



March 31, 2015

Edward Maltby, Executive Director  
Liz Bawden, Board Chair  
Northeast Organic Dairy Producers Alliance  
30 Keets Rd.  
Deerfield, MA 01342

Dear Liz and Ed:

On behalf of the Organic Trade Association (OTA), I wanted to reach out to you to continue our constructive dialogue on the proposed organic research and promotion order. We have been glad to have the opportunity to work with you, your organization, and your members as we consider alternatives and input on the organic checkoff proposal.

Throughout the entire multi-year process informing the drafting of our organic research and promotion program proposal, we have consistently sought input from organic stakeholders throughout the country, and at every level of the value chain. We have held town hall meetings from Maine to Wisconsin to Washington State, and many locations in between. We have also conducted webinars and panel debates across the country. We engaged in direct outreach to all organic certificate holders across the United States – through informational mailings, follow-up direct mail surveys, and additional phone surveys. The nearly 5000 responses showed twice as many certified operators supported the establishment of an organic checkoff program as opposed. The extensive outreach and engagement by OTA with the organic sector has demonstrated general agreement of a need for an organic research and promotion program. We received your recent letter and would like to take this opportunity to respond to your policy questions.

Based on feedback from certified operators, producer organizations, and other interested stakeholders, the framework has been revised, adjusted, and fine-tuned many times. After over three years of extensive input, the Steering Committee's best thinking on the most effective programming, governance, and assessment structures is outlined in the **Generic Research and Promotion Order for Organic (GRO organic) Framework Version 6**. You'll see upon review that the framework 6.0 is very reform minded, and reflects good input from NODPA. In addition to responding to NODPA's specific questions and suggestions, we have enclosed framework version 6 for your full review. It is also available on line at [http://ota.com/sites/default/files/indexed\\_files/GRO%20Framework%20Version%206.pdf](http://ota.com/sites/default/files/indexed_files/GRO%20Framework%20Version%206.pdf).

- How will the organic checkoff be different than existing checkoffs?
  - *Please refer to the enclosed framework version 6.0, but a few highlights are:*
    - *No Bloc Voting*
    - *Full value chain participation*
    - *50% producers, and 50% handlers on the board*
    - *Direct balloting for regional producer representatives on the board*

- *Automatic referendum every 7 years*
  - *25% of producer assessments returned for regional research*
  - *Explicit objective to grow domestic production and acres*
  - *All inventions and innovations remain in the public domain*
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- Does the proposal “disenfranchise small producers and handlers”?
    - *The Generic Act which governs a potential organic research and promotion orders grants only persons “subject to an assessment” voting rights. (See 7 U.S.C. § 7418.) In order to ensure that any certified organic operation that wants to participate may participate – and have all voting and governance rights – the proposal calls for mandatory assessment of operations grossing over \$250,000 per year, and voluntary assessment of operations grossing under \$250,000 per year. Any operation that is assessed will receive all voting and governance rights.*
  
  - Is the use of the term “exemption” improper?
    - *We have eliminated the de minimis “exemption” from the proposal. The proposal allows operations that gross less than \$250,000 per year to choose to be voluntarily assessed. If they do, they will receive all voting and governance rights. The term “exemption” remains in the draft proposal with regard only to dual-covered commodities – those that would be covered both under an organic checkoff and another commodity research and promotion order. Producers, handlers and importers of such dual-covered commodities will have the choice of whether to pay into the organic checkoff or the other commodity checkoff – and upon proof of payment into one, will be exempt from paying into the other.*
  
  - Is the \$100 annual opt-in rate for organic operations growing under \$250,000 fair?
    - *We appreciate NODPA raising this issue and have modified the proposal so that the flat rate is no longer included. We have amended the proposal to allow certified organic operations that gross less than \$250,000 per year to choose to be voluntarily assessed at the same assessment rate as any other operation (one-tenth of one percent of net farm revenue for producers, and one-tenth of one percent of net organic sales for handlers).*

We would also like to take this opportunity to respond to your policy recommendations:

- Retain the \$250,000 gross revenue level as the starting point for the mandatory levy of assessments.

