CERTIFICATE OF ACCREDITATION

United States Department of Agriculture

Agricultural Marketing Service
National Organic Program

KIWA BCS ÖKO-GARANTIE GMBH

Marientorgraben 3-5, Nürnberg, D-90402, GERMANY

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 (Apiculture only), Wild Crops 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-20-25
Effective Date: 04/29/2022
Expiration Date: 04/29/2027
Issue Date: 03/10/2025

C. A. Purdy

Christopher Purdy
Acting Deputy Administrator
National Organic Program

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program.

USDA Agricultural Marketing Service
U.S. DEPARTMENT OF AGRICULTURE

National Organic Program
1400 Independence Avenue, SW.
Room 2642-South, STOP 0268
Washington, DC 20250-0268

NATIONAL ORGANIC PROGRAM: ASSESSMENT REPORT

GENERAL INFORMATION

Certifier Name	Kiwa BCS Öko-Garantie GmbH (BCS)
Physical Address	Marientorgraben 3-5, Nürnberg, D-90402, GERMANY
Assessment Type	Mid-term Audit
Auditor(s)	Kelly Skoda, Daniel Oliver, Samuel Schaefer-Joel
Assessment Dates	05/12/2025 to 05/16/2025
Assessment Identifier	NOP-9-25

ASSESSMENT OVERVIEW

The National Organic Program (NOP) conducted an onsite Midterm Audit of Kiwa BCS Öko-Garantie GmbH (BCS)'s USDA organic certification program covering the period July 1, 2023 to May 16, 2025. The purpose of the audit was to verify BCS's compliance with the Organic Foods Production Act of 1990 (OFPA), the USDA organic regulations (7 CFR Part 205), and the NOP Handbook. Audit activities included a review of certification activities, interviews with BCS personnel, a records audit and one onsite witness audit. The witness audit was conducted at an annual inspection of a handling operation in Texas.

BCS is a for profit company initially accredited on April 29, 2002. BCS is accredited to the crops, wild crops, livestock (apiculture only), and handling scopes. BCS certifies 1277 operations (including producer groups) and offers certification services in 41 countries. BCS's head office is in Nürnberg, Germany. BCS has 8 additional certification offices in other countries. Certification activities are performed by 135 employees and 30 contractors.

NOP DETERMINATION:
NOP reviewed the assessment results to determine whether BCS's corrective actions adequately addressed noncompliances. NOP also reviewed any corrective actions submitted as a result of noncompliances issued from findings identified during the assessment.

ACCEPTED

Corrective actions submitted for the noncompliances listed below are accepted. The NOP will verify the implementation of the corrective action during the next assessment.

AIA-1522-25 7 CFR § 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: *BCS does not consistently carry out the provisions of the Act and regulations. BCS's input material reviews do not always align with NOP 5012 Approval of Liquid Fertilizers for Use in Organic Production. The auditors reviewed material approval files and found that BCS's material review program approved a liquid fertilizer with 8% nitrogen to be used as an ingredient in a crop fertilizer product without inspecting the manufacturing facility for the 8% liquid nitrogen product as required by NOP 5012.*
Corrective Action: BCS updated its input evaluation procedure in May 2025 to include the requirement for inspecting the manufacturing facility of raw material liquid fertilizers with a nitrogen content greater than 3% in addition to inspecting the finished product manufacturing facility. BCS withdrew its approval of the liquid nitrogen material with the nitrogen ingredient that had not been inspected. BCS utilized a consultant to conduct training for its input material review staff in May 2025 on the requirements of NOP 5012. BCS assigned its NOP Scheme Manager as an additional contact at headquarters to address input-related questions.

AIA-1649-25 7 CFR § 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: *BCS does not fully carry out the provisions of the Act and the regulations. Specifically, BCS does not fully implement the requirements for grower group certification, as required by § 205.201(c) and § 205(400)(g). The auditors reviewed grower group certification files, and interviewed certification staff, and found that BCS certified a producer group without an Internal Control System (ICS), in violation of BCS policy.*
Corrective Action: BCS reviewed its certified producer group operations and determined the certification of one operation as a producer group without an ICS was an isolated incident. BCS confirmed the operation is currently certified for wild crop and handling and is no longer certified as a producer group operation. BCS conducted training for staff in June 2025 on the requirements for producer group operations. BCS plans to verify there is no reoccurrence of the noncompliance during its next internal audit.

AIA-1650-25 7 CFR § 205.501(a)(5) states "A private or governmental entity accredited as a certifying agent under this subpart must: Demonstrate that all persons with inspection or certification review responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned. Sufficient expertise must include knowledge of certification to USDA organic standards and evidence of education, training, or professional experience in the fields of agriculture, science, or organic production and handling that relates to assigned duties."

Comments: *BCS does not consistently ensure that its personnel with certification review responsibilities have sufficient expertise in organic production or handling techniques prior to performing the duties assigned. The auditors interviewed staff who stated that they did not fully understand the adverse action settlement agreement process. The auditors reviewed settlement agreements issued by BCS and found that they did not comply with the requirements of § 205.663(f), specifically:*

1) BCS issued one settlement agreement with terms due prior to the execution of the settlement agreement.

2) BCS stated that a certified operation that had met all of the terms of its settlement agreement with BCS would remain bound by the terms of the settlement agreement pending an additional inspection, which was not a requirement described in the settlement agreement.

Corrective Action: BCS clarified that the requirement for an additional inspection was a routine activity and not a requirement that bound the operation to their settlement agreement beyond its original terms. BCS conducted training for staff in June 2025 on the adverse action process. BCS conducted additional training in June 2026 on settlement agreements and the specific issues identified in this noncompliance. BCS submitted the training content to NOP which included pre-course assignments specific to settlement agreements. BCS plans to have reviewers (certifiers) collaborate with senior reviewers and the BCS NOP Scheme Manager to write settlement agreements.

AIA-1651-25 7 CFR § 205.501(a)(15) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Maintain current and accurate data in the Organic Integrity Database for each operation which it certifies;"

Comments: *BCS does not maintain current and accurate data in the Organic Integrity Database (OID) for each operation it certifies. The auditors reviewed certification files and OID information and found the following:*

1) BCS did not list products in the Certified Products field for several operations certified to the crops, livestock, and handling scopes.

2) BCS listed "Wild Collection" in the Certified Products field of a wild crops operation with no additional products listed.

3) BCS included acreage data for 13 certified operations not identified as certified to the crops or wild crops scope.

4) BCS did not identify all producer group operations under Services/Business types in OID or provide the group size.

Corrective Action: BCS is implementing an OID API update at the end of September 2026 to improve data quality. Testing of the updated API began in March 2026 and is on-going. BCS's NOP back-office team is currently conducting a manual check and correction of OID data every two weeks. BCS corrected the specific noncompliances as follows:

1. BCS updated OID to list products either in the "NOP Item" field or the "Other Item" field, as applicable.
2. BCS entered product information for all wild crop operations listed in OID.
3. BCS removed acreage data from operations in OID that are not identified as certified to the crops or wild crops scope.
4. BCS updated OID to identify producer group operations during the bi-weekly manual check and correction.

AIA-1652-25 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 reviewed the corrective action implementation for previously issued noncompliance AIA-920-22 and found that corrective actions did not fully resolve the noncompliance. The auditor conducted a witness audit of a handling operation's annual inspection and found the BCS inspector did not use BCS' updated inspection report which includes a checklist prompting the inspector to verify the requirements of the U.S.-Canada Organic Equivalency Arrangement (USCOEA).*

Corrective Action: BCS updated its inspector (assessor) and reviewer checklists prompting staff to verify additional USCOEA requirements. BCS issued instruction "Memo 11g" instructing the administrative team to select the USCOEA inspector checklist in Ecert, when applicable. BCS also updated the following instructions prompting staff on the procedures to verify compliance with USCOEA: "C-EN_09-07-01_BCS service protocol for issuing USCOEA compliance confirmation," "C-EN_09-04-20_Assessors_International Assessments," and "C-EN_09-04-19_Technical Reviewer and Decision Maker International." BCS conducted USCOEA training for inspectors in August 2025 and all other relevant staff in October 2025.

AIA-1653-25 7 CFR § 205.406(b) states, "The certifying agent must arrange and conduct an on-site inspection, pursuant to § 205.403, of the certified operation at least once per calendar year."

Comments: *The auditors reviewed the corrective action implementation for previously issued noncompliance AIA-6555-23 and found that corrective actions did not fully resolve the noncompliance. The auditors reviewed BCS' report of inspections that did not occur in 2024 and found that while all operations submitting renewal paperwork for continued certification received an inspection for the 2024 annual certification cycle, these inspections did not occur once per calendar year. BCS conducted eleven 2024 certification cycle inspections in early 2025.*

Corrective Action: BCS updated its process for inspection planning and follow-up beginning in 2025. BCS local offices manage inspection planning in the Ecert system. BCS' Assessment Office will monitor the progress of inspections on a quarterly basis, send follow-up emails to local offices, and escalate issues of concern to BCS management when needed. BCS will issue an inspection status report to local offices at the end of October to ensure adequate time to complete inspections before the end of each calendar year. BCS submitted examples of its monitoring reports and correspondence with its China office as evidence of implementation. BCS' correspondence to staff included prompts and reminders for local offices to issue operations a notice of noncompliance when an operation is not allowing the annual inspection to be scheduled.

AIA-1654-25 7 CFR § 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: *BCS does not fully implement NOP's international organic trade arrangement policies and procedures, which are outlined on NOP's International Trade Partners webpage. The auditors reviewed certification files for operations exporting to Canada and identified the following:*
1. BCS' application form and BCS' Certification Decision Report inaccurately reference Canada Organic Regime (COR) compliance and COR retail labels as opposed to the U.S.-Canada Organic Equivalency Arrangement (USCOEA).
2. BCS' QMS documents and review checklists refer to COR/NOP confirmation/compliance as opposed to the U.S.-Canada Organic Equivalency Arrangement (USCOEA).
Corrective Action: BCS updated its QMS documents including the "Application Form for USCOEA Compliance," "Certification Decision Report," "Checklist Reviewer_Certifier," "C-EN_09-04-19_Technical Reviewer and Decision Maker International," and "D-EN_14-314 Label Requirements" from May to December 2025 to correctly reference the U.S.-Canada Organic Equivalency Arrangement (USCOEA). BCS updated its work instruction "C-EN_09-07-01 protocol for issuing USCOEA compliance confirmation" in August 2025 to specify that BCS does not have COR accreditation and can only verify that NOP products meet the requirements of the USCOEA.

CLEARED

Corrective actions for the prior noncompliances listed below are cleared. The NOP has verified the corrective actions have been effectively implemented.

AIA-2321-24
AIA-3066-24
AIA-3067-24
AIA-3068-24
AIA-3069-24
AIA-3070-24
AIA-3075-24
AIA-6551-23
AIA-6553-23
AIA-6554-23
AIA-6556-23
AIA-6558-23
AIA-6559-23
AIA-6560-23
AIA-6561-23
AIA-6562-23
AIA-6563-23
AIA-6564-23
AIA-6567-23
AIA-6568-23
AIA-6569-23

AIA-6570-23
AIA-6571-23
AIA-6572-23
AIA-6573-23

National Organic Program
1400 Independence Avenue, SW.
Room 2642-South, STOP 0268
Washington, DC 20250-0268

NATIONAL ORGANIC PROGRAM: ASSESSMENT REPORT

GENERAL INFORMATION

Certifier Name	Kiwa BCS Öko-Garantie GmbH (BCS)
Certification Office Location	KIWA BCS OKO Garantie S. de R.L. de C.V. (BCS Mexico)
Physical Address	Av. López Mateos Sur No. 4321 Int. A3, Jalisco, Col. La Calma C.P. 45070, Zapopan , MEXICO
Assessment Type	Certification Office Audit
Auditor(s)	Lars Crail
Assessment Dates	01/23/2025 to 02/11/2025
Assessment Identifier	NOP-6-25

ASSESSMENT OVERVIEW

The National Organic Program (NOP) conducted an onsite certification office audit of Kiwa BCS Oko Garantie GmbH (BCS)'s Mexico office certification activities covering the period January 1, 2023, to February 7, 2025. The purpose of the audit was to verify BCS's compliance with the USDA organic regulations. Audit activities included a review of certification activities, interviews with BCS personnel, a records audit and three witness audits. Witness audits consisted of the annual inspections of one crop and one handling operation in Guadalajara, Mexico, and one handling operation in California, USA.

BCS's Mexico certification office is in Guadalajara, Mexico and conducts limited certification activities in Mexico and the USA with the BCS offices in Germany and Costa Rica conducting the majority of key activities. BCS's Mexico certification office manages certification activities of 100 operations, covering the handling, crops, livestock, and wild crops scopes, including producer groups. Certification activities are performed by 15 employees and contractor inspectors.

NOP DETERMINATION:

NOP reviewed the assessment results to determine whether BCS's corrective actions adequately addressed noncompliances. NOP also reviewed any corrective actions submitted as a result of noncompliances issued from findings identified during the assessment.

ACCEPTED

Corrective actions submitted for the noncompliances listed below are accepted. The NOP will verify the implementation of the corrective action during the next assessment.

AIA-1652-25 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 reviewed the corrective action implementation for previously issued noncompliance AIA-920-22 and found that corrective actions did not fully resolve the noncompliance. The auditor conducted a witness audit of a co- packing operation's annual inspection and found the BCS inspector did not use BCS' updated inspection report which includes a checklist prompting the inspector to verify the requirements of the U.S.-Canada Organic Equivalency Arrangement (USCOEA). Therefore, the inspector did not verify compliance of the operation with USCOEA or verify the operation's supplier was certified in compliance with the USCOEA.*
Corrective Action: BCS updated its inspector (assessor) and reviewer checklists prompting staff to verify additional USCOEA requirements. BCS issued instruction "Memo 11g" instructing the administrative team to select the USCOEA inspector checklist in Ecert, when applicable. BCS also updated the following instructions prompting staff on the procedures to verify compliance with USCOEA: "C-EN_09-07-01_BCS service protocol for issuing USCOEA compliance confirmation," "C-EN_09-04-20_Assessors_International Assessments," and "C-EN_09-04-19_Technical Reviewer and Decision Maker International." BCS conducted USCOEA training for inspectors in August 2025 and all other relevant staff in October 2025.

AIA-979-25 7 CFR § 205.403(f)(2) states, "A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent."
Comments: *BCS does not send operations a copy of the inspection report. The auditor conducted inspector interviews and reviewed BCS's certification procedures and found that BCS inspectors issue the inspection report to the operation.*
Corrective Action: BCS issued "Memo 34" in March 2025 instructing its Technical Reviewers to approve the inspection report per procedure "C-EN_09-04-19_Technical Reviewer and Decision Maker International," and Administrative/Service staff to issue the approved inspection report to operations via Rpost. BCS uses one "Evaluation Report" document as its inspection report for multiple organic standards including USDA. BCS operations may receive a copy of the same inspection report (evaluation report) from the inspector, prior to receiving it from BCS administrative staff, if the operation is certified to other standards in addition to the USDA regulation.

CLEARED

Corrective actions for the prior noncompliances listed below are cleared. The NOP has verified the corrective actions have been effectively implemented.

AIA-919-22
AIA-921-22
AIA-922-22
AIA-923-22
AIA-924-22
AIA-959-22

National Organic Program
1400 Independence Avenue, SW.
Room 2642-South, STOP 0268
Washington, DC 20250-0268

NATIONAL ORGANIC PROGRAM: AUDIT & CORRECTIVE ACTION REPORT

GENERAL INFORMATION

- **Certifier Name** Kiwa BCS Oko-Garantie GmbH, (BCS)
- **Physical Address** Marientorgraben 3-5, Nürnberg, D-90402, GERMANY
- **Audit Type** Renewal Assessment
- **Auditor(s) & Audit Dates** Jessica Walden, Patricia Bursten, Samuel Schaefer-Joel, 06/26/2023 to 06/30/2023
- **Audit Identifier** NOP-197-23

CERTIFIER OVERVIEW

The National Organic Program (NOP) conducted an onsite Renewal Audit of Kiwa BCS Oko-Garantie GmbH's (BCS) USDA organic certification program covering the period May 7, 2022 – June 25, 2023. The purpose of the audit was to verify BCS' compliance with the Organic Foods Production Act of 1990 (OFPA), the USDA organic regulations (7 CFR Part 205), and the NOP Handbook. Audit activities included a review of certification activities, interviews with BCS personnel, a records audit, and three onsite witness audits. The three witness audits consisted of one annual inspection of a handling operation and two additional onsite inspections of a crops/handling operation and a wild crops/handling operation. The handling operation is in Germany and the crops/handling and wild crops/handling operations are in Tbilisi, Georgia.

BCS is a for profit company initially accredited on April 29, 2002. BCS is accredited to the crops, wild crops, livestock (apiary only), and handling scopes. BCS certifies 1,100 operations (including producer groups) in 38 countries. BCS's head office is in Nürnberg, Germany. Certification activities are performed by 145 employees.

NOP DETERMINATION:

NOP reviewed the audit results to determine whether BCS' 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.

Noncompliances from Prior Assessments

AIA-5103-21 – Cleared.

