



CERTIFICATE OF ACCREDITATION



# United States Department of Agriculture

Agricultural Marketing Service

National Organic Program

***NEW JERSEY DEPARTMENT OF AGRICULTURE***

***200 Riverview Plaza - 3rd Floor, Trenton, New Jersey, 08611, U.S.A.***

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, 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-10-21**

Effective Date: **4/14/2017**

Renewal Date: **4/14/2022**

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

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## NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

### AUDIT AND REVIEW PROCESS

An onsite Mid-term assessment of the New Jersey Department of Agriculture's (NJDA) organic program was conducted on July 15-19, 2019. The National Organic Program (NOP) reviewed NJDA's corrective actions in response to the Notice of Noncompliance to assess NJDA's compliance to the USDA organic regulations. This report provides the results of NOP's assessment.

### GENERAL INFORMATION

<b>Applicant Name</b>	New Jersey Department of Agriculture (NJDA)
<b>Physical Address</b>	369 S. Warren Street, Trenton, NJ 08625
<b>Mailing Address</b>	369 S. Warren Street, Trenton, NJ 08625
<b>Contact &amp; Title</b>	Erich Bremer
<b>E-mail Address</b>	erich.bremer@ag.nj.gov
<b>Phone Number</b>	609-984-2225
<b>Reviewers &amp; Auditor</b>	Bridget McElroy, Melissa Lahullier, Callie Herron, NOP Reviewers; Graham Davis, On-site Auditor.
<b>Program</b>	USDA National Organic Program (NOP)
<b>Review &amp; Audit Date(s)</b>	NOP corrective action review: September 18, 2020, January 7, 2021, and March 11, 2021 NOP assessment review: September 18, 2019 Onsite audit: July 15 - 19, 2019
<b>Audit Identifier</b>	NOP 32-19
<b>Action Required</b>	No
<b>Audit &amp; Review Type</b>	Mid-term Assessment
<b>Audit Objective</b>	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NJDA's certification system.
<b>Audit &amp; Determination Criteria</b>	<i>7 CFR Part 205, National Organic Program as amended</i>
<b>Audit &amp; Review Scope</b>	NJDA's certification services in carrying out the audit criteria during the period: May 16, 2017 – July 14, 2019

The New Jersey Department of Agriculture (NJDA) is a state agency that was accredited as a certifying agent on April 12, 2007 by the National Organic Program (NOP) for the scopes of crops, wild crops, livestock, and handling/processing. NJDA's last on-site audit (Renewal Assessment) occurred on May 15-19, 2017.

The NJDA Organic Certification Program currently certifies a total of 103 operations to the following certification scopes: 68 crops, two wild crops, three livestock, and 37

handler/processor. All certified operations are in the United States. The NJDA only accepts applications for new certifications in the state of New Jersey, however, there are three operations certified in Pennsylvania since the program was first accredited.

The organic program is overseen by the Program Manager. There is one full-time staff member dedicated to the organic program, the Organic Certification Program Supervisor, who performs all certification activities and who is assisted part-time by the Ag Resource Specialist and the Agricultural Products Agent 1. NJDA contracts with four independent organic inspectors. The NJDA renewal audit included two witness audits: one crop operation (mixed vegetables), and a processor/handler operation (coffee roaster).

## **NOP DETERMINATION**

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

### **Noncompliances 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 “**Accepted**” indicates acceptance of the corrective actions and verification of corrective action implementation will be conducted during the next onsite audit.

**NP5299JZA.NC10 – Cleared**

**NP5299JZA.NC15 – Cleared**

**NP7135PZA.NC2 – Cleared**

**NP7135PZA.NC3 – Cleared**

**NP7135PZA.NC4 – Cleared**

**NP7135PZA.NC5 – Cleared**

**NP7135PZA.NC7 – Cleared**

**AIA-3370-20 – Accepted.** (NP5299JZA.NC3) 7 CFR §205.404(b) states, “The certifying agent must issue a certificate of organic operation which specifies the: (1) Name and address of the certified operation; (2) Effective date of certification; (3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation.” NOP 2603, Organic Certificates, Section 3.1 states, “Organic certificates should be issued in English and include the following (\* identifies elements required by 7 CFR § 205.404 of the USDA organic regulations):

1. Certified operation's name (all legal names) and address(es), including a physical address if the mailing or legal address is not the physical location of the operation\*;
2. Certifying agent's name, address, web site, and phone number\*;
5. Anniversary date (when the certified operation must submit its annual update); and
6. Categories of organic operation (crops, wild crops, livestock, and handling/processing)\*.

**Comments:** *Organic certificates issued by NJDA do not contain the following information or*

*terms:*

- *NJDA's website;*
- *Anniversary date (certificates do state the most recent and next updates; however, the term "anniversary date" is not used);*
- *Issue date;*
- *The certification category of "wild crops." NJDA certificates use the term "Wild Crafting."*
- *All physical location(s) of the handler and production sites are not identified. In some cases, only the mailing address is listed which may be a post office box, not the operation's physical address(es).*

**2016 Corrective Action:** NJDA revised the category of certification field on the certificate to include "Wild Crops" instead of "Wild Crafting" and added the website address. The Organic Certificate Addendum was revised to include Anniversary Date, and Issue Date. The revised template also notes that a physical address must be provided on the organic certificate, and cannot be a PO Box address. Email notification was sent to the staff about this change. The revised documents and copy of the email notification were submitted to the NOP.

**2017 Verification of Corrective Action:** The current certificate template indicates "wild crops" instead of "wild crafting", however, no new certificates with this change have been issued yet. Auditor reviewed various certificates that were recently issued, and they do not consistently include the NJDA's website address and/or physical address of the operation when a mailing address is on the certificate.

**2017 Corrective Action:** NJDA has included its website address on its organic certificate and is verifying certificates to ensure that they include the physical address. NJDA submitted copies of four recently issued certificates to demonstrate that the operation's physical address and NJDA's website is being included on organic certificates.

**2019 Verification of Corrective Action:** NJDA has failed to correct this noncompliance after multiple rounds of corrective actions. The Auditor reviewed ten certification files and all but one of them contained certificates with both the operation's physical address and NJDA's website. Addendums contain the dates (issue, effective, and anniversary), physical address of the operation and NJDA's website. The auditor reviewed one certificate and addendum that lists the PO Box # instead of the physical address of the operation.

**2020 Corrective Action:** NJDA reviewed the organic certificates for each of its clients to ensure that every certificate is compliant and has the required elements. All organic certificate addendums have also received a similar review. NJDA has also restructured the electronic folder files for all its active clients. An active client's current organic certificate is maintained in the folder "Client Certificates and Addendums" in pdf and word formats. All retired certificates and addendums are now located in a "Retired" subfolder. While product addendums and retired certificates have their own subfolders. The new file structure will prevent certification staff from using an older, non-compliant template to generate a new organic certificate.

**AIA-3371-20 – Accepted.** (NP5299JZA.NC9) 7 CFR §205.501(a)(4) states that a certifier 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 NOP auditor reviewed three of eight operation files where the annual update cycle from date the update report was received by NJDA to certification decision was not or has not been completed in a reasonable length of time:*

- *A 2014 update report received in October 2014, inspection occurred in January 2015, and the update review and decision remain pending (October 2015).*
- *2014 update report received May 2014, inspection occurred July 2014, and the update decision issued in September 2015.*
- *2015 update report received February 2015, inspection occurred in August 2015, and the update decision remains pending (October 2015).*

*NJDA is not conducting accreditation activities in a reasonable amount of time due to the lack of adequate staffing. Currently there is one NJDA staff official (Organic Supervisor) dedicated full-time to the organic program. There are three additional NJDA organic certification staff officials (including the Organic Program Manager) that are part-time and have other work responsibilities within the State's agricultural and marketing programs. Although the one full-time NJDA organic program staff official is experienced and knowledgeable; and the other part-time NJDA staff officials are competent, the workload for a program containing approximately 100 certified operations and growing appears to be unsustainable.*

**2016 Corrective Action:** NJDA has redistributed the job duties of those involved with the certification program to maximize time management and to provide the additional resources needed to maintain and expand the program. As part of this restructure, one of the part-time staff is now dedicating 90% of his time to certification program duties.

**2017 Verification of Corrective Action:** Auditor verified the part-time staff member has been assigned the responsibility of reviewing all handler files and continues training with the Supervisor to take on additional certification activities. One witness inspection that took place during the audit had not yet received their certification decision letter from the previous year. The annual update was received in January 2016. Two other files reviewed show dates of completion (findings issued) one year after the date of receiving the annual update paperwork.

**2017 Corrective Action:** NJDA established an annual goal of decreasing application/update processing times by 5%. NJDA will review progress toward this goal every 6 months. August 29, 2018, NJDA conducted a progress review of the average time from the date NJDA receives an update to the date they issued the letter of update back to the client. The report indicated a reduction of 15 days, which is a 4.7% reduction in processing time. NJDA created an internal workflow procedure to reach this goal using its "general organic data base." The database will track logged application/updates as they are received/reviewed for completeness, assigned for initial review, inspection, and completion of the application/update report. A three-month time frame will be allowed for the initial application/update review. A two-month time frame is allotted for receipt of the inspection report and a three-month timeframe will be allowed for completion of the application/update report. An alert will notify the program manager if the time frames are not met. The program manager will review each alert and implement a plan to make sure they are completed quickly. On February 23, 2018, NJDA implemented monthly meetings where the program manager reviews with staff the average application/update processing days and workflow alerts. The program manager will use the additional level of program review and documentation to determine clear reasons for triggered alerts in the process. This will allow the manager to review findings or patterns for triggered alerts with staff at monthly meetings and semiannual employee evaluations.

