

**National Organic Standards Board
Policy Development Committee
Discussion Document on the
Rotation of NOSB Appointments**

February 19, 2010

I. Introduction:

The Organic Food Production Act established the 15 member National Organic Standards Board (NOSB) composed of members from various aspects of the organic community to serve for 5 year terms, except that the ACT provided for the Secretary to appoint the original members to staggered terms. There after, a uniform rotation would be three members appointed each year. However, subsequent Board resignations prior to serving a full term has resulted in a very uneven appointment schedule. For example, presently 5 new members have been seated in 2010 with 5 members to leave in 2011 and 4 in 2012. This large Board turnover is disruptive to effective service to the Secretary and the public.

The purpose of this document is to renew discussion of this problem and to offer the Secretary a recommended solution. It is the goal of this committee to provide such a recommendation at the next fall Board meeting.

II. Background:

The need to stagger Board appointments, to improve continuity, has been recognized by past NOSB members. In 2005, after considering several alternatives, the NOSB Executive Committee developed a draft rotation plan. As NOP leadership at the time did not favor it, the plan was never submitted. The work of the 2005 Board is appended to this document. Informal discussions recently with NOP indicated a willingness to reexamine the issue.

III. Relevant Areas in the Rule:

Section 6518 of OFPA directs the Secretary to establish the National Organic Standards Board and prescribes the composition of the Board, appointment, term, other conditions and the responsibilities of the Board.

IV. Discussion:

The following premises are set forth for discussion:

- 1) Effectiveness and continuity would improve if 3 members were appointed each year for 5 year terms.
- 2) It would be desirable to reach this schedule as quickly as possible.

- 3) The preferable method to achieve the schedule is through some appointments of less than 5 years, including 1 year appointments. The term lengths would be announced as part of the solicitation for Board applications.
- 4) Appropriate composition of the Board must be maintained
- 5) Applicants could apply for the shorter term limit positions. Previous Board members that met the statutory time limits would be in advantageous position to jump into the Board's demanding work.
- 6) To stay on track, appointments should be made to fill out remaining time of more than one year of a term of a departed Member.

The actual schedule to achieve the above goal depends on the date of implementation. Once there is agreement on the premises, a schedule for appointments could be developed, which would be recommended at the next Board meeting.

Committee Vote:

Moved: BF

Second: SD

Yes__4__ No__0__ Abstain__0__ Absent__1__

Appendix 1:

Input to USDA from NOSB Executive Committee Concerning Rotation of NOSB Appointments

Draft 3 – March 17, 2005

Introduction

Five new NOSB members were appointed in January 2005. Six additional new Board members will be appointed in January 2006. As discussed during the February 28 - March 3, 2005 NOSB meeting, there is a need to better stagger NOSB appointments to improve continuity and to avoid massive turnovers in the future.

Background

Concerning the appointment of NOSB members, the Organic Foods Production Act states the following:

“6518 NATIONAL ORGANIC STANDARDS BOARD.

(b) **Composition of Board.** The Board shall be composed of 15 members, of which

(1) four shall be individuals who own or operate an organic farming operation;

(2) two shall be individuals who own or operate an organic handling operation;

(3) one shall be an individual who owns or operates a retail establishment with significant trade in organic products;

(4) three shall be individuals with expertise in areas of environmental protection and resource conservation;

(5) three shall be individuals who represent public interest or consumer interest groups;

(6) one shall be an individual with expertise in the fields of toxicology, ecology, or biochemistry; and

(7) one shall be an individual who is a certifying agent as identified under section 6515 of this title.

(c) **Appointment.** No later than 180 days after November 28, 1990, the Secretary shall appoint the members of the Board under paragraph (1) through (6) of subsection (b) of this section (and under subsection (b) (7) of this section at an appropriate date after the certification of individuals as

certifying agents under section 6515 of this title) from nominations received from organic certifying organizations, States, and other interested persons and organizations.

(d) **Term.** A member of the Board shall serve for a term of 5 years, except that the Secretary shall appoint the original members of the Board for staggered terms. A member cannot serve consecutive terms unless such member served an original term that was less than 5 years.”

As required by OFPA, original NOSB appointments were staggered. The USDA established a rotation with five members appointed each year for three years, followed by two years with no

	20 05	20 06	2007	20 08	20 09	2010	2011	2012	2013	20 14
Current Rotation	5	6	3	1	0	5	6	3	1	0

appointments. Due to several resignations, the rotation has been altered to currently follow the schedule shown in the table below.

Input to USDA

In order to establish a uniform rotation whereby three members are appointed each year, the six seats open for appointment in 2006 should be modified so that three members are appointed to full five year terms; one appointed to a three year term; and two appointed to two year terms. Persons appointed to less than full terms would be eligible to re-apply.

In addition, two of the members appointed in 2005 to five year terms would need to voluntarily agree to resign after four years, which would establish their seats on rotations of five years.

