

UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE  
BEFORE THE ADMINISTRATOR

In re: )  
Euroasia’s Organics Inc., ) **Administrator’s Decision**  
Dba Naturevibe Botanicals Inc. )  
Rahway, New Jersey ) **APL-021-21**

This Decision responds to an Appeal (APL-021-21) of a Notice of Proposed Suspension of National Organic Program (NOP) certification issued to Euroasia’s Organics Inc., dba Naturevibe Botanicals Inc. (Euroasia’s) of Rahway, New Jersey by then-USDA-accredited certifying agent, Ecocert ICO (ICO) and a Notice of Denial of Certification issued by USDA-accredited certifying agent, Ecocert SA (SA). The operation has been deemed not in compliance with the Organic Foods Production Act of 1990 (Act)<sup>1</sup> and the U.S. Department of Agriculture (USDA) organic regulations.<sup>2</sup>

**BACKGROUND**

The Act authorizes the Secretary to accredit agents to certify crop, livestock, wild crop, and/or handling operations to the USDA organic regulations (7 C.F.R. Part 205). Certifying agents also initiate compliance actions to enforce program requirements, as described in section 205.662, Noncompliance procedure for certified operations. Persons subject to the Act who

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<sup>1</sup> 7 U.S.C. 6501-6522

<sup>2</sup> 7 C.F.R. Part 205

believe they are adversely affected by a noncompliance decision of a certifying agent may appeal such decision to the USDA Agricultural Marketing Service (AMS) pursuant to §205.680 Adverse Action Appeals Process – General, and § 205.681, Appeals of the USDA organic regulations.

### **FINDINGS OF FACT**

1. On December 31, 2016, Euroasia's was certified organic for handling by ICO, a satellite office of SA.
2. On June 29, 2020, ICO issued a Notice of Noncompliance.
3. On July 17, 2020, ICO issued a Notice of Proposed Suspension.
4. On September 16, 2020, ICO and Euroasia's entered into a Settlement Agreement.
5. On February 21, 2020, Euroasia's, having been notified that ICO was surrendering its accreditation, applied for certification by SA, the "parent company" of ICO. ICO was a satellite office of SA.
6. On October 30, 2020, SA issued a Notice of Noncompliance for numerous noncompliances found at an inspection of Euroasia's.
7. On January 21, 2021, ICO issued a Notice of Proposed Suspension for Euroasia's breach of its Settlement Agreement with ICO.
8. On January 21, 2021, SA issued a Notice of Denial of Certification for Euroasia's failure to correct all the numerous noncompliances found at the inspection.
9. On February 8, 2021, ICO issued a Notice of Noncompliance regarding a finding of prohibited substances on Euroasia's product.
10. On February 13, 2021, Euroasia's requested mediation as to the ICO Notice of Proposed Suspension and the SA Notice of Denial of Certification.

11. On March 8, 2021, ICO and SA both issued a Notice of Mediation Rejection.
12. On March 23, 2021, Euroasia's filed an Appeal to both adverse actions.
13. On April 1, 2021, ICO surrendered accreditation.

## **DISCUSSION**

The USDA organic regulations at 7 C.F.R. §205.103, Recordkeeping by certified operations, state that, “(a) A certified operation must maintain records concerning the production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” The regulation further states, “(b) Such records must: ... (2) Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited; (3) Be maintained for not less than 5 years beyond their creation; and (4) Be sufficient to demonstrate compliance with the Act and the regulations in this part.” The regulations at §205.201, Organic production and handling system plan, state that, “(a) The producer or handler of a production or handling operation ... must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent... plan must include: ... (1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed; (2) A list of each substance to be used as a production or handling input, indicating its composition, source, location(s) where it will be used ... (3) A description of the monitoring practices and procedures to be performed and maintained ... (4) A description of the recordkeeping system implemented to comply with the requirements established in §205.103; (5) A description of the management practices and physical barriers established to prevent ... contact of organic

production and handling operations and products with prohibited substances; and (6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.”

The organic regulations at §205.400, General requirements for certification, state that, “A person seeking to receive or maintain organic certification under the regulations in this part must: (a) Comply with the Act and applicable organic production and handling regulations of this part; (b) Establish, implement, and update annually an organic production or handling system plan that is submitted to an accredited certifying agent as provided for in §205.200; ...” The organic regulations at §205.401, Application for certification, state that, “A person seeking certification of a production or handling operation under this subpart must submit an application ... must include the following information: (a) An organic production or handling system plan, as required in §205.200; (b) The name of the person completing the application; the applicant’s business name ... (d) Other information necessary to determine compliance with the Act and the regulations in this part.” The organic regulations at §205.406, Continuation of certification, state that a certified operation must “... submit the following information, as applicable, to the certifying agent: (1) An updated organic production or handling system plan ... (4) Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.”

