

Guideline for responding to contamination by prohibited substances or materials in the organic export supply chain - (2018-01)

Date of issue: 4 January 2018

Attention:

- Organic Industry Standards and Certification Council
- Organic Federation of Australia
- Organic Certifying Organisations
- Organic and Biodynamic Exporters

Purpose

1. This notice provides guidance in responding to unnecessary intentional use, negligent introduction and accidental introduction or necessary intentional use of prohibited substances or materials, **including the presence of genetically modified materials and organisms.**
2. This guideline is to be read in conjunction with the **Export Control (Organic Produce Certification) Orders, the National Standard for Organic and Bio-Dynamic Produce and the Government Administrative Arrangements for Approved Certifying Organisations Managing Inspection and Certification Programs for the Export of Certified Australian Organic and Biodynamic Produce.**
3. This guideline replaces Industry Advice Notice 2015/04 and Industry Advice Notice 2016/02.

Principles

4. Sanctions applied in response to contamination by prohibited substances or materials, including the presence of genetically modified materials and organisms, should be proportional to the instance of contamination.
5. Sanctions applied in response to a contamination incident should take into account:
 - a. the cause of the contamination. Sanctions should consider whether the contamination resulted from unnecessary intentional use, negligent introduction, accidental introduction or necessary intentional use of prohibited substances or materials.
 - b. the extent of the contamination. Sanctions should consider whether the contamination affects the organic production unit, the off production unit procedures or the organic produce itself.
 - c. the permanence of the contamination. Sanctions should consider whether the contamination has a permanent effect, a persistent effect or no persistent effect.

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- d. the treatment of the contamination. Sanctions should consider whether the contamination is rectifiable. For example, whether the contamination can be removed, isolated or contained.
6. Graduated sanctions available in response to a contamination incident include corrective action requests (CARs), suspension and decertification.
7. Suspension may be applied to an entire organic production system (full suspension) or parts of an organic production system (partial suspension). Partial suspension should be applied where the contamination can be isolated or contained from compliant elements of an organic production system.
8. Decertification only applies to an entire organic production system; an organic production system cannot be partially decertified. Where part of an organic production system is considered to be permanently ineligible, the affected part of the system should be permanently removed from the operator's approval.
9. Following an identified or reported contamination incident, it may be necessary for an approved certifying organisation to apply an interim suspension on the organic production system to allow for the extent, severity and treatment of the contamination incident to be investigated.
10. Repetitive contamination incidents that result from unnecessary intentional use of prohibited substances or materials or negligent introduction of prohibited substances or materials may result in the application of higher grade sanctions. An incident is considered repetitive if the same non-compliance occurs within three (3) years of the previous incident.
11. Not addressing a corrective action request within the stipulated terms may result in the application of higher grade sanctions.

Actions

12. When contamination by prohibited substances or materials is evident, including the presence of genetically modified materials and organisms, the operator must take immediate corrective action to ensure the integrity of the organic production system is not further compromised.
13. When contamination by prohibited substances or materials is evident, including the presence of genetically modified materials and organisms, the operator should immediately notify their approved certifying organisation. Notification should include an assessment of the cause, extent, permanence and treatment of the contamination.
14. The approved certifying organisation should assess the contamination incident against its approved QM manual to determine the appropriate response.

Note: An approved certifying organisation may stipulate additional requirements and may set limits that are higher than those published in the National Standard for Organic and Biodynamic Produce.

15. When contamination by prohibited substances or materials is evident and cannot be adequately assessed from the operator's notification, it may be necessary for the approved certifying organisation to impose an interim suspension on the organic production system while the contamination incident is investigated.
16. Attachment A provides guidance on graduated sanctions available in response to an assessment or investigation of a contamination incident.

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Background

17. The *Export Control (Organic Produce Certification) Order 2005* is the legal basis for the export of produce/goods labelled as organic or biodynamic.
18. The National Standard for Organic and Biodynamic Produce (national standard) details primary production and processing requirements for organic and biodynamic produce/goods for export.
19. Industry Advice Note 2015/04 was issued in October 2015 for a 6 month trial period. This notice reflects feedback and experience during the trial period.

