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May 25, 2004

Angela C. Snyder
Office of the Deputy Administrator
Poultry Programs
Agricultural Marketing Service (AMS) USDA
STOP 0256, room 3932 South
1400 Independence Avenue, SW
Washington, DC 20250

Dear Ms Snyder:

We appreciate the opportunity for input regarding the proposed amendment to the Soybean Promotion, Research and Consumer Information Order (Soybean Order) that will add a new section 1220.302 authorizing an organic exemption to soybean checkoff assessments.

As the agency administering the Soybean Order, the United Soybean Board (USB) would like to make recommendations and comments to facilitate managing this proposed new aspect of the program.

The organic exemption does not preempt or supersede any applicable state statute or regulation that mandates the payment of an assessment on soybeans. To that end, any "person" who would be exempt under the organic exemption would still be required to pay the assessment due pursuant to state statute or regulation unless the state had a similar exemption. It should be the responsibility of USB to inform the person seeking an exemption of this obligation should they be exempt under the Soybean Order. Any exemption certificate should clearly state that the certificate does not exempt the producer from payment of assessments due under state law or regulation.

2. Paragraph (a) as presented in the proposed Rule (§1220.302(a)) should be amended to add the following sentence: "In order to be eligible under the exemption under this section, a producer must not be owned, in whole or in part, or otherwise affiliated with a person that is subject to and pays assessments to a research and promotion program administered by the Department, or that produces conventional non-organic agricultural products." This language needs to be added to prevent producers who produce both organic and conventional products from using the exemption to circumvent payment of assessments. Under

the proposed Rule, a company that is subject to assessments could create a subsidiary and argue that it deals in 100% organic products and therefore should benefit from the organic exemption.

This can be highlighted as follows:

Company A is a producer that produces and markets a 100 percent organic commodity. However, Company A is a wholly owned subsidiary of Company B that produces and markets non-organic commodities. Company A is not exempt.

Company A produces and markets a 100 percent organic commodity. However, Company A is the parent company of Company B that produces non-organic commodities. Company A is not exempt.

Company A has a majority ownership interest in Company B and in Company C. Company A is a holding company that has no operations, Company B produces and markets a 100 percent organic commodity, and Company C produces a conventional commodity. Company B is not exempt.

Without clearly defining the rules of attribution of ownership, companies can avoid the assessment yet still receive the benefit of the program.

We appreciate the opportunity to submit these comments for your consideration. Should you have any questions, please contact me at 608/596-2531.

Sincerely,

A handwritten signature in black ink, appearing to read 'Criss Davis', with a stylized flourish extending to the right.

Criss Davis
Chairman
United Soybean Board