Chain of evidence

Revision history

Version	Date issued	Amendment Details	
		Section(s)	Details
1.0	5 Dec 2013	All	Reformatted into SOP from Appendix 5 of PLANTPLAN (V1 Nov 2011). Internal references to Appendices in PLANTPLAN removed. "Purpose" added

1. Purpose

The purpose of this procedure is to provide diagnosticians and field officers with information on maintaining appropriate 'chain of evidence' during an EPP Incident. In the event that a grower or other person takes legal action against the Lead Agency a demonstrable chain of custody and record of evidence from the time of sampling until trial is essential for evidence to stand up in court.

2. Application/Scope

The samples taken from the Infected Premises (IP) and Contact Premises (CP) are likely to be one of the most important forms of evidence for the Lead Agencies and the courts. Protocols are therefore required to maintain confidence in the integrity of the samples and their value as evidence. The Lead Agencies must be able to ensure:

- The collection of the samples is authorised by law;
- The samples collected come from the Infected Premises or Contact Premises;
- The persons collecting the samples have appropriate training and experience; and
- The samples are properly identified, recorded, stored and handled between the time of collection and trial.

In order to maintain continuity of evidence, diagnostic and survey teams and diagnostic laboratory staff should follow these protocols when collecting and handling EPP samples. Chain of Evidence protocols do not have to be followed for samples from general surveys.

The collection of the samples is authorised by law;

If a sample is to be used as evidence, the Lead Agencies must ensure that the persons collecting the sample are authorised to do so by law. If the collection of the sample is not authorised, a court may refuse to accept the sample as evidence or, if accepted, accord it little or no weight.

The samples collected come from the Infected Premises or Contact Premises

The person or persons collecting the sample must be able to establish that the samples were collected from the Infected Premises or Contact Premises.

To help establish that the samples were collected from the Infected Premises or Contact Premises and how the samples were collected, the person or persons collecting the samples should make a written record of collection at the time the sample is collected. It would be appropriate for those persons to mark the point or points of collection on a map of the Infected Premises or Contact Premises and to photograph the scene.

The persons collecting the samples have appropriate training and experience

The training and experience of the persons collecting samples is vital. The chain of evidence is only as good as the people who operate it and there are risks throughout the collection process of things going wrong: people misidentifying a sample or compromising its integrity, or making an error in its analysis or misinterpreting results.

Lead Agencies must ensure that everyone involved in the collection process is trained and competent to collect, store and handle samples. In addition persons packing samples will have to be trained by IATA if samples are to be sent samples by air.

The samples are properly identified, recorded, stored and handled between the time of collection and trial.

Chain of evidence protocols should be followed for all samples taken from Infected Premises or Contact Premises. Appropriate handling, documentation procedures and security measures are required when collecting and handling samples to preserve the integrity of the evidence. It is considered best practice if all samples submitted have uniquely numbered seals affixed to them for continuity and security.

The written record should be sufficiently detailed to:

- Permit the Lead Agency to call witnesses who could explain how the sample was collected, identified, stored and handled between the time of collection and trial; and
- Permit another expert to be able to identify what has been done to a particular sample and to independently assess the Lead Agency's findings.

The diagnostic or sampling team will complete a Sample Submission Form at the time of sampling. This will form the Evidence Register. Sample Submission Forms will be supplied by the laboratory to which the samples are being sent.

Of the original sample, the specialist will use a sub-sample for diagnostics and store the remainder of the sample as a reference sample. The reference sample will follow chain of evidence protocols. The sub-sample used for diagnostics will be tracked by normal laboratory procedures.

All material held by the agency which is relevant to the incursion should be treated as evidence until no longer required for the investigation and/or prosecution.
In the event that a grower or other person takes legal action against the Lead Agency a demonstrable chain of custody and record of evidence from the time of sampling until trial is essential for evidence to stand up in court.

