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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	OFPA Docket No. 18-0041
Cozy Valley Farm, LLC,)	
)	
Respondent.)	Consent Decision and Order

This proceeding was instituted under the Organic Foods Production Act of 1990, as amended, 7 U.S.C. §§ 6501-6522 (OFPA), alleging that the respondent, Cozy Valley Farm, violated the National Organic Program Regulations issued thereunder, 7 C.F.R. § 205.1 – 205.699 (NOP Regulations). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The Respondent admits the jurisdictional allegations as set forth herein and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations of the complaint, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding, as well as all remaining alleged violations which may have occurred on or before August 15, 2018, to the entry of this decision.

The Complainant agrees to the entry of this decision.

FINDINGS OF FACT

1. Respondent Cozy Valley Farm, LLC ^{USA LB} is a ~~limited liability company~~, Producer number 325200691, operating as Cozy Valley Farm, whose mailing address is 2751 Thompson Hill Road, Gillet, Pennsylvania 16925. The managers are Nathan Harkness and Carol Harkness.

2. On May 4, 2007, Respondent was certified organic, as defined by OFPA, by NOFA-NY Certified Organic, LLC, a certifying agent accredited by the United States Department of Agriculture.

CONCLUSION OF LAW

From April 2014 through August 2017, the Respondent repeatedly failed to comply with the annual continuation of certification requirements to submit an updated organic system plan and to timely pay certification fees under the USDA organic regulations at 7 C.F.R. § 205.406.

The respondent having admitted the jurisdictional facts only, and the parties having agreed to the entry of this decision, such decision will be entered.


ORDER


1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating 7 C.F.R. § 205.406, a USDA organic Regulation issued under the OFPA.
 2. Respondent will annually submit to its organic certifier an updated organic system plan required by 7 C.F.R. § 205.406 no later than February 28th.
 3. Respondent will annually remit to its organic certifier a minimum of one-half of that year's required annual certification fees required by 7 C.F.R. § 205.406 no later than February 28th.
 4. Respondent will annually remit to its organic certifier the remaining balance of that year's required annual certification fees required by 7 C.F.R. § 205.406 no later than August 1st.
 5. The five-year period of time between September 1, 2018 and August 31, 2023 shall be referred to as the "probation period." Respondent agrees that if Respondent's organic certifier notifies USDA that Respondent has not submitted its organic system plan or annual certification fees in accordance with the terms of this agreement, USDA may, without further procedure, suspend Respondent's organic certification for 30 days. On the thirtieth day of the suspension, Respondent may submit to the Secretary or to its certifier a request for reinstatement of its
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certification, accompanied by evidence demonstrating correction of the noncompliance with the terms of this agreement. Upon notification to USDA that Respondent has failed to comply with the terms of this agreement a second time, USDA may, without further procedure, suspend Respondent for one year. Respondent further agrees to a prospective waiver of its right to notice and opportunity for an administrative hearing pursuant to 7 C.F.R. § 205.681.


The Complainant and Respondent agree that Respondent may seek injunctive, declaratory, or other appropriate relief in the United States District Court for the Middle District of Pennsylvania, or in the United States District Court for the District of Columbia.

The provisions of this order shall become effective immediately. Copies of this decision shall be served upon the parties.


Nathan Harkness
Owner, Manager
Cozy Valley Farm, LLC
Respondent


Lauren Becker
Attorney for Complainant

Done at Washington, D.C.
this 17th day of August 2018


Channing D. Strother
Acting Chief Administrative Law Judge