



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
CALIFORNIA ORGANIC PRODUCTS ADVISORY COMMITTEE (COPAC)
Meeting Minutes
560 J Street, Sacramento, CA 95814
August 25, 2010**

MEMBERS PRESENT

Dave Martinelli
Larry Hirahara
John Foster
Melody Meyer
John Ashby, Chairman
Ann King Filmer
Sean Swezey
Karen Klonsky
Aaron Turner, Vice Chair
Patrick Kennelly
Thomas Chapman (Voting for Steve DeMuri)
Ione Conlan (Voting for Blake Alexandre)

INTERESTED PARTIES

Claudia Reid, CCOF
Jenny Lester Moffitt, Dixon Ridge Farms
Brandy Gamoning, Hidden Villa Ranch
Steve Beckley, OFAC
Peggy Miars, CCOF
Alexis Randolph, QAI
Pat Matteson, DPR

MEMBERS ABSENT

Blake Alexandre
Garff Hathcock
David Will
Steve DeMuri
Lauree Bradley
Julie Spadow
Stacy Carlsen

CDFA

Rick Jensen
Steve Patton
Paul Collins
Dave Carlson
Scott Renteria
Brian Cote
Asif Maan
Maria Hicks

ITEM 1: INTRODUCTIONS

Mr. John Ashby called the meeting to order at 9:07 a.m. Introductions were made and a quorum was established.

ITEM 2: REVIEW AND APPROVAL OF APRIL 30, 2010 MEETING MINUTES

Ms. Melody Meyer stated that in the previous meeting minutes, it was requested that agenda items be listed as action items or discussion items. Ms. Meyer asked if a letter was written from COPAC supporting Assembly Bill (AB) 2612. Mr. John Ashby stated that it was. Mr. Rick Jensen explained that a letter was not written from COPAC as a body, but that individuals on the COPAC wrote letters supporting AB 2612 on their own. Ms. Meyer asked if a letter was written from COPAC supporting Mr. Jake Lewin's candidacy. Mr. Ashby stated that a letter was written; Mr. Jensen explained that a letter

was not written from COPAC as a body, but that individuals wrote letters in support of Mr. Lewin. Ms. Claudia Reid, CCOF stated that a letter was written to the Secretary requesting that he write a letter in support of Mr. Lewin's candidacy. Mr. John Foster asked if Mr. Lewin received a letter of support from Secretary Kawamura. Ms. Reid stated that he was not able to directly obtain a letter, although a letter may have gone directly to the National Organic Program (NOP) staff.

MOTION: Ms. Meyer moved to approve the April 30, 2010 meeting minutes as submitted. Mr. Aaron Turner seconded. The motion passed unanimously.

ITEM 3: PUBLIC COMMENTS

Mr. Dave Martinelli stated that a former COPAC member, Mr. Dick Cringle, recently passed away. Mr. Martinelli stated that Mr. Cringle was a pioneer nutritionist who retired in 2004.

Ms. Reid stated that Ms. Peggy Miars, Executive Director, California Certified Organic Farmers (CCOF), will be leaving CCOF shortly because she obtained a job with the Organic Materials Review Institute (OMRI). Ms. Reid stated that a job announcement will be circulated for an Interim Executive Director and permanent Executive Director for CCOF.

Ms. Reid stated that CCOF submitted a letter of support on behalf of Ms. Jenny Lester Moffitt to the State Organic Program (SOP). Ms. Reid stated that Ms. Moffitt's name did not appear as an interested person in the SOP's synopsis of COPAC applicants and stated that the nomination procedure is unclear. Mr. Brian Cote informed the committee that Ms. Moffitt's application was not received prior to deadline for distributing the COPAC agenda, however, her application will still be considered by the CDFA Secretary.

Ms. Reid thanked CDFA for putting agenda item four on the agenda and stated that CCOF supports the intent of AB 856. Ms. Reid stated that CCOF has deep concerns that the regulatory framework within which CDFA plans to implement the law goes beyond what is necessary and could create a regulatory climate that would have a serious negative impact on organic growers in California, creating uncertainty and confusion. Ms. Reid stated that CCOF has doubts that the Department will be able to accomplish what is being considered by the subcommittee efficiently, economically, or effectively. Ms. Reid stated that CDFA does not have the funding, expertise or ability to create the kind of program envisioned by CDFA staff in a way that won't harm organic food production in California. Ms. Reid stated that CCOF is certain that the label review processes being discussed would not have prevented the perpetration of fraudulent activity in the first place, and won't prevent the same type of activity in the future; spending hours reviewing labels does not put inspectors in the field where adulteration activity occurs. Ms. Reid stated that CCOF would support the Department instead focusing the work of the subcommittee on developing the regulations that will result in enforcement, inspections, and penalizing perpetrators. Ms. Reid stated that CCOF