Once the uniform rotation plan is established, and resignations occur, the USDA will need to fill the remainder of terms in order to maintain the rotation. If the USDA is unable to fill the remainder of a term with less than one year of active duty remaining, then the seat should remain unfilled until it expires.

If the proposed plan is implemented, the Board appointment rotation would change as shown in the table below. (Note: The length of each term is indicated by the number in parentheses shown after each seat.)

Due to the need to maintain a balance of interests on the Board, changes in the rotation need to take into account the composition of the Board, so that not all seats representing specific sectors expire during the same year.

The composition of the Board currently rotates as shown in the table below.

To establish and maintain a balance of interests into the future, the terms for specific stakeholder seats should rotate as shown in the table below. (Note: The length of each term is indicated by the number in parentheses shown after each seat.)

Appendix 2: Alternative NOSB Rotation Plan schedules from 2005

NOSB Appointment Rotation Plan

1. Current Rotation:

	2005	2006	2007	2008
Proposed Composition Rotation	1-Farmer(5) 1-Retailer(5) 1-Handler(5) 1-Farmer(4) 1-Enviro(4)	1-Farmer(5) 1-Consumer(5) 1-Certifier(5) 1-Consumer(3) 1-Farmer(2) 1-Consumer(2)	1-Handler(5) 1-Scientist(5) 1-Enviro(5)	1-Farmer(5) 1-Enviro(5) 1-Consumer(5)

2009			2010			2011			2012				
1-Farmer(5) 1-Enviro(5) 1-Consumer(5)			1-Farmer(5) 1-Retailer(5) 1-Handler(5)			1-Farmer(5) 1-Consumer(5) 1-Certifier(5)			1-Handler(5) 1-Scientist(5) 1-Enviro(5)				
Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Number of Appointees – length of term	5-5	5-5	5-5	0	0	5-5	5-5	5-5	0	0	5-5	5-5	5-5

2. (Member) Proposed Rotation, draft 1:

	2005	2006	2007	2008
Current Composition Rotation	2-Farmer 1-Retailer 1-Handler 1-Enviro	3-Consumer 2-Farmer 1-Certifier	1-Handler 1-Scientist 1-Enviro	1-Enviro

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Number of appointees – length of term	5-5	5-5	2-2	3-5	2-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5
Number of appointees – length of term			3-1			1-4 1-2	2-1						

Under the proposed draft 1 rotation plan, a system of 3 – five year appointments per year will be fully implemented beginning in 2007. The NOSB and NOP will need to decide if the people appointed during the interim to 1 year and 2 year terms can be re-appointed to 5 year terms. It will need to be decided if the lengths of the terms will be announced in advance, so that applicants can apply for appointment to terms shorter than 5 years. In addition, it should be discussed if the shortened terms are to be designated by seat/sector representative, or if the Secretary should make the term length decision based on the strengths and interests of the appointee.

3. (Member 1) Proposed Rotation:

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Number of appointees – length of term	5-5	5-5	2-5	0	2-5	3-5	3-5	2-5	2-5	3-5	3-5	3-5	3-5
Number of appointees – length of term			3-2		1-4	2-3	2-3		1-4	1-4			

This rotation was designed to avoid 1-year terms. The minimum term is 2 years. Therefore, I propose that people filling that term not be allowed to have an additional term. The question remains, as it also does in Jim's plan, how to decide who gets appointments of what length when two different lengths are available in a given year.

Note: This plan assumes that we are committed to filling all five 2001 vacancies with 5-year terms. If not, the adjustment could be speeded up by one year. With this plan, the rotation is fully functional beginning in 2010.

4. (Member 2) NOSB Rotation Plan May 8, 2001

*Members from previous board that agree to extend their tenure by 1 year.

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Number of appointees – length of term	5-5	5-5	2-5	3-5	0	2-5	3-5	2-5	3-5	3-5	3-5	3-5	2-5	3-5	3-5	3-5	3-5	3-5	3-5
Number of appointees – length of term			3-1*			3-4	2-4				1-4				1-3				

Under this rotation plan 3 members whose terms are expiring in 2002 agree to extend their tenure for 1 year. Advantage of this system is that all members (except for one appointed in 2014) have 4 or 5 year terms creating the greatest degree of constancy on the board. With this plan, the rotation is fully functional beginning in 2015.

5. (Member 1) NOSB Rotation Plan, draft 2 May 8, 2001

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Number of appointees – length of term	5-5	5-5	2-5	3-5	0	2-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5	3-5
Number of appointees – length of term			3-1*			3-4	1-4 1-1												

*Members from previous board that agree to extend their tenure by 1 year.

Under this rotation plan 3 members whose terms are expiring in 2002 agree to extend their tenure for 1 year. Advantage of this system is that all members (except for one whose term is extended by one year in 2006) have 4 or 5 year terms creating the greatest degree of constancy on the board. With this plan, the rotation is fully functional beginning in 2007.