



AMERICERT INTERNATIONAL

(Formerly known as OIA North America)

2603 NW 13th St. #228, Gainesville, FL 32609 *Ph: (352)336-5700 *Fax: (866)325-8261

Americert@gmail.com

www.americertorganic.com

Policy on the Use of Prohibited Substances in Non-Organic Production Areas of True Split Operations and Residential Yards

From: Jonathan Austin, Technical Director

To: Inspectors, Staff, and Grower Operations

Date: March 13, 2019

Subject: Use of Prohibited Substances in Non-Organic Production Areas of True Split Operations and Residential Yards

Background:

There appears to be significant confusion and misunderstandings in regards to when prohibited substances may be used in the management of areas on an organic farm which are not organic production areas. Some instances where questions have arisen about the use of otherwise prohibited substances are when there is a bona fide residence enclosed by a yard on an otherwise organic farm, or where there is a true split operation with both organic and non-organic agricultural production on the parcel. In such instances it appears that operations are not sure when prohibited substances are allowed for use to manage areas such as fence lines, ditches, and other areas. This guidance and policy is intended to bring clarity to those instances.

Sections 205.105 (a) and 205.202(b) both prohibit the use of prohibited synthetic substances in the production of an organic crop or for use on a field from which harvested crops are intended to be sold, labeled or represented as organic. The regulation also contemplates that certain operations will be "split operations" (defined as "An operation that produces or handles both organic and nonorganic agricultural products). For all organic fields, including those on a split operation, there must be practices and physical barriers established to prevent contact between organic production and prohibited substances (section 205.201(a) (5) and such practices must be described in the organic plan and application. In practice, questions arise because while the regulation clearly allows that conventional agricultural production on a split operation may use conventional (prohibited synthetic) materials in the conventional agricultural production, and clearly prohibits the use of the same on organic production areas, it is not always clear when an area is associated with an organic production area and when an area is associated with conventional agricultural production.

This policy is intended to provide a frame work for assessing such situations.

Policy:

True split operations which engage in organic and non-organic crop production may use prohibited synthetic substances to manage non-organic crop production areas, in some instances and with some restrictions as described below. Likewise, an organic farm that contains a bona fide residence with a clearly defined yard may use prohibited synthetic substances in the yard in some instances and with some restrictions as described below. Such uses must be restricted to the following circumstances:

1-The operation is a true split operation that has both organic and non-organic agricultural production on the same or adjacent parcels OR the operation maintains a bona fide residence with a clearly defined yard separate from the organic production areas.



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2-The prohibited synthetic substances are used only within the non-organic agricultural production area or clearly defined residential yard which is separate from the organic production areas.

3-A non-organic production area is defined as an area where non-organic crops are grown with the intention of producing a crop for sale or use as a harvested crop.

4-Farmstead areas which are not themselves being managed to produce a non-organic crop and which are not immediately adjacent to an area where non-organic crops are being produced may not be considered a non-organic crop production area and prohibited substances may not be used to manage such areas. This includes roadways, ditches, fence lines, etc., unless such areas are immediately adjacent to non-organic crop production areas.

5-Any use of a prohibited substance on farm areas which are not immediately adjacent to bona fide non-organic crop production areas is a violation of section 205.105 (a), and will be the basis of a noncompliance, but if the prohibited substance was not applied to actual organic production areas, would not cause the loss of certification of an otherwise eligible organic crop or production area under section 205.202(b) unless the prohibited substance was actually applied to the organic production area.

6-Any use of a prohibited substance on a true split operation or in conjunction with the defined yard area of a bona fide residence, must still be done in a manner that does not pose a risk of contamination of organic production areas or crops, which may include the use of buffer zones, distance, and physical barriers per 205.201(a) (5) and 205.202(c).

7-Any non-organic inputs or prohibited substances used on a true split operation or for the defined yard of a bona fide residence, must be stored away from organic inputs and may not be present or in the vicinity of organic fields at any time, including in packaged form.

8-An organic grower who does not operate a true split operation or maintain a bona fide residence with a clearly defined yard on a parcel where organic production occurs may not use any prohibited synthetic substance on the parcel, including to manage fence lines, ditches, and other areas.

9. Operations who do not comply with this policy, but the prohibited substance use has not had contact with actual organic crop production areas or organic crops should be given a noncompliance with section 205.105(a), 205.201(a)(5), and/or 205.202(b) or 205.202(c) as the circumstances warrant. Such a noncompliance is correctable and would not trigger a loss of certification and implicate the three year rule unless the use of the prohibited substance was on the organic production area or the organic crop.