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Organic Promotion, Research, and Information Order;
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Thank you for your request for partial proposals on a new industry-funded promotion, research and information order (checkoff) for organic products, which would be developed under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act).

This partial proposal is submitted on behalf of the Northeast Organic Farming Association—Interstate Council (NOFA-IC) representing the seven independent state NOFA Chapter organizations: NOFA-NY, NOFA-VT, NOFA-NH, NOFA/MASS, CT-NOFA, NOFA-RI and NOFA-NJ. Founded in 1971, NOFA is one of the oldest grassroots organic farming associations in the U.S. with a membership consisting of organic farmers, gardeners and consumers. Interstate NOFA has a combined membership of 6,000 with an average of one-third being farmers.

NOFA has been meeting regularly with organic farming groups from around the country (and attended a meeting with top AMS officials in mid-June) to address the proposed USDA Generic Research and Promotion Order for Organic (checkoff) and to develop more effective and acceptable partial proposals that should be included in any non-discriminatory, sector-wide organic checkoff program.

NOFA submits the following partial-proposal based on the **Commodity Promotion, Research, and Information Act of 1996** (1996 Act) and on the **Agriculture Reform, Food, and Jobs Act of 2013: SEC. 10012. ORGANIC PRODUCT PROMOTION ORDERS** which defined the organic commodity in the following way:

(b) Organic Commodity Promotion Order- Section 501 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401) (as amended by subsection (a)) is amended by adding at the end the following:

(f) Organic Commodity Promotion Order-

(1) DEFINITIONS- In this subsection:

`(A) CERTIFIED ORGANIC FARM- The term `certified organic farm' has the meaning given the term in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).

(B) COVERED PERSON- The term `covered person' means a producer, handler, marketer, or importer of an organic agricultural commodity.

HOWEVER, SINCE THIS IS A PROPOSED ALL-COMMODITY ORGANIC CHECKOFF PROGRAM -- THESE SPECIAL CIRCUMSTANCES IN THE FINAL REGULATION REQUIRES FULL 100% PRODUCER REPRESENTATION OF ALL ORGANIC CERTIFICATE HOLDERS -- WHOSE VIEWS AND VOTES MUST BE PROPORTIONALLY TABULATED IN ALL THE DECISIONS, REFERENDUMS AND GOVERNANCE OF THE PROGRAM.

NOFA proposes Full Producer Assessment, Representation and Voting Power

1. NOFA proposes all organic certificate holders be assessed.
2. To be equitable, this organic community-wide assessment should be made on Gross Organic Sales, rather than Net Profit -- as figuring net profit requires complex bookkeeping for small businesses that typically produce all their own farm inputs.
3. In accordance with the 1996 Act -- all assessments should be collected by first handlers or producer handlers not individual producers.
4. Assessments should be progressive so that those with the highest margins and most opportunity for profit pay the most.
5. ALL farmer certificate holders of every scale from all sectors must have:
 - (a) The full right and ability to vote for the acceptance or rejection of any final organic research and promotion order proposal.
 - (b) Full representation and majority representational voting power based on producer sector numbers.

Background:

From direct (and often outspoken) farmer feedback and producer surveys we understand that over the years farmers' experience with most commodity checkoff programs has not been a positive one, to say the least. Producers are legally responsible for paying an assessment (tax) on their production – while having little to no say on how that money is spent due to their marginalization and under-representation on the governing boards

which are dominated by industry interests. As a result the type of research and promotion initiatives that would improve and benefit the producer sector are consistently given short shrift while industry interests utilize the lion's share of the funding to promote their products and interests. Farmers also resent the excessive funds often spent supporting lavish meetings and expense accounts for the governing board members.

Further, many small and mid-size farm sector producers take exception to the claims that OTA represents the farmer sector, as espoused in the 2014 Farm Bill negotiations with Congress and subsequent OTA checkoff organizing initiatives.

Farmers also see OTA's proposed blanket exemption for the small farm sector as a self-serving ploy to disenfranchise the small to mid-size farmers who form the majority of certificate holders – to muster the remaining (non-exempt) votes to pass their singular checkoff proposal, thereby preventing its rejection.