**2019 Verification of Corrective Action:** NJDA has failed to correct this noncompliance after multiple rounds of corrective actions. NJDA submitted corrective actions indicating a three-month time frame will be allowed for the initial application/update review; a two-month time frame is allotted for receipt of the inspection report; and a three-month timeframe will be allowed for completion of the application/update report. The auditor conducted eight full file reviews and five of the eight files reviewed did not meet NJDA's timeframes.

- NJDA received a 2018 annual update in May 2018, reviewed it in October 2018, inspected the operation in November 2018, and issued the 2018 certification decision letter in June 2019.
- NJDA received a 2018 annual update in May 2018, reviewed it September 2018, inspected the operation in November 2018, and issued the 2018 certification decision letter in June 2019. The operation submitted its 2019 annual update on May 8, 2019 but didn't receive its 2018 certification decision letter until June 20, 2019. Therefore, the operation was unable to submit corrective actions to the issues of concern with its 2019 annual update.
- NJDA received a 2018 annual update in December 2017, reviewed it in June 2018, inspected the operation in September 2018, and issued the 2018 certification decision letter in February 2019.
- NJDA conducted a 2017 inspection in December 2017 and issued the 2017 certification decision letter in December 2018. NJDA received the operation's 2018 annual update in December 2018, reviewed it in May 2019, inspected the operation in July 2019, and the 2018 certification decision is currently being processed.
- NJDA received an annual update March 2018. However, the operation wasn't inspected until January 2019. The operation submitted its 2019 annual update in February 2019 but didn't receive its 2018 certification decision letter until April 15, 2019. Therefore, the operation was unable to submit corrective actions to the issues of concern with its 2019 annual update.

NJDA's 2018 internal program review determined that the time from application to final review remains at 15-16 months. NJDA submitted a position description on July 12, 2019 for a part time employee (9 hours per week) for their organic program. NJDA anticipates that the position will be advertised in August 2019 and filled by the beginning of September 2019.

**2021 Corrective Action:** NJDA hired two staff members in January 2021: one will focus on application reviews and the other will conduct inspections. NJDA has two staff dedicated full-time to the organic program, three staff that dedicate 50 – 90% of their time to the program, and the organic program manager along with other support staff, including cross-trained inspectors, that dedicate up to 30% of their time to the organic program. As of March 5, 2021, three NJDA field staff have completed IOIA training. NJDA plans to have additional staff cross-trained to help support the organic program since NJDA no longer uses outside inspectors due to the pandemic.

Additionally, the NJDA organic program is streamlining its electronic forms, electronic submission process, filing systems and other functions of the program to help improve efficiency. As of March 5, 2021, NJDA's electronic filing system is 50% complete, 28 forms are now available electronically, and NJDA is testing the use of distributing renewal and new applicant packets electronically.

NJDA indicated they would provide a status report on the timeliness of the certification reviews later in March 2021.

**AIA-3374-20 – Accepted.** (NP7135PZA.NC1) 7 C.F.R. §205.501(a)(9) states, “A private or governmental entity accredited as a certifying agent under this subpart must:… Maintain all records pursuant to §205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official;…”

**Comments:** *Product labels approved by the NJDA are not easily accessible. The auditor could not determine the most recent labels approved as part of the organic system plans for operation files reviewed in the NJDA filing system.*

**2017 Corrective Action:** NJDA amended its general procedures to state that all labels submitted for review will be stored in the client’s electronic folder. Approved labels will be provided to inspectors for onsite verification. This was communicated to staff on November 13, 2017 via email for immediate implementation.

**2019 Verification of Corrective Action:** NJDA has failed to correct this noncompliance. The auditor reviewed “Handler Listing of Products Forms” and labels in several certification files. The products listed on one of the “Handler Listing of Products Forms” didn’t match the labels in the operation’s electronic file. All the labels submitted by the operation and reviewed by NJDA were not stored in the operation’s electronic folder. There was a noncompliant label in the operation’s electronic file and NJDA was not sure if it had been reviewed and/or approved by NJDA.

**2020 Corrective Action:** NJDA is conducting a review of the electronic file folders for all its clients to ensure that the folders have the current labels and are easily accessible. Outdated labels will be moved to a folder for retired labels. NJDA’s review of these folders began in June 2020 and is expected to be completed by the end of the year – as of October 2020 the project is 85 – 95% complete. NJDA also plans to link each client label back to its Organic Product Profile (OPP) or product/ingredient tracking sheet by assigning numeric codes to their clients’ products.

**AIA-3379-20 – Accepted.** (NP7135PZA.NC6) 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:** *NJDA provided a copy of residue test results in May 2017 to the operations from which samples were collected in November, September, July, and May of 2016.*

**2017 Corrective Action:** NJDA clarified that the 2016 residue test results were mailed to the operations within a reasonable time, but no record was kept when the 2016 reports were originally mailed. On May 17, 2017, NJDA resent the 2016 residue test results to the operations via email, to generate a record of the delivery.

NJDA submitted its revisions to the “NJDA General Procedures” which states operations must be notified with a determination of organic status from test results and a copy of the results. NJDA amended and submitted its “NJDA Cert Program Testing Key” which records all testing sample information and now includes the date sample test results were provided to the operation. Staff has been informed of this requirement on September 15, 2017 via email.

**2019 Verification of Corrective Action:** The auditor reviewed the ten pesticide residue samples that were collected by NJDA in 2017 and 2018. NJDA did not notify one of the operations with a

copy of the test results.

**2021 Corrective Action:** NJDA provided the document “NJDA Pesticide Residue Table” which lists the operations that were sampled by NJDA in 2017 and 2018. According to NJDA’s records, all operations received a copy of test results however, for the operation mentioned in the corrective action verification, neither NJDA nor the manager of the operation were able to obtain a record of the notification sent by NJDA. To prevent this from occurring in the future, NJDA updated the document *NJDA General Procedures for Organic Certification*. The *Notice to Clients* portion of the *Testing and Monitoring of Organic Products and Inputs* section now states, “If this notification is sent via e-mail, a received receipt must be included, and a read receipt requested. In addition, a hard copy of the e-mail must be printed and placed into the client’s file folder.” NJDA notified all current certification staff of this change on March 5, 2021 and provided the NOP with the updated General Procedures document.

### **Noncompliances Identified during the Current Assessment**

**AIA-5114-21 – Accepted.** (NOP-32-19.NC1) 7 C.F.R. §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...”

**Comments:** *NJDA’s noncompliance and adverse action process is not in compliance with the regulations. The auditor identified the following significant issues with NJDA’s process:*

- *The auditor reviewed a certification file that contained four notice of noncompliance resolution letters. Each letter showed that NJDA accepted corrective actions for the noncompliance(s) after the stated deadline date to submit them, rather than issuing a notice of proposed suspension/revocation.*
- *The auditor reviewed a notice of noncompliance issued on November 26, 2014. The operation did not submit corrective actions by the deadline indicated in the notice of noncompliance and NJDA did not issue the operation a notice of proposed suspension. Instead, NJDA reviewed corrective actions that were submitted after the deadline and determined them to be insufficient. NJDA then provided the operation an extension until February 3, 2015 to submit additional corrective actions. The operation failed to provide any additional corrective actions. Two and a half years later, NJDA issued a “Notice of Noncompliance – Still Open” on August 21, 2017. NJDA accepted corrective actions to this notice that were submitted after the stated deadline and sent a notice of noncompliance resolution to the operation on March 28, 2018.*
- *The auditor reviewed a notice of noncompliance issued November 29, 2018. The operation did not submit corrective actions by the deadline indicated in the notice of noncompliance. NJDA did not issue the operation a notice of proposed suspension until February 22, 2019 which was 50 days after the deadline to submit corrective actions.*
- *The auditor reviewed a notice of noncompliance issued April 17, 2018. The operation did not submit corrective actions prior to the deadline indicated in the notice of noncompliance. NJDA did not issue the operation a notice of proposed suspension until July 23, 2018 which was 64 days after the deadline to submit corrective actions.*



**Corrective Action:** NJDA updated the document *NJDA General Procedures for Organic Certification* to state that a Notice of Proposed Suspension/Revocation will be sent to clients who fail to respond to a noncompliance within the timeframe described in the Notice. The update was communicated to NJDA staff via email on June 6, 2020.

**AIA-5115-21 – Accepted.** (NOP-32-19.NC2) 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. 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:** *The auditor reviewed a settlement agreement signed by NJDA and a certified operation. A term of the agreement was that the operation was to be suspended. However, NJDA agreed to delay the suspension date and allow the operation to sell product as organic through the conclusion of the growing season. Delaying the suspension date of an operation that is out of compliance does not comply with USDA organic regulations.*

**Corrective Action:** NJDA updated the document *NJDA General Procedures for Organic Certification*. The *Mediation* section now states, “If mediation is undertaken, postponing or delaying the original proposed suspension must NOT be an option for the operation.” NJDA notified all current certification staff of this change on March 5, 2021 and provided the NOP with the updated General Procedures document.

**AIA-5117-21 – Accepted.** (NOP-32-19.NC4) 7 C.F.R. §205.403(a)(2)(ii) states, “The Administrator...may require that additional inspections be performed by the certifying agent for the purpose of determining compliance with the Act and the regulations in this part.”

**Comments:** *The percentage of unannounced inspections conducted in 2017 (3.9%) did not achieve the 5% benchmark described in the NOP 2609 Unannounced Inspections.*

**Corrective Action:** NJDA updated the document *NJDA General Procedures for Organic Certification* to state that the requirement for unannounced inspection is per calendar year and notified personnel of the changes during a staff meeting. NJDA also submitted its tracking sheet for unannounced inspections as evidence that the current system is functioning as intended. The tracking sheet indicates that NJDA met the 5% unannounced inspection requirement in 2018 and 2019.

**AIA-5118-21 – Accepted.** (NOP-32-19.NC5) 7 C.F.R. §205.501(a)(21) 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; Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.” The NOP website provides instructions and the terms of international trade arrangements.

