

1. Introduction

Further to sector consultation conducted earlier this year, the Ministry of Agriculture (the “Ministry”) intends to regulate organic food and beverage products grown and sold in BC. Starting in the fall of 2018, all food and beverage products marketed in BC as “organic” must be certified through an accredited federal or provincial organization.

The regulatory system will provide certainty to consumers that “organic” refers to recognized, consistent standards and practices. The system will directly contribute to promoting and protecting consumer confidence in BC organic food and beverage products.

The regulatory system will also support the increasing market demand for BC organic food and beverage products, and will situate the province to develop this opportunity for economic growth. Additionally, the system will promote the BC Certified Organic brand, and provide business support to certified organic farmers.

This Intentions Paper outlines the current and proposed regulatory systems. The Intentions Paper and links to current legislation are posted on the BC Government website. The Intentions Paper can be accessed from the BC Government website under the Organic link.

2. Background

A. Existing Legislative Framework

Organic food and beverage producers and processors in BC must comply with a federal certification process in order to market their products outside the province; however, producers and processors are not required to undergo a certification process if they sell exclusively within BC.¹

Organic certification is currently available to producers and processors in BC. The certification process is administered by the Certified Organic Associations of British Columbia (“COABC”) under the *Agri-Food Choice and Quality Act*² and the Organic Agricultural Products Certification Regulation (“OAPCR”)³. To be certified under the scheme, a person must become a member of, and be certified by an agency operating under delegated authority from COABC. Under the OAPCR, certification is dependent on compliance with the British Columbia Certified

¹ See Appendix A for details.

² *Agri-Food Choice and Quality Act*, [SBC 2000] Chapter 20.

³ Organic Agricultural Products Certification Regulation, B.C. Reg. 200/93.

Organic Production Operation Policies and Management Standards⁴. COABC has also adopted the Canada Organic Standards for production requirements.

Many producers and processors routinely advertise their food and beverage products within BC as organic without undergoing provincial certification. This situation creates uncertainty in the marketplace – consumers cannot be reliably sure about what practices may or may not be followed by producers or processors who market “organic” food or beverage products.

In future, by prohibiting use of the term “organic” to market a food and beverage products without proof the product is certified, this uncertainty is eliminated.

B. Recent Consultation on Organic Regulation

The Ministry consulted with industry in the spring of 2015. The consultation summary can be found under the Organic link at the BC Government website.

A majority of certified organic operators (78%) that participated in the consultation support increasing consumer certainty and predict positive impacts if the proposed certification scheme is implemented. The consultation survey results indicated that of the 72 non-certified respondents, 23% plan on becoming certified while 40% are undecided.

The Ministry anticipates the following positive outcomes from the proposed regulatory system:

- Removing operators who make false organic claims from the competitive marketplace,
- Leveling the playing field for farmers who adhere to recognized organic practices, and
- Increasing consumer confidence.

3. Implementation

I. New Regulation

The Ministry intends to introduce a new regulation that restricts the use of “organic” in intra-provincial marketing.

The new regulation will clearly state that no one may advertise their food and beverage products for sale in BC as organic unless it has been certified through one of the following two systems:

- Provincial certification through the Organic Agricultural Products Certification Regulation (*Agri-Food Choice and Quality Act*)⁵; or

⁴ British Columbia Certified Organic Production Operation Policies and Management Standards, Version 9, Book 2, Certified Organic Management Standards: http://www.certifiedorganic.bc.ca/standards/docs/Book_2_V9.pdf (June 17 2015).

- Federal certification through the Organic Products Regulation (*Canada Agricultural Products Act*)⁶.

Until the new regulation is in place, the certification scheme as it currently operates will continue under the existing legislation.

COABC currently administers the BC Certified Organic Production Operation Policies and Management Standards⁷ that are used to certify producers and processors on a voluntary basis.

Certification under the OAPC Regulation allows producers and processors to use the existing prescribed phrase “BC Certified Organic” and checkmark symbol that has gained recognition in the provincial marketplace.

Becoming certified under the Organic Products Regulation and *Canada Agricultural Products Act*⁸ is an option for producers and processors wishing to market their food and beverage products as organic either within BC or outside the province (or both). Producers and processors who choose this option may use the Canada Organic symbol in accordance with the Organic Products Regulation⁹.

II. Transition

There will be a transition period for those wishing to market organic food and beverage products within the province who are not yet certified. The Ministry is committed to working with the organic sector to build the BC Certified Organic brand, and will provide programs to assist producers and processors with the transition process. More information about these transition programs is available on the BC Government website under the Organic link.

The transition period will last approximately 3 years from 2015 to 2018. These changes will not be enforceable until 2018 in order to provide producers and processors an appropriate amount of time to bring their practices into compliance. During this transition period, producers and processors wishing to transition should:

- Review the BC Certified Organic Production Operation Policies and Management Standards¹⁰ and the federal Organic Production Systems General Principles and Management Standards¹¹,

⁵ See note 3.

⁶ Organic Products Regulation, 2009 SOR/2009-176.

⁷ See note 4.

