

FINAL REPORT – July 29, 2013

USDA Agricultural Marketing Service (AMS) National Organic Program (NOP)
Peer Review of the Japanese Ministry of Agriculture, Forestry and Fisheries (MAFF) Japanese
Agricultural Standard (JAS) Organic Program

DATES OF REVIEW – May 20-24, 2013

1. INTRODUCTION

- 1.1. The U.S. Department of Agriculture (USDA) is engaged in ongoing discussions with representatives of the Japan Ministry of Agriculture, Forestry and Fisheries (MAFF) to explore a possible equivalency agreement to recognize each other's organic production and handling standards for the purpose of international trade. To further inform these discussions, USDA agreed to conduct onsite reviews of Japan's organic accreditation, certification, organic production and handling systems. Prior to this review, in January 2013, members of a Japanese MAFF delegation reviewed functions of the USDA National Organic Program (NOP) and operations certified under the NOP in the U.S.
- 1.2. On May 20-24, 2013, representatives of the USDA Agricultural Marketing Service (AMS) reviewed organic accreditation and certification activities in Ibaraki, Gifu, Osaka, and Kagoshima prefectures. This report is an account of those activities and findings of the review.
- 1.3. The AMS Review team was comprised of:
 - 1.3.1. Miles McEvoy, Deputy Administrator, AMS – NOP
 - 1.3.2. Cheri Courtney, Director, Accreditation and International Activities Division, AMS – NOP

2. OBJECTIVES OF REVIEW

- 2.1. The objective of the review was to evaluate the system capabilities and performance of Japanese authorities in controlling the proper application and enforcement of the

Japanese Ministry of Agriculture, Forestry and Fisheries (MAFF) Japanese Agricultural Standard (JAS) Organic Program.

3. LEGAL BASIS FOR THE REVIEW

3.1. The review was conducted at the invitation of MAFF and was not part of a legal or regulatory enforcement function of the USDA.

3.2. The following statutes, regulations, and standards were considered in the review:

3.2.1. U.S. Organic Foods Production Act of 1990

3.2.2. U.S. Code of Federal Regulations (CFR) Part 205, National Organic Program

3.2.3. ISO/IEC 17011:2004(E) Conformity assessment — General requirements for accreditation bodies accrediting conformity assessment bodies.

3.2.4. ISO/IEC 17065 Conformity assessment – Requirements for bodies certifying products, processes and services.

3.2.5. Japanese regulations – Japanese Agricultural Standards (JAS Law)

4. PROTOCOL

4.1. The review was accomplished by reviews of the MAFF accreditation system in Tokyo, Japan, certifying agents in two Japanese prefectures, and certified organic operations in four Japanese prefectures. Certifiers were selected from the list of MAFF Registered Certifying Bodies. The review team selected two of the larger certifying agents that were operating in different regions of Japan in order to review a variety of conditions. The review team identified particular cropping and handling systems for review including food processing, rice production, mushroom production, and perennial cropping systems. In addition the review team selected an ash production facility and an organic importer as part of the assessment.

4.2. The team reviewed each phase of the organic production, handling, certification, and accreditation system to determine if the responsible authorities had the necessary controls in place to ensure traceability and compliance with the referenced organic standards.

4.3. At each certifying agents office reviewed, the team observed processes used to evaluate the competence of the certifying bodies. The review team observed procedures relating

to the certification of organic operations according to JAS law in order to determine how compliance with the referenced organic production and handling regulations would be carried out. The review team also interviewed personnel to determine their knowledge of organic production, handling and certification practices and their qualifications with respect to their duties and responsibilities.

- 4.4. The team visited five (5) organic production and handling operations to observe production, handling and labeling practices in order to determine the level of compliance accomplished by the certified operations. The review team interviewed farmers and other responsible parties at each site, and participated in follow-up meetings with the farmer, production managers and the certifying body.
- 4.5. The review team was accompanied by representatives of MAFF throughout the review. At each of the certified organic operations visited, the team was also accompanied by at least one representative of the respective certifying body. Any issues of concern or perceived noncompliances were immediately brought to the attention of the accompanying MAFF official.

5. SUMMARY OF PREVIOUS REVIEWS

- 5.1. This was the third onsite review of the Japanese program for the purpose of informing discussions on organic equivalence. Previous onsite reviews were conducted in October 2008 and October 2011. There were no findings from the 2008 review. There were two findings from the 2011 review related to residue testing and appeals. MAFF implemented corrective actions on both of these findings which were accepted by the NOP in March 2012.

