

12 JUN 2014

**NOTICE OF PROPOSED SUSPENSION OF ACCREDITATION**

Mr. Dave Engel  
Executive Director  
Nature's International Certification Services (NICS)  
22 East State Highway 56  
Viroqua, Wisconsin 54665  
[dave@naturesinternational.com](mailto:dave@naturesinternational.com)

Dear Mr. Engel:

On April 1, 2014, the USDA Agricultural Marketing Service, National Organic Program (NOP) issued a Notice of Noncompliance to Nature's International Certification Services (NICS). The Notice outlined noncompliances identified during the NOP's review of four requests for reinstatement submitted by NICS between August 2013 and January 2014, as well as during the review of NICS' 2013 annual report, submitted June 20, 2013. A copy of the April 1, 2014, notice is enclosed for your reference. NICS submitted a corrective action proposal to the NOP on April 29, 2014. The corrective actions submitted did not successfully resolve the noncompliances. In addition, I have reason to believe that you have willfully violated the USDA organic regulations, based on the evidence summarized in the attached corrective action report, numbered AIA13350BJR. Therefore, under 7 CFR §205.665(c) and (d) of the USDA Organic Regulations, *Proposed suspension or revocation* and *Willful Violations*, I am proposing to suspend your accreditation as a certifying agent.

**Reasons for the proposed suspension**

1. Violation of 7 CFR §205.501(a)(3) which 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, including the provisions of §§205.402 through 205.406 and §205.670.*"
2. Violation of 7 CFR §205.501 (a)(6) which states: "*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.*"
3. Violation of 7 CFR §205.505 (a)(1) which states: "*A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying*

*agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including: Accept the certification decisions made by another certifying agent accredited or accepted by USDA...*

- Further, 7 U.S.C. 6515(f) of the Organic Foods Production Act states: “Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this title.”
4. Violation of 7 CFR §205.662 (f)(1) which states: “A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part.”
- Further, 7 U.S.C. 6515(d) of the Organic Foods Production Act states: “Any certifying agent shall enter into an agreement with the Secretary under which such agent shall (1) agree to carry out the provisions of this title; and (2) agree to such other terms and conditions as the Secretary determines appropriate.”
  - Instruction NOP 2605, *Reinstating Suspended Operations*, states the following in Section 3: “Certifiers may not approve or deny certification of a suspended operation without the NOP’s written approval.”
5. Violation of 7 CFR §205.403 (c)(1-2) which states: “The on-site inspection of an operation must verify the operation’s compliance or capability to comply with the Act and the regulations in this part; [and] 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.”

Detailed evidence of the violations are attached in the June 3, 2014 Corrective Action Report.

The NOP proposes to suspend NICS’s accreditation for a period of 1 year as an NOP certifying agent effective 30 days from receipt of this letter.

If the NOP suspends NICS’ accreditation, you will be directed to cease all certification activities and make all client files available to the NOP pursuant to § 205.665(f) of the USDA organic regulations.

Pursuant to § 205.681 of the USDA organic regulations, NICS has the right to file an appeal of this proposed action within 30 days of receipt of this letter. Appeals must be filed in writing to:


Administrator, USDA, AMS  
c/o NOP Appeals Staff  
1400 Independence Avenue, SW  
Room 2648-S, STOP 0203  
Washington, DC 20250



If the NOP suspends NICS accreditation you may after the one-year suspension has ended, submit a request to the Secretary for reinstatement of your accreditation. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Organic Foods Production Act and the USDA organic regulations.

If you have questions regarding this proposed action, please contact your Accreditation Manager, Betsy Rakola, at [Betsy.Rakola@ams.usda.gov](mailto:Betsy.Rakola@ams.usda.gov) or (202) 260-8209.

Sincerely,



Miles W. McEvoy  
Deputy Administrator  
National Organic Program

Enclosure

- April 1, 2014 Notice of Noncompliance
- June 3, 2014 Corrective Action Report
- June 4, 2013 Signed Terms of Accreditation

cc: NOP Appeals  
USDA Quality Assessment Division

**JUL 21 2017****NOTICE OF NONCOMPLIANCE**

Linda Van Hook  
Global Culture  
P.O. Box 1640315 Meigs Rd, Ste A 404  
Santa Barbara, CA 93109

Dear Ms. Van Hook:

On April 14, 2017, the United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), National Organic Program (NOP) notified Global Culture its 2017 annual report was due. The NOP granted Global Culture an extension on April 18, 2017 and accepted an extended submission date chosen by Global Culture on May 9, 2017. As of the date of this letter the NOP has not received a 2017 annual report from Global Culture. We have determined that Global Culture is noncompliant with the USDA organic regulations, 7 CFR Part 205, as follows:

**AIA17191JL.NC1** – 7 CFR §205.510(a) states, “(a) Annual report and fees. 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 and fees: (1) A complete and accurate update of information submitted pursuant to §§205.503 and 205.504; (2) Information supporting any changes being requested in the areas of accreditation described in §205.500; (3) A description of the measures implemented in the previous year and any measures to be implemented in the coming year to satisfy any terms and conditions determined by the Administrator to be necessary, as specified in the most recent notification of accreditation or notice of renewal of accreditation; (4) 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; and (5) The fees required in §205.640(a).”

