



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

January 23, 2020

Meeting Minutes

800 Asilomar Ave. Pacific Grove, CA

MEMBERS PRESENT

Karen Archipley – Chair
Phillip LaRocca – Vice Chair
Jeremy Johnson
Jaclyn Bowen
Michael Menes
Kaley Grimland
John McKeon
Alexis Randolph
Rosalie Burkett
Stacy Carlsen
Benjamin Diesl
Blake Alexandre

MEMBERS ABSENT

Sean Feder

INTERESTED PARTIES

Kent Reick
Jane Reick, California Dept. of
Public Health (CDPH)
Jane Sooby, California Certified
Organic Farmers (CCOF)
April Crittenden (CCOF)
Deborah Stemwedel, California
Organic Fertilizers Inc.

CDFA

Carla Sanchez
Thomas Osborn
Mitchell King
Rick Jensen
Marcee Yount
Scott Renteria
Mayze Fowler-Riggs
Danny Lee
Pam Rodriguez
Andrea Cano
Steve Patton
Dale Woods
Charlene Graham
Annie Kim
Ryan Bailey
Javed Iqbal

ITEM 1: CALL TO ORDER-INTRODUCTIONS/ROLL CALL

The meeting was called to order at 12:33 p.m. by Karen Archipley, Chair, and self-introductions were made. Roll was called by Mitchell King and a quorum was established.

ITEM 2: ELECTION OF OFFICERS

King informed the Committee of the need to conduct elections for both Chair and Vice-Chair.

Jeremy Johnson nominated Karen Archipley for Chair. There were no other nominations for Chair. Archipley was elected unanimously with no abstentions.

Chair Archipley nominated Philip LaRocca for Vice Chair. There were no other nominations for Vice Chair. LaRocca was elected unanimously with no abstentions.

ITEM 3: PUBLIC COMMENTS

Chair Archipley opened the floor for public comments. A member of the public asked if there would be time for public comments at the end of the meeting, Chair Archipley replied that there would be time at the end of the meeting. There were no public comments at this time.

ITEM 4: REVIEW AND APPROVAL OF SEPTEMBER 26, 2019 MEETING MINUTES

Chair Archipley requested a motion to approve the September 26, 2019 Meeting Minutes as submitted.

MOTION: Philip LaRocca moved to approve the September 26, 2019 Meeting Minutes as submitted. Blake Alexandre seconded the motion. The motion passed unanimously, with no abstentions.

ITEM 5: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH UPDATES

Jane Reick of the California Department of Public Health (CDPH) Food and Drug Branch, Organic Program, provided the CDPH update on behalf of Wendy Reynolds due to Reynolds' absence. Reick presented data pertaining to the CDPH organic complaints for the 2017-18 and 2018-19 fiscal years (FY). Reick also presented the CDPH Food and Drug Branch Organic Program Fund Condition. The Program has a projected revenue of \$1,178,578 for the 2018-19 FY, and a projected revenue of \$1,174,806 for the 2019-20 FY with projected expenditures of \$583,989.

There was brief discussion between Reick and Jaclyn Bowen on the nature of pending complaints from previous years. Reick explained that complaints may not have enough detail in them to allow CDPH to locate the party identified in the complaint. This lack of detail can lead to complaints that remain pending.

A discussion between Johnson and Reick ensued after Johnson asked about bills of lading. Reick explained that bills of lading are required by law and CDPH will continue to require them. Johnson also asked Reick to explain the excess money collected from organic processors. Reick informed the Committee that there have been discussions about ways to spend down this excess, such as providing training and development of information sheets and webinars. Reick explained that these discussions are ongoing and CDPH plans to provide more information in a future COPAC meeting. Johnson expressed desire to see the excess funds collected from organic processors used specifically for organic products.

Bowen asked Reick about the use of excess money from the organic industry. Johnson explained that this excess money is placed into a general fund that is used for the conventional as well as the organic industry. Johnson asked Reick to provide information at the next COPAC meeting detailing how much of the money in the Food Safety Fund comes from the organic industry and what percentage of that is being used on organic enforcement as opposed to conventional enforcement activities.

