

USDA REVIEW OF APEDA – GOVERNMENT OF INDIA RECOGNITION AGREEMENT

DATES OF REVIEW – January 16-26, 2011

1. INTRODUCTION

- 1.1. The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS) recognizes the Government of India's Agricultural and Processed Food Products Export Development Authority (APEDA) as a competent body for the accreditation of organic certification bodies under the USDA National Organic Program (NOP). APEDA is a Government Authority under the Ministry of Commerce & Industry, Government of India. The recognition provides for APEDA to accredit organic certifying bodies to certify Indian organic products to the NOP technical standards and allows the application of the USDA organic seal on Indian agricultural products when all applicable NOP regulations are met.
- 1.2. Pursuant to the recognition agreement, representatives of the NOP Accreditation and International Activities Division (AIA) and the Livestock and Seed Program (LS), Audit, Review, and Compliance Branch (ARC) jointly conducted an onsite review of the APEDA recognition agreement in India from January 16-26, 2011. The last onsite review was conducted on September 15-24, 2009.
- 1.3. The NOP review team consisted of:
 - Jonathan D. Melvin, Agricultural Marketing Specialist, AIA, NOP
 - Dr. Corey D. Gilbert, Agricultural Marketing Specialist, ARC
- 1.4. At the time of the review, APEDA identified 10 accredited certifying bodies as eligible to certify operations to produce products to the NOP.

2. OBJECTIVES OF REVIEW

- 2.1. The objective of the review was to evaluate the system capabilities and performance of APEDA in controlling the proper application and enforcement of the NOP technical and conformity assessment standards for organic products labeled and exported to the United States.

3. LEGAL BASIS FOR THE REVIEW

- 3.1. The review was conducted pursuant to a recognition agreement between AMS and APEDA completed by the AMS Administrator on February 16, 2006. The agreement provides for USDA to conduct onsite reviews of the APEDA conformity assessment system when properly notified of
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3.2. the review by USDA. Recognition agreements are provided for pursuant to NOP regulations at Title 7 of the U.S. Code of Federal Regulations (CFR) Part 205.500 (c) (1).

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

3.3.1. Organic Foods Production Act of 1990

3.3.2. U.S. Code of Federal Regulations, Part 205, National Organic Program Final Rule

3.3.3. ISO/IEC 17011:2004(E) Conformity assessment — General requirements for accreditation bodies accrediting conformity assessment bodies.

4. PROTOCOL

4.1. The review was accomplished in three parts;

1. A review of operations at APEDA headquarters office in New Delhi, India.
2. Reviews of two organic certifying bodies located in Gurgaon, India and Mumbai, India.
3. Reviews of two organic farms and three organic processing facilities.

4.2. In selecting certifiers and operations to be reviewed, the review team worked with APEDA to select two accredited certifying agencies not visited previously and operations certified to produce products for subsequent export to the United States where possible.

4.3. The review team reviewed each phase of the India certification and accreditation system to determine if the competent authority had the necessary controls in place to ensure traceability and compliance with the NOP regulations.

4.4. During the review, the NOP review team examined processes used to evaluate the competence of the certifying bodies. The team reviewed procedures relating to the certification of organic operations according to existing policies and procedures to determine how compliance with the NOP regulations was carried out. The team also met with and interviewed certifying body personnel to determine their knowledge of the NOP regulations and their qualifications with respect to their duties and responsibilities.

4.5. The review team visited two organic farms and three organic handling operations to observe organic production, handling and labeling practices to determine the level of compliance accomplished by the certified operations.

4.6. The review team was accompanied by an APEDA representative during all portions of the review. At each of the certified organic operations visited, the team was accompanied by at least one or more representatives of the respective certifying body. Any issues of concern or perceived

noncompliances were immediately brought to the attention of the accompanying official or representative.

4.7. Unless otherwise noted in this report, conformity assessment practices and technical performance observed was considered to be in compliance with the NOP regulations.

5. SUMMARY OF PREVIOUS REVIEWS

5.1. This was the second onsite review of APEDA for the purpose of reviewing the application of the NOP regulations. While previous onsite review findings were addressed and accepted, focus on implementation of those corrective actions was considered during the audit. In particular, 7.2.2 and 7.3.1 from the previous report.

6. OBSERVATIONS

6.1. Accreditation processes at APEDA are accomplished by the Organic Team located at NCUI Building, New Delhi, India and other regional offices throughout India. The majority of the work of the Organic Team is managed and executed by a very small core of 4 staff members consisting of the Chairman, the Director, the Organic Advisor and the Organic Division Consultant in charge of Tracenet, a web based Traceability System for Organic Products. With such a small core of responsible people, each person becomes a vital link in the management and execution of accreditation activities and does not leave room for down time or much room for error. From our observations, we believe that APEDA would benefit from additional staff and that this would allow for more flexibility in achieving APEDA's mission and more efficient execution of the accreditation process.

