



United States
Department of
Agriculture

Agricultural
Marketing
Service

STOP 0268 – Room 2648-S
1400 Independence Ave. SW.
Washington, DC 20250

USDA/AMS PEER REVIEW REPORT [Final: December 18, 2013]

ORGANIC EQUIVALENCE ARRANGEMENT

BETWEEN THE UNITED STATES AND CANADA

DATES OF REVIEW – JUNE 10-14, 2013

REVIEWER: Meg Kuhn, National Organic Program

1. INTRODUCTION

1.1. The U.S. Department of Agriculture (USDA) is engaged in an equivalence arrangement with the Canadian Food Inspection Agency (CFIA). This arrangement includes periodic peer review assessments of the USDA/National Organic Program and CFIA/Canada Organic Office (COO). The previous peer review assessment of the CFIA/COO was in June 2011.

1.2. On June 10-14, 2013, a representative of the USDA Agricultural Marketing Service (AMS) reviewed organic accreditation and certification activities in the Quebec province of Canada, which represented the Canada Organic Regime (COR) activities. This report is an account of those activities and observations of the review.

1.3. Review team was comprised of:

1.3.1. Meg Kuhn, Agricultural Marketing Specialist – Regulatory, AMS – National Organic Program (NOP)

1.4. Additional participants included:

1.4.1. Cheri Courtney, Director of Accreditation and International Activities, AMS – NOP; Peer review evaluator



1.4.2. Bernd Winkler, Auditor with Food and Veterinary Office for the European Union;
Observer

2. OBJECTIVES OF REVIEW

2.1. The objective of the review was to evaluate the system capabilities and performance of CFIA authorities in controlling the proper application and enforcement of the Organic Products Regulations (OPR) and oversight of the US/CAN Organic Equivalency Arrangement (USCOEA) for organic products.

3. LEGAL BASIS FOR THE REVIEW

3.1. The review was conducted based on USCOEA conditions of periodic peer review assessments.

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

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

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

3.2.3. Organic Product Regulations, 2009

3.2.4. US/CAN Equivalence Arrangement (USCOEA), Appendices 1 and 2

3.2.5. ISO/IEC 17011:2004(E) Conformity assessment — General requirements for accreditation bodies (identified as Conformity Verification Bodies (CVBs) within the COR) accrediting conformity assessment bodies (identified as Certification Bodies (CB) within the COR)

3.2.6. ISO/IEC 17040:2005 Conformity assessment – General requirements for peer assessment of conformity assessment bodies and accreditation bodies



4. PROTOCOL

- 4.1. The review was accomplished by observing the competent authority Canada Organic Office (COO), a Conformity Verification Body (CVB), two (2) certification bodies (CBs), and four (4) certified organic operations (CO) in the Canadian provinces of Ontario and Quebec. In selecting the CVB, CB, and COs to be reviewed, the reviewer worked with representatives of the COO to select operations representative of organic products produced in Canada.
- 4.2. The reviewer included each phase of the organic production, certification, and accreditation system in the review to determine if the responsible authorities had the necessary controls in place to ensure compliance and traceability with the referenced organic standards.
- 4.3. At the CVB office reviewed, the reviewer observed processes used to evaluate the competence of the certifying bodies. The reviewer observed procedures relating to the certification of organic operations according to OPR in order to determine how compliance with the referenced organic production and handling regulations would be carried out. The reviewer also interviewed personnel to determine their knowledge of organic accreditation, certification, production, handling and recordkeeping practices and their qualifications with respect to their duties and responsibilities.
- 4.4. The team visited four (4) organic operations to observe production, handling and labeling practices in order to determine the level of compliance accomplished by the certified operations; specifically, two (2) crop producers, one (1) dairy producer, and (1) handling operation. The reviewer interviewed responsible parties at each site, and participated in meetings with the production managers.



4.5. The team was accompanied by representatives of the COO throughout the review. At the certified operations (CO), representatives of the CO's certification body also accompanied the reviewer.

5. SUMMARY OF PREVIOUS REVIEWS

5.1. This was the NOP's third onsite review of the COR program for the purpose of determining implementation and ongoing compliance of the US/CAN Equivalence Arrangement. There were four (4) onsite review observations, from the NOP to COO, to consider for follow-up response from 2011. The COO provided responses to the observations, which the NOP reviewed and approved.

6. OBSERVATIONS

6.1. Report on Canada Organic Office (COO) Competent Authority and Control System

6.1.1 The Canada Organic Regime (COR), managed by the COO, is well organized and effective. The oversight over the Conformity Verification Bodies (CVB) is solid with good communication and regular audits conducted on schedule. The COO conducts regular face-to-face meetings with the CVBs (every 8 months) to ensure consistent application of the COR.

