

April 5, 2021

Ms. Michelle Arsenault  
National Organic Standards Board  
USDA-AMS-NOP

**Docket:** AMS-NOP-20-0089

**RE: Compliance, Accreditation & Certification Subcommittee Discussion Document on Supporting the Work of NOSB**

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the National Organic Standards Board (NOSB) Subcommittee's Discussion Document on Supporting the Work of NOSB. The Board is exploring through a series of questions the merit and acceptability of obtaining outside assistance to support its heavy workload without compromising the integrity of the process or the independent nature of the production and deliberation of its proposals.

The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing organic businesses across 50 states. Its members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's Board of Directors is democratically elected by its members. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

OTA strongly supports providing NOSB with technical, legal and regulatory support to ensure NOSB proposals and discussion documents are clear, accurate and written in a way that stakeholders and NOP can understand, and NOP can easily act upon.

**Questions for Stakeholders**

1. *Is the organic community comfortable with the Board getting support to “to help conduct and provide literature reviews, write drafts, and otherwise support the work of NOSB members?”*

Yes, absolutely. NOSB members are unpaid volunteers and need all of the support that is available and appropriate to be provided, to ensure they can effectively and efficiently carryout their responsibilities.

2. *If so, what areas are appropriate for the Board to get support?*

- Technical Information about the manufacturing and composition of substances, as well as any impacts on environmental or human health.
  - OFPA requires that NOSB obtain and utilize technical information in its review of substances (7 USC 6518(3); 7 USC 6518(l)). This information is essential for making

informed non-arbitrary decisions about whether a substance meets the applicable OFPA requirements.

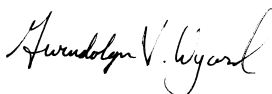
- Technical Advisory Panels and/or Technical Reports are the best way for NOSB to obtain thorough and relevant information from impartial independent expert sources. We support use of TR and TAPs whenever possible.
- Legal Information to support NOSB’s evaluation of issues that may involve legal interpretations or cross-agency regulations.
  - *Example:* In NOSB’s Recommendation on Ion Exchange Filtration, the Board admits it does not have legal capacity for analysis of FDA legal interpretations and technical support from NOP was not provided.
  - It is important to prevent NOSB from pursuing recommendations that may conflict with other legal statutes, or be unworkable, or create new legal challenges that may otherwise be avoided.
- Regulatory language development to ensure NOSB’s intent is accurately captured in the recommendations passed to NOP.
  - Regulatory language is very specific and particular in its construction and implications. NOSB members need support from NOP to draft regulatory language that implements the intended requirements and outcomes as recommended by the Board.

3. *For which areas should the Board not use outside support?*

- It would not be appropriate to use outside support for interpretations of how technical or legal information should be evaluated against OFPA Criteria for the National List. Using outside support to compile and organize data resources is perfectly acceptable, but it should be limited to just that.
- It would not be appropriate to use outside support to summarize, abbreviate or translate the content or positions of public comments because this could be misleading and have undue influence over the Board members’ interpretation of commenters’ positions that may be nuanced. Outside support would be appropriate only for the organizational component of preparing public comments for NOSB member review (i.e. sorting comments by topic; identifying commenter affiliations).
- In all cases, NOSB member must retain their individual independent decision-making capacity.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Standards Board for the opportunity to comment, and for your commitment to furthering organic agriculture.

Respectfully submitted,



Gwendolyn Wyard  
Vice President of Regulatory and Technical Affairs  
Organic Trade Association

cc: Laura Batcha  
Executive Director/CEO  
Organic Trade Association