urges the Department to contract with existing label review services such as OMRI or Washington State Department of Agriculture (WSDA) for any label review that would be necessary in order to enforce AB 856. Ms. Reid stated that CCOF respectfully requests that COPAC send a letter to the Secretary describing the organic industry's concerns about the problems this will cause for growers and ask the Secretary to assure the industry that the Department will not develop a program that is duplicative, poorly designed and inadequately funded.

Ms. Peggy Miars, Executive Director of CCOF, stated that in approximately three weeks she will be the Executive Director of OMRI, and is speaking on behalf of OMRI today. Ms. Miars stated that OMRI provides professional, independent, and transparent review of materials intended for use in certified organic production, handling, and processing. Ms. Miars stated that OMRI is concerned about the risks of integrity of inputs used for organic farming and the risks to the organic farming industry itself from a rushed implementation of AB 856. OMRI appreciates and supports the need for appropriate oversight over organic farming inputs, especially organic inputs that present significant risks of being noncompliant with the NOP. Ms. Miars stated that OMRI has provided written and formal comments to the Fertilizer Implementation Subcommittee and to the CDFA staff regarding the implementation of this law. OMRI respectfully requests COPAC to send a letter to the CDFA Secretary expressing concern on behalf of the organic farming community about the implementation of the new regulations and the possible devastating impact it may have on organic farmers.

ITEM 4: AB 856 UPDATE

Dr. Asif Maan provided COPAC with background information on AB 856 stating that the main purpose of AB 856 is to ensure integrity and composition of organic input materials (OIM) used for organic crop production in California. AB 856 fills gaps in CDFA's authority to regulate OIM's. Dr. Maan provided COPAC with an update on AB 856 and an implementation timeline stating that the goal is to have the final draft of the regulations completed by October 31, 2010. The AB 856 Subcommittee has been tasked with addressing the following issues: 1. compost nutrient guarantees (lab reports and nutrient variability); 2. OIM label review and registration (including blends); 3. site/facility/ingredient inspections (procedures, requirements, uniform protocol); 4. out-of-state inspections; 5. clarifying the scope of OIM's with no claims; 6. developing a civil penalty matrix/regulations; and, 7. reviewing labeling registration fees.

Dr. Maan reported that the AB 856 Subcommittee is composed of the following individuals: Mr. John Salmonson, Monterey AgResources; Mr. Bill Wolf, Organic Trade Association; Ms. Claudia Reid, CCOF; Mr. Doug Graham, New Era Farm Service; Mr. Jake Evans, True Organic Products; Mr. John Peterson, Wilbur-Ellis Company, Inc.; Ms. Katherine Borchard, Agricultural Services Certified Organic, LLC; Mr. Matthew Cotton, Integrated Wasted Management Consulting, LLC; Mr. Michael Brautovich, Earthbound Farms; Mr. Neil Edgar, California Compost Coalition; Ms. Rachel Oster, Recology; Mr. Robert Horowitz, CalRecycle; Mr. Sanford Simon, The Scotts Company. Dr. Maan reported that the recommendations of the Compost Working Group and the AB 856

implementation timeline have been supported unanimously by the AB 856 Subcommittee.

Mr. Thomas Chapman asked if AB 856 is for companies who sell fertilizer in California. Dr. Maan explained that AB 856 is for companies who manufacture or sell and distribute OIM in or into California.

Mr. John Ashby inquired if the statute covers use of materials. Dr. Maan stated that the Fertilizer Inspection Advisory Committee has formed a subcommittee to address the details and potential issues at upcoming meetings.

Mr. John Foster requested that COPAC receive copies of the formal comments provided from OMRI and CCOF and circulate them in a formal manner. Ms. Reid and Ms. Miars stated that they will send the formal comments to Mr. Ashby and Mr. Turner electronically.

Discussion ensued as to whether COPAC should consider sending a letter to the Secretary as suggested by Ms. Reid and Ms. Miars. Ms. Meyer stated that she believes potential issues and concerns raised by CCOF and OMRI will be addressed by the AB 856 Implementation Subcommittee and working groups.

The committee took a twenty minute break from 11:10 a.m. to 11:30 a.m.

