

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
BEFORE THE ADMINISTRATOR

In re:	)	
	)	
	)	
Fruticola Olmos E.I.R.L	)	Administrator's Decision
Lambayeque, Peru	)	APL-040-24
	)	

This Decision responds to an Appeal (APL-040-24) of a Notice of Proposed Suspension of Certification under the National Organic Program (NOP) issued to Fruticola Olmos E.I.R.L (Olmos) of Lambayeque, Peru by USDA accredited certifier Control Union Certifications Services B.V. (CUC). The operation has been deemed not in compliance with the Organic Foods Production Act of 1990 (Act)¹ and the U.S. Department of Agriculture (USDA) organic regulations.²

BACKGROUND

The Act authorizes the Secretary to accredit agents to certify crop, livestock, wild crop, and/or handling operations to the USDA organic regulations (7 CFR part 205). Certifying agents also initiate compliance actions to enforce program requirements, as described in section 205.662, Noncompliance procedure for certified operations. The NOP may also initiate compliance actions against operations and certifying agents to enforce program requirements. Persons subject to the Act who believe they are adversely affected by a noncompliance decision of a certifying agent, or the NOP may appeal such decision to the USDA Agricultural Marketing

¹ 7 U.S.C. 6501-6522

² 7 C.F.R. Part 205

Service (AMS) pursuant to § 205.680 Adverse Action Appeals Process – General, and § 205.681, Appeals of the USDA organic regulations.

FINDINGS OF FACT

1. On September 26, 2020, CUC certified Olmos for citrus fruit.
2. On August 14, 2023, CUC issued Olmos a Notice of Noncompliance after pesticide residue was detected on lemons at a level above 5 percent of the Environmental Protection Agency (EPA) tolerance level.
3. On December 14, 2023, CUC issued Olmos a Notice of Noncompliance and Notice of Proposed Suspension, because the previous noncompliance related to pesticide residue was not resolved.
4. On January 8, 2024, Olmos requested mediation, which was rejected by CUC on February 20, 2024.
5. On March 8, 2024, Olmos filed an Appeal of the Notice of Noncompliance and Notice of Proposed Suspension to NOP.
6. On July 22, 2024, Olmos entered into a Settlement Agreement with NOP whereby, among other things, Olmos agreed to be subject to two unannounced inspections, at which CUC was to take samples of fruit, leaves, and soil from all fields of Olmos' organic production to test for any prohibited substance residue.
7. On December 2, 2024, CUC notified NOP that Olmos was in breach of the Settlement Agreement based on Olmos' failure to allow CUC onto its site during an unannounced inspection on November 8, 2024.

8. On December 2, 2024, NOP issued a Notice of Noncompliance and Request for Corrective Action to Olmos, indicating that Olmos must immediately allow access to its operation by CUC for onsite inspection.
9. On February 6, 2025, CUC issued a Notice of Noncompliance to Olmos because CUC reported the detection of pesticide residue on lemon leaves during a January 20, 2025, unannounced inspection. As of November 20, 2025, Olmos had not responded.
10. On March 8, 2025, the NOP issued Olmos a Notice of 2nd Noncompliance and Request for Corrective Action, giving Olmos 30 days to conduct an investigation into the possible source of the contamination and verify that it has removed the affected field/parcel/unit from organic production. As of November 20, 2025, Olmos had not responded.

REGULATORY CITATIONS

The USDA organic regulations at 7 CFR 205.400, General requirements for certification, state that, “A person seeking to receive or maintain organic certification under the regulations in this part must: (a) Comply with the Act and applicable organic production and handling regulations of this part ...

The regulations at 7 CFR 205.403(b) state that certifiers must conduct unannounced inspections of operations they certify on an annual basis.

The regulations at 7 CFR 205.400(c) state that operations must “permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas...” In addition to the annual inspection required, the regulations also state that “additional inspections may be announced or unannounced at the discretion of the certifying agent...”

