



Organic Farmers' Agency for Relationship Marketing
John Bobbe, executive director
9896 Co. Hwy D, Brussels, WI 54204
Telephone: 920/825-1369, E-mail: jbobbe@itol.com



Docket Clerk at: moab.docketclerk@usda.gov
Marketing Order Administration Branch
Fruit and Vegetable Programs, AMS-USDA
1400 Independence Avenue SW
STOP 0237
Washington, DC 20250-0237

January 30, 2004

**RE: Docket Number FV03-900-1PR
68 FR 67381-5, December 2, 2003
"Proposed Rule to Exempt Organic Producers and Marketers from Assessments for
Market Promotion Activities under Marketing Order Programs".**

This letter is in response to the USDA published proposed rules on the exemption of organic commodities from marketing and promotion expenditures and is submitted by the Organic Farmers' Agency for Relationship Marketing (OFARM).

OFARM is a farmer marketing agency-in-common. We represent organic field crop cooperatives and farmer marketing associations in a region that spans the major grain producing areas of the United States, an 18-state area and Canada.

The USDA proposed rule, if put into effect, will make it very difficult for any organic farmer to be eligible for the exemption.

The proposed rule falls far short of the original intention of Congress for organic farmer exemptions. Below are our suggestions on how it might be improved:

Individual commodity. We believe Congress intended that to qualify for the exemption, a producer must produce organically 100% of the *specific* commodity covered by the market promotion board not as currently proposed by USDA. The proposed rule misinterprets the Farm Bill by requiring that *all* of a producer's products be 100% organic.

Proof of qualification. The present proposal is awkward and unworkable because it requires the specific commodity board approve a producer's exemption after review of an application, when in practice, a simple determination can be made by the handler. The handler would require documentation of organic certification and verification that all of that commodity produced was organic. The producer would be accountable for any false information with the repayment of any exempted fees.

Conventional Sales. The key issue to satisfy congressional intent is that the product is 100% organic, and leaves the farmer's control as 100% organic. Under the proposed rule, the exemption does not apply if any of a farmer's products are sold conventionally. The reality of

the marketplace is that some products may be sold conventionally, and this may be out of the farmer's control.

- Handler's Organic Status. The USDA's proposed rule improperly requires that handlers be 100% organic and must alter the product in order to qualify for the exemption. The statute only requires that the *producer* be 100% organic for the specific commodity and does not include any requirement for altering products. The USDA's inclusion of these requirements does not conform to the language of the statute.
- Total Exemption. The proposed rule allows for an exemption from "marketing promotion expenditures." The rule must be revised to reflect this total, rather than partial, exemption. The description in the rule of these expenditures seems to indicate that they are less than the total assessment under the commodity promotion laws. The statute provides that producers "shall be exempt from the payment of an assessment under a commodity promotion law."

OFARM urges you to honor the commitment Congress made to organic farmers to allow them access to funds to create a workable program. In addition, we fully support the comments filed by CROPP Cooperative, LaFarge, Wisconsin.

Sincerely,

A handwritten signature in black ink that reads "John A. Bobbe". The signature is written in a cursive, flowing style.

John Bobbe, OFARM Executive Director