

**National Organic Standards Board
Policy Development Subcommittee
Proposal: NOSB Meeting Public Comment Procedures
July 30, 2012**

I. Introduction

Public input and transparency are central to the effective functioning of the NOSB. The proposed amendments to the Policy and Procedures Manual are intended to improve the ability of the NOSB to receive public comment.

II. Background

The six NOSB subcommittees meet using teleconference calls on a regular, typically twice a month basis, sharing information received from the public, actively seeking further information and data as they review an ever increasing range of complex substantive issues and develop recommendations. Twice a year the full NOSB physically meets together at a location within the U.S. These public meetings take place at different geographic locations in order to ensure that those who cannot travel long distances for reason of cost or time are more likely to have their voices heard, and assumes that more regional members of the public will attend in person, and also that regional differences in agriculture will thus be better understood by the Board as it develops recommendations to forward to the NOP.

For anyone involved in public policy it is well understood that input through public comment at open public meetings provides both challenges and opportunities. There is a delicate balance between letting everyone speak for as long as they want to, while allowing time for everyone present to be heard, and then time for their comments to be digested by those who listen and pose questions. In addition the public needs to feel confident that their views have been heard and taken into consideration before decisions are voted on. Well run and effective public meetings require clear rules and leadership. Over the last five years there has been an increasing interest by the public to attend the semi-annual meetings in order to provide public comment, and increasing mutual desire by the public and the Board to clarify and improve procedures for taking public comment. Thus, in October – November, 2011 the NOSB sought public input to clarify policy and procedures for receiving public comment specifically with reference to public meetings.

III. Relevant Areas of the Rule

The Organic Foods Production Act (OFPA) establishes the National Organic Standards Board at Section 2119 (7 U.S.C. 6518), “(a) The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act (5 U.S.C. app. 2et seq.) [hereafter referred to as the “Board”] to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title.”

The Policy Procedures Manual (PPM), Section VI “Policy for Public Comment at NOSB Meetings” lays out the process and the time designations of public comment and further provides for, “Other suggestions that would be appreciated by NOSB members”.

IV. Discussion

It is clear that many members of the public are frustrated by the procedures for public comment at the national meetings and they seek clarification and a desire for greater confidence that the Board members have heard what they have to say, and have seriously considered their input. Comments also requested flexibility with public involvement.

Following are some of the issues raised:

Length of time to speak

With an increased interest in public comment at meetings, there are typically many more speakers for the time allotted. While ten (10) minutes is too long to permit, it is clear that for many even five (5) minutes is a short time to speak given the complexity of issues and range of topics covered in one meeting. Requiring three (3) minutes as a time limit forces speakers to be concise and prioritize topics covered in verbal presentation. In addition speakers need to be reminded that they can also submit an expanded written version of their comments during the meeting.

One commenter stated, “The length of time is not as important as that the designation of a time be regarded as a commitment.”

While it may be that speakers have travelled long distances, incurring expense and taking time to speak for only three minutes, it is also true that attending the meeting allows face-to-face exchange of data, information and policy concerns throughout the week.

Several organizations requested that the length of time be set at five (5) minutes and decreased to three (3) minutes if there were too many presenters for time period allotted, with flexibility being provided by the Chair.

Time allotted on agenda for public comment

There is widespread concern that there is not sufficient time on the week’s agenda for public comment. While this is probably a normal perception by the public for any national board, it is nonetheless an important issue to address. In past years, public comment extended into evening hours and the Board may wish to seriously consider returning to this option.

One commenter suggested extending total time allotted for public comment by one hour.

Another stated, “We may reach a point when comments need to be prioritized, either on a first come first served, or randomized basis in order to ensure equity and diverse public input”.

Another comment suggested maintaining a waiting list for public comment.

Board questions to public speakers

There is a perception that Board members are not listening to the speakers because they do not ask many questions. And it is a perception that not all Board members are knowledgeable on the subject at hand because they do not ask questions. Thus it would seem counter-productive to consider “limiting Board questions” as a way to allow more public input, and none of the comments received suggested limiting Board questions.