6.1.2 The complaint process followed at the COO was reviewed. Specifically, complaints received at the COO regarding certified operations are forwarded to the Certification Body (CB) responsible for the operation, through the CB's CVB. The COO maintains a spreadsheet of complaints received, actions taken by the COO including referral to CVBs/CBs, and outcomes of complaint investigations. For trade complaints received that are not related to certified operations, the COO does not have the authority to investigate or regulate in these areas. As such, the



COO refers these complaints to other applicable divisions of CFIA for follow-up. For example, labeling complaints for non-certified operations are referred to CFIA's Operations. Of the 20-30 complaints on the COO's spreadsheet back to 2011, investigation and follow-up by the COO itself has been minimal, considering the referral system in place. The COO does conduct its own complaint investigations when or if a complaint is received about a CVB, over which the COO has direct authority.

6.2. Report Observations from a Conformity Verification Body

6.2.1 The oversight of the Conformity Verification Body (CVB) observed over COR CBs is thorough and effective. The audits are regularly conducted and include the use of a technical expert; there is adequate separation of duties in reviewing and recommending accreditation decisions; and recordkeeping – primarily an electronic system – is closely controlled and well-organized. Documentation demonstrating experience, education, and training was on file for applicable staff.

6.2.2 The complaint process at the CVB was reviewed and some complaints received were sampled to verify investigation and follow-up to the COO. The CVB has a thorough system for documenting and tracking complaints, including investigation results and follow-up responses to applicable parties, including the COO. The spreadsheet contains links to investigation and responsive documents, is easy to follow, and very thorough.

6.3. Report Observations from Certification Bodies (CB)

6.3.1 Two CBs were evaluated, Certification Body 1, which is in the process of transferring oversight to another CVB, is located in Ottawa; also evaluated was



Certification Body 2, is located in Quebec. At both CBs, the certification files were complete and inspection reports were thorough and well documented.

Experience, education and training was sampled and verified to be current and on file for review and inspection staff. Certification records demonstrated timely and thorough certification services provided by the CB. There are multiple management controls in place to ensure effective implementation of accreditation requirements.

6.3.2 Complaint investigation was reviewed at each CB. Processes are in place to investigate complaints received from outside parties as well as those from CVBs, some of which originate with the COO (per accreditation hierarchy, the COO works with the CVBs, which in turn work with the CBs; the COO does not contact CBs directly for complaint investigation requests). The CBs were able to show how complaints are tracked, investigated, and closed. Both CBs visited had low numbers of complaints received.

6.3.3 At Certification Body 2, the CVB representative was present for the review at the CB as well as the two certified operations visited. The CVB provided some translation at the certified operations and was there as a resource for any accreditation questions that may arise.

6.3.4 Six observations were observed at the CBs (please see 8.1-6 below).

6.4. Report Observations from Certified Operations

6.4.1 Two organic crop producers, one dairy producer, and one handler were selected for observation.



- 6.4.2 The first operation, a small grain producer, provided an overview of organic activities in place, including a thorough tour of the organic certification paperwork including extensive recordkeeping, the production system in place, and a short tour of a field and storage bins. Some certification documentation was reviewed for incoming seed suppliers, planting, harvest, storage, and sales of organic products.
- 6.4.3 The second operation, also a small grain producer, provided an overview of organic activities in place, including a thorough discussion of organic management practices, a tour of two of five fields that were recently planted, and some recordkeeping documents for the previous year's certification.
- 6.4.4 The third operation, a medium-sized dairy operation, provided an overview of the production system and certification processes. Some paperwork, specifically showing production and sales, was reviewed. The office at the dairy is above the barn, which also serves as the milking facility. Animals were observed in tie-stalls with clean, fresh wood chip and sawdust bedding. Equipment is brought to the cow for milking and, as such, the animals live and milk in the same area.
- 6.4.5 The fourth and last operation, a handler of repackaged pasta products and sauces, provided an overview of the handling system, including the previous year's inspection report and results, as well as a complete audit trail for two randomly selected production runs. Receiving documents were reviewed for ingredients received for the production run(s). Selected repackaged pasta products are listed on the operation's certificate as 'certified to the terms of the US-Canada Organic Equivalency Arrangement' and have labeling intended for the US market,



specifically with the display of the USDA organic seal. Two observations were identified at the processor, one regarding labeling in accordance with NOP requirements, and another regarding incoming certificate for USCOEA ingredients.

6.4.6 As noted above, two observations were observed at the fourth operation (please see 8.7 and 8.8 below).

7. INTRODUCTION TO OBSERVATIONS

7.1. The assessment activities took place in two (2) of Canada's ten (10) provinces, Ontario and Quebec. The assessment included visits to crop, livestock and handling operations; a wild crop operation was not included.