**Comments:** *Global Culture has not submitted to the NOP the annual report due April 14, 2017. The NOP granted an extension of one week on April 18, 2017. On May 9, 2017, Global Culture informed the NOP it would submit its annual report on May15, 2017. The NOP has not received the Global Culture annual report due April 14, 2017.*

Global Culture must submit corrective actions to [AIAInbox@ams.usda.gov](mailto:AIAInbox@ams.usda.gov) within 30 days from the date of this Notice. The corrective actions should indicate how each noncompliance will be corrected and how the Global Culture management system will be modified to prevent a recurrence of the noncompliance. If you wish to rebut the noncompliance, please submit objective evidence that supports your argument to the [AIAInbox@ams.usda.gov](mailto:AIAInbox@ams.usda.gov) within 30 days from the date of this Notice.

**NOTICE OF PROPOSED SUSPENSION OF ACCREDITATION**

December 21, 2017

Linda Van Hook  
Global Culture  
PO Box 1640  
Santa Barbara, CA 93109

Dear Linda Van Hook:

On July 21, 2017, the National Organic Program (NOP) issued Global Culture a Notice of Noncompliance for not submitting the 2017 annual report due on April 14, 2017. A copy of the notice of noncompliance is enclosed for your reference. The notice required corrective actions to be submitted to the NOP on or before August 21, 2017. To date, the NOP has not received corrective actions to the noncompliance.

Global Culture has not submitted corrective actions to the noncompliance, and the NOP proposes to suspend Global Culture's accreditation as an NOP certifying agent effective 30 days from receipt of this letter. If the NOP suspends Global Culture's accreditation, you will be directed to cease all certification activities and make all client files available to the NOP pursuant to § 205.665(f) of the USDA organic regulations.

Pursuant to § 205.681 of the USDA organic regulations, Global Culture has the right to file an appeal of this proposed action within 30 days of receipt of this letter. Appeals must be submitted in writing to:

[NOPAppeals@ams.usda.gov](mailto:NOPAppeals@ams.usda.gov)

or

Administrator, USDA, AMS  
c/o NOP Appeals Staff  
1400 Independence Avenue, SW  
Room 2648-S, STOP 0268  
Washington, DC 20250

If you have questions regarding this proposed action, please contact your Accreditation Manager, Jason Lopez, at [JasonJ.Lopez@ams.usda.gov](mailto:JasonJ.Lopez@ams.usda.gov) or (202) 260-9445.

Sincerely,



Cheri Courtney  
Director Accreditation and International Activities Division  
National Organic Program



**1400 Independence Avenue, SW.  
Room 2648-S, STOP 0268  
Washington, DC 20250-0268**

Enclosure: AIA17191JL Notice of Noncompliance

cc: NOP Appeals

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|-----------------------------|--|
| <b>Applicant Name:</b>      | Nature's International Certification Services  |
| <b>Physical Address:</b>    | 22 East State Highway 56, Viroqua, WI 54665  |
| <b>Mailing Address:</b>     | 22 East State Highway 56, Viroqua, WI 54665  |
| <b>Contact &amp; Title:</b> | Dave Engel, Executive Director   |
| <b>E-mail Address:</b>      | <a href="mailto:dave@naturesinternational.com">dave@naturesinternational.com</a>   |
| <b>Phone Number:</b>        | 608-637-7080   |
| <b>Auditor(s):</b>          | Betsy Rakola, Accreditation Manager  |
| <b>Program:</b>             | USDA National Organic Program (NOP)  |
| <b>Audit Date(s):</b>       | May 9 – 30, 2014   |
| <b>Audit Identifier:</b>    | AIA13350BJR  |
| <b>Action Required:</b>     | Outstanding noncompliances   |
| <b>Audit Type:</b>          | Corrective Action Report   |
| <b>Audit Objective:</b>     | To evaluate the corrective actions submitted by the certifying agent in response to the non-compliances identified during reinstatement and annual report reviews. |
| <b>Audit Criteria:</b>      | 7 CFR Part 205, National Organic Program; as amended.  |
| <b>Audit Scope:</b>         | NICS' April 29, 2014, corrective action plan, in response to the Notice of Noncompliance issued on April 1, 2014.  |
| <b>Location(s) Audited:</b> | Desk   |

## GENERAL INFORMATION

NICS is a for-profit operation which was initially accredited as a certifying agent to perform certification activities on behalf of the USDA under the National Organic Program (NOP) on February 12, 2007, for crop and livestock; March 17, 2008, for wild crops; and May 26, 2010, for handling. At the time of the renewal assessment, NICS had 462 certified operations, which included 451 crops, 1 wild crop, 149 livestock, and 14 handling operations certified to the NOP. The clients are certified in U.S., mostly in the Midwestern section of the country. NICS applies the USDA organic rule and the USDA Grass (Forage) Fed Standard under ISO Guide 65.

## BACKGROUND INFORMATION

NICS submitted four reinstatement requests to the NOP in the fall of 2013. While reviewing these requests, the NOP discovered noncompliances in NICS certification processes. The NOP also identified a noncompliance during the review of NICS' 2013 annual report. On April 1, 2014, the NOP issued NICS a Notice of Noncompliance. NICS responded with corrective actions on April 29, 2014. This report summarizes the NOP's assessment of NICS' response.

## FINDINGS

The findings below describe the noncompliances identified with the relevant section of the USDA organic regulation for each issue. For each noncompliance identified we summarize NICS' response. Finally we make a determination on whether NICS response is adequate to



resolve the noncompliance or whether NICS' response is unsuccessful in resolving the noncompliance. Overall, NICS' corrective action plan was unsuccessful in resolving the noncompliances. In addition, new noncompliances were identified during this review.

