

WESTERN ORGANIC DAIRY PRODUCERS
— A L L I A N C E —

2485 Notre Dame Blvd., Suite 370-162, Chico, CA 95928

Ms. Heather Pichelman
Division Director
Promotion and Economics Division
Specialty Crops Program
Agricultural Marketing Service, USDA
1400 Independence Avenue, SW
Room 1406-S, Stop 0244
Washington, D.C. 20250-0244

April 17, 2017

RE: Document Number AMS-SC-16-0112; PR-A1;
RIN 0581-AD55
Federal Register, January 18, 2017 (82 FR 5746)

Dear Director Pichelman:

Thank you for the opportunity to comment on the proposed rule “Organic Research, Promotion, and Information Order.”

The Western Organic Dairy Producers Alliance (WODPA) is a nonprofit Mutual Benefit Corporation. Our purpose is to enable organic dairy farmers, situated across an extensive area in the west, to maintain the sustainability of organic dairy farming. We represent over 285 organic dairy farm families throughout the Western United States (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming).

Organic dairy production in the western states accounts for over half of the Nation’s milking cows and milk production.

WODPA is the ONLY organic dairy organization working specifically for organic dairymen in the Western United States. Please note, OTA does not speak on behalf of western organic dairy producers.

WODPA’s membership has an official position on creation of a Federal Organic Research, Promotion, and Information Order; **WE ARE NOT SUPPORTIVE.**

During our annual meetings in October 2012, October 2015, and October 2016, WODPA's membership voted against the creation of an "Organic Research, Promotion, and Information Order."

While WODPA voted no in 2012, we took a cooperative position with OTA on this issue while they fleshed out their proposal. In a failed attempt to be a part of the process, we joined OTA, their Farmers Advisory Committee and our Executive Director was appointed to OTA's Organic Research and Promotion Steering Committee. This proved to be a waste of our resources since OTA wanted support but no farmer input.

Why we oppose an Organic Check-Off

1. NASS data from 2015 indicates that there are 2,282 Organic dairy farms in the United States. Of those 2,282 farms, only those with 47 or fewer cows will be exempt. This number is based on 50 pounds of production per cow per day for 300 days divided by 100 pounds per hundredweight times \$35 per hundredweight. This yield's \$5,250 per cow or \$250,000 per 47.6 cows. This is significant because USDA is projecting that about 2,691 producers will be subject to assessment. If USDA's projection is correct, this means that organic dairy producers will represent far more than a super majority of the producers assessed. In fact, the figure is likely about 75 percent of the assessed producers. Bottom line, dairy producers will be disproportionately burdened by the proposed "Organic Research, Promotion, and Information Order." This is especially so, since milk sells at a higher price than the other commodities. NOTE: WODPA acknowledges that the pounds per cow and farm gate price are averages and will vary among producers. However, it still clearly shows that a dairy operation does not have to be large to be subject to the assessments under this proposed program. Nor does it change the fact that dairy producers will be disproportionately impacted by this proposed program.
2. A major OTA justification for the program claims domestic supply shortages of organic products. This is not true of the dairy sector which makes up 30 percent of the volume of certified organic production per USDA's Table 4 on page 5752. It may be true of field crops that per Table 4 represent 47 percent of the volume produced. The proposed check-off will not solve their problem, which is imports that are being sold in the U.S. at prices lower than U.S. producers can produce the products.

USDA in column 3, page 5756 of the proposal, states, "The proponent OTA stated its belief that a national industry-funded program could aim at increasing organic acreage by funding farmer education programs on organic certification, organic labeling, and organic farming techniques to help encourage farmers to transition to organic and help them during the transitional period." Such programs will not solve the problem of unfair competition from lower cost imports sold in the United States at prices below what it costs to produce the same products in the United States. Further, WODPA views such programs as the Robin Hood approach; taking from the dairy sector to give to the field crop sector. WODPA would rather work with grain growers to establish a mutually beneficial relationship between grain growers and dairymen. WODPA believes the same could be done between other livestock producers and grain growers.

3. WODPA sees no need for a check-off. Consumer demand in the dairy sector is strong. In fact, organic milk generates the highest sales of any certified organic commodity. Further, it has a steady consumer demand growth. Organic dairy can expand by 8 percent per year.

The organic dairy sector's current crisis of oversupply, falling farm gate prices, and struggling organic farmers and small organic handling operations is not due to a lack of consumer demand. As noted above demand is strong. Further, price at retail has remained steady or up. The oversupply and thus, the crisis, is directly attributable to the failure of AMS and the National Organic Program (NOP) to perform in conformance with USDA's mission statement. AMS and NOP have failed to provide leadership, sound public policy and efficient management. These failures are having an adverse impact on the sustainability of organic dairy producers and small organic handling operations.

Specifically, on April 28, 2015, AMS/NOP initiated rulemaking to amend the origin of livestock requirements for dairy animals. In publishing its proposed origin of livestock rule, the AMS stated, "This proposed action would specify that a producer can transition dairy animals into organic production once. This proposed action would clarify that, after completion of this one-time transition, any new dairy animals that a producer adds to a dairy farm would need to be managed organically from the last third of gestation or sourced from dairy animals that already completed their transition into organic production." This change would eliminate the two-track system and place all producers on a level playing field.