- *We have revised the proposal to reflect your suggestion.*
  
- Change the wording to reflect that there are no exemptions.
  - *We have revised the proposal to reflect your suggestion.*
  
- State that all producers and handlers have voting rights regardless of whether they pay an assessment.
  - *This would not be allowed under the Generic Act. Section 7418 of that law indicates that only assessed entities may be granted voting rights. To ensure as broad participation in governance as possible, we have redrafted the approach to small operations to be a voluntary assessment – so any small operation that chose to be assessed would be granted all voting and governance rights. Moreover, fairness dictates that all those – and only those – who are assessed control the use of the funds.*
  
- Eliminate the \$100 annual fee and assess all certificate holders at the same rate.
  - *We have revised the proposal to reflect your suggestion.*

We would also like to take this opportunity to respond to your additional specific process questions:

- When will a proposal be submitted to USDA?
  - *After many years of gathering input from stakeholders, it is OTA's goal to submit a proposal to USDA within the first half of 2015.*
  
- Will the proposal be made public when it is submitted?
  - *After a proposal is submitted, OTA and the Steering Committee intend to make it public. However, we do plan to check with USDA to ensure that does not impede their review.*
  
- Will the OTA support extending the comment period to 120 days?
  - *The length of any comment period is determined by the federal agency putting out a Notice in the Federal Register – in this situation, the Department of Agriculture. OTA supports a full and robust public comment process, with ample opportunity for all interested stakeholders to be heard. OTA also supports an efficient and timely review process, without undue or*

*inappropriate delays. OTA makes determinations about whether to request extensions of comment periods on a case by case basis, at the time the Notice is published.*

- How will monies be collected at the manufacturing, distribution and retail level?
  - *The proposal requires that all holders of mandatory organic certificates who gross \$250,000 or more in a year be assessed – and that all holders of mandatory organic certificates who gross less than \$250,000 in a year be given the choice to be voluntarily assessed. Thus, holders of retail certificates are not assessed. (Retailer and distributor brands – also known as private labels – would be subject to assessment.) Producers and handlers will be required to remit their assessment to the Board; importers will be required to pay their assessment through Customs or directly to the Board.*
- How will income be verified?
  - *Just as in all research and promotion orders, assessments are based on self-declaration with third-party audits for verification and to validate compliance.*
- How will USDA verify who holds a current organic certificate at the time of referendum?
  - *We cannot speak to USDA's specific processes, but we are confident that AMS and NOP can work together to determine the universe of organic certificate holders given the NOP database is housed at AMS.*
- Will there be a class of organic certificate holders that will not be assessed? If so, how will that class be monitored and held accountable?
  - *Holders of organic certificates that gross less than \$250,000 per year would have the choice of whether to voluntarily be assessed at the same rate as all others. Their income would be verified in the manner described above.*
- How many levels of assessment are being proposed?
  - *Based on feedback we have received from certified organic producers, there would be two levels of assessment. Producers will be assessed at one-tenth of one percent of net farm income. Handlers would be assessed at one-tenth of one percent of net organic sales. These assessments would be levied on all mandatory organic certificate holders grossing \$250,000 or more in a year; and would be levied on any organic certificate holders grossing less than \$250,000 in a year who choose to participate.*

- How do we know that the Board and USDA will abide by the allocations of checkoff dollars?
  - *The proposal specifically allocates certain dollars to research, promotion, information, and discretionary purposes. Any regulation would include those same specifications, and the Department would be bound by it. Annual reporting and disclosure of financials would provide transparency and an ability to verify that the allocations are being made as ordered.*
  
- How was the \$40 million number calculated?
  - *That number is an extrapolated estimate based on the size of the organic sector, and using the one-tenth of one percent assessment rate described above. The USDA NASS Organic Production Survey estimates organic farmgate value of \$3.5 billion, and the OTA industry survey estimates organic sales of \$39 billion. With the change in producer assessments to a net farm income model the current projection is closer to 30- 35 million per year at the outset.*
  
- How will imports be assessed?
  - *Imports will be assessed at the same rate as all other organic operations. For imports for which there is a Harmonized Tariff Schedule code, the assessment will be paid by the organic importer to Customs at the time of entry into the United States, and shall be remitted by Customs to the Board. For imports for which there is not a Harmonized Tariff Schedule code, the assessment will be paid directly to the Board.*

We look forward to continued work with you and your staff on this and other issues affecting the United States agriculture sector.

Sincerely,



Laura

Cc: Melissa Hughes

## **Framework for a Proposal (Version 6)**

### **Generic Research and Promotion Order for Organic (GRO organic)**

The Organic Trade Association, in collaboration with a diverse industry steering committee, has been engaged in extensive dialogue with the organic sector to create a consolidated vision for an Organic Check-off program to fund organic research and promotion. Based on feedback from certified operators, producer organizations, and other interested stakeholders, the framework has been revised, adjusted, and fine-tuned many times. After over three years of extensive input, the Steering Committee's best thinking on the most effective programming, governance, and assessment structures is outlined here in the Generic Research and Promotion Order for Organic (GRO organic) Framework Version 6. The process to develop the best framework for an effective check-off program is ongoing. Please contact OTA ([info@ota.com](mailto:info@ota.com) or 802.275.3800) with questions, suggestions, or if you are interested in speaking with a member of the Steering Committee directly.

