

# Organic Check-Off

Yes on a technical regulatory fix that allows all certified organic operations to withdraw their check-off dollars from supporting conventional agriculture check-off programs

And

NO on regulation to support the path to establish a mandatory Organic Federal Research and Promotion Program by making organic one commodity

And

Yes to a more inclusive and transparent process of discussion within the full organic community

# The Process -1

Phase 1: 2011:

➤ **Federal Research and Promotion Program/Organic Check Off Program Feasibility Study conducted by the Podesta Group and member based committee**

- The Organic Trade Association (OTA) under the leadership of Christine Bushway (who previously worked with the American Egg Board) spent \$50,000 on a feasibility study to establish a multi-commodity Federal Research and Promotion Organic Check Off Program (FRPP or Check Off Program).

➤ **January 2012 - OTA Board accepts the recommendations of the Study and launched Phase 2 of their FRPP plan.**

- From OTA's press release:
  - "The Board looks forward to continuing this exploration with the entire organic industry. To do so, OTA plans to hold Town Hall-style forums across the country to evaluate this exciting opportunity to promote the organic brand, and provide critical research for the continued health of the industry."

# The Process - 2

Even before scheduling a single town hall meeting, OTA launched its legislative actions:

March 2012:

- The Podesta Group lobbied Senators to sponsor legislation that would provide a technical correction to past regulation and also allow for the creation of organic as a single commodity, a pathway to the formation of a mandatory organic check-off program.

- *The organic community was not informed directly and only knew about the amendment through a Senate aide.*

April 26, 2012:

- the Senate Agriculture Committee rejected OTA's amendment introduced by Senator Casey, and in their version of the Farm Bill included a requirement that the Secretary of Agriculture conduct a feasibility study of an organic industry check-off program.

June and July 2012:

- OTA attached an amendment to the House Appropriations sub-committee, attempting to have the proposal for a mandatory organic Check-Off included in the House version of the Farm Bill, but that **failed**, too.

- *The organic community only found out about the amendment from House aides.*

# PART 1: What are we talking about?

- *Allow all producers of certified organic products the ability to opt out of paying into the existing check-off programs*

The regulatory language proposed by OTA in Senator Casey's amendment is:

*“(e) EXEMPTION OF CERTIFIED ORGANIC PRODUCTS FROM ASSESSMENTS-*

*“(1) IN GENERAL- Notwithstanding any provision of a commodity promotion law, a person that produces, handles, markets or imports organic products shall be exempt from the payment of an assessment under a commodity promotion law with respect to any agricultural commodity that is certified as **"organic" or "100 percent organic"** (as defined in Part 205 of Title 7 of the Code of Federal Regulations)(or a successor regulation).*

*“(2) APPROVAL - The Secretary shall approve the exemption of a person under this subsection if the **person maintains a valid organic certificate** issued under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).*

# Part One: We all agree with it

- There is complete agreement within the organic community that this legislative language that will allow all certified organic products to be exempt from the non-organic check-off programs should be supported and moved through Congress.
- This regulatory change will stop organic dollars from being used to promote non-organic products and will allow that money to be used by producers and processors to promote and support organic production in many different ways.
- **This is all that is needed to stop organic farmers from being unfairly taxed by conventional check-off programs.**

**This should be introduced as a stand alone amendment to existing regulations**

# Part Two: Establishing a pathway to form a federal, mandatory organic check-off program

While we all agree to Part One, OTA is seeking to attach other language into the Farm Bill that begins forming a pathway to a federal, mandatory organic check off program.

*The following is the OTA-proposed regulatory language that was used in Senator Casey's amendment to the Senate Ag Committee:*

## ***What will be assessed***

- *Products that would be subject to the check-off would be those “that are produced on a certified organic farm (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)) and that are permitted to be sold or labeled as ‘Organic’ or ‘100 percent organic’.*

## ***Who will be assessed***

- *Producers, handlers, marketers, or importers of organic agricultural products can chose to be “assessed under the organic commodity promotion order or another applicable agricultural commodity promotion order.”*

## ***A Federal, Mandatory program***

- *Once the organic check-off program is established the ability to opt out of the FRPP would be lost, “This subsection shall be effective until the date on which the Secretary issues an organic commodity promotion order in accordance with subsection (f).” (f being the establishment of an organic check-off)*

# What are USDA Federal Research and Promotion Programs (FRPP)?

- Commodity research and promotion programs, also known as checkoff programs, are established under Federal law at the request of single commodities, either farmers or handlers
- Checkoff programs are funded through farmer or handler assessments (fees)
- These funds are pooled and used to develop programs of research, promotion, and consumer information to “improve, maintain, and develop markets for their products.”
- Administered by the USDA AMS and with a Board that is appointed by the Secretary of Agriculture.