The public comment period ended on July 27, 2015. Rather than complete this important rulemaking action in a timely fashion, AMS/NOP put it in a drawer where 2-years later it remains. Origin of livestock is directly connected to the sustainability of the organic dairy sector. The NOP's failure to publish the Origin of Livestock final rule has caused financial harm to Organic Dairy Farm Families across the United States. Every day the final rule goes unpublished, increases that financial harm to, and undermines the sustainability of, many in the organic dairy sector.

Publication of this long awaited proposed rule evoked fear, among many organic dairy farmers, that the rulemaking would limit the ability of a dairy to grow. In response, these producers either increased their herd size by transitioning conventional dairy cattle to organic production, or by starting new organic dairy farms by the same process. How else is it possible to increase organic cattle supply by 20% so quickly in such a short period?

Beginning in the spring of 2016, one year after publication of the proposed rule, these transitioned cattle began producing organic milk. Unfortunately, organic milk processing capacity remained tight and processors were forced to sell organic milk on the conventional market. This has resulted in millions in lost processor revenue. In response, processors have cut farm gate price and mandated production cuts. Many organic dairymen have also lost their buyers who have shuttered their doors or reduced their purchases. This crisis has had no impact on retailers or consumers.

The organic dairymen's current economic crisis is directly attributable to NOP failure to issue a final Origin of Livestock Rule. This proposed organic check-off will not cure NOP's incompetency.

4. The challenge of increased competition due to processor import of lower cost dairy products cannot be addressed through a check-off. Further, the problem of lower cost imported beef cannot be addressed through a check-off. To the contrary, check-offs' assess imports and promote generically, thereby increasing competition from imported products and driving down domestic farm gate price. This downward pressure pushes producers to get larger, to maximize economy of scale, or to sell their farm. Check-offs do nothing to stem the tide of reduced numbers of farms.
5. The proposed check-off will do nothing to help producers receive a sustainable price for their product. U.S. producers are experiencing lower prices for their products due to competition from imports which sell for less than the U.S. farmers can produce them.
6. Check-offs' assess a tax on farmers to fund advertising and other activities that they would not pay for voluntarily. These dollars can be put to better use on the farm.
7. Speech under a check-off is government speech and the Secretary of Agriculture has final approval authority over every word in every promotional campaign. The United States Department of Agriculture prohibits comparative promotion of agricultural products and systems of agriculture. Accordingly, speech to promote the virtues and benefits of organic will be censored, thereby, severely limiting the ability to effectively promote those virtues and benefits.
8. Check-off programs of public relations and advertising target foodservice entities and consumers. Organic does not suffer from a lack or decline in demand. Promoting organic sales will not increase organic acreage in the U.S. but will further increase demand thereby increasing lower priced organic imports. That trend will further undermine the sustainability of U.S. producers which will result in an increased loss of family farms.
9. The proposed check-off, consisting of so many individual agricultural commodities cannot equitably address all production research needs or equitably represent the interests of all those taxed.
10. "Organic" is not a commodity, it is a system of production.
11. Check-offs are ineffective and their cost/benefit is unreasonable.
12. The percentage of the funds proposed to "administer" the proposed Organic Check-Off is ridiculous. The 15 percent touted in the proposal is closer to 30 percent when the 15 percent for projects is acknowledged.
13. The number of certified operations continues to increase. For example, in 2016, both Idaho State Department of Agriculture and Oregon Tilth took on 30 percent more organic

applicants. There must be sales for the products, otherwise producers would not be converting to organic.

14. This rulemaking action IS significant and should be reviewed by the Office of Management and Budget. This proposed rule will place a tax on producers and handlers and will impose significant recordkeeping and reporting requirement burdens.
15. At the bottom of the first column on page 5777, USDA states, “Per the Initial Regulatory Flexibility Analysis, of the 11,139 producers, 8,327 handlers, and 2,135 importers, it is estimated that about 2,691 producers, 5,015 handlers, and 326 importers would pay assessments under the Order and thus be eligible to vote in the referendum.”

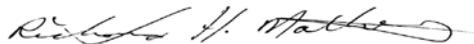
In the third column on page 5773, USDA, states, “Pursuant to section 518 of the Act, § 1255.81(a) of the proposed Order specifies that the program would not go into effect unless it is approved by a majority of assessed entities voting in the referendum.

Using the USDA’s numbers, handlers have a 2 to 1 advantage in any referendum. This means, theoretically, every producer could vote NO and the referendum could still pass, thereby imposing the program on producers universally opposed to the proposed “Organic Research, Promotion, and Information Order.” THIS IS UNACCEPTABLE!

WODPA’s previous submission of a partial alternative proposal should not be viewed as support for an Organic Check-Off. That submission pointed out serious flaws in OTA’s proposal which are continued in this proposed order.

Should you have questions, I can be reached at 717-457-0100 or at rhmathews51@comcast.net.

Sincerely,



Richard H. Mathews
Executive Director
Western Organic Dairy Producers Alliance