### **Noncompliances – Certifier Response Accepted**

**AIA13350BJR.NC2 – Accepted. 7 CFR §205.501 (a)(7) states:** *“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.”* NICS's 2013 annual report did not include an annual review of its certification activities or describe implemented measures to correct any noncompliances with the Act and its regulations. The outside auditor's report stated that the report was limited in scope and did not include an assessment of NICS's compliance with the Act and the USDA Organic Regulations.

**NICS corrective action:** NICS submitted their 2013 internal audit plan and report. The internal audit listed several serious and recurring noncompliances. In response to the internal audit findings, NICS' submitted a limited corrective action plan which focused mainly on inspector training. NICS provided a copy of its April 22, 2014, memo to inspectors addressing the findings of their 2013 internal audit report.

**NOP May 2014 Determination:** The evidence provided by NICS demonstrated that NICS conducted an internal program review, as required by the regulations. However, the program review showed evidence of multiple, serious violations, as outlined below in AIA4150BJR.NC1.

### **Noncompliance – New finding based on NICS Internal Audit Findings**

**AIA4150BJR.NC1 – New. 7 CFR §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, including the provisions of §§205.402 through 205.406 and §205.670.”* NICS' 2013 internal audit report documented several serious and recurring noncompliances. These included:

- NICS did not issue noncompliances to several operations for potentially serious violations, which is required by §205.406(c) and §205.662(a). These violations included:
  - Selling products as organic which were not included in the operation's organic system plan (§205.201(a)(1,6)),
  - Failing to notify NICS of the accidental application of prohibited substances due to pesticide drift (§205.400(f)(2)),
  - Recurring lack of an organic seed search, no crop rotation, and persistent failure to manage diseases (§205.206(a) and (§205.204(a)), and
  - Using nonorganic agricultural ingredients, not listed on §205.606, in products labeled as “organic” and thereby reducing the organic content below 95% (§205.301(b)).
- One file did not include enough information to determine when the last application of prohibited substances occurred (§205.403(a)(2)).



- Maple syrup producers were not inspected at a time when activities that demonstrate the operation's compliance could be observed (§205.403(b)(2)).
- Two inspections did not verify whether storage facilities separated conventional and organic products. The NOP also cited this as a noncompliance when reviewing James Penoyer's request for reinstatement (§205.403(c)(1)).
- Mass balance and trace-back audits are inadequate to verify that the products sold as organic could have been reasonably produced by the operations applying for certification (§205.403(c)(2)).
- Inspection reports included conflicting statements and did not always state whether the inspector verified activities onsite (§205.403(c)(2)).
- Both an inspector and a reviewer failed to conduct a sufficient review of sanitizing materials, including required intervening steps (§205.403(c)(3)).
- In exit interview and report forms, inspectors wrote instructions to operations on how to change their practices to comply with the regulations and overcome barriers to certification, instead of simply describing the evidence at hand (501(a)(11)(iv)).
- Two staff resumes did not include evidence of the necessary qualifications to conduct organic inspection and review activities, and NICS did not keep training records to demonstrate additional qualifications (§205.501(a)(5)).

In response to the internal audit findings, NICS' submitted a limited corrective action plan which focused mainly on inspector training. NICS provided a copy of its April 22, 2014, memo to inspectors addressing the findings of the internal audit checklist and report.

**NOP May 2014 Determination:** NICS did not submit any plan to address its failure to issue Notices of Noncompliance to operations which had violated the USDA organic regulations. While the memo summarized areas for improvement, it did not provide sufficient training for in-out balances or trace-back audits. Moreover, the memo stated that audits were not always necessary, but it did not provide any objective criteria for determining when one would be necessary. The memo did not use plain language that could be easily understood by all readers. There was no evidence of a plan to address the noncompliant products or operations which were identified by the auditor.

**Non-Compliances – Certifier Response Not Accepted**

**AIA13350BJR.NC1 – Outstanding. 7 CFR §205.501 (a)(6) states:** *“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.”* NICS's 2013 annual report did not include staff performance evaluations of all persons involved in certification activities. The 2013 performance evaluation of NICS's Executive Director was limited to business management practices and did not evaluate certification activities performed by the Director. The evaluation did not describe measures implemented to correct any deficiencies in certification services.

**NICS corrective action:** the Certification Director and the Inspection Operations director completed performance evaluations of the Executive Director.

**NOP May 2014 Determination:** NICS stated that this evaluation will occur annually, but there was no supporting evidence for this claim. Since these positions report to the Executive Director, an evaluation by direct reports has an inherent conflict of interest that prevents an unbiased evaluation. As outlined in NOP 2027, *Personnel Performance Evaluations*, certifiers should use supervisor or peer reviews during evaluations.

**AIA13350BJR.NC3: Outstanding. 7 CFR §205.505 (a)(1) states:** “A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including: Accept the certification decisions made by another certifying agent accredited or accepted by USDA...” Further, 7 U.S.C. 6515(f) of the Organic Foods Production Act states: “Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this title.”

- The Midwest Organic Services Association (MOSA) suspended James Penoyer’s dairy farm in Gilman, Wisconsin on July 16, 2013. Penoyer had appealed MOSA’s proposed suspension in 2012, and the NOP upheld the suspension by denying the appeal in June 2013. NICS granted certification to the farmer on May 23, 2013, and renewed his certification on October 15, 2013. Both NICS’ letters stated that the certification process was complete and that a certificate was enclosed. Neither stated that the farmer’s suspension from MOSA remained in effect until the NOP granted reinstatement, thereby overturning the decisions of MOSA and the NOP. In addition, the inspector (who is also NICS’ Executive Director) stated that MOSA and the NOP had made erroneous and conflicting statements, indicating that he did not accept either decision.

