

# FRUIT and VEGETABLE INDUSTRY ADVISORY COMMITTEE (FVIAC)

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## POLICY and PROCEDURES MANUAL

Adopted: **May 9, 2019**

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## INTRODUCTION

This document is intended as a guide for all members of the Fruit and Vegetable Industry Advisory Committee (FVIAC). Committee members are entrusted with a strong responsibility to treat the business of the Committee as fiduciaries for all members of the fruit and vegetable community and the public at large.

The Committee's primary role is to advise, rather than administer and implement. As in every business, the Committee's success depends heavily upon the ability to understand each other's respective role, and to develop the working relationship necessary within those roles.

This manual is designed to assist the Committee in its responsibilities. New Committee members are encouraged to review this manual in depth. Existing members are advised to periodically review the contents to refresh their understanding of the Committee's role and their duties.

New policies and revisions to existing policies and procedures will be incorporated into the FVIAC Policy and Procedures Manual from time to time.

## PURPOSE

The purpose of the FVIAC is to examine the full spectrum of fruit and vegetable issues and provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the industry's needs. This committee is in the public interest in view of the fruit and vegetable industry's importance to the nation's economy. The exchange of views and information between industry representatives and USDA should result in improved understanding of the impact of USDA programs on the fruit and vegetable industry and contribute to those programs' effective and efficient administration. In achieving this, Committee recommendations are best maintained within the scope of USDA programs.

## DUTIES OF THE COMMITTEE AND OFFICERS

To fulfill their responsibilities, Committee members agree to adhere to three duties as described in this Manual:

- Duty of Care
- Duty of Loyalty
- Duty of Obedience

### ***Duty of Care***

The Duty of Care calls upon a member to participate in the decisions of the Committee and to be informed as to the data relevant to such decisions. In essence, the Duty of Care requires that a member:

- Be reasonably informed—It is the duty of all Committee members to seek and study the information needed to make a reasoned decision and/or recommendation on all business brought before the Committee. The AMS Specialty Crops Program (SCP) may provide some of that information, but other information must be developed from independent sources.
- Participate in decisions—Committee members are bound by responsibility to be active participants in decision-making. Absence from a meeting is no protection from the responsibility for decisions made at the meeting.
- Make decisions with the care of an ordinary prudent person in a similar position—The law does not expect Committee members to act as super human. It simply requires Committee members to exercise judgment of an ordinary prudent person who may be faced with a similar issue.

### ***Duty of Loyalty***

The Duty of Loyalty requires Committee members to exercise their power in the interest of the public and not in their own interest or the interest of another entity or person. A Committee member's loyalty is to the fruit and vegetable community and the public at large. In dispatching their Duty of Loyalty, Committee members must:

- Address conflicts of interest—Committee members bring to the FVIAC particular areas of expertise based upon their personal and business interests in fruit and vegetable production and marketing. Committee members may have interests in conflict with those of the public interests. Committee members must be conscious of the potential for such conflicts and act with candor and care in dealing with such situations. Committee members must abide by the FVIAC conflict of interest policy.
- Recognize corporate opportunity—Before a Committee member votes upon an issue in which they have a direct financial interest, that Committee member must disclose the transaction to the Committee in sufficient detail and adequate time to enable the Committee to act—or decline to act— in regard to such transaction.

### ***Duty of Obedience***

Committee members are bound to obey the tenants of the laws and regulations governing fruit and vegetable production, processing and marketing. To this effect, Committee members must:

- Act within the requirements of the law—Committee members must uphold all state and federal statutes, including the Federal Advisory Committee Act (FACA – 5 U.S.C. App. 2 et seq.).
- Follow the requirements specified in the FVIAC Policy and Procedures Manual.

## MAINTAINING PROFESSIONAL AND ETHICAL STANDARDS

As appointees of the Secretary, FVIAC members must maintain high professional and ethical standards for the conduct of all activities within and outside of the FVIAC. Areas of particular concern include professional conduct and conflict of interest.