The information provided above is current at the time of writing and is intended for use as guidance only and should not be taken as definitive or exhaustive. The Commonwealth endeavours to keep information current and accurate, however, it may be subject to change without notice. Exporters are encouraged to verify these details with their importers prior to undertaking production/exports. The Commonwealth will not accept liability for any loss resulting from reliance on information contained in this notice.

ATTACHMENT A

Table 1 – Sanctions available in response to unnecessary intentional use of prohibited substances or materials, including genetically modified organisms and materials

CAUSE OF NON-COMPLIANCE	EXTENT OF NON-COMPLIANCE	OUTCOME OF SEVERITY ASSESSMENT/INVESTIGATION BY THE APPROVED CERTIFYING ORGANISATION		ACTIONS
Unnecessary intentional use of prohibited substances or materials, including the presence of genetically modified organisms and materials	Organic Production Unit	Minor	No persistent contamination, effective treatments applied	Suspend organic production system Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved Issue Letter of Warning regarding repetition
		Moderate	Some persistent or permanent contamination, effective treatments applied or available	Suspend organic production system Issue Corrective Action Request

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Table 1 – Sanctions available in response to unnecessary intentional use of prohibited substances or materials, including genetically modified organisms and materials

CAUSE OF NON-COMPLIANCE	EXTENT OF NON-COMPLIANCE	OUTCOME OF SEVERITY ASSESSMENT/INVESTIGATION BY THE APPROVED CERTIFYING ORGANISATION		ACTIONS
				(CAR) Lift suspension when CAR is resolved Issue Letter of Warning regarding repetition
		Major	Permanent contamination, effective treatments not available	Decertify organic production system
			Any repeat instance of unnecessary intentional contamination of the organic production unit	
	Off Production Unit Processes	Minor	No persistent contamination, effective treatments applied	Suspend organic production system Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved Issue Letter of Warning regarding repetition
		Moderate	Some persistent or permanent contamination, effective treatments applied or available	Suspend organic production system Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved Issue Letter of Warning regarding repetition

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CAUSE OF NON-COMPLIANCE	EXTENT OF NON-COMPLIANCE	OUTCOME OF SEVERITY ASSESSMENT/INVESTIGATION BY THE APPROVED CERTIFYING ORGANISATION		ACTIONS
		Major	Permanent contamination, effective treatments not available Any repeat instance of unnecessary contamination of the off production unit procedures	Decertify organic production system
	Organic Produce	Minor	Contamination level does not exceed the requirements of the Approved Certifying Organisation, relevant Australian legislation or standards or the relevant Importing Country	Issue organic produce certificate
	Major	Contamination level exceeds the requirements of the Approved Certifying Organisation, relevant Australian legislation or standards or the relevant Importing Country	Do not issue organic produce certificate Produce to be re-labelled	

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Table 2 – Sanctions available in response to negligent introduction of prohibited substances or materials, including genetically modified organisms and materials

CAUSE OF NON-COMPLIANCE	EXTENT OF NON-COMPLIANCE	OUTCOME OF SEVERITY ASSESSMENT/INVESTIGATION BY THE ORGANIC CERTIFYING ORGANISATION		ACTIONS
Negligent introduction of prohibited substances or materials, including the presence of genetically modified organisms and materials	Organic Production Unit	Minor	No persistent contamination, effective treatments applied	Issue Corrective Action Request (CAR) Issue Letter of Warning regarding repetition
		Moderate	Some persistent or permanent contamination, effective treatments applied or available	Suspend organic production unit only
			2nd repeat instance of negligent contamination of the organic production unit	Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved Issue Letter of Warning regarding further repetition
	Major	Permanent contamination, effective treatments not available	Decertify organic production system	
	3rd repeat instance of negligent contamination of the organic production unit			
Off Production Unit Processes	Minor	No persistent contamination, effective treatments applied	Issue Corrective Action Request (CAR) Issue Letter of Warning regarding repetition	