AIA-919-22 - 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditors observed or identified the following issues while conducting witness audits and reviewing certification files:*

1. *BCS inspectors are consistently not verifying whether the information on Organic System Plans (OSP) accurately reflects the practices used by the certified operations. Organic system plans do not reflect the operation's current practices. Additionally, the auditor's review of inspection checklists found that inspectors are not identifying that an operation's organic system plan needs to be updated even though the inspection checklist describes and records activities that should be in the operation's organic system plan.*
2. *BCS review personnel are not adequately reviewing the organic system plans to determine whether they are complete and demonstrate the operation's ability to comply with the USDA organic regulations.*

Corrective Action: BCS provided training to its 'certifiers' (reviewers) on April 20, 2023, and to its inspectors on June 16, 2023, regarding the requirement to identify if an OSP is complete and accurately reflects an operation's current practices. BCS' training for certifiers also included the requirement to issue a notice of noncompliance for an incomplete or inaccurate OSP. BCS updated its "D-EN_09-201_OSP_Agricultural Production OSP" by adding a question about post-harvest handling that requests more detailed information from the operation to address the specific observation made during the NOP witness audit regarding the inaccurate OSP. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

AIA-920-22 - 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: *BCS does not fully implement the NOP's international organic trade arrangement policies and procedures, which are outlined in the NOP's International Trade Policies resources. A witness audit of a handling operation and a review of handling files for operations with products listed as verified to the US/Canada Organic Equivalency Arrangement found that the inspection report templates do not prompt inspectors to verify that the operation continues to comply with the terms of the arrangement through, for example, verification of use of compliant labels and ingredient suppliers.*

Corrective Action: BCS updated its "NOP-COR inspector checklist" to prompt the inspector to verify ingredient suppliers and product labels conform with the requirements of the US/Canada Organic Equivalency Arrangement. BCS provided instructions to staff for implementing the updated checklist on April 14, 2023. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

AIA-921-22 - 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditors' witness audits and review of certification files identified the following issues:*

1. *BCS' organic system plan (OSP) templates do not fully verify an operation's compliance with the USDA organic regulations. The templates do not address the requirements of §205.201(a)(3), which require operators to provide a description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented.*
2. *BCS does not fully implement the criteria for grower group certification, as required by **NOP Policy Memo 11-10 Grower Group Certification**.*
   a. *The Internal Control System (ICS) OSP template does not include the requirement that all non-compliances detected by the ICS at the production unit, site, or facility or at the sub-unit or member level be reported to the certifier per § 205.400(f).*
   b. *BCS does not require an ICS for all grower groups. BCS plans to require an ICS to be implemented for all grower groups by the end of 2023.*
3. *BCS does not fully implement the requirements for organic apiculture certification. The OSP template for bee keeping does not specifically request the following information from operations:*
   a. *A description of all crops grown and any sources of potential contamination located within the 1.8 mile (3 km) forage zone; and*
   b. *A description of crops grown and high-risk activities located in the surveillance zone of 2.2 miles (3.4 km) beyond the forage zone.*

Corrective Action: BCS implemented the following corrective actions:

1. BCS submitted an updated "D-EN_09-201_OSP_Agricultural Production OSP" template that includes a section for operations to describe monitoring practices and procedures to be performed and maintained to verify that their OSP is effectively implemented. BCS submitted the OSP template as an example of how all operations will come into compliance when a new OSP is implemented in February 2024 that combines all scopes of certification into one document. BCS created three additional documents ("*Additional questions* NOP_certifiers.docx," "IR Annex_Additional questions NOP_inspectors.docx," and "OSP Annex_Additional questions NOP_operators.docx") to be used temporarily starting in December 2023; for operations to describe their OSP monitoring practices and procedures; and to prompt BCS' inspectors and it's 'certifiers' (reviewers) to verify compliance until BCS implements a new OSP in 2024.
2. BCS implemented an updated grower group OSP template "D-EN_09-221_Annex_OSP_ICS Groups" in October 2022 to request an operation's procedures for non-compliances detected by the Internal Control System (ICS). BCS' updated template also includes added language that farmer groups (grower groups) must have a functioning ICS. BCS updated its inspection checklist in July 2022 to prompt inspectors to verify that all noncompliances detected by the ICS have been reported to BCS. BCS plans to include a more specific question about reporting noncompliances detected by the ICS in its new OSP in February 2024.

3. BCS implemented an updated "D-EN_09-205 Apiculture OSP" template in February 2023 that requires the operation to provide a description of crops grown, sources of potential contamination within the forage zone and high-risk activities in the surveillance zone. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

AIA-922-22 - 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: *BCS inspectors are not always carrying out the provisions of the Act and regulations. The auditors observed or identified the following issues while conducting witness audits and reviewing certification files:*

1. *The auditors' review of an inspection report for a new applicant found that the mass balance exercise was not conducted adequately. The inspector did not identify the time frame, and no information was provided for finished product produced, sold and in inventory.*
2. *During one witness audit of on handler in Turkey, the auditor observed that the inspector did not sample original operator records during the mass balance exercise, such as invoices and bills of lading, to verify the sources of numbers. Instead, the inspector relied on information that was produced by the operation and the operator data maintained by the BCS office in Turkey.*

Corrective Action: BCS issued a training email to Turkey inspectors on April 24, 2023, describing the noncompliant mass balance activities and instructing inspectors how to conduct a compliant mass balance. BCS issued an email to all inspectors on May 12, 2023, reminding them of the requirements for conducting a compliant mass balance. BCS provided training to all inspectors on June 16, 2023, that reviewed this NOP noncompliance and the mass balance requirements. BCS also provided training to its 'certifiers' (reviewers) on April 20, 2023, instructing them to verify that the mass balance information submitted by inspectors demonstrated a compliant process was followed and included verification of original operation records.

AIA-923-22 - 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditor's review of denial of certification files found the following issues:*

1. *The notices of noncompliance, which were issued to the applicants prior to the issuance of the notices of denial, incorrectly state that if the operation does not request mediation or appeal, they will receive a notice of proposed suspension.*
2. *One denial of certification file included a settlement agreement that incorrectly states that if the terms are not met, the operation will receive a notice of proposed suspension.*

Corrective Action: BCS updated its notice of noncompliance template "D-EN_14-415_Notice of non-compliance L2_NOP" to correctly state that if a rebuttal is unsuccessful or BCS does not receive proposed corrective actions, an applicant will receive a notice of denial and a currently certified operation will receive a notice of proposed suspension. BCS updated its settlement agreement template "D-EN_14-427_Settlement Agreement Proposal_NOP" to correctly state that failure to comply with the settlement agreement will result in a notice of denial for applicants and a notice of proposed suspension for certified operations. BCS published the updated templates in ECERT and implemented them on June 16, 2023.

AIA-924-22 - 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: *BCS does not consistently verify that certified operations are using input materials in compliance with the USDA organic regulations National List. The auditors found the following:*

1. *OSPs are not consistently listing the restricted use of input materials or identifying how materials will be used in compliance with their NOP restriction.*
2. *Inspectors are not consistently recording how they verified the compliant use of restricted input materials.*

Corrective Action: BCS provided training to its 'certifiers' (reviewers) on April 20, 2023, that operations are required to describe how inputs are used in compliance with restrictions and that inspectors are to verify compliance. BCS also issued a memo to certifiers and inspectors on May 12, 2023, instructing them to verify an operation's use of inputs complies with the input's restrictions, when applicable. BCS plans to update its OSP for operations when BCS implements a new OSP in February 2024 that combines all scopes of certification into one document. BCS created three additional documents ("Additional questions NOP_certifiers.docx," "IR Annex_Additional questions NOP_inspectors.docx," and "OSP Annex_Additional questions NOP_operators.docx") to be implemented temporarily starting in December 2023; for operations to describe how they comply with input restrictions; and to prompt BCS' inspectors and its certifiers to verify compliance until BCS implements a new OSP in 2024.

BCS instructed inspectors and certifiers to complete several training courses in the Organic Integrity Learning Center (OILC), including NOP-120 Input Review, by NOP November 20, 2023, for all offices except China. BCS is translating the NOP-120 Input Review to Chinese and plans to have the China office complete it by December 2023. BCS plans to disqualify inspectors and certifiers from certification work if the course is not completed on-time.

AIA-959-22 - Accepted. 7 C.F.R. §205.404(b)(3) states, "The certifying agent must issue a certificate of organic operation which specifies the: Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation."

Comments: *BCS' organic certificates for wild crop operations do not fully comply with the requirements of the USDA organic regulations. The auditors' review of one wild crop certification file found that the certificate incorrectly identifies the certification scope as "Wild Collection."*

Corrective Action: BCS updated its certificate template on June 21, 2022, to correctly list the wild crops scope by updating the terminology in its ECERT database used to generate certificates. BCS will issue an updated certificate to each operation during its annual certification cycle in 2023. BCS submitted an example of a compliant certificate issued to an operation listing the correct scope. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

Noncompliances Identified during the Current Assessment

AIA-6551-23 - Accepted. 7 C.F.R. §205.501(a)(16) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Charge applicants for certification and certified production and handling operations only those fees and charges for certification activities that it has filed with the Administrator;"

Comments: *BCS' certification offices charged operations certification fees that were not on file with the NOP. The auditors reviewed certification files and interviewed staff and found the following:*

1. *The BCS China office charged for NOP residue sampling and analysis conducted to meet the requirements of §205.670.*
2. *BCS Service Level Agreement (SLA) offices charge certification fees that have not been filed with the Administrator.*

Corrective Action: BCS corrected the noncompliance as follows:

1. BCS issued an email on March 28, 2024, notifying staff that charging for NOP residue sampling and analysis does not meet the requirements of §205.670. BCS confirmed with its China office on April 3, 2024, that the China office will not charge for NOP residue sampling and analysis. BCS provided training to BCS offices on November 18, 2024, regarding the organic regulation fee requirements including sampling and analysis. BCS updated its fee schedule used by its China office to state that residue sampling and analysis charges do not apply for NOP certification.
2. BCS submitted a description of how fees are charged based the location of operations in countries organized as 701, 702 and 703 countries. BCS submitted its certification fee schedules "D-DE_08-250-Preisverzeichnis-allgemein" used for operations in 701 countries, "D -EN_09-030-service fees_702" for operations in 702 countries except for Morrocco. BCS submitted its fees schedules for offices in Colombia, Dominican Republic, Mexico, Peru, Ecuador, Costa Rica, Turkey, and China used for operations in 703 countries. BCS implemented all fee schedules in January 2025. BCS also submitted its fee schedule for Morocco (702 country) implemented in 2024. BCS updated its procedures for preparing certification estimates (offers) to operations to state that fees used for the offer must be the same fees filed with NOP. BCS assigned the responsibility of filing certification fees to the BCS NOP scheme manager and BCS NOP team. BCS plans to verify its current fees have been filed with the NOP during its annual program review (internal audit).

AIA-6553-23 - 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: *BCS is not carrying out the provisions of the Act and regulations, specifically the noncompliance and adverse action process. The auditors reviewed certification files and found that BCS issued a notice of denial of certification to an applicant without first issuing the applicant a notice of noncompliance. The issue identified in the Notice was not a willful violation of the certification requirements.*

Corrective Action: BCS issued an email on March 28, 2024, notifying staff to issue operations a notice of noncompliance before issuing a notice of denial in cases where a noncompliance is correctable. BCS reviewed its procedures and found them to be compliant. BCS updated the language in its procedure "A-EN_14_Certification System NOP chapter 9.5.2 Notification of denial of certification" in July 2024 to further clarify the noncompliance process for applicants. BCS submitted evidence that all certifiers (reviewers) had completed the NOP learning center courses **NOP-040: Compliance and Enforcement** and **NOP-200: Advanced Compliance and Enforcement Topics** as of May 2024. BCS also provided training to certifiers on the requirements denial of certification in September 2024. BCS plans to verify staff are accurately following the denial of certification process during its next annual program review (internal audit).

AIA-6554-23 – 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: *BCS does not fully implement the NOP international organic trade arrangement policies and procedures, which are outlined in the NOP's International Trade Policies resources. The auditors reviewed the certification file of a handling operation and found that the BCS inspector did not verify that organic vegetables exported to Canada by the operation were compliant with the terms of the US-Canada Organic Equivalency Arrangement (USCOEA).*

Corrective Action: BCS updated its USCOEA inspection report checklist in 2024 prompting inspectors to verify that only product compliant with the terms of the USCOEA is exported to Canada. BCS provided training to staff July 11, 2024, on the USCOEA requirements. BCS provided training September 3, 2024, on the updated inspection report checklist to its certifiers who make final certification decisions. BCS also submitted evidence that new inspectors received USCOEA training before being approved to inspect operations for compliance with that equivalency arrangement.

AIA-6555-23 – Accepted. 7 C.F.R. §205.403(a)(1) states, "A certifying agent must conduct an initial on-site inspection of each production unit, facility, and site that produces or handles organic products and that is included in an operation for which certification is requested. An on-site inspection shall be conducted annually thereafter for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue."

Comments: *BCS did not conduct an annual inspection of all its certified operations in 2020, 2021, and 2022. Additionally, the auditors reviewed certification files and interviewed certification staff and found that one operation has not been inspected since 2019.*

Corrective Action: BCS determined the root cause of the noncompliance was not having a qualified "team leader operations/certification" in place. BCS hired a new "team leader operations/certification" in July 2023 that is responsible for following-up on inspections. BCS issued a notice of noncompliance, followed by a notice of proposed suspension and suspension, to the operation which had not been inspected since 2019. BCS updated its procedure "C-EN_09-04-14_Inspection/Assessment Planning 49702 and 49703" in November 2023 instructing staff to set-up calendar year inspections by the end of January each year. BCS assigned two administrative team members to review the status of all operations twice a year, to confirm inspections have occurred and to detect any problems in the certification process. BCS submitted evidence that it is following up on inspections not completed for 2023 to be completed in 2024.

AIA-6556-23 - 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: *BCS does not carry out the provisions of §205.670(e) and* ***NOP 2611 Laboratory Procedures for Residue Testing****. The auditors reviewed pesticide residue testing and identified that BCS is not consistently using laboratories that use analytical methodologies appropriate for the submitted samples. In one certification file reviewed, the auditor found BCS sent oils for pesticide residue testing to a laboratory who was not accredited to handle and test oils.*

Corrective Action: BCS issued an email on April 5, 2024, instructing staff to verify if the laboratory selected for residue testing is accredited to analyze the type of product sampled. BCS updated its list "D-E_05-010 List of Subcontracted Laboratories" on May 8, 2024, to include details regarding the scope of accreditation for each laboratory. BCS' procedure "C-EN_09-04-03_Sampling and Analysis" prompts staff to reference the list of subcontracted laboratories when

selecting a laboratory for analysis.

AIA-6558-23 - 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: BCS does not carry out the provisions of the Act and regulations. The auditors conducted witness audits and found that an operation's organic system plan (OSP) was missing critical information necessary to determine compliance with the USDA organic regulations. The inspector did not identify the missing information as an issue of concern. The following are examples:

1. *The inspector did not identify that the OSP did not contain information about additives to water even though the operation used steam in direct contact with organic products.*
2. *The inspector did not identify that the OSP did not contain information about the types of bulk packaging and labels used by the operation.*
3. *The inspector did not identify that the OSP did not describe how the operation ensured organic integrity when receiving organic ingredients. The OSP only described the operation's receiving procedures for bulk unpackaged product but not for bulk packaged product.*
4. *The inspector did not identify that the OSP did not contain information regarding organic product rework even though the facility sometimes reworked organic product.*
5. *The inspector did not identify that the OSP did not describe how commingling is prevented between NOP-certified organic inputs and organic product certified to non-NOP schemes.*
6. *The inspector did not identify that two products listed on the operation's certificate as "100% organic" were only eligible for the "organic" category based on the suppliers' organic certificates.*

Corrective Action: BCS corrected the noncompliance as follows:

1. BCS' inspector obtained and submitted to BCS additional information regarding the operation's missing OSP elements during the second day of inspection for another standard. BCS met with the inspector to review the missing OSP information and to explain why it should have been identified as an issue of concern for the NOP inspection.
2. BCS implemented a new policy in July 2024 on the use of boiler chemicals "D-EN_14-15 Policy on use of Boiler Chemicals in Organic Processing & Handling – NOP." BCS updated its OSP "D-EN_09-203_OSP_Processing Handling and Repacking" in September 2024 prompting operations to provide information about their boiler systems and boiler chemicals. BCS updated its inspection checklist in September 2024 prompting inspectors to verify compliance of boiler systems. BCS provided training to staff about boiler requirements on August 30 and 31, 2024.
3. BCS updated the witness inspection operation's organic certificate to correctly list products under the "organic" claim.

AIA-6559-23 - 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: *BCS does not carry out the provisions of the Act and regulations. BCS does not require operations to provide sufficient information in the organic system plan (OSP) to verify compliance with the USDA organic regulations. The auditors reviewed certification files and interviewed staff and found that OSPs were missing descriptions of the operation's activities that were necessary to verify compliance, such as manure applications, post-harvest handling, and*

handling.