### ***Professional Conduct***

- Public service is a public trust, requiring ethical principles above private gain.
- FVIAC members shall put forth honest effort in the performance of their FVIAC duties.
- FVIAC members shall make no commitments or promises of any kind purporting to bind the Government.
- FVIAC members shall act impartially and not give preferential treatment to any organization or individual.
- FVIAC members, workgroup members and task force members shall not engage in a financial transaction using nonpublic information, not allow the improper use of nonpublic information to further his/her own private interest or that of another, whether through advice or recommendation, or allow the unauthorized disclosure of nonpublic information.
- Nonpublic information is defined as information that the Committee member gains by reason of participation in the FVIAC and that he/she knows, or reasonably should know, has not been made available to the general public. This includes information that is “routinely exempt from disclosure in 5 U.S.C. 552 (Freedom of Information Act) or otherwise protected from disclosure by statute, Executive Order or regulation; is designated as confidential by the agency or program; or has not actually been disseminated to the general public and is not authorized to be made available to the public upon request.”
- FVIAC members, workgroup members and task force members shall keep confidential all information identified by petitioners as confidential business information.
- To the maximum extent possible, FVIAC members should speak with one voice. Although there may be disagreements within FVIAC or working group sessions, once FVIAC members leave the session, they have the responsibility to support the integrity of the process, whether or not they agree with the final outcome. While FVIAC members retain the right to express minority opinions, the public airing of dissension could strain interpersonal relationships and create distrust and conflict among FVIAC members. Such stresses could undermine the FVIAC’s ability to effectively carry out its role as a governmental advisory Committee.
- FVIAC members with diverse backgrounds are recruited to provide balance to the Committee. While individual FVIAC members represent the segments of the population from which they were selected, they also represent the greater good of the population as a whole.

### ***Conflict of Interest***

The FVIAC recognizes that members have been specifically appointed to the Committee to examine the full spectrum of fruit and vegetable issues and provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the industry’s needs. FVIAC members have been appointed because they have professional expertise which enables them to advise the Secretary. This professional expertise may, at times, present an inherent conflict of interest. To prevent overt advocacy for direct financial gain and the appearance of self- interest or the appearance of wrongful activity, the FVIAC put forth the following conflict of interest policy.

*Be it resolved by the Fruit and Vegetable Industry Advisory Committee (FVIAC):*

*Members of the Committee shall refrain from taking any official Committee action from which that Committee member is or would derive direct financial gain. Committee members shall disclose their interest to the Committee and the public, when they or their affiliated business stand to gain from a vote, which they cast in the course of Committee business. Under certain circumstances, the Committee may determine whether it is appropriate for the member to vote.*

*That members of the Committee shall refrain from conducting business, promoting, and/or marketing for consideration any material, process or practice for which the member is or would derive direct financial gain arising out of such Committee action. The act of promoting such material, process or practice shall include private discussion with members of the Committee advocating the value of the material, public discussion and/or written advocacy.*

*A "direct financial gain" is defined as monetary consideration, marketing consideration, business transaction, contractual benefit or the expectation of future monetary gain to a Committee member, including but not limited to, financial gain from a party who markets, manufacture distributes, or holds exclusive title to a formula for a material or product, process or practice.*

## COMMITTEE MEMBER STANDARDS

- *Participate in meetings*—Members must make a commitment to attend meetings of the Committee.
- *Serve on workgroups, as assigned*—Each member must be willing to serve on workgroups as assigned by the Chair, and to participate in the work of those workgroups.
- *Be informed about the decisions to be made*—Committee members are expected to seek and study the information needed to make a reasoned decision and/or recommendation on all business brought before the Committee.
- *Fully disclose any conflict of interest positions*—Members having any commercial or immediate family interest that poses a potential or perceived conflict of interest must disclose that conflict to the Committee and abide by any decision of the Committee in dealing with the situation.

## CONDUCTING BUSINESS

- Quorum—A majority of the members of the Committee shall constitute a quorum for the purpose of conducting business. A majority of the members of a Workgroup shall constitute a quorum for the purpose of conducting business.
- Decisive votes— Two-thirds of the votes cast at a meeting of the Committee at which a quorum is present shall be decisive of any motion. Following Robert’s Rules of Order, all abstentions will be recorded as such and will not be included as part of the total vote cast. Similarly, all Committee members who recuse themselves due to conflicts of interest, or are absent, shall be recorded as such and their votes will not be counted towards the total number of votes cast. Both abstentions and recusals will be considered in order to establish a quorum.
- All meeting discussions should follow Robert’s Rules of Order to ensure

## COMMITTEE MEMBER OFFICER RESPONSIBILITIES

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

### ***Chair***

The Chair is responsible to assure the integrity of the Committee process, including effectiveness of meetings and the Committee’s adherence to its own rules. The Chair shall:

