



Jennifer Tucker, Ph.D.
Deputy Administrator, National Organic Program
USDA-AMS-NOP
1400 Independence Ave., SW, Room 2642-So., Ag Stop 0268
Washington, DC 20250-0268

RE: Comments on Proposed Strengthening Organic Enforcement Rule

Docket Number: AMS-NOP-17-0065

October 5, 2020

Dear Ms. Tucker:

On behalf of the Canadian Produce Marketing Association (CPMA), it is my pleasure to provide comments to USDA's Proposed Rule on Strengthening Organic Enforcement (SOE).

Based in Ottawa, the Canadian Produce Marketing Association (CPMA) is a not-for-profit organization representing companies active in the marketing of fresh fruit and vegetables in Canada, from the farm gate to the dinner plate and spanning the entire produce industry. The Association's members include major growers, shippers, packers, and marketers; importers and exporters; transportation and logistics firms; brokers, distributors, and wholesalers, retailers and foodservice distributors; and fresh cut operators and processors. Founded in 1925, CPMA is today proud to represent over 810 domestic and international members who are responsible for 90% of fresh fruit and vegetable sales in Canada, including in the organic supply chain.

Comments on the Proposed Rule

Section 1 – Applicability and Exemptions from Certification

CPMA shares the concerns of the Produce Marketing Association (PMA) and others regarding the lack of clarity in the regulations around the requirements for handlers and for exempt entities. Other than its definition of the term "handling", SOE does not include definitive text regarding requirements for handling operations requiring certification, making it extremely difficult for handlers to readily determine how to comply with the proposed regulations. This is of particular importance for those operations that will newly require organic certification under SOE, such as brokers and traders, whose operations may be unfamiliar with the process required to create and maintain an Organic System Plan or, indeed, what such a Plan may look like for those operations. We would note that it is also difficult to accurately assess the potential cost impacts to industry of requiring certification for new groups of handlers without a clear understanding of what the requirements of that certification will be.

Similarly, further clarification is needed regarding record-keeping requirements for exempt operations. For example, the Preamble states that exempt transportation operations will be required to keep records, as an essential part of maintaining the audit trail and verifying compliance with other requirements. However, this responsibility is not further outlined in the proposed regulations and should be included.

Section 2 – Imports to the United States

SOE states that NOP Import Certificates are currently only required for organic products imported from a country that the NOP has determined uses an equivalent system of organic certification. However, this is not the case for organic products entering the United States under the *U.S.-Canada Organic Equivalence Arrangement*. Instead, organic products imported from Canada are currently accompanied by a valid organic certificate issued by a Canadian Food Inspection Agency (CFIA) accredited certification body that includes the following attestation statement, "Certified in compliance with the terms of the *U.S.-Canada Organic Equivalence Arrangement*".

As written, SOE does not address this unique situation and further clarification is required for Canadian exporters. CPMA therefore urges USDA to work with CFIA to determine regulatory text regarding the certificate arrangement under the *Equivalence Arrangement*. CPMA also strongly urges USDA to continue the current arrangement allowing certificates with the above attestation statement for organic products being imported from Canada.

At the same time, CPMA echoes the concerns of PMA regarding the proposed 30-day timeframe for certifying agents to review and issue an NOP Import Certificate. The highly perishable nature of fresh fruit and vegetable products would make the current 30-day timeframe for issuing an NOP Import Certificate unworkable. We are also supportive of PMA's recommendations for a certificate issuance process that better reflects the perishability of our products and for USDA to consider adopting a risk-based approach to ensure that organic product continues to flow smoothly across the border.

Section 3 – Labelling of Non-Retail Containers

CPMA is generally supportive of the SOE requirements to include the following additional pieces of information on non-retail containers used to ship or store organic products: (1) A statement identifying the product as organic; and (2) the name of the certifying agent that certified either the producer of the product, or, if the product is processed, the last handler that processed the product. CPMA is actively engaged in efforts to harmonize labelling practices between Canada and the United States and believes these two additional data points will be able to be incorporated smoothly into these efforts, as demonstrated by the sample label provided in PMA's submission to this public consultation.

At the same time, we would like to echo PMA's recommendations to improve clarity in the regulations regarding the definition of "non-retail container" to confirm that the provisions apply to product entering the stream of commerce.

Section 10 – Accepting Foreign Conformity Assessment Systems

CPMA is pleased to see that Section 10 – Accepting Foreign Conformity Assessment Systems codifies USDA's existing practices with regard to establishing equivalency arrangements and does not establish new requirements. We are strongly supportive of the *U.S.-Canada Organic Equivalence Arrangement* and the benefits it brings to industry on both sides of the border.

Thank you again for the opportunity to provide comments on the Proposed Rule on Strengthening Organic Enforcement. We appreciate you taking the time to review our submission.

Sincerely,



Ron Lemaire
President
Canadian Produce Marketing Association