

Informational Service 03 / 2023

Dear Ladies and Gentlemen,

With this informational service we would like to inform you about changes in the legal framework and the monitoring system for organic farming. Since the last informational service 12/2021, we have consistently informed you in a targeted and timely manner about specific requirements in the amended organic legislation. Now that we have had a year to collect experience with the new Regulation (EU) 2018/848, it is once again possible to provide a general informational service.

Please note that in case of doubt, the official legal text always applies, and the info missive cannot provide any legally binding information.

An official overview page of the EU Commission on organic legislation can be found at https://agriculture.ec.europa.eu/farming/organic-farming/legislation_en.

If you have any further questions, please do not hesitate to contact our office.

New certificates beginning in 2023 in TRACES

Starting 01.01.2023, according to the EU organic regulation, all organic certificates must be issued via the database system TRACES (Trade Control and Expert System). As usual, you will receive your new organic certificate in 2023 after successful organic inspection, but then already in the new TRACES format and available as a PDF at the following link: <https://webgate.ec.europa.eu/tracesnt/directory/publication/organic-operator/index#>. Until then, you may use your old certificate and also accept certificates from your suppliers according to the previous template. The TRACES directory is publicly accessible for all companies. Thus, in the future, the certificates of all organic certified companies in the EU can be retrieved from a uniform directory on a daily basis. Certificates issued in the previous format before 01.01.2023 will retain their validity until they are reissued, meaning that all certificates will not be fully accessible in the directory until 2024.

The national directory of BVK (Bundesverband der Öko-Kontrollstellen e.V.) at www.oeko-kontrollstellen.de will continue to exist, as will the Internet platform www.bioc.info. You can therefore continue to access the organic certificates issued in TRACES via the existing directories.

Digital audits

The digitalization of audits is advancing all the time. As an inspection body, we are faced with the challenge of digitally mapping a growing number of processes and results on the one hand, and not impeding customers and the inspection process with immature technical solutions on the other. Furthermore, successful digitalization cannot mean the indiscriminate collection and digital storage of an ever-increasing amount of data. The opposite is true: digital control must limit data collection to the absolute minimum, as otherwise manageability is undermined. While a quick skim was possible on paper, it is no longer possible in files.

The fundamental prerequisite for digital controls is data protection, both of individual-related data and the safeguarding of data and devices against fraudulent software. As a company, we put utmost emphasis on these protective measures.

Our objective is to ensure that all necessary files can be securely exchanged between the auditors and the audited companies during the audit, especially if the audit is carried out offline. To facilitate this, we will be using encrypted high-security USB data carriers as data carriers between the various systems in the future. This will make the time-consuming process of sending files via email redundant. Every data carrier is certified and encrypted for the highest security levels. Before and after each check, the data carrier is re-formatted. Alternatively, you can provide our control personnel with your own internal USB data carrier for data exchange if it has a comparable security standard. Please note, however, that we can only accept high-quality and re-formatted data carriers with a high level of security. Please consult with your IT security personnel before the audit, if required. If you wish to exchange data via email, please make sure that you have appropriate internet access available during the inspection.

Please always ensure that your own IT system has up-to-date virus protection and operating systems. We are not allowed to exchange data with insecure end user devices.

Import: Changes at a glance

1. As of 01.01.2022, the processing of COIs will be carried out entirely by the responsible state organic authorities. The customs authorities no longer process the COI. Customs will only accept the import

declaration for free circulation after the COI has been cleared by the competent authority. According to Article 4 of the Implementing Regulation (EU) 2021/2306, the COI must be issued before the shipment leaves the exporting country. Both the organic authorities and the border inspection posts verify the date of issuance of the COIs and the date of dispatch of the shipments. We are receiving reports of shipments having to be rejected or even returned if these requirements have not been adhered to consistently. This results in considerable costs and risks for the companies simply due to formal deficiencies in the import process, which cannot be subsequently rectified.

Please point out the urgency of this regulation to your exporters. A change in the legal situation is not expected at the moment.