6. OBSERVATIONS

- 6.1. MAFF headquarters, Tokyo, Japan – The AMS review team conducted a review of MAFF accreditation program for the Japanese organic system (JAS). This included a review of the Food and Agricultural Materials Inspection Center (FAMIC) which conducts accreditation audits on behalf of MAFF. The review team evaluated MAFF and FAMIC qualifications, FAMIC Quality Manual, MAFF accreditation procedures,

conflict of interest and impartiality procedures, complaint handling and management, internal audits and management review process, role of residue testing, and accreditation appeals process. The team reviewed accreditation files for two registered certification bodies (RCBs) and reviewed communication and confidentiality procedures. The team reviewed records management, organizational structure, budget, staffing, standards development process, and enforcement procedures.

- 6.2. Poultry manure ash production facility. The facility was located in Ibaraki prefecture adjacent to a 1.2 million layer facility. The operation had developed the poultry manure ash facility to mitigate odors that were causing discomfort for the people and communities in the surrounding area. The facility burns over 90 tons of manure a day turning the manure into ash. The ash is sold as a fertilizer and the heat generated is used in the egg handling facility. Testing is conducted on a quarterly basis and did not indicate any issues of concern. Ash obtained from the burning of a plant or animal material is allowed under 205.203(d) under the USDA organic regulations.
- 6.3. Organic natto processor. The facility is located in Ibaraki prefecture and produces both organic and conventional natto. Natto is produced from fermenting soybeans with the bacteria, Natto bacillus. All conventional soybeans used were identity preserved, non-GE soybeans. Organic soybeans are JAS certified from the U.S. or Canada. The soy is soaked, steamed, fermented and packaged under a number of private labels. Controls for separating organic and conventional production were well established and monitored by the certifying agent. The natto is packaged along with small packages of mustard and shoyu. The organic natto was packaged under a few separate private labels. The JAS organic logo and the certifying agent were clearly labeled on the organic products. The labels did not clearly distinguish the organic natto from the non-organic flavor packets within the package.
- 6.4. Organic rice production in Ibaraki prefecture. The organic rice production includes 10 farmers who are part of an agricultural cooperative and obtain joint certification. The fields had been recently planted, neighboring conventional fields showed evidence of herbicide use on borders of rice paddies. Buffer zones were observed between organic and conventional fields. We visited the compost production area, organic seedling

greenhouses, organic seed disinfection area and observed rice production equipment. We noted that the joint certification was issued to an entity that did not have clear legal status.

- 6.5. Organic mushroom production in Gifu prefecture. The organic mushroom facility produced organic and conventional shiitake, and cloud ear mushrooms. The only difference between the organic and conventional mushrooms was that organic mushrooms were grown in rooms that have exposed soil and no air conditioning or heating. The mushroom growing medium is derived from local broadleaved trees that have been verified (by affidavit) to have no prohibited substances applied for at least 3 years prior to harvest. The logs are chipped, put in plastic bags, sterilized and inoculated. Rice bran has been used as an added nutrient in the mushroom growing medium. They used to use organic rice bran for organic cultivation but found it was not necessary. The mushrooms are grown in rooms open to the outside. There is also 1 grower who produces for the organic mushroom facility and is certified under the same joint certification. The team reviewed the growing medium production, inoculation process, spawn production, and growing rooms.
- 6.6. Organic importer, Osaka prefecture. The team visited both the warehouse and offices of a JAS certified importer. The business imports and distributes a variety of organic products throughout Japan including organic pasta from Italy, organic beans from Italy, organic apple juice from Australia (JAS certified), organic olive oil from Spain (JAS certified), and organic energy bars from U.S. They also export organic sake to EU, organic tamari/brown rice vinegar/miso to US, and soymilk made with organic soy to Australia. The team reviewed labels, certificates and import documents. The team also reviewed labels for imported products and the certification process of the MAFF Registered Certifying Body (RCB).
- 6.7. Organic certifier, Osaka prefecture. The MAFF RCB certifies more than 88 operations under the JAS organic standard. The team reviewed the certification process, qualifications of inspectors and certification staff, conflict of interest prevention procedures, budget, label review process, certification files, noncompliance procedures, and the most recent MAFF accreditation audit.

- 6.8. Organic certifier in Kagoshima prefecture. The MAFF RCB certifies 240 operations in Kyushu and Okinawa under the JAS organic standard. The team reviewed the certification process, qualifications of inspectors and certification staff, conflict of interest prevention procedures, budget, label review process, certification files, noncompliance procedures, and the most recent MAFF accreditation audit.
- 6.9. Organic citrus production, Kagoshima prefecture. The citrus operation produces a variety of organic citrus on multiple fields. The farmer illustrated his soil building techniques contrasting his soil health with neighboring conventional fields. The USDA team reviewed pest control, weed management, fertility management, labels, records, and buffer zones.

