United States Department of Agriculture

Agricultural Marketing Service
National Organic Program

CERTIFICATE OF ACCREDITATION

NEW MEXICO DEPARTMENT OF AGRICULTURE, ORGANIC PROGRAM

2604 Aztec Road NE, Albuquerque, New Mexico, 87107, 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-5-18
Effective Date: 4/29/2017
Renewal Date: 4/29/2022

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NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

AUDIT AND REVIEW PROCESS

An onsite renewal assessment of New Mexico Department of Agriculture (NMDA) organic program was conducted on August 8-10, 2017. The National Organic Program (NOP) reviewed the auditor's report to assess NMDA's compliance to the USDA organic regulations. This report provides the results of NOP's assessment.

GENERAL INFORMATION

Applicant Name	New Mexico Department of Agriculture (NMDA)
Physical Address	2604 Aztec NE, Albuquerque, NM 87107
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Contact & Title	Stacy Gerk, Organic Program Coordinator
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Phone Number	575-646-2752
Reviewer(s) & Auditor	Rebecca Claypool, NOP Reviewer; Lars Crail, On-site Auditor.
Program	USDA National Organic Program (NOP)
Review & Audit Date(s)	NOP corrective action review: March 28 – November 30, 2018 NOP assessment review: January 29, 2018 Onsite audit: August 8-10 2017
Audit Identifier	NP7219LCA
Action Required	No
Audit & Review Type	Renewal Assessment
Audit Objective	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NMDA's certification
Audit & Determination Criteria	*7 CFR Part 205, National Organic Program as amended*
Audit & Review Scope	NMDA's certification services in carrying out the audit criteria during the period: July 31, 2014 through August 8, 2017

The New Mexico Department of Agriculture (NMDA) was originally accredited on April 29, 2002 by the National Organic Program as the New Mexico Organic Commodity Commission (NMOCC), an independent agency of the State of New Mexico. On July 1, 2011, NMOCC was dissolved and the organic program and staff were transferred to the NMDA.

The NMDA certified operations list consists of 123 operations: 95 crops, 33 handler/processor, 8 livestock, and 1 wild crops. NMDA does not certify grower groups.

NMDA's organic program office is located in Albuquerque, NM. The NMDA staff consists of the Organic Program Coordinator, two inspector/certifiers, and one Administrative Specialist.

Both the Organic Program Coordinator and the Administrative Specialist do not conduct certification activities and apportion their time to other New Mexico Department of Agriculture programs.

During the onsite audit, two witness audits were performed. One witness audit was conducted during the annual inspection of a crops operation producing vegetables and fruits. The other witness audit was conducted during an unannounced inspection of a processor/handling operation.

NOP DETERMINATION:

NOP reviewed the onsite audit results to determine whether NMDA'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.

NP2232AKA.NC3 – Accepted. 7 C.F.R. §205.406(b) states, "Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to §205.403…" and §205.403(a)(1) states, "…An on-site inspection shall be conducted annually… for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue."

Comments: *Of the 12 certification files reviewed, one operation was not inspected in 2011. On-site inspections for this operation were conducted on June 10, 2010 and Aug 21, 2012.*

2012 Corrective Action: NMDA's revised its program instruction for Management Review to indicate how an annual internal audit would be used to ensure that all operations have been reviewed and inspected, and each operations file would be completed by January 30 of the following year. To achieve this objective, NMDA revised its management review instructions to indicate that a quarterly audit will be conducted to verify which files have been completed and which files require further action. The third calendar year quarter will be the final check to ensure farms have been inspected, and a check on handler/processor inspections will be performed during the fourth quarter. NMDA provided a copy of the revised management review instructions.

2014 Verification of Corrective Action: NMDA has conducted quarterly audits. However, of the nine files reviewed, one annual onsite inspection was not arranged and conducted within a

reasonable time. The operation's application for continuation of certification was reviewed in May 2013, and the onsite inspection was conducted in March 2014.

2015 Corrective Action: In order to improve the timeliness of its certification process, NMDA added one more person to the organic program's staff, thereby increasing the number of certification staff to three persons and the inspector pool to five. NDMA will continue conducting quarterly audits as part of its internal Management Review to verify which certification files need further action. NMDA is also currently developing a database that will alert certification staff of inspection, review, and certification deadlines, and an online certification program in order to streamline turnaround time. The database will be implemented by June 1, 2015, and the online program by 2017.

2017 Verification of Corrective Action: The auditor identified three operations that did not receive inspections in 2016. NMDA has not achieved the increase in staffing and instead experienced a reduction in staffing since the corrective actions were accepted and implemented. Currently NMDA has two inspector/certifiers and one part-time program coordinator/administrator. There is one inspector/certifier position vacant. NMDA continues to improve their database system; however, specific report generating features are under development. NMDA has not fully implemented this portion of the accepted corrective action. NMDA held quarterly meetings during 2017 to review the status of the annual organic system plan update processing progress. The most recent meeting was held in June and a prior meeting was held in March.

