



ORGANIC CHECKOFF PROGRAM FAQ

Oregon Tilth is committed to providing educational resources to its stakeholders to make informed decisions. Please note the following is in response to inquiries from clients and members seeking clarification about the proposed Organic Check-off Program.

The information is up-to-date as of March 27, 2015.

Please note: It is Oregon Tilth's understanding that a final draft version of the proposal would be posted for review on-line prior to submission to the USDA for additional evaluation. After any proposal is submitted to the USDA, there would also be an open public comment period to weigh in on the proposal and give feedback and recommendations more directly to the USDA. The Organic Trade Association (OTA) has authored preliminary proposals and led discussion sessions in advance of submission of a formal proposal to USDA.

ORGANIC CHECKOFF PROGRAM FAQ



GENERAL BACKGROUND INFORMATION

The Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411-7425) (known as the “Generic Act”) was passed to authorize the establishment, by the Secretary of Agriculture, of effective and coordinated generic promotion, research and information programs regarding agricultural commodities. These programs, known as “check-off” programs, pool industry funds for promotion, research and education efforts regarding the particular commodity. Since 1996, over 15 check-off programs have been established under the Generic Act. Should an organic check-off program be created, it would fall under the Generic Act, and be subject to its rules and regulations.

WHAT IS THE PURPOSE OF A CHECK-OFF PROGRAM?

The intended purpose of a commodity check-off program is to promote generic commodities produced by the U.S. agricultural industry. These government-sponsored programs impose mandatory assessments (e.g., a percentage of earnings) on commodity producers and processors, which are in turn used to fund programs that are designed to increase demand for and sales of the commodity.

IS THE “ORGANIC CHECK-OFF” DIFFERENT FROM PREVIOUS PROGRAMS?

The proposed organic check-off would be one fund to represent all organic products; in essence “treating organics like a commodity” in place of a singular product type or category like dairy, tomatoes or grain. In addition, assessments would be made throughout the value chain on all organic certificate holders. Producers, handlers and processors would all be required or invited to contribute (see Cost and Distribution). Traditional check-offs typically target assessments only on a single group.

WHERE CAN I LEARN MORE ABOUT FEDERAL RESEARCH AND PROMOTION PROGRAMS (E.G., CHECK-OFF PROGRAMS)?

A full listing of existing USDA check-off programs is available here:

<http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateB&leftNav=ResearchandPromotion&page=ResearchandPromotion>



PROPOSED STRUCTURE & ADMINISTRATION OF AN ORGANIC CHECK-OFF PROGRAM

HOW WOULD AN “ORGANIC CHECK-OFF” PROGRAM BE ADMINISTERED?

The proposal calls for administering organic check-off funds with a 17-member industry-governed board, appointed by the U.S. Secretary of Agriculture. Of those 17 members, 16 would be voting members – and the final member would be a public at-large non-voting member. Of the 16 voting members, 8 seats would be reserved for organic producers.

WHAT IS THE PROPOSED LENGTH OF THE CHECK-OFF PROGRAM (TIME)?

The proposal would require:

- an automatic “evaluation” of the effectiveness of the program at least every five (5) years – this has been explained as an audit by a third-party to quantify funds raised, track disbursements, evaluate administrative expenses, understand impacts on the organic marketplace under a check-off program, etc. – and,
- an automatic referendum every seven (7) years to determine whether or not to continue with the program. Continuance of the program would require a majority vote with those assessed (mandatorily or voluntarily) eligible to vote.

WHAT IS THE PROPOSED BOARD COMPOSITION BY “TYPE”?

The proposed composition of the check-off Board allocates at least 8 of the 16 voting seats for farmers or other direct producers, or at least 50 percent of the Board’s composition. Of the designated producer seats, a small producer may qualify for any of the producer seats, but one (1) is required to be a small certified producer, by “definition one who grosses less than \$250,000 a year.”

HOW ARE CHECK-OFF PROGRAM DECISIONS MADE?

The Board is responsible for allocation of funds for research, promotion and other actions as defined by the check-off program proposed activities.

The proposal calls for:

- Seven (7) regional producer seats (northern California, southern California, Pacific Northwest, Southwest, North Central, Southern, Northeast)
- Five (5) first-handlers
- Two (2) product processors
- One (1) importer
- One (1) at-large voluntarily assessed producer (e.g., gross sales are less than \$250,000 a year)
- One (1) at-large public (non-voting seat)

HOW IS THE BOARD SELECTED?

Organic certificate holders would be notified when there are open seats available on the Board. Candidates to be Board members would be nominated by industry groups, regions or individuals. Nominations would be reviewed and Board members appointed by the USDA. Regional producers would vote for the regional Board seats and all voluntarily-assessed entities for the voluntarily-assessed Board seat – and the results of those votes would be sent to the Secretary of Agriculture to inform his final decision. The Secretary of Agriculture would have the final decision on all appointments.

HOW LONG IS A BOARD TERM?

Board members would serve no more than two (2) consecutive three-year terms. No two members of the Board can be employed by a single entity, and no company could have a representative on the Board for more than two consecutive terms without a term break in between. For the initial Board, the terms would be staggered for two, three and four years, with the determination of which members shall serve which term lengths to be made by the Secretary of Agriculture.