## **An Organic Research and Promotion Program (FRPP): A Proposal that is: *“Not Ready for Prime Time”***

Before entering into the long and costly struggle to set up a FRPP that must be administered through the federal government, there are questions to answer and a lot to consider, such as:

- There are many ways that the organic industry can fund generic organic advertising, promotion and valuable research.
- What is wrong with using existing examples of organic commodities using check-off monies for marketing and research (Organic Valley’s current program)?
- Why pool funds from all commodities, and is it practical to have a cross commodity program?
- Would it be better to have single commodity organic programs?



# Before establishing regulatory language for an Organic commodity under FRPP there needs to be an industry-wide discussion (not OTA alone driving this process)

We need an industry wide discussion that includes all stakeholders in a process similar to that used to develop the Organic Action Plan because it is impossible to make a decision on any mandatory FRRP Organic Check Off until we:

- Examine the pros and cons of pooling check-off funds
- Examine the different models that can be used to organize and govern the decisions on assessments and disbursement of funds that would not duplicate the mistakes of the current federal programs (some have suggested a more regional response similar to the Sustainable Agriculture Research and Education model - SARE)
- Have the whole organic community, not only OTA, decide who the “we” are; what exemptions there will be; and who will take part in a straw poll before petitioning the government for an organic FRRP through changes in regulatory language

- There is no clear consensus about simple basic questions that are so integral to discussions of any proposed program:
  - Will the program stay with the existing commodities or spread into all areas of organic production? Who will be assessed and how will the money be collected?
  - How will they be assessed and on what basis? For conventional programs it is: \$1 per head of cattle marketed to National Cattleman's Beef Association each time an animal is sold; 15 cents per cwt. of milk marketed; 10 cents/30 dozen eggs, .75 cents per pound of honey; soybeans, ½ of 1%; corn, .5-1.5 cents per bushel depending on state; wheat, up to ½ of 1% of sale price).
  - Will the assessment be at many levels of the supply chain similar to the Milk Pep program?
  - How will representation on the governing committee be determined? Farmers should have a majority or super-majority to ensure adequate representation and Board members should be elected.
  - Will a program be based in states and regions, feeding limited dollars back to a national program or vice-versa?
- How does such a diverse sector respond to the varying needs for both promotion and research with very limited dollar of approximately \$20 million?
  - Does money, or a proportion of that money, stay with the commodity or region to be used for specific regional research or commodity promotion?
  - How much money goes to a national promotion campaign similar to the one now being run by OTA or to the Organic Center run by OTA.
  - Promotion and research in some sectors may lead to over-production and a reduction in pay price to the farmer.

# Why is there a Farmer and Consumer bias against an Organic FRPP?

- Farmers distrust Federal Check-off programs because they have experienced a lack of accountability and a misuse of funds. This was confirmed by the Office of the Inspector General of the Research and Promotion Check-Off Programs.
- A multi commodity program will be more difficult to be accountable
- The success of the FRPP marketing and promotion campaigns have often been judged by consumer recognition of advertising slogans rather than its impact on sales of product and effect on farm families across the country through relevant research and promotion programs.
- FRPP funds can only be used to promote a commodity, not to show one (Organically certified product) its better than another. USDA (who will vet any use of funds) sees the organic seal as just another marketing label for production practices. Farmers feel privately run funds can be more aggressive and more nimble.
- The OTA process was an example of a top-down process using DC based lobbyists to do an end run around any community based discussion process. Farmers see this as a predictor of how the program will be run.
- The Board is chosen by an appointed official, the Secretary of Agriculture and the programs are administered by USDA AMS. These appointments will be directly influenced by lobbyist and change with administrations.
- There have been declining farm numbers and an increasing concentration in agriculture while these commodity research and promotion programs have been in effect. 'Got Milk?' - 'The Incredible Edible Egg' – "Beef, It's What's for Dinner" and 'Pork, The Other White Meat', to name a few, may be nice sounding promotional terms but producers legitimately ask what is in it for them.