Further Partial Proposal Recommendations:

Referendum Procedures

1. Eligible voter means any person who is currently (i) an organic producer, organic producer-handler, organic handler, organic product processor, or organic importer that either has gross organic revenue in organic products during the representative period. Any person that holds multiple organic certificates (i.e. for both production and handling) will be allowed only one vote.
2. Eligible importer means any person who is currently an organic importer with gross organic revenue of organic products during the representative period as a principal or as an agent, broker, or consignee of any person who produced or handled organic products outside of the United States for sale in the United States, and who is listed as the importer of record for such organic products. Importation occurs when organic products outside of the United States is released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-manufactured organic products immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of organic products from Customs when such organic products is entered or withdrawn for use in the United States.

Voting

The Department will use the USDA AMS National Organic Program database of organic certificate holders and mail a ballot to each certificate holder with a stamped return address envelope. Also the Department will instruct certifiers to mail a ballot to all the entities it certifies to ensure that all eligible voters receive at least one ballot and accompanying information in the mail. All ballots will be cast by mail directly to the Department. Voter will be instructed to fill out the ballot and place the finished ballot in an envelope with the word "Ballot" on it. That envelope with the word Ballot on it will be

placed into a stamped addressed envelope that contains the returned mailing address of the voter and who they are certified by and mailed to the Department. The process of counting the ballots will be conducted in a way that ensures each voter is anonymous.

Instructions for voting procedure

1. Provide ballots and related material to be used in the referendum. The related material will at least include information from those proposing the referendum and those opposing it to ensure that the vote has all the information in one mailing. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter;
2. Give reasonable public notice of the referendum
 - a. By using available media or public information sources, including paid advertising. Such sources of publicity may include, but are not limited to, print and radio; and
 - b. By such other means as the agent may deem advisable, including holding outreach educational meeting on the proposal to be voted on in different parts of the country, especially in those rural areas that lack internet connectivity.

Composition of the Board

1. The Board shall be composed of 25 members and shall be established as follows:
 - a. Sixteen organic producers representing equitable diversity in geography, commodity, and size of operation. None of these producer members may hold additional organic certificates (no producer-handlers, organic handlers or product processors).
 - b. Two organic producer-handler members;
 - c. Three organic handler members;
 - d. Two organic product processor members;
 - e. One organic importer member; and,
 - f. One at-large public member, who shall be a non-voting member.
2. The Board shall conduct outreach to all known organic producers, organic producer-handlers, organic handlers, organic product processors and organic importers to solicit nominations for serving on the Board. Organic producers, organic producer-handlers, organic handlers, organic product processors, organic importers, and non-voting at large candidates may submit nominations to the Secretary;
3. The Board shall strive for diversity in its membership. This includes diversity that meets Equal Employment Opportunity requirements, as well as diversity among organic products based on the proportions of assessments paid, diversity among crop type, diversity among geographic regions, diversity among the segments represented in the supply chain, diversity in the size of operations, diversity in marketing expertise, and diversity in research experience.
4. Board members shall serve without compensation, but shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual

- subsistence allowance while working for the Board away from their homes or regular places of business as approved by the Board, which they incur when performing Board business. For producer members, reimbursed reasonable travel expenses will include compensation for the hiring of temporary help to cover their work on the farm when performing Board business.
5. All Board meetings will be open to the public and will have public comment as a part of their agenda.

Allocation of funds

1. A summary of proposed expenditures for each program, plan or project. This shall include the following allocation of expenditures:
 - a. The funds shall be allocated as follows: 65 percent for research, 20 percent for information, 10 percent for promotion, and 5 percent for discretionary funds; and
 - b. Of the funds allocated to research, no less than half shall be allocated to producer/farmer/ranchers who want to carryout organic research, demonstration, and education projects on their farms either individually or in groups. This research should take into account regional differences and priorities for producer-oriented research. Funds should be allocated equitably to reflect regional producer research needs.
2. The Board will not accept voluntary contributions.
3. The Board may not expend for administration, maintenance, and the functioning of the Board an amount that is greater than 10 percent of the assessment and other income received by and available to the Board for the fiscal year. For purposes of this limitation, reimbursements to the Secretary shall not be considered administrative costs.
4. Any program, plan or project receiving funds shall not expend for administration an amount that is greater than 10 percent of the total funds allocated to the program, plan or project.