**Comments:** *The auditor reviewed 15 import certificates for the one operation certified by NJDA that exports products to Korea under the equivalency arrangement. None of the import*

*certificates include the statement, “Certified in compliance with the terms of the US-Korea Organic Equivalency Arrangement.” Instead it states, “Products accompanied by this certificate do not contain apples or pears produced with the use of antibiotics.”*

**Corrective Action:** NJDA updated its template for import certificates for products exported to Korea under the equivalency arrangement. The template now includes the statement “Certified in compliance with the terms of the US-Korea Organic Equivalency Arrangement.” NJDA submitted a recently issued import certificate that contains the correct statement. NJDA also submitted to NOP its sheet for tracking the import certificates issued by NJDA to its certified operation.

**AIA-5116-21 – Rebuttal accepted.**

## NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

### AUDIT AND REVIEW PROCESS

The National Organic Program (NOP) received New Jersey Department of Agriculture's (NJDA) accreditation renewal application to become a U.S. Department of Agriculture (USDA) accredited certifier on December 13, 2016. The NOP has reviewed NJDA's application, conducted an onsite audit, and reviewed the audit report to determine NJDA's capability to operate as a USDA accredited certifier.

### GENERAL INFORMATION

<b>Applicant Name</b>	New Jersey Department of Agriculture (NJDA)
<b>Physical Address</b>	369 S. Warren Street, Trenton, NJ 08625-0330
<b>Mailing Address</b>	P.O. Box 330, Trenton, NJ 08625-0330
<b>Contact &amp; Title</b>	Erich V. Bremer, Supervisor, Organic Certification
<b>E-mail Address</b>	erich.bremer@ag.state.nj.us
<b>Phone Number</b>	609-633-1738
<b>Reviewer Auditors</b>	Jason Lopez, NOP Reviewer; Penny Zuck and Graham Davis, On-site Auditors.
<b>Program</b>	USDA National Organic Program (NOP)
<b>Review date Audit Dates</b>	NOP assessment review: November 1, 2017 – July 3, 2018 Onsite audit: May 15-19, 2017
<b>Audit Identifier</b>	NP7135PZA
<b>Action Required</b>	None
<b>Audit &amp; Review Type</b>	Renewal Assessment
<b>Audit Objective</b>	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NJDA's certification
<b>Audit &amp; Determination Criteria</b>	7 CFR Part 205, National Organic Program as amended
<b>Audit &amp; Review Scope</b>	NJDA's certification services in carrying out the audit criteria during the period: October 26, 2015 through May 15, 2017

The New Jersey Department of Agriculture (NJDA) is a state agency that was accredited as a certifying agent on April 12, 2007 by the National Organic Program (NOP) for the scopes of crops, wild crops, livestock, and handling/processing. The NJDA Organic Certification Program currently certifies a total of 103 to the following certification scopes: 73 crops, 2 wild crops, 6 livestock, and 30 handler/processor. All certified operations are located in the United States. The NJDA only accepts applications for new certifications in the state of New Jersey, however, there are a few operations certified in Pennsylvania since the program was first accredited.

The organic program is overseen by the Program Manager. There is one full-time staff member dedicated to the organic program, The Organic Certification Program Supervisor, who performs

all certification activities and who is assisted part-time by the Ag Resource Specialist and the Agricultural Products Agent 1. NJDA contracts with three independent organic inspectors.

The NJDA renewal audit included two witness audits. One of a crops and livestock operation, and one of a processor/handler operation. One review audit was conducted of a processor/handler operation.

## **NOP DETERMINATION**

The NOP reviewed the onsite audit results to determine whether NJDA corrective actions adequately addressed previous noncompliances. The NOP also reviewed the findings identified during the onsite audit to determine whether noncompliances should be issued to NJDA.

### **Noncompliances 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.

**NP5299JZA.NC1 – Cleared**

**NP5299JZA.NC4 – Cleared**

**NP5299JZA.NC5 – Cleared**

**NP5299JZA.NC6 – Cleared**

**NP5299JZA.NC7 – Cleared**

**NP5299JZA.NC8 – Cleared**

**NP5299JZA.NC11 – Cleared**

**NP5299JZA.NC12 – Cleared**

**NP5299JZA.NC14 – Cleared**

**NP5299JZA.NC16 – Cleared**

**NP5299JZA.NC3 – Accepted** - 7 CFR §205.404(b) states, “The certifying agent must issue a certificate of organic operation which specifies the: (1) Name and address of the certified operation; (2) Effective date of certification; (3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation.” NOP 2603, Organic Certificates, Section 3.1 states, “Organic certificates should be issued in English and include the following (\* identifies elements required by 7 CFR § 205.404 of the USDA organic regulations): 1. Certified operation’s name (all legal names) and address(es), including a physical address if the mailing or legal address is not the physical location of the operation\*; 2. Certifying agent’s name, address, web site, and phone number\*; 5. Anniversary date (when the certified operation must submit its annual update); and 6. Categories of organic operation (crops, wild crops, livestock, and handling/processing)\*.

**Comments:** *Organic certificates issued by NJDA do not contain the following information or terms:*

- *NJDA's website;*
- *Anniversary date (certificates do state the most recent and next updates; however, the term "anniversary date" is not used);*
- *Issue date;*
- *The certification category of "wild crops." NJDA certificates use the term "Wild Crafting."*
- *All physical location(s) of the handler and production sites are not identified. In some cases, only the mailing address is listed which may be a post office box, not the operation's physical address(es).*

**2016 Corrective Action:** NJDA revised the category of certification field on the certificate to include "Wild Crops" instead of "Wild Crafting" and added the website address. The Organic Certificate Addendum was revised to include Anniversary Date, and Issue Date, The revised template also notes that a physical address must be provided on the organic certificate, and cannot be a PO Box address. Email notification was sent to the staff about this change. The revised documents and copy of the email notification were submitted to the NOP.

**Verification of Corrective Action:** The current certificate template indicates "wild crops" instead of "wild crafting", however, no new certificates with this change have been issued yet. Auditor reviewed various certificates that were recently issued and they do not consistently include the NJDA's website address and/or physical address of the operation when a mailing address is on the certificate.

**2017 Corrective Action:** NJDA has included its website address on its organic certificate and is verifying certificates to ensure that they include the physical address. NJDA submitted copies of four recently issued certificates to demonstrate that the operation's physical address and NJDA's website is being included on organic certificates.

**NP5299JZA.NC9 – Accepted** - 7 CFR §205.501(a)(4) states that a certifier 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 NOP auditor reviewed three of eight operation files where the annual update cycle from date the update report was received by NJDA to certification decision was not or has not been completed in a reasonable length of time:*

- *A 2014 update report received in October 2014, inspection occurred in January 2015, and the update review and decision remains pending (October 2015).*
- *2014 update report received May 2014, inspection occurred July 2014, and the update decision issued in September 2015.*
- *2015 update report received February 2015, inspection occurred in August 2015, and the update decision remains pending (October 2015).*

*NJDA is not conducting accreditation activities in a reasonable amount of time due to the lack of adequate staffing. Currently there is one NJDA staff official (Organic Supervisor) dedicated full-time to the organic program. There are three additional NJDA organic certification staff officials (including the Organic Program Manager) that are part-time and have other work*

*responsibilities within the State's agricultural and marketing programs. Although the one full-time NJDA organic program staff official is experienced and knowledgeable; and the other part-time NJDA staff officials are competent, the workload for a program containing approximately 100 certified operations and growing appears to be unsustainable.*

**2016 Corrective Action:** NJDA has redistributed the job duties of those involved with the certification program to maximize time management and to provide the additional resources needed to maintain and expand the program. As part of this restructure, one of the part-time staff is now dedicating 90% of his time to certification program duties.

**Verification of Corrective Action:** Auditor verified the part-time staff member has been assigned the responsibility of reviewing all handler files and continues training with the Supervisor to take on additional certification activities. One witness inspection that took place during the audit had not yet received their certification decision letter from the previous year. The annual update was received in January 2016. Two other files reviewed show dates of completion (findings issued) one year after the date of receiving the annual update paperwork.

**2017 Corrective Action:** NJDA established an annual goal of decreasing application/update processing times by 5%. NJDA will review progress toward this goal every 6 months. August 29, 2018, NJDA conducted a progress review of the average time from the date NJDA receives an update to the date they issued the letter of update back to the client. The report indicated a reduction of 15 days, which is a 4.7% reduction in processing time. NJDA created an internal workflow procedure to reach this goal using its "general organic data base." The database will track logged application/updates as they are received/reviewed for completeness, assigned for initial review, inspection, and completion of the application/update report. A three-month time frame will be allowed for the initial application/update review. A two-month time frame is allotted for receipt of the inspection report and a three-month timeframe will be allowed for completion of the application/update report. An alert will notify the program manager if the time frames are not met. The program manager will review each alert and implement a plan to make sure they are completed quickly. On February 23, 2018, NJDA implemented monthly meetings where the program manager reviews with staff the average application/update processing days and workflow alerts. The program manager will use the additional level of program review and documentation to determine clear reasons for triggered alerts in the process. This will allow the manager to review findings or patterns for triggered alerts with staff at monthly meetings and semiannual employee evaluations.

**NP5299JZA.NC10 – Accepted** - 7 CFR §205.406(c) states that, "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 NOP Auditor reviewed several operation files with labels that were not compliant with the regulations as follows:*

- 1. A "Made with Organic..." essential oil product contained additional language on the principal label panel making an "Organic" category claim. §205.304(a)(1).*
- 2. During a review audit, the operation's retail label's "Certified Organic By ..." statement was not located below the name of the manufacturer or distributor. §205.303(b)(2).*

3. *In both of the above cases, the labels were not identified as noncompliant by the NJDA reviewers or inspectors. In the case of the incorrect placement of the “Certified Organic By...” statement, the most recent inspection report stated that there was no change in the label. There was no mention in the inspection report as to whether the inspector had conducted a label verification during the inspection or why this label issue of concern was not identified.*

**2016 Corrective Action:**

- The operation identified with the noncompliant product label is no longer certified by NJDA. NJDA re-reviewed all “Made with Organic...” labels and verified they were in compliance with the USDA organic regulations. NJDA staff members were notified of the noncompliance and instructed on the USDA organic regulations at §205.304(a)(1). This notification included NOP 5032 and NOP 5032-1.
- NJDA received the operation’s annual update and resubmission of labels following the audit. NJDA indicated the labels were not compliant and not approved for use. The noncompliant labels were never used since the operation has yet to handle or sell any organic products. The NJDA inspector checklist for handling operations ask inspectors to verify whether all labels used on organic products were submitted and reviewed by NJDA. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.