MOTION: Phillip LaRocca moved to ask CDPH to present at the next Committee meeting an analysis of where the funds from organic processors are being spent and how the excess discussed was accumulated. Jaclyn Bowen seconded the motion. The motion passed unanimously, with no abstentions.

Stacy Carlsen noted that further discussion of this motion was needed and suggested an amendment to the motion to ask CDPH to bring the Committee a chronology of budget actions that take place in CDPH to allow the Committee to track suggested changes with CDPH processes and dates. Carlsen asked that this be given as a procedural timeline so the Committee can better understand CDPH's internal processes. Phillip LaRocca accepted this amendment.

MOTION: The Committee requests that CDPH provide details on what funds from organic processors are being used for, as well as details on how excess funds from organic processors are used, and the details of how the Food Safety Fund is utilized. CDPH should also provide a chronology of internal processes for budgeting. Jaclyn Bowen seconded the amended motion. The motion passed unanimously, with no abstentions.

Reick informed the Committee that CDPH is working to arrange a meet-and-greet with certifying agencies throughout the state of California with one event in northern and southern California respectively. These events are to allow certifiers in the organic industry to meet with CDPH staff. Reick also stated that the 2017-19 CDPH Organic Program Reports are posted online.

Bowen asked if there was a way that the Committee could receive further information on the complaints listed by CDPH in their report similar to information presented by CDFA in the past. Chair Archipley also expressed that this would be beneficial to the Committee.

MOTION: Jaclyn Bowen moved to ask that CDPH provide the Committee with a report on the status of complaints, including a timeline with the nature of the complaints CDPH has received. Jeremy Johnson seconded the motion. The motion passed unanimously, with no abstentions.

ITEM 6: STATE ORGANIC PROGRAM UPDATES

i. Vacancies and Terms

King provided the Committee Vacancy and Terms Report. Current vacancies include five voting member positions: one producer representative, one technical representative, one consumer representative, one wholesale distributor representative, and one retail representative. There are also 13 alternate vacancies including: five producer alternates, one wholesale distributor alternate, two processor alternates, one consumer representative alternate, one environmental representative alternate, two technical representative alternates, and one retail representative alternate. King also introduced the newly appointed members and provided the names of members who will

be eligible for reappointment as of October 31, 2020. There are no members terming out in 2020.

ii. Communications Update

Danny Lee provided the Communications Update. Lee informed the Committee that the new COPAC website is live and available. Lee also mentioned to the new Committee members that the COPAC site includes space for member biographies, which can be completed voluntarily.

iii. Compliance and Enforcement/Appeals Summary

Scott Renteria presented the Compliance and Enforcement/Appeals Summary. Renteria reminded the Committee that the numbers presented in the summary do not reflect the complexity of the individual complaints themselves. Renteria noted that in the first half of the 2019-20 FY, the State Organic Program (SOP) received 42 complaints. Of those complaints, 24 have been investigated by the SOP. Three of these complaints were referred to an accredited certifying agency for investigation. Eleven complaints were referred to the CDPH, two were referred to the National Organic Program (NOP) as these operations existed outside of California. Two complaints were referred to the Organic Input Materials Program within CDFA. Johnson asked Renteria if it is within CDPH's purview to send notifications to retailers about products that are not certified. Renteria explained that the NOP issues Letters of Information to retailers on products that are not certified.

