



April 10, 2017

Promotion and Economics Division, Specialty Crops Program
AMS, USDA
1400 Independence Ave. SW, RM. 1406-S, Stop 0244
Washington, DC 20250-0244

**RE: Docket No. AMS-SC-16-0112; PR-A1
Proposed Organic Research, Promotion, and Information Order**

Founded in 1983, the Northeast Organic Farming Association – New York (NOFA-NY) is the premier statewide organization growing a strong organic and sustainable agriculture movement in New York State. NOFA-NY provides education and assistance to local organic and sustainable farmers; connects consumers with organic and sustainable farmers; advocates policies that support a sustainable food and farm system at both the state and federal levels; and we are the largest USDA-accredited organic certifier in New York certifying over 1,000 organic operations in the state.

NOFA-NY opposes the Organic Research, Promotion and Information Order submitted to the USDA by the Organic Trade Association because it is not farmer friendly, will benefit US organic sales, not production, and will negatively impact all organic certificate holders, whether or not they are assessed. Given its stated purposes, it is unlikely to benefit the growth, sustainability or profitability of organic farmers in the U.S., yet will require burdensome paperwork for all, and is an unfair tax.

The Purpose(s) of this Order.

On its face, there is no doubt that this program, administered through USDA's Agriculture Marketing Service, has a goal of increasing markets and sales of organic products. This is stated in several places in this proposal, including:

pp. 5750: The purpose of this program would be to: (1) Develop and finance an effective and coordinated program of research, promotion, industry information, and consumer education regarding organic commodities; and (2) maintain and expand existing markets for organic commodities.

pp. 5773: The Board would develop and submit to the Secretary for approval programs, plans and projects regarding promotion, research, information and other activities including consumer and industry information and advertising (designed to,

among other things, build markets and develop new products, including new uses of existing organic products, new organic products or improved technology in the production, processing and packaging of organic products).

pp. 5775: The proposed program is expected to grow markets for organic products by increasing the number of certified organic farmers, increasing the amount of organic acreage, conducting research into viable pest management tools, and educating consumers on the meaning of the USDA organic label.

Yet, this program which increases sales and markets makes no commitment to U.S. organic farmers. Without a stated purpose of supporting and increasing the viability and sustainability of U.S. organic agriculture and organic farmers, there is no reason to believe that this program can help activate the growth of organic farmers and farms. In fact, it may conversely encourage further, cheaper organic imports.

We know from recent census data that the growth in organic acreage is “growing at a much slower pace than demand, requiring an increasing percent of U.S. organic food to be imported to meet consumer needs.” [<http://www.nationalorganiccoalition.org/domestic-production>] Promotion programs operate on the demand end of the marketplace, and have no interest in how the supply meets that demand.

This promotion program would be funded through a tax on organic farmers and producers yet would ultimately bring little benefit to their particular issues. It will create yet another annual set of paperwork burdens on all certified entities, and will tax a percentage of them, yet will not address the need in the U.S. to grow both the number of acres and numbers of farmers engaged in organic. This need to grow organic includes social impacts such as saving the livelihoods of our family farmers, as well as environmental and health reasons. Organic farming has the ability to contribute significantly to climate change mitigation through the major sequestration of carbon in soil, yet USDA programs such as this focus on growing the market sales, not the farmers or farms.

The lesson from many of the existing (single commodity) Research and Promotion programs (e.g., Beef and Pork) administered by USDA, has been that even as demand increases, prices to farmers have dropped, and through consolidation in the marketplace, there has been a significant lowering of numbers of farmers as well as their profitability.

While it is understood that this USDA program holds no such provisions, it would be much more reasonable to look to the rest of the organic value chain, and assess distributors, wholesalers, and retailers, since they are receiving benefits from skyrocketing organic sales, and currently have no responsibility in paying for its promotion.

Paperwork Burden on All Certified Entities

Each of the categories below entails separate paperwork. Any certified entity would be required to complete *at least two* of these forms of documentation:

1. Whether or not they have to pay into the Program, **all certified entities of any size will be required to submit a report each year** documenting their Gross Organic Sales to determine whether they will be assessed under this program or are exempt. They would need

to maintain books and records needed to “carry out the provisions of the proposed program, including for verification of any required reports” and retain those records for at least two years beyond the applicable calendar year.

2. If an entity’s gross sales are greater than \$250,000 in any year, they will calculate their Net organic sales for the previous year ending on December 31st multiply it by 0.001 and submit a report and check to the program by March 31st.
3. If an entity’s gross sales are less than or equal to \$250,000 in any year, they could apply for an exemption from payment under the Act, which must be approved by the Secretary each year. This is different than No. 1, above.
4. If they are part of a commodity with an existing conventional checkoff they would have to apply annually for exemption from assessment by that program. Prior to the start of the calendar year, the entity would apply to the Secretary of Agriculture on a form supplied by the program, for an exemption to assessment by the conventional program to ensure that they would not have double deduction. They would also have to prove that they have paid into the organic checkoff for the previous year. These entities would need to request refunds if conventional checkoff deductions are taken at source, for example dairy on their milk check, beef and lamb at auctions.
5. If the entity is part of a State promotion program rather than a Federal program, the USDA will “encourage” those programs to recognize the Federal program. Entities can apply for an offset of 25 percent of the payment to the federal program to compensate for monies paid to a State or Regional program if the State and Regional programs agree.