Euroasia’s was certified organic for the handling of dried plants, herbs, spices, shortening, and oils, on December 31, 2016 by ICO. However, ICO surrendered its accreditation on April 1, 2021, and Euroasia’s applied to SA for certification. ICO and SA both stated that Euroasia’s Organic System Plan (OSP) was incomplete, and did not provide needed information about products for which certification was sought, procedures to verify the organic status of

suppliers, adequate information to allow for traceability of products, and practices and procedures to manage incoming products and inputs. ICO stated these noncompliances constituted a breach of its previous Settlement Agreement with Euroasia's. SA stated these noncompliances supported a denial of certification. Euroasia's stated that it was working on corrective actions for the numerous noncompliances, including hiring qualified personnel to monitor organic compliance, updating its OSP, maintaining all required records, and using only certified organic suppliers.

The evidence substantiates that on July 17, 2020, ICO issued a Notice of Proposed Suspension after finding that Euroasia's failed to correct noncompliances involving noncompliant labels cited in a prior June 29, 2020 Notice of Noncompliance. ICO requested Euroasia's to submit an explanation regarding the noncompliant label; the lot numbers and quantity of organic product sold with the noncompliant labels; evidence that the product with noncompliant labels will be removed from a popular online retailer site; the identity of any other third party sites selling Euroasia's products; an explanation as to why Euroasia's hadn't previously identified its dba; and an organization chart and information on the business relationship between Euroasia's and its dba.

After conducting mediation, ICO and Euroasia's entered into a Settlement Agreement on September 16, 2020, whereby Euroasia's agreed to submit, within 30 days of execution of the agreement, an updated OSP that accurately identifies its business name, including its dba, and includes all activities and product sales under its name and any dba. Euroasia's also agreed to submit an updated Master Ingredient List and current organic certificates of all ingredient/product suppliers; and ensure that non-organic products aren't misrepresented as

organic. All products represented as USDA organic were to handled/processed and sold exclusively through Euroasia's and its dba, Naturevibe Botanicals Inc.

ICO subsequently found that Euroasia's failed to comply with the terms of the Settlement Agreement and issued a Notice of Proposed Suspension on January 21, 2021. Specifically, the notice stated that Euroasia's failed to provide an accurate list of products for which certification was sought that matched with the supplier certificates submitted; and the OSP didn't provide for verification of organic suppliers to ensure that non-organic products weren't misrepresented as organic.

Concurrently, Euroasia's learned that ICO was to surrender its accreditation and that Euroasia's would need to obtain a new certifier. Therefore, on February 21, 2020, Euroasia's applied to SA for certification. SA, located in France, is the "parent company" of ICO, which SA considers a satellite office. SA's accreditation wasn't affected by ICO's surrender. The Organic Integrity Database identifies Euroasia's as "transitioning to new certifier." SA conducted an inspection of Euroasia's on September 28, 2020 and found several noncompliances, which resulted in SA issuing a Notice of Noncompliance on October 30, 2020. Euroasia's responded to the notice, submitting numerous documents, including sourcing procedures; a Master Ingredient List; a processing chart; supplier certificates; and cleaning procedures.

On January 21, 2021, SA issued a Notice of Denial of Certification, stating that Euroasia's had failed to correct numerous of the other cited noncompliances. Specifically, while Euroasia's submitted an OSP, it was incomplete, missing a list of substances to be used and information on the substances, such as composition, source, and origin. SA also stated that although Euroasia's had submitted updates to its Activities and Product Profile form and Master

Ingredient List as required in its Settlement Agreement with ICO, the documents didn't allow for successful traceability exercises and verification of the organic status of products requested for certification. The OSP also didn't include a description of practices and procedures to manage incoming products/ingredients or inputs. Euroasia's was to provide procedures for verifying the organic status of sourced products/ingredients.

