

# 6.1. Violations by CB and/or Operator. (NPOP)

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## 6.1.1 Violations by CB and/or Operator //

- Here's a summary of the Complaints & Investigation Procedure:
- **Complaint Receipt:** APEDA investigates complaints against Operators/CBs by obtaining relevant documents.
- **Show Cause Notice:** If major Non-Compliances (NCs) are found, APEDA issues a show cause notice.
- **Operator/CB Response:** The Operator/CB must respond to the notice within 15 days.
- **NAB/Sub Committee Review:** APEDA presents the case to the NAB/Sub Committee for examination.
- **Personal Hearing:** The Operator/CB gets an opportunity for a personal hearing to defend themselves.
- **Sanctions:** If NCs are confirmed, the NAB/Sub Committee imposes appropriate sanctions with detailed reasons.

# Sanctions and Categories of NCs //

## **6.1.2. Sanctions:**

- NAB Sub Committee can impose sanctions for NCs.
- Sanctions are determined by the severity of the NC.
- Conditions for imposing sanctions are outlined in Annex-6(1) of NPOP.
- **6.1.3. Categories of NCs:**
- NCs are categorized as major or minor based on severity.
- Sanctions depend on the nature, degree, and extent of the NC.

## 6.1.4 Minor NCs

- **For Certification Bodies (CBs):**
- NCs that don't affect the accreditation process integrity/ NCs that are rectifiable/
- **For Operators:**
- NCs that don't impact the organic status of produce/ Typically relate to documentation and disclosure.
- Examples:
- Late submission of information/ Poor document control/ Lack of internal audits/management reviews/ Missing conflict of interest/confidentiality declarations/ No timeframe for complaint/appeal handling / Inadequate disclosure to public authorities/ Wrongful information disclosure/ Other NCs as declared by NAB.

## 6.1.5 Major NCs

- **For Certification Bodies (CBs):**
- NCs that severely impact the accreditation process integrity.
- NCs that are non-rectifiable.
- **For Operators:**
- NCs that negatively impact the organic status of produce.
- NCs that are non-rectifiable.
- Examples: Non-compliance with NPOP standards/ Knowingly providing false information or documents/ Misrepresenting accreditation status/ Repeated minor NCs/ Failure to correct previous major NCs/ Other NCs as declared by NAB.

## 6.1.6 Categories of Sanctions

The NAB may impose one or more of the following sanctions on the defaulting CBs and/or Operator:

- (i) Pecuniary penalty
- (ii) Suspension of accreditation
- (iii) Termination of accreditation
- (iv) Reduction in the scope of certification
- (v) Imposition of any other additional penalties/limitations
- (vi) A combination of the penalty mentioned at (i) above along with any of the penalties mentioned at (ii) to (iv)

## 6.1.7 For imposition of Pecuniary Penalty

### **Considerations include:**

- Undue gains or unfair advantages derived from the NCs (if quantifiable).
- Loss caused or likely to be caused by the contravention (if quantifiable).
- Repetitive nature of contraventions.
- Knowledge of the contravention by the defaulter.
- Any other relevant factors.

## 6.1.8 Penalties not to interfere with other punishments

- **Penalties and Consequences:**
- Other Liabilities: NPOP penalties don't prevent other legal punishments.
- Suspension & Termination:
- Opportunity to rectify NCs during suspension.
- Failure to rectify or pay fine leads to accreditation termination.
- Barred from re-applying for up to 3 years post-termination.
- Post-Termination Refund: Upon termination, the CB must refund certification fees to Operators certified within the last 6 months, within one week of application. (Apart from paying pecuniary penalty)

## 6.1.9 Appeal by CB /Operator..... 1

- Right to Appeal: CBs/Operators can appeal NAB decisions within 30 days of receipt.
- Delay Condonation: Appellate Authority may allow appeals after 30 days with sufficient cause.
- Appellate Authority: Appeal filed with a Sub Committee chaired by the Commerce Secretary (including DGFT & CEO, FSSAI).
- Hearing Opportunity: CBs/Operators will be given a chance to be heard before an order is passed.