**NICS corrective action:** On April 25, 2014, NICS sent a Notice of Continuing Suspension to Mr. Penoyer to inform him that his operation was still suspended and therefore was not eligible to sell, label, or represent products as organic.

- Organic Crop Improvement Association (OCIA) issued a Notice of Noncompliance to the Cunningham operation in Twin Lakes, Minnesota on November 11, 2011, placing 16 acres of the producer’s operation in transition due to contamination from flooding on July 15, 2011. NICS is required to accept this certification decision and verify that the 16 acres remain in transition until July 15, 2014. The operation was subsequently suspended by OCIA on July 3, 2012, for other noncompliances. NICS included these 16 acres in the operation’s request for reinstatement and argued in an email communication to NOP staff that the 16 acres should not have been removed from certification.

**NICS corrective action:** On November 14, 2013 and February 6, 2014, NICS sent a letter to Mr. Cunningham stating that the 16 acres contaminated by flooding would not be eligible for certification until November 11, 2014. NICS also submitted a training memo to NICS reviewers on April 23, 2014, reminding them of the need to verify the status of all acres requested for certification.

**NOP May 2014 Determination:** NICS' corrective action did not address their refusal to accept the certification decisions of the NOP and other certifiers.

**AIA13350BJR.NC4: Outstanding. 7 CFR §205.662 (f)(1) states:** *"A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part."* **Further, 7 U.S.C. 6515(d) of the Organic Foods Production Act states:** *"Any certifying agent shall enter into an agreement with the Secretary under which such agent shall (1) agree to carry out the provisions of this title; and (2) agree to such other terms and conditions as the Secretary determines appropriate."* **Instruction NOP 2605, Reinstating Suspended Operations, states the following in Section 3:** *"Certifiers may not approve or deny certification of a suspended operation without the NOP's written approval."*

- NICS issued a decision granting reinstatement of certification to James Penoyer on October 15, 2013. MOSA suspended Mr. Penoyer on July 8, 2013, and NICS included MOSA's suspension notice in its request to the NOP. NICS did not submit a reinstatement request for the farmer to the NOP until October 18, 2013. Therefore, NICS granted certification to a suspended operation which was not eligible for certification.
- NICS issued a decision granting reinstatement of certification to Kyle Buchholz on December 31, 2013, prior to submitting Kyle Buchholz's request for reinstatement on January 2, 2014. Mr. Buchholz's operation was suspended by MOSA on July 29, 2011, and NICS included MOSA's suspension notice in its request to the NOP. Therefore, NICS granted certification to a suspended operation which was not eligible for certification.
- NICS issued a decision granting reinstatement of certification to the Cunningham operation in Twin Lakes, Minnesota on August 22, 2013, and submitted his request for reinstatement on the same day. The operation was suspended by MOSA on May 24, 2012, and NICS included MOSA's suspension notice in its request to the NOP. Therefore, NICS granted certification to a suspended operation which was not eligible for certification.

**NICS corrective action:** NICS updated its procedures manual to state the following:

*"The USDA's Secretary requires NICS to provide a letter of support for the reinstatement request, which can only be done after NICS performs an on-site inspection and conducts a review of the operation's paperwork and supporting documentation to ensure that the operation requesting reinstatement is in compliance and is capable of ongoing compliance. This letter of support is then sent to the USDA's Secretary for reinstatement consideration. If the USDA provides a decision to reinstate the suspended operation, then NICS will issue an organic certificate for the reinstatement operation, once notification from the USDA has been received in the NICS office. Operations who wish to request reinstatement should contact the NICS office to request information about the reinstatement process and associated fees for the process."*



On April 25, 2014, NICS issued Notices of Continuing Suspension to Mr. Bucholz and Mr. Penoyer that their prior suspensions remained in effect and that he may not sell, label, or represent his products as organic until he has been reinstated. On November 14, 2013, and February 6, 2014, NICS sent a letter to Mr. Cunningham stating that the 16 acres contaminated by flooding would not be eligible for certification until November 11, 2014. As proof of its plan to verify this corrective action, NICS submitted a copy of its request for an internal audit, which asked the auditor to emphasize a review of suspended or revoked operations. NICS' Inspection Operations Director and Certification Director will also monitor the handling of suspended operations.

**NOP May 2014 Determination:** NICS did not state whether these three operations sold, labeled, or represented products as organic while suspended. Certifiers must verify this information when reviewing suspended operations. There was no evidence of staff training or communication on the revised procedure. Certifiers must provide evidence to the NOP on how they will implement corrective actions throughout their organizations, and how they will monitor them to ensure that they are effective.

**AIA13350BJR.NC5: Partially accepted; three out of four points outstanding. 7 CFR §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 in this part; [and] 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."*

1. NICS granted two certification decisions to James Penoyer, which had outstanding noncompliances without sufficient evidence of corrective actions. NICS' inspection report did not verify full compliance by the operation, as noted below.
1. NICS did not verify the Penoyer operation's compliance with §205.105, *Allowed and prohibited substances, methods, and ingredients in organic production and handling*.
  - a. Mr. Penoyer had an outstanding noncompliance from January 5, 2012 for the use of the prohibited products Sulmet and Resorb. The NICS inspector stated that the operation did not intend to use the products on certified calves, but that it was possible that one or two calves may have been treated with these products. NICS noted that very detailed health records for 2008-2012 were present, raising questions as to why the farmer could not verify whether Sulmet or Resorb were used.

