



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
CALIFORNIA ORGANIC PRODUCTS ADVISORY COMMITTEE (COPAC)**

Meeting Minutes

**Asilomar Conference Grounds, 800 Asilomar Blvd., Pacific Grove, CA
January 22, 2009**

MEMBERS PRESENT

Blake Alexandre
Stacy Carlsen
Steve DeMuri
John Foster
Martin Guerena
Garff Hathcock
Larry Hirahara
Karen Klonsky
Dave Martinelli
Melody Meyer
Brian McElroy
Sajeemas Pasakdee
Julie Spandow
Sean Swezey
Aaron Turner

CDFA

Nate Dechoretz
Rick Jensen
Ray Green
Paul Collins
Donna Weathers

INTERESTED PARTIES

Robin Allen, CCOF
Steve Beckley, OFAC
Jaclyn Bowen, QAI
Willy Cunha, Sunview Shadow
Rex Dufanr, NCAT/HTTNA
Mike Garrett, Global Organics
Max Jehle, Sunview Vineyards
Jake Lewin, CCOF
Dom Lhver, Agroline
Dennis Macura, Agro Thrive Inc.
Steve Meyer, Attorney at Law, Downey Brand LLP
Peggy Miars, CCOF
Cynthia Ortega, CCOF
Stephen Pavich, Bioflora
Claudia Reid, CCOF
Pete Samuel, SQB
Irene Sanchez, T.O.P. Inc.
Chris Simas, The Tremont Groups
Kirk Sparks, Eco Nutrients
Jeffrey Stiles, Marin Co. Ag.
Susan Ventura, Marin Co. Ag.

INTRODUCTIONS

Ms. Melody Meyer called the meeting to order at 1:00 p.m. A quorum was established and introductions were made.

APPROVAL OF MEETING MINUTES

Ms. Meyer announced that the minutes sent out for approval were not the November 3, 2008 minutes. Due to this error, the Committee will approve them at the next meeting.

REVIEW AND APPROVAL OF TECHNICAL CHANGES FROM SUBCOMMITTEE RECOMMENDATIONS

- Mr. Nate Dechoretz gave a progress report on the Organic Products Technical Planning Committee's (Tech Committee). He shared the Tech Committee

Background Binder with the group to show the amount of work that has gone into the Technical Committee's project. The binder describes every part of the organic program.

- Mr. Dechoretz gave a brief overview regarding the concerns California Certified Organic Farmers (CCOF) raised with the National Organic Program (NOP) regarding the State Organic Program (SOP). Many of the concerns were valid. CDFA decided to pull back on the program and ask members of the industry, certifiers, producers as well as members of California Organic Products Advisory Committee (COPAC) to work with the SOP to enhance the program, instill integrity, transparency, and relevance. CDFA is looking at two areas: Registration and Compliance, and Due Process. The Registration portion is finished. The committee has reviewed and made recommendations to improve the Spot Inspections. The group reviewed the matrix that will be used to guide the Spot Inspection Program.

MOTION: A motion was made to improve and continue the Spot Inspection Program within the SOP. The motion was seconded and passed unanimously.

- Mr. Dechoretz explained that there seems to be some duplication of effort regarding the registration process. The Tech Committee recommended COPAC form a new subcommittee to deal with that issue.
- Mr. Dechoretz reported that the program's goal is to finish by March 2009. Policies and procedures have already received a thorough review. By March 2009, the program should have a complete package to give COPAC.
- Mr. Dechoretz reported that the program's regulatory scheme needs work. Regulations will be necessary and discussions with our attorneys have begun. After CDFA finishes with the Spot Inspection issues, they will be in the process of developing the regulatory package.
- Mr. Aaron Turner agreed that the process has been a thorough one.
- Ms. Karen Klonski asked if the draft will be on the website for public comment. Mr. Dechoretz replied that it is currently a working document and we need to have an internal discussion to decide at what step we should put it out there.
- Mr. Peter Samuel asked if the NOP is involved with the Tech Committee.
- Mr. Rick Jensen explained who the representatives are that make up the Tech Committee which does include the NOP.
- Mr. John Foster suggested that the regulatory package be explained in two or three minutes. Mr. Dechoretz explained that on the registration side, the

authority is within the law. CDFA likely does need to have separate regulations to identify how to register organic producers. On the inspection side, CDFA has very few regulations that identify exactly how we are going to do it. CDFA must have regulations in the California Code of Regulations.

