Büro für Lebensmittelkunde & Qualität

Article 27 and 28
of new EU Organic Regulation

No. 2018/848

Art 28 – Annex II Part IV 1.4 Precautionary measures

Article 28

Precautionary measures to avoid the presence of non-authorised products and substances

1. In order to avoid contamination with products or substances that are not authorised in accordance with the first subparagraph of Article 9(3) for use in organic production, operators shall take the following precautionary measures at every stage of production, preparation and distribution:

(a) put in place and maintain measures that are proportionate and appropriate to identify the risks of contamination of organic production and products with non-authorised products or substances, including systematic identification of critical procedural steps;

(b) put in place and maintain measures that are proportionate and appropriate to avoid risks of contamination of organic production and products with non-authorised products or substances;

(c) regularly review and adjust such measures; and

(d) comply with other relevant requirements of this Regulation that ensure the separation of organic, in-conversion and non-organic products.

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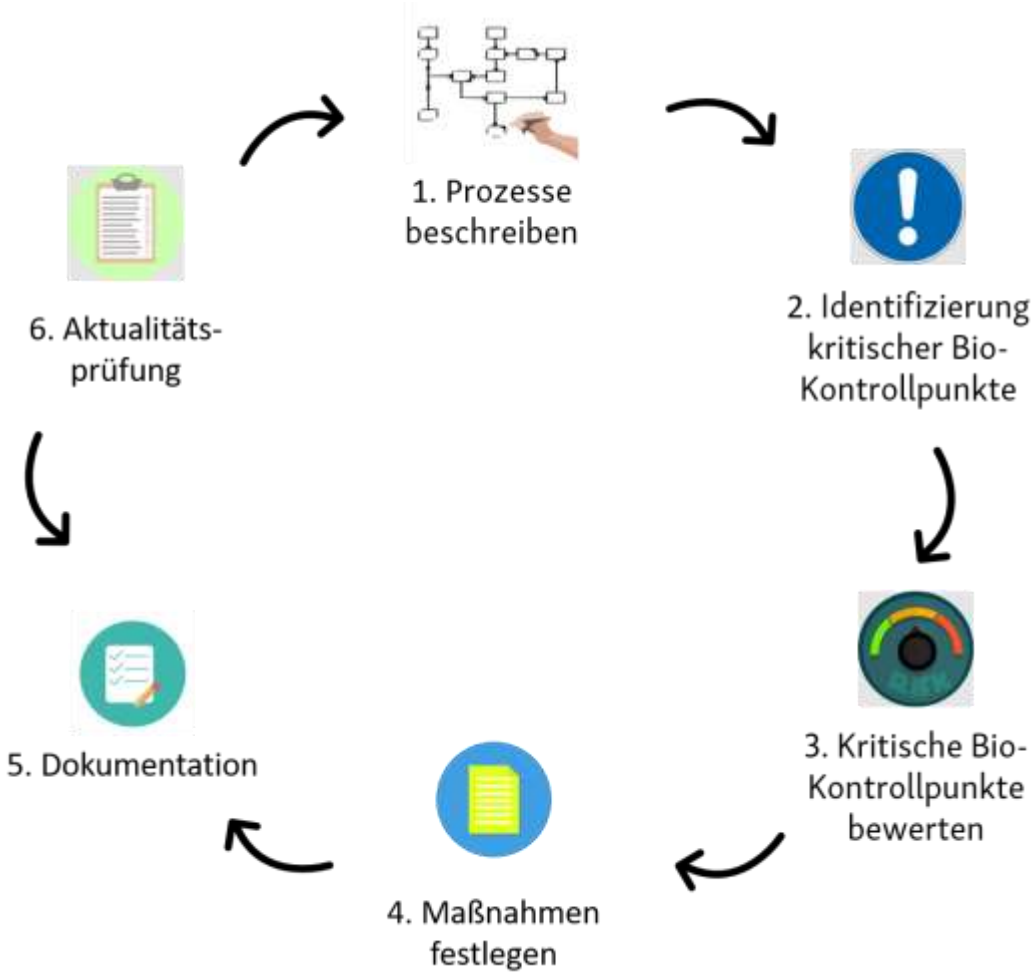
Self control system on „Organic Control Points“ OCP