- Schedule meetings of the Committee in coordination with the Designated Federal Officer;
- Draft meeting agendas in consultation with workgroup chairs and the Designated Federal Officer;
- Assist in the implementation of policies, goals, objectives, strategic plans, workgroup work plans, and recommendations set by the FVIAC;
- Establishes and monitors Committee adherence to timelines which ensure SCP has sufficient time to publish related Federal Register notices and Committee /Workgroup recommendations that meet deadlines for public comment.
- Track recommendations, changes, and votes during meeting to ensure accurate meeting transcripts.
- Convene and preside at meetings;
- Manage Committee calendar and tracking databases in a manner that facilitates clarity of activities to the Committee;
- Ensure Committee members have all materials and information necessary to provide informed, structured and timely recommendations to the USDA;
- Review workgroup work plans; and
- Review meeting minutes, reports, statements for accuracy.

The Chair may delegate tasks to other FVIAC members.

### ***Vice Chair***

The Vice Chair shall act in the absence of the Chair.

### **Secretary**

The Secretary will work with the Chair, Vice Chair, and Designated Federal Officer to assist in maintaining the integrity of all documents of the Committee.

## ELECTION OF OFFICERS

### **Nomination**

- All interested FVIAC members are eligible for consideration for any officer position.
- Candidates may be self-nominated or nominated by another member of the Committee.
- Should the Chair, Vice Chair, or Secretary resign or fail to serve the full term, the Designated Federal Officer shall appoint an interim officer.
- The interim officer shall serve in the capacity until the next regularly scheduled meeting of the Committee, during which an election will be held to fill the remainder of the term.
- Members interested in serving more than one consecutive term in an officer position can if the Committee is in favor; however, it is recommended that an officer not serve for more than two consecutive terms.

### **Voting Schedule**

- Officers shall be elected for terms of one year by majority vote at an annual meeting of the Committee.
- Newly appointed officers will assume their positions immediately after election results are confirmed and verified.
- Acting Committee officers will assist the new officers to transition into their new role.

### **Eligibility to Vote**

- Only FVIAC Committee Members present are eligible to vote for nominated officers.
- Absent FVIAC members will not be eligible to vote.
- Committee members shall be entitled to cast one vote per nomination.

### **Counting of Votes**

- Voting will be by ballot immediately following nominations for each office.
- Ballots for officers will be cast in the following order:
  - Chair
  - Vice-Chair
  - Secretary
- The ballots will be counted for one office and the Designated Federal Official will announce the tally before the next office is opened for nominations.
- The Designated Federal Official will prepare and distribute the ballots and will gather the votes by secret ballot.
- The Designated Federal Official will tally the votes after each officer nomination and the Agency Head (SCP Deputy Administrator) will verify the vote results.
- The candidate receiving the largest number of votes will be elected.
- In the event of a tie there will be a revote until a nominee obtains majority. All nominees will be included in the revote or may be given the opportunity to withdraw at their discretion.



- Member vote counts will remain confidential. Other FVIAC members will not be allowed to determine how the members voted.
- Votes will be disposed of by the Designated Federal Official.
- The Designated Federal Official will record newly elected officers into the FVIAC Meeting Summary of Minutes.

## MEETINGS

All Committee meetings and conference calls assembled for the purpose of making and developing suggestions and ideas to USDA are subject to the Federal Advisory Committee Act (FACA). These must be open to the public and must meet public notification requirements.

## COMMITTEE WORKGROUPS

Workgroups play an important role in administering the Committee 's responsibilities. Workgroups exist to provide greater depth and clarity in the Committee 's responsibility to make informed decisions. However, workgroups are not authorized to act in place of the Committee. Workgroups are empowered to analyze information and bring draft recommendations to the Committee for consideration.

- Workgroup Chair are appointed by the Committee Chair.
- Workgroup recommendations are finalized by the FVIAC according to the following process:
  - Workgroup drafts the recommendation.
  - Draft recommendation placed before the full Committee for discussion.
  - Committee acts on the recommendation
    - Committee actions may include adoption of the recommendation as presented by the workgroup, amending and then adopting the recommendation, rejecting the recommendation, or referring the recommendation back to workgroup for further development.