⁸ *Canada Agricultural Products Act*, (R.S.C., 1985, c. 20 (4th Supp.)).

⁹ See note 6.

¹⁰ See note 4.

- Make any necessary changes to their practices in order to comply with the relevant standards for certification, and
- Gather materials and submit an application to a certification agency for either provincial or federal certification¹².

III. Enforcement

Once the new regulation is in force (target 2018), organic producers and processors will be required to maintain current proof of certification. Organic producers and processors will also be required to provide proof of certification to a Ministry-appointed Enforcement Officer upon request. If an Enforcement Officer asks to see proof of certification, and the producer or processor cannot or refuses to provide proof, penalties may apply.

Enforcement Officers will be empowered to issue tickets¹³, and the failure to pay fines imposed by the tickets or repeated infractions may result in legal action.

4. Implications

A. For Certified Producers and Processors

Producers and processors already certified under the provincial or federal system will not need to make any changes to their practices. The main implications for certified producers and processors are:

- 1) All competitors who market organic food and beverage products will now operate under the same rules and will be subject to the same requirements, which will level the competitive market,
- 2) Producers and processors should be prepared to produce proof of certification upon request by an Enforcement Officer, and
- 3) Producers and processors must maintain up-to-date certification in order to use the term “organic” in marketing.

B. For Non-Certified Producers and Processors

Non-certified producers and processors who currently market their food and beverage products as organic will need to either become certified under the new regulation, or cease

¹¹ Organic Production Systems - General Principles and Management Standards, CAN.CGSB-32.310-2006: <http://www.tpsgc-pwgsc.gc.ca/onc-cgsb/programme-program/normes-standards/internet/bio-org/principes-principles-eng.html> (June 18 2015).

¹² See Appendix B.

¹³ Violation Ticket Administration and Fines Regulation, B.C. Reg. 89/97.

using the term organic in marketing. Non-certified producers and processors may market their products using other terms as applicable.

5. Appendixes

Appendix A: Current Legislation

Intra-provincial Marketing

BC producers and processors of food and beverage products are currently able to market their commodities within the province as organic without undergoing certification.

The provincial legislative framework provides for voluntary certification through the *Agri-Food Quality and Choice Act* (“ACQA”). The ACQA allows programs to be established in which persons may have their food and beverage products certified under a prescribed program.

The Organic Agricultural Products Certification Regulation (“OAPCR”) establishes “BC Certified Organic” as a prescribed phrase, and a “checkmark” as a prescribed symbol. Use of the phrase and symbol is administered through the Certified Organic Associations of British Columbia (“COABC”).

Extra-provincial Marketing

Extra-provincial marketing of organic food and beverage products is currently regulated under the *Canada Agricultural Products Act* (“CAPA”) ¹⁴. According to the Organic Products Regulation under the CAPA, no one may advertise or market a product as “organic” in interprovincial trade unless the product has been certified by an accredited body ¹⁵ (ss. 24-26).

Appendix B: COABC Accredited Certification Agencies

For products marketed exclusively within BC

- Bio-Dynamic Agricultural Society of British Columbia (BDASBC)
 - 1604-740 Hamilton St., New Westminster BC V3M 5T7
 - Ph: (604) 517-0307; E: bdcertification@yahoo.ca

- Islands Organic Producers Association (IOPA)

¹⁴ See note 8.

¹⁵ Other certification bodies can provide organic certification services under the Canada Organic Regime <http://www.inspection.gc.ca/food/organic-products/certification-and-verification/certification-bodies/eng/1327860541218/1327860730201>.

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- 3490 Glenora Rd., Duncan BC V9L 6S2
- Ph: (250) 748-2791; E: lmime@telus.net

- Kootenay Organic Growers' Society (KOGS)
 - PO Box 684, Nelson BC V1L 5R4
 - Ph: (250) 352-9784; E: office@kogs.bc.ca

- Living Earth Organic Growers' Association (LEOGA)
 - RR1 S14 C9, Naramata BC V0H 1N0
 - Ph: (250) 496-5616; E: johnosns@vip.net

- North Okanagan Organic Association (NOOA)
 - 4834 Cedar Hill Rd, Falkland BC V0E 1W1
 - Ph: (250) 540-2557; E: northorganics@gmail.com

- Similkameen Okanagan Organic Producers Association (SOOPA)
 - 4834 Cedar Hill Rd, Falkland BC V0E 1W1
 - Ph: (250) 540-2557; E: simokorganics@gmail.com

For products marketed Canada-wide

- British Columbia Association for Regenerative Agriculture (BCARA)
 - 2110 Hector Rd, Comox BC V9M 3Y7
 - Ph: (250) 205-0279; E: BCARA.Admin@gmail.com

- Fraser Valley Organic Producers' Association (FVOPA)
 - PO Box 19052, Delta BC V4L 2P8
 - Ph: (778) 434-3070; E: admin@fvopa.ca

- Pacific Agricultural Certification Society (PACS)
 - 3402 32nd Ave, Vernon BC V1T 2N1
 - Ph: (250) 558-7947; E: admin@pacscertifiedorganic.ca