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United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY

WASHINGTON, DC 20510-6000

202-224-2035

TTY/TDD 202-224-2587

February 2, 2004

TOM HARKIN, IOWA
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The Honorable Ann M. Veneman
Secretary of Agriculture
200-A Jamie L. Whitten Building
Washington, D.C. 20250

Dear Secretary Veneman:

During debate of the 2002 farm bill there was genuine concern that organic producers were being assessed for market promotion activities even though their products are not produced using conventional practices. To address this disparity, section 10607 of the 2002 farm bill amended the Federal Agriculture Improvement and Reform Act of 1996 to ensure that producers who raise 100 percent organic products would not be assessed for market promotion activities that do not promote their own specialized products.

On December 1, 2003, USDA proposed amendments to 28 fruit and vegetable marketing order programs. The intent of section 10607 of the 2002 farm bill was to ensure that 100-percent organic producers are not assessed for market promotion activities either directly or indirectly through a handler. It is unclear why USDA chooses to define handlers in a way that bars them from receiving a marketing promotion assessment exemption for products raised by farmers that are 100-percent organic. In these orders, for the 100-percent organic producers to be exempt as intended, the handler must be exempt. However, under the proposed rule, a handler must shell, slice, process or in some way alter a product in order to receive an exemption. There is nothing in section 10607 to require that handlers perform more than their normal activities for the exemption to apply. Therefore, the exemption should apply regardless of whether the handler alters the product.

The proposed rule appears to require a handler to handle only organic products. Again, this requirement is not consistent with the intent of section 10607 to ensure that 100-percent organic producers are not assessed for market promotion activities either directly or indirectly through a handler. Furthermore, it is persuasive that 7 CFR 205.100, governing the National Organic Program, only requires each production or handling operation or specified portion of a production or handling operation to be certified organic when handling products that are to be sold, labeled, or represented as 100-percent organic. It does not require the handler to handle only organic products. It is unclear why USDA chooses to broaden the certification requirements for a handler beyond what is currently required by the National Organic Program.

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Lastly, it is important for handlers to be allowed to appeal a decision by the board or committee if an application for an exemption is disapproved or if an assessment rate is believed to be unfair or incorrect. USDA should make clear to handlers that there is access to an appeals procedure. As drafted in the proposed rule, section 900.700 (c)(d) and (e) does not appear to grant the right of due process for organic handlers.

I appreciate having the opportunity to comment on this proposed rule. I respectfully ask that you carefully consider my comments to ensure 100-percent organic producers receive the market promotion assessment exemption as intended by the 2002 farm bill.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tom Harkin". The signature is fluid and cursive, with a large initial "T" and "H".

Tom Harkin
Ranking Democratic Member

Cc: A.J. Yates
Administrator
Agricultural Marketing Service
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Washington, D.C. 20250