Renteria provided the Inspections Summary. In the 2018-19 FY, 1,700 inspections were performed in total. In the first half of the 2019-20 FY, 573 inspections were conducted. Renteria noted that much of the inspection activity occurs in the second half of a fiscal year. Renteria also provided the Sampling Summary to the Committee. There was brief discussion between Renteria and Johnson regarding what percentage of complaints at farmers' markets lead to notices of noncompliance. Renteria explained that this data is available, and SOP is working to include it in reporting. A brief discussion between Renteria, Johnson, Carlsen, and Chair Archipley ensued during which the level of detail in the summary was discussed.

iv. Complaints Activity Report

Renteria presented the Complaints Activity Report. SOP reported 11 active complaints currently under investigation. In the six months prior to the report, 31 complaints were closed. There were four complaints open for longer than three months. Renteria stated that these complaints were more complex in nature. Renteria also described how complaints were assigned to SOP staff and other investigators. Renteria noted that when a complaint is referred to a county agricultural commissioner, or a certifier, SOP still oversees the investigation but is using the resources available from county staff or certifiers.

v. Complaint Summary Log

Lee presented the Complaint Summary Log. Lee stated that the information provided in the Complaint Summary Log is information from investigations that have been closed by CDFA and is the information CDFA is allowed to present under public records laws. Lee informed the Committee that when any case referred to CDPH or the NOP, CDFA closes their own investigation unless working with the CDPH or NOP to assist. Johnson and Lee discussed the use of Letters of Information to retailers to inform them that they may be selling items as organic that are not certified. Lee reiterated that the purpose of these letters is to educate retailers and allows SOP to track whether a retailer has been informed of a possible violation.

Kaley Grimland asked Lee whether the complaints came from consumers or from competitors. Lee and Renteria stated that complaints come from both consumers and competitors.

Chair Archipley asked Renteria and Lee to elaborate on investigations conducted at farmers' markets. Carlsen shared with the Committee that agricultural commissioners assist CDFA with inspections at certified farmers' markets throughout the state. Carlsen stressed that there are regulatory guidelines and a penalty matrix for such purposes, and that certificates for sellers at certified farmers' markets can be suspended if necessary.

Alexis Randolph asked if CDFA could provide insight into the internal processes involved in deciding how investigative activities are conducted. Randolph stated it would assist the Committee in understanding how the decisions by CDFA are made.

vi. Revenue from Registration/New Registrations

Mayze Fowler-Riggs presented information on Revenue from Registration and New Registrations to the Committee. Fowler-Riggs stated that to date in the 2019-20 FY, \$571,058 in registration fees had been collected by the SOP. The total for the 2018-19 FY was \$1,574,494. Fowler-Riggs also provided details on whether the registrants were producers, handlers, or processors with a breakdown by month. Fowler-Riggs stated that SOP would present the total registrants for the 2019 calendar year at the next COPAC meeting but did state that so far there has been an increase in total registrants.

Johnson asked Fowler-Riggs if registrants are counted more than once given that they can be registered as more than one type of operator. Fowler-Riggs explained that although they can be registered as more than one type of operation, each registrant is counted only once.

Randolph asked Fowler-Riggs if there was data available on how many registrants were leaving each year to compare with the new registrants. Fowler-Riggs noted that this data is not currently available but can be provided.

vii. SOP Fund Condition

Lee provided the SOP Fund Condition. Lee noted that spending has been trending down in recent years, but also stated that there are ways that can be examined for increasing spending. Johnson asked Lee what would be needed to spend down excess revenues, the Committee could make suggestions that could then be reviewed by SOP for feasibility. The Committee could provide SOP with a set of ideas for spending which would then allow SOP to investigate what they can and cannot pursue.

Bowen asked about the possibility of conducting surveys of organic stakeholders to identify their preferences and recommendations for SOP efforts. Carlsen informed the Committee that COPAC has provided a list of recommendations to the CDFA Secretary in the past. Carlsen recommended that the Committee revisit the information from the Assembly Bill 1826 (Statutes of 2016) working report. Lee stated that this report is available via the COPAC website.

viii. Pesticide Residue Report/Updates

Renteria presented the Pesticide Residue Report and provided data on pesticide residues detected during SOP's surveillance and investigative activities. Renteria stated that though detections are counted individually, that does not mean that each detection came from a different source, there are cases where multiple samples are taken at one location. Renteria gave details on data collection and how different kinds of surveillance are prioritized based on data gathered.