**NICS corrective action:** In its April 25, 2014, Notice of Continuing Suspension, NICS notified Mr. Penoyer that Sulmet is prohibited for use in organic livestock production. NICS also noted that Mr. Penoyer would need to submit additional documentation on livestock production in any future certification application.

**NOP May 2014 Determination:** NICS did not address the discrepancy in the inspection report.

- b. In response to the question, “§205.601: If micro-nutrients are applied, are micro-nutrient deficiencies documented through testing?” the inspector marked “not applicable.” However, the operation had a previous noncompliance for failing to provide evidence of such deficiencies through testing, and the operation provided evidence of use of synthetic micro-nutrients.

**NICS corrective action:** NICS’ April 25, 2014, Notice stated that Mr. Penoyer would need to submit soil or tissue tests with any future certification application. NICS also submitted a soil test for Mr. Penoyer’s operation dated May 2013.

**NOP May 2014 Determination:** It is not clear whether NICS had this information at the time the inspection report was marked “not applicable.” NICS did not address the discrepancy in the inspection report.

- c. The inspector noted that the farmer used dried poultry litter from an off-farm source. The report did not show sufficient evidence that the litter had not been treated with prohibited substances. Instead, the inspector commented that the farmer stated that his supplier told him that the litter was “the ‘OMRI’ one.”
- d. **NICS corrective action:** NICS’ April 25, 2014, Notice stated that Mr. Penoyer would need to submit information on all livestock and crop inputs with any future application for certification.

**NOP May 2014 Determination:** this response adequately addresses the noncompliance.

- 2. The inspector marked record-keeping requirements for crop storage and records for non-organic production as “not applicable.” However, the report stated that storage facilities were described in the OSP, and the farmer had been cited a previous noncompliance for failing to disclose his non-organic production activities.
- 3. **NICS corrective action:** NICS’ April 25, 2014, Notice stated that Mr. Penoyer would need to submit a complete organic system plan with any future certification application.

**NOP May 2014 Determination:** NICS did not mention storage facilities in the letter to Mr. Penoyer. The corrective actions did not address the discrepancy in the inspection report.

- 4. In response to the question, “If animals are temporarily confined, are the reasons for temporary confinement accurately and completely described?” the inspector marked “yes. However, the inspector marked the question on records for temporary confinement as “not applicable.” The inspector did not state how he was able to verify compliance with §205.239(b-c), *Livestock Living Conditions*, without viewing a record of the dates and reasons for temporary confinement.

5. **NICS corrective action:** NICS' April 25, 2014, Notice stated that Mr. Penoyer would need to submit documentation of outdoor pads, pasture, and temporary confinement with any future certification application.

**NOP May 2014 Determination:** Although the corrective actions appeared effective to address compliance concerns with Mr. Penoyer's operation, they did not address the discrepancies in the inspection report.

2. In submitting Joseph and Noah Miller's request for reinstatement, NICS determined that 84 acres were eligible for certification and issued a notice granting certification of this acreage on November 13, 2013. However, the NICS inspection report on the Miller operation and a statement submitted by Joseph Miller indicated 16 of the 84 acres were not eligible for certification due to the use of treated seed on the land.
3. **NICS corrective action:** NICS submitted a certificate showing that only 69 acres of the Miller's land were certified. NICS also submitted a memo to certification file reviewers instructing them to verify the organic status of all land under the management of an applicant.

**NOP May 2014 Determination:** NICS calculated the number of acres incorrectly, since 84 minus 16 equals 68. The certificate still shows an inaccurate number of acres.

4. In submitting Kyle Bucholz's request for reinstatement, NICS noted that Mr. Bucholz was not aware that his operation was suspended by MOSA in 2011. Mr. Bucholz continued production in 2012 and 2013. NICS's inspection report on the Bucholz operation did not verify if harvested product was sold as organic while the operation was suspended. The inspection report noted that the organic and nonorganic sales records from 2012 – 2013 were not applicable. The inspection report also noted that the operation had not maintained records for five years, including when the operation had been certified by MOSA.
- 5.
6. **NICS corrective action:** On April 25, 2014, NICS issued a Notice of Continued Suspension to Mr. Bucholz. The Notice stated that all certification records must be kept for at least 5 years, and that all organic and nonorganic sales records from 2011 forward would need to be available at his next on-site inspection.

**NOP May 2014 Determination:** NICS has not investigated whether Mr. Bucholz sold, labeled, or represented products as organic since his 2011 suspension and appears to consider the reinstatement request closed. Neither the reinstatement procedure nor the inspector training addressed the need to investigate whether suspended operations continued to sell products labeled as organic.

**NICS Corrective Action Response:** in order to address the underlying causes of NC 5 , the Inspection Operations Director will now monitor inspection evaluations and certification decisions. NICS submitted a copy of an evaluation form that will allow final reviewers to comment on the clarity and completeness of inspection reports. NICS also submitted a form to



evaluate whether certification decisions answered all questions appropriately, reviewed previous noncompliances, contained sufficient information, and were generally appropriate based on the available evidence.

