcreek violated the organic regulations at 7 C.F.R. §205.103, Recordkeeping by certified operations; 7 C.F.R. §205.201, Organic production and handling system plan; 7 C.F.R. §205.400, General requirements for certification; and 7 C.F.R. §205.406, Continuation of certification. Soapcreek has failed to update numerous required documents and its OSP to accurately and correctly reflect its products, ingredients, suppliers of ingredients; and effectively monitor its recordkeeping system to ensure such deficiencies don’t exist. Despite issuance by NOP of a Notice of Noncompliance and Request for Corrective Action, two extensions of the deadline in which to response, and a detailed “Compliance Followup” written by Ecocert to clearly explain what noncompliances still needed resolved, the deadlines have passed and Soapcreek has failed to resolve all the noncompliances. Therefore, AMS finds that Soapcreek has breached the Settlement Agreement with NOP in which its obligations were clearly delineated and agreed to by Soapcreek; and violated the organic regulations. Due to the breach of the Settlement Agreement, the prior Notice of Proposed Suspension is revived. Soapcreek may not remain certified.

DECISION

Soapcreek’s May 2, 2023 Appeal of the April 5, 2023 Notice of Proposed Suspension is denied. The handling certification of Soapcreek is suspended. Pursuant to the organic regulations at 7 C.F.R. §205.665(g)(1), Soapcreek may apply for reinstatement of its certification

upon submission of all required documentation substantiating its compliance with the organic regulations.

Additionally, attached to this formal Administrator's Decision denying Soapcreek's Appeal is a Request for Hearing form. Should Soapcreek wish to appeal this matter further, Soapcreek has thirty (30) days to request an administrative hearing before an Administrative Law Judge.

Done at Washington, D.C., on this 11th
day of April, 2025.

BRUCE
SUMMERS
Bruce Summers
Administrator
Agricultural Marketing Service

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