2. **UPDATED DG AGRI WORKING DOCUMENT:** As already communicated in a previous communication, the EU Commission has published a new "Working Document", which intends sampling for imports of certain combinations of products and origins. The working document refers to the period of 01.01.2023 - 31.12.2023 and, as in the past, provides for percentage-based sampling with subsequent analysis for selected products and origins. Responsible for the implementation are the competent state authorities at the point of import into the European Union. You can access the DG AGRI document on our website under Import. If you as an importer from one of the mentioned countries want to import organic products of the specifically mentioned CN codes, then you should contact the responsible state authority ahead of time.

While the number of affected products and origins has decreased overall compared to 2022, control measures in third countries have been tightened for a considerably larger number of products and origins. Therefore, it is to be assumed that there will be a significant increase in control costs in third countries.

3. With the entering into effect of the Implementing Regulation (EU) 2022/2049 on 24.10.2022, some inspection bodies operating in India were removed from the equivalence list. The reason given by the EU Commission was the large number of contaminations with ethylene oxide found in products produced in India and certified by these inspection bodies. With Implementing Regulation (EU) 2023/186 of 27.01.2023, one more inspection body was removed from the list (Letis S.A.).
4. The import regulations according to the new organic regulation provide for a new import

procedure. The list of inspection bodies recognized as equivalent is to expire by the end of 2024, and the list of third countries recognized as equivalent will lose its validity at the end of 2026. After that, the inspection bodies must either implement the EU organic regulation 1:1 (conformity procedure) or a trade agreement has been reached with the third country, which is to provide the same conformity guarantee as the Union's regulations (list of trade agreements can be viewed at https://agriculture.ec.europa.eu/farming/organic-farming/trade/agreements-trade-organic-products_en). Due to the transitional arrangements, which expire at the end of 2024 or 2026, the inspection bodies in third countries still issue certificates that refer to the old organic regulation 834/2007 with implementing regulation 889/2008. You may continue to accept these as long as you have a correctly issued COI for each import.

New legislative provisions for pet food

On 17.01.2023, the Implementing Regulation 2023/121 was adopted to extend the animal feed Annex III. In particular, new feed materials were included that are used in the production of organic pet food. The following products and substances are now permitted for use in feed under the conditions specified:

- 11.3.2 Monocalcium phosphate
- 11.3.19 Pentasodium triphosphate - for pet food only
- 11.3.27 Disodium dihydrogen phosphate - for pet food only
- E 407 Carrageenan - for pet food only
- E 410 Locust bean gum - only for pet food, only obtained from the roasting process, if available from organic production
- E 414 Gum Arabic - only for pet food; if available from organic production
- E 415 xanthan gum
- 1g599 illite-montmorillonite-kaolinite
- 3a370 Taurine - only for cats and dogs; if possible not from synthetic production
- 4d7 and 4d8 Ammonium chloride - for cats only

Open or not yet adopted are the regulations for the labelling of organic pet food. The EU Commission has submitted a proposal for public consultation. It can be assumed that the regulation will be adopted in the next few months. It is a great success for the Commission to have accepted a special regulation for pet food. The labelling scheme will be adopted from the private standard for pet food that has been

applied so far: Labelling analogous to food labelling applies (95% of the ingredients of agricultural origin must be organic, max. 5% may be conventional if listed in Annex III, Part A (2) of DVO 2021/1165). The indication of the EU organic logo will then become mandatory with code number of the inspection body and indication of origin. This finally creates a uniform EU-wide regulation with clear labelling requirements for the consumer. We will inform our pet food manufacturers immediately once the labelling regulation has come into force. We assume that remaining stocks may be sold off indefinitely.