- Mr. Rick Jensen stated that proposed regulations will go through formal rulemaking. The program will provide notice, giving the public an opportunity to express comments for any regulatory package that is promulgated. No regulatory language has been drafted. The Tech Committee will assist in identifying the specific criteria however; they will not be required to draft the language.
- Mr. Otto Craft asked Mr. Dechoretz when he felt the program would have the 'horsepower' to support regulations for the NOP. Mr. Dechoretz stated that he felt it would take about six months. Mr. Craft asked if we would have the ability to do our inspections and have the manpower to fully enforce the regulations of the NOP. Mr. Dechoretz replied that the program fully intends to have the resources available to do this. Mr. Dechoretz also explained that it may require CDFA to go to COPAC and take a look at the program to see what other resources are needed to make it work. If necessary, COPAC would then make a recommendation to the Secretary to utilize the funds they have or obtain additional resources.
- Mr. Kirk Sparks asked if CDFA has the authority to come into Eco-Nutrients, an organic fertilizer company unannounced. Mr. Dechoretz said yes, as part of an investigation the Fertilizer Program may enter any facility.
- Ms. Meyer announced that the new registration forms that were vetted through this Tech Committee were here for their review. The Committee did not move to approve them as they will be reviewed at the next meeting.
- Ms. Reid requested that COPAC review the act officially since the authority of the SOP requires two state agencies, CDFA and California Department of Public Health (CDPH) to get the job done. NOP thinks we are looking at both, but we are only looking at CDFA. Mr. Jensen agreed. CDPH was asked to participate but they were unable to do so because of time of constraints. He recommended that COPAC take a look at this issue in the future.
- Ms. Meyer suggested that we add this to a future agenda for review. Ms. Meyer also asked if there was a movement to establish a subcommittee to review the redundancies and duplications in the forms and publications.
- Most of the forms reviewed were for organic Spot Inspections.

- Mr. Jensen reported that at the first meeting, areas of redundancy were identified. It was the committee's recommendation that the data collected (the law says we have to collect a lot of this information), reside with CDFA and that CDFA should be the statistical distributor of this valuable information as opposed to being held in other locations.
- The Committee recommends that the forms be revised to make them as clear and concise as possible.
- The Committee asked to identify where shared information resides, so that information already provided by an operation to a certifier, or county could be shared with CDFA.
- The COPAC Committee asked to make the information more efficient and provide more value to the constituents.
- A question was asked: Is registration redundant and is it necessary to achieve enforcement. If not, that's where it should be headed.

MOTION: Ms. Karen Klonsky made a motion that a subcommittee be formed to review the redundancies and duplication in the forms and publications. The motion was seconded and passed.

- Ms. Melody Meyers, Mr. Sean Swezey, Mr. Gary Edwards, Mr. Garff Hathcock, Ms. Karen Klonsky and Mr. Stacey Carlson volunteered to be on the new subcommittee. Ms. Meyer will send out a doodle to schedule a separate meeting for the new committee.

ORGANIC PROGRAM REPORTS

- Mr. Ray Green provided information regarding the Federal Farm Bill which allocated 22 million dollars for reimbursement of certification. So far \$1.8 million was allocated for the State of California. Just before Thanksgiving, CDFA sent out applications and about 1000 have been returned.
- Mr. Green reported that about 100 approved applications have been delivered to Financial Services to be paid. Due to a new accounting system, letters will be going out to the approved applicants which requires additional information before payment can be made.
- Ms. Reid asked if the registration number would match the vendor number. Mr. Green said no, it has to be a state vendor form. Once the operation completes the form, the payment can be processed.

- Ms. Reid asked if the database would ever be able to communicate with the States' vendor database. Mr. Green stated that it is unknown at this time. Ms. Reid requested COPAC to consider that our IT person develop this into our program to anticipate this in the future. Ms. Meyer suggested that the program be cautious, developing the new database. The forms need to be included in this development as well.
- Mr. Green reviewed Attachment A – Organic Program Revenue from Registrations by Month and Year. This report shows in December, 2008, the program had \$449,000 in registration fees. A question was asked regarding how the projections were calculated. Mr. Green explained they were calculated at 15% annual growth. He averaged four years together for total growth; came up with a percentage and assumed the same anticipated growth the next four years. Ms. Meyer asked for adjustments to the reports if the economy causes the figures to change.
- Mr. Green reviewed Attachment B – 2008 New Organic Program Registrations. He reported that in 2004 we had 266 new registrations, in 2005 there were 306 and in 2006, 380. Last year there were 354.
- Mr. Paul Collins reviewed Attachment C – Organic Complaint Log, and asked for questions from the floor. Mr. Brian McAlroy asked how appeals are handled. Mr. Collins explained that CDFA begins the process and sometimes the appeal can go to the United States Department of Agriculture (USDA) depending where the infraction has been identified. When it involves multiple States, it normally goes to USDA.
- Ms. Peggy Miars asked if the complainant would receive a notice when a complaint is resolved. Mr. Collins said yes, they do, but not the anonymous ones. From the date the program receives the appeal, the program allows 120 days for resolutions.