2018 Corrective Action: In 2017 legislation was passed which allowed the New Mexico Department of Agriculture to implement a new fee schedule. The new fees went into effect January 2018. With the new fee schedule passed through legislation, NMDA hired an additional certifier/inspector. If it is determined that additional help is needed to bring NMDA into compliance then NMDA will consider hiring additional personnel once funding becomes available through the new fee schedule.

NP4209ACA.NC1 – Cleared.

Non-compliances Identified during the Current Assessment and Corrective Actions

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.

NP7219LCA.NC1 – Accepted. 7 C.F.R. §205.501(a)(21) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary." NOP 2603 Organic Certificates, Section 3.1, lists the elements that should be displayed on the certificate.

Comments: *The following discrepancies were identified on issued organic certificates:*

- *Certification scopes are listed as "Farm Crop Producer" and "Livestock Producer," not as "Crops" and "Livestock."*
- *There is no anniversary date listed on the certificate.*

- *Certificates state, "…the above named business is Certified Organic under the U.S. National Organic Program, 7 CFR Part 205." Certificates do not state, "Certified to the USDA organic regulations, 7 CFR Part 205."*
- *NMDA is not consistently listing the physical addresses on certificates.*

2018 Corrective Action: NMDA updated their organic certificate to include the following elements. NMDA submitted an updated certificate template to the NOP.

1) NMDA requested their database developers to change "Farm Crop Producer" to Crops, and "Livestock Producer" to Livestock for the scope field on certificates. In the interim, NMDA are typing in the correct scope names.
2) The anniversary date is now listed on the certificate and product list.
3) NMDA updated the certificate to correctly state, "Certified to the USDA organic regulations, 7 CFR Part 205".
4) The physical address is now listed on the certificate and product list.

NP7219LCA.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: Comply with, implement, and carry out any other terms and conditions determined by the Administrator to be necessary." NOP 2603 *Organic Certificates*, Section 3.4, states, "Certifying agents should issue a new organic certificate each year. A new certificate must be issued when any information specified on the certificate has changed. These updated certificates may be issued after reviewing the annual update or after the annual inspection is completed."

Comments: *NMDA is not issuing organic certificates annually. NMDA issues an initial organic certificate and during subsequent years issues an updated product list that states "This is not an organic certificate."*

2018 Corrective Action: NMDA revised their Work Instruction C402 to require that operations are issued an updated certificate annually. NMDA implemented the new policy immediately. NMDA submitted the updated work instruction, and NMDA trained staff on May 24, 2018.

NP7219LCA.NC3 – 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) …."

Comments: *Out of the ten operation records reviewed by the auditor, one operation's organic certificate could not be located by NMDA staff. Out of the five input materials reviewed by the auditor, NMDA staff could not locate the records of one reviewed material that was disapproved and on NMDA's internal material input list.*

2018 Corrective Action: NMDA has a new Organic Program Coordinator, and they are updating their policies and documents for 2018. NMDA is reorganizing their records to make them available to everyone, and all paperwork received in hard-copy is now scanned and saved digitally. NMDA developed a records retention policy, SOP C801, requiring the organic program to save records for at least 10 years. NMDA also developed a new Access database for material reviews, which helps in tracking material reviews with operator requests. NMDA trained their staff on the updated policies May 24, 2018.

NP7219LCA.NC4 – Accepted. 7 C.F.R. §205.501(a)(8) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the Act and the regulations in this part."

Comments: *The following issues were identified by the auditor:*

- *NMDA's organic system templates do not request operators to disclose whether they export or import organic products and/or ingredients.*
- *The organic system plan (OSP) material input list form for crops does not comply with 205.201(a)(2). The OSP form does not include location(s) where the material will be used.*

2018 Corrective Action: NMDA updated their OSP templates to request operators to disclose import and export activities. NMDA revised the Crop OSP to include an addendum for a materials list that indicates the location(s) where the material will be used. NMDA submitted the updated templates to the NOP.

NP7219LCA.NC5 – Accepted. 7 C.F.R. §205.403(d) states, "The inspector must conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector must also address the need for any additional information as well as any issues of concern."

Comments: *During an unannounced inspection witness audit, the inspector did not conduct an exit interview.*

2018 Corrective Action: NMDA developed WI C201 New Employee training instruction which includes training on inspections. The new work instruction requires inspectors to conduct an exit interview and what should be included in the exit interview. NMDA trained their staff on conducting exit interviews May 24, 2018.

NP7219LCA.NC6 – Accepted. 7 C.F.R. §205.403(c)(2) states, "The on-site inspection of an operation must verify: 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; …."

