

**Formal Recommendation**  
**From: National Organic Standards Board (NOSB)**  
**To: the National Organic Program (NOP)**

**Date:**

**Subject:**

**Chair:**

**The NOSB hereby recommends to the NOP the following:**

Rulemaking Action:

Guidance Statement:

Other:

**Statement of Recommendation: (Motion # 1)**

Motion to amend the Policy Procedure Manual related to Public Communications outside of biannual meetings to ensure adequate record and representation year round.

**Rationale Supporting Recommendation (including consistency with OFPA and NOP):**

The Organic Foods Production Act (OFPA) establishes the National Organic Standards Board (NOSB) at §2119(7USC6518), “(a) The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act (5USC app 2 et seq.) (hereafter referred to in this section as the “Board”) to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title.”

The Policy and Procedures Manual includes Miscellaneous Policies in Section VI, and the purpose of the Recommendation is to add details to how the public can effectively communicate year-round on matters of interest and concern and be assured through the NOP/NOSB Advisory Board Specialist that such communication is fostered through the appropriate mechanism(s).

**Committee Vote:**

Moved:

Seconded:

Yes:

No:

Abstain:

Absent:

Recuse:

**National Organic Standards Board  
Policy Development Subcommittee  
Proposal  
Public Communications**

**January 22, 2013**

**I. Introduction**

The National Organic Standards Board (NOSB) recognizes that members have been specifically appointed to NOSB to provide advice and counsel to the Secretary concerning policies related to the development of organic standards and the creation and amendments to the National List (NOSB Policy and Procedures Manual, pg. 9). A part of the NOSB's responsibility is to communicate with the organic community pertaining to the implementation of Organic Foods Production Act (OFPA); the NOSB must receive and review information from USDA's National Organic Program (NOP) and other sources during its deliberations. The input from the organic community is valuable in the deliberations of NOSB, the NOP, and the community decision-making process. NOSB recommends that the NOP establish a year-around online communication mechanism(s) for stakeholders to communicate with NOSB and the NOP on matters of interest and concern.

**II. Background**

The Federal Advisory Committee Act (FACA) regulations on "Meeting Obligations to the Public" (41 CFR 102-3.140) states that, "Any member of the public is permitted to file a written statement with the advisory committee during meetings." A written statement received during the comment period for scheduled NOSB meetings has been the primary method by which the public communicates with the Board.

Nevertheless, NOSB members also receive public communications outside of the designated public comment period. These communications include verbal and written information. In response to a previous public communications proposal, the NOSB received public comments that overwhelmingly supported the establishment of a mechanism that would provide for a central location for all public communications to the NOSB and NOP, enable transparency in public communications, and provide access to information from the organic community.

**III. Discussion**

The NOSB through its Policy and Procedures Manual establishes procedures for its activities. The manual "is designed to assist NOSB in its responsibilities" (PPM, p4) and establish procedures for carrying out its responsibilities in accordance with its advisory mission.

As a part of its responsibility to communicate with the organic community pertaining to the implementation of OFPA, the Board must receive and review information from the

NOP and other sources during its deliberations. As a stakeholder Board, the input from the organic community is valuable in the deliberations of the Board, the NOP, and the community decision-making process. The procedures of the Board and NOP should facilitate public communication to inform these deliberations.

Providing an online mechanism that allows the public to share information between official comment periods will help to facilitate public communication that informs the Board's and NOP's deliberations in several ways. The online system is intended to:

1. Inform discussions early in the materials or policy review process through the collection of complete background and perspectives;
2. Reduce the amount of new information coming to the Board and NOP late in its deliberations on an issue without adequate time to verify or fully assess it;
3. Increase transparency for the NOSB, NOP, and the public itself to ensure that everyone has access to the same information in a timely fashion;
4. Help the Board and NOP to become aware of issues that may not be on the work plan or may not have been generated internal to the NOP and NOSB process, but are important based on the experience and expertise of those in the organic community.

Thus, an online public communication mechanism can help board members to discharge their "Duty of Care," which "calls upon a member to participate in the decisions of the Board and to be informed as to the data relevant to such decisions." (PPM, p. 6)

#### **IV. Recommendation**

1. *The NOSB proposes amending PPM Section VI, Miscellaneous Policies (page 27) to add a new subcategory (in italics).*

##### ***Policy for Public Communication between NOSB Meetings.***

*The NOSB and NOP seek public communication outside of Board biannual meetings and public comment periods to inform the NOSB and NOP of stakeholders' interests, and to comment on the NOSB's and NOP's work activities year around.*

PPM Section II (page 13) adds a phrase to the Role of an Advisory Board Specialist to include the following language (in italics):

*With support from NOP, identify, implement, administer and maintain a year-round public communication mechanism (Internet and other means) by which public feedback can be received, posted, and archived online for viewing by the NOSB, the NOP, and the public.*

#### **V. Committee Vote**

Moved: Jay Feldman      Second: Jennifer Taylor

Yes: 6   No: 0   Abstain: 0   Absent: 2   Recuse: 0