3. Resource equipment

(to be completed)

4. Warnings

(to be completed)

5. Description of activities

5.1 Marking the exhibit

The diagnostic team (or other person collecting samples) will allocate each sample container with a unique identifier so that each sample can be easily tracked within the laboratory system. Each tamperproof seal will carry a unique number which can be the basis of it passing though the laboratory. The method of marking the sample will rest with the person in charge of the diagnostic team; however this should be consistent across the emergency response. Marking should be difficult to remove and appropriate to the surface. A label should be included within the audit bag/container in case outer label is accidentally destroyed.

The identifier shall be retained throughout the life of the item in the laboratory and shall not be reused at any subsequent time.

5.2 Exhibit labels

Sample ID and tracking of samples within the laboratory is a vital issue. Sample tracking must occur through the Evidence Register but also may occur on the sample label (as below). The amount of detail in the example label below may only be necessary for the first sub-sample.

Sample Continuity Label				
Sample ID No.				
Bag No:		*All samples obtained are grouped together and placed in bags or containers. These are then sequentially numbered*		
Handed to:	**1**	**ON:**	/ /	am/pm
	2	**ON:**	/ /	am/pm
	3 ***etc***			

5.3 Sealing of items

All evidence must be stored in appropriate tamperproof audit bags/containers that are properly sealed with a tamperproof seal. Sealing an exhibit within an audit bag/container may reduce the opportunity for allegations of impropriety being made against investigators and enhances credibility. Occasional exceptions (eg. for very large or wet items) may be made, and this shall be recorded in the case file. A container is properly sealed only if its contents cannot readily escape or become contaminated and only if entering the container results in obvious damage to the container or seal.

Containers must be closed or items covered, during storage, to prevent accidental loss or contamination. When a long break is expected in the examination of an item, the item must be sealed with a tamperproof seal to prevent contamination.

Containers are designed to prevent illegal entry, not prevent entry per se.

Containers shall be resealed using a tamperproof seal after the examination is complete.

Evidence labels or evidence tape used to seal containers must be initialled or signed to record the person sealing the item, and must be dated with the date the item was sealed.

In circumstances where an audit bag/container is to be re-opened, the investigator responsible for sealing should consent and be present when the bag is re-opened. If this is not feasible, an independent person should be present to verify the contents of the audit bag at the time that the bag is re-opened. A written

record should be made in relation to the opening of an audit bag/container and placed in the Evidence Register. The record should include:

- Time, date and place that the bag/container was opened.
- Name of the person opening the bag/container.
- Name of the independent witness.
- Reason the bag/container was opened.
- Full description of the contents of the bag/container.
- Verification that the contents of the bag/container are those recorded on the property seizure record.
- What occurred to the contents of the bag/container.

5.4 Evidence Register

Once the investigating officer/specialist takes possession of the sample, the following procedures must occur immediately:

a) The sample must be recorded in the Evidence Register and allocated a sample number. The information in the Evidence Register should include the full details as recorded specimen advice.

b) Any subsequent movements of the sample must be recorded in the Evidence Register. This must include the date, the name and signature of the person taking the evidence, the reason and the destination.

c) A designated person must maintain the Evidence Register. The nominated person should monitor and maintain the Evidence Register and the storage area. This person needs to have appropriate authority

The Evidence Register shall provide a comprehensive record of each evidence transfer over which the laboratory has control.

For transfer of items out of the laboratory

Samples shall be recorded on an appropriate specimen advice sheet, along with a copy of the original specimen advice, the name of the delivering person, the name (printed) and the signature of the accepting person, and the date and time of transfer.

Sample transfer will be recorded.

For transfers of evidence items in and out of the section

The unique identifier of the evidence item, the name of the delivering person, the name of the accepting person, and the date and time of the transfer shall be recorded on the item examination sheet and in the Evidence Register

5.5 Receipt of sample

Upon receipt of sample into the laboratory, the receiving scientist must ensure that:

a) Sample packaging must be retained until AQIS and/or the Lead Agency approves its disposal. Note: Responsibility will depend upon the quarantine status of the sample.

b) A complete description of testing requirements from the Lead Agency CPHM is documented and understood. This shall be evidenced by completion of a Sample Submission form.

c) Any abnormalities or incorrect sample collection or preservation practices are noted in writing.

