



Freshcare Rules

Version 4 – June 2016

This document details the requirements of businesses participating in the Freshcare Program

Background

Freshcare Ltd (**Freshcare**) was established in July 2000 to provide on-farm training and certification services to the Australian fresh produce industry.

Freshcare is a national, industry owned, not-for-profit program designed for growers and grower packers in the fresh produce and associated cropping sectors.

Based on the principles of Hazard Analysis Critical Control Point (HACCP), the Freshcare Code of Practice Food Safety & Quality (FSQ) describes the practices required on-farm to provide an assurance that the crops grown are safe to eat.

Similarly structured, the Freshcare Code of Practice Environmental (ENV), Freshcare Code of Practice Environmental Viticulture (VIT) and Freshcare Code of Practice Environmental Winery (WIN) describe best practice operations required on-farm and in wineries to provide an assurance that crops are grown sustainably and operations are managed with consideration for the environment.

Introduction

These Freshcare Rules are the terms on which, upon registration, a business agrees to participate in the Freshcare Program. Businesses participating in the Freshcare Program must comply with the Freshcare Rules and the requirements of the Freshcare Code(s) nominated by the business at all times.

This document 'Freshcare Rules Version 4 – June 2016' replaces all previous versions of the Freshcare Rules and Freshcare Certification Rules.

Failure to comply with the Freshcare Rules or the requirements of the nominated Freshcare Code(s), may result in a business's Freshcare certification being suspended or withdrawn.

Updates to the Freshcare Rules and Freshcare Codes will occur from time to time. Businesses will be given at least 28 days' notice of the changes via FreshcareOnline, the Freshcare website and email, and must ensure full compliance with the changes within the timeframe stated in the notice.

A business's obligations to comply with the Freshcare Rules and Freshcare Codes are in addition to its obligations to comply with the law, including any regulatory requirements. It is important for businesses to be aware that compliance with the Freshcare Rules and Freshcare Codes does not ensure compliance with the law and does not exempt a business from doing so.

Feedback on this document or any aspect of the Freshcare Program should be submitted in writing to:

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1. Application

- 1.1. A business may apply to be registered for the Freshcare Program either through participation in approved Freshcare training with a Freshcare approved training provider, or through direct application to Freshcare administration.
- 1.2. To register with Freshcare, a business must be a sole trader, partnership, limited or unlimited company, limited liability partnership or other structure of business as may be approved by Freshcare.
- 1.3. A business is required to complete a Freshcare registration form as part of the registration process and to provide a detailed business profile, including management and key contact information.
- 1.4. At least one representative of the management of a business must complete approved Freshcare training, as required by the Freshcare Code(s) nominated by the business.
- 1.5. Each business must nominate the person within the business who is responsible for the management of the business's compliance with the Freshcare Program and, to be the key contact for the business.
- 1.6. A business must be registered with Freshcare prior to submitting an application for initial audit to a Freshcare approved Certification Body.
- 1.7. Any change to a business's profile or key contact information or other details provided on registration must be notified to Freshcare via FreshcareOnline or directly to Freshcare administration in writing within 28 days of the change.
- 1.8. Changes to a business's information that may affect certification will be dealt with on a case by case basis by Freshcare in Freshcare's discretion.
- 1.9. Supporting documentation may be requested to provide evidence of a business's information or changes to that information.
- 1.10. Freshcare may suspend or withdraw a business's certification if false or misleading information is provided on the Freshcare registration form, on application for audit, or in subsequent business updates.

2. Sites

- 2.1. All sites to be included under the scope of Freshcare certification must be disclosed on the Freshcare registration form and on application for audit.
- 2.2. Multiple sites may be registered under a single Freshcare registration only if they operate under a single management system and geographically allow for all sites to be visited as part of a single reported audit.
- 2.3. When multiple sites are registered under a single Freshcare registration:
 - i. All sites must be visited at the initial Freshcare audit;
 - ii. All sites with infrastructure (packing facilities) must be visited at every recertification audit;

- iii. A risk assessment process to select a representative sample of production (only) sites to be visited at each recertification audit will be used by the Certification Body;
 - iv. Detailed records must be available for all sites at every recertification audit; and
 - v. Additional sites to be added to the list of a business's registered sites must be visited at audit prior to inclusion on a Freshcare certificate.
- 2.4. Businesses with multiple sites that operate under different Management Systems or are in geographically distant locations, are required to register each site with Freshcare separately.
- 2.5. Multiple businesses that operate from one site (address) must be registered with Freshcare separately. A Freshcare audit must be scheduled for each individual business, but the audits may be conducted concurrently.