COSTS AND DISTRIBUTIONS OF FUNDS

WHO WOULD PAY FOR AN ORGANIC CHECKOFF PROGRAM?

- All organic certificate holders with gross annual sales more than \$250,000 would be subject to a mandatory “assessment”; this would be one-tenth of one percent of their net organic sales.
- Certified operations grossing less than \$250,000 per year would not be subject to the mandatory assessment, but would be eligible to voluntarily participate and be assessed at the same one-tenth of one percent of their net organic sales.

HOW MUCH WOULD IT COST A SMALL CERTIFIED OPERATION (E.G. CROP, WILD HARVEST, LIVESTOCK AND HANDLING) TO PARTICIPATE?

A small certified operation (“defined as one that grosses less than \$250,000 a year”) would be eligible to voluntarily participate and be assessed at the same rate as any other organic operation – one-tenth of one percent of net organic sales. Small operations would be eligible to decide whether to voluntarily participate each year.

WHAT IS THE PROPOSED ASSESSMENT RATE WHEN GROSS SALES EXCEED \$250,000?

The proposed fee on net organic sales (gross organic revenue minus the cost of organic goods) would equal one-tenth of one percent annually. The website, United for More Organic, states that net organic sales is “total gross sales, minus your certified organic cost of goods such as feed, seed and planting stock for producers; or fluid milk, organic chocolate, etc., for processors.” For example, this would mean that there would be a \$1,000 assessment for \$1,000,000 net organic sales. The fee would be reassessed each year based on changes to gross sales revenue minus the cost of organic goods.

HOW MUCH MONEY WOULD THE PROPOSED FUND RAISE?

Estimates are around \$30-40 million per year from all assessments, mandatory and voluntary.

HOW WOULD THE FUNDS BE ALLOCATED?

- 25% for PROMOTION – Promotional activities have been described to potentially include: consumer advertising, consumer education, public relations / crisis management, and transition of U.S. land to organic.
- 25% for RESEARCH – Research activities have been described to potentially include: agronomic and husbandry research focused on farmer needs, nutritional value research, market data analysis, and environmental and human health benefits. In addition, within this 25% pool of funds, the portion contributed by producers would be put into a separate pool dedicated to regional research needs, and a Board sub-committee of regional seat holders would recommend how those funds should be allocated.
- 25% for INFORMATION – Information activities have been described as potential opportunities to help bring new farmers into organic production through educational information and technical assistance.
- 25% BOARD DISCRETIONARY ALLOCATION – The final 25% has been described as a reserve of flexible funds to allow for response to unplanned events, issues and needs.

A proposed maximum of 15% of all assessments would be eligible for spending on administrative expenses. This cap would also apply to any organization (e.g. a research university) that receives funding from the check-off program.



COSTS AND DISTRIBUTIONS OF FUNDS

WOULD AN ORGANIC CHECK-OFF PROGRAM ASSESS IMPORTS?

According to the United for More Organic website, imports would be assessed as a part of gross sales revenue, and dollars would then be used to promote domestic organic growth and provide research to U.S.-based organic operations.

ARE THERE PROHIBITIONS FOR HOW FUNDS MAY BE USED?

Funds are prohibited by law from being used for lobbying activities, and the proposal would specifically call out lobbying the National Organic Standards Board as a prohibition. Funds are prohibited by law from promotion of individual brands and cannot be used to make false, misleading or disparaging claims.



UNDERSTANDING VOTING

As mentioned above, a final proposal for an organic check-off program would be submitted to the USDA for review and a public comment period.

If the organic check-off proposal is given approval by the USDA to proceed forward, all organic certificate holders with voting rights (see below) would be invited to vote in support or in opposition to a final proposed organic check-off program.

The law outlines that a majority support for the program is needed for approval.

DO MANDATORILY “ASSESSED” CERTIFIED ORGANIC OPERATIONS GET VOTING RIGHTS AUTOMATICALLY?

Yes. If a certified organic operation grosses more than \$250,000 annually, it automatically would have the right to cast a vote for or against the proposal (one vote per organic certificate). If the proposal passes, the operation would be assessed annually based on gross sales minus the cost of organic goods.

DO CERTIFIED ORGANIC OPERATIONS GROSSING LESS THAN \$250,000 ANNUALLY GET VOTING RIGHTS AUTOMATICALLY?

No. The law gives voting rights to assessed entities only. Certified organic operations that have gross sales less than \$250,000 per year would have the choice of whether to be assessed – and if it chooses to be assessed, it would then have all voting rights that accrue to any assessed entity.

IS BLOCK VOTING ALLOWED?

No. Block voting would not be allowed (e.g., a single vote cast by a representative on behalf of members of an organization like a co-op, and then weighted to reflect the number of members).

IS THERE A VOTE TO DETERMINE HOW FUNDS ARE SPENT?

The proposal calls for all funding allocations to be determined by the Board.

WHAT ELSE WOULD I GET WITH VOTING RIGHTS?

You would receive the ability to participate in the automatic referendum to occur every seven (7) years. In addition, all certified operations that are assessed (whether via mandatory or voluntary process) are eligible for nomination to the Board, subject to review and final appointment by the USDA.