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New requirement of the EU Organic Regulation as of 01.2022

(EU) 2018/848 Article 27 Obligations and actions in the event of suspicion of non-compliance **(General)**

Where an operator suspects that a product it has produced, prepared, imported or has received from another operator does not comply with this Regulation, that operator shall, subject to Article 28(2):

(a) identify and separate the product concerned;

(b) check whether the suspicion can be substantiated;

(c) not place the product concerned on the market as an organic or in-conversion product and not use it in organic production, unless the suspicion can be eliminated;

(d) where the suspicion has been substantiated or where it cannot be eliminated, immediately inform the relevant competent authority, or, where appropriate, the relevant control authority or control body, and provide it with available elements, where appropriate;

(e) fully cooperate with the relevant competent authority, or, where appropriate, with the relevant control authority or control body, in verifying and identifying the reasons for the suspected non-compliance.

(EU) 2018/848 Article 28 (2) Precautionary measures to avoid the presence of non-authorised products and substances

2. Where an operator suspects, due to the presence of a product or substance that is not authorised pursuant to the first subparagraph of Article 9(3) for use in organic production in a product that is intended to be used or marketed as an organic or in-conversion product, that the latter product does not comply with this Regulation, the operator shall:

(a) identify and separate the product concerned;

(b) check whether the suspicion can be substantiated;

(c) not place the product concerned on the market as an organic or in-conversion product and not use it in organic production unless the suspicion can be eliminated;

(d) where the suspicion has been substantiated or where it cannot be eliminated, immediately inform the relevant competent authority, or, where appropriate, the relevant control authority or control body, and provide it with available elements, where appropriate;

(e) fully cooperate with the relevant competent authority, or, where appropriate, with the relevant control authority or control body, in identifying and verifying the reasons for the presence of non-authorised products or substances.

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So what does this mean for an operator?

- In three steps to take
  1. Check whether the information is “correct and relevant“
  2. if this is the case, there is a "suspicion“ 28 (2). Ensure that the products are not placed on the market.
  3. Check if information can be substantiated or eliminated.
  - If the suspicion is **substantiated or cannot be eliminated**, a report is made to the control body.
  - When the suspicion **can be eliminated** the situation is documented and the products are released.

- Please note; It is about those activities under your control and the products in your possession.

- Set up internal structure for the handling of possible Non-Compliances within your QA System. The procedure should be verified and confirmed by the control body or authority.

BLQ FiBL Guideline on implementation of Art 27 and 28 (2) by operators can be found;

https://www.aoel.org/wp-content/uploads/2021/12/Guideline_FiBL_BLQ_Residue_Handling_Operators_Art27-28_ENG_final.pdf

Detailed overview of actions for operators

Legend

Legal requirements

Technical reading

AntiFraud Initiative

Presence of non-authorised products or substances in organic products [2018/848 Art 28(2)]

Operator must confirm suspicion of non-compliance [2018/848 Art 28(2)]

- Q1: Is the substance relevant* for compliance with organic production rules?
- Q2: Is the analysis result reliable**?
- Q3: Is the sampling reliable?

If three times "Yes" ***

Suspicion of non-compliance for ORGANIC is confirmed [2018/848 Art 28(2)]

- Identify and separate [2018/848 Art 28(2)a]
- Provisionally block during substantiation [2018/848 Art 28(2)c]

Operator must substantiate suspicion of non-compliance by examining any possible cause for the presence [2018/848 Art 28(2)b; 2021/279 Art 1]

Focus and identify the most likely source and cause as follows:

1. Check the use of products or substances not authorised for use in organic production under own responsibility
2. Check risks, measures and records to avoid contamination and commingling under own responsibility (cross-contamination, mass balance, traceability)
3. If needed, check with the CB of the supplier and the supplier 1. & 2.

Suspicion has not been eliminated or has been substantiated [2018/848 Art 28(2)c]

- Immediately inform CA/CB [2018/848 Art 28(2)d]
- Do not place the product on the market as organic [2018/848 Art 28(2)c]

Suspicion has been eliminated [2018/848 Art 28(2)c]

- Place the product on the market as organic