Comments: *The auditor identified the following issues:*

- *The inspection report template does not require inspectors to record compliance verification of imported and exported products and/or ingredients.*
- *All inspection report templates (i.e. crops/wild crops, livestock, and handler) do not adequately address and indicate the verification of input material compliance.*

2018 Corrective Action: NMDA updated their inspection report templates to include questions pertaining to the operation's import/export activities and material use. NMDA submitted templates to the NOP, and NMDA held a training for inspectors on May 24, 2018.

NP7219LCA.NC7 – Accepted. 7 C.F.R. § 205.670(d) states, "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…."

Comments: *NMDA did not conduct sampling and testing from a minimum of five percent of certified operations in 2014 and 2015.*

2018 Corrective Action: NMDA hired a third inspector in 2018, which will help with distributing the workload and ensuring samples are taken from five percent of their operations. NMDA updated their WI603: Residue Sampling Protocol to include reference to a list of operations identified as high risk for residue sampling. NMDA submitted the updated work instruction.

NP7219LCA.NC8 – Accepted. 7 C.F.R. §205.504(b)(2) states, "A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques; its ability to fully comply with and implement the organic certification program established in §§205.100 and 205.101, §§205.201 through 205.203, §§205.300 through 205.303, §§205.400 through 205.406, and §§205.661 and 205.662; and its ability to comply with the requirements for accreditation set forth in §205.501: A copy of the procedures to be used to evaluate certification applicants, make certification decisions, and issue certification certificates."

Comments: *The following issues were identified with NMDA procedures:*

- *There is no procedure to evaluate and make compliance decisions for material inputs.*
- *There is no procedure to determine compliance for imported and exported products and/or ingredients. There is a procedure in draft form, but it does not cover all trade agreements, and it does not indicate the steps that certification staff must take to ensure or verify compliance.*
- *The procedures for unannounced inspections does not state that a minimum of five percent of total operations must be inspected annually. Current procedures allow up to 24 hours to notify operations before an unannounced inspection occurs, which does not comply with NOP 2609, Unannounced Inspections.*
- *Procedures on how to conduct inspections are not complete.*
- *There is no procedure to determine how issues of concern identified by the reviewer or inspector are classified as minor issues or noncompliances.*

2018 Corrective Action: NMDA made the following changes to their procedures, and submitted updated work instructions to the NOP:

- NMDA developed a material review procedure WI C900: Material Review to determine the compliance of materials requested for use. NMDA has a contract with both OMRI and PCO to consult on material review decisions. NMDA trained staff on the material review procedure May 24, 2018.
- NMDA updated its import/export policy WI C100: Imports & Exports to reference the ACA Best Practices for Verifying Traceability in the Supply Chain which provides information on verifying the terms of each trade arrangement.
- NMDA updated the unannounced inspection procedure and it no longer includes the 24 hour notice to operations. It now includes the requirement to conduct unannounced inspections on 5% of the operations. The updated work instruction WI C602 was submitted to the NOP.
- NMDA updated procedure WI C201 New Employee training, which provides procedures and requirements for conducting inspections. NMDA also uses the IOIA Role and Responsibility of the Inspector resource as a guide for inspectors.

- NMDA updated procedure WI C501 Determining Noncompliance to provides guidance in determining if issues of concern are minor issues or noncompliances. Minor issues that are immediately correctable may not be issued a notice of noncompliance.

NMDA trained their staff on the updated policies May 24, 2018.

NP7219LCA.NC9 – Accepted. 7 C.F.R. §205.504(b)(5)(i-iv) states, "A copy of the procedures to be used, including any fees to be assessed, for making the following information available to any member of the public upon request: Certification certificates issued during the current and 3 preceding calendar years; a list of producers and handlers whose operations it has certified, including for each the name of the operation, type(s) of operation, products produced, and the effective date of the certification, during the current and 3 preceding calendar years; the results of laboratory analyses for residues of pesticides and other prohibited substances conducted during the current and 3 preceding calendar years; and, a copy of the procedures to be used for sampling and residue testing pursuant to §205.670."

Comments: *NMDA has not established procedures for making all the information listed in §205.504(b)(5)(i-iv) available to the public upon request.*

2018 Corrective Action: NMDA developed SOP C901 Public Records Request procedure, to make records available upon request. NMDA submitted the SOP and trained staff on the new procedure May 24, 2018.

NP7219LCA.NC10 – Accepted. 7 C.F.R. §205.504(a)(4) states, "A private or governmental entity seeking accreditation as a certifying agent must submit the following documents and information to demonstrate its expertise in organic production or handling techniques; its ability to fully comply with and implement the organic certification program established in §§205.100 and 205.101, §§205.201 through 205.203, §§205.300 through 205.303, §§205.400 through 205.406, and §§205.661 and 205.662; and its ability to comply with the requirements for accreditation set forth in §205.501: A description of any training that the applicant has provided or intends to provide to personnel to ensure that they comply with and implement the requirements of the Act and the regulations in this part."