7. FINDINGS

- 7.1. Finding 1. ISO 17011 5.8.1 states that the accreditation body's top management shall establish procedures to review its management system at planned intervals to ensure its continuing adequacy and effectiveness in satisfying the relevant requirements, including this International Standard and the stated policies and objectives. These reviews should be conducted normally at least once a year. MAFF indicated that although MAFF is not conducting management reviews of the JAS organic program, FAMIC is conducting management reviews on its behalf.
- 7.2. Finding 2. USDA organic regulation 205.501(a)(11) (ii) states that:
- 7.2.1. Certifying agents must prevent conflicts of interest by excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification.
- 7.2.2. ISO 17065 section 4.2.8 states that when the separate legal entity in 4.2.7 offers or produces the certified product (including products to be certified) or offers or provides consultancy (see 3.2), the certification body's management personnel and

personnel in the review and certification decision-making process shall not be involved in the activities of the separate legal entity. The personnel of the separate legal entity shall not be involved in the management of the certification body, the review, or the certification decision.

7.2.3. The JAS law allows certified operations to be members of the board of directors of a MAFF Registered Certifying Body (RCB). One certifier had three out of seven board members who were certified operators. JAS law allows certified operators to serve as board members of the RCB as long as they do not hold a majority position on the board and they exclude themselves from involvement in decision making processes where they have a conflict of interest. A registered certifying body cannot have a board member who sells or produces certified products (i) review or evaluate results of the RCB, (ii) make certification decisions for the RCB, or (iii) have authority for certification activities.

7.3. Finding 3. USDA organic regulations section 205.301(b) states –

7.3.1. (b) *Products sold, labeled, or represented as “organic.”* A raw or processed agricultural product sold, labeled, or represented as “organic” must contain (by weight or fluid volume, excluding water and salt) not less than 95 percent organically produced raw or processed agricultural products. Any remaining product ingredients must be organically produced, unless not commercially available in organic form, or must be nonagricultural substances or nonorganically produced agricultural products produced consistent with the National List in subpart G of this part. If labeled as organically produced, such product must be labeled pursuant to § 205.303.

7.3.2. Under JAS law minor agricultural ingredients that compose less than 5% of the product may be non-organic only when organic ingredient not available. The JAS law does not include a restricted list of agricultural ingredients that may be non-organic if organic ingredients are not commercially available. However, the JAS law has a restricted list of food additives.

7.4. Finding 4.

7.4.1. USDA organic regulations 205.100 states that each production or handling operation that produces or handles organic products must be certified.

7.4.2. ISO 17065, section 7.2 Application states that the certification body shall obtain all necessary information including the general features of the client any relevant legal obligations.

7.4.3. It was noted that the certified organic rice operation was not a legal entity. The certification was issued to a group of rice farmers that were operating under the same certification and were not individually certified. These farmers were allowed to sell organic products without obtaining individual certification. This group of farmers was certified together but did not represent any legal entity. MAFF allows non-legal entities to apply and obtain organic certification. MAFF also allows organic farmers to be covered under a processor's certification and not obtain their own individual certification.

7.5. Finding 5. USDA organic regulations 205.205 require the practice of alternating the annual crops grown on a specific field in a planned pattern or sequence in successive crop years so that crops of the same species or family are not grown repeatedly without interruption on the same field. JAS organic standards do not require crop rotation

7.6. Finding 6. MAFF requires organic plants and organic processed foods of plant origin imports to be JAS certified or be imported with a government-issued (or quasi-governmental organization) import certificate under an equivalency agreement (e.g. EU, US, Australia). The US agreement currently requires the TM-11 transaction certificate for all non-JAS certified organic imports from the United States. Transaction certificates are not required for JAS labeled/certified organic products. The revised "Technical Criteria for Certifying Importers of Organic Plants and Organic Processed Foods of Plant Origin-March 29, 2013" allows grading labels to be covered under a contract with JAS certified importers.

8. CLOSING MEETING

8.1. The review team conducted a closing meeting with MAFF officials in Kagoshima, Japan on May 24, 2013. At the meeting, the U.S. review team provided a complete summary and discussion of all findings in this report.

9. GENERAL OBSERVATIONS AND NEXT STEPS

General Observations:

- 9.1. Producers and processors appear to comply with JAS Law. Records are thorough and complete.
- 9.2. MAFF oversight of FAMIC, RCBs, and Japanese organic operations is comprehensive and thorough. FAMIC audits and RCB inspections are conducted by qualified personnel. FAMIC audits and RCB inspections are thorough and complete and note all non-compliances found.

Next Steps:

- 9.3. MAFF will provide NOP with the number of JAS certified operations, by RCB, in each category of certification.
- 9.4. MAFF will provide NOP with a link to the list of JAS certified organic importers. The list includes contact information and types of products imported.
- 9.5. MAFF will provide NOP with a translated version of procedural manual.
- 9.6. NOP will provide MAFF with a list of NOP certified organic operations in Japan.
- 9.7. Once the report is accepted and finalized, MAFF will prepare formal responses to the FINDINGS portion of this report.

10. END OF REPORT.