7.2. The NOP reviewed a livestock operation in the province of Quebec, specifically a dairy farm, and was able to review a production system compliant with OPR requirements. The farm visited did not ship milk to the United States; as such, the reviewer did not have an opportunity to review compliance with the critical variance under the USCOEA for products exported from Canada.

8. OBSERVATIONS

8.1. Observation 1. Certification Body 1: During discussion with the certification body (CB) and in review of communication between the CB and a certified operation (CO), it was found that the CB does not accept attestations from NOP operators that are compliant with the NOP Policy Memo, PM 10-3, in order to demonstrate compliance with the USCOEA, specifically if the attestation is provided by a party other than the operation's certifier (i.e. by the producer). The CB only accepts USCOEA compliance documents from a certifier. In review of a particular situation with the CB's client, the



CB prohibited the client from using sugar from Peru that was certified by an NOP-accredited certifier in Guatemala because the attestation was not provided by the certifier directly. It was noted that the sugar operation and certifier in Guatemala are unilingual Spanish-speaking operations, making obtaining an attestation difficult for the CB and its operator.

CFIA/COO Response: Certification Body 1 has clarified what is required as an attestation of COR equivalency for NOP-certified products with its clients, verification officers and staff. Form ORG_36 has been updated to reflect the requirements for attestations of equivalency to COR. ORG_36_Canada-US equivalence has been amended to require an attestation only from a supplier, and not the supplier's certification body. An "Equivalency Fact Sheet" has been prepared for distribution to the CB's clients, applicants and verification officers. Equivalency requirements shall be reviewed with verification officers (at training sessions planned for October 31 and November 4, 2013) and with staff (meeting planned for September 30, 2013).

8.2. Observation 2. Certification Body 1: During the office visit at the CB the certification process was discussed, along with the inspector selection process. The CB indicated that inspectors are allowed to inspect at the same operation for only 3 years in a row, after which a new inspector would be selected. At the first certified operation visited, however, it was found that the same inspector has visited the operation for the previous four years of organic certification and was also selected for the current – and fifth – year in 2013, which is not in line with the CB's own policies for inspector selection.

CFIA/COO Response: Certification Body 1 is in a process of developing an internal process which will identify the verification officer (VO) who has done the previous three



inspections for any of its clients. This will enable the CB's Compliance Evaluators to assign VOs in accordance with section 2.2 of ORG-SWI 10.1.1. This report will be issued in February 2014 when assignments are established. Target completion date is October 31, 2013.

8.3. Observation 3. Certification Body 1: During a visit to the second certified operation, it was found some seed used to plant crops had seed tags showing certification by an NOP-certifier, and also displayed the USDA organic seal. There was no certificate on file for the seed, and no attestation for the incoming product. It was found that this was not caught by the inspector at the previous year's inspection (to which the purchase of this seed applied).

CFIA/COO Response: Although verification officers have been trained on requirements under equivalency arrangements, and Certification Body 1 staff has been trained to review files for equivalency requirements when requested by a client, the CB's farm system plan (ORG_FAR_04 and ORG_FAR_03) and seed listing (ORG_FAR_06) do not explicitly mention equivalency or the requirement for an attestation. This requirement will be included in the verification officers training planned for October 31 and November 4, 2013. The CB's farm forms (ORG_FAR_04; ORG_FAR_03; and ORG_FAR_06) will be updated to reflect the requirement for a certificate and attestation for NOP-certified seed. The issue of equivalency and attestations for seed will be included in the "Equivalency Fact Sheet" to be prepared by the CB for distribution to its clients. Target completion date is November 4, 2013.



8.4. Observation 4. Certification Body 1: During review of certificates for clients certified to the USCOEA, it was found that the CB does not include the specified and required statement on the organic certificate, per COO's Directive 09-01 amended June 18, 2010.

CFIA/COO Response: The CB's certificates (for farms, livestock and processors) have been amended to use the correct statement "certified to the terms of the US-Canada organic equivalency arrangement" according to Directive 09-01 as of September 27, 2013. The three certificates (farm, livestock and processor) have been changed in the CB's database to use the correct statement. A copy of the new certificate is attached.

8.5. Observation 5. Certification Body 2: In reviewing a file for a certified operation, it was found that the CB's inspector cited an issue on the operator's inspection report specific to the USCOEA that was not also identified on the inspection exit interview. Per the CB, this is out of compliance with their policies – all issues on the inspection report must be reflected on the exit interview. This discrepancy was not caught by the CB's review staff or certification decision-maker.

CFIA/COO Response: Specific instructions were given to all verification officers and certification officers with regards to issues found during inspection. All issues related to the standard being inspected must be indicated on the exit interview and report. A reminder regarding non-compliances that need to be listed in the 2 documents: exit interview and inspection report has been sent out. Training for both certification officers and verification officers is planned for December 2013. A copy of the applicable sections of the training is attached.