Where there is any doubt as to the suitability of a sample for test or examination, or when an item does not conform to the description provided, or the test/examination is not specified in sufficient detail, the Lead Agency shall be consulted for further instructions before proceeding. A written record must be made of any further instructions received from the client, at any point in the diagnostic process.

NOTE: Where it is clear that the sampling procedures were so inadequate that this could fundamentally compromise the results, then the receiving officer may reject the samples, using his or her professional judgement. Where samples were obviously collected or stored incorrectly, this should be clearly stated on the final report to the client.

d) Samples submitted are to be examined for the pest in question

e) All items are sealed in accordance with "Sealing of Items" procedure.

If not already adequately sealed, the samples must be sealed by the submitting officer or the receiving scientist at the time the evidence items are accepted.

f) The section has the capability to perform the work requested.

Any requests for diagnostic service which are not provided by the section shall be rejected, or accepted only if there is a danger that the evidence samples may deteriorate, and on the clear understanding that the section will limit its role to the referral of the samples to another service provider, on the Lead Agency's behalf.

g) The Receipt of Sample procedure is followed.

5.6 Storage of samples and documents

Samples and documents must be securely stored in a physically safe area with appropriate restrictions on access.

5.7 Movement of samples and documents

Samples and documents must be accessible only by designated or authorised officers. It is advisable that samples or documents be removed only for specified purposes, such as:

- registration
- initial examination and assessment
- identification processes
- imaging
- photocopying
- hearing or trial
- answer subpoena
- where it is impractical to examine sample or document in the confines of the storage area
- disposal.

The removal of the sample must be noted in the Evidence Register in accordance with this procedure.

5.8 Protection of Items

All samples must be protected from loss, cross transfer, contamination and/or deleterious change.

Samples shall be stored under controlled environmental conditions when not in the process of being examined. Appropriate conditions include:

- A cold room with restricted access; or

- Other suitable condition to preserve plant tissue and pest

Non-destructive tests should be utilised wherever practicable.

When destructive tests are used, up to ¼ of the substance may be used in pre-DNA testing. After the completion of all testing at least ¼ of any substance should remain. This is to allow possible re-testing by an independent laboratory.

This may not be useful in all situations, for example citrus canker, and may need alternative options.

Samples shall be collected from evidence items so as to maintain evidence integrity.

Instruments shall be sterilised before and after each sample is removed, or separate disposable instruments shall be used to take each sample. Appropriate outer garments, including disposable gloves, shall be used.

5.9 Evidence Retention and Disposal

After the completion of testing, all evidence must be returned to the Lead Agency CPHM, except where listed for retention below.

Retention of sub samples, records, photographs, DNA extracts and samples

Samples and other items shall be retained indefinitely in the following circumstances:

- To be made available for further diagnosis.
- Where the evidential material is likely to be of significant value in the future (eg. where court proceedings have not yet taken place).
- As reference material to the diagnosis that was made.
- To assist with future incursions of the pest.

The retained material shall be sealed and stored in accordance with this procedure.

Destruction of Samples

Samples shall be destroyed only on written authority from the Lead Agency CPHM. Waste disposal will be by AQIS approved method or CPHM approved equivalent. Note: Responsibility will depend upon quarantine status of the sample (managed under Australian Government or state/territory government legislation).

Prior to issuing any such instruction, the Lead Agency CPHM must ensure that:

- Any decision he/she makes is not in conflict with any Court Order.
- All potential claimants have been afforded an opportunity to lodge a claim for the items/goods/documents.

When authority to destroy is received, the specialist shall:

- Remove, or make illegible, any feature that might allow the identification of any person involved in the case.
- Dispose of the item appropriately (autoclaving or incineration etc).
- Record the name and signature of the person destroying the items, the method and date of destruction and a reference to the authority received in the Evidence Register.

6. References

(to be completed)

7. Appendices

Nil