Two organizations wanted it to be clear that Board question time was not considered part of the three (3) minutes of public comment, while being sure that Board members ask questions to clarify issues under consideration.

Board members should be encouraged by the Chair to ask questions that are relevant and required to assist the Board in reaching decisions on substantive issues, and to be active listeners. Further, there needs to be far greater public understanding of the inordinate number of hours every week that individual Board members in fact spend reviewing TRs, public input, committee meetings, e-mail exchanges and phone calls.

Public comment impact on Board decisions.

There is a perception that the Board does not take the time to adequately review and apply public input prior to making their decision. In order to address this very real concern the Board should always have time to recess following a public comment period prior to making a public decision on an agenda item.

Use of proxy speakers

There is a mix of public perception on use of proxy speakers. One organization suggested continued use of proxy presentations, but stated that the information could also be achieved through written testimony. Three other comments suggested refined limitations to monitor implementation.

There is a public perception that those who turn up and speak at the meeting will have a more direct impact on the immediate decisions of the Board. However there is the counter argument that the proxy is not in fact the originator of the input and cannot really answer any Board question, and such information could simply be provided in writing prior to the meeting. Eliminating proxy speakers will allow more time for those who are present in person.

Use of electronic participation in lieu of physical presence

This is not an easy issue to address. On the one hand, attending the meeting is expensive and time consuming, limiting those who may attend, and there are a number of electronic means for communicating, such as via skype, or conference speaker phone, constant tweet inputs or other social networking tools, or by having a room full of people at a distant location with a TV type satellite connection. Any one of these or a combination could allow for increased input during the hours allotted to public comment.

Indeed one might envisage a national meeting where committee members are scattered at various regional geographical locations nationwide using TV “classroom” connections, a teaching tool which university and other teachers have been using for years to teach at diverse locations simultaneously. All input would thus be essentially electronic. This would be an improvement over the faceless nature of the phone conference calls, but would be complex to set in place and would increase participation, which would in turn require more time allotment.

Conversely interested members of the public can submit public comment in writing, and public meetings rotate geographically around the US, allowing for greater regional participation over time. Further, there are already many people who physically attend and not enough time to allow everyone to comment on everything that they would like to comment on.

Based on comments reviewed and experience, the use of electronic communication is not recommended presently.

V. Recommendations

Amend SECTION VI of the PPM, entitled NOSB Policy for Public Comment at NOSB Meetings, as follows:

NOSB Policy for Public Comment at NOSB Meetings:

1. All persons wishing to comment at NOSB meetings during public comment periods must sign-up in advance per the instructions in the Federal Register Notice for the meeting.
2. All presenters are encouraged to submit public comment in writing according to the Federal Register Notice. Advance submissions allow NOSB members the opportunity to read comments in advance electronically, and decreases the need for paper copies to be distributed during the meeting.
3. Persons will be called upon to speak according to a posted schedule. However speakers should allow for some flexibility, and also note that persons called upon who are absent from the room could potentially miss their opportunity for public comment.

4. Time allotment for public comment per person will be four (4) minutes, with the options of reducing to a minimum of three (3) and extending to a maximum of five (5) minutes at the discretion of NOP working closely with the NOSB Chair in advance of the meeting.

5. Persons must give their names and affiliations for the record at the beginning of their public comment.

6. Proxy speakers are not permitted.

7. Public comment requests may be scheduled by major topics under consideration.

8. Individuals providing public comment will refrain from any personal attacks and from remarks that otherwise impugn the character of any individual.

9. The NOSB will attempt to accommodate all persons requesting public comment time, however, persons requesting time after the closing date in the Meeting Notice, or during last minute sign-up at the meeting, will be placed on a waiting list and will be considered at the discretion of the NOP working closely with the NOSB Chair depending on availability of time.

10. Members of the public are asked to define clearly and succinctly the issues they wish to present before the Board. This will give NOSB members a comprehensible understanding of the speaker's concerns.

VI. Subcommittee Vote

Moved: Colehour Bondera Second: C. Rueben Walker
Yes 7 No 0 Abstain 0 Absent 1 Recuse 0