**NOP May 2014 Determination:** The inspector training document was long and unclear, with a lot of colloquialisms and acronyms. Given that its purpose was to provide guidance on clear and accurate inspection reports, it does not adequately address the problem. It appears that there was no verbal discussion or follow-up conversation with any of the inspectors about the instructions.

The Executive Director wrote all of the inspection reports which the NOP cited for noncompliances. He also supervises the two staff who will be evaluating the inspection reports and certification decisions. As stated in NC1, employees are unable to provide unbiased evaluations of their supervisor's performance. Therefore, the proposed evaluation system cannot guarantee effective monitoring and feedback.

**NOTICE OF NONCOMPLIANCE**

APR 1 2014

Dave Engel  
Nature's International Certification Services  
22 East State Highway 56  
Viroqua, WI 54665

Dear Mr. Engel:

On January 10, 2014, the United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), National Organic Program (NOP) completed the review of four reinstatement requests submitted by Nature's International Certification Services (NICS) on behalf of four suspended organic producers. Our review revealed several repeated noncompliances in NICS inspection and certification procedures. NICS granted certification to producers who were under suspension, NICS did not accept the decisions of other accredited certifiers or the NOP, and NICS did not adequately verify the producers compliance with the regulations. In addition, findings from NOP's review of NICS's 2013 annual report determined that NICS did not conduct an annual program review of its certification activities, and the 2013 performance evaluation of NICS's Executive Director did not include a review of certification activities. These actions are noncompliances of the USDA organic regulations, as listed below.

**AIA13350BJR.NC1: 7 CFR §205.501 (a)(6) states:** *"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."*

- NICS's 2013 annual report did not include staff performance evaluations of all persons involved in certification activities. The 2013 performance evaluation of NICS's Executive Director was limited to business management practices and did not evaluate certification activities performed by the Director. The evaluation did not describe measures implemented to correct any deficiencies in certification services.

**AIA13350BJR.NC2: 7 CFR §205.501 (a)(7) states:** *"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."*

- NICS's 2013 annual report did not include an annual review of its certification activities or describe implemented measures to correct any noncompliances with the Act and its



regulations. The outside auditor's report stated that the report was limited in scope and did not include an assessment of NICS's compliance the USDA Organic Regulations.

**AIA13350BJR.NC3: 7 CFR §205.505 (a)(1) states:** *"A private or governmental entity seeking accreditation under this subpart must sign and return a statement of agreement prepared by the Administrator which affirms that, if granted accreditation as a certifying agent under this subpart, the applicant will carry out the provisions of the Act and the regulations in this part, including: Accept the certification decisions made by another certifying agent accredited or accepted by USDA..."*

- The Midwest Organic Services Association (MOSA) suspended James Penoyer's dairy farm in Gilman, Wisconsin on July 16, 2013. Penoyer had appealed MOSA's proposed suspension in 2012, and the NOP upheld the suspension by denying the appeal in June 2013. NICS granted certification to the farmer on May 23, 2013 and renewed his certification on October 15, 2013. Both NICS' letters stated that the certification process was complete and that a certificate was enclosed. Neither stated that the farmer's suspension from MOSA remained in effect until the NOP granted reinstatement, thereby overturning the decisions of MOSA and the NOP. In addition, the inspector stated that MOSA and the NOP had made erroneous and conflicting statements, indicating that he did not accept either decision.
- Organic Crop Improvement Association (OCIA) issued a Notice of Noncompliance to the Cunningham operation in Twin Lakes, Minnesota on November 11, 2011, placing 16 acres of the producer's operation in transition due to contamination from flooding on July 15, 2011. NICS is required to accept this certification decision and verify that the 16 acres remain in transition until July 15, 2014. The operation was subsequently suspended by OCIA on July 3, 2012 for other noncompliances. NICS included these 16 acres in the operation's request for reinstatement and argued in an email communication to NOP staff that the 16 acres should not have been removed from certification.

**AIA13350BJR.NC4: 7 CFR §205.662 (f)(1) states:** *"A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part."*

- NICS issued a decision granting reinstatement of certification to James Penoyer on October 15, 2013. MOSA suspended Mr. Penoyer on July 8, 2013, and NICS included MOSA's suspension notice in its request to the NOP. NICS did not submit a reinstatement request for the farmer to the NOP until October 18, 2013. Therefore, NICS granted certification to an operation which was not eligible for certification.
- NICS issued a decision granting reinstatement of certification to Kyle Buchholz on December 31, 2013 prior to submitting Kyle Buchholz's request for reinstatement on January 2, 2014. Mr. Buchholz's operation was suspended by MOSA on July 29, 2011



and NICS included MOSA's suspension notice in its request to the NOP. Therefore, NICS granted certification to an operation which was not eligible for certification.

- NICS issued a decision granting reinstatement of certification to the Cunningham operation in Twin Lakes, Minnesota on August 22, 2013, and submitted his request for reinstatement on the same day. The operation was suspended by MOSA on May 24, 2012, and NICS included MOSA's suspension notice in its request to the NOP. Therefore, NICS granted certification to an operation which was not eligible for certification.