Corrective Action: BCS issued emails on October 26, 2023, and April 5, 2024, instructing certifiers (reviewers) to verify that an operation's OSP accurately reflects its practices and activities, and to request an updated OSP when necessary. BCS updated its OSP templates "511 D-EN_09-201_OSP_Agricultural Production," "511 D-EN_09-203_OSP_Processing + Handling," and "511 D-EN_09-204_OSP_Export-Import" in September 2024 to ask operations to describe manure applications, post-harvest handling and other additional handling activities. BCS distributed the updated OSPs to local offices which are responsible for ensuring that an operation has completed the new OSP by the next inspection. BCS' procedure "C-EN_09-04-01_OSP_Company Description" also states that an operation must include the latest version of the OSP document with the annual update.

AIA-6560-23 - 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: *BCS did not issue notifications of noncompliance to its certified operations, even though the operation was found to be noncompliant. The auditor's review of certification files found that BCS' certification office in China failed to issue a notice of noncompliance to an operation who had not paid their certification fees in 2021 or 2022.*

Corrective Action: BCS issued an email on June 15, 2023, notifying staff that a notice of noncompliance should be issued to an operation even when fees have not been paid. BCS' instructed staff to submit outstanding fee information to the BCS NOP team and instructed BCS certifiers to issue noncompliances for outstanding fees. BCS issued a follow-up reminder to staff on April 5, 2024. BCS assigned two administrative team members to review the status of all operations twice a year, to confirm inspections have occurred and to detect any problems in the certification process. BCS updated its procedure "A-EN_14 Certification System NOP" in December 2024 to include a requirement for staff to issue a notice of noncompliance to operations that do not pay invoices that are more than 30 days overdue.

AIA-6561-23 - **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: *BCS does not demonstrate the ability to fully comply with the requirements for accreditation. The auditors reviewed pesticide residue sampling procedures and work instructions and identified that BCS's Work Instruction C-EN_09-04-03 /16 Sampling and Analysis does not include the USDA organic regulatory requirements and NOP Policy Handbook requirements. The work instruction only references EU requirements*.

Corrective Action: BCS updated its procedure "D-EN_09-400_Sampling Protocol" in December 2023 instructing staff to conduct sampling activities according to the requirements of **NOP 2610 Sampling Procedures for Residue Testing** and **NOP 2611-1 Prohibited Pesticides for NOP Residue Testing.** BCS updated its procedure "C-EN_09-04-03 /16 Sampling and Analysis" in June 2024 to reference the USDA organic regulation and NOP Handbook.

AIA-6562-23 – 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."

Comments: *The auditor reviewed BCS' 2022 internal program review report and found that BCS is not complying with* ***NOP 2025 Instruction Internal Program Review****. The report did not include the following:*

1. *How proposed corrective actions will be addressed in a timely and appropriate manner.*
2. *An assessment of prior findings and implemented corrective actions of prior program reviews.*
3. *An assessment of all certification activities. Specifically, the report did not include an assessment of label review and pesticide residue result analysis activities.*

Corrective Action: BCS determined it did not have adequate resources to conduct the annual program review (internal audit) in 2023. BCS utilized an additional staff person to complete its 2024 annual program review which included an assessment of all certification activities, including label review and pesticide residue result analysis. BCS maintains an excel list of external and internal audit corrective actions that it assesses during the annual program review.

AIA-6563-23 - Accepted. 7 C.F.R. §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."

Comments: *The auditors reviewed BCS personnel files and interviewed staff and found that BCS did not complete all of the required staff annual performance evaluations and inspector field evaluations in 2022. Specifically:*

1. *BCS did not conduct inspector field evaluations for multiple inspectors that were scheduled to receive a field evaluation in 2022. This is not in compliance with BCS's policy to conduct field evaluations once every three years.*
2. *BCS did not conduct 2022 annual performance evaluations for all certification staff.*

Corrective Action: BCS submitted its procedure "C-EN_04-02-02 Performance Evaluation of Staff Members" to evaluate certifier (reviewer) performance by conducting a desk review of certification files and to evaluate inspector performance through a desk review of inspection reports in addition to an annual field evaluation. BCS confirmed that all certifiers and inspectors received a performance evaluation in 2023 and 2024 and submitted examples of evaluations. BCS identified one inspector that had not received a witness inspection (field evaluation) since 2022 and is not planning to assign that inspector any additional work in 2025 until the witness inspection has been completed. BCS plans to identify inspectors for witness inspections earlier in the calendar year and require that they are completed by the end of Q3 2025.

AIA-6564-23 - Accepted. 7 C.F.R. §205.663 states, "Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this part may be mediated at the request of the applicant for certification or certified operation and with acceptance by the certifying agent. Mediation shall be requested in writing to the applicable certifying agent. If the certifying agent rejects the request for mediation, the certifying agent shall provide written notification to the applicant for certification or certified operation. The written notification shall advise the applicant for certification or certified operation of the right to request an appeal, pursuant to §205.681, within 30 days of the date of the written notification of rejection of the request for mediation. If mediation is accepted by the certifying agent, such mediation shall be

conducted by a qualified mediator mutually agreed upon by the parties to the mediation. If a State organic program is in effect, the mediation procedures established in the State organic program, as approved by the Secretary, will be followed. The parties to the mediation shall have no more than 30 days to reach an agreement following a mediation session. If mediation is unsuccessful, the applicant for certification or certified operation shall have 30 days from termination of mediation to appeal the certifying agent's decision pursuant to §205.681. Any agreement reached during or as a result of the mediation process shall be in compliance with the Act and the regulations in this part. The Secretary may review any mediated agreement for conformity to the Act and the regulations in this part and may reject any agreement or provision not in conformance with the Act or the regulations in this part."

Comments: *BCS' settlement agreements do not consistently comply with the requirements of the USDA organic regulations. The auditors reviewed settlement agreements established by BCS and identified that the settlement agreements do not always include:*

1. *A defined period of time for the terms to be completed.*
2. *Definable terms or actions the operation must take in order to bring itself into compliance with the USDA organic regulations.*

Corrective Action: BCS issued an email on April 5, 2024, instructing staff to include a statement in settlement agreements explaining that the settlement agreement will be closed after the terms are met. BCS certifiers (reviewers) that had not previously completed the course "NOP-200 Advanced compliance and enforcement topics" completed it by August 7, 2024. BCS provided training to staff about the requirements for settlement agreements on September 3, 2024. BCS' updated its template "D-EN_14-427_Settlement Agreement Proposal_NOP_ecert letter 15" in June 2024 to include actions (terms) and the date for each action to be completed. BCS plans to update its procedure "A-EN_14_Certification System NOP" in the first quarter of 2025 to include additional information regarding issuance of settlement agreements. BCS plans to evaluate the compliance of settlement agreements during its annual program review.

AIA-6567-23 - Accepted. 7 C.F.R. §205.501(a)(5) states "A private or governmental entity accredited as a certifying agent under this subpart must: Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned."

Comments: *BCS does not consistently ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques prior to performing the duties assigned. The auditors reviewed certification files and interviewed certification staff and found that inspectors and staff responsible for post-inspection reviews, certification decisions, and pesticide residue test analysis do not consistently demonstrate that they have sufficient expertise to implement a compliant certification program. The auditors identified the following examples:*

1. *A post-inspection reviewer of a wild crop mushroom operation stated they did not have any experience with mushroom production and therefore did not identify possible concerns related to the species of mushroom produced, the inspector's mass balance, and the harvest estimates provided by the operation.*
2. *BCS issued a noncompliance to an operation regarding a detection of chlorpyrifos and Spinosad in organic products. BCS review staff accepted a corrective action that only addressed the detection of Spinosad but not the detection of chlorpyrifos.*

Corrective Action: BCS implemented a new mushroom OSP annex "D-EN_14-228_OSP Annex_Mushroom Production" and policy for mushroom production certification "D-EN_14-156_Policy_Organic Mushroom Production" in August 2024. BCS provided training on the new

mushroom OSP and policy to staff in English on July 30, 2024, in Spanish on August 5, 2024, and on September 3, 2024, for staff in Turkey. BCS investigated its certification activities for the operation with a positive residue detection of Spinosad. BCS submitted evidence that it correctly accepted a corrective action from the operation to downgrade the land to conventional status, but BCS did not describe the corrective action on the notice of noncompliance resolution. BCS plans to provide additional training to its certifiers (reviewers) on the noncompliance and adverse action process by then end of June 2025.

AIA-6568-23 – 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditor reviewed BCS's material input review program policies and found that there is no written procedure regarding the frequency of material rereview as required by* ***NOP 3012 Interim Guidance Material Review****.*

Corrective Action: BCS updated its procedure "Input Evaluation Program for use in Organic Agriculture" in March 2024 to re-evaluate approved inputs annually when the approval is renewed and anytime an input manufacturer reports a change to the composition and formulation of an input. BCS plans to assess if the procedure is effectively implanted during its annual program review. BCS also plans to utilize a consultant to provide training to staff on input review in 2025.

AIA-6569-23 - 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: *BCS does not carry out the provisions of the Act and the regulations. The auditor reviewed material input review documentation and found that BCS allowed a certified operation to use liquid fertilizers with over 3% nitrogen, even though the manufacturer of the fertilizer did not have an annual onsite inspection or receive annual unannounced inspections, as required by* ***NOP 5012 Approval of Liquid Fertilizers for Use in Organic Production****.*

Corrective Action: BCS updated its procedure "Input Evaluation Program for use in Organic Agriculture" in March 2024 that prompts staff to conduct one announced inspection and one unannounced inspection annually of input manufacturers of liquid fertilizers with a nitrogen analysis greater than 3 percent. BCS inspected all liquid fertilizer manufacturers in 2024. BCS plans to evaluate the implementation of the procedure during its annual program review through the selection of operation files involving liquid fertilizers.

AIA-6570-23 - 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: *BCS's material input review program does not consistently perform a sufficient review of materials to verify compliance with § 205.105(a) and § 205.601. The auditors reviewed material input review documentation and found the following examples:*

1. *BCS approved a fertilizer containing two ingredients with distinct use restrictions but only verified one of the use restrictions was met for the final product.*

2. *BCS approved a pesticide with an active ingredient listed on the National List with a use restriction but did not verify the use restriction was met for the final product.*
3. *BCS approved a fertilizer containing an ingredient derived from a material listed on **NOP 5034-2 Appendix of Prohibited Materials for Organic Crop Production** without documentation of the nonsynthetic status of the ingredient.*

Corrective Action: BCS stated that material use restrictions were verified but not documented. BCS updated its procedure "Input Evaluation Program for use in Organic Agriculture" in March 2024 to document all approved material use restrictions on the material's "certificate of compatibility." BCS no longer approves the fertilizer containing a prohibited ingredient and is evaluating whether any other materials contain the same ingredient and will discontinue their approval, if necessary.

AIA-6571-23 - Accepted. 7 C.F.R. §205.501(a)(5) states "A private or governmental entity accredited as a certifying agent under this subpart must: Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned."

Comments: *BCS does not consistently ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques prior to performing the duties assigned. During a witness audit of a handing operation inspection, the auditors found that the inspector did not know or follow BCS' material approval process. The inspector approved the operator's request to use two material inputs instead of forwarding the operator's request to BCS for assessment, per BCS procedures, and also approved pest control products based on an email from the operation that did not include technical documentation demonstrating compliance with the NOP.*

Corrective Action: BCS issued an email on July 19, 2023, informing staff that an inspector cannot approve inputs and that all requests for input approval must be forwarded to BCS Germany for a certifier (reviewer) to evaluate compliance. BCS verified the inputs approved by the inspector were compliant. BCS updated its inspection checklist guidance section for input verification on October 24, 2024, to state that assessors (inspectors) are not allowed to approve inputs.

AIA-6572-23 – 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 a sufficient number of 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: *BCS does not have a sufficient number of personnel to implement its USDA organic certification program. BCS is not consistently issuing notifications of proposed adverse action in a timely manner after an operation fails to successfully correct or rebut a noncompliance. The auditor's review of certification files found that in one case, BCS issued a notice of proposed suspension to an operation seven months after the operation failed to respond to a notice of noncompliance. In another case, BCS issued a notice of suspension to an operation a year after the operation failed to respond to the notice of proposed suspension.*

Corrective Action: BCS increased its staff capacity for NOP certification activities. BCS' NOP Scheme manager is now dedicated to NOP activities only. One person was hired to assist with NOP accreditation management as of June 2024 and two additional certifiers (reviewers) were hired in 2024. BCS hired one additional person in 2023 for the service team. BCS created an

interface for data transfer from its Ecert (Intact) software to the Organic Integrity Database, intended to improve staff efficiency and capacity. BCS also renewed its contract with a consultant for NOP technical certification questions.

AIA-6573-23 - 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: *BCS does not demonstrate the ability to fully comply with the requirements for accreditation. Specifically, BCS' certification offices are not carrying out the provisions of the Act and regulations, despite BCS' NOP scheme manager at the head office communicating to BCS' certification offices what is necessary to comply. The auditors found the following:*

1. *BCS did not submit all documents from its certification offices to the NOP auditors in English, as required by **NOP 2024 Information Submission Requirements for Certifying Agents**. Interviews with staff found that, in advance of the audit, BCS' NOP scheme manager at the head office had communicated to BCS' certification offices that all files must be translated to English for the NOP auditors, however, the certification offices did not provide BCS' NOP scheme manager with translated documents.*
2. *BCS' certification offices did not complete inspections and reviews, or issue notifications of adverse action in a timely manner. Interviews with staff found that BCS' NOP scheme manager at the head office had already identified these issues and repeatedly followed up with the relevant staff to complete the tasks, however, the staff did not do so.*
3. *BCS could not provide evidence of inspector evaluations for all staff from its certification offices who were due to receive evaluations. Interviews with staff found that the NOP scheme manager at the head office had repeatedly requested this information from BCS' certification offices. The certification offices either did not meet the NOP scheme manager's deadlines or did not acknowledge the request.*

Corrective Action: BCS' NOP team has been reorganized to include one NOP scheme manager, one technical manager and one part-time position dedicated to the NOP standard. BCS assigned one full-time and another part-time position to support the BCS NOP team upon request. BCS NOP team plans to translate documents when translations are not provided by local offices. BCS updated its procedure "C-EN_09-04-19 Technical Reviewer and Decision Maker International" in June 2024 to include timelines for certification activities. BCS updated its procedure "Memo 21 NOP Non-conformity Follow-up" in May 2024 prompting staff to set deadlines for noncompliances within the BCS database and establishing responsibility of local office staff to follow-up on timelines. BCS identified one past due inspector witness audit to be completed in 2025. BCS updated its procedure "C-EN_04-02-03_Initial and Continuous Training of Staff Members" authorizing the BCS NOP scheme manager to temporarily suspend an employee from work duties and to include the process of re-evaluation and reinstating the employee.

USDA Agricultural Marketing Service

National Organic Program
1400 Independence Avenue, SW.
Room 2642-South, STOP 0268
Washington, DC 20250-0268

NATIONAL ORGANIC PROGRAM: AUDIT & CORRECTIVE ACTION REPORT

GENERAL INFORMATION

- **Certifier Name** Kiwa BCS Oko-Garantie GmbH (BCS)
- **Physical Address** Marientorgraben 3-5, Nürnberg, D-90402, GERMANY
- **Audit Type** Compliance Audit
- **Auditor(s) & Audit Dates** Jessica Walden, Patricia Bursten, 04/04/2022 to 05/06/2022
- **Audit Identifier** NOP-30-21

CERTIFIER OVERVIEW

A compliance audit of Kiwa BCS Oko-Garantie GmbH's (BCS) certification program was conducted according to the Settlement Agreement executed with USDA AMS on July 14, 2020 (amended September 15, 2021). The objective of the audit was to verify whether BCS adequately met the Settlement Agreement terms and to verify BCS' implementation of corrective actions from previous noncompliances.

BCS is accredited to the scopes of Crops, Wild crops, Livestock, and Handling. BCS has approximately 1,663 NOP certified operations worldwide, which may be certified to several certification scopes. The breakdown of scopes is as follows: 917 crops, 70 wild crops, 77 livestock (beekeeping and yaks), 1,214 handling operations, and 263 grower groups. The main office for NOP certification for BCS is in Nuremberg, Germany, and includes National (German) and International Departments. BCS also has an office in Costa Rica that conducts reviews and makes certification decisions under the oversight of BCS in Germany. BCS has additional offices or representatives in 17 countries that provide inspection services and serve as the point of contact for local operations.

BCS conducts NOP certification activities in the following countries: Albania, Austria, Azerbaijan, Cambodia, China, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Georgia, Germany, Guatemala, Honduras, Hong Kong, Kenya, Kingdom of Saudi Arabia, South Korea, Latvia, Lesotho, Malawi, Mexico, Moldova, Morocco, Mozambique, Namibia, Paraguay, Peru, Philippines, Senegal, South Africa, Spain, Swaziland, Taiwan, Tanzania, Thailand, Tunisia, Turkey, Uruguay, Vietnam, and the USA.

NOP DETERMINATION:

NOP reviewed the audit results to determine whether BCS' adequately met the Settlement Agreement terms and whether BCS' 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 term labeled as "**Adequate**," indicates that the term was determined to have been met. 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.

Verification of July 14, 2020 Settlement Agreement (amended September 15, 2021):

Verification of Term A – Adequate.
Verification of Term B – Adequate.
Verification of Term C – Adequate.
Verification of Term D – Adequate.
Verification of Term E – Adequate.
Verification of Term F – Adequate.

