

	<p><i>Istituto per la Certificazione Etica e Ambientale</i></p>	<p>Document</p> <p>GUIDELINES</p> <p>L.0601 Ed.01 Rev.01</p>
<p>Title: GUIDELINES FOR THE IMPOSITION OF PENALTIES</p>		

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1. PURPOSE

The purpose of these guidelines is to integrate the application of internal procedures with the competent Authority's provisions regarding the imposition of penalties and the management of the relevant obligations, including appeals.

2. SCOPE

These guidelines apply to the field of application of Procedure P.06 in its current revised status.

3. REFERENCES

- ◆ Regulation (EEC) No. 2092/91
- ◆ Legislative Decree No. 220/95
- ◆ Standard UNI CEI EN 45011/1999
- ◆ RT 16 Sincert

4. DEFINITIONS

For the application of these references to operating procedures and to the present guidelines, the following definitions apply:

Irregularity, i.e. nonobservance of formal aspects of the documentation required by the inspection and certification system, and non-application of the provisions laid down in Annex III and in Articles 5, 6, 10 and 11 of Reg. (EEC) No. 2092/91, which do not entail such prolonged or manifest effects as to substantially alter product conformity and/or Operator's reliability status.

Infringement, i.e. nonfulfilment of the regular aspects of documentation foreseen in the application of the system of inspection and certification, and the failure to apply the provisions of Annex III and Art. 5, 6, 10, and 11 of the Reg. (EEC) No. 2092/91 which will not imply such manifest and prolonged effects to induce a substantial variation of the operator's reliability and/or product conformity

Infringement, where evident failure to fulfil obligations that either imply such prolonged effects as to introduce substantial variations in the operator's reliability status and/or product conformity with respect to:

- obligations prescribed by Community regulations;
- appropriate records management required by the inspection system;
- contractual obligations taken with the Inspection Body.

Prolonged or manifest effects, i.e. when the nonconformity:

- concerns the non-implementation of actions which had been previously requested by the Inspection Body (i.e. warning letter, Inspection Reports, CoCerSOT's assessment reports) and/or the competent Authority (for questions related to document management);
- extends to several cycles/products at different times and for different related activities, in connection with the same Operator or different operators under the same or different inspection bodies;
- involves direct risks regarding the conformity of the product placed on the market and intended for the final consumer.

Substantial modification of product conformity and/or Operator's reliability status, i.e. when the nonconformity:

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- is a consequence of inadequate professional, managerial and/or technological expertise in the application of organic methods and fulfilment of obligations connected with the inspection and certification system;
- is a consequence of a relapsing behaviour, in consideration of previous “irregularities” (see definition given in Ministry of Agriculture’s document);
- is a consequence of wilfulness shown, in consideration also of relapsing behaviour;
- is significant in regard to consumers’ health, observance of general provisions concerning the Operator’s activity, and credibility of organic methods and inspection and certification system.

5. APPLICATION OF PENALTIES

For the purpose of identifying nonconformities as irregularities or infringements, on the basis of the degree of the gravity, the appropriate penalties will be applied: recalls, warnings, suppression of the organic labels, suspension of the certificate and the operator’s expulsion.

Recall

Signifies prescriptions that do not affect certification. To this end, inspection of corrective actions is performed at the first inspection visit. Failure to respect a recall will result in the application of a heavier sanction, usually a warning.

Warning

Signifies prescriptions that do not effect certification on the condition that the same prescriptions are fulfilled within the set deadline. To this end, inspection on corrective actions are effected on the first inspection visit .Failure to comply with a warning will imply the application of a heavier sanction, usually the suppression of organic labels.

Suppression of organic labels

Suppression of the label implies the prohibition for the operator to attach on the tags and documents of products involved in the infringement, the labels referring to organic farming methods in relation to the batch or the entire production involved in the irregularities. To this end, inspection on the corrective actions and their relevant effectiveness will be carried out during the first inspection visit. Failure to comply with a suppression of organic labels will result in a heavier sanction, normally the suspension of the certificate.

Certificate Suspension

Consists in the temporary suspension of the certificate of conformity to organic farming methods pursuant to Reg. (EEC) No. 2092/91, and is imposed when the controlled operator’s reliability is questioned. Suspension implies a prohibition on the part of the operator, for a given period, to commercialize products with organic farming labels. This may refer to one or more processing areas or to the entire company, or to single production lines. Inspections on corrective actions will be performed within the terms and procedures foreseen by the measures imposed. Failure to respect a suspension will result in the operator’s expulsion.

Expulsion of the operator

This occurs for cases of such serious infringement levels as to compromise the operator’s reliability in the management of the company and membership in the control system, therefore including relapsing behaviour in committing infringements and when the operator does not respect the commitments undertaken with the competent Authority, and the contractual obligations with ODC:

The abovementioned measures are issued by ICEA’s authorized Officers.

Nullification of sanctions

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Occurs when the inspections obtain a revision of the measures and their nullification (usually via appeals) allowing for the retroactive and “total reintegration” (to the date of the measures).

Revocation of sanctions

Occurs when the inspections obtain the revision of the measures and its revocation, allowing a “conditional reintegration” upon inspection of the certification conditions.