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		Moderate	Some persistent or permanent contamination, effective treatments applied or available	Suspend off production unit processes only Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved Issue Letter of Warning regarding further repetition	
			2nd repeat instance of negligent contamination of the off production unit procedures		
		Major	Permanent contamination, effective treatments not available		Decertify organic production system
			3rd repeat instance of negligent contamination of the off production unit procedures		
	Organic Produce	Minor	Contamination level does not exceed the requirements of the Approved Certifying Organisation, relevant Australian legislation or standards or the relevant Importing Country	Issue organic produce certificate	
		Major	Contamination level exceeds the requirements of the Approved Certifying Organisation, relevant Australian legislation or standards or the relevant Importing Country	Do not issue organic produce certificate Produce to be re-labelled	

Table 3 – Sanctions available in response to necessary use of, or accidental introduction of, prohibited substances or materials, including genetically modified organisms and materials

CAUSE OF NON-COMPLIANCE	EXTENT OF NON-COMPLIANCE	OUTCOME OF SEVERITY ASSESSMENT/INVESTIGATION BY THE ORGANIC CERTIFYING ORGANISATION		ACTIONS
		SEVERITY	ASSESSMENT/INVESTIGATION	
Accidental introduction or necessary use of	Organic Production Unit	Minor	No persistent contamination, effective treatments applied	Issue Corrective

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prohibited substances or materials, including the presence of genetically modified organisms or materials				Action Request (CAR)
		Moderate	Some persistent or permanent contamination, effective treatments applied or available	Suspend organic production unit only Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved
		Major	Permanent contamination, effective treatments not available	Decertify organic production system
	Off Production Unit Processes	Minor	No persistent contamination, effective treatments applied	Issue Corrective Action Request (CAR)
		Moderate	Some persistent or permanent contamination, effective treatments applied or available	Suspend off production unit processes only Issue Corrective Action Request (CAR) Lift suspension when CAR is resolved
		Major	Permanent contamination, effective treatments not available	Decertify organic production system

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	Organic Produce	Minor	Contamination level does not exceed the requirements of the Approved Certifying Organisation, relevant Australian legislation or standards or the relevant Importing Country	Issue organic produce certificate
		Major	Contamination level exceeds the requirements of the Approved Certifying Organisation, relevant Australian legislation or standards or the relevant Importing Country	Do not issue organic produce certificate Produce to be re-labelled

Glossary

Note: Unless specifically referenced below words in this guideline should be taken to have the same meaning as that provided in the National Standard for Organic and Biodynamic Produce

Unnecessary intentional use the deliberate use of prohibited substances or materials, including genetically modified organisms and materials, in a manner that is inconsistent with the National Standard for Organic and Biodynamic Produce and is not required under Commonwealth, State or Territory, Local or Statutory laws

Negligent introduction the introduction of prohibited substances or materials, including genetically modified organisms and materials, where the presence of those inputs could have been reasonably avoided through a level of care that someone of ordinary prudence would have exercised under the same circumstances

Accidental introduction the introduction of prohibited substances or materials, including genetically modified organisms and materials, where the presence of those inputs did not occur through deliberate action and could not have been reasonably avoided through a level of care that someone of ordinary prudence would have exercised under the same circumstances

Necessary intentional use the deliberate use of prohibited substances or materials, including genetically modified organisms and materials, in a manner that is inconsistent with the National Standard for Organic and Biodynamic Produce but is required under Commonwealth, State or Territory, Local or Statutory laws

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Off production unit processes approved processes within an operator's supply chain that occur outside of the organic production unit

Organic production system all activities relating to an operator's approved production unit, off production unit processes and produce

Full suspension the suspension of all activities in an operator's organic production system

Partial suspension the suspension of some activities in an operator's organic production system