Assessments

1. Organic producers and organic producer-handlers shall pay one-hundredth of one percent (.001%) of Gross Organic Sales.
2. Organic handlers and product processors, shall pay an assessment starting at 0.01 % for those companies under \$10 million in gross organic sales; 0.1% for all companies over \$10 million in Gross Organic Sales of products that are certified to the “100% organic” or “organic” standard pursuant to 7 CFR § 205.301(a) and (b). Organic handlers and product processors shall pay an assessment of 70% of 0.1% of Gross Organic Sales of products that are certified to the “made with organic” standard pursuant to CFR § 205.301(c).
3. Organic importers shall pay an assessment to the Board through Customs on organic products imported for marketing in the United States. Organic importers shall pay an assessment of 0.1% of Gross Organic Sales of products that are certified to the “100% organic” or “organic” standard pursuant to 7 CFR §

205.301(a) and (b). Organic importers shall pay an assessment of 70% of 0.1% of Gross Organic Sales of products that are certified to the “made with organic” standard pursuant to 7 CFR § 205.301(c). If Customs does not collect an assessment for the organic product from an organic importer, the organic importer is responsible for paying the assessment directly to the Board within 90 calendar days after the end of the quarter in which the organic products were imported.

Referenda

1. Subsequent referenda. Every seven years, the Department shall hold a referendum to determine whether assessed entities favor the continuation, suspension, or termination of the Order. The Order shall continue if it is favored by a majority of the assessed entities voting. The Department will also conduct a referendum if 10 percent or more of all assessed entities request the Department to hold a referendum. Bloc voting shall be prohibited.

Proposed Definitions:

Research NOFA recommends a definition of organic research under the proposed generic research and promotion program that focuses on the real research needs of independent producers which would help to close the gap between national supply and demand as well as keep US producers competitive with a growing international organic market. Our proposed definition for research is as follows:

Research means any type of investigation, study, evaluation, or analysis (including related education, extension, and outreach activities) designed to improve organic farm production systems and practices, increase farm profitability and productivity, expand organic farming opportunities, and enhance quality of life for farm families and their communities; enhance plant and animal breeding and varietal development for organic systems and improve the availability of other production inputs; optimize natural resource conservation, biodiversity, and environmental outcomes of organic agriculture; advance organic farm and food safety objectives; enhance or increase the consumption, or production of organic products; or to do studies on nutrition, market data, processing, environmental and human health benefits, quality of organic products, including research directed to organic product characteristics and product development, including new uses of existing organic products, new organic products or improved technology in the production, processing and packaging of organic products.

Organic certificate holder: Organic certificate holder means a person who is not exempt or excluded from certification pursuant to 7 CFR 205.101 and who holds a valid organic certificate pursuant to 7 CFR 205.400 through 7 CFR 205.406.

Organic handler: Organic handler means a person who is handling certified organic products in accordance with the requirements specified in 7 CFR 205.101 or 7 CFR 205.270 through 7 CFR 205.272 and all other applicable requirements of this part 205 and receives, sell, consign, deliver, or transport certified organic products into the current of commerce in the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

Organic importer: Organic importer means any organic producer, organic producer-handler, organic handler with gross organic revenue person who imports certified organic products from outside the United States for sale in the United States.

Organic producer: Organic producer means a person who has produced certified organic products in accordance with the requirements specified in 7 CFR 205.101 or 7 CFR 205.202 through 7 CFR 205.207 or 7 CFR 205.236 through 7 CFR 205.240 and all other applicable requirements of part 205.

NOFA recommends including a definition of organic producer-handler that defines the small- to mid-size producer who markets organic products directly to the consumer. This type of handler operates at a much smaller scale than the typical handler, which is often a large processing facility marketing at the wholesale level. Our proposed definition for Organic Producer-Handler is as follows:

Organic producer-handler: Organic producer-handler means a person who is an organic producer who markets organic products direct to the consumer.

Organic product processor: Organic product processor means a person who has cooked, baked, heated, dried, mixed, grinded, churned, separated, extracted, cut, fermented, eviscerated, preserved, dehydrated, frozen, or otherwise manufactured organic products, and includes the packaging, canning, jarring, or otherwise enclosing organic food in a container.

Person: Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

Thank you for calling for, and your consideration of, these Partial Proposals. To be equitable and rectify the negative producer checkoff experiences of the past, NOFA believes that any all-commodity organic checkoff must fully represent all sectors of the organic community with proportional majority representation to all producer sector certificate holders.

Sincerely,
Steve Gilman, NOFA-IC Policy Coordinator