



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

AUG 11 2009

OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

SUBJECT: Impartiality Determination Regarding State Petitions for Disclosure of  
"Inert Ingredients" in Pesticide Products

FROM: Patricia K. Hirsch  
Designated Agency Ethics Official  
and Acting General Counsel

TO: Lisa P. Jackson  
Administrator

This Agency is contemplating a response to a petition signed by several state attorneys general that requests EPA to require disclosure of "inert ingredients" in pesticide products that have been declared hazardous or potentially hazardous by other EPA statutes. Your former employer, the State of New Jersey, has signed this petition. Consequently, the Office of Prevention, Pesticides and Toxic Substances has asked whether you can be permitted to participate in discussions and any determinations related to the petition.

As you know, you have a "covered relationship" with the State of New Jersey pursuant to 5 C.F.R. § 2635.502(b)(iv) and have agreed to take appropriate steps to avoid an appearance of a loss of impartiality in the performance of your official EPA duties. Government-wide ethics regulations permit federal officials to participate in matters that might raise impartiality concerns when the interest of the federal government in the employee's participation outweighs concern that a reasonable person may question the "integrity of the agency's programs and operations." 5 C.F.R. 2635.502(d). These factors are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and

(6) the adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

With regard to these specific party matters, I have carefully considered the six factors that are listed in 5 C.F.R. § 2635.502(d). I have considered the fact that this particular matter involves not just the state of New Jersey but other states as well, and that it involves a nation-wide issue that is not limited in application to New Jersey or any other single state.

After reviewing all the factors, I have concluded that the interest of the United States Government in your participation in this particular matter would outweigh any concerns about your impartiality. Given the numbers of parties participating and the national impact of the regulations at issue, I also conclude a reasonable person would have very little concern over the integrity of EPA actions if you are permitted to participate in the petition. Therefore, you may participate in discussions and meetings related to this petition.

In accordance with your ethics agreement, we understand that you will not participate in any other particular matter that involves the State of New Jersey (or any other of your covered relationships) unless and until you first consult with the Office of General Counsel and obtain a written determination such as this one pursuant to 5 C.F.R. § 2635.502(d).

Please feel free to contact me or Justina Fugh, Senior Counsel for Ethics, if you have any further questions. I can be reached at [hirsch.pat@epa.gov](mailto:hirsch.pat@epa.gov) or (202) 564-5462; Justina can be reached at [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or at (202) 564-1786.