



1400 Independence Avenue, SW
Room 2055-S, STOP 0201
Washington, D.C. 20250-0201

November 7, 2024

Mr. Dave Puglia
Western Growers
6501 Irvine Center Dr, Suite 100
Irvine, CA 92618

Dear Mr. Puglia:

Thank you for your letter of November 5, 2024, regarding the recently proposed amendments to pending legislation (Bill C-280) in Canada related the establishment of a Perishable Agricultural Commodities Act (PACA) like statutory trust.

Over many years the Agricultural Marketing Service (AMS) has engaged with representatives of the U.S. and Canadian produce sectors and Canadian government officials by providing factual information about the protections the PACA trust affords unpaid sellers of fruits and vegetables in both interstate and foreign commerce. The PACA statute (7 U.S.C. § 499e(c)(2)) provides that sellers of fruits and vegetables throughout the supply chain are protected by the trust, so long as the sellers takes the necessary actions to preserve their trust rights.

(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents.

The recently proposed amendments to the Candadian legislation appear to limit the scope of protections under Bill C-280 by revising the definition of a "person" to be "a primary agricultural producer of perishable fruits or vegetables (in this section referred to as the "farmer") or who purchases perishable fruits or vegetables directly from a farmer in order to resale them". In contrast, the PACA statute more widely affords trust rights to all unpaid suppliers or sellers of fresh or frozen fruits and vegetables.

Further, we note that the amendments appear to limit the definition of the commodities covered by the legislation in the original Bill C-280. Specifically, the amendments propose removing the language that "*perishable fruits or vegetables includes perishable fruits and vegetables that have been repackaged or transformed by the purchaser to the extent that the nature of the fruits or vegetables remains unchanged.*" The PACA definition includes fresh and frozen fruits and vegetables of every kind and character and excludes only produce that has been transformed into a different kind or character.

We also note that the proposed amendments add the term “secured creditor” in reference to assets held in trust by the purchaser for the farmer or dealer. The impact of this change is not clear to us but we raise it for consideration because it is significantly different terminology from the PACA statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Summers", with a stylized, flowing script.

Bruce Summers
Administrator