



To the Editor:

This is an article from a series of monthly columns by Environmental Law Specialist Dianne Saxe, one of the top 25 environmental lawyers in the world. These articles are available for publishing at no charge, provided Dr. Saxe is cited as the author. She can be contacted at (416) 962 5882 or [admin@envirolaw.com](mailto:admin@envirolaw.com). For more information, visit <http://envirolaw.com>.

## What's organic?

After years of confusion, Canada finally has regulations on what can be called "organic food". But they won't be fully enforced for at least two years.

Organic food is no longer the purview of natural food stores; mainstream supermarket chains sell over 40% of organic food in Canada.<sup>1</sup> In 2006, supermarket sales of certified organic food grew 28%.<sup>2</sup> Demand for certified organics continues to grow, and the number of farms reporting certified organic products has grown from 2230 farms in 2001 to 3555 in 2006. Nevertheless, organic does not mean local: over 80% of Canada's organic consumer products are imported, mainly from the U.S.<sup>3</sup>

Canada is now catching up with many other jurisdictions, and has adopted mandatory standards for use of the word "organic" on food. The *Organic Products Regulations, 2009* (OPR) to the *Canada Agricultural Products Act* came into effect June 30, 2009<sup>4</sup>. They apply to food and drink for human consumption as well as to food for livestock.

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<sup>1</sup> Holmes M & Macey A. *Canada's Organic Market*. Canadian Organic Growers. <http://www.cog.ca/documents/CdnOrganicMkt2007.pdf>

<sup>2</sup> Kendrick J. *Organic: from niche to mainstream*. March 28 2008. Statistics Canada Catalogue no. 96-325-XIE2007000. At <http://www.statcan.gc.ca/pub/96-325-x/2007000/article/10529-eng.pdf>

<sup>3</sup> Holmes M & Macey A. *Canada's Organic Market*. Canadian Organic Growers. <http://www.cog.ca/documents/CdnOrganicMkt2007.pdf>

<sup>4</sup> SOR/2009-176 <http://www.gazette.gc.ca/rp-pr/p2/2009/2009-06-24/html/sor-dors176-eng.html>. There were significant amendments to the regulations since they were originally promulgated in 2006 (as SOR/2006-338 and slated to come into force on December 14, 2008); in accordance with drafting convention, the regulations were repealed and replaced by the 2009 version, and the coming into force date was extended to June 30, 2009.

They also apply to the cultivation of plants.<sup>5</sup> This means that Christmas trees and flowers are included, but aquaculture, personal care products, and cosmetics are not.

The OPR defines what counts as "organic" practices in agriculture and food processing. It does this by adopting existing standards that have been developed through multi-stakeholder negotiations. This includes the Canadian General Standards Board (CGSB) Organic Standards and the Organic Production Systems Permitted Substances Lists (PSL), which sets out every substance permitted to be used in production and preparation of an organic product. The PSL is surprisingly long and can be purchased through CGSB;<sup>6</sup> it defines what can be used for fertilizer, plant food, soil amendment, weed control, livestock production (e.g., feed additives, supplements) and in processing and sanitation (e.g., cleaners, disinfectants, pest control agents).<sup>7</sup>

A Canadian Food Inspection Agency (CFIA)-accredited certification body (CB) must certify that each producer of certified organic products meets these Canadian Organic Standards. Certified products from countries with equivalent organic regulations, such as the United States, may also be sold here as "organic".<sup>8</sup> The OPR includes enforcement provisions intended to prevent the sale of products that falsely claim to be organic.<sup>9</sup>

Strictly speaking, these federal regulations only apply to "organic" products that will cross national or provincial borders, or will use the new federal organic logo:



But producers may choose to follow federal regulations across the country, even for products made and sold within a single province. Within British Columbia and Québec, they must also follow provincial standards.