**AIA13350BJR.NC5: 7 CFR §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 in this part; [and] 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."*

- NICS granted two certification decisions to James Penoyer, which had outstanding noncompliances without sufficient evidence of corrective actions. NICS' inspection report did not verify full compliance by the operation, as noted below.
  1. NICS did not verify the Penoyer operation's compliance with §205.105, *Allowed and prohibited substances, methods, and ingredients in organic production and handling*.
    - a. Mr. Penoyer had an outstanding noncompliance from January 5, 2012 for the use of the prohibited products Sulmet and Resorb. The NICS inspector stated that the operation did not intend to use the products on certified calves, but that it was possible that one or two calves may have been treated with these products. NICS noted that very detailed health records for 2008-2012 were present, raising questions as to why the farmer could not verify whether Sulmet or Resorb were used.
    - b. In response to the question, "§205.601: If micro-nutrients are applied, are micro-nutrient deficiencies documented through testing?" the inspector marked "not applicable." However, the operation had a previous noncompliance for failing to provide evidence of such deficiencies through testing, and the operation provided evidence of use of synthetic micro-nutrients.
    - c. The inspector noted that the farmer used dried poultry litter from an off-farm source. The report did not show sufficient evidence that the litter had not been treated with prohibited substances. Instead, the inspector commented that the farmer stated that his supplier told him that the litter was "the 'OMRI' one."
  2. The inspector marked record-keeping requirements for crop storage and records for non-organic production as "not applicable." However, the report stated that storage facilities were described in the OSP, and the farmer had been cited a previous noncompliance for failing to disclose his non-organic production activities.
  3. In response to the question, "If animals are temporarily confined, are the reasons for temporary confinement accurately and completely described?" the inspector marked "yes." However, the inspector marked the question on records for temporary confinement as

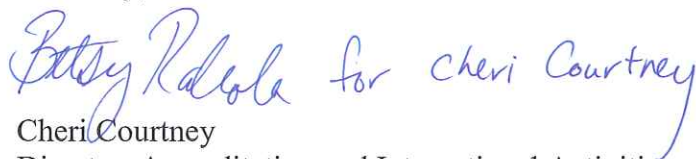
“not applicable.” The inspector did not state how he was able to verify compliance with §205.239(b-c), *Livestock Living Conditions*, without viewing a record of the dates and reasons for temporary confinement.

- In submitting Joseph and Noah Miller’s request for reinstatement, NICS determined that 84 acres were eligible for certification and issued a notice granting certification of this acreage on November 13, 2013. However, the NICS inspection report on the Miller operation and a statement submitted by Joseph Miller indicated 16 of the 84 acres were not eligible for certification due to the use of treated seed on the land.
- In submitting Kyle Buchholz’s request for reinstatement, NICS noted that Mr. Buchholz was not aware that his operation was suspended by MOSA in 2011. Mr. Buchholz continued production in 2012 and 2013. NICS’s inspection report on the Buchholz operation did not verify if harvested product was sold as organic while the operation was suspended. The inspection report noted that the organic and nonorganic sales records from 2012 – 2013 were not applicable. The inspection report also noted that the operation had not maintained records for five years, including when the operation had been certified by MOSA.

Please submit proposed corrective actions to [AIAInbox@ams.usda.gov](mailto:AIAInbox@ams.usda.gov) within 30 days from the date of receipt of this letter, indicating how this noncompliance will be corrected. NICS must propose and implement measures that will correct this action. The proposed corrective actions must also indicate how the NICS management system will be modified to prevent a future noncompliance. Please refer to [NOP 2608](#), Responding to Noncompliances, for further instruction. Failure to promptly resolve this noncompliance may result in proposed adverse actions against NICS as an accredited certifying agent for the USDA.

If you have questions regarding this notice, please contact your Accreditation Manager, Robert Pooler, at [Bob.Pooler@ams.usda.gov](mailto:Bob.Pooler@ams.usda.gov) or (202) 690-4540.

Sincerely,

A handwritten signature in blue ink that reads "Betsy Kadele for Cheri Courtney".

Cheri Courtney  
Director, Accreditation and International Activities  
National Organic Program

cc: NOP Appeals



**NOTICE OF NONCOMPLIANCE AND PROPOSED SUSPENSION****January 12, 2017**

Mr. Jeffry Evard  
Ecocert ICO  
201 W. Main St., 2<sup>nd</sup> Floor  
Plainfield, Indiana 46168  
Email: [Jeffry.EVARD@ecocert.com](mailto:Jeffry.EVARD@ecocert.com)

Dear Mr. Evard:

As an accredited certifying agent for the USDA, Agricultural Marketing Service (AMS), National Organic Program (NOP), Ecocert ICO (ICO) is required to demonstrate its ability to fully comply with, and implement, its organic certification program. However, a recent complaint investigation by the NOP Compliance & Enforcement revealed serious noncompliances by ICO. On September 16, 2016, NOP received a complaint alleging that ICO granted certification to an operation previously suspended by Pro-Cert Organic Systems, Ltd, which had not been reinstated by the USDA. In 2014, the NOP identified eight operations which were suspended by Pro-Cert, to whom ICO had issued organic certificates without the operations undergoing reinstatement. This is a recurring area of noncompliance for ICO. Additionally, ICO staff made false statements to the NOP during the course of the investigation.

Due to the severity of these noncompliances, the NOP is issuing a combined notice of noncompliance and proposed suspension of EcoCert ICO's accreditation to the USDA organic regulations pursuant to 7 CFR §205.665(c), effective 30 days from the date of this notice.

**AIA7262RCA.NC1** - 7 C.F.R. §205.501(a)(13) states "A private or governmental entity accredited as a certifying agent under this subpart must: Accept the certification decisions made by another certifying agent accredited or accepted by USDA pursuant to §205.500."

