

NOSB REPORT

NOVEMBER 2008

Key Agenda Items at November 2008 Meeting

- Multi-Site Certification
- Organic Aquaculture Standards, focusing on fish feed and net pens
- Organic Pet Food Standards
- Procedure to Handle Technical Reviews
- Commercial Availability of Organic Seed
- 100% Organic Claim
- Materials Review
- Work Plans for Spring 2009

Purpose of this report:

As part of its service to its members, OTA attends NOSB meetings, which are held two to three times per year. This report summarizes the NOSB meeting held November 17-19, 2008, and provides an overview of the agenda topics, public commentary, and key decisions made by the NOSB. Additionally, the report alerts members to issues slated for discussion and debate at the following NOSB meeting.

The items included in this report represent recommendations that the NOSB developed and reviewed at its November 2008 meeting. If accepted by the Board, recommendations pass onto the National Organic Program, which determines the final form of the NOSB recommendations (which, at times, vary significantly from the original recommendations). OTA members are alerted to steps in rule-making through OTA's *News Flash* or other member services.

Mission of the NOSB:

The National Organic Standards Board (NOSB) was created through the Organic Foods Production Act, a subsection of the 1990 Farm Bill. The Board was initially charged with the task of assisting the Secretary of Agriculture in the development of standards for substances to be used in organic products and in the implementation of the national organic program. As such, NOSB has emerged as a key player in the growth and development of the organic industry.

Structure of the NOSB:

The 15-person citizen advisory board brings together volunteers from across the organic community and around the United States. It is made up of four farmers/growers, two handlers/processors, one retailer, one scientist, three consumer/public interest advocates, three environmentalists, and one USDA accredited certifying agent. Each of these individuals participates in NOSB committees, with areas of focus ranging from crops and handling to materials and livestock.

Format of NOSB Meetings:

Although the specific content of each meeting changes, the overall format of NOSB meetings is the same. Day 1 begins with a call to order, followed by the secretary's report, which includes a vote on the transcripts and voting records of the previous meeting. When that report has concluded, the Acting Director of the National Organic Program, Barbara Robinson, offers her own report. The rest of the day is dedicated to public comment, primarily from topics on the meeting agenda.

Day 2 consists of presentations by various NOSB committees. Committee members discuss the progress they have made since the last NOSB meeting, and the full Board discusses the matters at hand. They also review relevant public comments.

On Day 3, each of the committees presents a final review of their agenda items. In some instances, this results in a vote on a given recommendation, whereas in other cases, it yields a call for further investigation. In either case, committee work plans are identified.



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Issue:

Certifying Operations with Multiple Production Units, Sites, and Facilities under the National Organic Program

Decision:

The Board voted to accept the recommendation, establishing conditions under which a group can collectively work as a single operation, and criteria for how much of each operation must be inspected each year.

Next steps:

The NOSB recommendation will now be reviewed by NOP.

Background:

In 2002, the NOSB submitted a recommendation entitled “Criteria for Certification of Grower Groups” to NOP, with the goal of a) facilitating the expansion of certification opportunities to groups worldwide that supply organic products and ingredients and b) maintaining the strict certification requirements outlined in the Organic Foods Production Act (OFPA). The 2008 recommendation, entitled “Certifying Operations with Multiple Production Units, Sites, and Facilities,” accepts and refines the logic of the 2002 recommendation, authorizing certification of operations with multiple production units, sites, or facilities, so long as they meet specific criteria (i.e.: geographical proximity) and the group and each production unit is using the same organic system plan. OTA’s Group Certification Task Force comment on grower groups was influential in this process.

Discussion:

Positions on this issue varied among members of the public and the NOSB. Some argued that inspecting each farmer is a central principle of the organic system. As such, they felt that group certification, which would not require an annual inspection for each group member (unless those members met certain risk-related criteria), put this system at risk. Some opponents of group certification also raised concerns about having retailers be eligible for group certification.

By contrast, others argued that group certification offered growers the opportunity to not only have their farming methods recognized, but also gain access to the U.S. marketplace. At the same time, proponents argued that the nature of group certification is such that individual members feel pressure to comply with measures outlined in the internal control system and organic systems plan, because the entire group’s organic certification is dependent upon such compliance. Moreover, because group certification (as outlined in the NOSB recommendation) requires inspection based on both random sampling and risk-factor analysis, proponents argued that the strict certification expectations outlined in OFPA and NOP would be upheld.

