

Northeast Organic Dairy Producers Alliance



January 20, 2015

Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Avenue, SW
STOP 0237
Washington, DC 20250-0237

Liz Bawden, President, NY
Dave Johnson, Vice President, PA
Steve Morrison, Secretary, ME
George Wright, Treasurer, NY
Henry Perkins, Past President ME

Craig Russell, VT
Rick Segalla CT
Steven Russell, ME
Morvan Allen, MA
Ed Zimba, MI
Darlene Coehorn, WI
Bruce Drinkman, WI
Andrew Dyrstra, OR

Re: Proposed Rule regarding Exemption of Organic Products From Assessment Under a Commodity Promotion Law: AMS-FV-14-0032-0001 (Dec. 16, 2014) (Federal Register Number 2014-29280) (79 Fed. Reg. 75006 et seq.)

Thank you for the opportunity to provide comments on USDA's Proposed Rule regarding Exemption of Organic Products From Assessment Under a Commodity Promotion Law and to express the Northeast Organic Dairy Producers Alliance (NODPA)'s support of the Proposed Rule, a recommendation for improvement and two questions about the future of this exemption.

NODPA is the largest organic dairy farmer organization in the country with a membership of eight hundred and thirty six organic dairy farmers in the Eastern US. NODPA's mission is to **“enable organic dairy family farmers, situated across an extensive area, to have informed discussion about matters critical to the well being of the organic dairy industry as a whole.”** NODPA is not aligned with any one processor or cooperative and therefore is able to represent the views and needs of many different farmers.

NODPA supports the comments of its sister organization the Western Organic Dairy Producer Alliance which are summarized as:

With one significant exception, WODPA supports the proposed rule as written. Specifically, we oppose the annual application requirement of paragraph (b) of § 1150.157 found in column one on page 75016 of the proposed rule

State Reps:
Siobhan Griffin, NY
Arden Landis, PA
Cindy-Lou Amey, NH
Robert Moore, NY
Bonnie and Tom Boutin, VT
Jeep Madison, VT
Aaron Bell, ME
John Gould, NY
John Stolfus, NY
Dana Sgrecci, NY
Rodney Martin, VA
Roman Stolzfoos, PA

Policy Committee
Kathie Arnold, NY

Executive Director
Ed Maltby

Webmaster/Newsletter layout
Chris Hill

Media Editor, Membership and Event Coordinator
Nora Owens

NODPA's Mission

To enable organic dairy family farmers, situated across an extensive area, to have informed discussion about matters critical to the well-being of the organic dairy industry as a whole.

30 Keets Rd, Deerfield, MA 01342
Email: ednodpa@comcast.net

Tel: 413-772-0444

Fax: 866-554-94863
Website: www.nodpa.com

NODPA Comments

The Proposed Rule Carries Out the Bi-Partisan Directive to Expand and Make Consistent Exemptions from Commodity Promotion Programs for All Certified-Organic Producers.

We fully support the proposed rule mandated by a bi-partisan vote by both houses of Congress and further confirmed by a bi-partisan vote on language in the Omnibus Appropriations Bill in December 2014 to correct a technicality to ensure that the exemption is for all Research and Promotion Programs not just those formed under the 1996 Generic Act.

This rule will provide organically certified operations that also market non-organic products (split operations) with the same opportunity to be exempt from paying into any research and marketing programs and the marketing portion of any market orders as those operations that are 100% organic. This rule will correct the false distinction for exemption created by Congress in 2002 which gave some organically certified farmers and handlers' exemption but not all certified operations, despite that fact there is no difference in their organic certification status.

The Proposed Rule Will Not Negatively Impact Conventional Commodity Promotions.

The existing exemption since 2002 has had no noticeable effect on the ability of the commodity Boards to develop and implement their programs. The new exemption will return only \$13.6 million back to organically certified operations that have invested many millions of dollars in a different production system that requires specific on-farm research and consumer direct informative marketing. Split between the twenty two different commodity programs there is no evidence that this dollar amount will have any effect on the viability of their programs or their ability to promote their commodity.