Comments: *NMDA's application for renewal accreditation did not include a description of any training that it provided to certification personnel or intended to provide.*

2018 Corrective Action: NMDA has requested their employees to submit a list of trainings they would like to attend in 2018. With the change in fee structure that went into effect in 2018, NMDA can now plan and budget for staff trainings. NMDA also submitted a list of staff trainings previously conducted.

NP7219LCA.NC11 – Accepted. 7 C.F.R. § 205.501(a)(7) states, "A private or governmental entity accredited as a certifying agent under this subpart must: have an annual program review of its certification activities conducted by the certifying agent's staff, an outside auditor, or a consultant who has expertise to conduct such reviews and implement measures to correct any noncompliances with the Act and the regulations in this part that are identified in the evaluation."

Comments: *The 2016 annual program review conducted and the review report submitted to NOP does not address the minimum requirements stated in NOP 2025, Internal Program Review. The review report does not clearly identify any findings; identify how any proposed*

corrective actions will be addressed in a timely and appropriate manner; and, assess prior findings and implemented corrective actions of prior program reviews.

2018 Corrective Action: NMDA updated their Quality Manual and Internal Review Form to include current findings, corrective actions, and an assessment of the previous year's corrective actions. NMDA's Quality Manual notes that the internal review of the organic program will be conducted by the program manager (who is not involved in certification decisions) on a quarterly basis.

NP7219LCA.NC12 – **Accepted.** 7 C.F.R. §205.662(a)(1) states, "When an inspection, review, or investigation of a certified operation by a certifying agent or a State organic program's governing State official reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certified operation. Such notification shall provide: A description of each noncompliance; …."

Comments: *NMDA procedures are to issue a "Notice of Organic Certification" to operations when a certification decision is rendered. The issued notices reviewed by the auditor include instructions for operations to "comply with the following." The notices were determined by the auditor to be noncompliance notifications.*

2018 Corrective Action: NMDA removed the phrase "please comply with the following," from their certification letters, and instead notes items "to be reviewed during the next annual inspection". These instructions serve as reminders that the verification of previous conditions will be reviewed during the next inspection. NMDA trained staff on May 24, 2018.

NP7219LCA.NC13 – **Accepted.** 7 C.F.R. §205.662(a)(1) states, "When an inspection, review, or investigation of a certified operation by a certifying agent or a State organic program's governing State official reveals any noncompliance with the Act or regulations in this part, a written notification of noncompliance shall be sent to the certified operation."

Comments: *NMDA is not issuing noncompliances in a timely manner to operations that fail to submit update applications by the anniversary date.*

2018 Corrective Action: NMDA will run a report twice a month to determine which operations are late in submitting their update applications by their anniversary date. NMDA revised their work instruction WI C101 Overdue Applications with a revised policy. An 'overdue application' reminder is sent to operations who are late, and if operations have not submitted their application within 30 days of the late notice, NMDA will send a notice of noncompliance. NMDA submitted the updated work instruction and the reminder letter sent to operations. NMDA trained staff on the updated policy May 24, 2018.

NP7219LCA.NC14 – Accepted. 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: *NMDA is not issuing proposed suspension notifications in a timely manner after the response deadline stated by NMDA in the noncompliance notification.*

2018 Corrective Action: NMDA is now tracking noncompliances and adverse actions in their database. NMDA runs a report of all overdue responses, and certification staff are responsible for issuing the next notice. NMDA reviewed the process with staff on May 24, 2018. NMDA submitted an example of the noncompliance and adverse actions being tracked in their database.

NP7219LCA.NC15 – Accepted. 7 C.F.R. §205.662(e)(1) states, "If the operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal of the proposed suspension …, the certifying agent ... shall send the certified operation a written notification of suspension …."

Comments: *NMDA is not issuing adverse action (i.e. suspension or revocation) notifications in a timely manner and according to effective dates stated in the proposed adverse action notifications.*

2018 Corrective Action: NMDA is now tracking noncompliances and adverse actions in their database. NMDA runs a report of all overdue responses, and certification staff are responsible for issuing the next notice. NMDA reviewed the process with staff on May 24, 2018. NMDA submitted an example of the noncompliance and adverse actions being tracked in their database.

NP7219LCA.NC16 – **Accepted.** 7 C.F.R. §205.662(c)(2) states, "The notification of proposed suspension or revocation of certification shall state: The proposed effective date of such suspension or revocation."

Comments: *In the two notifications of proposed suspension reviewed by the auditor, there were no proposed effective dates of suspension.*

2018 Corrective Action: NMDA updated their notice of proposed suspension template to include a field for the effective date. NMDA submitted their updated template.

NP7219LCA.NC17 – Accepted. 7 C.F.R. §205.662(e)(1) states, "If the operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal of the proposed suspension …, the certifying agent ... shall send the certified operation a written notification of suspension …."