3. Scope

- 3.1. The Freshcare Program provides certification options for businesses with the following scope of operations: Grower; Grower and Packer; Packer; and Marketing Group.
- 3.2. The Freshcare Program provides certification options for businesses that produce under the following categories: Fresh Produce; Fresh Produce for Processing; Nut In Shell; Coffee; Tea; Fodder Crops; Flowers and Foliage; Seedlings; Spices; Olives; and Wine Grapes.
- 3.3. Crops to be specified under Freshcare certification must be nominated in accordance with the Freshcare Crop List.
- 3.4. Where a business is seeking certification for more than one crop, and the crops do not all have the same seasonal timing, the Certification Body will use a risk-based approach to determine if multiple visits are required to complete the audit process.
- 3.5. Between recertification audits, changes to the scope of Freshcare certification including categories, crops and sites will be reviewed by the Certification Body using a risk-based approach to determine if there is a need for a scope extension audit.
- 3.6. The Certification Body will at each audit, reconfirm a business's scope of operations including categories, crops and sites as registered with Freshcare.

4. Certification Bodies and auditors

- 4.1. Only Freshcare approved Certification Bodies may conduct Freshcare audits.
- 4.2. Only auditors complying with competency requirements set by Freshcare, and who are employed by or contracted to a Freshcare approved Certification Body, may conduct Freshcare audits.
- 4.3. On application for audit, a business must enter into a written contract with a Freshcare approved Certification Body for the provision of Freshcare certification services prior to the commencement of audit activity. The contract must include:
- i. Nominated Freshcare Code(s) to audit;
 - ii. Scope of certification sought;

- iii. Product categories;
 - iv. Crop(s);
 - v. Company details – name, site address (all sites to which Freshcare certification will apply), postal address, email, phone;
 - vi. Nominated business contact – name, email and phone;
 - vii. Preferred audit date; and
 - viii. Other details reasonably required by the Certification Body.
- 4.4. It is a condition of registration for, and certification under, the Freshcare Program and may, at the Certification Body’s discretion, be incorporated into the contract with the Certification Body, that a business:
- i. Agrees to notify Freshcare and the Certification Body of a serious food safety incident resulting in customer recall or stop supply within 48 hours of the incident; and
 - ii. Acknowledges and agrees that the certification status of the business will be available through FreshcareOnline (authorised users only) and publicly available through the business search function on the Freshcare website and the JAS-ANZ register.
- 4.5. The contract with the Certification Body must take into account the responsibilities of the business and must clearly include the following requirements:
- i. Audits are scheduled with adequate notice for both the business and the auditor/Certification Body;
 - ii. The cancellation of a scheduled audit may result in a penalty fee in accordance with the terms of the contract;
 - iii. The business must, on request, provide unimpeded access to the site and premises, to full documentation and records, and to product, for the purpose of conducting the audit;
 - iv. The business must provide all reasonable assistance required by the auditor in the conduct of the audit;
 - v. The business must provide complete and accurate information as required by the auditor;
 - vi. An auditor may be accompanied on the audit for training or accreditation purposes, e.g. auditor training, auditor calibration, witness audits (Freshcare, Certification Body or Accreditation Body);
 - vii. Freshcare reserves the right to conduct its own audit on a business in response to complaints or as part of routine compliance activities. These audits may be announced or unannounced;

- viii. A copy of the audit report, supporting documentation and Freshcare certificate will be made available to Freshcare, and the audit result will be communicated to Freshcare and the Accreditation Body;
 - ix. Freshcare may contact the business directly for feedback on auditor and/or Certification Body performance;
 - x. The business may lodge a complaint in confidence with Freshcare that will be considered and investigated if appropriate with the auditor and Certification Body concerned.
- 4.6. The business agrees with Freshcare to the matters set out in clauses 4.5 iii, 4.5 iv, 4.5 v and 4.5 vii – x and acknowledges and agrees that compliance with these provisions is a condition of registration for, and certification under, the Freshcare Program.
- 4.7. The business acknowledges and agrees that where consulting or training services related to the Freshcare Code(s) have been provided to a business by an individual contracted to, or employed by a Certification Body; that individual is excluded from conducting a Freshcare audit for that same business within two years of completion of the consulting/training activity.
- 4.8. The business acknowledges and agrees that an auditor may refuse to carry out or finish a Freshcare audit:
- i. In the presence of a third party who they believe may intentionally or otherwise influence the outcome of the audit in an inappropriate manner;
 - ii. If they feel threatened or have been subject to abusive behaviour during the visit;
 - iii. If they deem that the business has not implemented the Freshcare Program or no records are available; or
 - iv. If the site is empty or non-operational.
- 4.9. The business acknowledges and agrees that an individual auditor may audit a business multiple times, however no more than three consecutive Freshcare audits can be conducted by the same auditor.

