Western Organic Dairy Producers Alliance

Executive Director
Richard Mathews
717-457-0100

Officers
President
Andrew Dykstra, WA
360-661-4302

1st Vice President
Sean Mallett, ID
208-308-2590

2nd Vice President
Ward Burroughs, CA
209-678-5967

Secretary
Darby Hefnner, CA
707-698-5154

Treasurer
Tony Schilter, WA
360-880-3457

State Representatives
Mario Avelar, CA
Dale Bingham, ID
Jamie Kalseo, NM
Pete Mahaffy, OR
Tim Miranda, TX
Dennis Schakel, WA
Mike Wangsgard, UT

At Large Representatives
Christian Alexandre, CA
Jen Beretta, CA
Jordan Funk, ID
BJ Haugen, WA
Richard Hughes, CA
Kyle Miranda, CA

University Advisor
Cindy Daley, PhD
California State University, Chico

Ex Officio
Tony Azevedo, CA

July 10, 2015
Organic Promotion, Research, and Information Order
Room 3071-S, STOP 0201
Agricultural Marketing Service, USDA
1400 Independence Avenue, SW
Washington, D.C. 20250-201

Dear Administrator Alonzo:

Thank you for the opportunity to submit alternative proposals or partial proposals on a new industry-funded promotion, research and information order for organic products.

The Western Organic Dairy Producers Alliance (WODPA) hereby submits the enclosed partial proposal.

WODPA is a nonprofit Mutual Benefit Corporation. Our purpose is to enable organic dairy farmers, situated across an extensive area in the west, to maintain the sustainability of organic dairy farming. We represent nearly 250 organic dairy farm families.

Our partial proposal includes the following:

1. Definition for organic producer(handler);
2. Board provisions addressing
   a) Establishment and membership;
   b) Nominations and appointments;
   c) Term of office;
3. Referenda provisions (initial and subsequent); and
4. Conduct of referenda provisions addressing:
   a) Definitions for eligible voter and eligible importer;
   b) Voting
   c) Instructions—Mailing voting instructions, ballots, and proposed order summary.

Our partial proposal assures the following goals:

1. All organic certificate holders have a voice in the initial referendum. This is critical due to the fact that any assessment program based on economic status (Rather than acreage as in the past.) will be subject to significant swings in those subject to the assessment. This is due to the economic
fluidity of business, especially an agricultural business subjected to frequent environmental changes, which result in annual revenue fluctuations.

2. Producers and handlers will be equally represented on the Board by restricting producer positions to producers. This is accomplished by designating producer/handlers (those who hold organic certification as producers and handlers) as handlers only eligible to serve in handler positions.

3. Referendum procedures are well communicated and voting is made easy by sending a ballot to every eligible certificate holders for return by mail or facsimile.

Thank you for your consideration of our partial proposal. Should you have questions regarding our proposal, I can be reached at 717-457-0100 or via email at rhmathews51@comcast.net.

Sincerely,

Richard H. Mathews
Executive Director
Partial Proposal

Organic Promotion, Research and Information Order

Submitted By

Western Organic Dairy Producers Alliance

July 10, 2015

Subpart A—National Organic Research and Promotion Order

For Inclusion in Definitions

Organic producer/handler.

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

NATIONAL ORGANIC RESEARCH AND PROMOTION BOARD

For Inclusion as

§12XX.40 Establishment and membership.

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

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

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

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

(ii) Region #2 Northern California: 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;

(iii) Region #3 Southern California: the counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa, Merced, Monterey, Orange, Riverside, San Benito, San Bernando, San Diego, San Luis Obispo, Santa Barbara, Tulare, Tuolumne, and Ventura;
(iv) Region #4 Southwest: Arizona, Colorado, Utah, Nevada, New Mexico, Texas, and Wyoming;

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

(vi) Region #6 Southeast: 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 in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(7) of this section; and

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

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

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

(4) Two organic product processor members;

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

(6) One organic importer member; and,

(7) One at-large public member.

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

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

For Inclusion as

§12XX.41 Nominations and appointments.
(a) Nominees must be organic producers, organic handlers, or organic importers with gross organic revenue of at least $250,000 who produce, handle or import in excess of $250,000 of organic products in a marketing year, except for the two voluntarily assessed members and the at-large public member. Organic producer/handlers and importers holding a producer certification shall not be nominated or appointed to fill any of the producer positions.

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

(c) Subsequent nominations shall be conducted as follows:

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

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

(3) Organic producers must be domiciled in the region for which they seek nomination. Nominees must specify for which region they are seeking nomination. The 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 with gross organic revenue in excess of $250,000 per marketing year, and any organic producer in that region that has remitted a voluntary assessment pursuant to §12XX.52(b) for the previous marketing year. Organic producers may vote in each region in which they produce organic products. The votes shall be tabulated for each region and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary at least six months before the new Board term begins;

(4) For the producer seat allocated to voluntarily assessed organic producers, the names of nominees shall be placed on a ballot. The ballot along with the background statements shall be mailed to all voluntarily assessed producers. The votes shall be tabulated and the nominees
receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates for this position shall be submitted to the Secretary at least six months before the new Board term begins. Should there be no nominees for the voluntarily assessed organic producer position, the Secretary shall appoint one of the nominees from among those received for the 7 other producer positions;

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

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

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

(8) ***

(9) ***

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

(11) ***

For Inclusion as
§12XX.42 Term of office.

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

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

(ii) 3-year term—Region #4, Region #7, 1 at-large public member, 2 organic handlers or organic producer/handlers, and 1 organic product processor.
(iii) 4-year term—Region #1, Region #3, Region #5, 1 importer, and 1 organic handler or organic producer/handler.

MISCELLANEOUS

For Inclusion as

§12XX.81 Referenda.

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

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

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

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

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

For Inclusion as

§12XX.101 Definitions.

(e) 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 remit an assessment pursuant to §12XX.53, Except, That for purposes of the initial referendum all certified organic producers and handlers and importers of organic products are eligible to vote regardless of their gross organic revenue
level. Any person holding multiple organic certificates (i.e. for both production and handling) shall be entitled to a single vote in the certification category of their choosing.

For Inclusion as
§12XX.102 Voting.
(a) Each eligible voter shall be entitled to 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 eligible voter. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible voter, or an administrator, executive, or trustee of an eligible voter and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

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

For Inclusion as
§12XX.103 Instructions.
(d) Mail to eligible producers and importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.