Examples of comment and discussion:

“We need group certification to aid small farmers around the world.”

-Katherine DiMatteo, Wolf, DiMatteo and Associates

“Multi-site certification creates the opportunity for people to play fast and loose with the organic regulations, which could drive a sizable wedge in the organic industry.”

-John Foster, Earthbound Farm

“We can’t always live in fear of offenders and those who take advantage of the organic system. We have to trust that certifiers and enforcers of the NOP can and will do their jobs.”

-Tracy Miedema, NOSB Member



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Issue:

Organic Aquaculture

Decision:

NOSB voted to accept the recommendations, which included the following changes pertaining to feed and net pens:

- Wild-caught fish used as feed must be environmentally responsible
- Underwater electronic sound devices are prohibited
- There must not be significant environmental changes around the pens
- Pens must not be placed in migratory routes
- Only local species are permitted to be used in net pens

Next Steps:

The NOSB recommendation will now be reviewed by NOP.

Background:

For the past three years, NOSB has worked with the Aquaculture Working Group of its Aquatic Animals Task Force to develop organic aquaculture standards under the umbrella of the livestock section of OFPA. After trying to resolve inherent incompatibilities between terrestrial and aquatic livestock, NOSB realized the need to create an independent set of standards for aquaculture. These standards, as outlined in the NOSB recommendation, strive to meet the nutritional needs of fish, promote sustainable aquaculture practices that are consistent with OFPA and NOP, and facilitate consumer awareness of organic aquaculture. Building upon recommendations on closed aquatic systems, which were passed at previous NOSB meetings, recommendations reviewed at the November meeting, which focused on feed and net pens, include the following key provisions:

- Fish meal and fish oil from wild caught fish may not be used in organic aquatic animals except if produced from sustainable food grade fisheries or sustainably managed forage fishes and comply with requirements to diminish their use to zero percent over a 12-year period
- Open water net pens are permitted where water depth, speed, direction, stocking densities, materials recovery, and other factors act to adequately disperse or contain metabolic products and minimize negative environmental impacts
- Certified organic fish fed sustainably sourced wild fish must be clearly labeled as such

Discussion:

Proponents of the recommendations emphasized that it provided a valuable starting point for the development of a strong organic aquaculture industry by establishing strict standards and also taking into consideration the practical limitations (i.e.: the availability of organic fish) that exist at this time. They also noted that the use of net pens would enable fish farmers to carefully monitor fish and the environment in which the fish live, thereby enabling better compliance with organic standards. Opponents criticized the recommendation's failure to require 100 percent organic feed, arguing that the adoption of such standards would confuse consumers about the meaning of the organic label and fall short of consumers' expectations. Opponents also challenged the recommendation on the basis that net pens inhibit the ability of fish to swim freely and exhibit their natural aquatic behaviors and promote high concentrations of waste that is harmful to fish health and the environment.

Examples of comment and discussion:

“What we've tried to do here is put something together that was doable for an infant industry.”
-Jeff Moyer, NOSB Member

“The organic label should guarantee that fish eat what they eat in the wild.”
-Deborah Brister, University of Minnesota



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Issue:

Organic Pet Food Standards

Decision:

With some minor amendments, NOSB voted to accept the recommendation, which would establish standards for organic pet food.

Next steps:

The NOSB recommendation will now be reviewed by NOP and posted through the rulemaking process for public comment.

Background:

In light of the NOP's former policy statement that pet food is outside the scope of NOP regulations, the NOSB recommended that a Task Force be formed to develop labeling standards for organic pet food. Since 2005, when the Task Force first convened, efforts have been made to determine which aspects of the existing regulations pertain to pet foods, as well as what substances not permitted in these regulations may need to be added to the National List in order to meet pets' particular nutritional needs. Among the provisions outlined in the Handling Committee's recommendations to the Board were:

- Product composition requirements for organic pet food be similar to those for livestock
- Labeling categories for organic pet food be the same as for processed human food
- Eligible label claims for organic pet food match the requirements for human food (i.e.: a minimum of 70% organic ingredients for a 'made with organic' claim)
- Slaughter by-products are permitted for use in organic pet food

Discussion:

Some concerns were raised about the potential negative impacts of feeding pets food made of materials derived from slaughter products and by-products. For example, one individual noted that "mad cat" disease could arise if pet food was made with slaughter by-products. [NOSB clarified that any non-organic by-products would have to be listed on a list of substances not commercially available as organic before they could be used for a part of organic pet food.] Others argued that the use of slaughter materials is necessary to meet pets' specific dietary needs.