5. Changing Certification Bodies

- 5.1. Subject to its contract with its nominated Certification Body, a business may change its nominated Certification Body at any time, provided that the business is not currently suspended from the Freshcare Program and there are currently no corrective actions outstanding from previous audits.
- 5.2. A business is not required to inform their previous nominated Certification Body that it has transferred but must notify Freshcare of the change within 28 days of entering into a contract with a different Certification Body.
- 5.3. A business must declare on their audit application to a new Certification Body its previous certification arrangements under Freshcare, including scope, sites and crops.
- 5.4. Freshcare may give the new nominated Certification Body access to the business's Freshcare records, including historical audit results and information from previous Certification Bodies.

6. Audit process

- 6.1. After an initial audit, a business must ensure that it is audited with the following frequency:
 - i. Food Safety & Quality Code – annual audit;
 - ii. Environmental Code – annual audit;
 - iii. Environmental Viticulture/Environmental Winery Codes– triennial audit.
- 6.2. For Food Safety & Quality audits, the initial and all subsequent recertification audits will take place in the harvest season, or as close to harvest as practically possible. If the audit takes place prior to harvest commencing, a follow-up visit may be required during production, or proof of compliance via other means may be required. If the audit takes place after harvest, records must be maintained and available for review to demonstrate compliance for all crops registered within the scope of registration.
- 6.3. Businesses are required to contact their nominated Certification Body to schedule initial Freshcare audits.
- 6.4. The Certification Body will then schedule recertification audits to take place up to 60 days prior to the certification anniversary month, which is a fixed month based on historical audit reporting and, in the case of Food Safety and Quality audits, must also coincide with harvest.
- 6.5. The certification anniversary month can only be altered on request from a participating business, in consideration of changes to business scope. The certification anniversary month is displayed on Freshcare certificates as ‘Recertification Audit Due’ month.
- 6.6. The Freshcare audit will comprise of:
 - i. An opening meeting with the nominated business representative and business management representative;
 - ii. Full evaluation of all aspects of the Freshcare Code(s), including physical operations (including, but not limited to, water sources and infrastructure; chemical and fertiliser storage and handling facilities; produce harvesting, packing and storage facilities) and all supporting documentation;
 - iii. Completion of the Freshcare checklist/report; and
 - iv. Audit report of findings and results presented to the business.
- 6.7. The duration of a Freshcare audit will vary in consideration of business size and scope. The nominated Certification Body will provide a time estimate and rationale for audit duration upon request.

Note: For example, an audit may be completed in 3 hours for a single site, single commodity grower who field harvests; or may take a full day or more for a large grower/packer with multiple production sites and full packing operation.
- 6.8. The audit result will be communicated to the business by the Certification Body, and documented by the Certification Body using FreshcareOnline, creating an electronic record.

- 6.9. Where corrective actions have been raised, the information will be communicated to the business, documented on FreshcareOnline and the timeframes and process for correction provided.
- 6.10. The full audit report will be reviewed by the Certification Body prior to a certification decision.
- 6.11. Freshcare generally requires Freshcare approved Certification Bodies to ensure that a review is completed, the audit reported in FreshcareOnline and the audit report made available to the business within 10 working days of the audit.