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#### **GRO ORGANIC BOARD**

The Board shall be composed of 50% producers, 50% handlers, processors and importers, and one non-voting at large totalling 17 members as follows:

- (1) One member shall be an organic producer from the Pacific Northwest which consists of the states of Alaska, Hawaii, Washington, Oregon, Montana, and Idaho;
- (2) One member shall be an organic producer from Northern California, which shall include the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Yolo, and Yuba;
- (3) One member shall be an organic producer from Southern California, which shall include the counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa, Merced, Monterey, Orange, Riverside, San Benito, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, Tuolumne, and Ventura;
- (4) One member shall be an organic producer from the Southwest, which consists of the states of Arizona, Colorado, Utah, Nevada, New Mexico, Texas, and Wyoming;
- (5) One member shall be an organic producer from the North Central which consists of the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin;
- (6) One member shall be an organic producer from the South which consists of the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Oklahoma, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, as well as the territories of Puerto Rico, and the U.S. Virgin Islands, and all other parts of the United States not listed above; and

(7) One member shall be an organic producer from the Northeast which consists of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia;

(8) One member shall be a voluntarily assessed entity, who shall have gross organic revenue less than \$250,000;

(9) Five organic handlers;

(10) Two organic product processor members;

(11) One organic importer member; and,

(12) One at-large public member, who shall be a non-voting member.

The Board will review the participation rate of voluntarily assessed entities. The review will be conducted using the Board's annual assessment receipts. If warranted, the Board will recommend to the Secretary that the membership or size of the Board be adjusted to reflect changes in the number of participating voluntarily assessed entities. Any changes in Board composition shall be implemented by the Secretary through rulemaking.

The Board will review the geographical distribution of certified organic operations in the United States with respect to the organic producer Board member seats. The review will be conducted using the NOP's list of certified organic operations and, if available, other reliable reports from the industry. If warranted, the Board will recommend to the Secretary that the membership or size of the Board be adjusted to reflect changes in geographical distribution of certified organic operations in the United States. Any changes in Board composition shall be implemented by the Secretary through rulemaking.

### **Nominations and appointments to the board**

Direct Balloting for producer seats-For the Board seats allocated by region or State, organic producers must be domiciled in the region for which they seek nomination. All names of nominees shall be placed on a ballot by region. The ballots along with the background statements shall be mailed to all organic producers in that particular region. Organic producers may vote in each region in which they produce organic products. The top two candidates for each position shall be submitted to the Secretary for appointment.

Direct Balloting for voluntarily assessed entities, the names of nominees shall be placed on a ballot. The ballot along with the background statements shall be mailed to all voluntarily assessed entities. The top two candidates for each position shall be submitted to the Secretary for appointment.

For the Board seats allocated to organic handlers, organic product processors, the organic importer, and the non-voting at-large members, nominees may submit applications directly to the Secretary for appointment.

Initial nominations The Secretary shall select the initial members of the Board from the nominations submitted.

General reformers to encourage broad participation- No two members of the Board shall be employed by a single corporation, company, partnership or any other legal entity;

\*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.

### **Board Terms**

Each Board member shall serve for a term of three years. Each term of office shall begin on January 1 and end on December 31. No member may serve more than two full consecutive three-year terms.

For the initial Board, the terms of the Board members shall be staggered for two, three and four years.

No single corporation, company, partnership or any other legal entity can be represented by an employee or owner for more than two consecutive terms.

### **Reimbursement and attendance at board meetings.**

Board members shall serve without compensation, but shall be reimbursed for reasonable travel expenses, as approved by the Board.

### **Duties of the board.**

The Board shall have the following powers and duties:

- a. To meet, organize, and select from among the members of the Board a chairperson, other officers, committees, and subcommittees, as the Board determines appropriate;
- b. Notify all Board meetings through a press release or other means.
- c. To develop and submit programs, plans and projects for the development and carrying out of programs, for promotion, research, and information.
- d. To cause its books to be audited by an independent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;
- e. Prepare and make public reports of program activities and, at least once each fiscal year, to make public an accounting of funds received and expended;
- f. To work to achieve an effective, continuous, and coordinated program of promotion, research, and information and to carry out programs, plans, and projects designed to provide maximum benefits to the organic sector.