Noncompliances from Prior Assessments

AIA-3530-20 - Cleared.
AIA-3531-20 - Cleared.
AIA-3985-20 - Cleared.
AIA-3986-20 - Cleared.
AIA-3987-20 - Cleared.
AIA-3988-20 - Cleared.
AIA-3989-20 - Cleared.
AIA-3990-20 - Cleared.
AIA-3991-20 - Cleared.
AIA-3992-20 - Cleared.
AIA-3993-20 - Cleared.
AIA-3994-20 - Cleared.
AIA-3995-20 - Cleared.
AIA-3996-20 - Cleared.
AIA-3997-20 - Cleared.

AIA-3998-20 - Cleared.

AIA-5104-21 - Cleared.

Noncompliances Identified during the Current Assessment

AIA-919-22 - 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditors observed or identified the following issues while conducting witness audits and reviewing certification files:*

1. *BCS inspectors are consistently not verifying whether the information on Organic System Plans (OSP) accurately reflects the practices used by the certified operations. Organic system plans do not reflect the operation's current practices. Additionally, the auditor's review of inspection checklists found that inspectors are not identifying that an operation's organic system plan needs to be updated even though the inspection checklist describes and records activities that should be in the operation's organic system plan.*
2. *BCS review personnel are not adequately reviewing the organic system plans to determine whether they are complete and demonstrate the operation's ability to comply with the USDA organic regulations.*

Corrective Action: BCS provided training to its 'certifiers' (reviewers) on April 20, 2023, and to its inspectors on June 16, 2023, regarding the requirement to identify if an OSP is complete and accurately reflects an operation's current practices. BCS' training for certifiers also included the requirement to issue a notice of noncompliance for an incomplete or inaccurate OSP. BCS updated its *D-EN_09-201_OSP_Agricultural Production OSP* by adding a question about post-harvest handling that requests more detailed information from the operation to address the specific observation made during the NOP witness audit regarding the inaccurate OSP. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

AIA-920-22 - 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: *BCS does not fully implement the NOP's international organic trade arrangement policies and procedures, which are outlined in the NOP's International Trade Policies resources. A witness audit of a handling operation and a review of handling files for operations with products listed as verified to the US/Canada Organic Equivalency Arrangement found that the inspection report templates do not prompt inspectors to verify that the operation continues to comply with the terms of the arrangement through, for example, verification of use of compliant labels and ingredient suppliers.*

Corrective Action: BCS updated its NOP-COR inspector checklist to prompt the inspector to verify ingredient suppliers and product labels conform with the requirements of the US/Canada Organic Equivalency Arrangement. BCS provided instructions to staff for implementing the

updated checklist on April 14, 2023. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

AIA-921-22 - 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditors' witness audits and review of certification files identified the following issues:*

1. *BCS' organic system plan (OSP) templates do not fully verify an operation's compliance with the USDA organic regulations. The templates do not address the requirements of §205.201(a)(3), which require operators to provide a description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented.*
2. *BCS does not fully implement the criteria for grower group certification, as required by* ***NOP Policy Memo 11-10 Grower Group Certification****.*
    a. *The Internal Control System (ICS) OSP template does not include the requirement that all non-compliances detected by the ICS at the production unit, site, or facility or at the sub-unit or member level be reported to the certifier per § 205.400(f).*
    b. *BCS does not require an ICS for all grower groups. BCS plans to require an ICS to be implemented for all grower groups by the end of 2023.*
3. *BCS does not fully implement the requirements for organic apiculture certification. The OSP template for bee keeping does not specifically request the following information from operations:*
    a. *A description of all crops grown and any sources of potential contamination located within the 1.8 mile (3 km) forage zone; and*
    b. *A description of crops grown and high-risk activities located in the surveillance zone of 2.2 miles (3.4 km) beyond the forage zone.*

Corrective Action: BCS implemented the following corrective actions:

1. BCS submitted an updated *D-EN_09-201_OSP_Agricultural Production OSP* template that includes a section for operations to describe monitoring practices and procedures to be performed and maintained to verify that their OSP is effectively implemented. BCS submitted the OSP template as an example of how all operations will come into compliance when a new OSP is implemented in February 2024 that combines all scopes of certification into one document. BCS created three additional documents (*Additional questions NOP_certifiers.docx, IR Annex_Additional questions NOP_inspectors.docx,* and *OSP Annex_Additional questions NOP_operators.docx*) to be used temporarily starting in December 2023; for operations to describe their OSP monitoring practices and procedures; and to prompt BCS' inspectors and it's 'certifiers' (reviewers) to verify compliance until BCS implements a new OSP in 2024.
2. BCS implemented an updated grower group OSP template *D-EN_09-221_Annex_OSP_ICS Groups* in October 2022 to request an operation's procedures for non-compliances detected by the Internal Control System (ICS). BCS' updated template also includes added language that farmer groups (grower groups) must have a functioning

ICS. BCS updated its inspection checklist in July 2022 to prompt inspectors to verify that all noncompliances detected by the ICS have been reported to BCS. BCS plans to include a more specific question about reporting noncompliances detected by the ICS in its new OSP in February 2024.

3. BCS implemented an updated *D-EN_09-205 Apiculture OSP* template in February 2023 that requires the operation to provide a description of crops grown, sources of potential contamination within the forage zone and high-risk activities in the surveillance zone.

BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

AIA-922-22 - 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: *BCS inspectors are not always carrying out the provisions of the Act and regulations. The auditors observed or identified the following issues while conducting witness audits and reviewing certification files:*

1. *The auditors' review of an inspection report for a new applicant found that the mass balance exercise was not conducted adequately. The inspector did not identify the time frame, and no information was provided for finished product produced, sold and in inventory.*
2. *During one witness audit of on handler in Turkey, the auditor observed that the inspector did not sample original operator records during the mass balance exercise, such as invoices and bills of lading, to verify the sources of numbers. Instead, the inspector relied on information that was produced by the operation and the operator data maintained by the BCS office in Turkey.*

Corrective Action: BCS issued a training email to Turkey inspectors on April 24, 2023, describing the noncompliant mass balance activities and instructing inspectors how to conduct a compliant mass balance. BCS issued an email to all inspectors on May 12, 2023, reminding them of the requirements for conducting a compliant mass balance. BCS provided training to all inspectors on June 16, 2023, that reviewed this NOP noncompliance and the mass balance requirements. BCS also provided training to its 'certifiers' (reviewers) on April 20, 2023, instructing them to verify that the mass balance information submitted by inspectors demonstrated a compliant process was followed and included verification of original operation records.

AIA-923-22 - 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: *BCS does not consistently demonstrate the ability to fully comply with the requirements for accreditation. The auditor's review of denial of certification files found the following issues:*

1. *The notices of noncompliance, which were issued to the applicants prior to the issuance of the notices of denial, incorrectly state that if the operation does not request mediation or appeal, they will receive a notice of proposed suspension.*
2. *One denial of certification file included a settlement agreement that incorrectly states that if the terms are not met, the operation will receive a notice of proposed suspension.*

Corrective Action: BCS updated its notice of noncompliance template *D-EN_14-415_Notice of non-compliance L2_NOP* to correctly state that if a rebuttal is unsuccessful or BCS does not receive proposed corrective actions, an applicant will receive a notice of denial and a currently certified operation will receive a notice of proposed suspension. BCS updated its settlement agreement template *D-EN_14-427_Settlement Agreement Proposal_NOP* to correctly state that failure to comply with the settlement agreement will result in a notice of denial for applicants and a notice of proposed suspension for certified operations. BCS published the updated templates in ECERT and implemented them on June 16, 2023.

AIA-924-22 - 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: *BCS does not consistently verify that certified operations are using input materials in compliance with the USDA organic regulations National List. The auditors found the following:*

1. *OSPs are not consistently listing the restricted use of input materials or identifying how materials will be used in compliance with their NOP restriction.*
2. *Inspectors are not consistently recording how they verified the compliant use of restricted input materials.*

Corrective Action: BCS provided training to its 'certifiers' (reviewers) on April 20, 2023, that operations are required to describe how inputs are used in compliance with restrictions and that inspectors are to verify compliance. BCS also issued a memo to certifiers and inspectors on May 12, 2023, instructing them to verify an operation's use of inputs complies with the input's restrictions, when applicable. BCS plans to update its OSP for operations when BCS implements a new OSP in February 2024 that combines all scopes of certification into one document. BCS created three additional documents (*Additional questions NOP_certifiers.docx, IR Annex_Additional questions NOP_inspectors.docx*, and *OSP Annex_Additional questions NOP_operators.docx*) to be implemented temporarily starting in December 2023; for operations to describe how they comply with input restrictions; and to prompt BCS' inspectors and its certifiers to verify compliance until BCS implements a new OSP in 2024.

BCS instructed inspectors and certifiers to complete several training courses in the Organic Integrity Learning Center (OILC), including NOP-120 Input Review, by NOP November 20, 2023, for all offices except China. BCS is translating the NOP-120 Input Review to Chinese and plans to have the China office complete it by December 2023. BCS plans to disqualify inspectors and certifiers from certification work if the course is not completed on-time.

AIA-959-22 - Accepted. 7 C.F.R. §205.404(b)(3) states, "The certifying agent must issue a certificate of organic operation which specifies the: Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation."

Comments: *BCS' organic certificates for wild crop operations do not fully comply with the requirements of the USDA organic regulations. The auditors' review of one wild crop certification file found that the certificate incorrectly identifies the certification scope as "Wild Collection."*

Corrective Action: BCS updated its certificate template on June 21, 2022, to correctly list the wild crops scope by updating the terminology in its ECERT database used to generate certificates. BCS will issue an updated certificate to each operation during its annual certification cycle in 2023. BCS submitted an example of a compliant certificate issued to an operation listing the correct scope. BCS plans to review the effectiveness of this corrective action during its 2024 annual program review of certification files sampled from each country.

USDA Agricultural Marketing Service

1400 Independence Avenue, SW.
Room 2646-S, STOP 0268
Washington, DC 20250-0201

NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

AUDIT AND REVIEW PROCESS

An onsite Mid-term Audit of the Kiwa BCS Öko-Garantie GmbH (BCS) organic program was conducted on November 4 – 8, 2019. The National Organic Program (NOP) reviewed the corrective actions BCS submitted as part of the July 14, 2020 Settlement Agreement entered into by USDA Agricultural Marketing Service and BCS. This report includes the results of the NOP's review of the corrective actions.

GENERAL INFORMATION

Applicant Name	Kiwa BCS Öko-Garantie GmbH
Physical Address	Marientorgraben 3-5 Nuremberg, Deutschland 90402 Germany
Mailing Address	Marientorgraben 3-5 Nuremberg, Deutschland 90402 Germany
Contact & Title	Ms. Anna Schaab
E-mail Address	Anna.Schaab@kiwa.com
Phone Number	+49 (0)911 42439-31
Reviewers & Auditors	Graham Davis and Melissa Lahullier, NOP Reviewers; Lars Crail and Jessica Walden, On-site Auditors.
Program	USDA National Organic Program (NOP)
Review & Audit Dates	Corrective actions review: December 3, 2020 – March 11, 2021 NOP assessment review: December 20, 2019 Onsite audit: November 4 – 8, 2019
Audit Identifier	NOP-26-19
Action Required	No
Audit & Review Type	Mid-term
Audit Objective	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of BCS' certification system.
Audit & Determination Criteria	*7 CFR Part 205, National Organic Program as amended*
Audit & Review Scope	BCS' certification services in carrying out the audit criteria during the period: June 2017 through November 2019

BCS is accredited to the scopes of Crops, Wild crops, Livestock, and Handling. BCS has approximately 1,800 NOP certified operations worldwide: 1,200 crops, 68 wild crops, 36 livestock (beekeeping and yaks), 1,200 handling operations, and 181 grower groups.

The main office for NOP certification for BCS is in Nuremberg, Germany, and includes National (German) and International Departments. All inquiries and certification activities for the NOP are conducted at the Nuremberg office. Kiwa-BCS has additional offices or representatives in 17 countries that provide a variety of other contract certification services.

NOP DETERMINATION

The NOP reviewed the audit results to determine whether BCS' corrective actions adequately addressed previous noncompliances. The 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.

Noncompliances from Prior Assessments

AP-147-18.NC1– Cleared.
AIA17256GD.NC1 – Cleared.
NP4202OOA.NC5 – **Cleared.**
NP6103JZA.NC1 – **Cleared.**
NP6103JZA.NC2 – **Cleared.**
NP6103JZA.NC3 – **Cleared**.
NP6103JZA.NC4 – **Cleared.**
NP7171PZA.NC4 – **Cleared.**
NP7171PZA.NC5 – **Cleared.**
NP7171PZA.NC6 – **Cleared.**
NP7171PZA.NC7 – **Cleared.**
NP7171PZA.NC8 – **Cleared.**
NP7171PZA.NC9 – **Cleared.**
NP7171PZA.NC10 – **Cleared.**
NP7171PZA.NC11 – Cleared.
NP7171PZA.NC12 – Cleared.
NP7171PZA.NC13 - Cleared.
NP7171PZA.NC14 – **Cleared.**
NP7171PZA.NC15 – **Cleared.**
NP7171PZA.NC16 – **Cleared**
NOP-18-18.NC2 – Cleared.
NOP-18-18.NC3 – Cleared.

AIA-3530-20 – **Accepted.** (NOP4202OOA.NC8) 7 CFR § 205.660 (d) states, "Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed suspension or revocation, and suspension or revocation issued pursuant to §205.662, §205.663, and §205.665 and each response to such notification must be sent to the recipient's place of business via a delivery service which provides dated return receipts."

Comments: *Notifications are currently being sent to the operation's place of business via email, which does not provide dated returned receipts or confirm receipt of the notification by the legally responsible party.*

2015 Corrective Action: BCS selected an electronic delivery confirmation system that has been implemented in the German office as of May 31, 2015. A schedule of sequential implementation

has been developed and implementation in the remaining 15 foreign offices is expected to be completed by November 2015. Offices that do not have access to the BCS database are required to send the message via the German office (or another foreign office) using the delivery confirmation system.

2017 Verification of Corrective Action: BCS has installed Rpost for sending notices electronically with return receipts. All notices are processed in the main office in Nuremberg and saved in the database. For operations located in a country with a BCS satellite office, the staff at the satellite office will be notified the notices are ready to send and satellite office staff is expected to send the notices to the operator via RPost. Interviews with two administrative staff who send out notices indicated that Rpost is not being used consistently. The main office did not have records of the satellite offices sending notifications via Rpost.

2017 Corrective Action: BCS conducted an internal review of their procedure requiring the use of a delivery confirmation service and determined that RPost is being used by the satellite offices but the receipts generated are not being filed into their system. BCS procedure instructs their satellite office staff to save the RPost receipts in the system. The NOP scheme management is requesting monthly reports from satellite offices until the implementation of RPost is verified. BCS determined that BCS Latin America is still having issues implementing RPost. The administration of BCS Germany is prepared to take over the forwarding of NOP documents for clients in Latin America to ensure the use of RPost by June 1, 2018.

2019 Verification of Corrective Action: This corrective action is not implemented. BCS implemented RPost as a corrective measure; however, a new version of MSOutlook was introduced and appears to be incompatible with RPost. The office in Germany is unable to use RPost and resorted to only using MSOutlook without receiving a return receipt. During the auditors' review of several cases where notices were issued to operations, the regional offices failed to update a register for indicating that RPost was used and there was no evidence or record demonstrating that a return receipt system is used.

2020 Corrective Action: In January 2020, BCS' IT Department in Germany installed a compatible version of RPost as an add-on to MSOutlook. This will allow BCS' office in Germany to send notices to NOP operations with return receipts. BCS sent an email to all staff on February 2, 2020 reminding them of the requirement to send NOP Notices via RPost.

AIA-3531-20 – **Accepted.** (NP7171PZA.NC1) 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: *When an operation does not respond to BCS' request to submit their annual update for certification, BCS issues a notice to the operation cancelling the certification contract rather than issuing a notice of noncompliance.*

2017 Corrective Action: BCS revised their procedure to require their staff to initiate the adverse action process instead of canceling a contract if an operations fails to respond to their request for annual renewal. BCS sent a memo to their satellite office staff and staff in Nuremberg to notify them of the change in their procedure.

2019 Verification of Corrective Action: This corrective action is not adequately implemented. Noncompliances are not issued when an operation fails to submit an update on or before their anniversary date. Interviews with BCS certification staff indicate that not all their regional offices notify operations when updates are to be received/submitted. It is left up to the regional offices and in many cases, inspectors are tasked with notifying and obtaining the updates from operations. BCS' office in Germany is not monitoring whether operations are submitting updates on or before the anniversary dates.

2020 Corrective Action: BCS has updated its template *Notice of Contract Cancellation* (D-EN_09-090) to remove reference to NOP and has created a template for a Notice of Noncompliance for operations who do not submit updates to their OSP on time. The procedure change was communicated to BCS' other offices during the Biofach Manager Meeting and via email. Additionally, BCS is requiring that its satellite offices submit a monthly report to the Germany office that lists any NOP operations that haven't submitted an update by two months after their anniversary date.