The regulations at 7 CFR 205.201(a)(5) state that an organic system plan must include “A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances.”

The regulations at 7 CFR 205.671 state that, “When residue testing detects prohibited substances at levels that are greater than 5 percent of the Environmental Protection Agency's tolerance for the specific residue detected or unavoidable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced.

DISCUSSION

Control Union Certification (CUC) certified Olmos for crops and handling on September 26, 2020, specifically citrus fruit.

On August 14, 2023, CUC issued Olmos a Notice of Noncompliance for the detection of prohibited substances on lemons at a level above 5 percent of EPA’s tolerance for the substance, which made the lemons ineligible for organic sale. Specifically, residue tests dated August 1, 2023, detected 0.063 and 0.038 mg/kg of spirodiclofen on two samples of lemons from the same field. The EPA regulations at 40 CFR 180.608 state that the tolerance for spirodiclofen on citrus is 0.50 parts per million (ppm), which is equivalent to 0.50 mg/kg. The 5 percent tolerance allowed for spirodiclofen on organic citrus fruits is thus 0.025 mg/kg, which the samples from Olmos exceeded.

On December 14, 2023, CUC issued Olmos a Notice of Noncompliance and Notice of Proposed Suspension for violations of the USDA organic regulations at 7 CFR 205.201(a)(5). This paragraph states that an organic system plan must include “A description of the

management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substance”. CUC stated, “from 2022 to the present the operator Fruticola Olmos E.I.R.L had 6 different residue detections in Fundo Pretoriano”. CUC stated that because pesticide residue was found during August 14, 2023, inspection, Olmos failed to correct the issue to prevent detections of prohibited substances, despite having informed CUC it would do so after its 2022 inspection. In addition, CUC was unable to determine the source of the prohibited substances found in August 2023. Therefore, CUC concluded that Olmos’ failure to abide by USDA’s regulations at 7 CFR 205.201(a)(5) was severe and could not be corrected, justifying the combined Notice of Noncompliance and Notice of Proposed Suspension.

On January 8, 2024, Olmos requested mediation to resolve CUC’s December 14, 2023, Combined Notice of Noncompliance and Notice of Proposed Suspension. On February 20, 2024, CUC issued Olmos a Notice of Rejection of Mediation. The Notice of Rejection of Mediation states that Olmos failed to comply with USDA’s regulations at 7 CFR 205.202(b), which establishes that fields where prohibited substances are found must go through a 3-year transition period where no prohibited substances are applied. Based on CUC’s August 14, 2023, inspection, Olmos failed to remove the fields where prohibited substances were found during its earlier inspections from organic cultivation.

On March 8, 2024, Olmos filed an appeal to NOP within the 30-day appeal time frame. Olmos’ appeal stated that the source of the prohibited substances CUC found on its fruit samples between 2022 and 2023 were unknown, and only approved products had been applied.

On July 22, 2024, NOP entered into a Settlement Agreement with Olmos. The terms set forth in the Settlement Agreement stated, among other things, that Olmos must allow CUC to conduct two unannounced inspections within 18 months of the executed Settlement Agreement. During the unannounced inspections, samples of fruit, leaves, and soil were to be collected from each field. If prohibited substances were found above the associated 5 percent EPA allowance, the field would be removed from organic production. In addition, the Settlement Agreement stated Olmos would maintain buffers around all organic crop production areas to ensure that there is no contamination of the organic crops by prohibited substances used in surrounding areas.

On December 2, 2024, CUC notified NOP that Olmos was in breach of the Settlement Agreement based on its failure to allow CUC on site during a November 8, 2024, unannounced inspection. Therefore, on the same day, NOP issued a Notice of Noncompliance and Request for Corrective Action to Olmos, requesting that Olmos grant immediate access to CUC to conduct an onsite inspection. Olmos did not respond.