ITEM 5: STATE ORGANIC PROGRAM UPDATE

Mr. Dave Carlson stated that the SOP has been conducting a series of organic regulatory training sessions. The training sessions encompass the organic registration process, the proposed regulations related to spot inspections, sampling, complaint investigations, federal organic labeling and production regulations, the federal access to pasture and livestock rule, organic appeals procedures, enforcement responsibilities, including the issuance of notices of violation and due process. Organic regulatory trainings have been provided at 13 locations throughout the state from July 27, 2010 until August 31, 2010.

Mr. Jensen provided the committee with an update of the web-based system that is underway for the SOP, stating that once the project is awarded to a vendor, more detailed information will become available. Mr. Jensen stated that at that time, it would be possible to incorporate more design documents that were received from Dr. Klonsky into the system and receive more input from COPAC as to what they would like to see incorporated into the system. Mr. Jensen stated design sessions, screen shots, etc. are planned to commence in the near future. Mr. Jensen stated that the SOP is aggressively hoping to have the development phase completed by January 1, 2011. Discussion ensued regarding the web-based system.

i. Revenue from Registration

Mr. Carlson provided the committee with an overview of revenue from registrations by month and year highlighting that the projected revenue for Fiscal Year (FY) 2009/2010 was \$1,047,779 and the total revenue was \$918,792. Mr. Carlson stated that the projected revenue for FY 2010/2011 is \$918,000.

ii. New Registrations

Mr. Carlson stated that new organic registrations have decreased. There are currently 104 new organic registrants since the beginning of 2010; last year at this time there was 194 new organic registrants.

iii. Complaint Report

Mr. Paul Collins stated that there are currently 15 open complaints; none of the complaints have been open over 120 days. Mr. Collins stated that several of the complaints are notices of violations issued and corrective actions have been taken. Mr. Collins stated that some registrants are in the process of completing resolution statements and notice of closures as well. Mr. Collins stated that the SOP is in the conceptual phase of developing a penalty matrix, although there is no timeline for the development at this time. Mr. Steve Patton stated that without a matrix, there is still statutory authority to issue fines. A penalty matrix will help with consistency and will determine whether the fine is minor, moderate, or severe.

iv. Appeals Report

Mr. Collins stated that the appeals report is from 2007 to current. Mr. Chapman asked if any of the appeals are active. Mr. Collins stated that one appeal is active. Mr. Collins stated that the Valley End Farms appeal was resolved; the information is published on the internet and on the CDFA website. In 2010, Valley End Farms agreed to a settlement agreement. CDFA revoked their registration, they will be on probation until September 3, 2013, they were fined \$15,000, and have the opportunity to procure certification from another accredited certifying agent and subsequently register with the SOP. Mr. Jensen provided the committee with an overview of the appeal process.

v. Legislative Update

Mr. Cote provided the committee with an update on AB 2612 (Committee on Agriculture) stating that the legislation was unanimously passed by the Senate and Assembly. Mr. Cote stated that the legislation is now at the Governor's office awaiting approval or veto. Mr. Cote stated that the bill that would repeal the Federal Organic Cost Share Program (House Resolution 5326) has had no activity; the United States Congress is expected to reconvene on September 10, 2010.

ITEM 6: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH UPDATE

Mr. Patrick Kennelly provided the committee with updates regarding the California Department of Public Health's (CDPH's) Organic Program. Mr. Kennelly stated that

their registration numbers are steady. Mr. Kennelly provided the committee with a handout for CDPH's Organic Program expenditures, and briefly provided the committee with an overview. Mr. Kennelly stated that one complaint has been received this year; it was received this quarter. Mr. Kennelly stated that CDPH has averaged three to five complaints per year. Mr. Aaron Turner asked how complaints are received by CDPH. Mr. Kennelly stated that complaints can be submitted via a toll free phone number, through email, and certifiers have his direct contact information as well. All complaints received are entered into CDPH's complaint database. The committee subsequently discussed CDPH's expenditures.

ITEM 7: COPAC VACANCIES/NOMINATIONS

Mr. Jensen stated that there is no deadline for submitting applications to fill vacancies for COPAC. Dr. Sean Swezey asked what is needed to have a complete application packet. Mr. Jensen stated that a prospective member appointment questionnaire and a letter of recommendation from an industry member are needed.

Discussion ensued regarding forming a membership subcommittee that would recommend nominees. Mr. Jensen informed the committee that a motion was not necessary; CDFA provided the committee with a synopsis of the applicants.