Issue:

Procedure to Handle Technical Reviews

Decision:

The Board voted to accept this recommendation, allowing its own members to serve as a TAP to provide a technical review of a material petition under review by the NOSB.

Next steps:

The NOSB recommendation will now be reviewed by NOP.

Background:

At times, NOSB requires specialized expertise to make informed decisions about the petitions it receives. This expertise can come from outside the Board (i.e., third party consultants), but also from within the Board if relevant expertise can be offered by one or more of its members.

Discussion:

Comments were made suggesting that Technical Advisory Panels (TAP) must consist of only non-Board members to ensure objectivity and fairness in the material review process. Other comments highlighted the fact that the NOSB is made up of a group of highly knowledgeable individuals whose expertise can and should be used when a need for a technical review in their area of expertise arises.



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Issue:

Commercial Availability of Organic Seed

Decision:

NOSB voted to accept the proposed guidance.

Next Steps:

The recommended guidance will be passed onto the NOP for review.

Background:

In Fall 2005, NOSB issued a formal recommendation regarding the commercial availability of organic seed in the form of a Guidance Statement. Additional work was done on the subject, resulting in a request in 2007 that the Crops Committee evaluate prior recommendations on seed availability and suggest ways to increase the use of organically grown seeds. From there, the Board formed a Joint Crops and Compliance, Accreditation and Certification Committee, which put forth at the November 2008 NOSB meeting information intended to clarify the procedures by which certifiers verify organically grown seed availability and accelerate the use of organic seed in all sectors of organic crop production. Specifically, the joint committee outlined the role of the NOP, accredited certifying agents (ACAs), and certified growers in increasing organic seed use. Highlights of these roles include:

NOP

- Emphasize protocols for determining commercial availability during ACA training
- Documentation of levels of organic seed usage and evidence of improvement in the percentage vs. total seed usage by the ACAs' clientele

ACA

- Continue to enforce requirements for organic seed use
- Verify that organic farmers are making a concerted and ongoing effort to find suitable organic seed varieties
- Validate claims that organic seed was not commercially available

Certified Growers

- Document annually all seed usage
- Document a diligent search for organic seed

Discussion:

Finding organic seed in the desired form, quality and quantity remains a challenge for some organic growers.

Examples of comment and discussion:

“We need to increase seed availability to provide more and a better line of choices for organic growers.”

-Steve Moore, Foundation of Organic Seeds

“ACAs need to make clear to growers that the issue around the use of organic seed is being taken seriously.”

-Joseph Smillie, NOSB Member



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Issue:

Guidelines for the Use of Packaging and Processing Aids with products labeled and sold as “100% Organic”

Decision:

After receiving and reflecting on both fellow Board members’ and public comments, the Certification, Accreditation, and Compliance Committee decided not to vote on the proposed guidelines related to the 100 percent organic claim. They will continue working on this issue and revisit it at the next NOSB meeting.

Next steps:

The proposed guidelines will go back to the Certification, Accreditation, and Compliance Committee for further review.

Background:

NOP regulations make clear that in the 100 percent organic category, all ingredients and processing aids must be organic. What is unclear is what, specifically, is meant by the terms “ingredient” and “processing aid,” and whether there are other substances used in organic handling that fall outside either of these categories. Additionally, uncertainty arises around whether the use of such “other substances” negates the 100% organic claim that a product might otherwise be able to make.

Discussion:

Opponents of the proposed guidelines argued that any material used in the handling and processing of 100 percent organic products, including sanitizers, antimicrobials, and packaging materials, should be 100 percent organic. By contrast, proponents of the guidelines argued that those materials that qualify as “food contact substances,” do not have to be reviewed and approved by the NOSB to be placed on the National List for use in organic products and do not impact the 100 percent organic claim.



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Materials Reviews

Several different materials petitioned for inclusion on the National List were reviewed at the November 2008 meeting. Each of these materials, as well as the decisions made about them, is listed here.

