

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

Date: November 5, 2009

Subject: Policy and Procedures Manual Changes

Chair: Jeffrey Moyer

Recommendation

The NOSB hereby recommends to the NOP the following:

Rulemaking Action: _____
Guidance Statement: _____
Other: X_____

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

Recommendations include Section III clarification of Secretary duties regarding Board meeting notes and additional changes to Executive Director role; Section IV changes to improve tie in with other Sections of the PPM; Section V changes updating protocol on surveys, proxies' procedures at public meetings and new procedures for requesting public officials attendance to Board meetings; and Section VIII additions to Evaluation Criteria Checklist to strengthen biodiversity criteria.

NOSB Vote: Motion: BarryFlamm Second:Bea James

Board vote: Yes - 13 No- 0 Abstain- 0 Absent - 2

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

To clarify and update procedures in the Policy and Procedures Manual.

Response by the NOP

National Organic Standards Board
Policy Development Committee Recommendation
Clarification of PPM Section III – Executive Director & Secretary

Role of the Executive Director
August 14, 2009

INTRODUCTION:

The Policy Development Committee is recommending strengthening the language related to the general function of the NOSB Executive Director.

BACKGROUND:

In order to fulfill its roles and functions to its best, it is indispensable that the NOSB maintain its independence and objectivity. A critical participant in the proper operation of the Board is the Executive Director, and it is important to clarify the need to maintain and strengthen the NOSB's independence.

RECOMMENDATION:

The recommended new text is presented in red, underlined, font in the next pages under the subheading “**ROLE OF THE EXECUTIVE DIRECTOR**”. The first four pages of the PPM, section III, are presented for illustration purposes.

COMMITTEE VOTE:

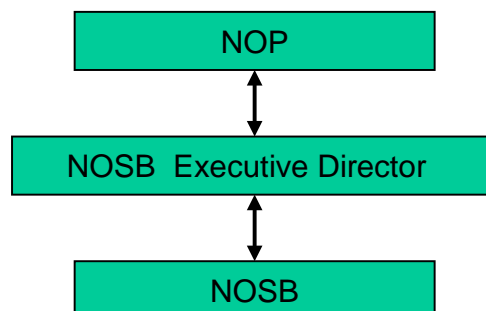
Moved: B. Flamm Second: R. Delgado
Yes- 4 No- 0 Absent- 0

SECTION III

This section focuses on the responsibilities of the NOSB officers, as well as providing the procedures for electing officers, components of the Executive Committee and conducting meetings.

ROLE OF THE EXECUTIVE DIRECTOR

The Executive Director (ED) of the NOSB is the operational liaison to the National Organic Program. The ED is an employee of the U.S. Department of Agriculture and works with the NOP on behalf of the Board on a standing basis.



The most important function of the ED is to facilitate the operation of the Board, while helping to maintain and strengthen its independence. Other specific functions of the ED are:

- Assist in the implementation of policies, goals, objectives, strategic plans, committee work plans, and recommendations set by the NOSB and NOP.
- Draft initial NOSB meeting agendas with NOSB Chair based on committee work plans for NOSB and NOP discussion, then finalizes agenda.
- Coordinate Board and committee meetings, and manage information reporting and communications between Board and NOP.
- Arrange, facilitate, and record the minimum number of NOSB Committee conference calls necessary to achieve the most efficient workings of the Board. Minutes are distributed to committees for confirmation they are accurate. Final minutes are timely distributed to Board committees.
- Provide training and information to NOSB and task forces on compliance with all pertinent Acts and regulations (e.g., FACA, OFPA, NOP), including their role in advising the Secretary.
- Establishes and monitors Board adherence to timelines which ensure NOP has sufficient time to publish related Federal Register notices and Board/Committee recommendations that meet deadlines for public comment.
- Manage Board calendar and tracking databases in a manner that facilitates clarity of activities to the Board and the NOP.
- Work as liaison with NOP staff, TAP & technical review contractors and other government agencies (e.g., EPA, FDA, AAFCO).
- Ensure Board members have all materials and information necessary to provide informed, structured and timely recommendations to the NOP for proposed amendments and guidances to NOP regulation 7 CFR 205. This includes the provision of petitions, TAP and technical reviews, and historic discussions of substances proposed for inclusion on the National List, as well historic discussions and recommendations regarding issues.
- Coordinate the recording and maintenance of records of all Board and committee meetings. This includes maintaining all board archives and records in a manner that provides for easy access to all public information in cooperation with the Board Secretary.
- Prepare and clear Federal Register Meeting Notice and News Release, ensuring publication 45 days prior to meeting.
- Ensure proposed additions to the National List, or other recommendations, are posted on the NOSB website for 45 days prior to an NOSB meeting to allow for public comment.
- Provide accurate, clear pre-meeting information to public regarding questions on recommendations.
- Ensure NOSB members have timely access to public comments.