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<sup>5</sup> OPR s. 2

<sup>6</sup> It would be desirable if the PSL were published for free access, but this does not appear to be the case. An outdated (2006) PSL is available at [www.organiccouncil.ca/download.sz?id=212](http://www.organiccouncil.ca/download.sz?id=212). As well, the Atlantic Canadian Organic Regional Network (ACORN) publishes a comprehensive Directory of Allowable Organic Inputs. At <http://www.acornorganic.org/acorn/>. It is interesting to compare this list against Québec's Organic Agriculture Permitted Substances List (January 2008 version) at [http://www.ecocertcanada.com/eng/RABLI\\_E\\_2008.pdf](http://www.ecocertcanada.com/eng/RABLI_E_2008.pdf)

<sup>7</sup> CGSB Info: Standards for organic agriculture – FAQ (updated March 16 2009) [http://www.tpsgc-pwgsc.gc.ca/cgsb/on\\_the\\_net/organic/faq-e.html](http://www.tpsgc-pwgsc.gc.ca/cgsb/on_the_net/organic/faq-e.html)

<sup>8</sup> CFIA. *Canada Organic Regime: Stream of Commerce and Enforcement Policy* (last updated June 26 2009) at <http://www.inspection.gc.ca/english/fssa/orgbio/orgbiopolie.shtml>

<sup>9</sup> OPR s. 20

## Recognizing a certified organic product

One easy way is to look for the new federal logo, shown above. It signifies a product with at least 95% organic content. These products must be certified and the label must show who gave the certification. These products may also be labeled “organic” (or “organically grown” or similar words). Note, however, that the Canada Organic logo is not restricted to products grown in Canada.

Other options:

- Products with 70% to 95% organic content may claim “X% organic ingredients”, but *cannot* use the claim “organic” or the “Canada Organic” logo. These products must be certified and the label must include the name of the accredited CB.
- Products with organic content under 70% may *not* be labelled organic or use the “Canada Organic” logo, but may identify an organic product it contains in its list of ingredients.<sup>10</sup>

In the case of imported products, the label must state “Product of [country]” or “Imported”.<sup>11</sup>

The Canadian food inspection agency is giving producers two years to transition from the existing, voluntary program and to fully comply with the new regulations. In the interim, the *Stream of Commerce and Enforcement Policy* will allow producers to continue to label some products as “organic” based on existing, voluntary certifications that may not meet the new standards.<sup>12</sup>

The new standards should create a level playing field for the term “organic” in Canada, and should help Canadian exporters access markets that require reciprocal organic regulations.<sup>13</sup> But they don’t solve all problems. The new standards may be too expensive for small farmers, and they don’t help with the local versus organic debate. Many consumers incorrectly assume that “organic” foods are necessarily “pesticide-free”, “free-range”, and “natural” – which may not be the case. And on health questions, studies comparing the nutrient value of organic foods to conventional ones have yielded

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<sup>10</sup> OPR at ss. 24, 25

<sup>11</sup> OPR s. 25(1)(c)

<sup>12</sup> <http://www.inspection.gc.ca/english/fssa/orgbio/orgbiopolie.shtml>

<sup>13</sup> Forge F. Organic farming in Canada: An overview. Library of Parliament PRB 00-29E. Revised October 5 2004 (at p.6) At <http://www.parl.gc.ca/information/library/PRBpubs/prb0029-e.pdf>

inconsistent results.<sup>14</sup> Variability in nutrients can have many causes, e.g., fertilizers and pesticides used, growing conditions, soil quality, weather, and (for animals) age/breed and feeding regimen, as well as transport, storage and how the food is prepared.

### **Organic or local?**

We have had long debates at our house and with our friends about whether it is more important to buy food that is “organic” or local. We are anxious to avoid consuming pesticides, but equally anxious to support local farmers, protect the environment and promote biological diversity by eating food that grows close to home. More than 12,000 Canadian farmers grow their food with organic practices, but find it too expensive or too limiting to be certified as “organic”. The new rules may make this certification even more expensive for them.

Given the choice between eating sustainably grown local produce, and certified organic produce flown from Chile or California, we have decided to buy from our local farmers whenever possible, even if they don't have the new organic logo. But when sustainable, locally grown produce is unavailable, we will buy the certified organic strawberries instead of the ones grown with pesticides.

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<sup>14</sup> Dangour AD, Dodhia SK, Hayter A, Allen E, Lock K, Uauy R. *Nutritional quality of organic foods: a systematic review*. Am J Clin Nutr 2009;90:680–5. The authors reviewed nearly 52,500 articles.