AIA-3985-20 – **Accepted.** (NP7171PZA.NC2) 7 C.F.R. §205.405(d) states, "A notice of denial of certification must state the reason(s) for denial and the applicant's right to: Reapply for certification pursuant to §§205.401 and 205.405(e); Request mediation pursuant to §205.663 or, if applicable, pursuant to a State organic program; or File an appeal of the denial of certification pursuant to §205.681 or, if applicable, pursuant to a State organic program."

Comments: *Notices of Denial reviewed during the audit did not include notification to the operation that their certification is being denied, nor does the notice include the option to file an appeal with the NOP.*

2017 Corrective Action: BCS revised their notification of denial of certification template to include information that explains why an operation is being denied certification and that the operation has the right to appeal.

2019 Verification of Corrective Action: This corrective action has not been implemented. The Notice of Certification Denial template was modified to include a statement of certification denial and the right to appeal; however, this template is not consistently issued to operations due to issues with implementation of new certification software. Instead, an evaluation report is issued to the operation, but there is no certification decision stated, nor are the options to request mediation or file an appeal.

2020 Corrective Action: BCS' compliant Notice of Denial template had not been uploaded into BCS' ECERT system at the time of the Midterm Assessment and was therefore not being issued. The compliant template has been submitted to NOP and will be uploaded into BCS' ECERT system for use in BCS' offices in China, Turkey, Latin America and Germany. Other BCS satellite offices will generate the Notice of Denial from a template maintained in a folder.

AIA-3986-20 – **Accepted.** (NP7171PZA.NC3) 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. Such notification shall provide: A description of each noncompliance; the facts upon which the notification of noncompliance is based; and the date by which the certified operation

must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible."

Comments: *The auditor identified the following issues:*

1. *Notices of Noncompliance do not include the option for rebuttal.*
2. *Following a residue detection above 5% of EPA tolerance level, BCS issued the operation a Notification of Decision on Noncompliance and provided mediation and appeal rights. This notice does not follow NOP compliance procedures. It appears to be a combined notice of noncompliance and proposed suspension. It does not state the section of the regulation that is noncompliant; provide deadlines for when a mediation request must be received; or provide information about where to appeal. The notice states that this is a final certification decision without appeal options.*

2017 Corrective Action: BCS has informed staff members to use the letter templates in their quality manual. BCS hired a new staff person in 2017 whose is responsible for all pesticide residue cases, is aware of the requirements, and is sending out notices that will comply with the regulations. BCS revised their procedure for investigations into positive residue testing with instructions to cite the regulations, when to include the option for rebuttals, and when to include the option to request mediation or file and appeal. BCS submitted a revised notice of noncompliance that includes the option to for rebuttal. BCS submitted a revised notice of proposed suspension/revocation template that provides instructions on requests for mediation and appeal.

2019 Verification of Corrective Action: This corrective action has not been implemented. The auditor reviewed an issued noncompliance notice that did not state the operation may "rebut" noncompliances. BCS' current noncompliance notice template does include a right to "rebut" noncompliances, but it has not been implemented.

2020 Corrective Action: BCS' compliant Notice of Noncompliance template had not been uploaded into BCS' ECERT system at the time of the Midterm Assessment and were therefore not being issued. The compliant template has since been uploaded into BCS' ECERT system and is available for use in BCS' offices in China, Turkey, Latin America and Germany. Other BCS satellite offices will generate the Notice of Noncompliance from a template maintained in a folder.

AIA-3987-20 – Accepted. (NOP-18-18.NC1) 7 C.F.R. §205.501(a)(11) 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: *The auditor's review of notices of noncompliance issued by BCS found that the notices included a description of how the noncompliances should be corrected. Notices of noncompliance should reference the regulations and provide enough evidence for the operation to either rebut the noncompliance or provide corrective measures to address the noncompliance and prevent a reoccurrence.*

2019 Corrective Action: BCS updated the notice of noncompliance template to no longer include a description of the proposed corrective action for the operator. BCS submitted a new procedure for noncompliances and has communicated to all offices of the changes to the

procedure and noncompliance template. The new template will be in use by July 31, 2019 and staff will be trained up the updates at that time. BCS submitted the updated template.

2019 Verification of Corrective Action: This corrective action has not been implemented. The current Notice of Noncompliance template (no control number) continues to include a section for the certifier to indicate what corrective action(s) would be accepted. The auditor reviewed recently issued notices of noncompliance and found BCS continues to indicate how noncompliances are to be corrected.

2020 Corrective Action: Effective March 12, 2020 BCS is reviewing Notices of Noncompliance to ensure that they do not include a description of how the noncompliance should be corrected. Additionally, the compliant Notice of Noncompliance template has been uploaded into BCS' ECERT system to ensure that only compliant Notices are generated. For BCS' satellite offices that do not use the ECERT system, these Notices will be generated from a template in a folder. BCS informed the managers of its satellite offices of this change during the Kiwa BCS Biofach Meeting in February 2020 and also notified its operations of the change in February 2020 in a letter *Notice of change in NOP procedure – Formulation of corrective action by client*.

AIA-3988-20 – Accepted. (NOP-18-18.NC4) 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:" For grower group operations, this involves reviewing the Internal Control System.

Comments: *During a witness audit of an inspection of a grower group, the auditor observed that the BCS-Peru inspector did not identify a non-functioning Internal Control System (ICS) as an issue of concern. The inspector identified several potential noncompliances regarding the operation's recordkeeping and practices but did not identify an insufficient ICS as an issue of concern.*

2019 Corrective Action: BCS is in the process of developing a grower group policy for staff reviewing and inspecting grower groups. BCS submitted a draft copy of the policy which includes verifying the duties of the grower group ICS. BCS will complete the policy by June 30, 2019, and train staff at that time.

Verification of Corrective Action: This corrective action has not been adequately implemented. Current policy contains guidance for inspectors and reviewers to identify and record when grower group internal control systems are not functioning. This policy/guidance was recently implemented; however, the program manager could not locate a recent case where the inspector identified an ICS as an issue of concern or where it was issued as a noncompliance.

2020 Corrective Action: BCS stated that a high percentage of their grower group clients had received their annual inspection just prior to the issuance of the updated policy guidance. Additionally, the inspection reports for operations inspected in 2019 were in review at the time of the Midterm Audit. The corrective action will be verified by NOP during the next audit.

AIA-3989-20 – Accepted. (NOP-18-18.NC5) 7 C.F.R. §205.403(c)(1) states, "The on-site inspection of an operation must verify: The operation's compliance or capability to comply with the Act and the regulations in this part; …."

Comments: *BCS-Peru's inspectors are not conducting and recording in/out balance and traceability audits during inspections of certification applicants.*

2019 Corrective Action: BCS updated the Harvesting area, quantities, validation and documentation instruction document. BCS updated Section 4 to include that in/out balance and traceability audits must be conducted for new operations. BCS will train staff on the clarification by June 30, 2019.

2019 Verification of Corrective Action: The auditor verified accurate traceability activities were conducted by inspectors during the witness audits of two inspections including a Crops and Handling operation and a Trader. Mass balance activities were conducted during the witness audit of the Trader. However, mass balance activities were not adequately conducted during the witness audit of a Crops and Handling operation.

2020 Corrective Action: BCS has updated its template for recording mass balance exercises during an inspection. The revised template includes a column for the inspector to record any waste reported by the operation. BCS will also conduct training for staff on conducting mass-balance exercises. The training is tentatively scheduled for April 2021.

Noncompliances Identified during the Current Assessment

AIA-3990-20 – **Accepted.** (NOP-26-19.NC1) 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;" 7 C.F.R. §205.404(c) states, "Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, the State organic program's governing State official, or the Administrator."

Comments: *BCS is cancelling certification contracts with operators that removes the operation's certification without suspension, revocation, or the operation surrendering its certification.*

Corrective Action: BCS has updated its procedure *NOP Certification System* A-EN_14 to address how it will transition its certified operations when eliminating certification services in their country/region. BCS will notify its Accreditation Manger of the reduction of scope and then will inform its operations that they must either apply to a new certifier or surrender. If a BCS certified operation does not provide evidence of application to a new certifier, BCS will issue a Notice of Noncompliance and follow the adverse action process. The change in procedure was communicated to the managers of BCS' satellite offices during the BCS Biofach Meeting in February 2020.

AIA-3991-20 – Accepted. (NOP-26-19.NC2) 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…;"

Comments: *A review of several files and interviews with staff found a lack of understanding related to the noncompliance and adverse action processes. Findings include:*

- *Several different versions of the templates for notifications of noncompliance and proposed adverse action are currently used and not all versions contain language required under the USDA Organic Regulations.*
- *Review of one file found that the annual certification cycle was not clearly compliant:*
    - *The operator's anniversary date was stated on the certificate but had no bearing on when the updates were submitted by the operator*
    - *A review was carried out after the inspection in a timely fashion and noncompliances were recommended by the reviewer, but an additional inspection was also requested by the reviewer, which took place several months later. No noncompliance letter or certification decision was sent to the operator until 8 months later.*
    - *At the additional inspection, the "potential" noncompliances identified by the inspector at the earlier inspection were verified as corrected. However, when the final certificate and notice was sent out after the two inspections (8 months after the first inspection), the potential noncompliances that the inspector recommended in the first inspection report but verified as corrected in the second inspection, were stated as noncompliances in the final letter, with a compliance due date that had already passed.*
- *Review of three proposed suspension cases found the following:*
    - *The proposed suspension notice was not sent via a delivery service which provides dated return receipts*
    - *The notice did not include NOP regulation references specific to the noncompliances*
    - *BCS conducted an investigation of the operation after issuing them a notification of proposed suspension. Once a proposed suspension is issued, BCS has made its certification determination, so further investigation is unnecessary.*
    - *The proposed suspension notice was issued due to the operator's failure to respond to the noncompliance. However, BCS failed to issue a suspension notification and subsequently inspected the operation during which the inspector verified that the noncompliance had been resolved. The proposed suspension that was issued remains outstanding.*
- *Review of a proposed revocation case found that the notification requested corrective actions to be submitted. Once a proposed adverse action is issued, the operator's options are only to request mediation or file an appeal.*

Corrective Action: BCS has implemented the following corrective actions:

- BCS has uploaded compliant Notice templates into its ECERT system. These are available for use in BCS' offices in China, Turkey, Latin America and Germany. Other BCS satellite offices will generate Notices from templates maintained in a folder.
- In order to ensure adherence to the annual certification cycle, BCS has created "Technical Account Managers" who are responsible for following one project through the annual certification process. Their purpose is to prevent different BCS personnel from creating multiple assessments for the same project, since there will only be one Technical Account Manager per project. Additionally, BCS instructed its QM managers and Operational Managers of its satellite offices to adhere to the turnaround times outlined in BCS'

Service Level Agreements (SLAs). These SLAs are contracts between BCS' Nuremberg office and its satellite offices.

- BCS sent an email to all staff on February 2, 2020 reminding them of the requirement to send NOP Notices via RPost BCS also updated its templates for Notice of Proposed Suspension and combined Notice of Noncompliance/Notice of Proposed Suspension to remove the operation's option of submitting corrective actions as a response. The updated templates will be uploaded to BCS' ECERT system. To address outstanding Notices of Proposed Suspension for several BCS operations, BCS has entered into settlement agreements with several of them and issued Notices of Suspension to others. BCS is using a spreadsheet to track the status of these operations.
- BCS updated its template for Notice of Proposed Revocation to remove the operation's option of submitting corrective actions as a response. The updated template will be uploaded to BCS' ECERT system.

AIA-3992-20 – Accepted. (NOP-26-19.NC3) 7 C.F.R. §205.501(a)(3) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Use a sufficient number of 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;" 7 C.F.R. §205.501(a)(19) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Accept all production or handling applications that fall within its area(s) of accreditation and certify all qualified applicants, to the extent of its administrative capacity to do so without regard to size or membership in any association or group;"

Comments: *BCS does not have a sufficient number of personnel and administrative capacity to adequately implement its USDA organic certification program. The auditor's review of certification files and interviews with staff found that since 2018 with changes to the certification program software, BCS does not have a consistent process for following through with adverse action processes in a timely fashion and according to the timeframes specified in the notices, which were sent to the relevant operators. Specifically, BCS is not:*

- *Consistently closing out notices of proposed adverse action in a timely manner after an operation fails to seek mediation or appeal. Certification Staff confirmed that approximately 120 proposed suspension notices have been issued since the last onsite audit in 2017 but have not been closed out and remain open. Relevant operations are still considered to be in good standing and annual monitoring is carried out.*
- *Consistently issuing notices of proposed adverse action in a timely manner after an operation fails to successfully correct or rebut a noncompliance. The auditor's review of a certification file on 11/08/2019 found that a notice of noncompliance for a noncompliant label was issued on 4/25/19 with a corrective action due date of 6/30/19. To date, the operator has not submitted their corrective action and BCS has not issued a notice of proposed adverse action.*
- *Consistently following up with operators who have not submitted annual updates for certification with notices of noncompliances.*
- *Consistently using the Rpost system for sending return receipt emails for notices of noncompliance notices, adverse action notifications, resolution letters, and responses to those.*

- *Managing and closing the certification cycle for the prior year before the subsequent year's anniversary cycle (anniversary date).*

Corrective Action: BCS has implemented the following corrective actions:

- To address the outstanding Notices of Proposed Suspension, BCS has entered into settlement agreements with several of the operations and issued Notices of Suspension to others. BCS is using a spreadsheet to track the status of these operations.
- BCS has assigned Technical Account Managers to projects. These BCS staff will be responsible for tracking the status of noncompliances issued to the operation.
- BCS revised their procedure to require their staff to initiate the adverse action process instead of canceling a contract if an operations fails to respond to their request for annual renewal. BCS sent a memo to their satellite office staff and staff in Nuremberg to notify them of the change in their procedure.
- In January 2020, BCS' IT Department in Germany installed a compatible version of RPost as an add-on to MSOutlook. This will allow BCS' office in Germany to send notice to NOP operations with return receipts. BCS sent an email to all staff on February 2, 2020 reminding them of the requirement to send NOP Notices via RPost.
- In order to ensure adherence to the annual certification cycle, BCS has created "Technical Account Managers" who are responsible for following one project through the annual certification process.

AIA-3993-20 – Accepted. (NOP-26-19.NC4) 7 C.F.R. §205.402(a)(4) states, "Upon acceptance of an application for certification, a certifying agent must: Schedule an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals that the production or handling operation may be in compliance with the applicable requirements of subpart C of this part."

Comments: *BCS does not consistently review the application prior to conducting the initial onsite inspection of an applicant for certification. Interview with staff found that, since the database migration to the new certification program software in 2018, initial application reviews for applicants are inconsistently conducted.*

Corrective Action: BCS has assigned reviewers by region to review applications prior to the initial onsite inspection of an applicant for certification.

AIA-3994-20 – Accepted. (NOP-26-19.NC5) 7 C.F.R. §205.642 states, "Fees charged by a certifying agent must be reasonable, and a certifying agent shall charge applicants for certification and certified production and handling operations only those fees and charges that it has filed with the Administrator. The certifying agent shall provide each applicant with an estimate of the total cost of certification and an estimate of the annual cost of updating the certification."

Comments: *BCS does not always provide certified operators with the full estimate of the annual cost of updating certification. The auditor's review of a certification file found that there is reference to additional inspector travel and lodging fees on the annual fee estimate but an estimated cost for these additional expenses is not provided in the total fee estimate.*

Corrective Action: BCS has updated its template for *Offer for Inspection and Certification* (QM doc_02_ALL_010_EN_) to include cost estimates for the inspector's travel expenses and accommodations.

AIA-3995-20 – Accepted. (NOP-26-19.NC6) 7 C.F.R. §205.501(a)(4) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Use a sufficient number of 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: *During the label and formula review by the auditor, the following issues were found:*

- *Several labels approved by BCS were not compliant with §205.303(b)(1), which states: "For products labeled 'organic,' identify each organic ingredient in the ingredient statement with the word, 'organic,' or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced." Organic ingredients were not identified as such in the ingredient statement of product labels making the "organic" certification claim and approved by BCS.*
- *Review of the product formulation sheet for one product found the listing of several nonorganic ingredients and processing aids. The product formula was approved by BCS, but the auditor found it to be not compliant with §205.302 Calculating the percentage of organically produced ingredients. The percentage of organic ingredients was not calculated by dividing the total net weight (excluding water and salt) of combined organic ingredients at formulation by the total weight (excluding water and salt) of all ingredients. BCS believed the nonorganic additives to be processing aids, not ingredients.*

Corrective Action: BCS has implemented the following corrective actions:

- BCS plans to issue the operation a Notice of Noncompliance for the noncompliant labels. BCS has also created a document summarizing label requirements entitled *Label requirements NOP and EU* that has been distributed to staff. BCS plans on conducting additional training on labeling for staff in the future, potentially as an add-on to training already scheduled for June and July 2021.
- BCS will update its policy *Annex CA15_Label requirements* to include a section about calculating the percentage of organic ingredients in a multi-ingredient product. The policy will include the NOP definition of ingredients, guidance on how to conduct the calculation as well as a reference to the NOP 5037-1 Sample Calculation Worksheet. BCS will carry out staff training on calculating the percentage of organic ingredients. For BCS' reviewers and certification staff, the training is planned for March 2021. For inspectors, BCS plans to incorporate the topic into existing training planned for the first half of 2021.