Comments: *One notification of suspension reviewed by the auditor indicated that the suspension was effective for three years; however, the notification of proposed suspension stated a period of six months and one year.*

2018 Corrective Action: NMDA updated their notice of proposed suspension and notice of suspension templates to both indicate a three year suspension period. NMDA submitted copies of both templates.

NP7219LCA.NC18 – Accepted. 7 C.F.R. § 205.501(a)(4) states, "A certifying agent under this subpart must: Use … adequately trained personnel, including inspectors … to comply with and implement the organic certification program established under the Act and the regulations in subpart E of this part."

Comments: *During the witness audit of a crops operation annual inspection, the auditor observed that the inspector did not conduct adequate traceability and quantitative inspection audits to determine compliance of record keeping, product and ingredient traceability, and quantities produced.*

2018 Corrective Action: NMDA revised their inspection reports to include traceability and mass balance exercise questions. NMDA updated WI C201 New Employee Training instruction to include a section on conducting inspections. Inspectors are instructed to conduct a traceability audit of a final product and a mass balance audit of a product ingredient during inspections. Both inspectors and reviewers at NMDA attended the IOIA In/Out Balance & Traceability training for crops in December 2017. NMDA submitted the updated inspection reports and a training log.

NP7219LCA.NC19 – Accepted. 7 C.F.R. §205.403 (c)(1-2) states, "The on-site inspection of an operation must verify: The operation's compliance or capability to comply with the Act and the regulations of this part;… That the information, including the organic production or handling system plan, provided in accordance with §§205.401, 205.406, and 205.200, accurately reflects the practices used or to be used by the applicant for certification or by the certified operation."

Comments: *NMDA inspection reports do not require inspectors to record traceability and quantitative inspection activities.*

2018 Corrective Action: NMDA revised their inspection reports to include traceability and mass balance exercise questions and worksheets. Both inspectors and reviewers at NMDA attended the IOIA In/Out Balance & Traceability training for crops in December 2017. NMDA submitted the updated inspection reports, traceability and mass balance worksheets, and a training log.

NP7219LCA.NC20 – Accepted. 7 C.F.R. §205.403(d) states, "The inspector must conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector must also address the need for any additional information as well as any issues of concern."

Comments: *During the witness audit of an annual crops inspection, the auditor observed that the inspector identified two issues during the exit interview, but did not clearly communicate whether they were requests for information or issues of concern. If they were intended to be issues of concern, there was no mention of the applicable regulatory citation or NOP requirement.*

2018 Corrective Action: NMDA enrolled the two new staff members in the IOIA Crop and Processing Inspector training programs in the fall of 2018. NMDA is using the training materials provided by IOIA internally on how to conduct exit interviews which includes instruction on citing the organic regulations for issues of concern in the exit interview. NMDA updated their inspection report template to include an area for the inspector to cite the organic regulation. NMDA submitted the staff training log, IOIA training materials, and inspection report template.

NP7219LCA.NC21 – Accepted. 7 C.F.R. §205.501(a)(5) states "A private or governmental entity accredited as a certifying agent under this subpart must: Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned."

Comments: *The two inspector/certifiers have not received livestock certification training, but are conducting livestock inspections, review, and making certification decisions.*

2018 Corrective Action: NMDA Organic Program suffered from the lack of funding for the last several years. This led to a shortage of personnel and training for current personnel. The new fee structure, implemented in 2018, was developed to support 3-4 full time inspector/certifiers and the training deemed necessary by the department. Although the current NMDA staff have not attended livestock specific training, the staff members do have livestock knowledge and experience with animal care through their educational background and from being raised on farms with livestock.

NP7219LCA.NC22 – Accepted. 7 C.F.R. §205.501(a)(4) states, "A private or governmental entity accredited as a certifying agent under this subpart must:… Use a sufficient number of … 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: *Under the present staffing level, NMDA does not have the capacity to implement their organic certification program. NMDA program has two inspector/certifiers and one inspector/certifier position vacancy. These individuals conduct certification inspections, reviews, and make certification decisions. At the auditor's request, NMDA provided a status of the number of certification applications and updates received for the calendar years 2016 and 2017. All 2016 certification applications and updates received have been completed and decisions rendered. For 2017, 112 certification annual updates were received and 12 have been issued a decision. There remains 100 annual updates to be processed by two NMDA inspector/certifiers, and certified operations will begin submitting their 2018 annual updates by April 1, 2018. Out of the 100 remaining annual updates, 86 inspections have not been conducted.*

2018 Corrective Action: NMDA recognizes that staffing levels were insufficient to satisfactorily run the organic program, therefore, NMDA filled the vacant position and hired a new inspector/certifier. NMDA's current staff includes three inspector/certifiers. NMDA completed the 2017 reviews.

