



BEYOND PESTICIDES

701 E Street, SE ■ Washington DC 20003
202-543-5450 phone ■ 202-543-4791 fax
info@beyondpesticides.org ■ www.beyondpesticides.org

October 11, 2016

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave., SW
Room 2648-S, Mail Stop 0268
Washington, DC 20250-0268

Re. CS: Contaminated Inputs

These comments to the National Organic Standards Board (NOSB) on its Fall 2016 agenda are submitted on behalf of 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, Beyond Pesticides 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 the world.

We are disappointed to see the Crops Subcommittee (CS) further delay work on contaminated inputs. The CS notes say, the project is “ON HOLD pending compost ruling.”

In fact, the compost lawsuit has no relevance to this project, which is a prospective analysis of possible contaminants and the pathways by which they may enter into organic production. The compost lawsuit related to the procedures that were and were not used by the National Organic Program in changing its rules concerning a particular contaminated waste stream. To justify the failure to address this prospective, preventive effort started many years ago on a lawsuit concerning USDA procedure is causing an unfortunate delay in addressing a major issue of organic integrity.

The court decision in *Center for Environmental Health, et al. v. Tom Vilsack, et al.* (June, 2016) found that USDA's action on allowed levels of contamination in compost was inconsistent with organic production standards, and also undermined the essential public participation function of organic policy making under the Administrative Procedure Act (APA) –federal law that establishes the procedures for public input into federal policy making. Since USDA never subjected the contaminated-compost decision to formal notice and public comment, USDA failed in its duty to ensure that its regulation is consistent with the Organic Food Production Act (OFPA) and the standards set forth for approving the use of synthetic substances. It is especially important now, given the court decision and the large issue of allowed farm inputs, that the

NOSB exercise its statutory responsibility to advise the Secretary on implementation of the OFPA and seek public input through a contaminated farm input management proposal that upholds organic integrity.

We support research into all of the contaminants and pathways mentioned in the NOSB report. We support research into means of preventing the use of contaminated farm inputs, which we believe must include restrictions on the way other people use many of those materials. Organic farmers are good neighbors –they take care of other people’s waste, and they create buffer zones and havens of biodiversity that help their non-organic neighbors. Protecting organic farms from outside contamination will require a gatekeeper looking over what comes onto the farm, but it should also require more responsibility for those who introduce potentially dangerous materials into the environment. It all starts with gathering information, and we are troubled that the NOSB’s first steps have been stalled.

We agree with the approach outlined by the Crops Subcommittee (CS) in the Spring of 2015, of addressing this complicated issue based on feedstocks and pathways. And while we hope that the CS gathers information on new feedstocks, we believe that the best next step is to choose one feedstock and follow it through to making some recommendations.

We urge the CS and the NOSB to address this issue comprehensively, but begin releasing recommended guidelines in stages, as quickly as possible. Organic integrity and the consumer trust necessary to grow the sector require grower and consumer confidence that land managers and policy makers are doing all they can to monitor and protect against organic contamination by prohibited substances. We recommend the extensive database of pesticide-related information on the Beyond Pesticides website.

Finally, this is a perfect example (not the only one!) of an issue where the NOSB could benefit from the implementation of the unanimously-passed NOSB recommendation (Spring 2013) for an open docket to receive public comment and input on an ongoing basis, informing Subcommittee work. Researchers, growers, certifiers, and other members of the public should be encouraged to add to the knowledge base represented by the table in the contaminated inputs discussion document.

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