7. Certification process

- 7.1. On completion of a Freshcare audit, the auditor submits the audit report to the Certification Body for review. On completion of the audit review, there are two certification options available:
 - i. Certification recommended – a business has demonstrated adequate control over the process, and the management and workers display commitment to and understanding of the elements of the Freshcare Code(s), with no Major Corrective Actions raised at audit;
 - ii. Certification pending – a business has outstanding Critical or Major Corrective Actions raised at audit.
- 7.2. At all audits, compliance with these rules and the Freshcare Code(s) of Practice is considered in terms of:
 - i. Critical Corrective Action Records (CARs) – an issue presenting an immediate risk to food safety or to the environment, or when the integrity of the Freshcare Program has been compromised.
 - ii. Major Corrective Action Records (CARs) – raised when there is the potential to compromise food safety, the environment or the integrity of the Freshcare Program. Compliance with the majority of Freshcare elements is considered essential to certification. Non-compliance with these elements at audit will be raised as a major corrective action.
 - Major CARs must be addressed within 28 days of audit;
 - If the Major CARs are not resolved within the nominated 28 day period, the business's certification status will be placed in 'Certification Pending' within the Freshcare database until such time as the corrective action(s) are addressed.
 - iii. Minor CARs – raised where the issue is not likely to directly impact on food safety or the environment or the integrity of the Freshcare Program. Aspects of compliance with the Freshcare Codes of Practice which are considered minor corrective actions do not impede certification.
 - Minor CARs must be addressed prior to the next recertification audit;

- If a Minor CAR is not addressed by the next recertification audit, it becomes a Major CAR. The business must then address the corrective action as outlined under Major CARs above.
- 7.3. Businesses will be required to provide evidence in writing to their auditor of action taken to address corrective action(s). On acceptance (close out) of all corrective action(s), Freshcare certification can be recommended.
- 7.4. Wherever practical, outstanding issues will be 'closed out' remotely through written or photographic evidence. However, in the event where evidence of 'close out' for outstanding issues cannot be provided remotely, a follow-up audit may need to be scheduled, at the expense of the business.

8. Certified businesses

- 8.1. The Certification Body will provide the business with an electronic and/or hard copy certificate in the format approved by Freshcare from FreshcareOnline,
- 8.2. Once issued, Freshcare certificates are not transferrable to other businesses.
- 8.3. The certification status of all Freshcare certified businesses is accessible via:
- i. The business search function on the Freshcare website (the information displayed includes: business name, location (state), Freshcare Code of Practice, crop(s), certification status and Freshcare certification number);
 - ii. The JAS-ANZ register; and
 - iii. FreshcareOnline (authorised users only).
- 8.4. All produce represented for sale as Freshcare certified must be:
- i. Grown by a business currently certified to the same Freshcare Code of Practice; or currently certified to a scheme recognised by Freshcare;
 - ii. Packed by a business currently certified to the same Freshcare Code of Practice; or currently certified to a scheme recognised by Freshcare.

9. Audit deferral, suspension and withdrawal

- 9.1. Businesses not requiring Freshcare certification due to crop loss or similar adverse circumstances, can request 'Audit Deferred' status until such time as they recommence production.
- 9.2. Businesses with no audit scheduled or completed in accordance with these rules will be given an 'Audit Pending' status.
- 9.3. Businesses may be given a 'Suspended' status if:
- i. The business unreasonably delays or continually defers a Freshcare audit;
 - ii. The auditor cannot complete an audit in full, including because the business fails to provide access to a site or records, or otherwise fails to cooperate in the audit process;

- iii. The business fails to pay any fees in connection with the Freshcare Program;
 - iv. The business supplies false or misleading information;
 - v. A critical CAR is raised;
 - vi. A major CAR is raised and the required action to rectify the non-conformance has not occurred within the required timeframe; or
 - vii. Freshcare or the Certification Body is of the opinion, reasonably held, that the business has breached a material provision of these rules or is not maintaining compliance with the stated requirements of the relevant Freshcare Code or these rules or is unable or unwilling to do so.
- 9.4. If a business's certification is suspended and the ground for suspension is not capable of rectification or, if capable of rectification, the business does not take the necessary action(s) to rectify within a timeframe specified by Freshcare or the nominated Certification Body, the business's registration(s) may be withdrawn by written notice from Freshcare.
- 9.5. Freshcare has the right to inform a business's customers, and where relevant, the appropriate authorities of changes to a business's Freshcare certification status.

10. Fees

- 10.1. Fees for certification services (e.g. auditing services) are payable to the Certification Body by the business.
- 10.2. A Freshcare certification fee is collected from a business by the Certification Body and remitted to Freshcare.
- 10.3. Freshcare fees are reviewed annually and advised in writing to all Freshcare participating businesses.
- 10.4. Payment of all fees by participating businesses is a requirement for the business's continued Freshcare certification.