NP7219LCA.NC23 – Accepted. 7 C.F.R. § 205.501(a)(4) states, "A certifying agent under this subpart must: Use … adequately trained personnel, including inspectors and 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: *Inspectors are not verifying OSP flow charts and maps as observed during the witness audits.*

2018 Corrective Action: NMDA requires that inspectors/certifiers bring a copy of the OSP, including submitted maps and flow charts, with them to every inspection. NMDA updated WI C201 New Employee Training which includes the requirement to reference the OSP, maps, and flowcharts during inspections. NMDA trained staff on May 24, 2018 requiring inspectors to reference these documents during inspections.

NP7219LCA.NC24 – Accepted. 7 C.F.R. § 205.501(a)(4) states, "A certifying agent under this subpart must: Use … adequately trained personnel, including inspectors and 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: *NMDA had not identified, nor verified, that an operator was using and applying wholesale labels to products supplied by the buyer. This was identified by the auditor during a witness audit.*

2018 Corrective Action: NMDA requires inspectors to review and collect labels at all operations that are labeling organic products. NMDA conducted an unannounced inspection at the operation noted by the auditor, and collected all bulk labels in use. NMDA submitted the inspection report and collected bulk labels to the NOP.

NP7219LCA.NC25 – Accepted. 7 C.F.R. § 205.501(a)(4) states, "A certifying agent under this subpart must: Use … adequately trained personnel, including … 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: *One reviewed and approved organic label listed an agricultural ingredient that was not identified as organic in the ingredients list, and was included on the product profile as nonorganic. This ingredient is not listed on §205.606.*

2018 Corrective Action: NMDA updated WI C302 Label Review instructions to include the requirement that the scientific name of each ingredient be listed on the product profile and label with the common name in parenthesis. For the label in question calcium hydroxide will be listed with trace of lime in parenthesis, to avoid confusion. NMDA submitted the updated policy and trained staff on May 24, 2018.

NP7219LCA.NC26 – Accepted. 7 C.F.R. § 205.510(b)(2) states, "Certifying agents must maintain records according to the following schedule: Records created by the certifying agent regarding applicants for certification and certified operations must be maintained for not less than 10 years beyond their creation; …"

Comments: *Certification records are not maintained for a period of 10 years.*

2018 Corrective Action: NMDA updated SOP C801: Records Retention policy. The new policy requires that records are maintained for 10 years. NMDA submitted the updated policy and trained staff on the changes May 24, 2018.

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Washington, DC 20250-0201

NATIONAL ORGANIC PROGRAM: CORRECTIVE ACTION REPORT

AUDIT AND REVIEW PROCESS

The National Organic Program (NOP) conducted a mid-term assessment of the New Mexico Department of Agriculture (NMDA). An onsite audit was conducted, and the audit report reviewed to determine NMDA's capability to continue operating as a USDA accredited certifying agent. This report provides the results of the mid-term assessment and review of NMDA's corrective actions.

GENERAL INFORMATION

Applicant Name	New Mexico Department of Agriculture (NMDA)
Physical Address	2604 Aztec NE, Albuquerque, NM 87107
Mailing Address	2604 Aztec NE, Albuquerque, NM 87107
Contact & Title	Brett Bakker, Chief Organic Certifier/Inspector
E-mail Address	bbakker@nmda.nmsu.edu
Phone Number	(505) 841-9422
Reviewer(s) & Auditor(s)	Robert Yang, NOP Reviewer; David J. Hildreth, Onsite Auditor
Program	USDA National Organic Program (NOP)
Review & Audit Date(s)	Review of corrective actions date: January 23, 2015 Onsite assessment date: July 28 – 31, 2014
Audit Identifier	NP4209ACA
Action Required	None
Audit & Review Type	Mid-term Assessment
Audit Objective	To evaluate the conformance to the audit criteria; and to verify the implementation and effectiveness of NMDA's certification system.
Audit & Determination Criteria	*7 CFR Part 205, National Organic Program as amended*
Audit & Review Scope	Review of corrective actions submitted on January 15, 2015 for noncompliance resulting from the mid-term assessment.

The New Mexico Department of Agriculture (NMDA) was originally accredited by the National Organic Program (NOP) on April 29, 2002 as the New Mexico Organic Commodity Commission (NMOCC), an independent agency of the State of New Mexico. On July 1, 2011, NMOCC was dissolved as an independent agency, and the organic program and staff were transferred to the New Mexico Department of Agriculture, which is under the authority of New Mexico State University. The NMDA Organic Program is an activity of the NMDA Marketing & Development Division, under the New Mexico State University.

NMDA is currently accredited for the scopes of crops, wild crops, livestock, and handling. As of July 29, 2014, the NMDA client list consisted of 142 operations, which included 98 crop, 37 handler/processor, and 7 livestock operations. NMDA also certifies one crop grower group. The majority of NMDA's certified operations are located in New Mexico. Only two are located in Texas.

