

**FORMAL RECOMMENDATION BY THE  
NATIONAL ORGANIC STANDARDS BOARD (NOSB)  
TO THE NATIONAL ORGANIC PROGRAM (NOP)**

**Date:** July 10<sup>th</sup> 2009

**Subject:** Further Guidance on a Peer review System

**Chair:** Joe Smillie

**Recommendation**

The NOSB hereby recommends to the NOP the following:

Rulemaking Action: \_\_\_\_\_  
Guidance Statement:   X    
Other: \_\_\_\_\_

**Summary Statement of the Recommendation (including Recount of Vote):**

This recommendation recounts the history of Peer Review Panel and presents a structure for the creation of a unified and coherent peer review of the NOP program.

The CACC voted unanimously 6 yes, 0 no, absent, or abstain. Motion : Joe Smillie  
Second : Jennifer Hall

**NOSB Vote: 14 yes, 0 no, 0 abstain, 1 absent. Motion: Joe Smillie Second: Julie Weisman**

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

The enabling legislation; The Organic Foods Production Act specifies:

SEC. 2117. ø7 U.S.C. 6516; PEER REVIEW OF CERTIFYING AGENTS.

The Federal Rule currently contains the following :

"Peer review panel. A panel of individuals who have expertise in organic production and handling methods and certification procedures and who are appointed by the Administrator to assist in evaluating applicants for accreditation as certifying agents."

**"§ 205.509 Peer review panel.**

**The Administrator shall establish a peer review panel pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 et seq.). The peer review panel shall be composed of not less than 3 members who shall annually evaluate the National Organic Program's adherence to the accreditation procedures in subpart F of these regulations and ISO/IEC Guide 61, General requirements for assessment and accreditation of certification/registration bodies, and the National Organic Program's accreditation decisions. This shall be accomplished through the review of accreditation procedures, document review and site evaluation reports, and accreditation decision documents or documentation. The peer review panel shall report its finding, in writing, to the National Organic Program's Program Manager."**

**Response by the NOP:**

**National Organic Standards Board  
Compliance, Accreditation, and Certification Committee**

**Further Guidance on a Peer Review System  
May 6th, 2009**

**Introduction:**

The creation of a peer review panel is prescribed in the Organic Foods Production Act of 1990. The intention was to have this group play a role in the accreditation of certification agents. In the fall of 1992 the NOSB issued a formal recommendation regarding the creation and implementation of A Peer Review Panel. In 2001 the Accreditation Committee of the NOSB issued a recommendation that described the appointment plan and terms of reference of implementing of 205.509 (before formal adoption of Title 7 Part 205) and changing the definition of Peer Review Panel (PRP) to reflect the change in focus that 205.509 called for. The new focus would be that the PRP would evaluate the NOP accreditation program rather than applicants to that program. In 2002 the NOP stated that the PRP should be an informal group of Accreditation members and that "we never refused to establish a PRP we didn't have the time" On 02/04/02 the NOP posted a notice on its website that called for applicants for the Peer Review Panel.

In 2003, the NOP contracted with the American National Standards Institute (ANSI) to conduct a peer review audit of NOP certifier accreditation operations. The purpose of the audit was to provide NOP managers with information necessary to improve the quality of NOP services, support compliance with international accreditation protocols, and meet the requirement for peer review of the Organic Foods Production Act of 1990.

In their 2005 recommendation "NOSB commends the NOP for contracting with ANSI to conduct the review, and for providing thoughtful responses to the findings in the ANSI report. As noted in the ANSI audit report, many NOP accreditation activities, especially those conducted by the Audit Review and Compliance division, are functioning well, while others need improvement. The NOSB further acknowledges that the NOP is actively addressing deficiencies noted in the ANSI audit report." This report cites 8 specific technical recommendations primarily focused on the NOP programs compliance to ISO Guide 61 (now ISO 17011).

Since then there has been no further involvement of ANSI and the NOP has been evaluated by the Office of the Inspector General (OIG). There have not been any reports issued or involvement of the NOSB.

## **Regulatory Citations Background:**

The enabling legislation; The Organic Foods Production Act specifies:

SEC. 2117. ø7 U.S.C. 6516¿ PEER REVIEW OF CERTIFYING AGENTS.

(a) PEER REVIEW.—In determining whether to approve an application for accreditation submitted under section 2115, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b).

(b) PEER REVIEW PANEL.—To assist the Secretary in evaluating applications under section 2115, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable State government.

The Federal Rule currently contains the following :

"Peer review panel. A panel of individuals who have expertise in organic production and handling methods and certification procedures and who are appointed by the Administrator to assist in evaluating applicants for accreditation as certifying agents."

### **"§ 205.509 Peer review panel.**

The Administrator shall establish a peer review panel pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 et seq.). The peer review panel shall be composed of not less than 3 members who shall annually evaluate the National Organic Program's adherence to the accreditation procedures in subpart F of these regulations and ISO/IEC Guide 61, General requirements for assessment and accreditation of certification/registration bodies, and the National Organic Program's accreditation decisions. This shall be accomplished through the review of accreditation procedures, document review and site evaluation reports, and accreditation decision documents or documentation. The peer review panel shall report its finding, in writing, to the National Organic Program's Program Manager."

### **Discussion:**

In light of the recent round of accreditations and lingering questions about the compliance of the NOP program to 205.509 the accreditation committee has discussed what the NOSB can do to help clarify the situation, bring transparency to the process and aid the NOP in its accreditation work. We agree that the initial focus of a PRP evaluating certification agents is not practical .Evaluation by ANSI or the National Institute of Standards and Technology's (NIST) National Voluntary Conformity Assesment System Evaluation ( NVCASE ) program to the ISO 17011 standard Is the

preferred approach. Evaluations by OIG should be utilized by ANSI or NIST as part of their evaluation system. We understand that financial constrictions, FACA considerations, and conflict-of-interest guidelines limit the interaction organic industry representatives, and even NOSB members, with program evaluation. However we feel strongly that some form of overview of the NOP accreditation system by the NOSB or delegated body is essential and overdue.

**Recommendation:**

The NOP will commit to a formal ANSI or NIST review every 3 years. OIG reviews will be forwarded to ANSI or NIST as part of this peer review system. A standing task force shall be appointed by the executive committee of the NOSB for the purpose of serving as a Peer Review Panel, reporting to the NOSB. This task force shall number 3-5 people, at the discretion of the executive committee, and may contain member(s) of the Compliance, Accreditation, and Certification committee and/or the NOSB; task force composition can vary each year.

This Peer Review Task Force (PRTF) shall review the NOP Accreditation program utilizing OIG and ANSI reports and the 2005 NOSB Recommendations as a starting point. The annual review will include a 2-stage cycle of review, with year one focused on conducting the review and year two auditing NOP's response and process improvement; this 2-year cycle allows for a more thorough review and consistent follow up on the results.

**Committee Vote:**

Motion – Joe Smillie            Second Jennifer Hall  
Yes- 6,            No-0,            Abstain-0,            Absent-0

**NOSB Final Vote:**

Motion – Joe Smillie            Second- Julie Weisman  
Yes – 14            No- 0            Abstain – 0            Absent - 1