



Policy Memorandum

To: Stakeholders and Interested Parties

From: Miles V. McEvoy, Deputy Administrator

Subject: Attestation Statement for agricultural products that meet the terms of the U.S.-
Canadian Equivalence Arrangement

Date: November 4, 2010
Updated January 27, 2012

In June 2009, the US-Canada Organic Equivalence Arrangement (USCOEA) was signed. Karen McIntyre, Executive Director of the Canadian Agrifood, Meat, Seafood Safety Directorate wrote:

“...Agricultural products produced and processed in accordance with the United States Organic Foods Production Act of 1990 and National Organic Program Regulations as in effect on June 30, 2009, are produced and processed under an organic certification program that provides safeguards and guidelines governing the production and processing of such products that are at least equivalent to the requirements of the Canadian Organic Products Regulations, 2009 (OPR 2009). Accordingly, except as provided in Appendix 1, and subject to the conditions set forth in Appendix 2, agricultural products produced and processed in conformity with the United States Organic Foods Production Act of 1990 and National Organic Program Regulations as in effect on June 30, 2009 shall be deemed to have been produced and processed in accordance with the OPR 2009 and Canada's Organic Program and may be sold, labeled or represented in Canada as organic, including by display of the Canadian organic logo as well as the USDA organic seal.”

Additionally, Barbara Robinson, former National Organic Program (NOP) Manager, wrote:

“... Agricultural products produced and handled in accordance with the Canada Organic Production Regulations (COPR), as in effect on June 30, 2009 are produced and handled under an organic certification program that provides safeguards and guidelines governing the production and handling of such products that are at least equivalent to the requirements of OFPA. Accordingly, except as provided in Appendix 1, and subject to the conditions set forth in Appendix 2, agricultural products produced and handled in conformity with the COPR, as in effect on June 30, 2009 shall be deemed to have been produced and handled in accordance with the OFPA and USDA's National Organic Program (NOP) and may be sold, labeled or represented in the United States as organically produced, including by display of the USDA organic seal as well as the Canadian organic seal.”

Over the past year, the NOP and the Canadian Organic Office (COO) have continued to work together to ensure a smooth implementation of the equivalency arrangement. The two offices have agreed that products produced under this arrangement should be identified as meeting the terms of the arrangement for the purposes of customs entry, COO/NOP monitoring and enforcement, certification and accreditation audits. The COO and NOP have agreed that the following statement should accompany products that are produced under the terms of the arrangement:

“Certified in compliance with the terms of the US-Canada Organic Equivalency Arrangement”

This statement is a requirement so that products crossing the borders are verified to meet the terms of the US-COEA and must appear on documentation travelling with the shipment. The attestation may be included on the organic certificate, a transaction certificate, statement on bill of lading, purchase order, or any other affirmative attestation. The operator may provide this attestation, or may request that a certifier do so.

Thank you for your help and cooperation in implementing this practice. If you have any questions regarding this policy, you may contact Meg Kuhn at (202) 260-8635 or meg.kuhn@ams.usda.gov; or the Accreditation and International Activities Director at (202) 720-3252.

Enclosures:

Page 3-4: Appendix 1 and Appendix 2 of the *January 20, 2012 Canadian Letter to U.S.*

Page 5-6: Appendix 1 and Appendix 2 of the *June 17, 2009 U.S. Letter to Canada*

Appendix 1

1. Agricultural products produced with the use of sodium nitrate shall not be sold or marketed as organic in Canada.
2. Agricultural products produced by hydroponic or aeroponic production methods shall not be sold or marketed as organic in Canada
3. Agricultural products derived from animals (with the exception of ruminants) must be produced according to livestock stocking rates as set out in CAN /CGSB32.310-2006 (amended October 2008).

Appendix 2

The CFIA grants this equivalency determination under the following conditions:

1. The USDA will notify the CFIA in a timely manner of any:
 - (a) changes with respect to the USDA's competent authority and certifying agents;
 - (b) proposed legislation or rulemaking that would modify the United States Organic Foods Production Act of 1990 and *National Organic Program* Regulations;
 - (c) instances of significant non-compliance with its organic certification program. For purposes of this equivalency determination, "significant" means any non-conformity that materially affects the integrity of the agricultural product.
2. Following advance notice from the CFIA, the USDA shall permit the CFIA to conduct on-site evaluations to verify that the USDA's certifying agents are carrying out the requirements of the United State's organic certification program, including through visits to agent facilities and to production facilities and farms that agents have certified. The USDA shall cooperate and assist the CFIA, to the extent permitted under domestic law, in carrying out such evaluations.

Appendix 1

1. Agricultural products derived from animals treated with antibiotics shall not be marketed as organic in the United States.

Appendix 2

USDA grants this equivalency determination under the following conditions:

1. The CFIA will notify USDA in a timely manner of any:
 - (a) changes with respect to the CFIA's competent authority and certifying agents;
 - (b) proposed legislation or rulemaking that would modify any of Canada's laws or regulations referred to in paragraph 1;
 - (c) instances of significant non-compliance with its organic certification program. For purposes of this equivalency determination, "significant" means any non-conformity that materially affects the integrity of the agricultural product.
2. Following advance notice from USDA, the CFIA shall permit USDA to conduct on-site evaluations in Canada to verify that the CFIA's certifying agents are carrying out the requirements of Canada's organic certification program, including through visits to agent facilities and to production facilities and farms that agents have certified. The CFIA shall cooperate and assist USDA, to the extent permitted under domestic law, in carrying out such evaluations.