Public Participation in Government Decision-Making: An Organic Tradition

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Public participation in government decision-making is an American tradition. Its roots extend all the way back to the Administrative Procedure Act of 1946,[1] the law which codified the first requirements for public participation in government rulemaking. By providing the public an opportunity to comment on its draft documents, the government not only becomes more informed about the impacts of important policy matters on stakeholders, but it also becomes more transparent and accountable to those it serves. Having just returned from the National Organic Standards Board (NOSB) meeting in Portland, OR,[2] I can say with confidence that the public participation tradition is alive and well in organic policy making. In fact, organic is one of the most transparent sectors of our food system, largely because of its strong reliance on public participation.

From the early days of organic rulemaking in 1997, when 275,603 people sent comments to USDA opposing genetically engineered organisms, irradiation, and sewage sludge, to this latest NOSB meeting, the public regularly exercises its right to participate. And, its opinions hold sway. The NOSB's recent decision to deny a petition to allow conventionally grown sugar beet fiber in organic provides a case in point.

Twice a year, the NOSB holds public meetings and makes recommendations to the Secretary of Agriculture on issues affecting the growing, processing, and handling of organic food, including whether to permit synthetic materials and non-organic ingredients. In fact, no synthetics or non-organic ingredients are permitted whatsoever in organic, unless the NOSB approves them. At

the Portland meeting, conventional sugar beet fiber was among those ingredients reviewed in response to a petition to allow it in processed organic food. Organically grown sugar beet fiber is not commercially available, which is why the producer petitioned to use it in the conventional form.

To allow an exception for a conventionally grown ingredient in organic, a technical review is conducted of the environmental and health hazards associated with the use, production, and consumption of the ingredient, and to evaluate existing alternatives. In the case of conventional sugar beet fiber, the Technical Evaluation Report made it clear that, from start to finish, sugar beet production and beet sugar extraction are chemically-intensive and environmentally destructive.

Prior to planting, sugar beet seeds are frequently treated with a neonicotinoid pesticide, which threatens bees, beneficial pollinators, and birds.[3] On the farm, conventionally grown sugar beets use synthetic, toxic fertilizers, pesticides, and the notorious ozone-depleting soil fumigant, methyl bromide.[4] Industry estimates that ninety-five percent of all sugar beets grown in the U.S. are now genetically engineered,[5] so it is highly unlikely that non-GE seeds — either conventional or organic — would be available. To extract the sugar, beets are processed with formaldehyde and the process generates a large volume of wastewater.[6]

Clearly, this is not the type of production system that organic should support under any circumstances.[7] Yet, the Subcommittee charged with evaluating the material on behalf of the NOSB felt otherwise. Despite the critical Technical Report and the red flags it raised about the incompatibility of conventional sugar beet fiber production with organic systems, the Subcommittee voted seven in favor to approve it, with one abstention. That's why public participation at the NOSB is so vital.

The public, including the Center for Food Safety, came to a very different conclusion than the Subcommittee in its written comments, which unmistakably turned the tables on this NOSB decision.[8] Verbal testimony at the meeting reinforced the public's critique that allowing a substance with notable environmental and health impacts in organic food was unacceptable, particularly since alternatives are commercially available for organic producers.

When the issue was put to a vote of the full NOSB, it *unanimously* voted against the petition. The entire Subcommittee ended up reversing its previous vote — a major victory for the public participation process!

Legally mandated public participation in government decision-making forces federal advisory boards, like the NOSB, to be held accountable for their actions, every step of the way. In the organic sector, participation has been an essential piece of the policy development process where the exchange of ideas and knowledge between policy makers and stakeholders allows for the continuous improvement of organic, as per the spirit and intent of the law.[9] And, this tradition of participation is what has allowed organic to grow and prosper and to continue to be the healthiest system of food production.

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[1] According to the Attorney General's Manual (1947) on the Administrative Procedure Act, the basic purpose of the APA is: (1) to require agencies to keep the public informed of their organization, procedures and rules, (2) to provide for public participation in the rulemaking process, (3) to establish uniform standards for the conduct of formal rulemaking and adjudication, and (4) to define the scope of judicial review. *Available at:* http://www.law.fsu.edu/library/admin/1947cover.html

[2] The NOSB is a 15 member, USDA-appointed, volunteer Federal Advisory Committee Board that works to clarify and strengthen organic regulations by serving as an Advisor to the National Organic Program and Secretary of Agriculture.

[3] Eric Hoffmann & Steven Castle. (2012*)* "Imidacloprid in Melon Guttation Fluid: A Potential Mode of Exposure for Pest and Beneficial Organisms,"105 J. ECON. ENTOMOLOGY 67 (2012). Tennekes, Henk. (2010) *The Systemic Insecticides: A Disaster in the Making,* Weevers Walburg Communicatie, Zutphen: The Netherlands.

[4] Technical Evaluation Report (TER). (2012) Sugar Beet Fiber: Handling/Processing, Compiled by the Organic Center for the NOSB, 7 March, pp. 9. *Available at:* http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5098983

[5] USDA approved the planting of Roundup Ready (RR) sugar beets in 2005, and commercial planting of began in 2007. *Available at:* http://www.aphis.usda.gov/biotechnology/sugarbeet_case.shtml

[6] TER, 2012, p. 8.

[7] The Technical Evaluation Report (2012) states that "pesticide pollution from sugar beets is a global concern," p. 9.

[8] Eight public comments opposed the approval of conventionally grown sugar beet fiber and the one comment that favored it came from the petitioner.

[9] Organic Foods Production Act of 1990 (OFPA). *Available at:* http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5060370