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH) REPORT

Mr. Pat Kennelly was absent and unavailable to comment on the CDPH report.

MEMBER REPORTS

- a. *National Organic Standards Board (NOSB) Update* –
 - Mr. Steve DeMuri reported the NOSB meeting was held in Washington DC on November 17 – 19, 2008. The Certification Accreditation and Compliance Committee (CACC) made a recommendation on certifying operations with multiple sites and facilities. The recommendation was passed. The Joint Crops Commission and CACC made a recommendation on the commercial availability guidance regarding the source of organic seed. The joint

committee's recommendation was passed at the last meeting. Recommendations were made regarding fish feed and net pens by the livestock committee as part of the aquaculture standard. The handling committee's recommendation was passed by the board on organic pet food standards. All recommendations can be found on the website. There are a number of substances that have been partitioned to be included on the national list. The crops committee has reviewed tetracycline hydrochloride which was passed. Pelargonic acid was rejected. Sorbital octanoate was rejected and ammonium salts and fatty acids were rejected under Section 205601. The handling committee reviewed calcium derived from sea weed and was not considered necessary as calcium was already on the national list. Etholine for pears, black buck powder, and black pepper extract were rejected, however dried orange pulp was accepted. The buck whole powder, black pepper extract, and dried orange pulp were all for 606, and the remaining ones were for 605. There is a petition before them to delist lecathin from the national list. This is the first time they've received a request to delist an item. Comments are welcome on the website.

- Ms. Meyers asked how soon after the meeting are results posted. Mr. DeMuri said they are usually posted within 30 days.
- Mr. Kirk Sparks of Eco Nutrients asked if he can add corn steep liquor to his product. He has never received any information back from anyone. He asked for the contact name. Mr. DeMuri said to send it to Valerie Francis, Executive Director of the NOP. Her email address is, Valerie.Francis@usda.gov.
- Mr. Brian Baker was also at the meeting. The NOSB faces a very steep workload and two of the items on their agenda really deserve public comment: What is synthetic and what is not synthetic. The other issue is: What is agricultural and what is not agricultural. The timeline for answers are about a year out before the committee makes a recommendation.

b. *Canadian Regulation Update –*

- Mr. John Ashby was not present. Mr. Jake Lewin gave an update. He reported that Canada has made it clear that products entering their country must meet their standards. Recently, Canada revised their standards and has made them available for purchase. The Canadian Organic Office is talking about a stream of commerce policy which gives everybody time to comply in meeting their standard. It is currently in draft form. They have incorporated a lot of important details such as, what do the labels need to say. Both parties, the USDA Organic Program and the Canadian Organic Office, say they want to be equal with each other in the organic field. However Canada is constantly changing their standards which make it difficult for the two parties to meet to discuss the standards.

- Mr. Lewin stated that they do allow antibiotics and Chilean Nitrate. Mr. Brian McElroy serves on the Canadian Technical Committee and said the items mentioned above have not been introduced to the ballot yet.
- Mr. DeMuri asked when the logo would be finalized. Mr. Lewin stated that nothing has been finalized yet.
- Mr. Lewin asked why this is important to California producers. The reason is because we do not know to whom they sell their products. The trickle down effect can be severe. Mr. Lewin recommended writing letters to the Canadian Organic Office.

c. *Organic Fertilizer Update* –

- Mr. Dechoretz stated that the newspaper has been reporting information regarding the spiking of organic fertilizer with ammonium sulfate. CDFA has been working with the fertilizer industry as well as the newly formed Organic Fertilizer Association of California to minimize this type of an incident in the future. This will involve more inspections and resources to address the issues that came out of the process. Regulations are necessary to implement the law. The program needs to identify what resources are necessary.
- Mr. Steve Meyer commented about the criminal nature of the spiked organic fertilizer. He expressed a need for urgency and concern in these situations. He feels there should be a deterrence to committing these crimes.
- Mr. Dechoretz could not comment on the case, but expressed his understanding of the frustration. He stated that CDFA is looking at increasing the fines associated with such cases.
- Mr. Stacy Carlsen commented that not having spot inspections is a mistake. He feels that events will occur during this time that we will not be able to catch and it is not fair to the industry.
- Mr. Brian McElroy responded that while the Biolizer event was going on in 2005/2006, there were many spot inspections taking place. The spot inspection as they knew it was run very different from county to county. There was a lot of redundancy in what was inspected by a certification agency versus the County Agricultural Commissioners Office, including forms, and fees. While there is a lot of value in the process, there seems to be a lot of redundancy. He would like to see CDFA enforcement out there hitting the ground turning up things like the Biolizer issue.
- Mr. Carlsen added that they try to resolve issues between themselves and the grower or the handler and come to a mutual understanding. When there is a problem with a grower or a handler that involves environmental protection or