ITEM 7: MRO APPROVAL OF NOVEL LIQUID AMMONIA PRODUCTS

Mike Menes presented slides and provided information regarding the approval of novel liquid ammonia products by Material Review Organizations (MRO) in the organic industry. Menes requested that CDFA prudently suspend accepting registration applications and approval of ammonia fertilizers as organic input materials until the National Organic Standards Board (NOSB) has resolved whether the use of ammonia fertilizers produced by an existing or any novel method is compliant with the Organic Foods Production Act of 1990.

Menes explained that novel liquid ammonia products are a new category of input that is a liquid ranging from two percent ammoniacal nitrogen to seven percent ammoniacal nitrogen. Menes further stated that these products are from biological sources, purified and separated from other materials, and concentrated.

Menes voiced concern about perceived conflict between what CDFA and the Organic Materials Review Institute (OMRI) were publishing regarding novel liquid ammonia products. According to Menes, CDFA is currently approving the use of novel liquid ammonia products while OMRI is delaying approval of some until NOSB determines their status.

Menes suggested that CDFA halt approval of novel liquid ammonia products until NOSB has made a final determination regarding their compliance with the Organic Foods Production Act of 1990 to avoid the potential for farmers who have been using them to

no longer be organic if NOSB determines novel liquid ammonia products are not organic inputs. Menes further expressed concerns regarding the potential negative impact of novel liquid ammonia products on the organic industry as a whole.

Discussion ensued in which Bowen expressed concern that if CDFA continues approval of novel liquid ammonia products, a liability has been created for farmers that use them if the NOSB determines that these products are not approved for use in organics.

Randolph, who is a member of the OMRI board of directors, clarified that OMRI is only considering novel liquid ammonia products as beyond resolution if they are made using anaerobic production methods. Randolph clarified that both CDFA and OMRI are in alignment on approving some ammonia products and reiterated that the only ammonia products that OMRI considers beyond resolution are those made using anaerobic production methods.

There was further discussion regarding how organic certifiers could be affected. Randolph suggested sending a letter from COPAC to the Secretary to ask NOSB to review novel liquid ammonia products and resolve discrepancies between MROs.

Chair Archipley asked Randolph and Menes to clarify the request for a letter to the Secretary. Further discussion between Menes, Randolph, LaRocca, and Johnson occurred to clarify the intent of a letter to the Secretary. Chair Archipley asked if the Committee would prefer to address this topic at a future meeting or to continue ahead with a letter to the Secretary.

Randolph again stated that there are currently non-synthetic novel liquid ammonia products that are being approved by both OMRI and CDFA. Randolph noted that if CDFA were to stop approving these materials there would be a separation between what CDFA and OMRI are approving. Randolph stated that there is currently no separation between CDFA and OMRI.

MOTION: Alexis Randolph moved that COPAC requests the Secretary send a letter to the NOP expressing concern regarding non-synthetic ammonia fertilizers and asking for NOSB review of these ammonia products created by novel production methods to resolve any discrepancies between MROs. Mike Menes seconded the motion.

A member of the public voiced concern that COPAC does not have the information necessary to make a motion regarding novel ammonia fertilizers. Chair Archipley asked the Committee if it would prefer returning to this motion at a future meeting. Discussion ensued during which the Committee expressed that this motion to request a letter from the Secretary is appropriate.

Johnson suggested an amendment to the motion. The amendment was that COPAC make a recommendation to the Secretary to contact the NOP to raise awareness of the various ammonia products and to bring that to the NOSB to resolve any discrepancies between MROs. Randolph accepted this amendment.

MOTION: COPAC requests that the Secretary contact the NOP to raise awareness of the various ammonia products and bring this to the attention of the NOSB to resolve any discrepancies between MROs.

A vote by roll call was taken. Kaley Grimland, Philip LaRocca, Karen Archipley, Ben Diesl, Blake Alexandre, Rosalie Burkett, Jeremy Johnson, Jaclyn Bowen, Michael Menes, and Alexis Randolph voted in favor of the motion. The motion passed unanimously with no abstentions.

