



BEYOND PESTICIDES

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April 22, 2012

National Organic Standards Board
Spring 2012 Meeting
Albuquerque, NM

Re. List 3 Inerts

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.

In these comments we address the proposal on former List 3 “inerts,” as well as the need to deal with former List 4 “inerts.”

1. “Inert” ingredients formerly categorized as List 3 by EPA

Beyond Pesticides supports the Crops Committee proposal to finally deal with former List 3 “inerts” as individual chemicals. However, we must point out that this decision has been made before, and the Crops Committee should have produced recommendations on the three or four individual chemicals at issue rather than delaying the vote for up to two more years. The committee recommendation lays out the history. It shows that inerts were always intended to be subject to National List review, that List 3 “inerts” were to be individually reviewed by January 1, 2002, that the review dragged out, but in 2007 the board stated and in 2008 reaffirmed that inerts would need to be addressed as individual substances the next time around. We agree with that history. If thousands of former List 3 “inerts” were used in organic production, we could understand the Committee’s reluctance to undertake the individual review process, but the Crops Committee has no other materials on its agenda at this meeting, and there is no reason that it could not have addressed three or four materials.

We sincerely hope that the review of these three or four chemicals proceeds according to schedule. As you all know, so-called “inert” ingredients in pesticide formulations are not “inert” by any common understanding of the word. There is no reason that these materials should be granted special status and allowed to escape the review required under the *Organic Foods Production Act* (OFPA). In particular, “inert” ingredients on the former List 3 never should have National Organic Standards Board

been approved as a group, and their listing cannot be justified with reference to §6517(c)(1)(B)(ii).

2. "Inert" ingredients formerly categorized as List 4A or List 4B by EPA

All synthetic materials used in organic production must be reviewed by the NOSB. So-called "inert" ingredients should not have special standing. As is required by OFPA (7 USC 6517(c)(1)(C), "inert" ingredients, like any other materials used in organic production, must be evaluated against the criteria in OFPA that require that they would not be harmful to human health or the environment, are necessary to the production or handling of the final product because natural substitutes are not available, and are consistent with organic farming and handling.

"Inert" ingredients have many toxicological effects, including acute and chronic effects. Exposure to so-called "inert" ingredients may result in carcinogenicity, adverse reproductive effects, neurotoxicity, developmental effects or other chronic effects, as well as ecological effects or the potential for bioaccumulation. Those "inert" ingredients formerly listed on List 4A were considered by EPA to be "minimal risk inert ingredients." EPA said of List 4A, "The determination that a chemical is minimal risk would be based on a recognition of the overall safety of the chemical (such as very low toxicity or practically non-toxic) considering the widely available information on the chemical's known properties, and a history of safe use under reasonable circumstances."¹ On the other hand, List 4B included chemicals that are acutely toxic, but limited by EPA to uses in which exposure would be lower. They may have other toxicological effects, and some are endocrine disruptors.

EPA now recognizes that "inert ingredient" is an inappropriate term. It says,

In September 1997, the Environmental Protection Agency (EPA) issued [Pesticide Regulation Notice 97-6](#) which encourages manufacturers, formulators, producers, and registrants of pesticide products to voluntarily substitute the term "other ingredients" as a heading for the "inert" ingredients in the ingredient statement on the label of the pesticide product. EPA made this change after learning the results of a consumer survey on the use of household pesticides. Many comments from the public and the consumer interviews prompted EPA to discontinue the use of the term "inert." Many consumers are misled by the term "inert ingredient," believing it to mean "harmless." Since neither federal law nor the regulations define the term "inert" on the basis of toxicity, hazard or

¹ <http://www.epa.gov/opprd001/inerts/oldlists.html>

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risk to humans, non-target species, or the environment, it should not be assumed that all inert ingredients are non-toxic.²

Although OFPA allows for the use of certain synthetic “inert” ingredients to be listed on the National List, they must still meet the criteria in USC 6517(c)(1)(C).

The NOSB must develop a plan for evaluating the “inert” ingredients formerly on Lists 4A and 4B as soon as possible, but this should not interfere with the prompt review of chemicals formerly on List 3 because the plan should be a systematic approach to individual review of the remaining “inert” ingredients permitted to be used in organic production according to USC 6517(c)(1)(C).

We suggest that the chemicals not qualifying for inclusion in EPA’s 25(b) list (“Inerts of Minimal Concern”), mostly formerly on List 4B, be reviewed first because of their greater hazards. They can be reviewed at a rate of some reasonable number per year until they are completely reviewed. If possible, they might be sorted in clusters of similar chemicals to facilitate review. When the former List 4B is done, the NOSB can begin with the relatively innocuous group of chemicals that qualify for inclusion on the 25(b) list.

Regardless of the strategy for addressing the former Lists 4A and 4B, the three or four former List 3 chemicals must be addressed immediately with a full review as required by OFPA. These chemicals never should have been listed without a full OFPA review, and their listing cannot be justified by any rationale applied to the former List 4A and 4B.

Thank you for considering these comments.

Sincerely,



Terry Shistar, Ph.D.
Board of Directors

² <http://www.epa.gov/opprd001/inerts/notices.htm>