- safety, those complaints need to be referred to the County Agricultural Commissioner, or to CDFA to be referred back to County Agricultural Commissioner for investigation and enforcement. This is a missing issue and it should be in the books as a matter of fact. There is an inherent nature to resolve issues, and when County Agricultural Commissioners can not resolve them, they refer them up to some mediation process in the Federal Government, which could take 18 to 20 months to resolve.
- Mr. McElroy stated that one of the things the SOP requested was a mediation process.
 - Mr. Carlsen stated that the rules written on mediation were not well written. The Spot Inspection Program probably would never collect data on fertilizer. That is a direct state fertilizer program. County government has never been involved with the registration process of fertilizer.
 - Mr. Kirk Sparks asked if CDFA has the ability to exchange information with the State Franchise Tax Board. This may be something to look at when investigating a company. Taking a look at what they are filing for their expenses may be very helpful.
 - Mr. Dechoretz stated that we want our own staff to enhance our inspection program. On the feed side the industry felt there needed to be more attention given to feed safety, as part of food safety, which is also an issue with organic fertilizer. At present, we have seven staff to do that work.
 - Mr. Dennis McCura stated he was glad to see inspections taking place at his plant. He suggested mass balance and asked why the fertilizer manufacturers are not certified under Organic laws. He asked to be the first fertilizer manufacturer to be certified.
 - Mr. John Foster stated that based on the last four years of experience, if there were a complaint today, and it was appropriately filed, what agency within CDFA would be 'boots on the ground' tomorrow. Has that been clearly defined in State Regulations. What would the prioritization be, based on what's been discussed today.
 - Mr. Dechoretz replied that if the material was not labeled properly, the fertilizer program would do the inspection, taking samples. CDFA is finishing the regulations that will allow us to ask for all the ingredients during the registration process. There is appropriate authority today to act on those complaints.
 - Mr. Brian Baker stated that how we deal with this issue is important. The burden is on the grower to identify what is on their product. He asked the

following questions: Who has got the certifier's back when false and misleading statements are made. The law in CA governing the labeling organic fertilizer is based on the carbon content. Is there any effort to change that, and if not, how can you possibly enforce the law that protects organic farmers when such misleading claims are legal on the label.

- Mr. Jensen stated that there are definitions in California Fertilizer Law based on carbon content. CDFA is developing regulations for fertilizer materials acceptable for organic production. Labeling is written on other promotional material that goes with the fertilizer, so if the fertilizer label claims it is acceptable for organic production, CDFA will have the authority to review that label.
 - Mr. Dennis McCuren stated that products currently in the market are not what they appear to be. Soy protein isolate is the most pure form of soy protein which costs \$5 to \$6 per pound. He finds it hard to believe it is being used in fertilizers.
 - CCOF has taken proactive steps that will allow on site inspection of liquid fertilizer.
 - Mr. Mike Griffin stated that the Tech Committee expressed all of COPAC's wishes. He suggested at the next COPAC meeting, a recommendation be made to the State to change the matrix of these spot inspections for all products. Mr. Griffin stated his concerns as a dairyman. He's concerned about the hay, the grain, the packaging of his milk and how it's handled and asked if COPAC would entertain endorsing that concept. He would like to see spot inspections continue but include a thread from seed to consumers.
 - Ms. Meyers stated that it would be extensive and expensive to do this.
- d. *Recognition for Ray Green* –
- Appreciation and words of recognition were expressed to Mr. Green by this committee and past committees. Mr. Green will be retiring in March 2009.

PUBLIC COMMENTS

Ms. Peggy Myers thanked the committee for the opportunity to address everything today. She stated that observations from the meetings that have been attended by CCOF are generally positive and expressed her appreciation for Mr. Dechoretz's comments. However, if CCOF doesn't see forward movement in the reform process by the next meeting, they will listen to their membership in taking what ever steps are necessary to disband the program.

NEW ITEMS

Nothing new to report.

NEXT MEETING/AGENDA ITEMS

Ms. Meyer announced that the next committee meeting will be scheduled in May 2009. She will put forth a 'doodle' to coordinate the date, time and location.

ADJOURNMENT

The meeting was adjourned at 3:30 p.m.

Respectfully submitted by:

David Carlson, Acting Supervisor
California Organic Program
Inspection and Compliance Branch

DC/dw