When researching priorities for each marketing year the Board will provide public notice using local, state, or regional entities, mail and/or other methods to solicit public input from all covered entities and will have at least one meeting or conference call to determine the priorities for each marketing year.

### **Prohibited activities**

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

- a. Any action that would be a conflict of interest;
- b. Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof (including the National Organic Standards Board).
- c. Any promotion that is false, misleading or disparaging to another agricultural commodity.

## **GRO ORGANIC EXPENSES AND ASSESSMENTS**

### **Budget and expenses.**

The Board shall prepare and submit a budget for the fiscal year covering its anticipated expenses and disbursements in administering this part. Each such budget shall include:

- (1) A statement of objectives and strategy for each program, plan or project;
- (2) A summary of anticipated revenue, with comparative data for at least one preceding fiscal year, which shall not include the initial budget;
- (3) A summary of proposed expenditures for each program, plan or project. This shall include the following allocation of expenditures:
  - (i) The funds shall be allocated as follows: 25 percent for research, 25 percent for information, 25 percent for promotion, and 25 percent for discretionary funds;
  - (ii) Of the funds allocated to research, the producer assessments within that account shall go into an account for regional research, with proposals to be evaluated by a subcommittee of the Board made up of the regional organic producer members from the Pacific Northwest, northern and southern California, Southwest, North Central, South or Northeast who will make a recommendation that shall be voted on by the Board.
- (e) The Board may accept voluntary contributions. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

The Board, the Board may not expend for administration, maintenance, and the functioning of the Board an amount that is greater than 15 percent of the assessment.

Any program, plan or project receiving funds from the order may not expend for administration an amount that is greater than 15 percent of the total funds allocated to the program, plan or project.

### **Assessments.**

Each organic producer, organic handler and organic importer with gross organic revenue of greater than \$250,000 shall pay the following assessments to the Board:

- (1) Organic producers shall have the option of paying one-tenth of one percent of either (A) net organic sales or (B) producer net profit.
- (2) Organic handlers shall pay an assessment of one-tenth of one percent of net 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 shall pay an assessment of 70% of one-tenth of one percent of net organic sales of products that are certified to the “made with organic” standard pursuant to 7 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 one-tenth of one percent of net 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 one-tenth of one percent of net organic sales of products that are certified to the “made with organic” standard pursuant to 7 CFR § 205.301(c).

(d) Any organic producer, organic handler or organic importer with gross organic revenue less than \$250,000 shall have the option of participating in the Order as a voluntarily assessed entity following the above rates.

(e) Any change in the assessment rate is subject to rulemaking.

### **Exemptions.**

Organic producers and organic handlers of dual-covered commodities may apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the marketing year. This is an annual exemption and organic producers and organic handlers must reapply each year. Such organic producers and organic handlers shall certify that they have remitted an assessment for the dual-covered commodity pursuant to a commodity promotion law.

### **Assessment offset.**

The Board may authorize a credit to an organic producer and organic handlers of up to 25 percent of the amount to be remitted to offset assessments and for fees paid to Qualified State Commodity Boards required by State law.

## **GRO ORGANIC PROGRAMMING: PROMOTION, RESEARCH AND INFORMATION**

### **Independent evaluation of effectiveness**

The Board must evaluate each program, plan and project to ensure that it contributes to an effective and coordinated program of research, promotion, and information. If the Board finds that a program, plan or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate that particular program, plan or project.

At least once every five years, the Board shall authorize and fund from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and the programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this section.

### **Patents, copyrights, trademarks, inventions, product formulations, and publications**

Any patents, copyrights, trademarks, inventions, product formulations, and publications developed through the use of funds received by the Board under this subpart shall become part of the public domain.

### **Referenda.**

*Initial referendum.* The Order shall not become effective unless the Order is approved by a majority of eligible voters voting in the referendum. A single eligible voter may cast one vote in the referendum. Bloc voting shall be prohibited.

*Subsequent referenda.* Every seven years, the USDA must hold a referendum to determine whether assessed entities favor the continuation, suspension, or termination of the Order. USDA will also conduct a referendum if 20 percent or more of all assessed entities request the Department to hold a referendum. Bloc voting shall be prohibited.

### **Voting**

(a) Each eligible voter shall be entitled to request a ballot and may cast only one ballot in the referendum.

