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June 18, 2018

Secretary Sonny Perdue

U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

Dear Secretary Perdue,

There is an urgent matter that The Cornucopia Institute believes necessitates the attention of the USDA and justifies emergency rulemaking. As your office is undoubtedly aware, fraudulent organic grain has infiltrated the United States and has resulted in monumental losses to domestic organic farmers. These losses and diminishing consumer confidence in the USDA's organic label represent an unprecedented threat to organic markets and domestic growers.

Data we have uncovered, outlined in the enclosed report, leads us to believe that a significant percentage, if not a majority, of feed being used in the organic livestock sector might actually be fraudulent, placing the entire industry at risk.

In July of 2017, The Cornucopia Institute submitted a Citizen's Petition to the USDA's National Organic Program (NOP) and the National Organic Standards Board (NOSB) requesting that the USDA engage in emergency rulemaking to protect domestic markets. Having never received a formal response by either the NOP or NOSB, we renewed our calls for the emergency measures that we requested in the Petition at the NOSB meeting held in Tucson this past April.

In April, Cornucopia also alerted the public to a federal lawsuit, then pending in California, which involved the suspicious shipment of 25,000 metric tons of "organic" corn carried aboard the MV Mountpark. The shipment was rejected by U.S. Customs and USDA-APHIS on the basis that the corn was harvested in Russia, Moldova, and Kazakhstan and was not sufficiently processed to allow the importer, Sunrise Foods International, to offload it.

Although, the shipment was not flagged by governmental authorities based on its questionable "organic" status, but rather to comply with regulations addressing pest and pathogen concerns, the procedures we have long called for to verify the organic authenticity of the cargo should have been in place to warrant an investigation on the cargo's organic status.

Since the rejection of the Mountpark shipment, our investigation has progressed. We have reason to believe that the organic integrity of the shipment was compromised. In light of these findings, we have prepared a report that identifies the entities engaging in troubling trade practices in the importation of organic grain, which has been facilitated by lax, often non-existent enforcement, and monumental regulatory failures endemic in the U.S.

We want to emphasize that neither this case of potential fraud, nor the fraud outlined last year in an investigative story by *The Washington Post*, nor any others to our knowledge, were identified by the NOP or its accredited certifiers. This industry cannot depend on public interest charities and journalists for oversight. The reputation of a \$50 billion sector of the food industry is at risk.

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Our report also outlines how stricter protocols in the European Union left the U.S., which has long been plagued by a weak enforcement regime, vulnerable to unscrupulous traders unable to access European markets. In the wake of documented fraud involving cross-border trade of organics, the European Commission took immediate action to implement stricter protocols. These protocols include:

- Complete documentation at points of entry that verify a product's organic status, including the customs declaration, all transport documents, and verification of names, addresses, and valid certification of all operators in the flow of trade.
- Sampling and analyzing each shipment at points of entry for pesticide residues.

Cornucopia advocated for similar measures in our formal Citizen's Petition. In addition to the reform we requested requiring that every entity in the supply chain be certified and required to conduct full audit-trail traceback, we requested the following emergency measures:

- The USDA must immediately implement protocols and procedures to require testing of any bulk shipment of "organic" grain that meets minimum volume or monetary value thresholds and is presented for import at ports, docks, and border crossings of the United States. To accomplish this task, the USDA should coordinate with the FDA and U.S. Customs to ensure an appropriate alert system for inbound shipments exists and that inspectors have access to the ports facilities. If a load tests positive for pesticide residue, synthetic fertilizer use (by nitrogen isotope testing), or GMOs, the load should be detained, an investigation conducted, and enforcement actions taken.
- The USDA should require all NOP accredited certifiers which certify producers located in high risk countries to immediately deploy inspectors to conduct unannounced pesticide residue tests and to verify acreage and yield data.

The European Commission's implementation, again, on an emergency basis, of stricter protocols at border crossings has curbed the flow of fraudulent organic commodities into member countries. The USDA should, at a minimum, adopt those same protocols that have proven effective in the EU so that our domestic farmers and consumers are not victimized by cheaters.

**The U.S. cannot continue to provide an easy avenue of entry for fraudulent organic commodities.** The continued flow of fraudulent organics into our stream of commerce threatens the organic industry that is so vital to the health of our citizens and quality of our environment and also to the national economy.

We again urge the USDA to engage in emergency rulemaking to engender trust in the organic products for which consumers pay a premium. We strongly believe this is necessary to infuse confidence in the USDA organic label in light of the mounting evidence that significant quantities of conventional animal feed, represented as organic, have likely made their way into U.S. markets.

Sincerely,



Anne Ross, J.D.