## 6.1.9 Appeal by CB /Operator..... 2

- Appeal Process (Continued):
- **Further Inquiry:** The AA can conduct additional investigations if needed.
- **Order Authority:** The AA can confirm, modify, reverse, or return the NAB decision with directions for a fresh decision (including new evidence). Increased penalties require a hearing.
- **Timely Disposal:** Appeals should ideally be resolved within six months of filing.
- **Final Order:** The AA's order is final and binding.

## 6.2 Violations by Service Provider of the ICS

- External Service Providers for Grower Groups:

6.2.1. Applicability: This chapter's provisions apply to external Service Providers managing ICS with necessary procedural adjustments.

6.2.2. Violations & Penalties: Violations by external Service Providers (as per Annex - 6(1)) are punishable as per the details provided below.

## Conditions for Imposing Sanctions:

### Sanction catalogue for CB... 1

S. No.	Nature of NCs	Prescribed sanction
1	Where for the purpose of obtaining accreditation or after receiving accreditation, a CB is found to have knowingly provided any false or misleading information or document	Punishable with a fine extending up to Rupees 10 Lakhs (10,00,000). In addition, the accreditation granted to the CB may be terminated
2	False information and/ or documents have been provided by an applicant body seeking accreditation	The application for accreditation may be rejected
3	Where a CB seeking accreditation, fails to submit information and/ or documents within the prescribed time period	Application for accreditation may be rejected
4	If a CB fails to comply with standards prescribed under the NPOP and fails to administer the certification programme as required under the NPOP.  <i>(Instances of such failure may include but shall not be limited to improper inspection and certification, issuance of scope and/or Transaction Certificate to Operators not practicing organic and exercise of undue influence, compromise impartiality, and/or collusion)</i>	One or more of the following penalties may be imposed based on the severity of NCs:  i. Accreditation may be suspended for a term extending up to one year. ii. Reduction in the Scope of certification. iii. Restricting registration of new Operators. iv. Restricting area of certification programme. v. Pecuniary Penalty which may extend up to Rupees twenty-five Lakhs. (Rs. 25,00,000/-) vi. Accreditation may be terminated

## Sanction catalogue for CB ... 2

<b>5</b>	Where a CB fails to update and verify the entered data on Tracenet relating to the organic production including but not limited to the nature and quantity of the product, area of the farm and movement of the products in the chain of custody	Pecuniary* penalty extending up to Rupees Five Lakhs (Rs.5,00,000/-) may be imposed
<b>6</b>	Where a CB knowingly updates or enters wrong data on Tracenet relating to the organic production as well as the nature and quantity of the product, area of the farm and movement of the products in the chain of custody	Pecuniary penalty extending up to Rupees Ten Lakhs (Rs. 10,00,000/-) may be imposed.
<b>7</b>	When a CB makes a misrepresentation to the accreditation status or scope of the certification such as “it is an agency accredited under the NPOP when in fact it is not”, it is suspended or terminated but continues to claim that it is accredited through its website and other means, false representation of scope which it does not possess to name a few”.	Pecuniary penalty extending up to Rupees Ten Lakhs (Rs. 10,00,000/-) may be imposed.
<b>8</b>	If a CB commits a subsequent offence, whether of the same or similar nature as the previous offence or of a different kind within a period of 5 years.	One or more of the following penalties may be imposed based on the severity of NCs: <ol style="list-style-type: none"><li>Suspension for a period extending up to two years.</li><li>Pecuniary Penalty extending up to Rupees twenty-five Lakhs (Rs. 25,00,000/-) may be imposed.</li><li>Termination of Accreditation of the CB and debarred from re-applying for accreditation for a period extending up to 3 years.</li></ol>

