

DISCUSSION DOCUMENT:

MATERIAL INITIATION POLICY

SUMMARY

Cornucopia believes in transparency and maximizing public engagement. For this reason, we believe that the NOSB and NOP should follow the same procedures as the public in initiating material review.

DISCUSSION QUESTIONS

- 1. Should an NOSB subcommittee utilize the public petition process when proposing changes to the National List?**

Yes. Whether it comes from a manufacturer, a public interest group, a trade organization, a subcommittee of the NOSB, or the NOP, every proposed change to the National List should go through the same process to maximize public participation in the process.

- 2. Are there situations when it would be appropriate for the NOSB to use an expedited or alternative petition process to consider a National List change? What are those situations?**

We can think of no situations when it would be appropriate for a change to the National List to bypass the public petition process. While it is entirely reasonable and appropriate for NOSB members to be proactive and initiate material review, their position on the Board should not enable them to bypass the public petition process, as it could lead to decreased transparency and public participation.

We believe the existing prioritization schedule, as outlined in the Policy and Procedures Manual, already adequately ensures that the most important items—petitions to remove materials from the list with a priority given to materials for which environmental or health concerns exist—be dealt with on an expedited basis. Material review initiated by the NOSB or NOP should be held to the same prioritization schedule.

- 3. If the answer to #2 is yes, what elements to the process are important to ensure transparency and facilitate public involvement, such as posting on the petition database or similar database?**

It would be absolutely crucial that any proposed change to the National List be posted on the petition database, and that the same procedures for facilitating public involvement be followed.

4. How and when should the public be notified that the NOSB has initiated a review if it is added to the work plan?

Initiation of material reviews should be initiated using the same procedure, regardless of where the review initiated.

5. Is it reasonable to interpret the NOSB-NOP Collaboration section of the PPM (p. 25), #2 Recommendation for modification of existing standards or new standards, as quoted above, to include the listing, delisting, or annotating National List materials?

The PPM (p. 25) states that “the NOP may request that the NOSB develop recommendations for new or existing standards. The request should be in writing and should include a statement of the problem to be addressed, background, including the current policy or situation, statutory/regulatory authority, legal situation, and desired timeframe for the receiving the recommendation. The request would be posted on the NOP website.”

The NOP should be held to the same process as the public. Their petitions should be posted as others are, and held to the same prioritization schedule as petitions initiated by the public. Petitions for the removal of a material from the National List are already prioritized, especially when there are documented human health or environmental effects, and we believe this serves the organic community well.

6. Is the current system for determining the priority of review (PPM, p 49) acceptable? If not, please any concerns?

We agree with the prioritization schedule.

7. Are there other related issues that should be raised?

Reconsideration of “yes” votes on material review

Under Robert’s Rules of Order, a member of the NOSB who voted with the majority to, for example, add a material to the National List, but then changes his/her mind after the vote, can offer a motion to put the item back on the agenda. There have been numerous instances in the past when Board members, especially new Board members, voted to approve a material or policy during the meeting, only to discover after the meeting that some of the information they relied on to make this decision was flawed. In such cases, we believe there should be an established mechanism, outlined in the PPM, for Board members to put the item back on the agenda, and call for a revote at the next meeting.

Prioritization for standards development in instances where clarification is needed

The NOP currently instructs the NOSB to give priority to petitioned materials. This has led to slow development of standards, including in cases where existing standards needed clarification (pasture rule, outdoor access for poultry). We would encourage the NOSB to consider recommending a prioritization schedule for standards development. We believe that clarifications to standards, especially when they involve loopholes, should be given priority over the development of new standards. We would recommend the following prioritization schedule for standards development:

1. Clarification of existing standards, when members of the organic community experience economic harm or are put at a competitive disadvantage arising from the lack of clarity in the existing rule. Examples include the clarification for outdoor space for organic poultry or closing the alleged “loophole” allowing continual introduction of conventional replacement dairy cattle on organic dairy farms.
2. Clarification for existing standards, when members of the organic community have requested clarification, but no clear economic harm or other negative consequences are expressed. An example is the clarification of the “calculating organic percentages” rule.
3. Development of new standards, which are required by OFPA. An example is the development of standards for peer-review, which is required by OFPA.
4. Development of new standards, which are not explicitly required by OFPA, but which meet the intent of OFPA. An example is the development of aquaculture standards.