AIA-3996-20 – Accepted. (NOP-26-19.NC7) 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: *BCS is not able to demonstrate the ability to fully comply with the requirements for accreditation. The auditor's review of one grower group certification file found that BCS has no procedures to manage grower groups without an internal control system (ICS) when individual member issues are identified. For example, if one member or several members are found to apply noncompliant inputs, how are those members sanctioned? Are noncompliances issued to the group or to individual members? Is a full or partial proposed suspension issued to the group? During NOP interviews, BCS certification staff could not answer questions about how to address these issues.*

Corrective Action: BCS has updated its policy *Certification of Farmers Groups with ICS and without ICS* (D-EN 09-155 v.04). It states that Notices are issued to single members of the group when issues clearly only concern a single member of the group. When the issue appears to be related to the system as a whole, BCS will issue a Notice to the entire group. The policy update was communicated to BCS' technical staff on March 10, 2020.

AIA-3997-20 – Accepted. (NOP-50-19.NC1) 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: *BCS' organic certificates do not fully comply with the requirements of the USDA organic regulations. The effective date on certificates reviewed by the auditor were not the first date of USDA-NOP certification as required by NOP 2603.*

Corrective Action: BCS plans to issue the operation a new organic certificate that includes the correct effective date. BCS states that the issue was caused by BCS' migration from the QSYS database to the ECERT system which has not transferred the effective date of certification. Training was conducted on this topic at the Global Certifiers Meeting in September 2019 however the organic certificate for the operation in question had been issued prior to the training. Going forward, BCS staff will check if the effective date has been added to the ECERT system for all NOP clients and add this information if it is missing.

AIA-3998-20 – Accepted. (NOP-50-19.NC2) 7 C.F.R. §205.401(a) states, "A person seeking certification of a production or handling operation under this subpart must submit an application for certification to a certifying agent. The application must include the following information: An organic production or handling system plan, as required in §205.200."

Comments: *The Organic System Plan and Inspection Report do not verify the operation's production practices implemented to maintain or improve the natural resources of the operation, including soil and water quality as required by the USDA organic regulations and NOP 5020 Guidance Natural Resources and Biodiversity Conservation.*

Corrective Action: BCS plans to add a question to its NOP Organic System Plan (OSP) form asking operations to list practices that support natural resources and biodiversity conservation. BCS will also add a question to its inspection report template that requires inspectors to verify if an operation is maintaining and improving natural resources as described in the OSP.

USDA Agricultural Marketing Service

1400 Independence Avenue, SW.
Room 2646-S, STOP 0268
Washington, DC 20250-0201

NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

AUDIT AND REVIEW PROCESS

An onsite renewal assessment of Kiwa BCS ÖKO-GARANTIE GMBH's (BCS) organic program was conducted on June 20-23, 2017. The National Organic Program (NOP) reviewed the auditor's report to assess BCS' compliance to the USDA organic regulations. This report provides the results of NOP's assessment.

GENERAL INFORMATION

Applicant Name	Kiwa BCS ÖKO-GARANTIE GMBH (BCS)
Physical Address	Marientorgraben 3-5 Nuremberg, D-90402, Germany
Mailing Address	Marientorgraben 3-5 Nuremberg, D-90402, Germany
Contact & Title	Tobias Fischer, Certifier; Scheme Manager
E-mail Address	fischer@bcs-oeko.de
Phone Number	49 911 4 24 39 0
Reviewer(s) & Auditor(s)	Graham Davis, NOP Reviewer Penny Zuck and Miles McEvoy, On-site Auditors
Program	USDA National Organic Program (NOP)
Review & Audit Date(s)	Corrective actions review: December 5, 2017 NOP assessment review: July 26, 2017 Onsite audit: June 20-23, 2017
Audit Identifier	NP7171PZA
Action Required	None
Audit & Review Type	Renewal Assessment
Audit Objective	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of BCS' certification system.
Audit & Determination Criteria	*7 CFR Part 205, National Organic Program as amended*
Audit & Review Scope	BCS' certification services in carrying out the audit criteria during the period: July 24, 2014 through June 23, 2017

Kiwa BCS Öko-Garantie GmbH BCS is a private company under German law. It has been licensed as a private controlling agency since 1992 to implement the European Union (EU) Regulation on organic production. BCS offers services to companies worldwide, and the legal and technical supervision of work as a control office for organic farming is controlled by authorities of the region, Federal Government, and EU level.

BCS is accredited for the scopes of crops, wild crops, livestock, and handling. BCS has

approximately 1400 NOP certified operations worldwide with the majority certified for crops and handling. The main office for NOP certification for BCS is located in Nuremberg, Germany and includes National and International Departments. All inquiries and certification activities for the NOP are conducted at the Nuremberg office. Kiwa-BCS has additional offices or representatives in 17 countries that provide a variety of other contract certification services.

The BCS list of personnel identified 10 staff members as certifiers/reviewers and 3 are reviewers involved in the certification process. The certification program is divided into the International and National Departments. In addition, there are 137 staff inspectors and 54 subcontracted inspectors.

This was an office audit only. Witness and review audits will be conducted separately. One grower group witness audit was conducted in 2016.

NOP DETERMINATION:

The NOP reviewed the onsite audit results to determine whether BCS' 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.

NP4202OOA.NC1 – **Cleared**
NP4202OOA.NC2 – **Cleared**
NP4202OOA.NC3 – **Cleared**
NP4202OOA.NC4 – **Cleared**
NOP4202OOA.NC6 – **Cleared**
NOP4202OOA.NC7 – **Cleared**

NP4202OOA.NC5 – **Accepted.** 7 CFR § 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."

Comments: *A review of the personnel files found that there were 4 individuals that did not have current annual evaluations. Discussions with the Quality Manager revealed that inspectors are no longer receiving an annual evaluation. Inspectors, whether full-time or contracted staff, are*

considered part of certifying agent's personnel and are therefore subject to the personnel performance evaluations requirements.

2015 Corrective Action: The finding that four individuals did not have a current annual evaluation does not mean that BCS does not regularly conduct any evaluation of its technical staff. BCS conducts multiple evaluations of inspectors as follows: after each inspection the reviewer of the inspection documents provides feedback to the inspector, which serves as an evaluation of the inspector, but does not constitute a field evaluation of the inspector as required by the USDA organic regulations. BCS management updated the quality manual to specify that inspector field evaluations are required annually for any staff that conducts inspections for NOP certification.

2017 Verification of Corrective Action: A review of seven inspector personnel files and nine reviewer/certifier personnel files found that performance reviews were not conducted in 2015 for two reviewer/certifier personnel.

2017 Corrective Action: BCS reviewed their staff files and detected 3 staff-members did not get performance-evaluation in 2015. BCS submitted the 2017 performance evaluation of the staff member still employed with BCS. One person left BCS and the other person no longer conducts NOP inspections. BCS has revised their "how to" instruction regarding field evaluations to state that all inspectors must receive a field evaluation annually. BCS emailed it to all their satellite offices to remind their staff of this requirement.

NOP4202OOA.NC8 – **Accepted** – 7 CFR § 205.660 (d) states, "Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed suspension or revocation, and suspension or revocation issued pursuant to §205.662, §205.663, and §205.665 and each response to such notification must be sent to the recipient's place of business via a delivery service which provides dated return receipts."

Comments: *Notifications are currently being sent to the operation's place of business via email, which does not provide dated returned receipts or confirm receipt of the notification by the legally responsible party.*

2015 Corrective Action: BCS selected an electronic delivery confirmation system that has been implemented in the German office as of May 31, 2015. A schedule of sequential implementation has been developed and implementation in the remaining 15 foreign offices is expected to be completed by November 2015. Offices that do not have access to the BCS database are required to send the message via the German office (or another foreign office) using the delivery confirmation system.

2017 Verification of Corrective Action: BCS has installed Rpost for sending notices electronically with return receipts. All notices are processed in the main office in Nuremberg and saved in the database. For operations located in a country with a BCS satellite office, the staff at the satellite office will be notified the notices are ready to send and satellite office staff is expected to send the notices to the operator via RPost. Interviews with two administrative staff who send out notices indicated that Rpost is not being used consistently. The main office did not have records of the satellite offices sending notifications via Rpost.

2017 Corrective Action: BCS conducted an internal review of their procedure requiring the use of a delivery confirmation service and determined that RPost is being used by the satellite offices but the receipts generated are not being filed into their system. BCS procedure instructs their

satellite office staff to save the RPost receipts in the system. The NOP scheme management is requesting monthly reports from satellite offices until the implementation of RPost is verified. BCS determined that BCS Latin America is still having issues implementing RPost. The administration of BCS Germany is prepared to take over the forwarding of NOP documents for clients in Latin America to ensure the use of RPost by June 1, 2018.

NP6103JZA.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 Policy Memo (PM) 11-10 "*Grower Group Certification*" states that "…certifying agents should use the National Organic Standards Board (NOSB) recommendations of October 2002 and November 2008 as the current policies. NOSB 2002 Recommendation, *Criteria for the Certification of Grower Groups*, states, "Grower groups must establish and implement an internal control system (quality system), with supervision and documentation of production practices and inputs used at each producer's operation to insure compliance with the USDA's National Organic Standard." NOSB 2008 Recommendation, Section III, provides a definition of an Internal Control System: "A written quality assurance system included in a master organic system plan that sets forth the practice standards, recordkeeping and audit trail requirements applicable at each production unit, facility or site and that identifies the internal verification methods used."

Comments: *The inspected operation has no documented Internal Control System. This was not identified by the inspector as an issue of concern. BCS explained to the auditors that since 100% of the members were annually inspected by BCS, an internal control system was not necessary.*

2016 Corrective Action: BCS will stop certifying grower groups without an ICS under one inspection report and one OSP. They propose that in case of grower groups (associations) without ICS, BCS will conduct 100% inspections and for each grower (production unit). One individual OSP will be requested and BCS will fill out likewise one inspection report per grower. The organic certificate will be issued to the legal entity (The association) and each production unit (grower) will be listed in an attachment as an approved production unit.

2017 Verification of Corrective Action: This operation's annual update is due in September 2017. The plan to have each grower complete a separate OSP and inspector to complete a separate inspection report has not yet been implemented and the auditors did not review any other grower group files where this is being done.

2017 Corrective Action: BCS submitted OSPs and inspection reports for each individual grower in the group. BCS has revised their policy for certification of grower groups and notified all their staff about the new procedure.

NP6103JZA.NC2 – **Accepted.** 7 CFR §205.403(d) states, "The inspector must conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector must also address the need for any additional information as well as any issues of concern."

Comments: *During the witness audit, the NOP auditors observed the inspector issued noncompliances, received corrective actions, and determined whether the operator's corrective*

actions were adequate. BCS' procedures, "Handling of Non-Compliances," Section 4.2, instructs inspectors to identify noncompliances, accept and evaluate corrective actions, and determine the adequacy of the corrective actions during the onsite inspection. An inspector's role is to identify issues of concern and request any additional information, not to issue noncompliances, receive corrective actions, and assess those corrective actions for adequacy.

2016 Corrective Action: BCS has modified its inspection report form (D-EN_09-310, table 15.1) so that it is not possible for an inspector to issue noncompliances. BCS has revised their procedure (see attachment A-EN_14_Certification System NOP, chapter 9.5.1) to reflect the requirement that issues of concern identified by the inspector will be reviewed in Kiwa-BCS head offices to determine if they are noncompliances. BCS will notify the operator of any noncompliances in the certification decision letter. BCS will distribute the revised documents to each inspector. The modified procedures will be explained in their online training tool and training will be verified using BCS' training documentation.

2017 Verification of Corrective Action: The new procedure and forms have not yet been implemented by BCS.

2017 Corrective Action: BCS has revised their inspection reports and noncompliance letters . BCS has informed their satellite offices of the revised inspection report. BCS completed online training for their satellite office staff the week of May 28, 2018. BCS provided a copy of the presentation that was used for inspector training.

NP6103JZA.NC3 – **Accepted.** 7 CFR §205.501(a)(21) states, "Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary." NOP 2603, Organic Certificates, Section 3.1, lists the elements of an organic certificate.

Comments: *The following BCS organic certificate elements are incorrect or missing on BCS' organic certificate issued to the operation:*

1. *The certificate's "Anniversary date" is incorrectly stated as the "Certificate renewal date."*
2. *"Certified to the USDA organic regulations, 7 CFR Part 205." is not stated on the certificate.*
3. *The following statement is not located on the certificate: "Once certified, a production or handling operation's organic certification continues in effect until surrendered, suspended or revoked."*
4. *The "Issue Date" is not clearly identified on the certificate. The date above BCS' authorized signature was explained by the BCS Program Manager to the NOP auditors to be the issue date.*

2016 Corrective Action: BCS made modifications to their organic certificate template and submitted a revised template (nop_mc_np6103.nc3) for NOP review. The template contains the four missing items.

2017 Verification of Corrective Action: Certificates being issued have not been revised to comply with the above items.

2017 Corrective Action: BCS made modifications to their organic certificate template and submitted a revised template for NOP review. The template contains the four missing items. BCS also submitted a certificate issued to a certified operation that contains all required elements.

NP6103JZA.NC4 – **Accepted.** 7 CFR §205.403(a)(1) states, "A certifying agent must conduct an initial on-site inspection of each production unit, facility, and site that produces or handles organic products and that is included in an operation for which certification is requested. An on-site inspection shall be conducted annually thereafter for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue."

Comments: *BCS had not previously conducted an inspection of the operation's office located in Puebla, Mexico and identified on the organic certificate. BCS' previous inspections of this operation have taken place only at the operation's crop production sites. During onsite inspections, records were transported from the Puebla, Mexico office to the field locations for BCS' inspections. Certifiers are required to conduct onsite inspections of all locations that are included as part of the operation for which certification is requested.*

2016 Corrective Action: BCS revised and submitted their inspection program procedure to require its inspectors to visit all parts of an organic operation including offices (see attached inspection program D-EN_09-005_InspProg). BCS informed the concerned inspector about this procedure. BCS will distribute the revised documents to each inspector. The modified procedures will be explained in their online training tool and training will be verified using BCS' training documentation.

2017 Verification of Corrective Action: This operation's annual update is due September 2017 and has not been inspected since 2016, therefore the audit was not able to verify this particular operation. In addition, during the review of certification files, farm inspections of large field crop operations lacked thoroughness and completeness. One inspection lasted 3 hours for over 12,000 hectares. Inspector noted inspecting each field in this 12,000 hectare operation as well as reviewing soil management, seeds, records, production and yield, and all other aspects of the Organic System Plan. Another inspection lasted 3 hours for a 7900 hectare operation. It is not feasible that the inspector inspected all of the fields and the operation's organic system plan within these time periods. The inspection report indicated that all fields were inspected. The inspection report did not accurately reflect the actual inspection activities.

2017 Corrective Action: BCS submitted a copy of the inspection report for the operation's Puebla office. BCS provided a copy of the presentation that was used for inspector training. BCS' Quality Manual states that onsite inspections each individual unit of production, handling or processing including any external facility. BCS completed online training for their satellite office staff the week of May 28, 2018. BCS provided a copy of the presentation that was used for inspector training.

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.

NP7171PZA.NC1 – **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: *When an operation does not respond to BCS' request to submit their annual update for certification, BCS issues a notice to the operation cancelling the certification contract rather than issuing a notice of noncompliance.*

2017 Corrective Action: BCS revised their procedure to require their staff to initiate the adverse action process instead of canceling a contract if an operations fails to respond to their request for annual renewal. BCS sent a memo to their satellite office staff and staff in Nürnberg to notify them of the change in their procedure.

NP7171PZA.NC2 – **Accepted.** 7 C.F.R. §205.405(d) states, "A notice of denial of certification must state the reason(s) for denial and the applicant's right to: Reapply for certification pursuant to §§205.401 and 205.405(e); Request mediation pursuant to §205.663 or, if applicable, pursuant to a State organic program; or File an appeal of the denial of certification pursuant to §205.681 or, if applicable, pursuant to a State organic program."

Comments: *Notices of Denial reviewed during the audit did not include notification to the operation that their certification is being denied, nor does the notice include the option to file an appeal with the NOP.*

2017 Corrective Action: BCS revised their notification of denial of certification template to include information that explains why an operation is being denied certification and that the operation has the right to appeal.

NP7171PZA.NC3 – **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. Such notification shall provide: A description of each noncompliance; the facts upon which the notification of noncompliance is based; and the date by which the certified operation must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible."

Comments: *The auditor identified the following issues:*

1. *Notices of Noncompliance do not include the option for rebuttal.*
2. *Following a residue detection above 5% of EPA tolerance level, BCS issued the operation a Notification of Decision on Noncompliance and provided mediation and appeal rights. This notice does not follow NOP compliance procedures. It appears to be a combined notice of noncompliance and proposed suspension. It does not state the section of the regulation that is noncompliant; provide deadlines for when a mediation request must be received; or provide information about where to appeal. The notice states that this is a final certification decision without appeal options.*

2017 Corrective Action: BCS has informed staff members to use the letter templates in their quality manual. BCS hired a new staff person in 2017 whose is responsible for all pesticide residue cases, is aware of the requirements, and is sending out notices that will comply with the

regulations. BCS revised their procedure for investigations into positive residue testing with instructions to cite the regulations, when to include the option for rebuttals, and when to include the option to request mediation or file and appeal. BCS submitted a revised notice of noncompliance that includes the option to for rebuttal. BCS submitted a revised notice of proposed suspension/revocation template that provides instructions on requests for mediation and appeal.

