

**National Organic Standards Board
Policy Development Committee**

Technical Corrections

September 18, 2008

Background:

Technical Corrections are those actions needed to amend or slightly change the exact wording of an item placed into the Federal Register, as recommended by the NOSB and accepted (or rejected) by the Secretary. Changes in the wording of a recommendation (e.g., omitting a word, a place holder, or changing an annotation slightly), or finding unintended consequences of a recommendation (e.g., incomplete annotations allow inappropriate uses of a material) can obscure the intent of the NOSB, incorrectly convey a statement voted on by the NOSB, and/or create uncertainty among the public. Because other issues come forward as more urgent once the Board has taken action on an item, Technical Corrections may glaringly emerge and remain uncorrected. This recommendation presents an approach to identifying and correcting such discrepancies.

Discussion:

In order to minimize confusion in the organic community, the Board needs to have a way to deal with discrepancies between items which have been voted on and their subsequent insertion in the Federal Register. Some examples of the different types of Technical Corrections and the different levels of technical Corrections (NOSB level or NOP level) are:

Annotations different than what was originally recommended by NOSB and changed by the Program in order to fit the demands of other federal regulatory bodies (ex: livestock medications withholding times).

An unforeseen consequence of a recommendation voted by the Board could require additional annotations in order to fit the needs of the organic industry. The absence, for example, of a explicit description of what methods of extraction are allowed for specific materials could result in the unwanted use of materials extracted using prohibited extraction processes (ex: colors on 606 – hexane and ethanol extraction not reviewed, but water, oil-extracted and dried were recommended) .

Recommendation:

Insert in the Policy and Procedures Manual a new section called “Handling Technical Errors after an Item Has Been Placed in the Federal Register”, to be included at the end of Section VIII, before the section “Appendices and Resources” of the NOSB Policy and Procedures Manual.

The suggested text of the section is as follows:

HANDLING TECHNICAL ERROS AFTER AN ITEM HAS BEEN PLACED IN THE FEDERAL REGISTER

In order to minimize confusion in the organic community, the Board needs to monitor and correct discrepancies between items which have been voted on and their subsequent insertion in the Federal Register. Some examples of the different types of technical corrections needed are:

Annotations different than what was originally recommended by NOSB and changed by the Program in order to fit the demands of other federal regulatory bodies (ex: livestock medications withholding times).

An unforeseen consequence of a recommendation voted by the Board could require additional annotations in order to fit the needs of the organic industry. The absence, for example, of an explicit description of what methods of extraction are allowed for specific materials could result in the unwanted use of materials extracted using prohibited extraction processes.

The Board should follow these steps to monitor and correct technical discrepancies:

(1) The Secretary of the Board, with the assistance of the NOSB Executive Director, shall review all additions to the Federal Register and report to the Board any discrepancies between Board recommendation and those published in the Federal Register.

(2) When the Program incorporates changes to a recommendation voted and presented by the Board, the Program is expected to communicate these changes prior to final action by the Program to the Board Chair, Vice Chair and Secretary. The Board Chair, Vice Chair and Secretary will report such activity to the Board and then work with the Program in order to assist the Program in stating the exact reasons for such deviations in the preamble to the Rule change posted.

(3) In the cases of unintended consequences with a published recommendation, the Chair of the Board, with the approval of the Executive Committee, will assign committee to resolve the issue.

Committee Vote:

Moved: Barry Flamm ***Second: Hue Karreman***

Yes: 3 ***No:0*** ***Absent: 1*** ***Abstain:0***