**Comments:** *ICO certified a suspended operation without the NOP reinstatement process being completed. The operation's May 2014 application to ICO for organic certification stated in writing, that the operation was previously suspended. ICO granted certification of the operation on December 8, 2014. In September 2016, Pro-Cert notified ICO that the operation had been suspended in March 2014. ICO then requested additional information from Pro-Cert and stated that they would ensure the operation underwent the appropriate reinstatement process. ICO did not take action against the operation, until the NOP inquired about the operation's status in response to the complaint.*

In addition, ICO is noncompliant with the Organic Food Production Act, 7 USC Ch. 94 as follows:

**AIA7262RCA.NC2** – 7 USC §6519(a)(4) states “It shall be unlawful and a violation of this chapter for any person covered by this chapter to fail or refuse to provide accurate information (including a delay in the timely delivery of such information) required by the Secretary under this chapter.”

**Comments:** *ICO made false statements to the NOP in response to the investigation. When the NOP contacted ICO on April 19, 2017 regarding the complaint, ICO stated the operation was not certified by them. After further discussion, ICO acknowledged that the operation was certified by ICO, but that ICO had notified the operator of its determination to terminate certification in December 2016. The NOP requested a copy of the letter on May 22, 2017, and in response, ICO provided a copy of a letter addressed to the operator, titled “NOP – Termination of certification services contract with previous notice.” The date on the letter was Monday, May 22, 2017 [sic].*

*ICO later clarified that it had only communicated the termination of certification verbally to the operator and understood they would surrender voluntarily. ICO did not issue an official notice to the operator that their certification was invalid and suspended operations must be reinstated by the USDA. Instead ICO removed the operation from the INTEGRITY database in December 2016.*

## **APPEAL RIGHTS**

The NOP proposes to suspend ICO’s accreditation as a NOP certifying agent effective 30 days from receipt of this letter. If the NOP suspends ICO’s accreditation, you will be directed to cease all certification activities and make all client files available to the NOP pursuant to §205.665(f) of the USDA organic regulations.

Pursuant to §205.681 of the USDA organic regulations, ICO has the right to file an appeal of this proposed action within 30 days of receipt of this letter. Appeals must be filed in writing to:

Administrator, USDA, AMS  
c/o NOP Appeals Staff  
1400 Independence Avenue, SW  
Room 2095-S, STOP 0203  
Washington, DC 20250

If the NOP suspends ICO’s accreditation you may, at any time, submit a request to the Secretary for reinstatement of your accreditation. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Organic Foods Production Act and the USDA organic regulations.



EcoCert ICO  
Notice of Noncompliance and Proposed Suspension  
Page 3

If you have questions regarding this notice, contact Rebecca Claypool, Accreditation Manager, at [Rebecca.Claypool@ams.usda.gov](mailto:Rebecca.Claypool@ams.usda.gov) or (202) 440-1999.

Sincerely,

A handwritten signature in blue ink that reads "Cheri Courtney". The signature is written in a cursive, flowing style.

Cheri Courtney  
Director, Accreditation and International Activities Division  
National Organic Program

cc: Valerie Schmale, Compliance & Enforcement Division

Enclosures: Evidence



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

**NOTICE OF PROPOSED SUSPENSION OF ACCREDITATION**

Ms. Carmen Murillo Quiroga  
Boliviana de Certificacion  
Colon Street 756, Floor 2  
Office 2A Building Baldivia  
La Paz, Bolivia

NOV 6 2017

Dear Ms. Murillo Quiroga,

On June 9, 2017, the National Organic Program (NOP) issued Boliviana de Certificacion (BOLI) a Notice of Noncompliance regarding the January 19-20, 2017 onsite Mid-Term audit. The notice required corrective actions to be submitted to the NOP on or before July 9, 2017. The corrective actions submitted were not sufficient to demonstrate compliance with the USDA organic regulations for all noncompliances. The NOP requested additional clarification and gave BOLI another opportunity to submit corrective actions by September 8, 2017. Additional information and documentation was received from BOLI on September 8, 2017 and after review by the NOP, it was determined the corrective actions remained insufficient. A copy of the assessment report, NP7015LCA, is enclosed for your reference.

As the report indicates, two of the nine noncompliances remain outstanding. Due to the submission of inadequate corrective actions for these noncompliances, the NOP proposes to suspend BOLI's accreditation for a period of 1 year as an NOP certifying agent effective 30 days from receipt of this letter.

If the NOP suspends BOLI's accreditation, you will be directed to cease all certification activities and make all client files available to the NOP pursuant to § 205.665(f) of the USDA organic regulations.

Pursuant to § 205.681 of the USDA organic regulations, BOLI has the right to file an appeal of this proposed action within 30 days of receipt of this letter. Appeals must be submitted in writing to:

[NOPAppeals@ams.usda.gov](mailto:NOPAppeals@ams.usda.gov)

or

Administrator, USDA, AMS  
c/o NOP Appeals Staff  
1400 Independence Avenue, SW  
Room 2095-S, STOP 0203  
Washington, DC 20250



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

If you have questions regarding this proposed action, please contact Penny Zuck, Accreditation Manager, at [penelope.zuck@ams.usda.gov](mailto:penelope.zuck@ams.usda.gov) or (202) 260-9444.

Sincerely,

*Ruihong Guo* FOR RG

Ruihong Guo  
Acting Deputy Administrator  
National Organic Program

Enclosure: Mid-Term Assessment Report

cc: NOP Appeals  
AIA Inbox