



BEYOND PESTICIDES

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November 9, 2011

National Organic Standards Board
Fall 2011 Meeting
Savannah, GA

Re. Comments Public Comment Discussion Document

Dear Board Members:

These comments are submitted on behalf of Beyond Pesticides. Beyond Pesticides, founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers and farmworkers, advances improved protections from pesticides and alternative pest management strategies that reduce or eliminate a reliance on pesticides. Our membership and network span the 50 states and groups around the world.

We thank the Policy Development Committee for this opportunity to address the important issue of maximizing the public input into NOSB decisions. As the discussion document points out, the NOSB has adopted policies and practices that encourage comments in person and in writing. The fact that so many people submit written comments and travel substantial distances to deliver short comments in person is a reflection of the growth of organic production and evidence of the public interest in maintaining organic integrity. We thank you for taking the time to read so many written comments and attend to so many people who offer their comments in person.

Like many others, we were disappointed that the board cut back on public comment time at the last meeting, especially because there was extra time not used at the end of the day. We feel it is disrespectful to invite people to speak for five minutes, cut their time to three minutes, and then further cut the time to a total of three minutes with board questions. As a result, we believe that the procedures regarding public comment time need to be clarified by board policy, rather than left to the total discretion of the chair.

As the discussion document points out, there are many routes open to the NOSB when faced with overwhelming public interest. We hope that the board will evaluate options keeping in mind the aim of maximizing meaningful public input. If the time is restricted too much, it will not allow commenters to make a coherent case for their position.

In response to questions in the discussion document:

1) Given that the public comment period cannot be unlimited, how should the requests to make public comment be prioritized?

It makes sense to accept sign-ups for as many slots for comments as would be allowed by following the board's policy. If more people want to comment, a waiting list can provide for commenters when people on the list do not show up.

2) Should the policy be clarified to state a fixed presentation time for public comment?

It shows respect to the commenters to let them know how long they have to present their position, so that they can be prepared.

3) Should policy also define a maximum question and discussion time once public comment is received?

Any limitation on questions and discussion should not come out of the time of the commenters. The board should budget time for asking questions.

4) Who should allow the variation or combine the time(s) into a defined total in #3 above?

The board, in setting its agenda, should budget time for questions.

5) Is time setting best done by the Board Chair, at the time of the meeting, depending upon the circumstances at hand?

The board chair should be prepared to be flexible according to the circumstances. This includes allocating unused time to allow those on a waiting list to speak, or to allow the board to ask further questions.

6) Should the time allocated be flexible or related to the number of requests?

The chair needs to be flexible in response to the number of requests as well as the needs of the board to address specific commenters.

7) Should the public comment time allowed remain as it is now in the PPM?

The five minute time period allowed in the PPM (but allowing for up to 10 minutes), is reasonable.

8) Is some other designation of time(s) more appropriate?

The precise time is not as important as that the designation of a time be regarded as a commitment. It is not respectful to designate a length of time and arbitrarily reduce it.

9) Should public comment through live/"remote" means be allowed and/or encouraged?

This is a new possibility that could greatly add to the public comment time if widely used. On the other hand, it could permit give-and-take interaction with those otherwise unable to attend the meeting. Perhaps the board could consider a trial for certain invited testimony.

10) Given the limits of time, should the recent revisions to the PPM to clarify proxy procedures (p27) continue? Or, should the proxy practice be abolished?

What is the benefit of allowing proxies? Comments delivered in person allow the board to have a personal contact with the person delivering comments and to ask that person questions. Proxies do not allow contact with more people, and they do not allow questions to be asked of the person who signed up. They allow for one person to have more than one

slot for public comment, which does not seem to be fair when time is short. On the other hand, there is a limited need for proxies when the cost of traveling to a meeting is prohibitive and there is a person at the meeting who can respond to board questions in place of the commenter. We recommend enforcing a proxy policy that strongly limits proxies to this situation and that no more than 10% of the speakers slots be allowed for proxies.

11) How can this function (NOSB serving as an advisory role) best serve as a public-private partnership that is responsive to the concerns raised by the broader organic community?

The board can fulfill its advisory role as mandated by OFPA when members of the NOSB are appointed who truly represent the various groups designated by OFPA and those representatives engage in deliberations in a transparent way, open to public involvement. The NOSB serves the important function of listening to the public and conveying public concerns to the Secretary. It was created with the understanding that the board may be sometimes communicating to an agency that is hostile to organic principles. Therefore, the board has in the past used mechanisms outside of the normal recommendation process, such as delivering to the Secretary memoranda reflecting the “sense of the board” on certain issues. This is a practice that should be continued.

The discussion document also invites additional questions. The NOP notice of October 26, 2011, concerning communicating with the NOP and the NOSB, prompts us to add this question:

12) Should the NOSB accept comments from the public between comment periods that concern specific issues? If so, how?

The public is interested in the on-going work of the NOSB, relating to the clearly defined duties of materials review and oversight as well as the general responsibility to advise the Secretary on issues relating to organic production. At times, input in the interim can prevent confrontational positions at NOSB meetings. In this age, there are many options for accepting comments as well as making information available. We urge the board to investigate these possibilities, keeping in mind the aim of maximizing input and transparency.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Shistar".

Terry Shistar, Ph.D.
Board of Directors