- Schedule public comment according to issues, and accommodates commenters' travel schedules, where possible.
- Ensure that Board members and NOP staff at NOSB meetings have access to relevant documents related to petitions, materials due to sunset, technical reviews, etc. The format could be electronic (CD version) or hard copy.
- Track recommendations, changes, and votes during meeting to ensure accurate meeting transcripts.
- Assist the NOSB Officers as needed, including scheduling and participating in Officer calls, and assisting the Secretary during Board meetings in managing public comments, summary of minutes, committee votes, election of officers, Board meeting breaks. Also stays apprised and assist as needed in committee meetings scheduled before, during and after Board meetings.

NOSB Secretary Duties
July 19, 2009

Section III Page 14

OFFICER RESPONSIBILITIES

Three principal officers – Chair, Vice Chair and Secretary – guide the Board.

Secretary

The Secretary will work with the NOP Executive Director (ED) to assist in maintaining the integrity of all legal and governing documents of the Board. It is the Secretary's responsibility to help the ED:

- Make sure official NOSB transcripts are posted for the public;
- Record all committee votes at NOSB meetings and circulate to the NOSB for approval;
- Review all additions to the Federal Register to report any discrepancies between Board recommendations and those published in the Federal Register;
- Transfer custody of the Board's vote records to the Secretary's successor, and
- Assist with the annual election of NOSB officers.

The Secretary may delegate tasks to others, but retains responsibility for the official record.

Moved: B. James Second: B. Flamm

Yes – 4, No - 0 Absent – 0

National Organic Standards Board
Policy Development Committee

Recommended changes to the Policy Development Manual -Section V
Revised for Voting

November 4, 2009

INTRODUCTION:

The Policy Development Committee continues its efforts to improve the Board's Policy and Procedures Manual. This recommendation presents suggested updates to Section V of the PPM.

BACKGROUND:

The proposed changes are meant to improve descriptions on procedures for writing and presenting committee recommendations to the entire NOSB. There also are several modifications to the duties of committee chairs and vice-chairs.

RECOMMENDATION:

The recommended section updates are presented in the next pages

COMMITTEE VOTE:

Moved: R. Delgado Second: B. Flamm

Yes- 4 No- 0 Absent- 0

SECTION V

This section defines the responsibilities of the different committee chairs and respective vice chairs. It also provides indications on writing committee recommendations and presenting such recommendations for vote at NOSB meetings. Lastly, this section covers general and specific collaboration procedures between NOSB and NOP.

DUTIES OF COMMITTEE CHAIRS

Committee chairs are responsible for the following duties:

- Schedule committee meetings as needed.
- Draft committee meeting agendas and work plans in consultation with committee members, the Executive Committee, and NOP staff.
- Convene and preside committee meetings.
- Ensure committee meeting minutes are recorded.
- Review committee meeting minutes for accuracy.
- Report actions of the committee to the Board.
- Name a committee vice-chair.
- Serve as mentor/trainer for new committee chair during transition periods.

Committee chairs shall not act unilaterally, especially concerning issues which involve statutory responsibilities of the Board.