**Verification of Corrective Action:**

1. A “Made with organic...” product label that was approved by the NJDA included the USDA seal and “organic” in the brand name.
2. This was an isolated incident. The label in question was not submitted to the NJDA by the operation for approval and the label was never used.

**2017 Corrective Action:** NJDA clarified that it had previously approved the label in question in 2012 and did not rescind approval of the label after the May 2014 publication of NOP 5032. NJDA has revised and submitted its General Procedures for Organic Certification to require the staff member assigning the inspection to re-review approved labels to ensure they continue to be compliant. NJDA has revised and submitted its Inspector Special Instruction template, which now requires the reviewer to indicate whether all labels have been provided to the inspector and whether all provided labels have been reviewed. NJDA staff and inspectors were notified of the policy changes on April 20, 2018.

**NP5299JZA.NC15 – Accepted** - 7 CFR §205.403(e)(2) states that “A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent.”

**Comments:** *The NOP auditor reviewed one unannounced inspection where a sample for pesticide residues was collected and where NJDA conducted an inspection of the production and handling sites. NJDA did not complete and issue an inspection report to the operation.*

**2016 Corrective Action:** NJDA revised the “Unannounced Inspections” section of the General Procedures for Certification to include a report must be generated for all unannounced inspections and a copy of the report and review findings must be sent to the client. The revised NJDA General Procedures document was submitted to the NOP.

**Verification of Corrective Action:** Auditor reviewed the unannounced inspection files from 2016. The unannounced inspection reports have not yet been sent to the operations since the final reviews have not been completed. Copies of inspection reports will be sent to the operation with the final decision letter following final review.

**2017 Corrective Action:** NJDA issued the unannounced inspection report that was not yet sent at the time of inspection. NJDA amended its policy to state that a copy of an unannounced inspection report can be sent to the client after completion of the inspection and must be included with the compliance review letter closing out the update for the season the inspection was completed if it had not been sent earlier. The policy previously only allowed the inspection report to be sent with the compliance review letter closing out the client's annual update.

### **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.

**NP7135PZA.NC1 – Accepted** - 7 C.F.R. §205.501(a)(9) states, “A private or governmental entity accredited as a certifying agent under this subpart must:... Maintain all records pursuant to §205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official;...”

**Comments:** *Product labels approved by the NJDA are not easily accessible. The auditor could not determine the most recent labels approved as part of the organic system plans for operation files reviewed in the NJDA filing system.*

**Corrective Action:** NJDA amended its general procedures to state that all labels submitted for review will be stored in the client's electronic folder. Approved labels will be provided to inspectors for onsite verification. This was communicated to staff on November 13, 2017 via email for immediate implementation.

**NP7135PZA.NC2 - Accepted** - 7 C.F.R. §205.501(a)(21) 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; Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.” The NOP website provides instructions and the terms of international trade arrangements.

**Comments:** *Product labels for exported products to Korea were not requested or reviewed by NJDA for compliance to the US-Korea Equivalency Arrangement terms.*

**Corrective Action:** The NJDA “Request for Organic Export Documents” has been revised to include international agreement label questions. The reviewer must answer the label questions after reviewing the submitted label. NJDA personnel were trained on the use of Organic Export Document.



**NP7135PZA.NC3 – 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 proposed effective date of such suspension or revocation;...and...The right to request mediation pursuant to §05.663 or to file an appeal pursuant to §205.681.”

**Comments:** *The NJDA Notice of Proposed Suspension indicates the operation has 30 days, from the issue date of the notice, to file an appeal. The review of two Notices of Proposed Suspension issued to operations in May 2017 indicate the proposed effective dates of Suspension, which are less than 30 days from the date of the notices. This does not allow the operation 30 days to file an appeal.*

**Corrective Action:** NJDA reissued the notices of proposed suspension with updated response dates. NJDA has amended its notice of proposed suspension template to include proposed date of suspension and the phrase “**MUST BE AT LEAST 33 DAYS AFTER “ISSUE DATE” ABOVE**” (in red bold caps) so staff will be aware of the minimum date by which suspension may begin. The old notice of proposed suspension template was archived and was replaced with the corrected template.

**NP7135PZA.NC4 – 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:** *NJDA is accepting certification surrender from operations resolving a notice of proposed suspension without engaging in mediation.*

**Corrective Action:** NJDA accepted mediation requests from both operations in question that resulted in settlement agreements. NJDA has updated its General Procedures for Certification to clearly state that surrender must not stop the adverse action proceedings and further states the proposed suspension must be successfully mediated or appealed. NJDA staff have been notified of this procedural change by email and personal conversation.

**NP7135PZA.NC5 - Accepted** - 7 CFR §205.403(c)(1-3) states, “The on-site inspection of an operation must verify:

- 1) The operation's compliance or capability to comply with the Act and the regulations in this part;
- 2) 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;
- 3) 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.”

**Comments:** *During one witness audit, the following auditor observations were made:*

- 1. The inspector did not verify labels being used by the operation and approved by NJDA as part of the Organic System Plan.*
- 2. The operation provided the inspector with the numbers/quantity to perform two in/out mass balances. The inspector did not verify the numbers with actual documents such as purchase invoices, inventory records, and sales records.*
- 3. The inspector asked the operation to review the input list in the organic system plan and make changes to it (additions, deletions, etc.), however, the inspector did not verify the inputs during the inspection (including cleaning materials, sanitation materials, and flavor ingredients).*
- 4. The inspector did not verify the varieties of coffee and tea onsite and those listed on the organic system plan and certificate.*
- 5. The inspector did not verify supplier certificates along with the approved organic product profiles or list of approved ingredient suppliers.*
- 6. The inspector did not verify cleaning/purging procedures by reviewing cleaning/purging documentation/logs and/or interviewing staff in the production area.*

**Corrective Action:** NJDA took the following actions:

1. NJDA has revised its label inspection procedures. NJDA will provide inspectors with a color copy of approved labels for verification. Inspectors are instructed to verify each label and report any deviations on the inspection report. Inspectors were informed of these new procedures via email on December 6, 2017.
2. NJDA has informed inspectors that mass balance and audit trail calculations must be completed using data from the operations original documents. Inspectors were informed of this clarification via email on December 6, 2017.
3. NJDA sent an email reminder to inspector stating all inputs and storage locations need to be verified during the onsite inspection. Inspectors were made aware of this change in an email sent on September 15, 2017.
4. NJDA has amended its inspection checklist. Inspectors are expected to indicate their verification of all finished products and their inclusion on the organic system plan. Inspectors were made aware of this change in an email sent on September 15, 2017.
5. NJDA clarified to its inspectors that a complete verification of product profiles includes a verification of the approved product profile and a confirmation of the organic status of each ingredient with documentation. NJDA has amended its inspection report requiring inspectors to report any inconsistencies between documents. Inspectors were informed of this process change via email on December 6, 2017.
6. NJDA has amended its inspection checklist with a checklist item for the inspector to verify cleaning and purging logs. Inspectors were made aware of this change in an email sent on September 15, 2017.

**NP7135PZA.NC6 - Accepted** - 7 C.F.R. §205.402(b)(3), “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:** *NJDA provided a copy of residue test results in May 2017 to the operations from which samples were collected in November, September, July, and May of 2016.*

**Corrective Action:** NJDA clarified that the 2016 residue test results were mailed to the operations within a reasonable time, but no record was kept when the 2016 reports were originally mailed. On May 17, 2017, NJDA resent the 2016 residue test results to the operations via email, to generate a record of the delivery. NJDA submitted its revisions to the “NJDA General Procedures” which states operations must be notified with a determination of organic status from test results and a copy of the results. NJDA amended and submitted its “NJDA Cert Program Testing Key” which records all testing sample information and now includes the date sample test results were provided to the operation. Staff has been informed of this requirement on September 15, 2017 via email.

**NP7135PZA.NC7 - Accepted** - 7 C.F.R. §205.670(d) “A certifying agent must, on an annual basis, sample and test from a minimum of five percent of the operations it certifies, rounded to the nearest whole number. A certifying agent that certifies fewer than thirty operations on an annual basis must sample and test from at least one operation annually. Tests conducted under paragraphs (b) and (c) of this section will apply to the minimum percentage of operations.”

**Comments:** *The percentage of prohibited substance testing (3.7%) conducted in 2016 did not achieve the 5% requirement.*

**Corrective Action:** NJDA found a scheduled 2016 sample was postponed and taken in March 2017. The postponed sample caused the 2016 sample percentage to drop below 5%. NJDA amended its General Procedures for Certification to state that samples must be pulled and tested in the same calendar year.

## NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

### AUDIT AND REVIEW PROCESS

The National Organic Program (NOP) conducted a mid-term assessment of the New Jersey Department of Agriculture (NJDA). An onsite audit was conducted, and the audit report reviewed to determine NJDA's capability to continue operating as a USDA accredited certifier.

