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Distribution: Perishable Agricultural Commodities Act (PACA) Licensees

### **Impact of Fumigation on Organic Labeling and Sale**

Dear PACA Licensee:

The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS) is reminding all importers of organic agricultural commodities that fumigation of those commodities renders them ineligible for sale as “organic.”

In 2017, the USDA Office of the Inspector General noted that imported agricultural commodities, whether organically or conventionally grown, are sometimes fumigated at U.S. ports of entry to prevent prohibited pests from entering the U.S. All known fumigants are prohibited for use under the USDA organic regulations. As such, this letter serves as notification that the sale, labeling, or representation of a fumigated agricultural commodity as “organic” is not permitted. Mislabeling agricultural commodities as “organic” when those commodities do not meet the requirements of the USDA organic regulations, could constitute misbranding under the Perishable Agricultural Commodities Act (PACA).

U.S. Customs and Border Protection Agriculture Specialists (CBPAS) perform agricultural inspections of imported agricultural commodities to ensure shipments do not pose a risk to U.S. agriculture or natural resources. Some commodities may require treatment upon entry into the U.S., either because plant pests or diseases are detected, or as a mandatory condition of entry. CBPAS submit discovered pests to USDA’s Animal Plant Health Inspection Service (APHIS) for identification. If the pest submitted are determined to be a threat to the U.S., the shipment may be treated as a required measure.

Prior to taking any action on an imported shipment of an agricultural commodity determined to be a threat to the U.S., Customs and Border Protection notifies responsible parties of available measures to mitigate the threat: re-export, treat (fumigate), or destroy the shipment. As part of a pre-clearance process or pre-arranged operational work plan with the exporting country, some agricultural commodities are treated prior to arrival in the U.S.

To ensure truthful labeling of imported organic agricultural commodities and to ensure handling processes used during importation comply with the USDA organic regulations, AMS encourages importers to review the National Organic Program guidelines and other requirements outlined in the Fruit and Vegetable Import Requirement (FAVIR) Database. The FAVIR Database is an online reference that outlines import requirements for various commodities and countries. It

provides easy access to regulations and information on fruit and vegetable imports into the U.S. See <https://epermits.aphis.usda.gov/manual/index.cfm?ACTION=pubHome>.

PACA licensees handling organic agricultural commodities are responsible for ensuring that the commodities comply with all the requirements of the [USDA organic regulations](#) and that fumigated agricultural commodities are not labelled or sold as “organic.” Be advised that a PACA licensee who sells, labels, or represents agricultural commodities as “organic” when they are not, may be subject to civil penalties under the National Organic Program, and may be subject to civil penalties, license suspension, or license revocation under the Perishable Agricultural Commodities Act.

For further information on the labeling rights and responsibilities of fruit and vegetable sellers, please visit [www.ams.usda.gov](http://www.ams.usda.gov). Thank you for your commitment to transparency and integrity in the U.S. marketplace.

Sincerely,



Randall D. Jones  
Deputy Administrator  
AMS Fair Trade Practices Program



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AMS National Organic Program