



**Promotion Order Exemption Proposed Rule Falls Short:  
Comments of the Organic Trade Association on Docket No. PY-02-006,  
Federal Register, Monday, April 26, 2004, pp. 22690-22702**

*Submitted by:  
Tom Hutcheson  
Associate Policy Director  
June 25, 2004*

The Organic Trade Association (OTA) thanks AMS for the opportunity to comment on this proposed rule.

OTA believes that the proposed rule interprets the law too narrowly, and doubts that AMS's estimates of the benefits of the rule will be realized.

Furthermore, OTA believes that it was the intent of Congress for the "solely 100 percent organic products" requirement to refer to the commodity being produced under the promotion law, which is the purpose of Section 10607 of the 2002 Farm Bill; that is, that someone who produced both organic and non-organic soybeans would not be eligible for a soybean promotion order exemption.

Therefore, OTA requests that the language of Section 10607 which reads: "Notwithstanding any provision of a commodity promotion law, a person that produces and markets solely 100 percent organic products, and that does not produce any conventional or nonorganic products" be interpreted to mean, "Notwithstanding any provision of a commodity promotion law, a person that produces and markets solely 100 percent organic products *under such a promotion law*, and that does not produce any conventional or nonorganic products *under such a promotion law*", and that the final rule make this interpretation clear.

While USDA has not issued a final rule for that proposal, it seems not to have incorporated that interpretation in the current proposed rule. The result is that no split operations are exempted, and so very few, if any, organic operations may be exempted from the promotion orders as a result of this rule.

### **Application for Exemption**

First, the person who produces solely 100 percent organic products is exempt from promotion assessments by law and so must not be required to apply for such exemption. Instead, a notice of eligibility should be submitted to the applicable administrative Board, together with the materials necessary to demonstrate that status.

**Headquarters:** 60 Wells Street, P.O. Box 547, Greenfield, MA 01302 USA • (413) 774-7511  
Fax: (413) 774-6432 • e-mail: [info@ota.com](mailto:info@ota.com) • web site: [www.ota.com](http://www.ota.com)  
**Legislative Office:** 600 Cameron Street, Alexandria, VA 22304 USA • (202) 338-2900  
Printed on Recycled Paper



Even so, filing a notice of eligibility annually is meaningless and overly burdensome on the organic producer. Certificates awarded by USDA-accredited certifying agents are good until suspended, surrendered, or revoked. An organic producer should only be required to notify the commodity board upon suspension, surrender, or revocation of the certificate.

OTA therefore requests AMS to require the organic producer to file only an initial notice of eligibility for exemption, together with an organic certificate, or in the case of a producer with less than \$5000 in income, an affidavit, and to notify the appropriate board of any change in eligibility within 30 days of such a change in status.

In addition, OTA supports the comments of CROPP Cooperative/Organic Valley, Horizon Organic, and others in the organic industry, in regard to the proposed rule.

Thank you very much for your consideration.

**received**  
6-25-04