### GENERAL INFORMATION

<b>Applicant Name</b>	New Jersey Department of Agriculture (NJDA)
<b>Physical Address</b>	369 South Warren Street, Trenton, NJ 08625
<b>Mailing Address</b>	P.O. Box 330, Trenton, NJ 08625
<b>Contact &amp; Title</b>	Erich Bremer, Supervisor Organic Certification Program
<b>E-mail Address</b>	<a href="mailto:Erich.bremer@ag.state.nj.us">Erich.bremer@ag.state.nj.us</a>
<b>Phone Number</b>	609-984-2225
<b>Reviewer &amp; Auditor</b>	Penny Zuck, NOP Reviewer; Lars Crail, Onsite Auditor.
<b>Program</b>	USDA National Organic Program (NOP)
<b>Review &amp; Audit Date(s)</b>	Corrective action review: August 26, 2016 – October 20, 2016 NOP assessment review: May 18, 2016 Onsite audit: October 26, 2015 – October 30, 2015
<b>Audit Identifier</b>	NP5299JZA
<b>Action Required</b>	None
<b>Audit &amp; Review Type</b>	Mid-Term Assessment
<b>Audit Objective</b>	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NJDA's certification system.
<b>Audit &amp; Determination Criteria</b>	7 CFR Part 205, National Organic Program as amended
<b>Audit &amp; Review Scope</b>	NJDA's certification services in carrying out the audit criteria during the period: May 2, 2014 through October 30, 2015

The New Jersey Department of Agriculture (NJDA) is a state government that was accredited as a certifying agent on April 12, 2007 to the National Organic Program (NOP) for the scopes of crop, wild crop, livestock, and handling/processing. The NJDA Organic Certification Program certifies 97 operations to the USDA organic regulations and to the following certification categories: 71 crop, 2 wild crop, 7 livestock, and 26 handler/processor. All certified operations are located in the United States and primarily in New Jersey; however, there is one operation in California and a few operations in Pennsylvania.

### NOP DETERMINATION:

NOP reviewed the onsite audit results to determine whether NJDA's 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.

**NP821700A.NC3 – Cleared**

**NP2142ACA.NC6 – Cleared**

**AIA14121LMC.NC1 – Cleared**

**AIA14121LMC.NC2 – Cleared**

**AIA14121LMC.NC3 – Cleared**

**AIA14121LMC.NC4 – Cleared**

**AIA14121LMC.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.

**NP5299JZA.NC1 – Accepted.** 7 CFR §205.642 states that, “The certifying agent may set the nonrefundable portion of certification fees; however, the nonrefundable portion of certification fees must be explained in the fee schedule submitted to the Administrator. The fee schedule must explain what fee amounts are nonrefundable and at what stage during the certification process fees become nonrefundable.”

**Comments:** *The statement describing the refund of fees for initial applicants on the NJDA Fee Schedules (Producer and Handler) is unclear: Application fees are remitted before a “content assessment” is conducted. The term “content assessment” is not defined and requires clarification for certification applicants to understand when fees are refundable.*

**2016 Corrective Action:** The NJDA Certification Program fee schedules (Handler and Producer) were revised to include which part of the fees are nonrefundable and at what stage during the certification process the fees become nonrefundable. The revised fee schedules were submitted to the NOP. By updating the document control log with the revised fee schedules, the NJDA staff have been informed of the changes.

**NP5299JZA.NC2 – Accepted.** 7 CFR §205.642 states that, “...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:** *NJDA is providing operations fee estimates for initial and continuing certification; however, those estimates are incomplete. The Handler Application/Update Acknowledgement Form does not provide an inspection fee estimate. Statements in the Producer Application/Update Acknowledgement Form imply that the fee estimate is for initial applicants only.*

**2016 Corrective Action:** NJDA revised the Handler Application/Update Acknowledgement Form to include an estimate of inspection cost and the Producer Application/Update Acknowledgement Form to indicate the estimate is for new applicants and updates. The revised acknowledgement forms were submitted to the NOP. By updating the document control log with the revised forms, the NJDA staff have been informed of the changes.

**NP5299JZA.NC3 – Accepted.** 7 CFR §205.404(b) states, “The certifying agent must issue a certificate of organic operation which specifies the: (1) Name and address of the certified operation; (2) Effective date of certification; (3) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation.” NOP 2603, Organic Certificates, Section 3.1 states, “Organic certificates should be issued in English and include the following (\* identifies elements required by 7 CFR § 205.404 of the USDA organic regulations): 1. Certified operation’s name (all legal names) and address(es), including a physical address if the mailing or legal address is not the physical location of the operation\*; 2. Certifying agent’s name, address, web site, and phone number\*; 5. Anniversary date (when the certified operation must submit its annual update); and 6. Categories of organic operation (crops, wild crops, livestock, and handling/processing)\*.”

**Comments:** *Organic certificates issued by NJDA do not contain the following information or terms:*

- *NJDA’s website;*
- *Anniversary date (certificates do state the most recent and next updates; however, the term “anniversary date” is not used);*
- *Issue date;*
- *The certification category of “wild crops.” NJDA certificates use the term “Wild Crafting.”*
- *All physical location(s) of the handler and production sites are not identified. In some cases, only the mailing address is listed which may be a post office box, not the operation’s physical address(es).*

**2016 Corrective Action:** NJDA revised the category of certification field on the certificate to include “Wild Crops” instead of “Wild Crafting” and added the website address. The Organic Certificate Addendum was revised to include Anniversary Date, and Issue Date, The revised template also notes that a physical address must be provided on the organic certificate, and cannot be a PO Box address. Email notification was sent to the staff about this change. The revised documents and copy of the email notification were submitted to the NOP.

**NP5299JZA.NC4 – Accepted.** 7 CFR §205.406(c) states that, “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.

**2015 Comments:** *The Producer Application/Update Acknowledgement Form states that “Additional fees must be received before certification decisions can be released or updates completed.” Auditor interviews with NJDA certification staff indicated that in at least one incident, an operation’s Update Completion Letter was not issued until the operation paid an outstanding fee balance. A Notification of Noncompliance was not issued to this operation for non-payment of fees (§205.400).*

**2016 Corrective Action:** NJDA revised the Producer Application/Update Acknowledgement Form by removing the statement requiring fees to be paid prior to certification decisions can be released or updates can be completed. The revised form was submitted to the NOP. By updating the document control log with the revised form, the NJDA staff have been informed of the changes.

**NP5299JZA.NC5 – Accepted.** 7 CFR §205.403(c)(1-3) states that, “The on-site inspection of an operation must verify:

- 1) The operation's compliance or capability to comply with the Act and the regulations in this part;
- 2) 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;
- 3) 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.”

**Comments:** *During the review and witness audits conducted by the NOP Auditor, the following observations were made:*

1. *An inspection report indicated that the crop operation had completed an “on-farm” processing form for a new processed product and that the processing was occurring at an off-farm facility. The auditor’s interview of the certified crop operators revealed that the off-site facility was not inspected by the NJDA inspector during the inspection.*
2. *Several input materials either used by the crop operator and/or located at a crop operation location were not listed on the verified list of materials. These materials were either not identified during the last inspection or not reported in the inspection report.*
3. *NJDA inspection checklist templates do not request or prompt inspectors to verify compliance to all international trade agreement terms for exported and imported products and ingredients.*
4. *At the handler facility the inspection report reviewed by the NOP auditor did not verify label compliance. The inspection report indicated that there was no change to the label; however, the label indicated that the “Certified organic by NJDA” statement was not placed below the manufacturer or the distributor name and therefore not compliant.*
5. *During a crop witness audit, there was significant soil erosion from recent rains. Although the operator and the inspector briefly discussed the erosion, this observation was not addressed as an issue of concern during the exit interview by the inspector.*

6. *During a crop review audit, the NOP auditor found that the operation does not maintain an activity log to record applied inputs and other cultural activities despite the operation's OSP indicating that such record exists and maintained. This discrepancy was not noted as an issue of concern during the last on-site inspection. Without a farm activity record it is unclear how the inspector verified the application of inputs.*
7. *During the review audit, the NOP auditor learned that the operation was selling a new processed product not listed on its certificate. The operation had partially disclosed the handling of this new product in their annual update and special inspector instructions were issued by NJDA to obtain additional information about the processing of this new product. The new product was incompletely verified during the on-site inspection (August 2015) and the inspector did not provide NJDA information to issue a certification decision.*

**2016 Corrective Action:**

1. NJDA included this noncompliance in the inspector's evaluation to address that the handling site should have been inspected per the inspector job description form signed by the inspector. The NJDA inspector job description form includes the requirement of inspecting all production areas. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance and the inspection requirement.
2. NJDA included this noncompliance in the inspector's evaluation to address that locations where the operation stores materials for use in organic production must be inspected. To prevent reoccurrence, the NJDA Producer Inspection Checklist was revised to include a statement instructing the inspector to inspect the location where the operation stores materials for use in organic production. NJDA contacted the operation regarding this noncompliance and requested documentation as to whether these additional materials in storage are intended to be used in organic production or not. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.
3. NJDA revised the Inspection Checklists for Handling, Crops, and Livestock Operations to prompt the inspectors to check for import and export documentation, as applicable. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.
4. NJDA received the operation's annual update and resubmission of labels following the audit. NJDA indicated the labels were not compliant and not approved for use. The noncompliant labels were never used since the operation has yet to handle or sell any organic products. The NJDA inspector checklist for handling operations asks inspectors to verify whether all labels used on organic products were submitted and reviewed by NJDA. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.
5. NJDA included this noncompliance in the inspector's evaluation to address that the soil erosion issue should have been included in the exit interview as a concern even though it was described in the inspector's report. NJDA issued a notice of noncompliance to the operation and corrective actions were received. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.
6. NJDA issued a minor noncompliance to the operation for not maintaining an activity log to record applied inputs and other cultural activities despite the operation's OSP indicated that such records exist and are maintained. NJDA will follow up by monitoring this



client's record keeping system during the 2016 update process. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.

7. NJDA included this noncompliance in the inspector's evaluation to address that the handling site should have been inspected per the inspector job description form signed by the inspector. The NJDA inspector job description form includes the requirement of inspecting all production areas. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance and the inspection requirement.