DUTIES OF COMMITTEE VICE-CHAIRS

Committee vice-chairs are responsible for the following duties:

- Provide support in developing and completing committee work plans.
- Assist in reviewing of committee meeting minutes for accuracy.
- Represent the committee chair in the absence of the chair.
- Vice Chairs of the Crops, Livestock and Handling Committees will serve on the Materials Committee as liaison for reviewing all petitioned substances.

Committee vice-chairs shall not act unilaterally, especially concerning issues which involve statutory responsibilities of the Board.

PROCEDURES FOR THE TRANSITION OF COMMITTEE CHAIRS

In order to avoid disruption in the quality and volume of work produced by the NOSB, the appointment of committee chairs will follow these procedures:

- Ideally, the Board Chair should appoint committee chairs from members with at least one year of NOSB experience. It is recommended that a new committee chair should have experience as committee vice-chair.
- Upon appointment, new and outgoing committee chairs should have a formal meeting to exchange all files related to the committee's work and to complete the first committee work plan.
- New committee chairs should review all work plan items and active files involving committee work.
- The outgoing committee chair should work as mentor for the new committee chair and vice-chair for a period of at least two months after transition.

PROCEDURES FOR COMPLETING COMMITTEE RECOMMENDATIONS

Developing committee recommendations follows these broad steps:

1. The committee drafts a recommendation;
2. The final recommendation is posted for public comment;
3. Public comments are considered by the committee when making recommendation to the Board; and
4. The Board takes action on the committee recommendation.

In order to be considered a voting item, all recommendations must be submitted to the NOP at least forty five (45) days prior to a scheduled NOSB meeting. This time is needed in order to allow the Program to publish a meeting notice and allow for public comment.

The Board may take the following actions for each committee recommendation:

1. Adopt the recommendation as presented by the committee;
2. Amend and adopt the amended recommendation;
3. Reject the recommendation; or
4. Refer the recommendation back to the committee for further development.

Writing Committee Recommendations

This section provides an outline to be used by committees in writing a recommendation document. These guidelines not only allow consistency in the content of NOSB recommendations, but should also provide the NOSB, and the public, a fast manner to weigh the advantages and disadvantages of a proposal.

Recommendations not related to material petitions or sunset reviews, should include the following sections:

I. Introduction:

This section consists of a brief summary of the recommendation, its main issues and its relevance to the organic community. This section should also mention the goals and intent of the proposed recommendation.

II. Background:

This section should present the issues that justify the development of the recommendation as well as any relevant work done by the NOSB in the past.

III. Relevant areas in the Rule:

This section should mention any areas of the Rule or OFPA which provide the basis for the recommendation.

IV. Discussion:

This section should be used to expand on the intent of the recommendation. It is also a place to emphasize the SWOT of the recommendation (strength, weaknesses, opportunities and threats). No recommendation is 100% perfect and this section can serve to clarify the tradeoffs and advantages of a recommendation. Thus, it is advisable to mention all major alternatives reviewed by the committee. If appropriate, different stakeholders groups should be identified indicating how each group's needs are met or affected.

V. Recommendation:

This is the core, or deliverable, of the recommendation.

VI. Committee Vote:

This section should present the names of the members who moved and second the motion to approve the recommendation. It should also list the votes including number of abstentions and absences. As a norm, a motion should always be presented in the affirmative.

Minority opinion:

If applicable, the dissenting opinion(s) of committee or task force members shall be reported. A member of a committee can present a minority report to the committee recommendation. Such document should include reasons for opposing a proposed recommendation and cite where the opposition points are in the recommendation. In addition, the minority report could, provide alternative approaches or solutions from those given in the recommendation, or recommend an amendment to the recommendation. The minority opinion will be included as a separate document at the end of the recommendation.

Recommendations related to material petitions or sunset reviews, should include the following sections:

I. List:

This section identifies the placing of the material under review within the National List. Any annotations related to the material should be included.