New implementing regulation (EU) 2023/121

On 17.01.2023, the implementing regulation 2023/121 on the extension of animal feed Annex III was adopted. Minor changes were also made to Annex V, Part A (Authorized food additives and processing aids):

- E551 silicon dioxide: new condition for use in cocoa (for cocoa only for use in automatic vending machines).
- E553b Talc: now also permitted for products of plant origin.
- Use of the processing aids hops extract and pine resin extract, for anti-microbiological purposes, permitted in future for all plant products (restrictions on sugar no longer apply), if available from biological production
- E418: Gellan does not require organic certification until 01.01.2026.

Brexit: No export certificates to the UK required for the time being

Taking into account the official information from the British government at <https://www.gov.uk/guidance/importing-and-exporting-organic-food>, exports to the UK do not require a Certificate of Inspection (COI) until further notice. We assume that no export certificates will be required at least until the end of the year and will inform you immediately as soon as we have further information on this subject.

Gastronomy

The labelling of products of collective catering facilities is not subject to European law, but must be regulated nationally. Therefore, the display of the EU organic logo is no longer permitted for companies of the communal catering facilities.

In Germany, an authorization for a legal ordinance from the Federal Ministry of Food and Agriculture has been included in § 6 of the new Organic Agriculture Act. To date, there exists only a preliminary draft for a national regulation in

Germany. It is not yet known what labelling and inspection regulations will ultimately apply. It can only be hoped that the regulations will be in line with practical reality and will lead to wider use of organic products in out-of-home catering.

Cleaning and disinfection

Even if there will be no list of approved or prohibited cleaning agents and disinfectants by 01.01.2024, there will already be an obligation to document the use of cleaning agents and disinfectants. The objective is to ensure that contamination with cleaning agents and disinfectants is precluded as effectively as possible. Therefore, companies should definitely document the cleaning agents and disinfectants used (trade names) when taking precautionary measures, at least for all surfaces and machines that come into contact with the product.

For Recap: Approved Conventional Ingredients, Additives and Processing Aids.

In the Implementing Regulation (EU) 2021/1165, lists of certain products were published that replace, among others, Annexes VIII and IX of Regulation (EU) 889/2008. The lists therefore include approved additives, processing aids and conventional ingredients. For the list of approved conventional ingredients (the current Annex IX), there is a sufficient transition period until 31.12.2023. After that, only the following ingredients may be used in conventional quality up to a maximum of 5%:

- Arame algae, Hijiki algae
- Lapacho bark for kombucha and tea blends
- casings for sausages; casings made from vegetable raw materials are also permitted.
- Gelatine not from pigs
- Milk minerals (powder or liquid) only as a substitute for table salt
- Wild fish and other wild aquatic animals and products thereof, only if not available from organic aquaculture; only from sustainable fisheries.
- This means, for example, that wild-caught salmon may no longer be used if sufficient organic salmon is available.

If you use approved conventional ingredients in your products, please check your recipes with regard to the new list of approved ingredients and make sure to change recipes and labels in time. As of 01.01.2024, the new list of approved ingredients (Annex V Part B of Regulation 2021/1165) will apply. This means that as of this date, production and labelling must be in conformity with the newly applicable list of approved ingredients. Products produced according to the old annex before 01.01.2023 can still be placed on the market until the stocks are used up.

For Recap: Approved conventional flavours and flavour extracts

Since 01.01.2022, only those natural flavours are permitted for organic products that originate to at least 95% from the fruit giving the name (so-called FTNF flavours) or are declared as natural flavour extract. Flavours that are only partially derived or not derived from the namesake raw material (flavour category "natural flavour") are no longer permitted. Manufacturers who use flavours for their organic products must therefore always obtain confirmation that they fall under the aforementioned categories and adapt their labelling in accordance with the Flavour Regulation. Flavours belong to the ingredients of agricultural origin and are therefore - if used in conventional quality - limited in quantity (max. 5%).

Semi-finished products, which were still produced according to the old law and contain natural flavours, may also no longer be used for organic products. This also applies to tea blends that are purchased and then filled into consumer packaging. Unfortunately, this has led to numerous violations in the last year of inspections, as the composition of the flavoured teas was not further checked due to trust in the supplier.