8.6. Observation 6. Certification Body 2: The specific USCOEA issue referenced in Observation 5 above was that the inspector required in the inspection report that a



certificate be on file for incoming NOP-certified ingredients, which is not in line with NOP PM 10-3. This memo specifies that the attestation may be issued an organic certificate, a transaction certificate, bill of lading or any other affirmative attestation. As noted in Observation 5, there was no mention of the issue in the exit interview; further, the inspection report did not have any additional details on the topic – such as whether an attestation statement in another form was available.

CFIA/COO Response: The CFIA accredited CBs are not expected to be in line with the NOP Policy Memos. The CBs should follow the CFIA requirements and directives. The COO suggests that this observation is revised to reflect this comment.

The Certification Body 2 certification officers and verification officers were reminded of this issue during the training sessions that took place on June 14, 2013, and June 20, 2013.

- 8.7. Observation 7. Certified Operation: The processor repackages pasta products into packaging for the US market that are listed on the certificate as “certified to the terms of the US-Canada Organic Equivalency Arrangement,” though product is not always sold to the US. Packages display the USDA organic seal and an ingredient statement compliant with the NOP labeling requirements; however, the “certified organic by...” required statement was not properly displayed. Additionally, the CB’s logo was displayed more prominently (on the same panel in a larger size) than the USDA organic logo. COO Directive 10-5 for “Labeling of organic products under the Canada Organic Regime,” under section 3.0 and “Labeling Requirements related to import/export arrangements” states, “Organic products shall meet the labeling requirements of the importing country; that is, the country where it is marketed and sold.” The Directive is



noted at the top as “Intended for: CFIA designated CVBs, CFIA accredited CBs, and all operations under the COR.” It was found that neither issue was caught by the inspector or the certifier.

CFIA/COO Response: The client has been informed that his labels used for sales in the USA are non-compliant and needed to be corrected. The client sent all labels bearing the USDA logo for verification on September 24, 2013. The CB’s label approval manager has reviewed all labels and informed the client on all necessary changes on September 30, 2013. The Certification Body 2 label verification approval document has been amended in July 2013 to include the specific requirements for the countries with which Canada has an equivalency arrangement. A reminder was sent to the verification officers and certification officers in regards to the equivalency arrangement on October 2, 2013. A copy of the CB’s label approval form is attached.

- 8.8. Observation 8. Certified Operation: At the processor, audit trail documents were reviewed for two randomly selected production runs of product qualifying for the USCOEA certification. It was found that a certificate for organic cheese and butter, which is used in an Alfredo sauce labeled with the USDA Organic seal that is certified under the USCOEA, did not contain the required certification statement for USCOEA products/ingredients, per COO Directive 09-01 amended June 18, 2010. Under this Directive, “Products imported or exported under the terms of this arrangement must be accompanied by documents which would have the following attestation added to the product by the Certification body verified the product: certified to the terms of the US-Canada Organic equivalence arrangement.” The certificate from the CB for the supplier of cheese and butter stated only, “Equivalency Arrangement Etats-Unis-Canada.” As



these are dairy products, which have a restrictive critical variance under the terms of the USCOEA, being used in a product labeled with the USDA organic seal and certified for sale to the US under the USCOEA, incoming ingredient documents must properly demonstrate compliance, per COO's own Directive. It was found that the inspector did not catch this issue at the processor's most recent inspection conducted prior to the peer review.

CFIA/COO Response: A reminder was sent to the Certification Body 2 staff in regards to the equivalency arrangement on September 20, 2013. A copy of the CB's Internal Note is attached.

9. CLOSING MEETING

9.1. The reviewer conducted a closing meeting with COO officials in Quebec City, Quebec, Canada on June 14, 2013. At the meeting, the U.S. reviewer provided a complete summary and discussion of all observations in this report.

9.2. Also in attendance at the closing meeting, as with all parts of the peer review, was Cheri Courtney, Director of NOP's Accreditation and International Activities Division, and Bernd Winkler, Observer from the EU's Food and Veterinary Office.

10. CONCLUSIONS AND RECOMMENDATIONS

10.1. All personnel involved in the review – from the staff at the COO, the CVB, the CBs, and the COs – were helpful, responsive, and accommodating to the reviewer's requests, both prior to and during the peer review.

10.2. Staff at the COO was incredibly helpful in assisting the NOP peer reviewer with the peer review scheduling, ensuring all components were finalized before the U.S. team arrived.



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10.3. It was generally observed that the accreditation and certification system implemented through Canada's Organic Regime is thorough and sufficiently oversees organic activities at COO, CVB and CB levels.

10.4. The NOP and the CFIA Peer Review reports will be posted for public access on each program's website.

END OF REPORT