On February 13, 2021, Euroasia's requested mediation for both the Notice of Proposed Suspension issued by ICO and the Notice of Denial of Certification issued by SA, both having been issued January 21, 2021. On March 8, 2021, SA and ICO both issued Notices of Rejection of Mediation. On March 23, 2021, Euroasia's filed an Appeal to both adverse actions, stating that it commits to hiring qualified personnel to monitor organic compliance; updating its OSP and organic procedures; monitoring and selecting suppliers with current organic certification and obtaining documentation of this; and maintaining all required records to allow for traceability and audit. Euroasia's stated it understands the seriousness of the noncompliances and is taking preventive measures to avoid the noncompliances in the future. Euroasia's didn't provide any other information and provided no documentation to support its Appeal. On March 29, 2021, NOP sent Euroasia's a letter acknowledging the Appeal and giving Euroasia's 45 days to submit information and documentation supporting its Appeal. After no reply was forthcoming, NOP emailed Euroasia's on May 28, 2021, providing Euroasia's with an additional week to submit support for the Appeal. To date, Euroasia's has not submitted any support for its Appeal.

It is noted that on February 8, 2021, ICO issued a Notice of Noncompliance, stating that it had obtained a retail sample of Euroasia's Organic Premium Moringa Powder (1 lb.) on December 31, 2020, and submitted it for testing. The January 21, 2021 lab report of (b) (4) (b) (4) on the testing of Lot MLP/102, XOO1EYPQ7J, revealed the presence of

Diphenylamine at 0.080 mg/kg and Chlorantraniliprole at 0.052 mg/kg. Neither of these substances has an EPA (Environmental Protection Agency) tolerance level and, therefore, can't be used in organic production or handling. The Notice of Noncompliance stated that Euroasia's was to confirm that it wouldn't sell any product from the Lot in question as organic; submit all test results from any other testing done on the Lot; and provide the quantity of product left from the Lot and the quantity sold from the Lot along with the customer names. Further, Euroasia's was required to identify the source of the contamination that may have occurred while the product was under the control of Euroasia's and corrective actions taken to prevent such an occurrence in the future; a written description of actions to control release of the remainder of the Lot; and a complete set of audit trail documents for the Lot.

Euroasia's submitted responses on February 22, 2021 and April 8, 2021 to ICO, stating that it had sold (b) (4) of the product to an online retailer, submitting a corrective action plan and invoices, and stating that it wouldn't sell the remainder of the lot as organic. However, ICO found that Euroasia's response was insufficient, as it lacked shipping documents, including Tracenet export certificates to allow the tracing of the product back to the (b) (4). As ICO has surrendered accreditation and Euroasia's isn't certified by SA, no additional action has been taken regarding the prohibited substances noncompliance. Therefore, while this noncompliance is discussed herein because it illustrates ongoing concerns about the operation's compliance status, it is not a basis for denying Euroasia's Appeal.

## CONCLUSION

The USDA organic regulations assure consumers that products with the USDA organic seal meet consistent, uniform standards. Key to these standards is that products with the USDA



organic seal are produced and handled in accordance with the organic regulations. However, the evidence substantiates that Euroasia's violated the organic regulations at 7 C.F.R. §205.103, Recordkeeping by certified operations; 7 C.F.R. §205.201, Organic production and handling system plan; 7 C.F.R. §205.400, General requirements for certification; 7 C.F.R. §205.401, Application for certification; and 7 C.F.R. §205.406, Continuation of certification. Specifically, Euroasia's failed to submit a complete OSP with all required information, including information on inputs; verifying the organic status of all suppliers; an accurate list of products for which certification was sought that match with submitted supplier certificates; and a description of practices and procedures to manage incoming products/ingredients. Additionally, documentation submitted by Euroasia's wasn't sufficient to allow for successful traceability exercises. Euroasia's has been unable to comply with or maintain compliance with the organic regulations and therefore, can't remain certified.

### **DECISION**

Euroasia's March 23, 2021 Appeal is denied, and both the January 21, 2021 Notice of Proposed Suspension issued by ICO and the January 21, 2021 Notice of Denial of Certification issued by SA are affirmed.

Attached to this formal Administrator's Decision denying Euroasia's Appeal is a Request for Hearing form. Euroasia's has thirty (30) days to request an administrative hearing before an Administrative Law Judge. If Euroasia's waives the hearing, this Administrator's Decision suspending Euroasia's certification will become final.

Done at Washington, D.C., on this 5th  
day of July, 2021.

**BRUCE**  
**SUMMERS**

Bruce Summers  
Administrator  
Agricultural Marketing Service

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