II. Committee Summary:

This section should present a brief background of the material under review highlighting its uses and past NOSB decisions. It should include a short description of any current research done by the committee (e.g., review of technical reports, individual investigation, etc.) and should provide a description of the main arguments supporting the committee's final decision. This section should mention any areas of the Rule or OFPA which provide the basis for the recommendation.

III. Committee Recommendation:

The committee recommendation should be stated clearly here including any corresponding annotation.

IV. Committee Vote:

This section should present the names of the members who moved and second the motion to approve the recommendation and vote count. As a norm, a motion for a petitioned material or sunset review should always be presented in the affirmative.

Minority opinion:

Presenting Committee Recommendations at NOSB Meetings

NOSB committees and task forces will follow the outline presented below in order to present draft policy and/or material recommendations for consideration by the Board:

- I. **Introduction:** A brief summary of the issue or statement of the problem.
- II. **Background:** An explanation with sufficient detail and rationale to support a proposed recommendation, including reasons why the recommendation should be adopted, historical context, and the regulatory framework pertinent to the issue.
- III. **Recommendation:** The concise text of the recommended action.
- IV. **Committee vote:** The vote of the committee or task force shall be reported.
- V. **Minority opinion:** If applicable, the dissenting opinion(s) of committee or task force members shall be reported.

Shown as Final without Track Changes

SECTION VI

MISCELLANEOUS POLICIES

NOSB Policy for Presenters Invited by Committees

1. The need to invite a presenter to an NOSB official meeting must be determined and justified at the committee level.
2. The committee chairperson should notify the NOSB Chair with a request to issue an invitation with enough notice to allow adequate time to accommodate the schedules of the presenting party, and the NOSB. Exceptions are at the discretion of the NOSB Chair.
3. Presenter(s) must be invited by committee chair and/or NOSB Chair and approved by the NOSB Chair.
4. Reason(s) for presentation, subject area and bio/resume of presenter(s) to be circulated via email to entire board at least 2 weeks prior to meeting.
5. Invited presenter(s) must provide objective information.
6. Presenter(s) cannot be a petitioner on the topic under discussion.
7. Presenter(s) must disclose any actual or perceived conflict of interest including information concerning who provided funding for the presentation.

NOSB Policy for Members of the U.S. Congress Invited by Committees

1. Need for presentation established within the appropriate committee by the committee chairperson.
2. The committee chairperson should notify the NOSB Chair with a request to issue an invitation with enough notice to allow adequate time to accommodate the schedules of the presenting congressional member, and the NOSB. Exceptions are at the discretion of the NOSB Chair. This request should be made before any contact with the office of the Congressional member is made.
3. Upon receipt of the request from the committee chairperson, the NOSB Chairperson will notify the National Organic Program Administrator and the NOSB Executive Director, and a discussion of the request will be scheduled as an agenda item for the next regularly scheduled NOSB Executive Committee conference call. If the original requestor is not a member of the Executive Committee, that person may be asked to attend the Executive Committee conference call to provide background information and describe the purpose for the invitation, at the discretion of the Chairperson.
4. Approval or denial of the invitation request will be by the NOSB Executive Committee. When the invitation request has either been approved or denied, the Chairperson of the NOSB will notify the original requestor of the decision. If denied, no further action will be taken. If approved, the invitation can be delivered to the Congressional member or staff by either the original requestor or by the Chairperson of the NOSB, at the Chairperson's discretion.
5. The Executive Director of the NOSB will work with the member of Congress or staff person to schedule the approved NOSB meeting appearance at a date and time mutually agreeable to all parties.
6. Reason(s) for presentation, subject area and bio/resume of presenter(s) to be circulated via email to entire board at least 2 weeks prior to meeting.