**NP5299JZA.NC6 – Accepted.** 7 CFR §205.662(c) states that, “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:

- 1) The reasons for the proposed suspension or revocation;
- 2) The proposed effective date of such suspension or revocation;
- 3) The impact of a suspension or revocation on future eligibility for certification; and
- 4) The right to request mediation pursuant to §205.663 or to file an appeal pursuant to §205.681.”

**Comments:** *One proposed suspension notification reviewed by the NOP auditor stated that the operation was allowed the option of surrendering their certification. The USDA organic regulations state that a proposed suspension notice allows for an operation to either request mediation with the certifier or file an appeal with the USDA AMS Administrator.*

**2016 Corrective Action:** NJDA clarified that the NJDA Notice of Proposed Suspension template does not include language with the option to surrender in order to stay the proposed suspension, but the option to surrender was added to this particular notice because the only noncompliance for the operation was not submitting the annual update paperwork. The NJDA General Procedures for Certification was amended to state, “An operation wishing to surrender certification that has an outstanding Notice of Noncompliance or Proposed Suspension may do so. The NJDA will accept the surrender of certification. For operations with an outstanding Notice of Proposed Suspension, surrender of certification must not stop the adverse action proceedings as outlined in §205.662 of the Rule, and the Proposed Suspension must be successfully mediated or appealed by the client to stop the issuance of Suspension.”

**NP5299JZA.NC7 – Accepted.** 7 CFR §205.501(a)(8) states that certifiers 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;”

**Comments:** *The following items are not in compliance with the regulations:*

1. *NJDA Organic System Plan (OSP) templates do not have adequate information allowing an operation to disclose product or ingredient export and import activities to demonstrate compliance to established international trade agreement terms. There is no reference (e.g. NOP website or fact sheet) to allow operators to obtain information and the requirements for trading organic products under the existing international trade agreements.*

2. *The NJDA Producer OSP templates do not allow the operator to indicate the legal status of the entity requesting certification.*

**2016 Corrective Action:** NJDA revised the Organic System Plan templates (Organic Farm Plan, Organic Livestock Plan, and Organic Handling Plan) to ask applicants additional information on importing and exporting organic ingredients and products. NJDA revised the Operation Information Cover Sheet template, which is completed by each operation with initial application and annual updates, asking for the legal status of the operation. The revised templates were submitted to the NOP and by updating the document control log with the revised templates, the NJDA staff have been informed of the changes.

**NP5299JZA.NC8 – Accepted.** 7 CFR §205.504(b)(1) states that certifiers must establish, “...procedures to be used to evaluate certification applicants, make certification decisions, and issue certification decisions, and issue certification certificates.”

**Comments:** *NJDA’s Program Manual does not include procedures describing its activities for complying with the terms of international trade agreements and to ensure that certified operations are complying.*

**2016 Corrective Action:** NJDA clarified that the Program Manual does not include specific procedures for each compliance requirement found in the USDA organic regulations, it instead includes general procedures for organic certification. NJDA revised the Compliance Review Checklist for Producer Applications and Updates and the Compliance Review Checklist for Handler Applications and Updates to review and verify whether operations are importing or exporting according to international trade arrangements. The revised templates were submitted to the NOP. By updating the document control log with the revised templates, the NJDA staff have been informed of the changes.

**NP5299JZA.NC9 – Accepted.** 7 CFR §205.501(a)(4) states that a certifier 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 NOP auditor reviewed three of eight operation files where the annual update cycle from date the update report was received by NJDA to certification decision was not or has not been completed in a reasonable length of time:*

- *A 2014 update report received in October 2014, inspection occurred in January 2015, and the update review and decision remains pending (October 2015).*
- *2014 update report received May 2014, inspection occurred July 2014, and the update decision issued in September 2015.*
- *2015 update report received February 2015, inspection occurred in August 2015, and the update decision remains pending (October 2015).*

*NJDA is not conducting accreditation activities in a reasonable amount of time due to the lack of adequate staffing. Currently there is one NJDA staff official (Organic Supervisor) dedicated full-time to the organic program. There are three additional NJDA organic certification staff officials (including the Organic Program Manager) that are part-time and have other work responsibilities within the State’s agricultural and marketing programs. Although the one full-time NJDA organic program staff official is experienced and knowledgeable; and the other part-time NJDA staff officials are competent, the workload for a program containing approximately 100 certified operations and growing appears to be unsustainable.*

**2016 Corrective Action:** NJDA has restructured the job duties of those involved with the certification program to maximize time management and to provide the additional resources needed to maintain and expand the program. As part of this restructure, one of the part-time staff is now dedicating 90% of his time to certification program duties.

**NP5299JZA.NC10 – Accepted.** 7 CFR §205.406(c) states that, “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 NOP Auditor reviewed several operation files with labels that were not compliant with the regulations as follows:*

1. *A “Made with Organic...” essential oil product contained additional language on the principal label panel making an “Organic” category claim. §205.304(a)(1).*
2. *During a review audit, the operation’s retail label’s “Certified Organic By ...” statement was not located below the name of the manufacturer or distributor. §205.303(b)(2).*
3. *In both of the above cases, the labels were not identified as noncompliant by the NJDA reviewers or inspectors. In the case of the incorrect placement of the “Certified Organic By...” statement, the most recent inspection report stated that there was no change in the label. There was no mention in the inspection report as to whether the inspector had conducted a label verification during the inspection or why this label issue of concern was not identified.*

**2016 Corrective Action:**

- The operation identified with the noncompliant product label is no longer certified by NJDA. NJDA re-reviewed all “Made with Organic...” labels and verified they were in compliance with the USDA organic regulations. NJDA staff members were notified of the noncompliance and instructed on the USDA organic regulations at §205.304(a)(1). This notification included NOP 5032 and NOP 5032-1.
- NJDA received the operation’s annual update and resubmission of labels following the audit. NJDA indicated the labels were not compliant and not approved for use. The noncompliant labels were never used since the operation has yet to handle or sell any organic products. The NJDA inspector checklist for handling operations ask inspectors to verify whether all labels used on organic products were submitted and reviewed by NJDA. As part of the inspector evaluation process, all NJDA inspectors were notified of this noncompliance.

**NP5299JZA.NC11 – Accepted.** 7 CFR § 205.501(a)(6) states that “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.” NOP 2027, Performance Evaluations, Section 3.2 (b), states that “Inspectors should be evaluated during an onsite inspection by a supervisor or peer (another inspector) at least annually. This field evaluation should be conducted at the certifying agent’s expense.”

**Comments:** *Annual field performance evaluations of inspectors was not conducted during 2014 and 2015. Desk evaluations of inspectors are conducted based upon the inspection report and a postcard evaluation submitted by inspected operations.*

**2016 Corrective Action:** NJDA developed a checklist form to use for inspector field evaluations and has begun conducting the evaluations for 2016. One evaluation was completed and submitted to the NOP. The other evaluations have been scheduled and NJDA plans to complete field evaluations for all independent organic inspectors for 2016 by the end of the calendar year. The NJDA General Procedures was revised to indicate the NJDA Organic Certification Program will perform annual field evaluations of all independent organic inspectors. The revised NJDA General Procedures document was submitted to the NOP.

**NP5299JZA.NC12 – Accepted.** 7 CFR §205.501(a)(21), states that certifiers must “Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary.” NOP 2609, Instruction Unannounced Inspections, Section 4.1.1 instructs certifying agents to “conduct unannounced inspections of 5 percent of their total certified operations per year...”

**Comments:** *NJDA is not conducting unannounced inspections to attain the minimum of 5 percent of their total certified operations.*

**2016 Corrective Action:** NJDA plans to conduct unannounced inspections of at least 5% of their total certified operations in 2016 and this is included in the NJDA General Procedures. NJDA submitted the inspection report for one unannounced inspection that took place in July 2016; one is scheduled to take place October 23, 2016; and three others have been assigned to a staff inspector to be conducted by the end of the 2016 calendar year. This would total 5 unannounced inspections in 2016 and will meet the required 5%. Copies of the inspector notifications/assignments were submitted to the NOP.

**NP5299JZA.NC13 – Withdrawn.** 7 CFR §205.670(e) states “Sample collection pursuant to paragraphs (b) and (c) of this section must be performed by an inspector representing the Administrator, applicable State organic program's governing State official, or certifying agent. Sample integrity must be maintained throughout the chain of custody, and residue testing must be performed in an accredited laboratory. Chemical analysis must be made in accordance with the methods described in the most current edition of the Official Methods of Analysis of the AOAC International or other current applicable validated methodology for determining the presence of contaminants in agricultural products.” Furthermore, NOP 2611, Laboratory Procedure for Residue Testing, Section 4.2, states, “Laboratories should hold current accreditation to either: (1) ISO/IEC 17025:2005, General Requirements for the Competence of Testing and Calibration Laboratories. (2) An alternate standard approved by the NOP on a case-by-case basis. Certifying agents should contact their NOP Accreditation Manager for additional information.”

**2015 Comments:** *For one sampling event, NJDA used a laboratory to test a water sample for prohibited substances. The laboratory is not ISO 17025, nor is it approved by the NOP.*

**2016 Corrective Action:** NJDA clarified this particular test was part of an on-going investigation to try and determine the most likely cause of a positive test result for pesticides from an initial residue test on the crop that was done at an ISO 17025 accredited lab. This was not a pesticide residue test of organic product and was not a residue test that NJDA counted as one of the tests to meet the minimum number of residue tests that must be performed.

**NP5299JZA.NC14 – Accepted.** 7 CFR §205.403(e)(2) states that “A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent.” NOP 2613, Responding to Residue Results, Section 5.1.a, states that the certifier, “Notify the certified operation of the test results and indicate that the product may be sold as organic.”

