

INFO SHEET No. PO02

This Info Sheet contains information about management procedures in the event of an overspray incident. The information should be read in conjunction with the NASAA Organic Standard.

For further Information contact the NASAA Certification Officer or email to certification.standards@nasaa.com.au

Overspray

Introduction

As a NASAA certified grower you should take measures to inform your neighbours of your organic certification as a risk strategy to minimise the potential for overspray to occur. It is also strongly recommended that you make yourself familiar with the legal context of overspray which varies from State to State (see section **Legal Matters**).

What do I need to tell NASAA?

In the event that overspray of agricultural chemicals occurs or may have occurred on any part of the certified land, you must take the following actions:

1. Notify the NASAA office of the incident within 24 hours of becoming aware that overspray has or may have occurred and forward to NASAA a detailed map of the affected area.
2. Quarantine potentially contaminated produce from the affected area until and if approval for sale is given by NASAA. Such approval requires testing or other measures, and may take 2 weeks or more for test results to become available.
3. Report the incident to the appropriate local authorities – eg, DPI, EPA, police, shire council, etc. as soon as you become aware of the incident.
4. Contact the neighbour and /or spray operator responsible for overspray and attempt to identify as accurately as possible the chemical formulation, active ingredient and surfactants or wetting agents used. In some states, the appropriate authorities are obliged to do this, but not in all.
5. Have a qualified person visit the area in a timely fashion (preferably within 24 hours) to take field observations and samples for laboratory analysis. A qualified person may be a NASAA inspector, other NASAA officer approved by NASAA, DPI staff, EPA adviser, private consultant (eg, regional agricultural consultant).
6. Mark the extent of the affected area with durable, visible markers (stakes, flags etc.).

These items are listed in no particular order, although most should happen within the first 24 hours. Item 6 may not be possible until the effects of the chemical involved become visible.

NASAA reserves the right to require an inspection of the affected area at the operator's expense. If a responsible authority is involved, the immediacy of a NASAA inspection is less critical if access to any report by such authority is made available to NASAA.

Your own recording of details, including photographs or videos, maps, sketches, and notes will greatly assist the evaluation process. If known or accessible from witnesses; recording things like wind speed and direction, time of events, machinery used, markings of planes or other spray equipment, observed odours, visible signs of spray drift, observations of the application pattern or other relevant details will provide invaluable data not only for NASAA, but also for the responsible authority and yourself if legal action follows.



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Overspray cont'd

Testing for Contamination

1. On a case by case basis, in consultation with the producer and any qualified person, NASAA will arrange to send samples of soil and/or tissue to the laboratory for testing. Responsible authorities often have a legislated duty to take samples of both affected and unaffected areas, and if this occurs, NASAA will usually view the samples and test results as acceptable for the purposes of assessment of the certification implications. It is critical that the level of reporting (LOR) is valid for the chemicals involved.
2. NASAA will review and assess the results of the laboratory tests in light of the risk to consumers and / or to the integrity of organic certification and will advise the operator on further steps to take.

Certification Status

Produce and / or affected land will be withdrawn from certification if:

1. Due to the proximity of the certified land to the source of contamination, there is a continuing risk of overspray.
2. The final (saleable) product contains residues in excess of levels acceptable to NASAA. In most circumstances any detected residues will result in the product losing certification.
3. There is insufficient evidence on the identity of the active ingredient or when too much time has lapsed to sufficiently pick up residues through a laboratory test.

NASAA does not regard accidental overspray as comparable to the use of prohibited chemicals by a certified operator. The waiting period prior to returning to the previous level of certification will vary on a case by case basis. However, if it is demonstrated by testing of the area or the product that contamination has resulted; or by admission by the neighbour or the contractor that an overspray event has taken place; then a minimum of one year of decertification will take place.

In every case, NASAA will consider the precautions taken by the certified operator to reduce risk of overspray, ie, notifying the neighbours and/or government authorities of their organic status and protecting growing areas from contamination with windbreaks, barriers or wide headlands.

Legal Matters

Some states have legislated a greater degree of protection from the results of overspray events than others. In some jurisdictions, the onus is upon the person(s) spraying to prove that no damage has occurred from an alleged or proven overspray, whilst in other states the person over sprayed has to prove economic or other loss to seek reparation from an overspray event. Some states have a variety of possible legal responses to an overspray situation, whilst others have few.

As a general point of reference, the Environmental Defenders Office (EDO) in your state will provide simple and relevant information concerning your legal rights if over sprayed. It is worth making the effort to access this information before any overspray occurs, because some states require almost immediate notification to the relevant authority if any redress or legal action is contemplated. Contact details for the EDO are www.edo.org.au and clicking on the 'Contact Us' link will provide not only web connections, but also phone and other contact details for state offices. The EDO home page also has a very useful 'links' area and you can access much legislation yourself by following the links provided.

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