The Proposed Rule Enables Even Broader Support of Grassroots Organic Research and Marketing

The existing exemption approved in 2002 has been claimed by approximately 1,500 operations who have directed their monies into excellent programs that directly target grassroots organic research and marketing (the program by the member owner producers of CROPP cooperative Farmers Advocating for Organics (FAFO) has been very successful with a good track record) or have been used by many farm families to benefit their own sustainability. This exemption needs to be available to all organically certified operations.

The exemption will provide a level playing field for all of agriculture production allowing organically certified farmers and handlers to use check-off monies to benefit their own operations and future, similar to the benefit that non-organic operations receive from being assessed under the Commodity Promotion Law.

One-Time Application for an Exemption -The Proposed Rule Needs to Increase Efficiency and Reduces Eligibility Burdens for Commodity Promotion Program Exemption Applications and Administration.

The process of exemption should be as efficient as possible taking into account that the commodity programs and that National Organic Program (NOP) are all housed within the USDA AMS agency. Certified operations should only need to apply once for exemption and not have to apply every year. The USDA NOP has recently upgraded their systems to have information on all certified operations available in real time. By cross referencing the records within USDA

AMS, the veracity of the claim for continued exemption can be verified with a trigger to inform the commodity Boards when the operation loses its organic certification. The organic certificate continues until it is revoked by the USDA National Organic Program.

For many commodities the purchasers of the agricultural product are required to confirm annually that the farmer has a valid organic certificate and they are also required to deduct any commodity check-off payment.

A requirement that operations will only have to apply once for exemption will particularly benefit small business that make up over 75% of certified operations that are subject to a high paperwork burden because of their organic certification.

The exemption from the commodity program should not be unduly complicated giving an increased burden on small businesses by including provisions for when there are no marketing dollars spent making the dollar amount allocated to marketing in any one year determine the amount of exemption. It needs to be a blanket exemption from all Research and Promotion Programs and from the average marketing portion of all AMS Marketing Orders. This will ease the burden on small businesses to monitor marketing dollars of their Marketing Order and decrease the administrative load on Marketing Orders to monitor and regularly publish dollar amounts spent on marketing.

A Question – Will organic certificate holders be exempt from assessment by Research and Promotion Programs established in the future?

In answering this question the USDA will provide clarity, consistency and transparency as the intent of Congress was to exempt all organic certificate holders from being assessed by any and all Research and Promotion Programs.

A Question – Will organic certificate holders lose this exemption if an Organic Research and Promotion Program is established?

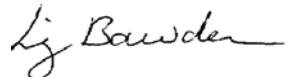
The language of the 2014 Farm Bill in the section about the exemption of organic certificate holders from being assessed states:“(3) TERMINATION OF EFFECTIVENESS -This subsection shall be effective until the date on which the Secretary issues an organic commodity pro-motion order in accordance with subsection (f).” How does this apply to these exemptions?

Conclusions

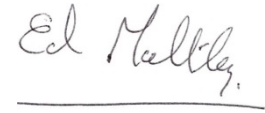
We fully support the right of all agricultural operations that are assessed under the Commodity Program Law to have their assessed monies used to benefit their operations. The nature of the existing commodity programs makes it impossible for research and promotions to support the unique needs of organic production which is under 5% of total agricultural production. Products produced under the USDA National Organic Program requires very specific research and marketing, a high percentage of which is done by farmers and handlers direct to consumers or by research on their own farms. This exemption will not undermine the non-organic commodities but will enhance the ability of farmers and handlers to ensure the long term sustainability of organic production in the USA and the success of all farm operations.

I thank USDA for the speed in developing this proposed rule and urge them to proceed to a final rule as quickly as possible, with immediate implementation.

Sincerely

Handwritten signature of Liz Bowden in cursive script.

NODPA Board Chair and New York organic dairy farmer

Handwritten signature of Ed Mulligan in cursive script, with a horizontal line underneath.

NODPA Executive Director