NOSB Policy for Public Comment at NOSB Meetings:

1. All persons wishing to comment at NOSB meetings during public comment periods must sign up in advance per the instructions in the Federal Register Notice for the Meeting.
2. All presenters are encouraged to submit public comment in writing according to the Federal Register Notice. Advance submissions allow NOSB members the opportunity to read comments in advance electronically, and decrease the need for paper copies to be distributed during the meeting.
3. Persons will be called upon to speak in the order they sign up. Persons called upon who are absent from the room could potentially miss their opportunity for public comment.
4. Each person will be given 5 minutes to speak, unless otherwise indicated by the Chair.
5. Persons must give their names and affiliations for the record at the beginning of their public comment.
6. A person may submit a written proxy to the NOP or NOSB requesting that another person speak on his or her behalf. The Proxy request should be submitted in writing to the ED and include the name of the presenter, presenters topic, reason for need of a proxy and be limited to the 5 minute specified time frame..
7. No person will be allowed to speak during the public comment period for more than 10 minutes, unless otherwise indicated by the Chair.
8. Individuals providing public comment will refrain from any personal attacks and from remarks that otherwise impugn the character of any individual.

Other suggestions that would be appreciated by NOSB members:

- The NOSB will attempt to accommodate all persons requesting public comment time, however, persons requesting time after the closing date in the Meeting Notice, or during last minute sign-up at the meeting, will be placed on a waiting list and will be considered at the discretion of the NOSB Chair depending on availability of time. Similarly, persons who have signed up to address the NOSB for their 5-minute slot and have also served as a proxy for another person will be placed on a waiting list if they wish to speak for a third time on the same topic, and will be considered at the discretion of the NOSB Chair depending on availability of time. This should allow more members of the public time to present.
- Members of the public are asked to define clearly and succinctly the issues they wish to present before the Board. This will give NOSB members a comprehensible understanding of the speaker's concerns.
- Members of the public should be considerate about - speaking more than once on the same topic - to allow more members of the public the opportunity to speak

NOSB Policy for Surveys Conducted on Behalf of NOSB Committees

An official public survey may be required by an NOSB committee in order to gather critical data necessary for the development of an NOSB recommendation. However, surveys may be costly and must follow strict, time-consuming, review procedures within the USDA and the Office of Management and Budget (OMB). Any survey carried out by the NOSB is considered by the OMB to represent the Executive Branch and falls within the arena of an ANPR (Advanced Notice of Proposed Rule Making). The Federal Register notice process is the legally recognized method of giving notice to the public and all surveys must show that every effort was made to allow the public the opportunity to respond with comment. Therefore,

1. The NOSB committee should consider carefully all possible alternative means of obtaining the needed data.
2. If an official survey is concluded to be essential to a committee's work, the survey(s), including electronic versions, conducted must be approved by the NOSB Executive Committee before they are submitted for approval to USDA and OMB; and
3. A written report summarizing the results of the survey must be submitted to the full Board and the NOP as soon as possible after completion.

National Organic Standards Board
Policy Development Committee

**Recommended changes to the Policy Development Manual (PPM):
Evaluation Criteria for Substances Added to the National List**

August 2009

Introduction:

On May 6, at its Board Meeting, the NOSB approved the guidance statement “Implementation of Biodiversity Conservation in Organic Agriculture Systems”.

The guidance included changes to the Evaluation Criteria check list used by the NOSB in its review of petitioned materials.

This action item is to up date the PPM to include these approved changes.

Background:

Please refer to the Joint Crops and Compliance, Accreditation and Certification Committee’s recommendation “ Implementation of Biodiversity Conservation in Organic Agriculture Systems” The final version may be mostly easily found at the May meeting agenda site.

Recommendation:

Make the following approved changes to the Evaluation Criteria check list in Policy and Procedures Manual, pages __to __. (*See November 2009 PPM for correct page reference*).

Category 1 #3 change to read: Is the substance harmful to the environment or BIODIVERSITY.

Category 3 #2 change to read: Is the substance consistent with organic farming and handling and BIODIVERSITY.

Committee Vote:

Moved: BF Second: BJ

Yes: 4 No: 0 Abstain: 0 Absent: 0