§12566.17 Importer. Importers do not have to be certified organic handlers, but would be given the vote if they comply with an undefined “authorized international standard” that may not even have to comply with U.S. organic standards. This creates a disadvantage, and undermines the vote of all the U.S. certified entities.

§1255.21 Net organic sales. The definition of the costs associated with calculating Net Organic sales is inappropriate and means that farmers who keep their ‘costs’ low by growing their own feed, forage, fertility or other inputs, are actually penalized. Compared with farms that purchase all their inputs, their net sales will be higher, and they will be assessed higher because they do not purchase outside inputs. In addition, the definition of costs does not include labor (salaries and wages); property taxes; loan/mortgage repayment; insurance; building and machinery repair, maintenance, land rent; capital expense; utilities; fuel ; milk marketing charges, certification expense, trucking, professional service providers such as nutritionist, accountant, veterinarian etc. Farms that engage in grass-fed livestock production for instance will be penalized in their assessment in comparison with farms that purchase feed and forage.

§1255.41(d)(2) – Voluntarily assessed certified organic producers seeking nomination to the Board should be able to apply for all seats that they are qualified for.

§1255.45 Reimbursement and attendance. To encourage participation on the Board by actual

working farmers, reimbursement for specific replacement workers on farms for sole proprietorship farmers should be included. Specific parameters may be developed, but should help, for instance, with a replacement milker on a dairy farm.

§ 1255.81(a) Referenda. Initial Referendum. Because this Program will directly affect all certified entities, whether or not they will be assessed, the initial referendum should be open to all currently certified domestic entities on the list maintained by the National Organic Program. All of these entities will be burdened by the extra paperwork each year, and many of the exempt entities will be subject to the assessment in future years as their profits grow and they exceed the \$250,000 gross organic sales threshold. According to USDA's calculations, 76% of certified organic farmers in the U.S. would not be eligible to vote in this referendum unless they choose to be 'voluntarily assessed.' All certified entities deserve a voice in this Referendum.

For organic producers, this program is about much more than just the dollars assessed, and it will affect them in numerous ways. As previously stated, there is the significant additional annual paperwork burden to document net sales, and then to either apply for an exemption or apply to be voluntarily assessed. In addition, this proposed program is about the research and promotion of organic producers' products, both generically and specifically.

Producers will have little input as the Board hands out research and promotion dollars to commodities other than their own, or perhaps to commodities in competition to their own – for example, plant-based milk versus cow, sheep or goats milk. Or, dollars for agronomic research on California strawberries but not for Southeast strawberries. Or promotion on the health value of produce but not meat.

Therefore, all currently certified domestic entities (on the most recent list maintained by the National Organic Program at the time of the vote) – regardless of gross organic sales – must be permitted a vote in the initial referendum.

Analysis of the Actual Money. \$25-\$30 million per year.

Is this program going to actually do what it claims it can do? First off, whatever the original 'pot of money' is, will be reduced by whatever amount the USDA needs to do their administration of the program. It is unclear who will be in charge of enforcement, but at least with regards to the imports, both assessing them and enforcing the assessment will be USDA's task. It is likely that it will also be USDA who will be evaluating the annual assessment documents from the nearly 20,000 US certified entities. The cost of USDA's administration of this complicated program may be much higher than anticipated, and could take significant amount of money off the top of the program money available for promotion and research.

Of the remaining pot of money, 15% will be used for administration by the Board. After USDA's and the Board's share, program money gets divided up.

Of most interest to NOFA-NY is the agricultural research money.

1. Even at the most optimistic calculations, 12.5% will be used for actual agricultural research, and optimistically would be ~ \$3.2 million per year – for the entire country. Divide that amongst 6 regions = \$ 533,000 per region [see NoOrganicCheckoff.com]. Which of all

the organic commodities get to do that research in any particular region?

2. It is also unclear if once such a “research” program is in place, whether USDA would be playing a “zero sum game” with organic research. That is, if the “private sector” is providing some amount of organic research dollars, USDA – operating under significant cost-cutting demands – could decide that USDA contribution to organic research will be lowered by that much. This is unacceptable, and largely unknowable, but still cause for concern.

§1255.41(c). Finally, it is unclear whether promoting organic generically for its health and environmental attributes would be considered disparagement of other agricultural commodities, which is prohibited in §1255.41(c). The arbiter of this ‘disparagement’ clause is the Agency, but complaints could come from any other commodity. Depending on how USDA interprets this, it might obviate the need for this Promotion program altogether.

NOFA-NY believes that the proposed Organic Research, Promotion and Information Order “Checkoff program” could unfairly promote large organic processors’ needs over those of independent, family farmers. These USDA programs focus on the marketplace. They are not about farmers or farming.

Without a stated goal to increase U.S. organic farmers and farms, we believe this Checkoff program will increase demand, and encourage supply at the fastest rate and lowest cost through consolidation and global supply – never good for smaller, independent organic farmers or farms.

Organic is about more than sales—it’s about the organic agriculture’s benefits to the environment and to animal and human health. Unless we preserve the **viability and profitability** of our farmers, and increase organic farmers and farms, we will not see these health and environmental benefits.

Sincerely,



Liana Hoodes, Policy Advisor