Ms. Ione Conlan stated that she is currently an alternate producer and would like to become a full member. Ms. Conlan stated that the majority of voting members are with one certifier, CCOF. Ms. Conlan stated that it seems reasonable to have members from different certifying agencies. The committee discussed keeping current members on the COPAC that are eligible for reappointment and staggering in new members as positions become available. Ms. Reid inquired if application packets can be sent directly to the Secretary. Mr. Cote stated that the SOP is encouraging individuals to use the procedure that is currently in place at CDFA, which requires applicants to submit a letter of recommendation and prospective appointment member questionnaire to the Program (SOP) first. The SOP subsequently forwards the entire appointment package to the CDFA Secretary for review and consideration.

MOTION: Mr. Larry Hirahara moved to recommend Mr. David Will, Mr. Garff Hathcock, and Mr. John Foster for appointment as producer members on the COPAC. Ms. Meyer seconded. The motion passed with ten yeas and one nay.

MOTION: Mr. John Ashby moved to recommend Ms. Melody Meyer for appointment as a wholesale distributor member on the COPAC. Mr. Foster seconded. The motion passed unanimously.

MOTION: Dr. Swezey moved to recommend Mr. Ashby for appointment as a processor representative member on the COPAC. Mr. Chapman seconded. The motion passed with one abstention.

MOTION: Dr. Swezey moved to recommend Ms. Lauree Bradley for appointment as a retail representative member on the COPAC. Mr. Chapman seconded. The motion passed unanimously.

MOTION: Ms. Meyer moved to recommend Ms. Jenny Lester Moffitt for appointment as an alternate wholesale distributor member on the COPAC. Dr. Swezey seconded. The motion passed unanimously.

MOTION: Ms. Meyer moved to recommend Mr. Troy Aykan for appointment as an alternate processor member on the COPAC. Dr. Swezey seconded. The motion passed with one abstention.

ITEM 8: NATIONAL ORGANIC STANDARDS BOARD (NOSB) UPDATE

Mr. Foster stated that there has not been an NOSB meeting since the last COPAC meeting. The next NOSB meeting is scheduled for October 25-28, 2010 in Madison, Wisconsin. Mr. Foster stated that the NOP has been providing monthly activity updates through Mr. Miles McEvoy. The primary goal of the upcoming meeting is to review the second set of approved and prohibited materials that are scheduled to sunset. Mr. Turner asked for clarification between a recommendation document and a discussion document. Mr. Foster stated that a recommendation document will be voted on later in the meeting; a discussion document is an opportunity to focus on more discussion and would go back to the Livestock Committee for further discussion, and possibly a recommendation and committee vote prior to the April, 2011 meeting.

Ms. Pat Matteson, Department of Pesticide Regulation, stated she is interested in following up on a few pesticide items. Ms. Matteson asked if the NOSB will carry out a more critical scrutiny of inert ingredients aside from accepting the United States Environmental Protection Agency's (EPA) list of inert ingredients. Mr. Foster stated that discussion has not reached that far yet. Mr. Foster stated that the hope is that NOP and EPA will come to an understanding about what EPA is doing at this time, and how much of that will be able to be relied on to satisfy the NOP's requirements.

ITEM 9: ORGANIC BEEF FINISHING

Mr. Larry Hirahara discussed the new access to pasture rule. Mr. Hirahara provided COPAC with a letter from CCOF in support of §205.239. Mr. Hirahara stated that CCOF is in support of the language added to §205.239(d) with modification. Mr. Hirahara provided the committee with an overview of CCOF's written comment, highlighting that receiving choice grades of organic beef would be difficult without fine finishing for a period of time under grain.

Mr. Foster stated that the rationale is that animals should be able to express their natural behavior, however their behavior is not natural once a fence is put up; the question is how much to let animals express their natural behavior. Discussion ensued regarding the access to pasture rule.

ITEM 10: NEW ITEMS

No new items were discussed.

ITEM 11: NEXT MEETING/AGENDA ITEMS

The next COPAC meeting is scheduled for November 10, 2010 at 10:00 a.m. Agenda items include: election of officers, orientation committee, database update, and possibly identify mentors for new committee members.

Dr. Karen Klonsky recommended taking a lunch break if the meeting has not ended at 1:30 p.m. The committee agreed.

ITEM 12: ADJOURNMENT

The meeting was adjourned at 1:47 p.m. by Chairperson, Mr. Ashby.

Respectfully submitted by:

David Carlson, Senior Special Investigator
California State Organic Program
Inspection Services