

1 **Partial Proposal**  
2 **Organic Promotion, Research and Information Order**  
3 **Submitted By**  
4 **Western Organic Dairy Producers Alliance**  
5 **July 10, 2015**

6  
7 **Subpart A— National Organic Research and Promotion Order**

8  
9 **For Inclusion in Definitions**

10  
11 **Organic producer/handler.**

12  
13 *Organic producer/handler* means a person who, individually or via multiple entities, is an  
14 organic certificate holder as an organic producer and an organic handler.

15  
16 **NATIONAL ORGANIC RESEARCH AND PROMOTION BOARD**

17  
18 **For Inclusion as**

19  
20 **§12XX.40 Establishment and membership.**

21  
22 (a) *Establishment of the National organic Research and Promotion Board.* There is  
23 hereby established a National Organic Research and Promotion Board, or such other name as  
24 recommended by the Board and approved by the Department, hereinafter called Board, to  
25 administer the terms and provisions of this Order. Seats on the Board shall be apportioned as set  
26 forth in paragraph (b) of this section. There shall be no alternate Board members.

27  
28 (b) *Membership.* The Board shall be composed of 17 members, appointed by the  
29 Secretary from nominations, as follows:

30  
31 (1) One producer member from each of the following regions:

32  
33 (i) Region #1 Pacific Northwest: Alaska, Hawaii, Washington, Oregon, Montana, and  
34 Idaho;

35  
36 (ii) Region #2 Northern California: the counties of Alameda, Alpine, Amador, Butte,  
37 Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin,  
38 Mendocino, Modoc, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San  
39 Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma,  
40 Stanislaus, Sutter, Tehama, Trinity, Yolo, and Yuba;

41  
42 (iii) Region #3 Southern California: the counties of Fresno, Imperial, Inyo, Kern, Kings,  
43 Los Angeles, Madera, Mariposa, Merced, Monterey, Orange, Riverside, San Benito, San  
44 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, Tuolumne, and Ventura;

1 (iv) Region #4 Southwest: Arizona, Colorado, Utah, Nevada, New Mexico, Texas, and  
2 Wyoming;

3  
4 (v) Region #5 North Central: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota,  
5 Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin;

6  
7 (vi) Region #6 Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Oklahoma,  
8 Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, as well as the  
9 territories of Puerto Rico, and the U.S. Virgin Islands, and all other parts of the United States not  
10 listed in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(7) of this section; and  
11

12 (vii) Region #7 Northeast: Connecticut, Delaware, Maine, Maryland, Massachusetts,  
13 New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia,  
14 and the District of Columbia;

15  
16 (2) One member shall be a voluntarily assessed organic producer, who shall have gross  
17 organic revenue less than \$250,000;

18  
19 (3) Four organic handlers or organic producer/handlers;

20  
21 (4) Two organic product processor members;

22  
23 (5) One member shall be a voluntarily assessed organic handler or importer, who shall  
24 have gross organic revenue less than \$250,000;

25  
26 (6) One organic importer member; and,

27  
28 (7) One at-large public member.

29  
30 (c) *Insufficient nominees.* Should there be no nominees for the voluntarily assessed  
31 organic producer position, the Secretary shall appoint one of the nominees from among those  
32 received for the 7 other producer positions. Should there be no nominees for the voluntarily  
33 assessed organic handler or importer position, the Secretary shall appoint one of the nominees  
34 from among those received for the organic handlers or organic producer/handlers positions or the  
35 importer position.

36  
37 (d) *Adjustment of regions.* At least once in every five years, the Board will review the  
38 geographical distribution of United States certified organic producers. The review will be  
39 conducted using the NOP's list of certified organic producer operations. If warranted, the Board  
40 will recommend to the Secretary that the makeup of the regions be adjusted to reflect changes in  
41 United States geographical distribution of certified organic producer operations. Any changes in  
42 regional makeup shall be implemented through notice and comment rulemaking.