NP7171PZA.NC4 – **Accepted.** 7 C.F.R. §205.662(c)(1-4) states, "When rebuttal is unsuccessful or correction of the noncompliance is not competed 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…. The notification of proposed suspension or revocation of certification shall state: The reasons for the proposed suspension or revocation; the proposed effective date of such suspension or revocation; the impact of a suspension or revocation on future eligibility for certification; and, the right to request mediation pursuant to §205.663 or to file an appeal pursuant to §205.681."

Comments: *BCS accepted corrective actions from an operation after issuing a Notice of Proposed Suspension, and sent a Notice of Resolution to the operation upon accepting the corrective actions.*

2017 Corrective Action: BCS revised their quality manual to make it clear that corrective actions cannot be accepted after the issuance of a proposed suspension. BCS revised their quality manual to include a section for settlement agreements. The manual states settlement agreements are agreed to by both parties (BCS and operator) and require the correction of the noncompliances which led to the proposed suspension as well as additional conditions to uphold the organic certification. BCS notified their staff (work instruction) about the change in their adverse action procedure.

NP7171PZA.NC5 – **Accepted.** 7 C.F.R. §205.663 states, "Any dispute with respect to denial of certification or proposed suspension or revocation of certification under this part may be mediated at the request of the applicant for certification or certified operation and with acceptance by the certifying agent. Mediation shall be requested in writing to the applicable certifying agent.

Comments: *One case reviewed where a Notice of Proposed Revocation was issued, the certifier and operation participated in an informal mediation. The mediation, however, was not requested in writing and an agreement was not signed by both parties.*

2017 Corrective Action: BCS revised their Notice of Proposed Revocation stating that operations must file written requests for mediation by the deadline listed in the notice. BCS revised their quality manual to include a section for settlement agreements. The manual states, the settlement agreements are agreed to by both parties (BCS and operator) and require the correction of the noncompliances which led to the proposed revocation as well as additional conditions to uphold the organic certification.

NP7171PZA.NC6 – **Accepted.** 7 C.F.R. §205.501(a)(13) "A private or governmental entity accredited as a certifying agent under this subpart must: Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500."

Comments: *BCS issued a Notice of Proposed Revocation to an operation that had already been suspended by another certifier. Once an operation has been suspended by one certifier, that operation should not be given the opportunity to appeal or request mediation because they are no longer certified.*

2017 Corrective Action: BCS updated their quality manual to instruct their staff to accept the certification decisions made by other certification bodies. BCS revised their letter template (issued for these situations) so that it no longer gives the operation the right to request mediation or file an appeal. In these situations, BCS will issue either a notice of suspension or revocation (consistent with the certification made by the other certification body).

NP7171PZA.NC7 – **Accepted.** 7 C.F.R. §205.401(a) states, "A person seeking certification of a production or handling operation under this subpart must submit an application for certification to a certifying agent. The application must include the following information: An organic production and handling system plan, as required in §205.200;… " NOP 2615 provides details of how producers and handlers can comply with these requirements. Organic System Plan (OSP) templates are available in the NOP Handbook. NOP 2602 provides details on recordkeeping requirements. NOP has provided training on Organic Integrity in the Supply Chain that explains requirements for verifying OSPs are sufficient to verify organic products received by handling operations.

Comments: *Organic System Plans (OSPs) reviewed provided insufficient detail and did not address all OSP requirements. Producer OSPs did not provide sufficient details of the location of fields, buffer zones, and surrounding land use. Both producer and handler OSPs did not include information on monitoring practices and procedures; and sufficient descriptions of the recordkeeping system to comply with requirements in 205.103 which include a recordkeeping system in sufficient detail that can be readily understood and audited.*

2017 Corrective Action: BCS amended their production/producers OSP to include more detailed information on maps, surrounding land use, and monitoring practices. BCS amended their handler OSP to include more detailed record keeping requirements in order to verify compliance. BCS completed online training the week of May 28, 2018. BCS provided a copy of the presentation that was used for inspector training.

NP7171PZA.NC8 – **Accepted.** 7 C.F.R. §205.501(a)(18) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Provide the inspector, prior to each on-site inspection, with previous on-site inspection reports and notify the inspector of its decision regarding certification of the production or handling operation site inspected by the inspector and of any requirements for the correction of minor noncompliances;…"

Comments: *BCS is not notifying inspectors of its decision regarding certification of the operations inspected and any requirements for the correction of minor noncompliances.*

2017 Corrective Action: BCS amended their NOP certification procedure to require a copy of the certification decision be sent to the inspector. BCS's sent a memo to satellite offices in China, Turkey and Latin America with detailed instructions how and by whom inspectors will be informed about the certification decision. BCS' administrators in their main office are responsible for sending certification decisions to inspectors that do not have a BCS office located in their country. BCS implemented the change in procedure on May 1, 2018.

NP7171PZA.NC9 – **Accepted.** 7 C.F.R. 205.403(c)(1-3) states, "The on-site inspection of an operation must verify: The operation's compliance or capability to comply with the Act and the regulations in this part; That the information, including the organic production or handling system plan, provided in accordance with §§205.401, 205.406, and 205.200, accurately reflects the practices used or to be used by the applicant for certification or by the certified operation; That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the certifying agent, may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples. NOP 2601 provides details on the organic certification process including expectations on the inspection process conducted by the certifier.

Comments: *Inspection reports reviewed by the auditor indicate insufficient inspection time to verify the operation's compliance or ability to comply with the USDA organic regulations. Report inspection duration indicated 3 hour inspections for handling operations with multiple suppliers, multiple products, and hundreds of transactions involving cross-border transportation. Inspection duration for large production operations were insufficient to verify compliance.*

2017 Corrective Action: BCS has hired a new manager to focus on operations in high risk countries and improve BCS' inspections. BCS has implemented E-cert to monitor inspection times and establish minimum inspection times per operation. BCS indicated that inspection times have increased, and reports are more detailed as defined by the internal guideline.

BCS revised their guideline for inspections of large, complex production operations to include the following requirements:

- Inspection planning must be done and coordinated with BCS head office
- If applications from operators previously certified by other ACAs are considered, detailed information with regards to stocks must be requested from the previous ACA
- Two inspections per year
- During every inspection samples for residue analysis must be taken
- Inspectors must speak Russian or there must be an accredited translator present
- Inspector are assigned by BCS head office and occasionally also German inspectors will be assigned for conducting inspections
- Samples must be taken prior to each export
- Duration of inspection must be minimum one day per 5000 ha plus time for inspection of office

BCS completed online training the week of May 28, 2018. BCS provided a copy of the presentation that was used for inspector training.

NP7171PZA.NC10 – **Accepted.** 7 C.F.R. §205.404(a)(3) 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. The certification may include requirements for the correction of minor noncompliances within a specified time period as a condition of continued certification."

7 C.F.R. §205.501(a)(3) states, "A private or government 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: *Inspection reports do not provide sufficient information to determine whether the inspector verified the operation's compliance or capacity to comply, or that the OSP was implemented. The inspection reports do not include information on what records were reviewed, whether a trace-back audit was conducted, if a trace-back audit was conducted, and what products were audited. There are no details on whether a mass-balance audit was conducted or how the inspector conducted the mass-balance audit. Personnel responsible for reviewing inspection reports and OSPs for compliance do not have sufficient information to determine if the inspections were thorough and complete to verify on the information in the inspection reports. The lack of information does not enable the certifier to determine if inspection was thoroughly carried out to verify that the Organic System Plan was implemented and the operation was in compliance with USDA organic regulations. Inspection reports indicated 2 hour inspection of complex handling facility and did not provide any details on what records were reviewed during the on-site inspection.*

2017 Corrective Action: For the inspection report in question, BCS contacted the inspector to clarify missing information needed to make a certification decision. BCS has revised their inspection report template to make it obligatory to comment on each check point in the document. BCS issued a detailed work instruction that outlines BCS' expectations regarding inspections. Each section of an inspection report must provide sufficient comments/details so that reviewers can completely understand what the inspector has audited and how they came to the conclusion that a checkpoint is compliant or not. Submitted reports without sufficient comments with regards to the audit trail will be rejected by BCS and not process for review and certification. BCS has hired a new manager who is responsible for improving the content and clarity of inspections reports. BCS has revised their inspection reports by adding a specific table for the traceback audit. BCS has conducted training on the new inspection procedure. BCS implemented these changes on May 1, 2018.

NP7171PZA.NC11 – Accepted. 7 C.F.R §205.501(a)(21) states, "A private or government 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 4009 states, "…an uncertified operation may not produce or process, on its own land or premises, agricultural products to be sold, labeled, or represented as organic on behalf of a certified operation."

Comments: *Sub-contracted operations are not required to be independently certified by BCS. BCS includes subcontracted operations in the overall structure of the project's certification. These subcontracted operations are required to be certified because they are producing or handling agricultural products that are intended to be sold, labeled, or represented as organic.*

2017 Corrective Action: BCS amended their certification procedure to make it clear that one NOP certificate can no longer include several companies and one certificate must be issued per

operation. The revised procedure was discussed during BCS' certifier meeting. BCS sent a memo to their satellite offices and to administration in BCS office Nürnberg to inform them of the change in their procedure. BCS implemented the change in procedure on May 1, 2018.

NP7171PZA.NC12 – Accepted. 7 C.F.R. §205.402(b)(3) states, "The certifying agent shall within a reasonable time:…Provide the applicant with a copy of the test results for any samples taken by an inspector."

Comments: *Sample results are not provided to operations when no residues are detected.*

2017 Corrective Action: BCS amended their certification procedure to require that sample results are submitted to certified operators even when the results are negative. BCS sent a memo to their satellite offices in China, Turkey and Latin America with detailed instructions about how and by whom operators will be informed about the lab results. BCS implemented the change in procedure on May 1, 2018.

NP7171PZA.NC13 - Accepted. 7 CFR § 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 reviewed two wine labels certified in the category of "made with organic (specified ingredients or food groups)". One wine labels includes "organic wine" on the principle display panel and the other label includes "Organically Grown Grapes" on the principle display panel. Both labels are noncompliant and do not qualify for the "organic" label category.*

2017 Corrective Action: BCS issued a notice of noncompliance to the operation for noncompliant labels. BCS provided training to the reviewer who approved the label using *Guidelines for Labeling Wine with Organic References.*

NP7171PZA.NC14 –**Accepted.** 7 C.F.R. §205.505(a)(6) states, "A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including:…Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary."

Comments: *The Terms of Accreditation signed by BCS require the attendance and satisfactory completion of annual training provided by USDA-NOP. BCS staff have not attended the USDA-NOP annual training since 2010.*

2017 Corrective Action: Four BCS staff members attended the NOP training held in Nuremberg in February 2018, BCS' quality manual states that each staff member conducting tasks relevant for NOP certification are required to attend NOP specific training courses annually.

NP7171PZA.NC15 – **Accepted.** 7 C.F.R. §205.404(b)(1) states, "The certifying agent must issue a certificate of organic operation which specifies the: Name and address of the certified operation;…"

Comments: *A file reviewed by the auditor included a certificate issued to the operation without the physical location of the certified operation.*

2017 Corrective Action: BCS amended their NOP certification procedure to require that the physical address be included on certificates. BCS' Quality Manager issued a work instruction regarding the issuance of NOP certificates. Its states that the physical location of the operation must be included on the certificate. It was also detailed in the procedure that NOP certificates may contain more than one address if an operation has multiple addresses. . The revised procedure was discussed during BCS' certifier meeting. BCS provided corrected certificates that now include physical addresses of the operations.

NP7171PZA.NC16 – **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 a sufficient number of 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: *The placement of the "Certified organic by***" statement is beside (rather than below) the information identifying the handler/distributor of the product on two labels reviewed by the auditor and approved by BCS.*

2017 Corrective Action: BCS issued a notice of noncompliance to the operator for a noncompliant label. BCS has provided training to their staff on the correct placement of the COB statement. Their procedure requires the COB statement to be under the handler or processor.

USDA Agricultural Marketing Service

1400 Independence Avenue, SW.
Room 2646-S, STOP 0268
Washington, DC 20250-0201

NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

AUDIT AND REVIEW PROCESS

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

GENERAL INFORMATION

Applicant Name	BCS Oeko-Garantie GmbH (BCS)
Physical Address	Marentorgraben 3-5, Nuremberg, D-90402, Germany
Mailing Address	Marentorgraben 3-5, Nuremberg, D-90402, Germany
Contact & Title	Tobias Fischer
E-mail Address	fischer@bcs-oeko.de
Phone Number	49 911 4 24 39 0
Reviewer(s) & Auditor(s)	Renée Gebault King, NOP Reviewer; Darrell Wilson, On-site Auditor; Lars Crail, Taiwan witness inspection; Mike Lopez, Peru grower group witness inspection.
Program	USDA National Organic Program (NOP)
Review & Audit Date(s)	NOP corrective action review: November 14, 2014-June 1, 2015 BCS's corrective action submission: October 22, 2014 NOP assessment review: September 12, 2014 Onsite audit: July 21-24, 2014
Audit Identifier	NP4202OOA
Action Required	Yes
Audit & Review Type	Mid-term Assessment
Audit Objective	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of BCS's certification system.
Audit & Determination Criteria	7 CFR Part 205, National Organic Program as amended
Audit & Review Scope	BCS's certification services in carrying out the audit criteria during the period: July 7, 2013 through July 24, 2014.

ORGANIZATIONAL STRUCTURE:

BCS Öko-Garantie GmbH (BCS) is a private company under German law. It has been licensed as a private controlling agency since 1992 to implement the European Union (EU) Regulation on organic production. BCS was initially accredited as a certifying agent by the NOP on April 29, 2002 for the scopes of crop, wild crop, livestock, and handling. BCS had approximately 1,124 NOP certified operations worldwide with the majority certified for crops and handling. The

NOP client breakdown for BCS includes approximately 744 crop, 46 wild crop, 11 livestock (beekeeping only), 814 handling operations and 113 grower groups. The BCS list of personnel identified 12 staff members as certifiers/reviewers and two reviewers involved in the certification process. The certification program is divided into the International and National Departments. In addition, there are 61 staff inspectors and 46 subcontracted inspectors. Job descriptions for all positions are contained in the BCS quality management system.

The main office for NOP certification for BCS is located in Nuremberg, Germany and includes National (German) and International Departments. All inquiries and certification activities for the NOP are conducted at the Nuremberg office. BCS is accredited as an ISO Guide 17065 certification body and approved for GLOBALGAP and EU organic certifications. BCS is also accredited for JAS, GOTS and all countries that they have certified operations that require accreditation to operate within the country. BCS has additional offices or representatives in 27 countries that provide a variety of other contract certification services.

NOP DETERMINATION:

NOP reviewed the onsite audit results to determine whether BCS's corrective actions adequately addressed previous noncompliances. NOP also reviewed any corrective actions submitted as a result of noncompliances 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.

AIA091510LMC.NC2 – Cleared
AIA091510LMC.NC3 – Cleared
AIA091510LMC.NC4 – Cleared
NP1199NNA.NC1 – Cleared
NP1199NNA.NC2 – Cleared
NP1199NNA.NC3 – Cleared
NP1199NNA.NC4 – Cleared
NP1199NNA.NC5 – 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.

NP4202OOA.NC1 – **Accepted** – 7 CFR § 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." *One of the labels reviewed contained the USDA seal which did not meet the color requirements as stated in §205.311 (b)(3). A notice of non-compliance was not issued to the operation requiring the label be corrected.*
Corrective Action: BCS issued a Notice of Noncompliance to the client to correct the label, and the client provided an updated label. BCS issued its label review guidelines to staff to remind them of the label approval process.

NP4202OOA.NC2 – **Accepted** – 7 CFR § 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. Such notification shall provide: (1) A description of each noncompliance." *Three notices of noncompliances reviewed made reference to NOSB recommendations as the standard violated instead of citing pertinent regulations in 7 CFR 205.*
Corrective Action: BCS drafted a letter to all inspectors requesting that they cite the USDA NOP regulations in reference to noncompliances. This letter included an example of how inspectors should cite an issue that references the USDA NOP regulations, not the NOSB recommendations. To prevent future occurrences of staff citing NOSB recommendations in noncompliance documents, BCS removed access to these pre-formatted NOSB responses in the computer system used to generate documents.

NP4202OOA.NC3 – **Accepted** – 7 CFR § 205.662 (c) states, "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. The notification of proposed suspension or revocation of certification shall state: (2) The proposed effective date of such suspension or revocation; and (3) The impact of a suspension or revocation on future eligibility for certification." *One Notice of Noncompliance/Notice of Proposed Suspension reviewed did not contain the proposed effective date of the suspension or the impact of the suspension. In reviewing this document, it was also determined that it was a combined notification of noncompliance/suspension. According to the training module for Noncompliance and Adverse Action Notices (dated January 24, 2012) the Notice of Noncompliance and/or Notice of Proposed Suspension need to be included in the Subject or Header but were not on the documents issued by BCS.*
Corrective Action: BCS reviewed their procedures and concluded that this was an isolated incident. BCS has established templates for issuing a Notice of Noncompliance or Proposed

Suspension. The letters are formatted to reference the measure in the letterhead, as well as indicate the proposed effective date and impact of the suspension. BCS stated that all other internally revised notices use this format also.

