

## Letterhead

Organic Promotion, Research, and Information Order;  
Room 3071-S, STOP 0201;  
Agricultural Marketing Service, USDA;  
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Please accept this partial proposal on a new industry-funded promotion, research and information order for organic products, which would be developed under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act).

I am submitting this proposal on behalf of the Organic Farmers' Agency for Relationship Marketing, Inc (OFARM). OFARM is an organic grain and livestock cooperative incorporated in the State of Minnesota as a marketing-agency-in-common with six organic grain and livestock cooperatives as members. The six cooperatives have organic producer members in 19 states from Montana to Texas and Louisiana to Kentucky and Ohio and states within that region. Dr. Thomas Gray, in USDA's Rural Cooperatives magazine (Jan./Feb. 2012) cites OFARM as the largest block of farmer controlled organic grain in the U.S. OFARM is a member of OTA.

The OFARM board of directors have voted on a position that the members of the individual cooperatives they represent have expressed. Universally they do not believe a mandatory USDA checkoff program is the correct vehicle to address the needed organic marketing, research, nor support for increased domestic organic production. While our members feel all of these areas are important for the future of a strong organic agriculture in the U.S., a USDA Generic Research and Promotion Order for Organic would not be the vehicle of choice. That being said, because the OTA has applied to establish such a program, albeit falsely claiming broad farmer support, we would like to outline the areas of the proposal that would need to be addressed to fairly propose such an idea to the organic agricultural community.

In October, 2014, OFARM released a series of videos with individual farmers across the Midwest telling their story about organic. They can be found at [www.organictherealnatural.com](http://www.organictherealnatural.com). The videos have been viewed thousands of times by consumers and promoted by major food coops in the Midwest. This is just one example of farmers promoting organic using their own ingenuity and funds, including grant funds to promote organic.

Any proposal must be producer centric and all certificate holders should have the right to vote on any proposed research and promotion order.

We are basing our partial proposal on the 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.**

Because the organic market has grown so quickly in the United States with market demand for organic products far outreaching the domestic supply, the program objectives should first and foremost focus on bringing new farmers into organic production through information and technical assistance. The secondary program objective should support farm-gate production research to ensure that organic farmers maintain a competitive edge among a growing international organic market. Once domestic organic supply catches up with our domestic demand, the program should also focus on broader marketing and promotion goals such as educating consumers about what organic is and its benefits and distinguishing organic from other claims and unregulated seals like “natural.” Our recommended outline of priority program objectives is rooted in decades of direct independent farmer representation, and would most address the current needs of the majority of organic certificate holders (that is small to mid-size independent producers).

We feel strongly that an organic research and promotion order should not impose arduous compliance requirements on small businesses. In order to prevent this burden, our proposal does not propose to assess farmers/producer/growers/ranchers on net producer income nor do we propose to exclude a significant portion of the organic community. Our partial proposal recommends that all organic certificate holders should be assessed; thus, all organic certification holders should be included in the decisions, referendums, and leadership of the program. We feel strongly that the assessment should be made on Gross Organic Sales, rather than net profit as net profit is complex for small businesses that typically produce all their own farm inputs. We believe in accordance with the 1996 Act that all assessments are collected by first handlers or producer handlers not individual producers and that assessments should be progressive so that those with the highest margins and most opportunity for profit pay the most.

## **Recommendations for changes**

### **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.

### **Definitions**

#### **Definition of research**

We recommend 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.

*We recommend 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.