43  
44 **For Inclusion as**

45  
46 **§12XX.41 Nominations and appointments.**  
47

1 (a) Nominees must be organic producers, organic handlers, or organic importers with  
2 gross organic revenue of at least \$250,000 who produce, handle or import in excess of \$250,000  
3 of organic products in a marketing year, except for the two voluntarily assessed members and the  
4 at-large public member. Organic producer/handlers and importers holding a producer  
5 certification shall not be nominated or appointed to fill any of the producer positions.  
6

7 (b) Initial nominations shall be submitted to the Secretary. Before considering any  
8 nominations, the Secretary shall publicize the nomination process, using trade press or other  
9 means deemed appropriate, and shall conduct outreach to all known organic producers, organic  
10 handlers, organic product processors, and organic importers to generate nominees that reflect the  
11 range of operations within the organic industry. The Department may use local, state, or regional  
12 entities, mail or other methods to elicit potential nominees. The Department shall ensure that all  
13 eligible candidates are aware of the opportunity to serve on the Board. The Secretary shall select  
14 the initial members of the Board from the nominations submitted.  
15

16 (c) Subsequent nominations shall be conducted as follows:  
17

18 (1) The Board shall conduct outreach to all known organic producers, organic handlers,  
19 organic product processors and organic importers with gross organic revenue in excess of  
20 \$250,000 in a marketing year and all voluntarily assessed producers, handlers, and importers.  
21 Organic producers, including those volunteering to be assessed, may submit nominations to the  
22 Board. Organic handlers, producer/handlers, and importers volunteering to be assessed, may  
23 submit nominations to the Board. Organic handlers, organic product processors organic  
24 importers, and at large public member candidates may submit nominations to the Secretary;  
25

26 (2) Organic producers, including those volunteering to be assessed, shall provide the  
27 Board with a short background statement outlining their qualifications to serve on the Board.  
28 Organic handlers, producer/handlers, and importers volunteering to be assessed, shall provide the  
29 Board with a short background statement outlining their qualifications to serve on the Board.  
30 Organic handler, organic importer, organic product processor, and at large public member  
31 nominees shall provide the Secretary with a short background statement outlining their  
32 qualifications to serve on the Board;  
33

34 (3) Organic producers must be domiciled in the region for which they seek nomination.  
35 Nominees must specify for which region they are seeking nomination. The names of nominees  
36 shall be placed on a ballot by region. The ballots along with the background statements shall be  
37 mailed to all organic producers in that particular region with gross organic revenue in excess of  
38 \$250,000 per marketing year, and any organic producer in that region that has remitted a  
39 voluntary assessment pursuant to §12XX.52(b) for the previous marketing year. Organic  
40 producers may vote in each region in which they produce organic products. The votes shall be  
41 tabulated for each region and the nominees receiving the highest number of votes shall be placed  
42 at the top of the list in descending order by vote. The top two candidates for each position shall  
43 be submitted to the Secretary at least six months before the new Board term begins;  
44

45 (4) For the producer seat allocated to voluntarily assessed organic producers, the names  
46 of nominees shall be placed on a ballot. The ballot along with the background statements shall be  
47 mailed to all voluntarily assessed producers. The votes shall be tabulated and the nominees

1 receiving the highest number of votes shall be placed at the top of the list in descending order by  
2 vote. The top two candidates for this position shall be submitted to the Secretary at least six  
3 months before the new Board term begins. Should there be no nominees for the voluntarily  
4 assessed organic producer position, the Secretary shall appoint one of the nominees from among  
5 those received for the 7 other producer positions;

6  
7 (5) For the organic handler or importer seat allocated to voluntarily assessed organic  
8 handlers, producer/handlers, and importers, the names of nominees shall be placed on a ballot.  
9 The ballot along with the background statements shall be mailed to all voluntarily assessed  
10 organic handlers, producer/handlers, and importers. The votes shall be tabulated and the  
11 nominees receiving the highest number of votes shall be placed at the top of the list in  
12 descending order by vote. The top two candidates for this position shall be submitted to the  
13 Secretary at least six months before the new Board term begins. Should there be no nominees for  
14 the voluntarily assessed organic handler or importer position, the Secretary shall appoint one of  
15 the nominees from among those received for the organic handlers or organic producer/handlers  
16 positions or the importer position.