**Comments:** *NJDA issued an operation a notice, “Results of Testing from Samples Taken,” where there was no detection of residues; however, the notice did not “indicate that the product may be sold as organic.”*

**2016 Corrective Action:** NJDA revised the General Procedures for Certification to include indication whether or not the product can be sold as organic with reporting of test results to clients. The revised NJDA General Procedures document was submitted to the NOP.

**NP5299JZA.NC15 – Accepted.** 7 CFR §205.403(e)(2) states that “A copy of the on-site inspection report and any test results will be sent to the inspected operation by the certifying agent.”

**Comments:** *The NOP auditor reviewed one unannounced inspection where a sample for pesticide residues was collected and where NJDA conducted an inspection of the production and handling sites. NJDA did not complete and issue an inspection report to the operation.*

**2016 Corrective Action:** NJDA revised the “Unannounced Inspections” section of the General Procedures for Certification to include a report must be generated for all unannounced inspections and a copy of the report and review findings must be sent to the client. The revised NJDA General Procedures document was submitted to the NOP.

**NP5299JZA.NC16 – Accepted.** 7CFR §205.404(c) states that “Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation...”

**Comments:** *The NJDA Program Manual, p. 9, states, “An operation who has an outstanding noncompliance for any concern other than a late update must address the noncompliance prior to surrender being accepted.” The regulations do not require noncompliances to be corrected prior to surrendering certification.*

**2016 Corrective Action:** NJDA revised the General Procedures for Certification which now states, “An operation wishing to surrender certification that has an outstanding Notice of Noncompliance or Proposed Suspension may do so. The NJDA will accept the surrender of certification. For operations with an outstanding Notice of Proposed Suspension, surrender of certification must not stop the adverse action proceedings as outlined in §205.662 of the Rule, and the Proposed Suspension must be successfully mediated or appealed by the client to stop the issuance of Suspension.”

## NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

### AUDIT AND REVIEW PROCESS

The National Organic Program (NOP) conducted an on-site compliance assessment of New Jersey Department of Agriculture (NJDA). An onsite audit was conducted to determine NJDA's conformance to the terms of a 2013 Settlement Agreement and compliance to the USDA organic regulations. This report provides the results of the compliance assessment and review of NJDA's corrective actions.

### GENERAL INFORMATION

<b>Applicant Name</b>	New Jersey Department of Agriculture (NJDA)
<b>Physical Address</b>	369 South Warren Street, Trenton, NJ 08625
<b>Mailing Address</b>	P.O. Box 330, Trenton, NJ 08625
<b>Contact &amp; Title</b>	Erich Bremer, Supervisor, Organic Certification Program
<b>E-mail Address</b>	<a href="mailto:Erich.bremer@ag.state.nj.us">Erich.bremer@ag.state.nj.us</a>
<b>Phone Number</b>	609-984-2225
<b>Reviewer(s) &amp; Auditor(s)</b>	Robert Yang, NOP Reviewer; Lars Crail, Onsite Auditor
<b>Program</b>	USDA National Organic Program (NOP)
<b>Review &amp; Audit Date(s)</b>	Review of Corrective Actions Dates: September 5, October 9, and October 23, 2014; Onsite Audit Dates: May 1 – 2, 2014
<b>Audit Identifier</b>	AIA14121LMC
<b>Action Required</b>	None
<b>Audit &amp; Review Type</b>	Compliance Assessment
<b>Audit Objective</b>	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NJDA's certification system.
<b>Audit &amp; Determination Criteria</b>	7 CFR Part 205, National Organic Program as amended
<b>Audit &amp; Review Scope</b>	Review of corrective actions submitted on August 8, September 25, and October 23, 2014 for noncompliances resulting from the compliance assessment.

NJDA is a state government agency that was accredited as an USDA organic certifying agent on April 12, 2007. NJDA is approved to certify operations to the following scopes: crops, wild crops, livestock, and handling. The NJDA Organic Certification Program currently certifies 86 operations, consisting of 63 crops, 2 wild crops, 5 livestock, and 23 handlers (22 processors and 1 distributor). All certified operations are located in the states of New Jersey and Pennsylvania.



The NJDA organic certification staff consists of the Secretary of Agriculture, a supervisor, a program manager, an administrative assistant, two NJDA consultants, and six contract (independent) inspectors.

#### **NOP DETERMINATION:**

NOP reviewed the onsite audit results to determine whether NJDA's 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.

#### **From 2012 Renewal Assessment:**

NP8217OOA.NC4 – Cleared  
NP8217OOA.NC5 – Cleared  
NP2142ACA.NC1 – Cleared  
NP2142ACA.NC2 – Cleared  
NP2142ACA.NC3 – Cleared  
NP2142ACA.NC4 – Cleared  
NP2142ACA.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.

#### **From 2012 Renewal Assessment:**

NP8217OOA.NC3 – **Accepted**. NOP §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.” *Annual performance evaluations have not been conducted within the last year for the inspectors.*

**Corrective Actions (2009):** NJDA has conducted the annual performance evaluations for 2007 for the inspectors. These were submitted for review and it was verified that all were satisfactorily performing their duties.

**Verification of Corrective Action (May 2012):** Records reviewed indicated that seven of eleven personnel had no current performance evaluations on file.

**Corrective Action (January 2013):** NJDA has added an additional part-time staff person to assist with the workload. The Supervisor has completed evaluations for all inspectors used during 2011; NJDA provided copies of the evaluations to the NOP. NJDA plans to complete inspector evaluations in January/February going forward. In order to ensure the completion of evaluations, NJDA updated its General Procedures to state that contractors will be evaluated at least once annually. Evaluations shall include notes made during inspection report compliance reviews, evaluation survey cards given to clients during inspection, and any communication received from clients. The Program Manager has established reminders in his calendar system to ensure that the task is completed by the end of February annually.

**Verification of Corrective Action (May 2014):** The auditor reviewed contract inspector performance evaluations that were completed in 2013. Those evaluations are based on inspected operation feedback and NJDA evaluator comments (e.g. timeliness of reporting, report completeness, and report writing ability, etc...). However, no field evaluations of inspectors were conducted as recommended in NOP 2027, *Personnel Performance Evaluations*. When the auditor requested to review the state employed NJDA certification staff performance evaluations, his request was denied due to NJDA’s restrictive access policy. The NJDA Human Resource Manager did provide the auditor a letter stating that three of the four certification staff had received satisfactory evaluation ratings. The missing staff evaluation result was that of the New Jersey Secretary of Agriculture, the final certification decision maker. Since the auditor was unable to verify that the performance evaluations of state employed NJDA certification staff was based on USDA organic certification activities and since inspector field reviews were not conducted in 2013, this corrective measure cannot be cleared.

**Corrective Action (September 2014):** NJDA submitted records of completed performance evaluations, including the performance criteria, for all certification staff. (See NP2142ACA.NC6 for corrective action regarding performance evaluation of the New Jersey Secretary of Agriculture.) Additionally, NJDA began conducting field evaluations of its inspectors in 2014. NJDA submitted its revised NJDA General Procedures for Organic Production Certification manual, which states that NJDA will perform annual field evaluations of independent organic inspectors per NOP 2027 Personnel Performance Evaluations instructions.

**NP2142ACA.NC6 – Accepted.** NOP §205.510(a)(4) states, “An accredited certifying agent must submit annually to the Administrator, on or before the anniversary date of the issuance of



the notification of accreditation, the following reports...: The results of the most recent performance evaluations and annual program review and a description of adjustments to the certifying agent's operation and procedures implemented or to be implemented in response to the performance evaluations and program review." *Records reviewed indicated that seven of eleven personnel had no current performance evaluations on file. None of the results of performance evaluations were recorded as submitted to the Administrator as part of an Annual report. An annual program review was conducted by an outside party during 2009; however, no annual program review has been conducted since and submitted to the Administrator as part of an Annual report.*

**Corrective Action (October 2012):** Performance evaluations for all inspectors used during the 2011 season as explained in NP8217OOA.NC3. Corrective actions concerning conducting the annual program review are addressed in NP8217OOA.NC4.

**Verification of Corrective Action (May 2014):** This noncompliance remains outstanding since NJDA provided a letter indicating the performance evaluation results for three of the four certification staff. The New Jersey Secretary of Agriculture, the certification decision maker, performance evaluation results were not listed and thus does not constitute a listing of all certification staff performance results. The auditor reviewed the detailed 2013 internal review report conducted by a contractor and found it comprehensive and well done. The auditor also interviewed the NJDA employee that will conduct the 2014 internal review.

**Corrective Action (September 2014):** (See NP8217OOA.NC3 for corrective action regarding certification staff performance evaluations.) In response to NOP's requirement to conduct annual personnel evaluations of all personnel making certification decisions, including the New Jersey Secretary of Agriculture, NJDA amended its certification decision making process. All final certification decisions are made by the Organic Program Manager based on the recommendation of the Supervisor. The Secretary of Agriculture's only duty within the certification process is to sign the organic certificate. NJDA revised its NJDA General Procedures for Organic Production Certification manual and Recommendation for Certification form accordingly.

#### **From 2014 Compliance Assessment:**

**AIA14121LMC.NC1– Accepted.** NOP §205.501(a)(9) states that certifiers must “maintain all records pursuant to § 205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State organic program's governing State official;..” *When the NOP auditor asked to review the performance evaluations for NJDA staff involved in certification activities, his request was denied due to NJDA's access policy and on the basis of confidentiality. The NJDA Human Resource manager did provide the auditor a letter stating that three of the four certification staff (NJDA employees) had received satisfactory evaluation ratings. The letter was not sufficient for the auditor to verify that performance reviews of NJDA certification staff are evaluated on their organic certification responsibilities and activities.*

**Corrective Action:** NJDA revised its NJDA General Procedures for Organic Production Certification manual to include a policy that NJDA must make copies of performance evaluations for staff working with organic certification available for inspection and copying

during normal business hours for authorized representatives of the Secretary.

