

**National Organic Standards Board  
Policy Development Committee  
Proposed Recommendation  
Committee Transparency**

**October 03, 2011**

**Introduction:**

A number of stakeholders in the organic community have recently requested more visibility and transparency of National Organic Program (NOP), National Organic Standards Board (NOSB) meetings and actions. We recognize that the public availability of these records is critical to the meaningful engagement of the full organic community in public decision-making. The purpose of transparency is to create accessibility to organic program records and materials- including minutes of committee meetings associated with the NOP and NOSB activities. Enhanced public awareness of how NOSB decisions are made would enhance collaboration between the organic community and the Board.

Transparency should be a relevant concept throughout the NOP and NOSB. According to OGC opinion the NOSB committee meetings are subject to Freedom of Information Act (FOIA) and the Federal Advisory Committee Act (FACA).

**Background:**

The 1967 Freedom of Information Act (FOIA) establishes the public's right to obtain information from federal government agencies and allows for openness and disclosure of information to the public. The FOIA requires that the activities of government be accountable and transparent.

A foundational role for transparency has been recognized by the NOSB and NOP.

The Executive Director is obligated to, "Record and maintain records of 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" .

In regard to formal collaboration procedures between the NOSB and NOP, the PPM indicates that,

The NOSB is a FACA advisory committee, and as such, must conduct business in the open, under the requirements of P.L. 94-409, also known as "Government in the Sunshine Act" (5 U.S.C. 552b)", (PPM, pg23).

Therefore, the NOSB and NOP are encouraged to act in a manner that will support visibility, openness, and transparency in all business operations with easy access to all public information.

As per a July 25, 2011 communication with USDA/OGC Attorney Advisor, Karen Carrington:

The Section 10(b) of the Federal Advisory Committee Act (FACA), as, (Public Law 92-463, 5 U.S.C. App.) provides that,

"Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

The purpose of section 10(b) is to provide for the contemporaneous availability of advisory committee records that, when taken in conjunction with the ability to attend committee meetings, provide a meaningful opportunity to fully comprehend the work undertaken by the committee. "

Attorney Carrington further indicated that before materials are given public access, the agency would conduct a review of them under the Freedom of Information Act to ensure that personal information is not revealed. Nevertheless, deliberative information that goes to the essence of duties as a board member will most likely be disclosed publicly under the FOIA process.

## **Recommendations**

**Section III (pg 12) Role of the Executive Director is amended to include the following language:**

Arrange, facilitate, and record the NOSB Committee conference calls necessary to achieve the most efficient workings of the Board. Minutes are distributed to committees for confirmation of accuracy and approval. Committee minutes must fully capture the discussion, reflect the diversity of opinions expressed during meetings, and provide context for those opinions by identifying their source (name or position) i.e. farmer/grower, environmentalist/resource conservationist, consumer/public interest advocate, handler/processor, retailer, scientist, USDA accredited certifying agent, NOP, etc - in order that transparency exist and content remain

useful for committee members, board members and our stakeholder public.

**Section III (pg 13) Role of the Executive Director is amended to include the following language:**

Maintain executive committee meeting minutes and committee meeting minutes, committee records, reports, transcripts, appendices, working papers, drafts, studies, agendas and other documents which were made available to or prepared for or by the NOSB or its committees, and make such documents available for public inspection and copying at the Agency, electronically via the World Wide Web; and/or, upon written request in printed form.

**Committee Vote:**

Moved: Jennifer Taylor Second: Calvin Walker  
Yes: 6 No: 0 Abstain: 0 Absent: 0