## Sanction catalogue for CB ... 3

<b>9</b>	If a CB commits an offence for which no penalty is provided herein	Accreditation shall be suspended for a period as may be deemed reasonable up to a maximum of one year.  Pecuniary penalty extending up to Rupees Ten Lakhs (Rs.10,00,000/-) may be imposed.
<b>10</b>	Where the NAB has imposed fines on the non-compliant CB , in accordance with the above provisions, and the said non-complaint CB has failed to pay such fines	NAB may blacklist such CB along with its promoters/owners for a period extending up to 5 years.  In addition, NAB shall have the right to initiate appropriate legal action for recovery of such fines.
<b>11</b>	Where the non-compliant CB has committed an offence of a civil nature, such as breach of contract, breach of trust etc.	NAB shall have the right to initiate appropriate legal action.
<b>12</b>	Where the CB refuses/ fails to disclose any information, which is required to be disclosed under the NPOP Standards without justifiable cause.	Pecuniary penalty extending up to Rupees Five Lakhs (Rs. 5,00,000/-) may be imposed.
<b>13</b>	When a CB has not taken adequate corrective action in their certification practice due to which non-conformities are being repeatedly reported.	In the first instance:  Issuance of a warning letter.  For subsequent violations:  The scope of certification may be modified; and/ or Area of operation may be restricted and/or A restriction may be imposed on registration of new Operators for such period as may be deemed reasonable; and /or A pecuniary penalty up to 5 lakhs may be imposed. Accreditation may be suspended for a period up to six months.

## **Sanction Catalogue for Operators:**

<b>S. No.</b>	<b>Nature of non-conformity</b>	<b>Prescribed sanction</b>
<b>1</b>	If an Operator fails to comply with the standards prescribed under the NPOP	Pecuniary Penalty extending up to Rupees Ten Lakhs (Rs.10,00,000/-) may be imposed. In addition, the certification may be withdrawn for up to one year
<b>2</b>	If NCs on the part of the Operator (trader including exporter, processor, producer including grower group or wild collector as the case may be) are established for the presence of residues of prohibited substances in certified organic product.	Pecuniary Penalty extending up to Rupees Five Lakhs (Rs.5,00,000/-) may be imposed.
<b>3</b>	If the above non-conformities on the part of the Operator is repeated.	Pecuniary Penalty extending up to Rupees Ten Lakhs (Rs.10,00,000/-) may be imposed. In addition, the exporter may be banned for a period extending up to 3 years.
<b>4</b>	If an Operator fails to pay the pecuniary penalty imposed in accordance with the above provisions	NAB may blacklist such Operators along with its promoters/owners for not more than 3 years. NAB shall have the right to initiate appropriate legal action for recovery of such fines.
<b>5</b>	If an Operator is found to have knowingly/willfully provided any false or misleading information or document	Pecuniary penalty extending up to Rupees Five Lakhs (Rs. 5,00,000/-) may be imposed.
<b>6</b>	Use of 'India Organic' certification mark by a Certified Operator for products which are not certified under NPOP	Pecuniary Penalty extending up to Rupees Two Lakhs (Rs.2,00,000/-) may be imposed.
<b>7</b>	If a Certified Operator commits a subsequent offence, whether of the same or similar nature as the previous offence or of a different kind.	Pecuniary Penalty extending up to Rupees Ten Lakhs (Rs.10,00,000/-) may be imposed. In addition, the Operator may be banned for a period extending up to 3 years.

## **Sanction Catalogue for External Service Provider (Mandator) of the ICS:**

<b>S. No.</b>	<b>Nature of non-conformity</b>	<b>Prescribed sanction</b>
<b>1</b>	Submission of wrong/incorrect particulars of ICS Manager, growers etc.	Pecuniary penalty extending up to Rupees One Lakh (Rs. 1,00,000/-) may be imposed.
<b>2</b>	Misrepresentation of ICS Office	Pecuniary penalty extending up to Rupees One Lakh (Rs. 1,00,000/-) may be imposed
<b>3</b>	Submission of incorrect/wrong identity documents of grower's	Pecuniary penalty extending up to Rupees Five Lakh (Rs. 5,00,000/-) may be imposed.
<b>4</b>	Submission of incorrect legal entity documents of the grower group	Pecuniary penalty extending up to Rupees Five Lakh (Rs. 5,00,000/-) may be imposed.
<b>5</b>	Any other violation determined by NAB or in cases of repeated violations	Pecuniary penalty extending up to Rupees Five Lakh (Rs. 5,00,000/-) may be imposed. NAB may also blacklist the service provider for a period extending up to 3 years. NAB shall have the right to initiate appropriate legal action for recovery of such fines