NOP DETERMINATION:

NOP reviewed the onsite audit results to determine whether NMDA'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 "**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.

NP2232AKA.NC1 – Cleared
NP2232AKA.NC2 – Cleared

NP2232AKA.NC3 - Accepted – 7CFR §205.406(b) states, "Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to §205.403…" and §205.403(a)(1) states, "…An on-site inspection shall be conducted annually… for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue." Of the 12 certification files reviewed, one operation was not inspected in 2011. On-site inspections for this operation were conducted on June 10, 2010 and Aug 21, 2012.

Corrective action (2012): NMDA's revised its program instruction for Management Review to indicate how an annual internal audit would be used to ensure that all operations have been reviewed and inspected, and each operations file would be completed by January 30 of the following year. To achieve this objective, NMDA revised its management review instructions to indicate that a quarterly audit will be conducted to verify which files have been completed and which files require further action. The third calendar year quarter will be the final check to ensure farms have been inspected, and a check on handler/processor inspections will be performed during the fourth quarter. NMDA provided a copy of the revised management review instructions.

Verification of Corrective Action (July 2014): NMDA has conducted quarterly audits. However, of the 9 files reviewed, one annual onsite inspection was not arranged and conducted

within a reasonable time. The operation's application for continuation of certification was reviewed in May 2013, and the onsite inspection was conducted in March 2014.

Corrective Action: In order to improve the timeliness of its certification process, NMDA added one more person to the organic program's staff, thereby increasing the number of certification staff to three persons and the inspector pool to five. NDMA will continue conducting quarterly audits as part of its internal Management Review to verify which certification files need further action. NMDA is also currently developing a database that will alert certification staff of inspection, review, and certification deadlines, and an online certification program in order to streamline turnaround time. The database will be implemented by June 1, 2015, and the online program by 2017.

NP2232AKA.NC4 - 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.

NP4209ACA.NC1 – Accepted – 7 CFR §205.501 (a)(11)(iv) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Prevent conflicts of interest by: Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification."

Comments: *During an interview with NMDA Marketing & Development division staff, the Organic Commodity Advisor, who is responsible for Marketing and Education, indicated that she provides clients with advice on how to correct a noncompliance resulting from an onsite inspection. Additionally, the current job description of the Organic Commodity Advisor includes providing advice regarding organic certification. Although the Organic Commodity Advisor functions independently of the Organic Program, the position's activities fall within the same division. Also, oversight of the Organic Program and Marketing and Education is conducted by the same person.*

Corrective Action: NMDA removed the Organic Commodity Advisor position from the program. NMDA updated its Quality Manual (effective date 1/15/15 Version F) to reflect the new organizational structure.

USDA Agricultural Marketing Service

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ASSESSMENT INFORMATION

Certifier Name:	New Mexico Department of Agriculture (NMDA)
Est. Number:	N/A
Physical Address	4501 Indian School Road NE, Suite 100, Room G104, Albuquerque, NM 87110-3929
Mailing Address:	Same as above
Contact & Title:	Brett Bakker, Chief Organic Certifier/Inspector
E-mail Address:	bbakker@nmda.nmsu.edu
Phone Number:	505-889-9924
Auditor(s):	Mike Lopez, Lead Auditor; Julie Hartley, Auditor
Program:	USDA National Organic Program (NOP)
Audit Date(s):	August 20-23, 2012
Audit Identifier:	NP2232AKA
Action Required:	No
Audit Type:	Corrective action review
Audit Objective:	To verify continuing compliance to the audit criteria
Audit Criteria:	*7 CFR Part 205, National Organic Program, Final Rule*, dated December 21, 2000; as amended November 9, 2012.
Audit Scope:	NMDA's quality manual including personnel, processes, procedures, facilities, and related records.
Location(s) Audited:	Desk Audit

GENERAL INFORMATION

The New Mexico Department of Agriculture (NMDA) was originally accredited on April 29, 2002 to the National Organic Program (NOP) for crops, wild crops, livestock, and handling as the New Mexico Organic Commodity Commission (NMOCC), an independent State of New Mexico agency. On July 1, 2011, NMOCC was de-commissioned, and the organic program was incorporated into the New Mexico Department of Agriculture (NMDA), under the authority of New Mexico State University.

The NMDA client list consists of 163 NOP certified operations: 112 crop; 12 livestock and; 39 handlers/processors. NMDA also certifies one small crop grower group. Although, accredited

for wild crops, NMDA's client list does not include any certified wild crop operations. The majority of NMDA clients are in New Mexico, with a few in neighboring states Arizona and Texas.