Discussion:

The Handling Committee briefly discussed the role of section 205.606 in either “spurring or spurning” increased organic agriculture and products. Some on the committee see section 205.606 as an opportunity list of demand for specific organic products.

Material	Section of Rule	Sent to NOP for addition to National List?	Explanation
Tetracycline hydrochloride (for use in fire-blight control)	Crops	Yes	One form of tetracycline is already on the National List. All forms of tetracycline will have the same expiration date (10/21/12)
Ammonium nonanoate	Crops	No	Use still restricted to farmstead maintenance
Pelargonic acid	Crops	No	Material is not a soap and there no basis to allow it as an herbicide
Sorbitol octanoate	Crops	No	Material was not seen to be essential for organic production
Calcium from seaweed	Handling, 205.605(a)	No vote taken	Material is already allowed for use as it fits an existing definition of nutrient minerals
Ethylene for pears	Handling, 205.605(b)	No	Material was not seen to be essential for organic production
Chlorella (powdered)	Handling, 205.605/205.606	No	An organic form of chlorella already exists on the National List
Dumontiaceae (powdered algae)	Handling, 205.605/205.606	No	Failure to establish why this material is unavailable in an organic form
Buck hull powder	Handling, 205.606	No	Failure to establish that this material cannot be sourced organically
Black pepper extract powder	Handling, 205.606	No	Failure to establish that this material cannot be sourced organically
Dried orange pulp	Handling, 205.606	Yes	Putting material on National List will help to replace conventional/synthetic materials used in processing
Propionic acid	Handling, 205.605	No vote taken	Vote delayed until Spring 2009 meeting
Sodium chlorite, acidified	Handling, 205.605	No vote taken	Vote delayed until Spring 2009 meeting



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Current NOSB members

Joe Smillie
Bea James
Barry Flamm
Jennifer Hall
Tracy Miedema
Julie Weisman
Gerald Davis
Jeffrey Moyer
Rigoberto Delgado
Katrina Heinze
Tina Ellor
Kevin Englebert
Steve DeMuri
Hue Karreman
Dan Giacomini

Newly Elected NOSB Officers:

Chairman,
Jeffrey Moyer
of Rodale Institute

Vice Chairman,
Dan Giacomini
of Pacific Nutrition
Consulting

Secretary,
Julie Weisman
of Elan Vanilla and
Flavorganics

Looking Ahead:

At the end of the meeting, each NOSB committee outlined work plans to undertake in preparation for the next meeting (which is likely to take place in April 2009). Highlights of each committee's work plans are noted below. For a complete list of these plans, be on the lookout for the November 2008 NOSB meeting transcripts to be posted on the NOSB website

(<http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateQ&navID=NationalOrganicStandardsBoard&rightNav1=NationalOrganicStandardsBoard&topNav=&leftNav=NationalOrganicProgram&page=NOSBHome&acct=nosb>).

Materials Committee

- Review petitions and sunset items
- Improve tracking system to clearly identify where a given material is in the review process
- Further distinguish synthetic from non-synthetic

Livestock Committee

- Review and vote on bivalves section of the organic aquaculture standards
- Animal husbandry/welfare
- Access to the outdoors for poultry
- Injectable vitamins and minerals for livestock

Certification, Accreditation, and Compliance Committee

- Revise recommendations for biodiversity and 100 percent organic claim
- Develop criteria for retail certification
- Peer Review Panel

Crops Committee

- Review petitioned substances and materials to sunset in 2011
- Participate in joint committee on biodiversity
- Inert materials in pesticides
- Mushroom standards
- Soilless growing systems for terrestrial plants

Handling Committee

- Clarification of structure of and materials on National List
- Definitions of Agricultural and non-agricultural
- Review petitioned materials
- Refine review of section 205.606 materials

Policy Committee

- Clarify/define policy for prioritizing petitions
- Continue review of NOSB Policy and Procedures Manual
- Revise New Member Guide to include a glossary of acronyms

To read the complete agenda for the November 2008 NOSB meeting, visit
<http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?startIndex=1&startIndex=3&startIndex=2&template=TemplateN&navID=NationalOrganicProgram&leftNav=NationalOrganicProgram&page=November2008Agenda&description=NOSB+November+2008+Meeting+Agenda&acct=nosb>.

