



United States Department of Agriculture

Agricultural Marketing Service

National Organic Program

Kiwa BCS ÖKO-GARANTIE GMBH (BCS)

Marientorgraben 3-5, Nuremberg, 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, Wild Crops, Livestock and Handling 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 .

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Certificate No: **NPz7171PZA**

Effective Date: **April 29, 2017**

Renewal Date: **April 29, 2022**

Jennifer Tucker, Ph.D.
Deputy Administrator
National Organic Program

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CERTIFICATE OF ACCREDITATION



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.

NP420200A.NC1 – Cleared
NP420200A.NC2 – Cleared
NP420200A.NC3 – Cleared
NP420200A.NC4 – Cleared
NOP420200A.NC6 – Cleared
NOP420200A.NC7 – Cleared

NP420200A.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 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.... 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. It 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.

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.

NP420200A.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.

NP420200A.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.

NOP420200A.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.

NOP420200A.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.

NOP420200A.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.



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*



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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.