



# BEYOND PESTICIDES

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September 20, 2013

National Organic Standards Board  
Fall 2013 Meeting  
Louisville, KY

## Re. PDS: Conflict of Interest

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.

Beyond Pesticides urges NOSB members to reject the National Organic Program (NOP) proposal on conflict of interest (COI) embodied in the Policy Development Subcommittee (PDS) proposal.

The Federal Advisory Committee Act (FACA) gives agencies wide discretion in establishing rules for ensuring that COI does not interfere with sound decision-making on FACA committees. The NOP may establish rules, but unless reasons are given for rejecting NOSB rules and imposing NOP rules, they are arbitrary. The only reason the NOP has given is “We are allowed to do it.”

On the other hand, there are good reasons to adopt the procedures supported by the PDS.

First, the NOSB was created because the authors of the Organic Foods Production Act (OFPA) distrusted USDA. That is why the Secretary cannot put a substance on the National List unless NOSB has recommended it. The NOP should not be the arbiter of who can and cannot vote on an issue before the NOSB. That would turn over control of votes (and hence decision-making) to the USDA, which is precisely what Congress sought to avoid.

Second, the PDS supported a much more transparent procedure, which is what public opinion has favored. Conflicts should be disclosed to the NOSB and the public, not just to the NOP. The NOSB is a board of representatives of various interests. Other board members expect that a grower representative speaks from the viewpoint of growers, an environmental representative speaks from the viewpoint of environmentalists, and so forth. They can factor that into their consideration of other board members’ arguments. Neither NOSB members nor the public should expect that a board member speaks from the perspective of someone who has personal financial loss or gain involved in the decision. The NOP process does not require disclosure of the nature of the conflict to the Board or the public. Under that process, those with identified

conflicts are permitted to argue for or against proposals in which they stand to gain or lose personally, without disclosing (unless they want to) the nature of the conflict.

Third, in the examples given by the NOP, they demonstrate a profound ignorance of how public interest groups function. They also demonstrate a willingness to give greater weight to a donation to a nonprofit organization as a conflict, compared to the paycheck received by a person working for a company that sells or uses a product. A Board member who works for a company that sells products depending on a substance is not considered to have a conflict of interest if other companies also sell such products. However, if a nonprofit organization receives a donation of \$5,000 from a supporter of a position on a material, that is considered a conflict for a leader regardless of whether other organizations receive such donations. This assumes that nonprofit organizations shift their missions based on individual donations. It equates the organizational income of the nonprofit with the personal gain of a member of its leadership team, but does not equate the gain of a business with the personal gain of an employee.

Therefore, we ask you to reject the proposal imposed by the NOP. The procedure may be imposed by the NOP, but the NOSB does not need to support it.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terry Shistar".

Terry Shistar, Ph.D.  
Board of Directors