17  
18 (6) Candidates for the Board seats allocated to organic handlers, organic product  
19 processors, organic importer, and at-large public member may self nominate by submitting an  
20 application directly to the Secretary;

21  
22 (7) Any person nominated or self nominating to serve on the Board shall file a  
23 background questionnaire with the Secretary at the time of the nomination;

24  
25 (8) \*\*\*

26  
27 (9) \*\*\*

28  
29 (10) The Board may recommend to the Secretary modifications to its nomination  
30 procedures as it deems appropriate. Any such modifications shall be implemented through notice  
31 and comment rulemaking; and,

32  
33 (11) \*\*\*

34  
35 **For Inclusion as**

36  
37 **§12XX.42 Term of office.**

38  
39 (b) For the initial Board, the terms of the Board members shall be staggered for two, three  
40 and four years as follows:

41  
42 (i) 2-year term—Region #2, Region #6, 1 voluntarily assessed organic producer, 1  
43 voluntarily assessed organic handler or importer, 1 organic handler or organic producer/handler,  
44 and 1 organic product processor.

45  
46 (ii) 3-year term—Region #4, Region #7, 1 at-large public member, 2 organic handlers or  
47 organic producer/handlers, and 1 organic product processor.

1  
2 (iii) 4-year term—Region #1, Region #3, Region #5, 1 importer, and 1 organic handler or  
3 organic producer/handler.

4  
5 **MISCELLANEOUS**

6  
7 **For Inclusion as**

8  
9 **§12XX.81 Referenda.**

10  
11 (a) *Initial referendum.* The Secretary shall conduct an initial referendum among all  
12 organic producers and handlers, of the States as defined in § 12XX.29, with a valid organic  
13 certificate, and all organic importers of the States who, during a representative period determined  
14 by the Secretary, have been engaged in the production, handling, or importation of organic  
15 products. Gross income shall have no bearing on eligibility to participate in the initial  
16 referendum. The Order shall not become effective unless:

17  
18 (1) The Secretary determines that the Order is consistent with and will effectuate the  
19 purposes of the Act; and

20  
21 (2) The Order is approved by not less than two-thirds of the producers voting in such  
22 referendum and not less than two-thirds of the handlers and importers voting in such referendum.  
23 A single eligible voter may cast one vote in the referendum regardless of the number of organic  
24 certificates held. Bloc voting shall be prohibited.

25  
26 (b) *Subsequent referenda.* Every five years, the Secretary shall hold a referendum to  
27 determine whether assessed entities favor the continuation, suspension, or termination of the  
28 Order. The Order shall continue if it is favored by a majority of the assessed entities voting. The  
29 Secretary will also conduct a referendum if 5 percent or more of all assessed entities request the  
30 Secretary to hold a referendum. In addition, the Secretary may hold a referendum at any time.  
31 Bloc voting shall be prohibited.

32  
33 **Subpart B—Procedures for the Conduct of Referenda in Connection with the National**  
34 **Organic Research and Promotion Order**

35  
36 **For Inclusion as**

37  
38 **§12XX.101 Definitions.**

39  
40 (e) *Eligible voter* means any person who is currently (i) an organic producer or organic  
41 handler that either has gross organic revenue in excess of \$250,000 in organic products during  
42 the representative period, (ii) an eligible importer, or (iii) an organic producer, organic handler or  
43 eligible importer that has voluntarily opted to remit an assessment pursuant to §12XX.53,  
44 Except, That for purposes of the initial referendum all certified organic producers and handlers  
45 and importers of organic products are eligible to vote regardless of their gross organic revenue

1 level. Any person holding multiple organic certificates (i.e. for both production and handling)  
2 shall be entitled to a single vote in the certification category of their choosing.  
3

4 **For Inclusion as**

5  
6 **§12XX.102 Voting.**

7  
8 (a) Each eligible voter shall be entitled to cast only one ballot in the referendum.  
9

10 (b) Proxy voting is not authorized, but an officer or employee of an eligible voter, or an  
11 administrator, executor, or trustee of an eligible voter may cast a ballot on behalf of such eligible  
12 voter. Any individual so voting in a referendum shall certify that such individual is an officer or  
13 employee of the eligible voter, or an administrator, executive, or trustee of an eligible voter and  
14 that such individual has the authority to take such action. Upon request of the referendum agent,  
15 the individual shall submit adequate evidence of such authority.  
16

17 (c) All ballots are to be cast by mail or by facsimile, as instructed by the Secretary.  
18

19 **For Inclusion as**

20  
21 **§12XX.103 Instructions.**

22  
23 (d) Mail to eligible producers and importers whose names and addresses are known to the  
24 referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions  
25 of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.  
26