ITEM 8: ORGANIC POULTRY PRODUCERS – PROCESSING NEEDS

Grimland provided an update on the lack of United States Department of Agriculture poultry processing facilities in California that are certified organic. Grimland requested that the SOP conduct a survey of organic poultry producers to gather information on their needs and whether members of the industry would be interested in collaborating to meet the needs of organic poultry producers.

Lee stated that SOP will bring more information about conducting a survey to the Committee during the May meeting.

ITEM 9: CALIFORNIA ASSEMBLY BILL 5 – WORKER STATUS: EMPLOYEES AND INDEPENDENT CONTRACTORS

LaRocca provided an update on the impacts of California Assembly Bill 5 (Statutes of 2019). LaRocca stated that the bill has caused problems in the organic industry, including for California Certified Organic Farmers (CCOF). LaRocca expressed that this bill is a burden on small business and small farmers. Chair Archipley stated similar concerns, including that small farms may begin to close as a result of the new regulations.

ITEM 10: NATIONAL ORGANIC PROGRAM COMPLIANCE AND ENFORCEMENT

i. NOP Compliance and Enforcement Rule

Randolph provided the Committee with information on the NOP Compliance and Enforcement Rule. Randolph noted that this rule still has not been published and is currently in the Office of Management and Budget.

ii. NOP Instruction 2040

Randolph stated that NOP will allow hemp producers to become certified organic under the 2018 Farm Bill. Randolph asked if SOP could give an update on whether organic hemp farmers are being registered with CDFA. Lee stated that SOP is registering organic hemp farmers but stressed that both hemp and organic requirements must be met by those wishing to register organic industrial hemp.

Carlsen noted that county agricultural staff who will be conducting inspections on hemp must work to maintain compliance with both state and federal guidelines for hemp. Johnson asked if it would be possible for the Committee to recommend that the state

speed up the process of updating their hemp regulations to match those at the federal level.

MOTION: Jeremy Johnson moved that COPAC write a letter encouraging the Secretary to have CDFA promulgate hemp rules and compliance with the 2018 Farm Bill as soon as possible. Alexis Randolph seconded the motion. The motion passed, with Blake Alexandre opposed and Jaclyn Bowen abstaining.

ITEM 11: PUBLIC COMMENTS

A member of the public commented that the vote on novel ammonia products after the presentation by Menes was based on incomplete information.

Jane Sooby of CCOF expressed thanks to CDFA staff and the members of COPAC. Sooby also asked that SOP write a press release regarding new appointments to COPAC as well as publish the current vacancies on the Committee to encourage public interest in COPAC. Sooby gave thanks to CDPH for enforcement of the organic processed products and asked if CDPH would be able to provide information on the value of the organic industry in California as had been done in previous years. Sooby also asked whether California law will have to be modified to match new federal regulations for organic enforcement.

Deborah Stemwedel of California Organic Fertilizers commented voicing concern about the human consequences of natural liquid ammonia products in Southeast Asia. Stemwedel claimed that these products have a negative human rights impact in the Bay of Bengal in particular. Stemwedel distributed information to those present on these concerns. Stemwedel recommended that the organic industry immediately limit the amount of nitrogen in manure fertilizers to the levels recommended by the University of California. Stemwedel asked that these issues be brought before the Secretary.

Charlene Graham of the CDFA Organic Cannabis program announced that they have announced a request for proposal for an information consultant position and asked that those present share the information.

There were no other public comments.

ITEM 12: NEXT MEETING/AGENDA ITEMS

King informed the Committee that CDFA will be sending a poll to them asking what date in May the Committee would like to have its next meeting.

ITEM 13: ADJOURNMENT

The meeting was adjourned at 3:13 p.m. by Chair Archipley.

Respectfully submitted by:

A handwritten signature in blue ink, appearing to read "Danny Lee", written over a horizontal line.

Danny Lee, Supervising Special Investigator
State Organic Program