**AIA14121LMC.NC2– Accepted.** NOP §205.670(d) states that “a certifying agent must, on an annual basis, sample and test from a minimum of five percent of the operations it certifies, rounded to the nearest whole number.” *NJDA did not conduct pesticide residue sampling or testing of operations during 2013.*

**Corrective Action:** NJDA conducted pesticide residue sampling of two operations in June and one operation in August, and plans to conduct sampling of at least two more operations by the end of this year in order to meet the 5% minimum requirement. NJDA submitted analysis reports for both operations and its revised NJDA General Procedures for Organic Production Certification manual, which states that NJDA will sample and test from a minimum of 5% of the operations it certifies on an annual basis.

**AIA14121LMC.NC3– Accepted.** NOP §205.642 states that “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.” Furthermore, NOP 2609, Unannounced Inspections, section 4.1.12, states that “certifying agents may charge an operation for unannounced inspections as long as the fees are clearly disclosed to all certified operations. Fees charged must be filed with the Administrator in accordance with § 205.642.” *NJDA indicated that they charge operations for unannounced inspections; however, NJDA’s fee schedule does not clearly indicate this policy and charge to operations.*

**Corrective Action:** NJDA submitted its revised producer and handler fee schedules, which state that clients will not be charged for unannounced inspections or for residue testing.

**AIA14121LMC.NC4– Accepted.** NOP §205.662 (c) states that “the notification of proposed suspension or revocation of certification shall state:

- (1) The reasons for the proposed suspension or revocation;
- (2) The proposed effective date of such suspension or revocation;
- (3) The impact of a suspension or revocation on future eligibility for certification; and
- (4) The right to request mediation pursuant to § 205.663 or to file an appeal pursuant to §205.681.”

*NJDA is issuing notices of proposed suspension indicating that operations have the option of submitting corrective actions or rebuttals for issued noncompliances which is not an option according to §205.662 (c).*

**Corrective Action:** NJDA submitted its revised Notice of Proposed Suspension, which no longer includes the option to submit corrective actions or rebuttals.

**AIA14121LMC.NC5– Accepted.** NOP §205.504 (b) (1) states that “a copy of the procedures to be used to evaluate certification applicants, make certification decisions, and issue certification certificates...” *NJDA does not have written procedures in their program manual describing its material review process and the forms used.*

**Corrective Action:** NJDA added procedures for reviewing materials to its NJDA General Procedures for Organic Production Certification manual.



## AUDIT INFORMATION

<b>Applicant Name:</b>	New Jersey Department of Agriculture (NJDA)
<b>Est. Number:</b>	N/A
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<b>Phone Number:</b>	609-984-2225
<b>Auditor(s):</b>	Julie Hartley, Accreditation Manager
<b>Program:</b>	USDA National Organic Program (NOP)
<b>Audit Date(s):</b>	June 25-27, 2013
<b>Audit Identifier:</b>	NP2142ACA
<b>Action Required:</b>	No
<b>Audit Type:</b>	Corrective Action Audit
<b>Audit Objective:</b>	To verify, review and approve corrective actions addressing outstanding noncompliances identified during the 2008 Initial Assessment and 2012
<b>Audit Criteria:</b>	7 CFR Part 205, National Organic Program, Final Rule, dated December 21, 2000; updated March 15, 2012.
<b>Audit Scope:</b>	Proposed corrective actions
<b>Location(s) Audited:</b>	Desk

## GENERAL INFORMATION

The New Jersey Department of Agriculture (NJDA) is a state government that was accredited as a certifying agent on April 12, 2007 to the National Organic Program (NOP) for crops, wild crops, livestock, and handling operations. The NJDA Organic Certification Program currently includes 82 operations certified to the NOP, consisting of 50 crops, 3 wild crop, 3 livestock, and 21 handlers (20 processors and 1 distributor). All certified operations are located in the United States in the states of New Jersey and Pennsylvania.

Representatives of the NOP conducted an accreditation assessment of the NJDA Organic Certification Program from May 21-25, 2012. On July 16, 2012, the NOP issued a Notice of Noncompliance to NJDA for findings from the assessment report. NJDA submitted proposed corrective actions to the NOP on August 16, 2012. The NOP requested additional information for NP2142ACA .NC1, NP2142ACA .NC2, and NP2142ACA .NC5 on October 25, 2012. New Jersey provided additional information on November 13, 2012. On December 12, 2012, the NOP Accreditation Committee met to review NJDA's submitted

corrective actions and voted to defer a recommendation on accreditation pending additional information on NP8217OOA.NC3, NP8217OOA.NC4, NP2142ACA.NC2, and NP2142ACA.NC5. Additional corrective actions were submitted by NJDA on January 4 and January 28, 2013. The NOP Accreditation Committee reviewed this information on February 27, 2013 and voted to recommend a proposed suspension of NJDA's accreditation.

On April 5, 2013, the NOP issued a Notice of Proposed Suspension as corrective actions submitted for the outstanding noncompliance NP8217OOA.NC4 and noncompliance NP2142ACA.NC5(a) were not sufficient to demonstrate compliance with the USDA organic regulations. NJDA submitted proposed corrective actions to the NOP on April 30, 2013. The NOP requested additional information for NP2142ACA.NC5(a) which were submitted by NJDA on June 20, 2013.

## **FINDINGS**

Seven corrective actions for noncompliances identified during the 2008 Initial Assessment and 2012 Renewal Assessment were accepted by the NOP on April 5, 2013. Corrective actions for an outstanding noncompliance from the 2008 Initial Assessment and a noncompliance from the 2012 Renewal Assessment were reviewed by the NOP on June 25-27, 2013, and were found to be adequately addressed. All corrective actions will be verified during the next on-site assessment.

**NP8217OOA.NC3 – Accepted**  
**NP8217OOA.NC5 – Accepted**  
**NP2142ACA.NC1 – Accepted**  
**NP2142ACA.NC2 – Accepted**  
**NP2142ACA.NC3 – Accepted**  
**NP2142ACA.NC4 – Accepted**  
**NP2142ACA.NC6 – Accepted**

**NP8217OOA.NC4 – Accepted.** NOP §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 non-compliances with the Act and the regulations in this part that are identified in the evaluation.” *There is no procedure for conducting a program review. An annual program review has not been conducted.* **Corrective Action (2009):** NJDA General Procedures for Organic Certification has been revised to include an annual program review procedure. The program review may be performed by NJDA staff or a contracted auditor. Currently, NJDA is in the process of acquiring the services of a third party to complete the first internal program review. NJDA has been provided with a cost estimate and plans from the third party and plans to have the audit in August of 2009. **Verification of Corrective Action (May 2012):** *An annual program review was conducted by an outside party during 2009; however, no annual program review has been conducted since.* **Corrective Action (January 2013):** NJDA updated its procedures to state that an annual internal audit shall be conducted in accordance with USDA organic regulations. In August 2012, NJDA solicited quotes from three qualified parties for internal auditing services. NJDA subsequently identified the contractor to be used for the upcoming internal audit; however, the date of the audit has yet to be determined. NJDA staff will shadow the contractor during the

process in order to learn how to perform annual program reviews, with the intent of using internal staff to complete this task in future years. At present, NJDA has not conducted internal program reviews for 2010, 2011 or 2012. **Corrective Action (April 2013):** NJDA started the process of an internal program review using an outside auditor who conducted a desk review of documents. An on-site internal program review audit was conducted in May 2013. NJDA is training a staff member to conduct future internal program reviews.

**NP2142ACA.NC5 – Accepted.** NOP §205.402(a)(2) states, “Upon acceptance of an application for certification, a certifying agent must: Determine by a review of the application materials whether the applicant appears to comply or may be able to comply with the applicable requirements of subpart C of this part.” *Two of four labels reviewed did not comply with regulatory requirements:*

- a) *A single ingredient product was incorrectly labeled as “95% organic,” which is not in compliance with §205.303(a)(2). This percentage is not possible as it listed only a single ingredient.*
- b) *An “organic” product label had the “Certified organic by \* \* \*” statement to the left of the distributor name, which is not in compliance with §205.303(b)(2).*

*In addition, the files did not record whether the labels had been approved by NJDA.* **Corrective Actions (January 2013):**

- a) NJDA stated that the document in question was not a label but rather a shipping insert. Because of this, NJDA did not consider the document a formal label for approval and did not record the process used to evaluate or approve it. The program supervisor could not verify the information submitted by the client or explain the process used to evaluate the product composition and labeling category. In January 2013, NJDA told the client that the 95% label was not accurate and could not be used any longer, stating that “there is no label claim in the Rule for ‘95% organic.’” However, this statement contradicts § 205.303 (a)(1).
- b) NJDA has reviewed NOP *Policy Memo 12-2, “Placement of the Certified Organic By \*\*\*” Statement*. This policy was forwarded to NJDA certified clients via e-mail on September 27, 2012 with the following instructions: “Please pay extra attention to the notice on the ‘certified organic by \*\*\*’ statement.’ This [memo] changes previous determinations, and many NJDA clients will have to make changes to and re-submit their labels by 2014 to be in compliance with the labeling requirements.” NJDA will address labels with individual clients during the completion of the 2012 and 2013 updates to ensure all clients’ labels are properly revised before the deadline date of January 1, 2014.

**Corrective Action (June and July 2013):**

- a) As NJDA stated that the document in question was a shipping insert, NJDA reviewed the document under § 205.307 as a label for nonretail containers used for shipping and submitted it as evidence to show that the product was listed only as “organic.” To facilitate the label review process, NJDA developed a new form to document the review process for each label and a template to track all labels submitted by producers; and revised its “General Procedures for NJDA Organic Certification” to indicate the implementation of the new documents. NJDA also submitted agendas and certificates, and noted several training modules or meetings which staff attended as evidence of completion of organic labeling regulation reviews in order to prevent a reoccurrence of the noncompliance.