(b) Proxy voting is not authorized, but an officer or employee of an eligible voter, or an administrator, executor, or trustee of an eligible voter may cast a ballot on behalf of such entity.

(d) All ballots are to be cast by mail, in person at a local Farm Services Agency office, or by other means, as instructed by the Department.

### **Instructions**

USDA-AMS will determine the period during which ballots may be cast; Provide ballots and related material to be used in the referendum. 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.

USDA-AMS will give reasonable public notice of the referendum: by using available media or public information sources, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

USDA must provide public notice of instructions on voting and a summary of the terms and conditions of the proposed Order. All eligible voters may request and receive by mail a ballot. No person who claims to be eligible to vote shall be refused a ballot;

USDA will prepare a report on the referendum; and announce the results to the public.

**Confidential information.**

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

**Definition for eligible voter-** *Eligible voter* means any person who is currently (i) an organic producer or organic handler that either has gross organic revenue in excess of \$250,000 in organic products during the representative period, (ii) an eligible importer, or (iii) an organic producer, organic handler or eligible importer that has voluntarily opted to pay an assessment.

## DEFINITIONS

**Assessed entity** means any organic producer, organic handler, or organic importer with gross organic revenue in excess of \$250,000 per marketing year, and any voluntarily assessed entity. Any person that holds multiple organic certificates (i.e. for both production and handling) will be treated as a separate assessed entity for each organic certificate.

**Board** means Generic Research and Promotion Order for Organic Board, or such other name as recommended by the Board and approved by the Department.

**Certificate of exemption** means a certificate issued by the Board to an organic producer, organic handler or organic importer that produces, handles or imports dual covered commodities.

**Conflict of interest** means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

**Covered entity** means any mandatory organic certificate holder, organic producer, organic handler, or organic importer.

**Customs or CBP** means the U.S. Customs and Border Protection, an agency of the U.S. Department of Homeland Security.

**Department** means the U.S. Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

**A dual-covered commodity** means an agricultural commodity that (i) is produced on a certified organic farm; and (ii) is covered under both -- (I) an organic order; and (II) any other agricultural commodity promotion order issued under a commodity promotion law.

**Gross organic revenue** means total gross sales in organic products.

**Information** means information and programs for consumers, customers and the organic industry, including educational activities; and information and programs designed to enhance and broaden the understanding of the use and attributes of organic products, increase organic production, support the transition of acres to organic production in the United States, provide technical assistance, maintain and expand existing markets, engage in crisis management, and develop new markets and marketing strategies. These include:

(a) Consumer education, advertising and information, which means any effort taken to provide information to, and broaden the understanding of, the general public regarding organic products; and

(b) Industry information, which means information and programs that would enhance the image of the organic industry.

(c) Information for farmers and technical service providers, which means information related to agronomic practices and certification requirements, and information supporting the transition of acres to organic production in the United States, increasing organic production, direct and local marketing opportunities, export opportunities, and organic research.

**Net organic sales** means total gross sales in organic products minus the cost of certified organic ingredients, feed, and inputs used in the production of organic products.

**Order** means an order issued by the Secretary under section 514 of the the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411-7425), and any amendments thereto that provides for a program of generic promotion, research, education and information regarding organic products authorized under the Act.

**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** 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** means any person who imports certified organic products from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person who produces organic products outside the United States for sale in the United States, and who is listed in the import records as the importer of record for such organic products.

**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.

**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.

**Organic products** means products produced under the authority of the Organic Foods Production Act of 1990 (7 U.S.C. 6501-6522), and any amendments thereto.

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

**Producer net profit** means organic producer income received from organic products less the associated production expenses excluding fixed non-cash costs.

**Programs, plans and projects** means those research, promotion, and information programs, plans or projects established pursuant to the Order.

**Promotion** means any action, including paid advertising and the dissemination of information, utilizing public relations or other means, to enhance and broaden the understanding of the use and attributes of organic products for the purpose of maintaining and expanding markets for the organic industry.

**Qualified State Commodity Board** means a means a producer or handler governed entity—

- (a) That is authorized by State law or a State government agency;
- (b) That is organized and operating within a State;
- (c) That is not federally administered;
- (d) That receives mandatory contributions and conducts promotion, research, and/or information.

**Research** means any type of test, study, or analysis designed to enhance or increase the consumption, image, desirability, use, marketability, 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.

**Secretary** means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

**Voluntarily assessed entity** means any covered entity with gross organic revenue of less than \$250,000 per marketing year that elects to participate in the Order by remitting an assessment.