NMDA's Accreditation Renewal Assessment was completed on August 23, 2012 by NOP accreditation auditors. On December 3, 2012, the NOP issued a Notice of Noncompliance to NMDA for four noncompliances, NP2232AKA.NC1 – 4, identified during this renewal assessment. On December 20, 2012, NMDA submitted proposed corrective actions for noncompliances NP2232AKA.NC1 – 4. On March 25, 2013, NMDA submitted final corrective actions for noncompliances NP2232AKA.NC1 – 4. NMDA submitted the following proposed corrective actions:

- NMDA letter containing summary of corrective actions
- NMDA label review spreadsheet
- NMDA Work Instruction: application processing procedures, amended
- NMDA Work Instruction: Management Review, amended
- NMDA 2013 revised application form

FINDINGS

Documents and records reviewed determined that the New Mexico Department of Agriculture Organic Program has adequately addressed noncompliances NP2232AKA.NC1 – 4 identified during this renewal assessment. Verification of NMDA's corrective actions will be determined at the next on-site audit.

NP2232AKA.NC1 – A**ccepted -** NOP §205.402(a)(1)states, "Upon acceptance of an application for certification, a certifying agent must: Review the application to ensure completeness pursuant to §205.401;" Whereas §205.401(c) states "The application must include the following information: …The name(s) of any organic certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, when available, a copy of any notification of noncompliance or denial of certification issued to the applicant for certification; and a description of the actions taken by the applicant to correct the noncompliances noted in the notification of noncompliances, including evidence of such correction; …" *On the application, the ACA asks if the applicant is currently certified and by whom; and asks if the applicant has ever been denied, suspended, or revoked; but does not ask the applicant to disclose all previous applications and year(s) applied. Copies of notices of non-compliances and related corrective actions are not requested either. This information was not supplied in the twelve files reviewed which included both initial and renewal applications for certification.* **Corrective action:** NMDA provided a copy of its revised 2013 crop program application containing questions on whether applicants had previously applied for organic certification and if they are currently certified or were previously certified as organic. The revised application also asks if they had ever been denied certification or had their certification suspended or revoked. This set of questions has also been included in the livestock and, the handler processor applications. The revised application forms also request applicants to provide copies of notices of noncompliance or adverse action notices if they respond affirmatively to the questions on noncompliances or suspension/revocation.

NP2232AKA.NC2 – Accepted - NOP §205.406(b) states, "Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to §205.403…." NOP §205.403(b)(1) states, "The…inspection must be conducted…following a determination that the applicant appears to comply or may be able to comply with the requirements of subpart C of this part…." *Four of twelve files reviewed had no documentation that an initial review of applications for renewal and associated OSPs to determine ability to comply with the rule was completed prior to scheduling the onsite inspection. The ACA has a form to document each review and who conducted the review. However, the forms for these four files only had the final review documented.* **Corrective action:** In its response, NMDA indicted applications receive "pre-inspection review" letters which requests clarification, or additional documentation, on OSP information. However, the initial review process for the pre-inspection letters was not always documented. NMDA revised its work instruction for *application processing procedures* to include instruction for reviewers to "initial and date NMDA review checklist" after completion of the initial review, and after completion of the final review. NMDA provided a copy of its revised work instruction and also provide a copy of selected pages of a file showing implementation of the revised work instruction.

NP2232AKA.NC3 - A**ccepted** - NOP §205.406(b) states, "Following the receipt of the information specified in paragraph (a) of this section, the certifying agent shall within a reasonable time arrange and conduct an on-site inspection of the certified operation pursuant to §205.403…" and §205.403(a)(1) states, "…An on-site inspection shall be conducted annually… for each certified operation that produces or handles organic products for the purpose of determining whether to approve the request for certification or whether the certification of the operation should continue." *Of the 12 certification files reviewed, one operation was not inspected in 2011. On-site inspections for this operation were conducted on June 10, 2010 and Aug 21, 2012.* **Corrective action:** NMDA's revised its program instruction for Management Review to indicate how an annual internal audit would be used to ensure that all operations have been reviewed and inspected, and each operations file would be completed by January 30 of the following year. To achieve this objective, NMDA revised its management review instructions to indicate that a quarterly audit will be conducted to verify which files have been completed and which files require further action. The third calendar year quarter will be the final check to ensure farms have been inspected, and a check on handler/processor inspections will be performed during the fourth quarter. NMDA provided a copy of the revised management review instructions.

NP2232AKA.NC4 - A**ccepted** - NOP §205.501(a)(3) states, "A private or governmental entity accredited as a certifying agent under this subpart must: Carry out the provisions of the Act and the regulations in this part…." *A review of 11 NMDA-approved labels in 4 handler operation files revealed that one label included an 100% organic bolded (highlighted) statement that was not in the same type size, style, and color without highlighting as required under §205.303(a)(2).* **Corrective action:** Although labels were reviewed and approved, previous NMDA procedure did not use a label review checklist. NMDA developed its Label Review Checklist for use in 2013. NMDA reviewers will assess if a product label matches the product profile, includes compliant ingredients, and is compliant with NOP regulation labeling requirements. NMDA provided a copy of its label review checklist.