11. Prosecution and regulatory sanctions

- 11.1. A business must notify Freshcare and its nominated Certification Body of any prosecutions brought, or likely to be brought against the business, in relation to any business activities within the scope of their Freshcare certification.

12. Communication

- 12.1. Freshcare has a custom designed database for the management and administration of all aspects of the Freshcare Program (FreshcareOnline).
- 12.2. Freshcare participating businesses are allocated a unique user logon to FreshcareOnline for access to Freshcare training and certification details including current certificates; Freshcare documents; resources and program updates.
- 12.3. Instructions on how to access FreshcareOnline is provided in the 'FreshcareOnline User Guide – Grower', and is available on the Freshcare website.

- 12.4. Freshcare will communicate Freshcare Program updates and changes to participating businesses via FreshcareOnline; the Freshcare website; email; newsletters or other forms of communication as required.

13. Use of the Freshcare corporate logo and certification logo

- 13.1. The Freshcare name and corporate logo may be used by a certified business upon written permission from Freshcare in accordance with the Freshcare logo style guide specifications (available via FreshcareOnline). Businesses must apply in writing, to use the Freshcare name and corporate logo and, upon approval, Freshcare will provide the Freshcare corporate logo artwork for use.

- 13.2. The Freshcare certification logo may be used by a certified business subject to the following requirements.

The business must:

- i. Make a request in writing for the Freshcare certification logo artwork;
- ii. Only use the Freshcare certification logo artwork precisely as provided by Freshcare, incorporating their unique Freshcare certification number;
- iii. Use the Freshcare certification logo in accordance with the Freshcare logo style guide specifications;
- iv. Only use the Freshcare certification logo in connection with products grown and/or packed in compliance with the requirements of Freshcare certification; and
- v. Only use the Freshcare certification logo on trade level packaging and pallets that are not intended for display at point of sale.

- 13.3. The Freshcare name, corporate logo, or certification logo, must not be used on a product, consumer level packaging, or at point of sale in direct connection to a single product.

- 13.4. The Freshcare name, corporate logo, or certification logo must not be misrepresented or used in any manner that could be misconstrued, or may be defamatory to Freshcare.

- 13.5. Permission to use the Freshcare logo in any way other than as specified in these rules must be requested in writing and approved by Freshcare.

- 13.6. A business must immediately cease using the Freshcare name, corporate logo and certification logo if its certification has been in certification pending for more than 28 days; has lapsed (certificate expired); or has been suspended or withdrawn.

- 13.7. A business with permission to use the Freshcare name or logo(s) acknowledges and agrees that Certification Bodies are requested to advise Freshcare of any misuse of the Freshcare name or logo(s).

14. Use of information

- 14.1. Each business acknowledges and agrees that Freshcare may use, disclose or publish information concerning the business obtained in connection with the Freshcare Program,

including information relating to a business's status, as specified in these rules and otherwise as Freshcare considers reasonably necessary for the purposes of the Freshcare Program.

- 14.2. Each business acknowledges and agrees that Freshcare may disclose information concerning the business to any government authority for any lawful purpose and otherwise as required by law.
- 14.3. Certain information handled by Freshcare may be personal information, as defined in the *Privacy Act 1988* (Cth). Personal information obtained by Freshcare is generally handled in accordance with Freshcare's Privacy Policy from time to time.

15. Liability and indemnity

- 15.1. To the extent permitted by law, Freshcare's liability for any loss, damage, cost or expense suffered by a business in connection with the Freshcare Program or its participation in or withdrawal from it, including any breach by Freshcare of a consumer guarantee, is limited to the annual fee payable to Freshcare in accordance with clause 10 of these rules.
- 15.2. In no event will Freshcare be liable to a business for indirect loss, damage, cost or expense.
- 15.3. The business acknowledges and agrees that Freshcare is not party to the contract a business must enter into with its nominated Certification Body for the conduct and reporting of a Freshcare audit.
- 15.4. The business indemnifies Freshcare, its officers, employees and agents against all damages, losses, costs and expenses incurred by any of them arising out of any non-compliance with these rules except to the extent such damages, losses, costs and expenses were caused by Freshcare, its officers, employees or agents.

16. Governing law and jurisdiction

The agreement evidenced by these rules is governed and must be construed with the laws of New South Wales.