# Some examples of how badly the existing 18 Federal Research and Promotion Programs have performed for farmers:

- *Between 1992 and 2004, U.S. farms with hogs declined from over 240,000 to fewer than 70,000. Currently 20 pork entities produce 50 percent of all the hogs in the U.S. Very few independent hog producers remain in business and the market is dominated by the integrated meatpackers. The pork checkoff fund will generate \$72 million in 2012. (Source: USDA)*
- *The wheat checkoff was designed to increase wheat exports. Current wheat exports are in fact below the 10-year average, with the wheat check off having been in place since 1980. (2011/2012 crop year exports are projected to be 27.9 million metric tonnes vs. the 10 year average of 28.3 million metric tonnes.) (Source: Wheat Growers Association)*
- *“Beef, it's what's for dinner,” campaign. This advertising effort is funded by a \$1.00 per head checkoff assessed every time a live animal changes hands. This checkoff program has been in effect since 1989 and millions of dollars have been “checked off” and millions spent on very creative advertising. What has happened to beef per capita consumption during the time of the campaign? Beef per capita consumption has declined from 88 pounds per person to less than 60 pounds today (USDA, ERS beef per capita consumption, boneless equivalent weight basis).*
- *Since the start of the ‘Got Milk’ campaign in October 1993, the consumption of fluid milk has dropped year by year (per capita US consumption of fluid milk in 1993 was 24.37 gallons, in 2010 it was 20.69 gallons), as have the number of dairy farms (1993 there were 124,945 dairy farms but only 51,481 in 2011). (Source USDA AMS)*
- *The “Incredible Edible Egg” campaign was started in 1977. Since then, consumption of eggs has declined. In 1987, there were around 2,500 operations with flocks of 75,000 hens or more. In 2012, there are 179 egg producing companies with flocks of 75,000 hens or more.*

# If Farmers don't like it – Leave them out: A tax on organic farmers with no representation

- OTA have said that if the farmers do not like a mandatory Federal Organic Research and Promotion Program (FORPP) there is no need for them to be part of it; deductions will start at the handler level.
- Inevitably, farmers would be paying into the program 'by the back door' as the check-off cost would be an operational expense to handlers and buyers and would affect any potential price the farmer would be paid.
- USDA stipulates that only those who pay into the fund can vote for a FRPP, including how the money will be used. If farmers are excluded, they will have no voting rights and no influence on how the money is spent but will still be paying into the fund by receiving a lower pay-price for their products.

## **How does OTA intend to fight the big battle of wresting funds away from the entrenched traditional commodity boards and how will it affect 'negotiations' over organic Farm Bill issues**

- When the opt out of the check-off was first proposed, the traditional boards managed to restrict it to just 100% organic.
- OTA has had problems with both Democrats and Republicans sponsoring their regulation which is why the Senate had a compromise proposal and the House had none
- The traditional boards have very effective lobbyists that will seek to block a new organic commodity program.
- The technical fix to allow all certified organic product to opt out is more appealing to politicians as it frees small businesses from being taxed without any benefit.
- An organic commodity board will be seen as competition and will be opposed.
- With some key policies being hit hard by the House republicans (like cost-share), organic needs as many friends as possible to support those programs.

## **How to unite the organic community behind the goals of more dollars for research and promotion of organic and restore the trust of farmers in the process that is so essential for future discussions**

- OTA should work with other groups to use the 2012/13 Farm Bill to promote the technical fix that will allow all organic products to be exempt from a conventional check-off.
- Any future language can always be attached as an amendment to any bill in Congress.
- OTA should stop lobbying to have their language to establish a pathway for organic as a commodity under an FRPP be included in the House Farm Bill, the House Appropriations Committee or any other House or Senate bills.
- We need an industry wide discussion that includes all stakeholders in a process similar to that used to develop the Organic Action Plan (day long meetings rather than one to two hour sessions) to discuss, in this order:
  1. The benefits of pooling funds – if not how best to coordinate research and promotion of organic through independent non-profit/for profit/federal and state agencies?
  2. Who will be assessed – just the existing check-off programs or include all farmers and handlers? What about the processing and marketing side of organic where high profits are made?
  3. The best structure to pool and administrate those funds – regional/national –FRPP or other
  4. The best governance structure that ensures a strong farmer voice at the table
  5. All the details on what will be assessed, in what way, how the money will be collected and priorities for spending it.