CUC noted that after multiple attempts, Olmos finally allowed CUC on its property to conduct an unannounced inspection on January 20, 2025. Residue test results from the inspection reported the presence of the prohibited substance imidacloprid at 0.063 mg/kg. The EPA tolerance for imidacloprid is 0.70 mg/kg. Therefore, the 5 percent allowance for imidacloprid on organic citrus fruits is 0.035 mg/kg. The sample level exceeded this value.

Therefore, on February 6, 2025, CUC issued Olmos a Notice of Noncompliance for violation of the USDA organic regulations at 7 CFR 205.201(a)(5). CUC did not receive a response from Olmos.

Consequently, on March 8, 2025, NOP issued Olmos a Notice of 2nd Noncompliance and Request for Corrective Action for the presence of prohibited substances on lemon leaves during the January 20, 2025, inspection, and for failure to allow access for unannounced inspection in a timely manner. NOP did not receive a response from Olmos.

The NOP entered into a Settlement Agreement with Olmos in good faith, providing Olmos with an opportunity to retain its organic certification, despite CUC citing multiple noncompliances between 2022 through 2025. Olmos failed to allow access to its facilities in a timely manner, as it had agreed to do when it signed the Settlement Agreement with NOP. The NOP Settlement Agreement states that, “Olmos agrees that the failure to abide by the terms of paragraphs immediately above shall result in USDA, AMS possibly pursuing administrative action against Olmos.” Clause 3D of the Settlement Agreement states that, “Olmos withdraws its appeal and waives further appeal rights in this matter. Failure to comply with the Settlement Agreement shall automatically void paragraph 2 above.” Paragraph 2 states, “USDA, AMS agrees not to issue a formal Administrator’s Decision charging Olmos with alleged violations of the OFPA and the USDA organic regulations for any actions disclosed by the investigation which gave rise to this agreement.” A closure letter sent to Olmos on July 22, 2024, with the executed Settlement Agreement also stated that, “... failure to abide by the terms of the agreement shall automatically void the Settlement Agreement and USDA, AMS may pursue an administrative hearing process.”

Therefore, AMS finds that Olmos has breached its July 22, 2024, Settlement Agreement with NOP.

CONCLUSION

The evidence substantiates that Olmos violated the USDA organic regulations at 7 CFR 205.400(c), which states that operations must “permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas...” In addition to the annual inspection required, the regulations also state that, “additional inspections may be announced or unannounced at the discretion of the certifying agent...”

Further, the evidence supports Olmos violated the USDA organic regulations at 7 CFR 205.201(a)(5) which states “A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances.”

Despite Olmos entering into a Settlement Agreement with NOP, and NOP’s December 2, 2024, Notice of Noncompliance and Request for Corrective Action, and March 8, 2025, Notice of 2nd Noncompliance and Request for Corrective Action, Olmos has failed to provide corrective actions to CUC or NOP regarding the presence of prohibited substances on its organic lemons. Therefore, pursuant to the terms of the Settlement Agreement, Olmos may not remain certified.

DECISION

Olmos’ March 8, 2024, Appeal of CUC’s December 14, 2023, Notice of Noncompliance and Notice of Proposed Suspension is denied. The organic certification of Olmos is suspended. Pursuant to the organic regulations at 7 CFR 205.662(f), Olmos may apply for reinstatement at any time after it has implemented sufficient measures to come into full compliance with the

USDA organic regulations. While under suspension, Olmos may not handle, sell, label, or represent any products as organic.

Additionally, attached to this formal Administrator's Decision denying Olmos' Appeal is a Request for Hearing form. Should Olmos wish to appeal this matter further, Olmos has thirty (30) days to request an administrative hearing before an Administrative Law Judge.

Done at Washington, D.C., on this ____
day of _____, 2026.

ERIN MORRIS Digitally signed by ERIN MORRIS
Date: 2026.01.15 10:20:32 -05'00'

Erin Morris
Administrator
Agricultural Marketing Service