## WORKGROUP MEETINGS

Workgroups may hold meetings via telephone conference calls. Two weeks' notice should be provided in scheduling such calls. The date and time set for the call is a product of workgroup dialog regarding the most conducive schedule. This dialog may occur on a previous conference call or through E-mail. All E-mail requests for meeting times should allow 48 hours to respond.

Emergency calls may be scheduled with less notice only after each member is contacted by FVIAC chair to reach a consensus on time and date of the meeting. If the members do not respond to E-mail requests, the chair or their designee must contact the member by phone.

The Designated Federal Officer (DFO) email MUST be copied on all E-mail correspondence. The Designated Federal Officer may provide communication guidance separate from this policy.

## DUTIES OF WORKGROUP CHAIRS

Workgroup chairs are responsible for the following duties:

- Schedule workgroup meetings as needed (with DFO notified in advance).
- Draft workgroup meeting agendas and work plans in consultation with workgroup members.
- Convene and preside workgroup meetings.
- Review workgroup meeting minutes for accuracy.
- Report actions of the workgroup to the Committee.
- Ensures completion of workgroup recommendation document.

## PROCEDURES FOR COMPLETING WORKGROUP RECOMMENDATIONS

Developing workgroup recommendations follows these broad steps:

1. The workgroup prepares a recommendation or discussion document.
2. During the Committee meeting, the workgroup presents its recommendation for discussion by the full Committee.
3. At any point in the process prior to the Committee's vote on the status of the recommendation, the presenting workgroup may convene and vote to withdraw its recommendation, based on approval of this action by the majority of the members of the workgroup.
4. Once presented, the Committee votes on the workgroup recommendation.

The Committee may take the following actions for each workgroup recommendation:

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

## Format Used to Submit FVIAC Final Statements or Recommendations

**Formal Recommendations by the Fruit and Vegetable Industry Advisory  
Committee (FVIAC) to the USDA Agricultural Marketing Service (AMS)**

Date:

FVIAC Chair :

Subject:

The FVIAC hereby recommends to the USDA and AMS the following:

Recommendation

Statement

Overview

Committee Finding

Recommendation | Statement

Committee Vote

Yes:  No:  Abstain:  Absent:  Recusal:

## Format Used to Submit Workgroup Statements or Recommendations

**Formal Recommendations of Workgroup  
to the Fruit and Vegetable Industry Advisory Committee**

Date:

FVIAC Working Group:

Subject:

The aforementioned workgroup hereby sanctions the FVIAC to adopt the following:

Recommendation

Statement

**Overview**

**Workgroup Finding**

**Recommendation | Statement**

**Workgroup Vote**

Yes:  No:  Abstain:  Absent:  Recusal:

## PARLIAMENTARY PROCEDURE AT A GLANCE

TO DO THIS	YOU SAY THIS	May you interrupt speaker?	Must you be seconded?	Is the motion debatable?	Vote required
Adjourn the meeting	I move that we adjourn	no	yes	no	majority
Recess the meeting	I move that we recess until...	no	yes	no	majority
Complain about noise, room temperature, etc.	Question of privilege	yes	no	no	no vote
Suspend further consideration of something	I move that the motion be laid on the table	no	yes	no	majority
End debate	I move the previous question	no	yes	no	2/3 vote
Postpone consideration of something	I move we post pone this matter until...	no	yes	yes	majority
Have something studied further	I move to refer the motion to the workgroup	no	yes	yes	majority
Amend a motion	I move to amend...	no	yes	yes	majority
Introduce business (a primary motion)	I move that...	no	yes	yes	majority
Object to procedure or to a personal affront	Point of order	yes	no	no	chair decides
Request information	Point of information	yes	no	no	no vote
Ask for a vote by actual count to verify a voice vote	I call for a division	no	no	no	no vote
Object to the consideration of some undiplomatic matter	I object to the consideration of the question	yes	no	no	2/3 vote
Take up a matter previously tabled	I move to take from the table	no	yes	no	majority
Reconsider something already disposed of	I move to reconsider...	yes	yes	yes	majority
Consider something vote out of its scheduled order	I move we suspend the rules and consider...	no	yes	no	2/3 vote
Vote on a ruling by the chair	I appeal the decision of the chair	yes	yes	yes	majority
Table a motion - take matter from table	I move to take from the table	No	Yes	No	majority
Rescind motions – Cancel previous action	I move to rescind	No	Yes	Yes	2/3 vote

Source: Robert's Rules of Order