6.2. Onsite audits of organic certifying bodies are conducted by APEDA using Auditors/Evaluators located at the APEDA headquarters in New Delhi, and using regional offices of APEDA that are located closest to certifying bodies. Usually a quorum of three auditors is used; however, APEDA is considering using only two auditors since coordination of three is difficult at times. Auditors/Evaluators also make up the members of the Evaluation Committee, which is responsible for making recommendations to the National Accreditation Board for consideration of and the continued accreditation of certifying bodies.

7. FINDINGS

- 7.1. The NOP regulations at § 205.303(b) (2) states, *“Agricultural products in packages described in §205.301(a) and (b) must: (2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by * * *,” or similar phrase, identify the name of the certifying agent that certified the handler of the finished product...”* The first certifying body that we visited approved four retail product labels for 100% certified organic muesli products which did not have the “Certified organic by (Certifiers Name)” statement below the name of the handler. The labels only had the certifier’s Organic logo, with the certified operation’s registration number, on the front panel between the USDA Organic seal and the EU Organic logo. The labels were approved in January 2011 and have not been used by the certified handler (no transaction certificates issued). These labels were approved after the last surveillance audit by APEDA and the majority of handlers certified by this certifying body are only using bulk labels.
- 7.2. The NOP regulations at § 205.303(b) (2) states, *“Agricultural products in packages described in §205.301(a) and (b) must: (2) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by * * *,” or similar phrase, identify the name of the certifying agent that certified the handler of the finished product...”* The first certifying body’s crop operation that we visited was using approved sample product labels for various certified organic herbal products which did not have the “Certified organic by (Certifiers Name)” statement below the name of the handler.
- 7.3. The NOP regulations at § 205.201 (a) (5) states, under *“Organic production and handling system plan. (a)The producer or handler of a production or handling operation, except as exempt or excluded under §205.101, intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic production or handling. An organic production or handling system plan must include: (5) A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances.”* The second certifying body’s auditor did not verify the clean out procedure used for the roasting machine used for conventional and organic products. In addition, the organic systems plan did not describe the clean out procedure for the roasting machine when switching from

conventional to organic products. However, the CEO made it clear through explanation that organic product was used to clean out the machine first then that batch was marked for use in conventional product. This was the 3rd inspection by the certifying body and it was never identified as a noncompliance or issue of concern by the certifying body's auditor.

7.4. The NOP regulations at § 205.203(C) (1) (ii) and (iii) states under “*Soil fertility and nutrient management practice standard. (1) Raw animal manure, which must be composted unless it is: (ii) Incorporated into the soil not less than 120 days prior to the harvest of a product whose edible portion has direct contact with the soil surface or soil particles; or (iii) Incorporated into the soil not less than 90 days prior to the harvest of a product whose edible portion does not have direct contact with the soil surface or soil particles;*” Input and harvest records were not adequate to show that the application of fermented cattle urine applied to the crops was in compliance with the regulations cited. In addition, the second certifying body's auditor did not review or verify the usage of fermented cattle urine when the records clearly showed the application of fermented cattle urine on November 11, 2010 to the organic crop and the organic crop was harvested on December 25, 2010, not meeting the regulation cited above. This issue is of particular concern as this same finding was identified as an issue during the first recognition review performed in 2006 in 7.3.1 of the previous report. We recognize that the fermented cattle urine is combined with other ingredients such as buttermilk, neem oil, herbal extracts, etc. However, the NOP regulations do not make a distinction between fermented cattle urine and raw animal manure.

8. CLOSING MEETING

8.1. The review team conducted a closing meeting with APEDA officials in Bangalore, India on January 26, 2011. At the meeting, the NOP review team provided a complete summary and discussion of all findings in this report.

9. CONCLUSIONS AND RECOMMENTATIONS

9.1. APEDA, through its internal processes and regulatory framework, is competent as an accrediting body in accordance with established international standards.

9.2. APEDA's review of certifying bodies incorporates compliance to the NOP regulations into its combined review and approval processes when requested by the certifying body.

9.3. APEDA's accreditation processes seem to ensure only those certifying bodies who comply with the National Programme for Organic Production (NPOP) regulations first then the NOP regulations are accredited to certify to the NOP. The NPOP regulations are not mandatory at this time; however, India is working toward mandatory implementation soon. Discussions with APEDA assured the review team that existing recognition agreements would continue to allow organic products produced under the NOP regulations to be imported into India.

- 9.4. APEDA should review all certification activities of its NOP certifying bodies to ensure that only Indian organic agricultural products are certified as NOP organic and exported to the U.S. under the terms of the recognition agreement. APEDA expressed an interest in expanding its certifying body's scope of authority to include the certification of operations in neighboring countries along India's borders; however, it was explained that the scope of all recognition agreements are only for organic agricultural products within the borders of the country that has the recognition agreement. APEDA was reminded that certified NOP product from other countries can be used within India's borders for further processing as an alternative to the idea of scope of authority expansion.
- 9.5. APEDA should prepare formal responses and proposed corrective actions to the findings of this report.