Precautionary measures

In the expired year, we have queried the precautionary measures at all companies and documented them in electronic form.

The precautionary measures themselves are a refinement of the general duty of diligence of the entrepreneur in food law. The duty of diligence is defined in such a way that the entrepreneur is responsible for all processes and products in the company at all times. And when applied to organic law, this means that you are responsible for your entire business to ensure that there is no switching, mixing or contamination by or with conventional products or unauthorized substances. Nothing new really, but a permanent obligation. This is why organic legislation expressly requires that precautionary measures be checked and updated at every inspection. Therefore, please have an overview ready at the time of the inspection whether there have been any changes to your internal processes as a result of this general duty of diligence (e.g. new products, new facilities, commissioning of new subcontractors, etc.). These adjustments must then be included in the documentation of the precautionary measures during the inspection.

Handling of residues

For over a year now, the new regulatory measures have been in effect for the presence of unauthorized substances and products. First of all, the entrepreneur must evaluate all detections of residues and other unauthorized substances and products themselves. In the event of a justified or unresolvable suspicion, the inspection body must be informed. We have informed you about the relevant regulations in past informational services.

We are pleased to note that the companies associated with us have largely fulfilled their obligations and have assessed and evaluated positive findings in analyses themselves at first. While the EU administration has a tendency to subject every positive analysis to an official investigation, procedures are being developed nationally and internationally by associations on how companies can deal with analysis results responsibly. As soon as there is news worth reporting on this, we will pass this on to our contractual partners.

Events of the "Bundesverbandes der Öko-Kontrollstellen" (BVK)

Together with the "BÖLW", the BVK also organized a symposium on "Organic Law" in 2022. The online format proved to be extremely positive, so that the symposium will also be held as an online event in the future. The date for 2023 is set to be 29.06.2023. Once again, you can expect exciting topics and qualified speakers. The professionally managed online format allows for broad involvement of all participants in the event. By avoiding travel to and from the event, this format is also more environmentally friendly than a face-to-face event.

Extension of certifications to include cosmetics and natural products standards and the CSE sustainability standard

We are very pleased to be able to offer our customers certification under the following standards with immediate effect.

NCS: Natural Cosmetics Standard

NCS is a product certification for natural cosmetics. NCS products meet the highest quality standards and stand for rigorously sustainable natural cosmetics. The NCS logo offers the following labelling options: Natural Cosmetics, Vegan Natural Cosmetics, Organic Cosmetics as well as Vegan Organic Cosmetics. NCS is listed in the BNN product guidelines.

NCP: Nature-Care-Product-Standard

NCP is a product certification for natural products. The seal is designed for all non-food products made from renewable raw materials, such as detergents and cleaning agents, hygiene products, care products for objects, toys, candles or fertilizers that

are made from natural ingredients and do not unnecessarily pollute the environment. The NCP logo additionally offers a vegan label and is listed in the BNN product guidelines.

CSE: CSE is short for **Certified Sustainable Economics**. The CSE certification is an innovative, holistic cross-sector sustainability certification for companies and sustainability-oriented organizations.

If you are interested in these certifications, please contact us. We will be happy to send you more information.

Internet

EU Organic Regulation

You can read all the original text of the regulations in detail using our Internet reference list.

Portal to the EU Law: EUR-Lex

<http://eur-lex.europa.eu/en/index.htm>

Bundesministerium für Ernährung und Landwirtschaft (BMEL)

http://www.bmel.de/DE/Landwirtschaft/Nachhaltige-Landnutzung/Oekolandbau/oekolandbau_node.html

Others

National register of all controlled organic companies in Germany and Luxembourg with certificates for printing

www.oeko-kontrollstellen.de

Organic agriculture portal with extensive information for all processing areas

www.oekolandbau.de

Bio-Siegel (Organic label)

www.bio-siegel.de

Bund Ökologische Lebensmittelwirtschaft (German Organic Food Association)

www.boelw.de

Information on genetic engineering

www.transgen.de

LEGAL NOTICE

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