NP4202OOA.NC4 – 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 training module on Mediation Training, dated January 16, 2013, provided guidance for the use of settlement agreements as an informal way to settle disputes with certified operations. 7 CFR § 205.662 (e)(1) states, "If the certified operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal of the proposed suspension or revocation of certification, the certifying agent or State organic program's governing State official shall send the certified operation a written notification of suspension or revocation." *Two noncompliance resolutions reviewed contained terms for which both the operator and BCS would need to comply with in order to overcome the proposed suspension. By including these conditions, it constitutes a settlement agreement, which must be signed by both parties. There was no evidence provided to indicate that the operations agreed with the terms of the proposed settlement and no suspension was drafted or sent to the operations. In one case the client surrendered certification. BCS policies and procedures need to clarify this process to prevent future noncompliances.*
Corrective Action: BCS has updated their procedures (chapter 9.5.8 of A-EN-15 Certification System NOP) to include the process regarding how to implement a settlement agreement, which is signed by both parties. BCS also prepared a draft example of a settlement agreement, which will be used for reference when preparing future documents as needed.

NP4202OOA.NC5 – Accepted – 7 CFR § 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." *A review of the personnel files found that there were 4 individuals that did not have current annual evaluations. Discussions with the Quality Manager revealed that inspectors are no longer receiving an annual evaluation. Inspectors, whether full-time or contracted staff, are considered part of certifying agent's personnel and are therefore subject to the personnel performance evaluations requirements.*
Corrective Action: The finding that four individuals did not have a current annual evaluation does not mean that BCS does not regularly conduct any evaluation of its technical staff.
BCS conducts multiple evaluations of inspectors as follows: after each inspection the reviewer of the inspection documents provides feedback to the inspector, which serves as an evaluation of the inspector, but does not constitute a field evaluation of the inspector as required by the USDA organic regulations. BCS management updated the quality manual to specify that inspector field evaluations are required annually for any staff that conducts inspections for NOP certification.

NOP4202OOA.NC6 – Accepted – 7 CFR § 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)." BCS procedure D-EN_04-011 requires that document D-EN_4-031, which contains the confidentiality clause' must be signed upon hiring. *One individual that was hired conducted certification activities without having signed the required form which contains the confidentiality clause.*
Corrective Action: BCS provided the updated confidentiality agreement for the individual noted in this audit, which had been misfiled. The document verifies that the individual has a current confidentiality agreement on file at BCS. BCS also provided the checklist used to track the records maintained for all staff members, which ensures required documents are on file.

NOP4202OOA.NC7 – Accepted – 7 CFR § 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, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report." *Three individuals did not have current conflict of interest disclosures on file as required.*
Corrective Action: BCS provided the conflict of interest documents for the three individuals identified during this audit, which are current for 2014. BCS tracks the documents filed for each staff member in a spreadsheet, but detected an error in one of the string-formulas, which was corrected immediately to prevent future filing errors.

NOP4202OOA.NC8 – Accepted – 7 CFR § 205.660 (d) states, "Each notification of noncompliance, rejection of mediation, noncompliance resolution, proposed suspension or revocation, and suspension or revocation issued pursuant to §205.662, §205.663, and §205.665 and each response to such notification must be sent to the recipient's place of business via a delivery service which provides dated return receipts." *Notifications are currently being sent to the operation's place of business via email, which does not provide dated returned receipts or confirm receipt of the notification by the legally responsible party.*
Corrective Action: BCS selected an electronic delivery confirmation system that has been implemented in the German office as of May 31, 2015. A schedule of sequential implementation has been developed and implementation in the remaining 15 foreign offices is expected to be completed by November 2015. Offices that do not have access to the BCS database are required to send the message via the German office (or another foreign office) using the delivery confirmation system.

USDA Agricultural Marketing Service

1400 Independence Avenue, S.W.
Room 2648-South, STOP 0268
Washington, D.C. 20250

AUDIT INFORMATION

Applicant Name:	BCS Öko - Garantie GmbH (BCS)
Est. Number:	N/A
Physical Address:	Cimbernstrasse 21, D-90402 Nuremberg, Germany
Mailing Address:	Same
Contact & Title:	Tobias Fischer, NOP Manager International Department
E-mail Address:	fischer@bcs-oeko.de
Phone Number:	49 911 4243931
Auditor:	Robert Pooler, NOP Accreditation Manager
Program:	USDA National Organic Program (NOP)
Audit Date(s):	March 15 – 19, 2012
Audit Identifier:	NP1199NNA
Action Required:	No
Audit Type:	Renewal Assessment / Correction Action Review
Audit Objective:	To verify continuing compliance to the audit criteria.
Audit Criteria:	*7 CFR Part 205, National Organic Program, Final Rule,* dated December 21, 2000; as amended February 14, 2012.
Audit Scope:	The company's quality manual including personnel, processes, procedures, facilities, and related records.
Location(s) Audited:	Desk Audit

BCS Öko - Garantie GmbH's (BCS) NOP Accreditation Renewal Assessment was completed on November 23, 2011 AMS Grading and Verification Division auditors Patricia Heckart, Martin Friesenhahn, and Richard Skinner.

On February 02, 2012, the NOP issued a Notice of Noncompliance to BCS for five noncompliances (NP1199NNA.NC1 – 5) identified during this renewal assessment, and for three noncompliances (AIA091510LMC.NC2 – 4) identified during a 2010 compliance assessment.

During the renewal assessment, the auditors observed that BCS corrective actions for three noncompliances from a 2010 compliance assessment could not be verified as the corrective actions were found not to be effectively implemented. Subsequently, noncompliances

AIA091510LMC.NC2 – 4, considered to be adequately addressed prior to the 2012 renewal assessment, were reverted back to outstanding.

On March 13, 2012, BCS submitted proposed corrective actions for noncompliances NP1199NNA.NC1 – 5 identified during this renewal assessment, and submitted additional corrective actions for the outstanding noncompliances AIA091510LMC.NC2 – 4. To address the noncompliances, BCS submitted the following proposed corrective actions:

- A description of proposed corrective actions for noncompliances NP1199NNA.NC1 – 5 and proposed corrective actions for noncompliances AIA091510LMC.NC2 – 4.
- BCS Organic System Plan template for Livestock Production, Product Handling, Storage and Marketing / Export.
- BCS Organic System Plan template for Wild Crops Collection, Post-harvest Handling, Storage and Marketing / Export.
- BCS Inspection Report template for Wild Crops Collection, Post-harvest Handling, Storage and Marketing / Export.
- BCS amended Quality Manual procedures on NOP certification.

FINDINGS

Documents and records reviewed determined that BCS Öko - Garantie GmbH has adequately addressed noncompliances NP1199NNA.NC1 – 5 identified during this renewal assessment, and adequately addressed the outstanding noncompliances AIA091510LMC.NC2 – 4 identified during a 2010 compliance assessment.

AIA091510LMC.NC2 - Accepted and Adequately Addressed – NOP § 205.501(a)(15)(i) states, "(a) A private or governmental entity accredited as a certifying agent under this subpart must: (15) Submit to the Administrator a copy of… (i) Any notice of denial of certification issued pursuant to § 205.405, notification of noncompliance, notification of noncompliance correction, notification of proposed suspension or revocation, and notification of suspension or revocation sent pursuant to § 205.662 simultaneously with its issuance…" *Certifier correspondence to applicants granting certification often incorporates non-compliances, thereby functioning as notices of noncompliance. However, there is no record that copies of these documents were submitted to the NOP. For example, there is no "cc: NOP" or statement within the documents indicating submission to the NOP. Furthermore, there is no record to show that operations responded with corrective actions addressing the non-compliances and that the non-compliances were resolved (i.e. notice of resolution or correction of noncompliance) within the required timeframe.* **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS has established procedures for submitting notices of non-compliance, non-compliance resolution, proposed suspension / revocation or suspension / revocation to the NOP Administrator. BCS's NOP Certification Quality Manual has been amended to include instruction for copies of any noncompliance notifications, and any adverse action notifications to be sent to the NOP Administrator. **Verification of Corrective Action:** BCS received

notification of NOP's acceptance of its corrective actions on June 24, 2011, just prior to the Renewal Assessment audit and had not implemented the corrective actions. Therefore, implementation and effectiveness of corrective actions could not be verified. **Corrective Actions on the outstanding noncompliance:** The corrective actions adequately address the noncompliance. On March 6, 2012, BCS retroactively submitted prior notifications that were not forwarded to the Administrator. These notices have been received by NOP Appeals. Section 9.4.7 of BCS's Quality Manual has been amended to indicate that notices of noncompliance and notices of adverse action will be routinely (weekly) submitted to the NOP Administrator. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

AIA091510LMC.NC3 – **Accepted and Adequately Addressed –** NOP § 205.670 (d) states, "Results of all analyses and tests performed under this section: (1) Must be promptly provided to the Administrator …" *Although BCS China has a robust residue sampling regime, analyses and test results are not submitted to the NOP.* **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS has established procedures for submitting results of analysis and tests for residue testing to the NOP. BCS's NOP Certification Quality Manual has been amended to include instruction on sampling and residue testing, including reporting results. This instruction requires that all test results will be forwarded to BCS Headquarters in Germany. BCS Headquarters will then forward the test results to the NOP. **Verification of Corrective Action:** BCS received notification of NOP's acceptance of its corrective actions on June 24, 2011, just prior to the Renewal Assessment audit and had not implemented the corrective actions. Therefore, implementation and effectiveness of corrective actions could not be verified. **Corrective Actions on the outstanding noncompliance:** The corrective actions adequately address the noncompliance. BCS's Quality Manual, section 10, *Sample and Residue Testing*, describes residue testing procedures and instructions, including submitting analyses results to the NOP administrator. An internal review found that BCS has not been routinely submitting results to the NOP. BCS's Quality Manager will be responsible to ensure BCS staff provide residue analyses results to the NOP. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

AIA091510LMC.NC4 – **Accepted and Adequately Addressed –** NOP § 205.404(a) states, "…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. The certification may include requirements for the correction of minor non-compliances within a specified time period as a condition of continued certification." *The auditors' review of a new applicant file (Ref.: A-2007-00641_2/2009-05974 EK) revealed the issuance of a certificate prior to noncompliance correction. BCS identified the noncompliance as an incomplete OSP, noting incomplete plot descriptions and an inaccurate map of the certified land. This noncompliance is not considered a "minor" noncompliance and would*

require correction prior to issuance of a certification. **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS provided clarification on their determination of the minor noncompliance. Using the NOP interpretation described in the NOP Final Rule preamble - *Minor non- compliances are those infractions that, by themselves, do not preclude the certification or continued certification of an otherwise qualified organic producer or handler,* BCS determined that the operations non-compliances were correctable, and therefore minor. The operation's OSP was considered to be incomplete as a result of the operation's plot descriptions not providing clear indications of field sizes, and the scale of the inaccurate map did not provide a clear identification of the operation's fields. BCS obtained complete plot descriptions and requested the operation provide a more precise map. Verification of these corrective actions will be assessed at the next on-site audit**. Verification of Corrective Action:** BCS received notification of NOP's acceptance of its corrective actions on June 24, 2011, just prior to the Renewal Assessment audit and had not implemented the corrective actions. Therefore, implementation and effectiveness of corrective actions could not be verified. In addition, these maps and plot descriptions of the operation cited in the noncompliance had not been inspected in 2011. The update to this information was due in August at the next scheduled inspection. **Corrective Actions on the outstanding noncompliance:** The corrective actions adequately address the noncompliance. The operation cited in the noncompliance surrendered its NOP certification to BCS. As a result, BCS did not obtain the operation's plot descriptions and field maps. BCS did amend its NOP certification procedures, section 9.1(e) in its quality manual, to require the OSP reviewer to evaluate an applicant's OSP's for completeness and compliance with the NOP regulations. BCS's OSP review will include an operation's plot descriptions and field maps. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

NP1199NNA.NC1 – Accepted and Adequately Addressed – NOP §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." *BCS is approved for the scope of livestock. Currently, BCS does not have any livestock clients; however, BCS has not addressed the Pasture practice standard under §205.240 and dry matter intake requirements under §205.237 with applicants or certified operations. The OSP form for livestock operations does not request sufficient information from a livestock applicant to determine whether or not the applicant would be able to comply with the NOP Pasture Rule.* **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS revised its livestock OSP template, section 7, to assess an operation's pasture management practices including access to pasture, and also revised section 11, to assess dry matter intake requirements of ruminants. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

NP1199NNA.NC2 – Accepted and Adequately Addressed – NOP § 205.662 (a - c) states, "(a) 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. Such notification shall provide: (1) A description of each noncompliance; (2) The facts upon which the notification of noncompliance is based; and (3) The date by which the certified operation must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible. (b) When a certified operation demonstrates that each noncompliance has been resolved, the certifying agent or the State organic program's governing State official, as applicable, shall send the certified operation a written notification of noncompliance resolution. (c) 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." *During the two witness inspections conducted in Germany updated OSPs were not submitted prior to the inspections. Under § 205.406(a), operations continuing with NOP certification, must submit updated OSP's before inspections are scheduled. BCS did not issue Notices of Noncompliance to the operations for not submitting updated OSP's as required. In addition, review of files where noncompliance notifications had been issued with a time frame for correction indicated that BCS is not following up on the notices of noncompliance to determine whether an operator had submitted corrective action within the time frame stated in the original letter. Hence, notices of proposed suspension were not issued as required when the operators failed to submit corrective action. BCS indicated that in the case of foreign operators, corrective actions may have been received by the BCS contact in a foreign country and this information had not been passed on to the main office for review.* **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS conducted an internal review of its implementation of its noncompliance procedures. This review revealed that while procedures for issuing Notices of Noncompliance are established, the procedures are not being consistently implemented when noncompliances are observed. BCS has amended its procedures to issue notices of noncompliance when OSP's are not submitted prior to the inspection. BCS will establish procedures to verify that an operation's OSP has been submitted, and found to be NOP compliant, before inspections are scheduled. BCS's internal review also revealed that staff are following up on notices of noncompliance to determine whether there is resolution. However, the review determined that follow up on notices of noncompliance has not been consistently documented. BCS will assign additional staff to ensure that the noncompliance procedures for certified operations are implemented and that noncompliance follow up is effectively implemented and documented. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

NP1199NNA.NC3 – **Accepted and Adequately Addressed** – NOP § 205.406 (a) 1-4 states, "To continue certification, a certified operation must annually pay the certification fees and

submit the following information, as applicable, to the certifying agent: An updated organic production or handling system plan which includes: A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year; and any additions or deletions to the previous year's organic system plan, intended to be undertaken in the coming year, detailed pursuant to §205.200. Any additions to or deletions from the information required pursuant to §205.401(b); An update on the correction of minor non-compliances previously identified by the certifying agent as requiring correction for continued certification; and Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part." *The BCS procedure states that all operators applying for continuation of certification must submit updated organic system plans (OSPs) and information regarding correction of non-compliances prior to an inspection. It was evident during the two witness inspections conducted in Germany that updated OSPs were not submitted prior to inspections. In both cases, the operators gave the inspector the updated OSP during the annual inspection. Further interviews with staff indicated that it is a problem with operators in Germany only.* **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS amended its NOP certification procedures, quality manual section 9.1(e), to require the OSP reviewer to evaluate an applicant's OSP's for completeness and compliance with the NOP regulations. BCS will establish procedures to verify that an operation's OSP has been submitted, and found to be NOP compliant, before inspections are scheduled. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

NP1199NNA.NC4 – Accepted and Adequately Addressed – NOP § 205.501(a)(11)(vi) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Prevent conflicts of interest by: Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection." *During the onsite review, seven of the ten client files reviewed revealed that the person who made the initial review of the operator's production plan also made the final certification decision.* **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS amended section 6.4 of its quality manual to state that conflicts of interest will be prevented by ensuring that three different persons will be involved in the OSP review, inspection, and in decisions on NOP certification. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.

NP1199NNA.NC5 – **Accepted and Adequately Addressed –** NOP § 205.403 (c)(1) states, "The on-site inspection of an operation must verify: The operation's compliance or capability to comply with the Act and the regulations in this part." *The BCS inspector conducting the wild crop witness inspection did not review the buffer zones of the areas where inspections were conducted. The buffer zones were not adequately described on the maps provided with the Organic System Plans for the operations reviewed. The wild crop area covered a vast area in Poland, but the maps provided did not define buffer zones and any potential areas of concern for*

the wild crop collection areas. The inspector did not ask for information regarding the buffer zones during the inspection. **Corrective Actions:** The corrective actions adequately address the noncompliance. BCS has modified sections 5.1 and 5.2 in its Wild Crop Collection OSP template to require information on wild collection area maps, areas of potential risk of contamination / pollution, and description of buffer zones. BCS also modified the Wild Crop Inspection Report template to include an assessment of potential risks and buffer zones. Verification of the corrective actions will be determined at the next on-site NOP accreditation assessment.